Agenda

Regular Meeting of the Governing Body
September 24, 2025 at 5:00 PM
City Council Chambers, City Hall
200 Lincoln Avenue

Procedures for Governing Body Meeting

Viewing: *If the relevant technology is available to record the meeting in City Hall*, members of the public may stream the meeting live on the City of Santa Fe's YouTube channel. The YouTube live stream can be accessed from most smartphones, tablets, or computers.

The video recording*, if created,* of this and all past meetings of the Governing Body will also remain available for viewing at any time on the City's YouTube channel. Staff is available to help members of the public access pre-recorded Governing Body meetings online at any time during normal business hours. Please call 955-6521 for assistance.

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Virtual Public Comment: To provide public comment during Petitions from the Floor, Public Comment, Final Action on Legislation, or Public Hearings virtually, you must join the Zoom meeting by internet or phone, using the following link: https://santafenm-gov.zoom.us/j/84868009774

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1. Call to Order
2. Pledge of Allegiance
   a. Councilor Faulkner
3. Salute to the New Mexico Flag
   a. Councilor Cassutt
4. Invocation and Rememberances

a. Councilor Lindell

5. Roll Call

6. Approval of Agenda

7. Approval of Consent Agenda

8. Presentations

9. Action Items: Consent Agenda

a. Request for Approval of the September 10, 2025, Regular Governing Body Meeting Minutes. (Geralyn F. Cardenas, gfcardenas@santafenm.gov)

Committee Review:
Governing Body: 09/24/2025

b. Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Request from Santa Fe Preparatory School for a Waiver of the 300-Foot Location Restriction to Allow the Dispensing and Consumption of Alcoholic Beverages at Santa Fe Preparatory School, 1101 Camino De Cruz Blanca, for the Santa Fe Prep Gala to be Held on Saturday, October 4, 2025, with Alcohol Service from 5:00 PM to 10:00 PM. (Xavier Vigil, Assistant City Clerk; xivigil@santafenm.gov)

Committee Review:
Liquor Hearing: 09/18/2025
Governing Body: 09/24/2025

c. Request for Approval of the Auction Disposal List for the New Mexico Annual Statewide Auction on October 18, 2025, and to Delegate the Director of Finance or their Designee as the Title-Signing Authority. (Raymond “Scott” Gunter, Procurement Manager; rsgunter@santafenm.gov : David M. Jaramillo, Fleet Manager; dmjaramillo@santafenm.gov)

Committee Review:
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

d. Request for Approval of a Budget Amendment Resolution to Appropriate the Unspent Balance of an FY25 One Time Appropriation of $290,671 from General Fund Balance to FY26 Complete Streets Supplies for Intersection Markings. (Regina Wheeler, Public Works Director, rawheeler@santafenm.gov)

Committee Review:

Public Works & Utilities Committee 09/15/2025
Finance Committee 09/22/2025
Governing Body 09/24/2025

e. Request for Approval of the State of New Mexico Crime Victims Reparation Commission (CVRC) STOP Violence Against Women Act Formula Grant Agreement #ISJOV W.24.00517.STOP in the Amount of $77,211 with a Required Match of $25,737 to Fund a Full-Time Term Position to Respond to Domestic Violence in the City of Santa Fe. (Sandra Emory, Youth and Family Services Program Manager; sxemory@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $77,211 from the 2025 CVRC Grant Agreement to FY26 Revenue and Expenses for the Domestic Violence Response Team.

Committee Review:
Quality of Life Committee: 09/17/2025
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

f. Request for Approval of Capital Outlay Grant Agreement for Capital Appropriation Project 25-J3160 with the New Mexico Department of Finance & Administration in the Total Amount of $250,000 for Shelby Street Pedestrian Bridge Replacement with a Reversion Date of June 30, 2029. (Scott Overlie, Project Manager III; saoverlie@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate Legislative Grant Proceeds of $250,000 to Parks and Open Space FY26 Revenue and Expenses for the Shelby Street Pedestrian Bridge Replacement Project.

Committee Review
Public Works Utilities Committee: 09/15/2025
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

g. Request for Approval of Amendment No. 1 to On-Call General Services Contract Item #23-0104 Pursuant to ITB#23/27/B with Proscape Landscape Management, LLC, and Pursuant to Article 8 of the Contract to Substitute the Price List. (Scott Overlie, Project Manager III, Parks & Open Space; saoverlie@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 09/15/2025
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

h. Request for Approval of Construction Contract with Keers Facility Services in the Total Amount of $938,322 Including NMGRT for Remediation and Demolition Services at Midtown Required to Implement the Approved Master Plan for a Six-Month Term. (Tim Farrell, Facilities Division Property Development Manager; tgfarrell@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 09/15/2025
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

i. Request for Approval of a Professional Services Agreement with Yearout Energy Services Company, LLC DBA Energy Systems Group Southwest in the Total Amount of $500,827 Including NMGRT for an Investment Grade Audit and Microgrid Design for Community Resiliency for a Term of 18 Months. (Regina Wheeler, Public Works Director; rawheeler@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 09/15/2025
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

j. Request for Approval of a Professional Services Contract with St. Elizabeth's Shelter Corporation for Homeless Service Response in the Total Amount of $250,000 through June 30, 2026. (Kristen Woods, Youth and Family Services Program Manager; krwoods@santafenm.gov)

Committee Review:
Quality of Life Committee: 09/17/2025
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

k. Request for Approval of Amendment No. 1 to Item #24-0674 with Spencer Fane, LLP to Increase Compensation by $450,000 for a New Total Amount of $616,668.75 and to Extend the Term to September 1, 2028, for Litigation Against Contractors Involved in City Reservoir Improvement Projects. (Jesse Roach, Interim Public Utilities Director; jdroach@santafenm.gov)

Committee Review
Public Works and Utilities Committee: 09/15/2025
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

l. Request for Approval of a Collective Bargaining Agreement with Local 3999 City of Santa Fe Employees of the American Federation of State, County, and Municipal Employees, Council 18, AFL-CIO (AFSCME). (Bernadette Salazar, Human Resources Director; bjsalazar@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution to Appropriate Unspent Balances from the FY25 Employee Compensation Operating Budget of $611,452 from General Fund Balance to the FY26 Human Resources

Budget to Pay $1,000 Retention Incentives to AFSCME Employees.

Committee Review:
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

m. Request for Approval of Citywide Timekeeping and Workforce Management with UKG Kronos Systems LLC in the Total Amount of $211,153.10 for the First Year of the Four-Year Term through July 13, 2029. (Eric Candeleria, ITT Department Director; edcandelaria@santafenm.gov)

Committee Review
Public Works and Utilities Committee: 09/15/2025
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

n. Request for Approval of a General Services Contract with Peter's Trucking Inc., in the Amount of $2,000,000 for Sewage Sludge Disposal Services for a Four-Year Term. (Fred Heerbrandt, Engineer Supervisor; pfheerbrandt@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $500,000 from the Wastewater Enterprise Fund to Service Contracts.

Committee Review:
Public Works and Utilities Committee: 09/15/2025
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

o. Request for Approval of an On-Call Construction Contract with SKE Contractors, Inc. for Sewer Collection System Repair, Replacement, and Extension in the Total Amount of $4,327,500 Including NMGRT for a Four-Year Term. (P. Fred Heerbrant, P.E., Engineer Supervisor; pfheerbrandt@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $1,081,875 from the Enterprise Fund to WIP Construction.

Committee Review:
Public Works and Utilities Committee: 09/15/2025
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

p. Request for Approval of a Donation Agreement wth Homewise to Donate Las Estrellas Tract 6A for Development as Affordable Housing. (Terry Lease, Asset Development Manager, tjlease@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 09/15/2025
Quality of Life Committee: 09/17/2025
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

q. Request for Approval of an On-Call Construction Contract with Anchorbuilt for Sewer Collection System Repair, Replacement, and Extension in the Total Amount of $4,327,500 Including NMGRT for a Four-Year Term. (P. Fred Heerbrant, P.E., Engineer Supervisor; pfheerbrandt@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $1,081,875 from the Enterprise Fund to WIP Construction.

Committee Review:
Public Works and Utilities Committee: 09/15/2025
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

r. Request for Approval of Amendment No. 2 to Digital Media Agreement Item #24-0690A with Midwest Tape, LLC to Increase the Compensation by $149,087.68 for a New Total Amount of $319,997.68 for the Purchase of Digital Library Materials. (Margaret M. Neill, Library Division Director; mmneill@santafenm.gov)

Committee Review:
Quality of Life Committee: 09/17/2025
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

s. Request for Ratification of U.S. Department of Transportation Federal Aviation Administration Grant # 3-35-0037-066-2025 in the Amount of $90,193 for Funding the Rehabilitation of Taxiway F- Design. (Paulette Ortiz, Grants Administrator; pkortiz@santafenm.gov)

Committee Review:
Governing Body: 09/24/2025

t. Request for Approval of Written Findings of Fact and Conclusions of Law Reflecting the August 27, 2025, Decision by the Governing Body to Grant Appeal # 2025-9702-APPL of the Historic District Review Board's Decision to Designate Two Structures Contributing at 1030½ W. Houghton St. in Case # 2024-9370-HDRB, and Finding that the Two Structures are Non-Contributing. (Frank Ruybalid, Assistant City Attorney; feruybalid@santafenm.gov)

Committee Review:
Governing Body: 09/24/2025

u. CONSIDERATION OF RESOLUTION NO. 2025-____. (Councilor Jamie Cassutt, Councilor Pilar Faulkner, and Councilor Alma Castro)
A Resolution Convening a Charter Review Commission No Later than April of 2026 to Consider Mayor and City Councilor Powers. (Marci Eannarino, Legislation and Policy Innovation Manager; maeannarino@santafenm.gov, Palmer Anderson, Policy Analyst; pcanderson@santafenm,gov, and Christine Spiers, Legislative Assistant; cmspiers@santafenm.gov)

Committee Review:
Governing Body (Introduced): 08/27/2025
Public Works and Utilities Committee: 09/02/2025
Quality of Life Committee: 09/03/2025 **POSTPONED TO A DATE CERTAIN - QUALITY OF LIFE 09/17/2025**
Finance Committee: 09/08/2025 **POSTPONED TO 09/22/2025**
Governing Body: 09/10/2025 **POSTPONED TO 09/24/2025**
Quality of Life: 09/17/2025
Finance Committee: 09/22/2025
Governing body: 09/24/2025

v. CONSIDERATION OF RESOLUTION NO. 2025-____. (Councilor Jamie Cassutt, Councilor Pilar Faulkner, and Councilor Alma Castro) A Resolution Convening a Charter Review Commission No Later than April of 2026 to Consider Mayor and City Councilor Powers. (Marci Eannarino, Legislation and Policy Innovation Manager; maeannarino@santafenm.gov, Palmer Anderson, Policy Analyst; pcanderson@santafenm,gov, and Christine Spiers, Legislative Assistant; cmspiers@santafenm.gov)

Committee Review:
Governing Body (Introduced): 08/27/2025
Public Works and Utilities Committee: 09/02/2025
Quality of Life Committee: 09/03/2025 POSTPONED TO A DATE CERTAIN - QUALITY OF LIFE 09/17/2025
Finance Committee: 09/08/2025 POSTPONED TO 09/22/2025
Governing Body: 09/10/2025 POSTPONED TO 09/24/2025
Quality of Life: 09/17/2025
Finance Committee: 09/22/2025
Governing body: 09/24/2025

10. Action Items: Discussion Agenda

a. Request for Approval of a Local Government Road Fund Cooperative Agreement Administered by the New Mexico Department of Transportation for the Construction of Agua Fria-Cottonwood Roundabout Project Identified as L500618 in the Total Amount of $87,639. (Romella Glorioso-Moss, Capital Projects Manager, rsglorioso-moss@santafenm.gov).

1. Request for Approval of a Budget Amendment Resolution (BAR) to Appropriate $65,729 from the Grant and $21,910 from Road Impact Fees to

FY26 Complete Streets Revenue and Expenses for the Construction of Agua Fria-Cottonwood Roundabout.

Committee Review:
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

b. Request for Approval of Intergovernmental Agreement (IGA) No. 26-631-1111-00008 with the New Mexico Department of Workforce Solutions in the Amount of $1,642,023 to Support Shelter Operations, Street Outreach, Site Improvements, and Neighborhood Cleanliness Activities Related to the City's Homelessness Response. (Henri Hammond-Paul, Community Health and Safety Department Director; hmhammondpaul@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate Grant Proceeds to Community Health and Safety FY 26 Revenue and Service Contract for Implementation of the IGA.

Committee Review:
Finance Committee: 09/22/2025
Governing Body: 09/24/2025

11. Matters from the City Manager

12. Matters from the City Attorney

a. **Executive Session**
In accordance with the Open Meetings Act, NMSA 1978, Section 10-15-1, Subpart (H)(7), Attorney-Client Discussion of Pending and Threatened Litigation, in Particular, Discussion of Threatened Litigation by the United States Department of Homeland Security Transportation Security Administration in Relation to TSA Inspection Findings at the City's airport; and Discussion of Ongoing Litigation, in particular *City of Santa Fe v. Purdue Pharma LP, et al* and *Estate of Harley Glen Smith v. City*. (Erin K. McSherry, City Attorney: ekmcsherry@santafenm.gov)

13. Executive Session Action Items

a. Request for Approval of an Agreement with United States Department of Homeland Security Transportation Security Administration, settling potential claims addressed by the City through remediation and for the amount of $75,000.00. (Kevin L. Nault, Assistant City Attorney: klnault@santafenm.gov)

b. Acceptance of Proposed Bankruptcy Plan for Purdue Pharma and the Sackler Family. (Erin K. McSherry, City Attorney: ekmcsherry@santafenm.gov)

c. Approval of a Governmental Entity & Shareholder Agreement Approved in Case No. 19-23649, *In re: Purdue Pharma L.P. et al, Debtors* in the U.S. Bankruptcy Court of the Southern District of New York on June 17, 2025. (Erin

K. McSherry, City Attorney: ekmcsherry@santafenm.gov)

d. Approval of "Secondary Manufacturers' Combined Subdivision Participation and Release" with Alvogen, Inc.; Apotex Corp.; Hikma Pharmaceuticals USA Inc.; Indivior Inc., Viatris Inc.; Sun Pharmaceutical Industries, Inc.; Zydus Pharmaceuticals (USA) Inc. (Erin K. McSherry, City Attorney: ekmcsherry@santafenm.gov)

e. Approval of Attorney-Client Privileged recommended next steps in *Estate of Harley Glen Smith v. City of Santa Fe*. (Chris Ryan, Senior Assistant City Attorney: cwryan@santafenm.gov)

14. Matters from the City Clerk

15. Communications from the Governing Body

16. Introduction of Legislation

a. CONSIDERATION OF RESOLUTION NO. 2025-____. (Councilor Jamie Cassutt and Councilor Carol Romero-Wirth)
A Resolution Updating the Water Offset Requirement Fee Chart to More Accurately Reflect the Current Market Value of Water Rights. (Jesse Roach, Interim Public Utilities Director; jdroach@santafenm.gov)

Committee Review:
Governing Body (Introduced): 09/24/2025
Public Works and Utilities Committee: 09/29/2025
Finance Committee: 10/06/2025
Governing Body: 10/08/2025

b. CONSIDERATION OF RESOLUTION NO. 2025-____. (Councilor Amanda Chavez and Councilor Carol Romero-Wirth)
A Resolution Directing the City Manager to Direct City Staff to Identify and Apply for Federal and State Funding Sources for City Water, Wastewater, and Other Water-Related Projects, Including Submitting Water Trust Board Applications; Identify a State Legislative Priority List for Water-Related Projects; and Approve New Mexico Water Trust Board Applications Submitted. (Alan Hook, Water Resources Coordinator; aghook@santafenm.gov)

Committee Review:
Governing Body (Introduced): 09/24/2025
Public Works and Utilities Committee: 09/29/2025
Finance Committee: 10/06/2025
Governing Body: 10/08/2025

c. CONSIDERATION OF BILL NO. 2025-___. (Mayor Alan Webber, Councilor Singe Linell, Councilor Pilar Faulkner, Councilor Michael Garcia)

A Bill Relating to the Santa Fe Traffic Operations Program; Amending Section 24-4 to Remove the Requirement for Police Department Oversight; Provide for the Use of Cameras the Detect Vehicle Noise Violations Using an Automated Compliance Enforcement System; and Impose a Fine for System-Detected Vehicle Noise Violations.

Committee Review:
Governing Body (Introduced): 09/24/2025
Governing Body (Public Comment): 10/08/2025
Public Works and Utilities Committee: 10/20/2025
Quality of Life Committee: 10/22/2025
Finance Committee: 10/27/2025
Governing Body: 11/12/2025

d. CONSIDERATION OF RESOLUTION NO. 2025-____. (Mayor Alan Webber)
A Resolution Requiring a "Micro Community" in Every City of Santa Fe Council District by January 1, 2027, or, If That Timeline Is Not Met, A Presentation explaining the Barriers to Meeting the Timeline and Recommending How and When the Goal of a Micro Community in Every District Can Be Achieved. (Henri Hammond-Paul, Community Health and Safety Director; hmhammondpaul@santafenm.gov)

Committee Review:
Governing Body (Introduced): 09/24/2025
Quality of Life Committee: 10/01/2025
Finance Committee: 10/27/2025
Governing Body: 10/29/2025

17. Petitions from the Floor

18. Public Comment on Bills (First Public Comment, No Action)

a. CONSIDERATION OF BILL NO. 2025-21. ADOPTION OF ORDINANCE NO. 2025-____. (Mayor Alan Webber)
A Bill Amending SFCC 1987, Section 28-1.5 ("Living Wage Ordinance"), to Increase the City's Base Minimum Wage and Update the Formula for Calculating the Minimum Wage Annually. (Rod Gould, Senior Advisor and Public Engagement Coordinator; rsgould@santafenm.gov and Elisa Montoya, Community Development Director, edmontoya1@santafenm.gov)

Committee Review:
Governing Body (Introduced): 09/10/2025
Governing Body (Public Comment): 09/24/2025
Public Works and Utilities Committee: 09/29/2025
Quality of Life Committee 10/01/2025
Finance Committee:10/06/2025
Governing Body: 10/29/2025

19. Final Action on Legislation (Public Hearing)

a. CONSIDERATION OF BILL NO.2025-18. ADOPTION OF ORDINANCE NO. 2025-____. (Mayor Alan Webber and Councilor Carol Romero-Wirth)
A Bill Amending Chapter 22, Exhibit A by Removing Location of Service as a Criterion for Determining Sewer Service Charges. (Jesse Roach, Water Division Director; jdroach@santafenm.gov, Mike Dozier, Waste Water Division Director; mldozier@santafenm.gov, and Marcos Martinez, Senior Assistant City Attorney; mdmartinez@santafenm.gov)

Committee Review:
Governing Body (Introduced): 08/13/2025
Governing Body (Public Comment): 08/27/2025
Public Works and Utilities Committee:09/02/2025
Governing Body: 09/24/2025

20. Public Hearings (Land Use Cases, Appeals and Other Items Required to Have a Public Hearing)

21. Appointments

    a. Mayor's Committee on Disability

        - Amarisa Montoya - Appointment to Fill an Unexpired Term - Term Ending 01/2029

22. Adjourn

Closed captions are provided for this meeting. Persons with disabilities in need of additional accommodations, contact the City Clerk’s office at 505-955-6521, five (5) working days prior to meeting date.

Agenda

Regular Meeting of the Governing Body
September 10, 2025 at 5:00 PM
City Council Chambers, City Hall
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Procedures for Governing Body Meeting

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Written Public Comment: Members of the public may submit written comments on legislation by clicking this link: https://santafenm.gov/city-clerk-community-engagement/city-clerk-1/governing-body-public-comment

Live Public Comment: Members of the public may provide public comment in person during Petitions from the Floor, Public Comment, Final Action on Legislation, or Public Hearings.

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1. Call to Order

2. Pledge of Allegiance

    a. Councilor Chavez

3. Salute to the New Mexico Flag

    a. Councilor Castro

4. Invocation and Rememberances

    a. Councilor Michael Garcia

5. Roll Call

6. Approval of Agenda

7. Approval of Consent Agenda

8. Presentations

    a. General Plan Update (Heather Lamboy, Land Use Director; hllamboy@santafenm.gov)

    b. Micro Community Engagement Event Report and Recommendations (Henri Hammond-Paul, Community Health and Safety Department Director; hmhammondpaul@santafenm.gov)

9. Action Items: Consent Agenda

    a. Request for Approval of the August 27, 2025, Regular Governing Body Meeting Minutes. (Geralyn Cardenas, Deputy City Clerk; gfcardenas@santafenm.gov)

    Committee Review:
    Governing Body: 09/10/2025

    b. Request for Approval of an On-Call Construction Contract with AAC Construction, Inc. for Sewer Collection System Repair, Replacement, and Extension in the Total Amount of $4,327,500 Including NMGRT for a Four-Year Term. (P. Fred Heerbrant, P.E., Engineer Supervisor; pfheerbrandt@santafenm.gov)

    1. Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $1,081,875 from the Wastewater Enterprise Fund to WIP Construction.

    Committee Review:
    Public Works and Utilities Committee: 09/02/2025

Finance Committee: 09/08/2025
Governing Body: 09/10/2025

c. Request for Approval of a Budget Amendment Resolution (BAR) in the Amount of $3,683,246 from the 1/2% Capital GRT Fund to CIP Special Projects Fund for Appropriation of ERP Funds for FY26. (Eric Candelaria, ITT Department Director; edcandelaria@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 09/02/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

d. Request for Approval to Purchase and Install a Headworks Generator at the Paseo Real Wastewater Treatment Plant from Wagner Equipment Company in the Total Amount of $1,319,302.21 Including NMGRT. (Leroy Alvarado, Operations Superintendent; lmalvarado@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $1,319,303 from the Wastewater Enterprise Fund to Equipment and Machinery.

Committee Review:
Public Works and Utilities Committee: 09/02/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

e. Request for Approval of Grant Agreement FTA MA-33 with the United States Federal Transit Administration (FTA) via the Section 5307 Operating Assistance for the RideFinders Mobility Management Program in the Total Amount of $287,052 with Term Ending September 30, 2028. (Gabrielle Chavez, Transit Director of Administration; gnchavez@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $287,052 from the FTA Grant to Transit Revenue.

Committee Review:
Public Works and Utilities Committee: 09/02/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

f. Request of Approval of a Construction Contract with Bradbury Stamm Construction for Construction Services at the Canyon Road Water Treatment Plant in the Total Amount of $23,673,913.31 Including NMGRT through December 31, 2028. (Clinton Peterson, Engineer; cdpeterson@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $12,000,000 from the Water Enterprise Fund to WIP Construction.

Committee Review:
Public Works and Utilities Committee: 09/02/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

g. Request For Approval to Accept the New Mexico Department of Transportation Aviation Division Grant # SAF-26-01 in the Amount of $1,000,000 for Rural Air Service Enhancement. (Paulette Ortiz, Grants Administrator; pkortiz@santafenm.gov)

1. Request For Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $1,000,000 to Increase Grants and Services using New Mexico Department of Transportation Aviation Division Funding for Rural Air Service Enhancement.

Committee Review:
Public Works and Utilities Committee: 09/02/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

h. Request for Approval of a Construction Contract with GME General Building LLC in the Total Amount of $5,500,000 Including NMGRT for On-Call Small Roadway, Trail and Sidewalk Construction for a Ten-Year Term. (Regina Wheeler, Public Works Director; rawheeler@santafenm.gov)

Committee Review
Public Works and Utilities Committee: 09/02/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

i. Request for Approval of a Construction Contract with GM Emulsion LLC in an Amount Not to Exceed of $5,500,000 Including NMGRT for On-Call Small Roadway, Trail and Sidewalk Construction for a Ten-Year Term. (Regina Wheeler, Public Works Director; rawheeler@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 09/02/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

j. Request for Approval of a Construction Contract with EMCO of Santa Fe in an

Amount Not to Exceed $5,500,000 Including NMGRT for On-Call Small Roadway, Trail and Sidewalk Construction for a Ten-Year Term. (Regina Wheeler, Public Works Director; rawheeler@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 09/02/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

k. Request for Approval of a Construction Contract with Jaypen Construction LLC in an Amount Not to Exceed $5,500,000 Including NMGRT for On-Call Small Roadway, Trail and Sidewalk Construction for a Ten-Year Term. (Regina Wheeler, Public Works Director; rawheeler@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 09/02/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

l. Request for Approval of a Construction Contract with JDR & Associates in an Amount Not to Exceed $5,500,000 Including NMGRT for On-Call Small Roadway, Trail and Sidewalk Construction for a Ten-Year Term. (Regina Wheeler, Public Works Director; rawheeler@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 09/02/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

m. Request For Approval of U.S. Department of Transportation Federal Aviation Administration Grant # 3- 35-0037-066-2025 in the Amount of $90,193 for Funding the Rehabilitation of Taxiway F- Design. (Paulette Ortiz, Grants Administrator; pkortiz@santafenm.gov)

1. Request For Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $90,193 to Increase WIP Design using U.S. Department of Transportation Federal Aviation Administration Funding for the Rehabilitation of Taxiway F- Design.

Committee Review:
Public Works and Utilities Committee 09/02/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

n. Request for Approval of a Grant Agreement with the New Mexico Department of Finance and Administration via the New Mexico Match Fund in the Total

Amount of $4,018,120 to Match the Section 5307 Operating Assistance Federal Transit Administration Grant. (Gabrielle Chavez, Transit Director of Administration; gnchavez@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate Proceeds from the New Mexico Match Fund Grant in the Amount of $2,012,231 to FY25 and FY26 Transit Revenue.

Committee Review:
Public Works and Utilities Committee: 09/02/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

o. Request for Approval of Amendment No. 1 to Item #25-0090 with Pure Operations LLC to Increase the Compensation by $1,477,688 for a New Total of $1,926,888, and Extend the Term through June 30, 2030 for Managing Large Distribution Meters Ranging in Size from 2" to 10". (Randy Lopez, Transmisson & Distribution Supervisor; rjlopez@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 09/02/2025
Finance Committee: 09/8/2025
Governing Body: 09/10/2025

p. Request for Approval of Professional Service Contract with Mountain River Consulting, Inc. in the Amount of $1,244,156.25 Including NMGRT for Application Support, Technical Support for Data Conversion & CIS Interfaces to Update the Billing System for a Two-Year Term. (Nancy Jimenez, Public Utilities Admin, Billing and Customer Service Division Director; nljimenez@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 09/02/2025
Finance Committee: 09/8/2025
Governing Body: 09/10/2025

q. Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $224,394 to Re-Appropriate Agency's Unused One-Time Funding from the FY25 Budget to FY26 to Support Wildfire Detection and Planning. (Kyle Morgan, Emergency Interim Director; klmorgan@santafenm.gov)

Committee Review:
Quality of Life Committee: 09/03/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

r. Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $251,110 to Re-Appropriate Agency's Unused One-Time Funding from the FY25 Budget to FY26 to Support Vehicle Barriers. (Kyle Morgan, Emergency Interim Director; klmorgan@santafenm.gov)

Committee Review:
Quality of Life Committee: 09/03/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

s. Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $845,551 to Re-Appropriate FY25 ERP Funding to FY26 ERP Other Consulting. (Emily K. Oster, Finance Director; ekoster@santafenm.gov)

Committee Review:
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

t. Request for Approval of the Fiscal Year 2026 Revised Internal Audit Plan. (Andrea K. Phillips, Deputy City Manager; akphillips@santafenm.gov and Halie Garcia, Baker Tilly; halie.garcia@bakertilly.com)

Committee Review:
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

u. CONSIDERATION OF RESOLUTION NO. 2025-____. (Councilor Amanda Chavez and Councilor Pilar Faulkner)
A Resolution Adopting Strategies to Participate in Suicide Prevention Awareness Month, September, by Increasing City of Santa Fe Employees' Awareness about Suicide Prevention Resources and Calling on all Santa Fe Employers to Participate in Suicide Prevention Month. (Andrea Phillips, Deputy City Manager; akphillips@santafenm.gov)

Committee Review:
Governing Body (Introduced): 08/27/2025
Public Works and Utilities Committee: 09/02/2025
Quality of Life Committee: 09/03/2025
Governing Body: 09/10/2025

v. CONSIDERATION OF RESOLUTION NO. 2025-____. (Councilor Jamie Cassutt, Councilor Pilar Faulkner, and Councilor Alma Casto)
A Resolution Convening a Charter Review Commission No Later than April of 2026 to Consider Mayor and City Councilor Powers. (Marci Eannarino, Legislation and Policy Innovation Manager; maeannarino@santafenm.gov, Palmer Anderson, Policy Analyst; pcanderson@santafenm,gov, and Christine Spiers, Legislative Assistant; cmspiers@santafenm.gov)

Committee Review:
Governing Body (Introduced): 08/27/2025
Public Works and Utilities Committee: 09/02/2025
Quality of Life Committee: 09/03/2025 **POSTPONED TO A DATE CERTAIN - QUALITY OF LIFE 09/17/2025**
Finance Committee: 09/08/2025 **POSTPONED TO 09/22/2025**
Governing Body: 09/10/2025 **POSTPONED TO 09/24/2025**
Quality of Life: 09/17/2025
Finance Committee: 09/22/2025
Governing body: 09/24/2025

w. CONSIDERATION OF RESOLUTION NO. 2025-____. (Mayor Alan Webber and Councilor Jamie Cassutt)
A Resolution Authorizing Foreclosure of Certain Municipal Liens and Inviting Santa Fe County to Address Tax-Delinquent Properties within City Limits as Additional Strategies to Address Nuisance Properties in the City. (Frank Ruybalid, Assistant City Attorney; feruybalid@santafenm.gov)

Committee Review:
Governing Body (Introduced): 08/27/2025
Public Works and Utilities Committee: 09/02/2025
Quality of Life Committee: 09/03/2025
Governing Body: 09/10/2025

x. CONSIDERATION OF RESOLUTION NO.2025-_____. (Councilor Carol Romero-Wirth, Councilor Jamie Cassutt, Councilor Pilar Faulkner, and Mayor Alan Webber)
A Resolution Adopting Improvements to the Budget Process for the Fiscal Year 2026/2027 Annual Operating Budget. (Rod Gould, Senior Advisor and Public Engagement Coordinator; rsgould@santafenm.gov and Emily K. Oster, Finance Director; ekoster@santafenm.gov)

Committee Review:
Governing Body (Introduced): 08/13/2025
Quality of Life Committee:08/20/2025
Finance Committee: 08/25/2025
Governing Body: 08/27/2025 Postponed to a Date Certain
Quality of Life Committee : 09/03/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

10. Action Items: Discussion Agenda

a. Request for Approval of an Air Service Agreement with American Airlines for Air Service to Los Angeles International Airport through October 24, 2026, in Exchange for the City Making Direct Payments Not to Exceed $1,800,000 to Compensate for Revenue Shortfalls from Underfilled Flights, Using, in Part, New Mexico Rural Air Service Enhancement Grant Saf-26-01, and Waiving Fees Estimated at a Value of $142,387. (James Garduno, Airport Project

Manager; jdgarduno@santafenm.gov)

Committee Review:
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

11. Matters from the City Manager

12. Matters from the City Attorney

    a. **Executive Session**
    In Accordance with the New Mexico Open Meetings Act, NMSA 1978, Section 10-15-1, Part (H), Subpart (8), Discussion of Property Disposition, Specifically, the Disposition of Parcels of the Midtown Property located at 1600 St. Michael's Drive. (Erin K. McSherry, City Attorney: ekmcsherry@santafenm.gov)

13. Executive Session Action Items

14. Matters from the City Clerk

15. Communications from the Governing Body

16. Introduction of Legislation

    a. CONSIDERATION OF BILL NO. 2025-21. ADOPTION OF ORDINANCE NO. 2025-____. (Mayor Alan Webber)
    A Bill Amending SFCC 1987, Section 28-1.5 ("Living Wage Ordinance"), to Increase the City's Base Minimum Wage and Update the Formula for Calculating the Minimum Wage Annually. (Rod Gould, Senior Advisor and Public Engagement Coordinator; rsgould@santafenm.gov)

    Committee Review:
    Governing Body (Introduced): 09/10/2025
    Governing Body (Public Comment): 09/24/2025
    Public Works and Utilities Committee: 09/29/2025
    Quality of Life Committee 10/01/2025
    Finance Committee:10/06/2025
    Governing Body: 10/29/2025

17. Petitions from the Floor

18. Public Comment on Bills (First Public Comment, No Action)

    a. CONSIDERATION OF BILL NO. 2025-17. ADOPTION OF ORDINANCE NO. 2025-____. (Councilor Carol Romero-Wirth and Councilor Jamie Cassutt)
    A Bill Amending SFCC 1987, Section 25-1.8(A) to Require the City of Santa Fe ("City") to Continue to Monitor the Naturally Occurring Fluoride Levels in its Water System at

Representative Sample Locations and to End the Requirement to Add Fluoride to the System. (Jesse Roach, Interim Public Utilities Director; jdroach@santafenm.gov)

Committee Review:
Governing Body (Introduced): 08/27/2025
Governing Body (Public Comment): 09/10/2025
Public Works and Utilities Committee: 09/15/2025
Finance Committee: 09/22/2025
Governing Body: 10/08/2025

b. CONSIDERATION OF BILL NO. 2025-19. ADOPTION OF ORDINANCE NO. 2025-____. (Councilor Signe Lindell)
A Bill Establishing a Ten (10) Year Plaza Pushcart Vendor License for which Vendors who have Completed Twenty-Five (25) Consecutive Years of Vending are Eligible to Apply. (Xavier Martinez, Constituent Services Manager; xbmartinez@santafenm.gov)

Committee Review:
Governing Body (Introduced): 08/27/2025
Economic Development Advisory Committee: 09/03/2025
Governing Body (Public Comment): 09/10/2025
Quality of Life Committee: 09/17/2025
Finance Committee: 09/22/2025
Governing Body (Public Hearing): 10/08/2025

19. Final Action on Legislation (Public Hearing)

20. Public Hearings (Land Use Cases, Appeals and Other Items Required to Have a Public Hearing)

a. Notice of 30-Day Public Comment Period of the Community Development Block Grant (CDBG) Annual Action Plan. (Rocio Gosende, Affordable Housing Project Manager, rmgosende@santafenm.gov; Johanna Nelson, Office of Economic Development Director and Affordable Housing Interim Director, jcnelson@santafenm.gov)

Committee Review:
Governing Body (Public Hearing): 09/10/2025

21. Appointments

a. Ethics and Campaign Review Board

- Andrew Black - Reappointment - Term Ending 07/2029
- Justin Miller - Reappointment - Term Ending 07/2029

b. Mayor's Committee on Disability

- Jeminie L. Shell - Appointment - Term Ending 01/2029
- Eli Fresquez - Reappointment - Term Ending 01/2029
- Kerri Cottle - Appointment - Term Ending 01/2029
- Robin Garrison - Appointment - Term Ending 01/2029

22. Adjourn

Closed captions are provided for this meeting. Persons with disabilities in need of additional accommodations, contact the City Clerk's office at 505-955-6521, five (5) working days prior to meeting date.

SUMMARY OF ACTION
REGULAR MEETING OF THE GOVERNING BODY
WEDNESDAY, SEPTEMBER 10, 2025, 5:00 PM

COUNCIL CHAMBERS, CITY HALL
200 LINCOLN AVENUE, SANTA FE, NEW MEXICO

1.	**Call To Order**	**Convened at 5:07pm**		**3**
2.	**Pledge of Allegiance**	**Councilor Chavez**		**3**
3.	**Salute to the NM Flag**	**Councilor Castro**		**3**
4.	**Invocation and Remembrances**	**Councilor Michael Garcia**	**3**	
5.	**Roll Call**	**Quorum**		**3-4**
6.	**Approval of Agenda**	**Approved**		**4**
7.	**Approval of Consent Agenda**	**Approved**		**4**
8.	**Presentations**			
	a. General Plan	**Given**	**4-5**	
	b. Micro Communities	**Given**	**5**	
17.	**Petitions From the Floor**	**Heard**	**5**	
9.	**Action Items: Consent Agenda**	**Approved**		**5-11**
10.	**Action Items: Discussion Items**			
	a. Air Service Agreement	**Approved**		**11**
11.	**Matters from the City Manager**	**None**		**11**
12.	**Matters from the City Attorney**	**Heard**	**11**	
	Executive Session	**Held**	**11-12**	
13.	**Executive Session Action Items**	**None**		**12**

14.	**Matters from the City Clerk**	**Heard**	**12**	
15.	**Communications Gov. Body**	**Heard**	**12**	
16.	**Introduction of Legislation**			
	a. Bill No. 2025-24	**Introduced**		**12-13**
18.	**Public Comments on Bills**			
	a. Bill No. 2025-17	**None**		**13**
	b, Bill No. 2025-19	**None**		**13**
19.	**Final Action on Legislation**	**None**		**13**
20.	**Public Hearings**			
	a. CDBG Block Grant Comment Period	**Approved**		**13**
21.	**Appointments**			
	a. Ethics and Campaign Rev.	**Approved**		**14**
	b. Mayor's Comm. Disability	**Approved**		**14**
22.	**Adjourn**	**Adjourned at 9:29 pm**		**14-15**

REGULAR MEETING OF THE GOVERNING BODY
WEDNESDAY, SEPTEMBER 10, 2025, 5:00 PM
COUNCIL CHAMBERS, CITY HALL
200 LINCOLN AVENUE, SANTA FE, NEW MEXICO

1. CALL TO ORDER

The regular meeting of the Governing Body was called to order by Mayor Webber at 5:07 pm, on Wednesday, September 10, 2025, in the Council Chambers, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Councilor Chavez.

3. SALUTE TO THE NEW MEXICO FLAG

The salute to the New Mexico Flag was led by Councilor Castro.

4. INVOCATION AND REMEMBRANCES

The invocation was given by Councilor Michael Garcia

A moment of silence and remembrances were given.

5. ROLL CALL

MEMBERS PRESENT
Mayor Alan Webber
Councilor Signe Lindell
Councilor Carol Romero-Wirth
Councilor Jamie Cassutt
Councilor Alma Castro
Councilor Amanda Chavez
Councilor Pilar Faulkner
Councilor Lee Garcia
Councilor Michael Garcia

OTHERS PARTICIPANTS ATTENDING
Mark Scott, City Manager
Andrea Phillips, Deputy City Manager

Erin McSherry, City Attorney
Andrea Salazar, City Clerk
Elizabeth Martin, Stenographer, virtually

6. APPROVAL OF AGENDA

Ms. Salazar said item 9 (M) was postponed to the next Governing Body meeting agenda. Item 9 (V) did not go through the Quality of Life Committee and will be assigned there with the schedule of committee meetings to be updated from that point.

MOTION A motion was made by Councilor Faulkner, seconded by Councilor Castro, to approve the agenda as amended.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Romero-Wirth, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Faulkner, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes, Mayor Webber, yes.

7. APPROVAL OF CONSENT AGENDA

Ms. Salazar said item 9 (T) was pulled by Councilor Michael Garcia, and item 9 (X) was pulled by Councilor Cassutt.

MOTION A motion was made by Councilor Faulkner, seconded by Councilor Romero-Wirth, to approve the consent agenda as amended.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Romero-Wirth, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Faulkner, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes, Mayor Webber, yes.

MOTION A motion was made by Councilor Lindell, seconded by Councilor Romero-Wirth, to change the order of the presentations to hear item B before item A.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Romero-Wirth, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Faulkner, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes, Mayor Webber, yes.

8. PRESENTATIONS

A. GENERAL PLAN UPDATE

Given.

B. MICRO COMMUNITY ENGAGEMENT EVENT REPORT AND RECOMMENDATIONS

Given.

MOTION A motion was made by Councilor Romero-Wirth, seconded by Councilor Chavez, to move to Petitions From the Floor as the next item.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Romero-Wirth, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Faulkner, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes, Mayor Webber, yes.

17. PETITIONS FROM THE FLOOR

Ms. Aguilar. (Chair Breakers) Ms. Aguilar spoke to high rents in Santa Fe and expressed support for living wage increase.

Elizabeth West. Ms. West spoke about the General Plan and Code updates and Chapter 14. She also spoke about Rank Choice Voting and the need to update the website with a link on the issues.

Dr. Jean ODean. (Candidate for Mayor) Dr. Odean spoke in appreciation for the meetings recently held.

Stephanie Beninato. Ms. Beninato spoke about communication issues, IPRA issues the hearing at the last meeting and the General Plan update.

9. ACTION ITEMS: CONSENT AGENDA

A. REQUEST FOR APPROVAL OF THE AUGUST 27, 2025, REGULAR GOVERNING BODY MEETING MINUTES

Approved on consent.

B. REQUEST FOR APPROVAL OF AN ON-CALL CONSTRUCTION

CONTRACT WITH ACC CONSTRUCTION, INC. FOR SEWER COLLECTION SYSTEM REPAIR, REPLACEMENT, AND EXTENSION IN THE TOTAL AMOUNT OF $4,327,500 INCLUDING NMGRT FOR A FOUR-YEAR TERM.

1. REQUEST FOR APPROVAL OF A BUDGET AMENDMENT RESOLUTION (BAR) IN THE TOTAL AMOUNT OF $1,081,875 FROM THE WASTEWATER ENTERPRISE FUND TO WIP CONSTRUCTION.

Approved on consent.

C. REQUEST FOR APPROVAL OF A BUDGET AMENDMENT RESOLUTION (BAR) IN THE AMOUNT OF $3,683,246 FROM ½% CAPITAL GRT TO CIP SPECIAL PROJECTS FUND FOR APPROPRIATION OF ERP FUNDS FOR FY26.

Approved on consent.

D. REQUEST FOR APPROVAL TO PURCHASE AND INSTALL A HEADWORKS GENERATOR AT THE PASEO REAL WASTEWATER TREATMENT PLANT FROM WAGNER EQUIPMENT COMPANY IN THE TOTAL AMOUNT OF $1,319,302.21 INCLUDING NMGRT.

1. REQUEST FOR APPROVAL OF A BUDGET AMENDMENT RESOLUTION (BAR) IN THE TOTAL AMOUNT OF $1,319,303 FROM THE WASTEWATER ENTERPRISE FUND TO EQUIPMENT AND MACHINERY.

Approved on consent.

E. REQUEST FOR APPROVAL OF GRANT AGREEMENT FTA MA-33 WITH THE UNITED STATES FEDERAL TRANSIT ADMINISTRATION (FTA) VIA THE SECTION 5307 OPERATING ASSISTANCE FOR THE RIDEFINDERS MOBILITY MANAGEMENT PROGRAM IN THE TOTAL AMOUNT OF $287,052 WITH TERM ENDING SEPTEMBER 30, 2028.

1. REQUEST FOR APPROVAL OF A BUDGET AMENDMENT RESOLUTION (BAR) IN THE TOTAL AMOUNT OF $287,052 FROM THE FTA GRANT TO TRANSIT REVENUE.

Approved on consent.

F. REQUEST FOR APPROVAL FO A CONSTRUCTION CONTRACT WITH BRADBURY STAMM CONSTRUCTION FOR CONSTRUCTION SERVICES AT THE CANYON ROAD WATER TREATMENT PLANT IN THE TOTAL AMOUNT OF $23,673,913.3 INCLUDING NMGRT THROUGH DECEMBER 31, 2028.

1. REQUEST FOR APPROVAL OF A BUDGET AMENDMENT RESOLUTION (BAR) IN THE TOTAL AMOUNT OF $12,000,000 FROM THE WATER ENTERPRISE FUND TO WIP CONSTRUCTION.

Approved on consent.

G. REQUEST FOR APPROVAL TO ACCEPT THE NEW MEXICO DEPARTMENT OF TRANSPORTATION AVIATION DIVISION GRANT #SAF-26-01 IN THE AMOUNT OF $1,000,000 FOR RURAL AIR SERVICE ENHANCEMENT.

1. REQUEST FOR APPROVAL FO A BUDGET AMENDMENT RESOLUTION (BAR) IN THE TOTAL AMOUNT OF $1,000,000 TO INCREASE GRANTS AND SERVICES USING NEW MEXICO DEPARTMENT OF TRANSPORTATION AVIATION DIVISION FUNDING FOR RURAL AIR SERVICE ENHANCEMENT.

Approved on consent.

H. REQUEST FOR APPROVAL OF CONSTRUCTION CONTRACT WITH GME GENERAL BUILDING LLC IN THE TOTAL AMOUNT OF $5,500,000 INCLUDING NMGRT FOR ON-CALL SMALL ROADWAY, TRAIL AND SIDEWALK CONSTRUCTION FOR A TEN-YEAR TERM.

Approved on consent.

I. REQUEST FOR APPROVAL OF A CONSTRUCTION CONTRACT WITH GM EMULSION LLC IN AN AMOUNT NOT TO EXCEED $5,500,000 INCLUDING NMGRT FOR ON-CALL SMALL ROADWAY, TRAIL AND SIDEWALK CONSTRUCTION FOR A TEM-YEAR TERM.

Approved on consent.

J. REQUEST FOR APPROVAL OF A CONSTRUCTION CONTRACT WITH EMCO OF SANTA FE IN AN AMOUNT NOT TO EXCEED $5,500,000 INCLUDING NMGRT FOR ON-CALL SMALL ROADWAY, TRAIL AND

SIDEWALK CONSTRUCTION FOR A TEN-YEAR TERM.

Approved on consent.

K. REQUEST FOR APPROVAL OF A CONSTRUCTION CONTRACT WITH JAYPEN CONSTRUCTION LLC IN AN AMOUNT NOT TO EXCEED $5,500,000 INCLUDING NMGRT FOR ON-CALL SMALL ROADWAY, TRAIL AND SIDEWALK CONSTRUCTION FOR A TEN-YEAR TERM.

Approved on consent.

L. REQUEST FOR APPROVAL OF A CONSTRUCTION CONTRACT WITH JDR & ASSOCIATES IN AN AMOUNT NOT TO EXCEED $5,500,000 INCLUDING NMGRT FOR ON-CALL SMALL ROADWAY, TRAIL AND SIDEWALK CONSTRUCTION FOR A TEN-YEAR TERM.

Approved on consent.

M. REQUEST FOR APPROVAL OF U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION GRANT # 30-35- 0037-066-2025 IN THE AMOUNT OF $90,193 FOR FUNDING THE REHABILITATION OF TAXIWAY F-DESIGN.

1. REQUEST FOR APPROVAL OF A BUDGET AMENDMENT RESOLUTION (BAR) IN THE TOTAL AMOUNT OF $90,193 TO INCREASE WIP DESIGN USING U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION FUNDING FOR THE REHABILITATION OF TAXIWAY F-DESIGN.

This item was postponed to the next Governing Body meeting.

N. REQUEST FOR APPROVAL OF A GRANT AGREEMENT WITH THE NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION VIA THE NEW MEXICO MATCH FUND IN THE TOTAL AMOUNT OF $4,018,120 TO MATCH THE SECTION 5307 OPERATING ASSISTANCE FEDERAL TRANSIT ADMINISTRATION GRANT

1. REQUEST FOR APPROVAL OF A BUDGET AMENDMENT RESOLUTION (BAR) TO ALLOCATE PROCEEDS FROM THE NEW MEXICO MATCH FUND GRANT IN THE AMOUNT OF $2,012,231 TO FY25 AND FY26 TRANSIT REVENUE.

Approved on consent.

O. REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO ITEM #25-0090 WITH PURE OPERATIONS LLC TO INCREASE THE COMPENSATION BY $1,477,688 FOR A NEW TOTAL OF $1,926,888, AND EXTEND THE TERM THROUGH JUNE 30, 2030 FOR MANAGING LARGE DISTRIBUTION METERS RANGING IN SIZE FROM 2" TO 10".

Approved on consent.

P. REQUEST FOR APPROVAL OF PROFESSIONAL SERVICE CONTRACT WITH MOUNTAIN RIVER CONSULTING, INC. IN THE AMOUNT OF $1,244,156.25 INCLUDING NMGRT FOR APPLICATION SUPPORT, TECHNICAL SUPPORT FOR DATA CONVERSION & CIS INTERFACES TO UPDATE THE BILLING SYSTEM FOR A TWO-YEAR TERM.

Approved on consent.

Q. REQUEST FOR APPROVAL OF A BUDGET AMENDMENT RESOLUTION (BAR) IN THE TOTAL AMOUNT OF $224,394 TO RE-APPROPRIATE AGENCY'S UNUSED ONE-TIME FUNDING FROM FY25 BUDGET TO FY26 TO SUPPORT WILDFIRE DETECTION AND PLANNING.

Approved on consent.

R. REQUEST FOR APPROVAL OF A BUDGET AMENDMENT RESOLUTION (BAR) IN THE TOTAL AMOUNT OF $251,110 TO RE-APPROPRIATE AGENCY'S UNUSED ONE-TIME FUNDING FROM THE FY25 BUDGET TO FY26 TO SUPPORT VEHICLE BARRIERS.

Approved on consent.

S. REQUEST FOR APPROVAL OF A BUDGET AMENDMENT RESOLUTION (BAR) IN THE TOTAL AMOUNT OF $845,551 TO RE-APPROPRIATE FY25 ERP FUNDING TO FY26 ERP OTHER CONSULTING.

Approved on consent.

T. REQUEST FOR APPROVAL OF THE FISCAL YEAR 2026 REVISED INTERNAL AUDIT PLAN.

MOTION A motion was made by Councilor Romero-Wirth, seconded by Councilor

Faulkner, to approve the request.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Romero-Wirth, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Faulkner, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes, Mayor Webber, yes.

U. CONSIDERATION OF RESOLUTION NO. 2025-_____. A RESOLUTION ADOPTING STRATEGIES TO PARTICIPATE IN SUICIDE PREVENTION AWARENESS MONTH, SEPTEMBER, BY INCREASING CITY OF SANTA FE EMPLOYEES' AWARENESS ABOUT SUICIDE PREVENTION RESOURCES AND CALLING ON ALL SANTA FE EMPLOYERS TO PARTICIPATE IN SUICIDE PREVENTION MONTH.

Approved on consent.

V. CONSIDERATION OF RESOLUTION NO. 2025-_____. A RESOLUTION CONVENING A CHARTER REVIEW COMMISSION NO LATER THAN APRIL OF 2026 TO CONSIDER MAYOR AND CITY COUNCILOR POWERS.

This item did not go to the Quality of Life Committee and will be scheduled to do so. Consequently, the schedule for other Committee meetings will be adjusted.

W. CONSIDERATION OF RESOLUTION NO. 2025-_____ A RESOLUTION AUTHORIZING FORECLOSURE OF CERTAIN MUNICIPAL LIENS AND INVITING SANTA FE COUNTY TO ADDRESS TAX-DELINQUENT PROPERTIES WITHIN CITY LIMITS AS ADDITIONAL STRATEGIES TO ADDRESS NUISANCE PROPERTIES IN THE CITY.

Approved on consent.

X. CONSIDERATION OF RESOLUTION NO. 2025-_____. A RESOLUTION ADOPTING IMPROVEMENTS TO THE BUDGET PROCESS FOR THE FISCAL YEAR 2026/2027 ANNUAL OPERATING BUDGET.

MOTION A motion was made by Councilor Faulkner, seconded by Councilor Romero-Wirth, to approve the Resolution.

Councilor Cassutt presented Amendment B to the Resolution.

MOTION A motion was made by Councilor Cassutt, seconded by Councilor Faulkner, to move Amendment B

VOTE on the Amendment The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Romero-Wirth, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Faulkner, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes, Mayor Webber, yes.

VOTE on main motion as amended The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Romero-Wirth, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Faulkner, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes, Mayor Webber, yes.

10. ACTION ITEMS: DISCUSSION AGENDA

A. REQUEST FOR APPROVAL OF AN AIR SERVICE AGREEMENT WITH AMERICAN AIRLINES FOR AIR SERVICE TO LOS ANGELES INTERNATIONAL AIRPORT THROUGH OCTOBER 24, 2026, IN EXCHANGE FOR THE CITY MAKING DIRECT PAYMENTS NOT TO EXCEED $1,800,000 TO COMPENSATE FOR REVENUE SHORTFALLS FROM UNDERFILLED FLIGHTS, USING , IN PART, NEW MEXICO RURAL AIR SERVICE ENHANCEMENT GRANT SAF-26-01, AND WAIVING FEES ESTIMATED AT A VALUE OF $142,387.

MOTION A motion was made by Councilor Romero-Wirth, seconded by Councilor Faulkner, to approve the request.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Romero-Wirth, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Faulkner, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes, Mayor Webber, yes.

11. MATTERS FROM THE CITY MANAGER

None.

12. MATTERS FROM THE CITY ATTORNEY

Heard.

Ms. McSherry recommended that the Governing Body enter into Executive Session.

A. EXECUTIVE SESSION

IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT, NMSA 1978, SECTION 10-15-1, PART (H), SUBPART (8), DISCUSSION OF PROPERTY DISPOSITION, SPECIFICALLY THE DISPOSITION OF PARCELS OF THE MIDTOWN PROPERTY LOCATED AT 1600 ST. MICHAEL'S DRIVE.

MOTION A motion was made by Councilor Romero-Wirth, seconded by Councilor Faulkner, to enter into executive session in accordance with the New Mexico Open Meetings act, NMSA 1978, Section 10-15-1, Part (H), Subpart (8).

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Romero-Wirth, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Faulkner, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes, Mayor Webber, yes.

The Governing Body entered into Executive Session at 7:35 pm.

MOTION A motion was made by Councilor Romero-Wirth, seconded by Councilor Faulkner, to reconvene in open session and that only the items noticed were discussed in executive session.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Romero-Wirth, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Faulkner, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes, Mayor Webber, yes.

The Governing Body reconvened in open session at 8:28 pm.

13. EXECUTIVE SESSION ACTION ITEMS

None.

14. MATTERS FROM THE CITY CLERK

Heard.

15. COMMUNICATIONS FROM THE GOVERNING BODY

Heard.

16. INTRODUCTION OF LEGISLATION

A. CONSIDERATION OF BILL NO. 2025-21. ADOPTION OF ORDINANCE NO. 2025-_____. A BILL AMENDING SFCC 1987, SECTION 28-1.5 ("LIVING WAGE ORDINANCE"), TO INCREASE THE CITY'S BASE MINIMUM WAGE AND UPDATE THE FORMULA FOR CALCULATING THE MINIMUM WAGE ANNUALLY.

Introduced.

18. PUBLIC COMMENT ON BILLS (FIRST PUBLIC COMMENT, NO ACTION)

A. CONSIDERATION OF BILL NO. 2025-17. ADOPTION OF ORDINANCE NO. 2025-_____. A BILL AMENDING SFCC 1987, SECTION 25-1.8 (A) TO REQUIRE THE CITY OF SANTA FE ("CITY ") TO CONTINUE TO MONITOR THE NATURALLY OCCURRING FLUORIDE LEVELS IN ITS WATER SYSTEM AT REPRESENTATIVE SAMPLE LOCATIONS AND TO END THE REQUIREMENT TO ADD FLUORIDE TO THE SYSTEM.

There were no public comments.

B. CONSIDERATION OF BILL NO. 2025-19. ADOPTION OF ORDINANCE NO. 2025-_____. A BILL ESTABLISHING A TEN (10) YEAR PLAZA PUSHCART VENDOR LICENSE FOR WHICH VENDORS WHO HAVE COMPLETED TWENTY-FIVE (25) CONSECUTIVE YEARS OF VENDING ARE ELIGIBLE TO APPLY.

There were no public comments.

19. FINAL ACTION ON LEGISLATION (PUBLIC HEARING)

None.

20. PUBLIC HEARINGS (LAND USE CASES, APPEALS AND OTHER ITEMS REQUIRED TO HAVE A PUBLIC HEARING)

A. NOTICE OF 30-DAY PUBLIC COMMENT PERIOD FO THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ANNUAL ACTION PLAN.

Stephanie Beninato. Ms. Beninato said she appreciated the 30-day comment period.

MOTION A motion was made by Councilor Romero-Wirth, seconded by Councilor Castro, to approve the item.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Romero-Wirth, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Faulkner, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes, Mayor Webber, yes.

21. APPOINTMENTS

A. ETHICS AND CAMPAIGN REVIEW BOARD

- **ANDREW BLACK - REAPPOINTMENT - TERM ENDING 07/2029**
- **JUSTIN MILLER - REAPPOINTMENT - TERM ENDING 07/2029**

MOTION A motion was made by Councilor Romero-Wirth, seconded by Councilor Cassutt, to approve the appointments to the Ethics and Campaign Review Board.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Romero-Wirth, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Faulkner, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes, Mayor Webber, yes.

B. MAYOR'S COMMITTEE ON DISABILITY

- **JEMINIE L. SHELL - APPOINTMENT - TERM ENDING 01/2029**
- **ELI FRESQUEZ - REAPPOINTMENT - TERM ENDING 01/2029**
- **KERRI COTTLE - APPOINTMENT - TERM ENDING 01/2029**
- **ROBIN GARRISON - APPOINTMENT - TERM ENDING 01/2029**

Councilor Faulkner recused herself from the vote as Robin Garrison is her sister.

Councilor Faulkner left the meeting.

MOTION A motion was made by Councilor Castro, seconded by Councilor Chavez, to approve the appointments to the Mayor's Committee on Disability.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Romero-Wirth, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes, Mayor Webber, yes.

22. ADJOURN

There being no further business before the Governing Body, the meeting adjourned at 9:29 pm.

_____
Mayor Alan Webber

Attested To By:

_____
Andréa Salazar, City Clerk

Respectfully Submitted By:

_____
Elizabeth Martin, Stenographer

GOVERNING BODY MEETING
EXECUTIVE SESSION
September 10, 2025

The Governing Body of the City of Santa Fe met in an executive session duly called on September 8, 2025 beginning at 8:22 p.m.

The following was discussed:

In Accordance with the New Mexico Open Meetings Act, NMSA 1978, Section 10-15-1, Part (H), Subpart (8), Discussion of Property Disposition, Specifically, the Disposition of Parcels of the Midtown Property located at 1600 St. Michael's Drive. (Erin K. McSherry, City Attorney: ekmcsherry@santafenm.gov)

PRESENT
Mayor Webber
Councilor Lindell (Virtually)
Councilor Castro
Councilor M. Garcia
Councilor L. Garcia
Councilor Faulkner
Councilor Cassutt
Councilor Chavez

STAFF PRESENT
Mark Scott, City Manager (Virtually)
Andrea Philips, Deputy City Manager
Erin McSherry, City Attorney
Andréa Salazar, City Clerk
Carly Venditti, Asset Development Manager
Elisa Montoya, Community Development Director

There being no further business to discuss, the executive session was adjourned at 8:54 p.m.

ANDREA SALAZAR (Sep 9, 2025 13:33:26 MDT)

Andréa Salazar, City Clerk/Director of Community Engagement

NMRLD
NEW MEXICO REGULATION & LICENSING DEPARTMENT

Alcoholic Beverage Control Division

Special Dispenser Permit Intake Application

Application Number: PAR-0000340710

NMRLD
NEW MEXICO REGULATION & LICENSING DEPARTMENT

License Holder Information

Type of Dispenser Permit: Special Dispenser Private Event
Business Name (DBA): STAR INVESTMENT, LLC
Business Mailing Address: 2885 Cerrillos Road,Santa Fe,NM,US,87507
Business Phone: 5056999903
Business Email: kellyliquorbarn@gmail.com

License Number: DIS-000338
License Type: Dispenser
License Expiry Date: 06/30/2026

Event Information

Event Name: Santa Fe Prep Gala
Event Venue: Outdoor
Event Start Date: 10/04/2025
Event End Date: 10/04/2025
No of Days of Event: 1
Does this event allow guests of all ages: Yes
Will wristbands be used to assist in identifying attendees 21 years of age and older: No
Event Description: Gala reception.

RECEIVED - CITY CLERK
'25 SEP 2

Event Physical Address

Event Street: 1101 Camino De Cruz Blanca
Event City: Santa Fe
Event Zip Code: 87505
Event State: NM
Event County: Santa Fe
Event Local Option District: Santa Fe City

Event Date/Hours

Date of Event: 10/04/2025
Time Event Begins: 5:00 PM
Time Event Ends: 11:00 PM
Time of Alcohol Service: Begins at: 5:00 PM
Ends at: 10:00 PM
Total No. of Attendees Expected at Event: 150
Total No. of Attendees Expected to Consume Alcohol: 125

Sponsor Information

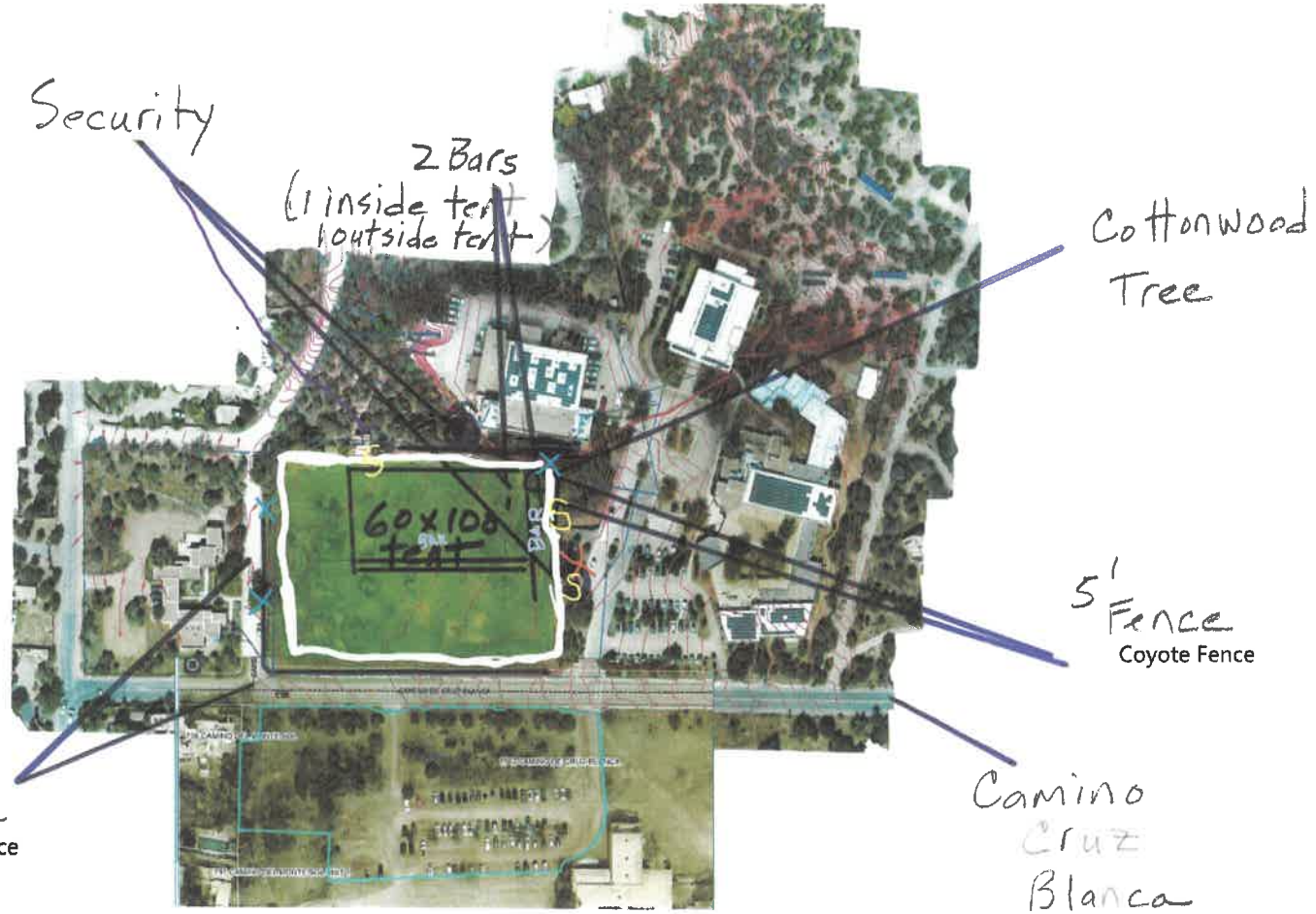
Event Sponsor Name (Event Organizer): Santa Fe Prep
Event Sponsor Contact Person: Rebecca Star
Event Sponsor Contact Email: rstarr@sfprep.org
Event Sponsor Contact Phone: 5057957526

Security Information

Security Type: Licensed Security Company
Number of Security Guards at Event: 3
Licensed Security Company Name: Independent Security Co.

NOTE: LICENSEE'S EMPLOYEE(S) ASSIGNED TO WORK SECURITY, MUST WORK THIS EXCLUSIVELY AND MAY NOT SERVE AT THE EVENT.

Square footage = 22,100



N EXISTING CAMPUS

O = Highlighted Area *White outline*

X = Main Entrance

X = Locked

5 = Security

SANTA FE PREP
Opening a World of Possibilities

Santa Fe Preparatory School
Aaron Schubach, Head of School

April 29, 2025

Hon. Alan Webber
Mayor
Hon. Members of the City Council
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501

Dear Mayor Webber and Members of the City Council,

Santa Fe Preparatory School, located at 1101 Camino Cruz Blanca in Santa Fe, will be holding a private evening Gala on Saturday October 4, 2025 on Brennand Field, which is on our own property, and alcohol will be served at the Gala. The Gala will take place from 5:30pm-11pm. School will be closed at this time and students will not be present.

We hope these conditions meet your requirements for gatherings of this type. Please let me know if you have any questions about our event.

Sincerely,

Aaron Schubach
Head of School
Santa Fe Preparatory School

Kelly Liquor Barn Servers

Jesus G. Almeida Veleta	S142157	05/24/27	
Victoria Almeida-Veleta	S159367	05/29/28	
Pablo Alonso Almeida-Veleta	S024074	07/12/27	
Fania E. Martinez	S128000	06/03/28	
Young R. Jo-Almeida	S109549	03/30/26	(backup)
Grace Lee	S079752	06/19/27	(backup)
Rosalio A. Merino	S023762	08/27/27	
Paola Arteaga	S154279	02/18/28	
Tony Maloof	S111889	03/10/26	
Benjamin Rojas	S129060	01/12/27	
Joshua Faya	S129480	01/10/27	
Ida Contreras	S155336	03/03/28	
Maria Vargas-Hernandez	S129128	01/20/27	
Robert Toya	S163102	07/09/28	
Laura N Sosa	S047061	02/20/28	
Sandra M Perez	S047894	09/27/27	
Cinthia Reza	S108850	03/16/26	
Luis Rodriguez	S163677	09/29/28	
Ellison Carmona	S	08/06/29	
Jose Gervasio	S037746	03/26/27	
Luis Linares	S155896	03/20/28	
Violette Serna	S156573	03/18/28	
Omar Carmona	S138067	03/09/28	
Tomas Tolcha	S	04/01/26	

ServSafe

NMRA

New Mexico Restaurant Association

State of New Mexico
Regulation and Licensing Department
Alcohol and Beverage Control
2550 Cerrillos Road
Santa Fe, NM 87505
Phone (505) 476-4875 • Fax (505) 476-4595
http://www.rld.state.nm.us/

Alcohol Server Education Act – Temporary Server Permit Application

This Temporary Certificate is for:

Renewal	New	Minor (19 & 20 years old)
☐	☐	☐

Instructions to Server:
Review the information on this certificate to ensure that it is correct. It is very important to ensure your mailing address is correct. After you have confirmed that the information is correct, please print out this form and sign it.

Last Name:	First Name:	Middle Initial:
CARMONA	ELLISON	

Mailing Address:	City:	State:	Zip Code:	Zip +4:
2284 HENRY LYNCH RD UNIT 13	SANTA FE	NM	87507	

Date of Birth:	Driver's License or Photo ID #:	State of Issuance:	Telephone #:	Email Address:
9/23/1995	511436702	NM	505 5777019	ellisoncarmona@gmail.com

Sex:	Height:	Weight:	Hair Color:	Eye Color:	Test Score:	Completion Date:
Male	70	215	Blk	Brn	80%	8/6/2025

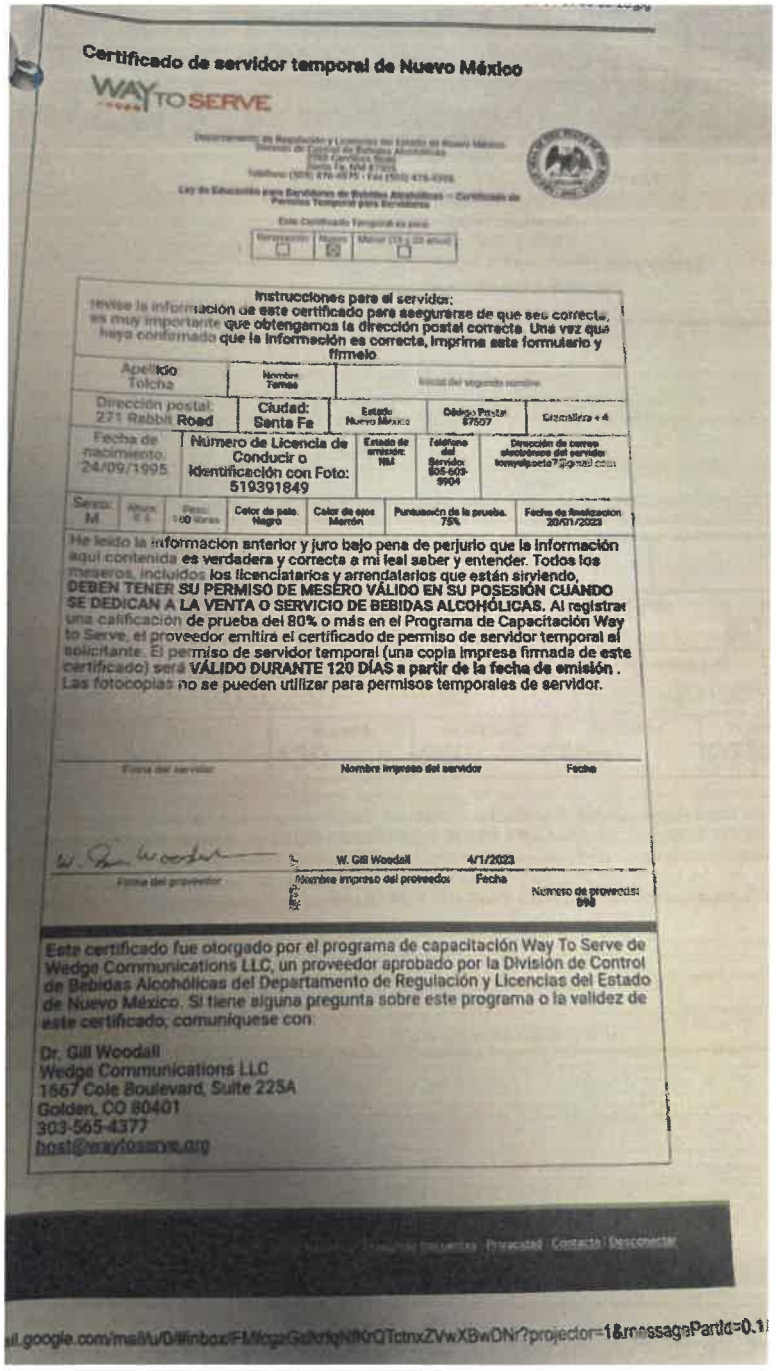
I have read the above information and swear under penalty of perjury that the information contained herein is true and correct to the best of my knowledge and belief. **All servers including licensees and lessees who are serving MUST HAVE THEIR VALID SERVER PERMIT IN THEIR POSSESSION WHEN ENGAGED IN THE SALE OR SERVICE OF ALCOHOLIC BEVERAGES.** Upon recording a test grade of 80% or better on the ServSafe Alcohol Responsible Alcohol Service Training Program, the provider will issue the temporary server permit certificate to the applicant. The temporary server permit (a signed print out of this certificate) will be **VALID FOR 120 DAYS from the date of issuance**. Photocopies may not be used for temporary server permits.

8/6/2025

Applicant's Signature | Printed Name of Applicant | Class Date

PROVIDER INFORMATION

Provider's Signature	Printed Name of Provider	Provider #	Date
[signature]	New Mexico Restaurant Association	85	8/6/2025



Certificado de servidor temporal de Nuevo México

WAY TO SERVE

Departamento de Regulación y Licencias del Estado de Nuevo México
División de Control de Bebidas Alcohólicas
2550 Cerrillos Road
Santa Fe, NM 87505
Teléfono (505) 476-4875 - Fax (505) 476-4595

Ley de Educación para Servidores de Bebidas Alcohólicas – Certificado de Permiso Temporal para Servidores

Este Certificado Temporal es para:

Renovación	Nuevo	Menor (19 y 20 años)
☐	☒	☐

Instrucciones para el servidor:
revise la información de este certificado para asegurarse de que sea correcta, es muy importante que obtengamos la dirección postal correcta. Una vez que haya confirmado que la información es correcta, imprima este formulario y fírmelo

Apellido	Nombre	Inicial del segundo nombre
Tolcha	Tomas	

Dirección postal:	Ciudad:	Estado	Código Postal	Gramática + 4
271 Rabbit Road	Santa Fe	Nuevo México	87507	

Fecha de nacimiento:	Número de Licencia de Conducir o Identificación con Foto:	Estado de emisión:	Teléfono del Servidor:	Dirección de correo electrónico del servidor:
24/09/1995	519391849	NM	505-503-5904	tomyelpoeta7@gmail.com

Sexo:	Altura:	Peso:	Color de pelo:	Color de ojos:	Puntuación de la prueba:	Fecha de finalización:
M	6 ft	160 libras	Negro	Marrón	75%	20/01/2023

He leído la información anterior y juro bajo pena de perjurio que la información aquí contenida es verdadera y correcta a mi leal saber y entender. Todos los meseros, incluidos los licenciatarios y arrendatarios que están sirviendo, **DEBEN TENER SU PERMISO DE MESERO VÁLIDO EN SU POSESIÓN CUANDO SE DEDICAN A LA VENTA O SERVICIO DE BEBIDAS ALCOHÓLICAS.** Al registrar una calificación de prueba del 80% o más en el Programa de Capacitación Way to Serve, el proveedor emitirá el certificado de permiso de servidor temporal al solicitante. El permiso de servidor temporal (una copia impresa firmada de este certificado) será **VÁLIDO DURANTE 120 DÍAS a partir de la fecha de emisión**. Las fotocopias no se pueden utilizar para permisos temporales de servidor.

Firma del servidor | Nombre impreso del servidor | Fecha

Firma del proveedor	Nombre impreso del proveedor	Fecha	Número de proveedor:
[signature]	W. Gill Woodall	4/1/2023	898

Este certificado fue otorgado por el programa de capacitación Way To Serve de Wedge Communications LLC, un proveedor aprobado por la División de Control de Bebidas Alcohólicas del Departamento de Regulación y Licencias del Estado de Nuevo México. Si tiene alguna pregunta sobre este programa o la validez de este certificado, comuníquese con:

Dr. Gill Woodall
Wedge Communications LLC
1667 Cole Boulevard, Suite 225A
Golden, CO 80401
303-565-4377
host@waytoserve.org

Preguntas frecuentes | Privacidad | Contacto | Desconectar

...il.google.com/mail/u/0/#inbox/FMfcgzGsKrfqNfKrQTctnxZVwXBwDNr?projector=1&messagePartId=0.1

CITY OF SANTA FE
LIQUOR LICENSE HEARING OFFICER

Recommended
Findings of Fact and Conclusions of Law

Lic. No./Appl. No.: DIS-000338
Name of Applicant:
Doing Business As: Star Investment, LLC
Proposed Location: 1101 Camino Cruz Blanca, Santa Fe New Mexico
Event Name: Santa Fe Prep Gala, October 4, 2025

THIS MATTER came before the Liquor License Hearing Officer for public hearing on **September 18, 2025** at 4:00 PM by video hearing, on the request of Santa Fe Preparatory School, 1101 Camino Cruz Blanca, Santa Fe New Mexico for a Special Dispenser Liquor Application.

1. Request from Santa Fe Preparatory School, 1101 Camino Cruz Blanca, Santa Fe New Mexico for a private evening Gala to be held on Saturday October 4, 2025, from 5:30pm to 11:00pm

The Hearing Officer recommends that the Governing Body adopt the following findings of fact and conclusions of law.

After reviewing the record, conducting a public hearing and having provided an opportunity to be heard from city staff, the Applicant and any interested persons, the Hearing Officer hereby proposes that the Governing Body find as follows:

FINDINGS OF FACT

1. Staff submitted a packet containing the following, which was reviewed by the Hearing Officer and relied on in making these findings:

    a. New Mexico Regulation and Licensing Department, Alcohol and Gaming Division (NMRLD/AGD) Special Dispenser Permit Intake Application.
    b. Premises map.
    c. April 29, 2025 letter from Santa Fe Prep to the City of Santa Fe requesting a special dispenser permit.
    d. List of alcohol servers.

2. City Clerk staff member Xavier Vigil presented the application.
3. The Applicant was represented by Rebecca Star.
4. Applicant was offered the opportunity to present testimony or evidence.
5. No members of the public appeared to testify.

6. Issuance or transfer will not be detrimental to the public health, safety or morals of the residents of the local option district
7. The hearing was recorded and a copy of the recording is made a part of the record.

CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Hearing Officer CONCLUDES:

1. Notice of the Application was properly given.
2. The governing body may disapprove a transfer or issuance only if individuals opposing the transfer or issuance provide positive evidence showing that the transfer or issuance would be detrimental to the health, safety or morals of the community. This evidence must be based on authentic, relevant facts related to s specific prospective licensee and specific location. The Southland Corporation v. Manzagol, 1994-NMSC-099, 118 N.M. 423
3. The Applicant does not have the burden to prove that the transfer would not be detrimental to the health, safety or morals of the residents of the local option district. Dick v. City of Portales, 1994-NMSC-092, 118 N.M. 541.
4. The Application meets the requirements of §60-6B-4(F)(2).

WHEREFORE, the Liquor License Hearing Officer recommends to the Governing Body that the Application be **APPROVED**.

/s/ Renee Barela-Gutierrez Date: 09/19/2025
Renee Barela-Gutierrez

City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Alma G. Castro, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Lee Garcia, District 3
Pilar F.H. Faulkner, District 3
Jamie Cassutt, District 4
Amanda Chavez, District 4

Disposal Approval Memorandum and Justification

City of Santa Fe – 2025 Disposal Auction

To: Finance Committee and Governing Body
From: Raymond "Scott" Gunter – Finance & David Jaramillo – Fleet Manager
Date: September 17, 2025
Subject: Approval of the 2025 Consolidated Disposal Auction List/Bentley's Auction-Date 10/18/25

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1. Purpose and Governing Authority

The City of Santa Fe is responsible under Administrative Policy 2100-4-3 (Disposition of Tangible Property) and NMSA 1978, sec. 3-54-2 to manage surplus assets with transparency and accountability.

- Policy 2100-4-3 requires Governing Body approval for disposal of property with estimated value over $5,000 and establishes process controls.
- NMSA 1978, sec. 3-54-2 grants municipalities authority to dispose of surplus property.

The Disposal Committee — comprised of Finance, Fleet, Asset Management, and Budget — has prepared the 2025 Consolidated Auction List for approval.

This list represents a deliberate and compliant process: all items were screened for potential repurposing, vetted against policy, and determined to have no further operational value to the City.

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2. Structure of the Consolidated Auction List

The 2025 Consolidated Auction List uses the E/V/O classification system to standardize reporting and audit readiness:

- E – Equipment: graders, tractors, compressors, trailers, shop tools
- V – Vehicles: sedans, pickups, SUVs, police units, heavy trucks, rolling stock
- O – Other: office furniture, electronics, fencing, playground pieces, surplus materials

2025 Totals:

- Vehicles: 119
- Equipment: 115
- Other: 59
- Total Assets: 293

Each line item in the spreadsheet is supported by required fields that ensure compliance with Administrative Policy 2100-4-3 and audit readiness:

- ORG: originating department or division code.
- SUBMITTAL: confirmation that the department is submitting the asset for Governing Body approval.
- FA #: the City's Finance fixed asset number used for reconciliation.
- EQUIPMENT/VEHICLE/OTHER (E/V/O): classification type.
- TOW? Y/N: whether towing or special transport is required.
- TITLE (Y/N): whether the unit has a valid title on file.
- ASSET DESCRIPTION: narrative description of the item (e.g., Ford F150 pickup, Buffalo Forge drill press).
- POSSIBLE REPURPOSE/ELIGIBLE: notes whether the item could be reused internally before auction.
- YEAR: model or manufacture year.
- MILEAGE: odometer reading for vehicles.
- VIN: vehicle identification number.
- G-PLATE: government plate number.
- SERIAL #: manufacturer serial number for non-titled equipment.
- ITEM LOCATION: physical storage or yard location.
- PURCHASED WITH GRANT (Y/N): whether originally grant funded (important for compliance).
- ESTIMATED CURRENT VALUE (IF OVER $5K): department estimate if asset is believed to exceed $5,000.
- WORKING CONDITION / ITEM CONDITION: basic operating status.
- CLEANED BEFORE FLEET INSPECTION (Y/N): confirmation the unit is cleared of debris and ready for Fleet inspection.

The inclusion of Equipment and Other alongside Vehicles ensures not only disposal of transportation assets but also the elimination of clutter, insurance exposure, and unneeded inventory — making room for a fleet and asset pool focused strictly on mission-critical use.
Based on WEX fuel card reporting, approximately one-third of the vehicles on this list have not been fueled in more than 90 days. This objective data confirms they are underutilized, non-operational, or no longer essential to service delivery.

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3. Lifecycle Standards and Financial Burden

All disposals are measured against NAFA (National Association of Fleet Administrators) lifecycle standards — the accepted national benchmark for public fleets.
The Fleet Master Workbook (2025) identifies 1,056 assets with true 17-digit VINs. Of these, 334 vehicles — or 31.6% of the fleet — are graded D or F, meaning they are beyond lifecycle, unreliable, and costlier to retain than to replace.
The majority of units on the 2025 disposal list fall into the D/F category. Under the City's benchmark of $5,000 per year per beyond-lifecycle unit, holding costs equate to ≈ $13.70 per day, per vehicle.

- 119 Vehicles → ≈ $1,630 per day / $595,000 annually
- 334 Citywide D/F Units (31.6% of fleet) → ≈ $4,575 per day / $1.67M annually

Every day these assets remain on the books represents a quantifiable, avoidable loss to taxpayers.

---

4. Auction Revenue Projection and Handling

Based on Bentley's recent auctions of City assets:

- June 2023 NET: $765K
- October 2023: $202K
- October 2024 NET: $475K
- Total of the 3 Auctions ≈ $1.44 Million

Using mix-adjusted projections for 2025:

- Conservative: ≈ $191,000
- Base Case: ≈ $426,000
- Optimistic: ≈ $721,000

Revenue Handling: As in prior years, all proceeds will be deposited into the General Fund in accordance with Administrative Policy 2100-4-3. Bentley's will provide a lot-by-lot accounting, audited by Finance, ensuring continuity, transparency, and audit compliance.

Transparency of Process: Bentley's Auctioneers conducts these as public auctions open to all bidders, with results published online and delivered to the City for reconciliation. This guarantees open competition and prevents favoritism or closed sales.

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5. Insurance Savings

Disposing of these assets delivers immediate insurance savings:

- Units are cleared from Risk Management schedules at time of sale
- Reduces premiums
- Removes claims exposure for non-operational assets
- Protects taxpayer dollars by ensuring the City does not insure equipment no longer in service

This reinforces that the disposal process is not just operational but a risk-reduction strategy that protects both the City and taxpayers.

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6. Strategic Justification

- Lifecycle Completion: All major disposals are graded D/F under NAFA standards.
- Right-Sizing the Fleet: Aligns fleet size with actual service need and eliminates excess.
- Purpose-Based Replacements: Future acquisitions will be tied to function — the right vehicle for the right task.
- Financial Stewardship: Avoids daily losses, reduces insurance costs, and generates auction revenue.
- Risk Mitigation: Removes breakdown-prone units, lowering liability exposure.
- Environmental Alignment: Supports Santa Fe's Green City and Climate Action commitments by removing inefficient units and preparing for low-emission replacements.

- Asset Optimization: Clearing unused Equipment and Other assets allows fine-tuning of the City's inventory to what is actively used.
- Adoption of Best Practices: The City of Santa Fe formally wishes to adopt NAFA Standards moving forward. This ensures all future replacement, utilization, and acquisition decisions are grounded in nationally recognized fleet management criteria, eliminating subjectivity and reinforcing fiduciary responsibility.
- Precedent: Governing Body approvals were granted for disposal lists in 2023 and 2024 under the same process. This request is not a departure, but a continuation of established practice.

Fleet is the cornerstone of how the City of Santa Fe responds to its constituents — without reliable vehicles and equipment, essential services cannot be delivered.

Accordingly, we recommend that this disposal process be formally incorporated into the vetting process of all City assets, ensuring that lifecycle evaluation, NAFA grading, and disposal readiness are embedded in every asset management decision.

We believe incorporating this vetting process in all disposal decisions for the City will provide a valuable roadmap to follow so that a fact-based approach is made for Fleet in the future.

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7. Requested Action

The Finance Committee and Governing Body are respectfully requested to:

- Approve the 2025 Consolidated Auction List and Justification
- Authorize Bentley's Auctioneers to proceed under policy
- Formally designate Raymond "Scott" Gunter – Finance as the City of Santa Fe's Authorized Title Signer for this auction
- Adopt NAFA Standards for Fleet Determination

Closing Statement and Forward-Looking Approach

The modernization of Santa Fe's fleet is a financial, operational, and environmental necessity. While the cost of new fleet is significant and ROI may not appear immediately in ledger form, modernization represents hidden revenue — avoided costs that strengthen long-term fiscal health.

According to NAFA standards, modernization yields savings in:

- Lower fuel consumption
- Reduced maintenance and downtime
- Decreased parts and labor costs
- Improved utilization efficiency
- Lower insurance exposure
- Extended warranty coverage and lifecycle protection

These avoided costs directly protect taxpayer dollars and deliver service reliability.

As we eliminate D/F-rated units, the City must implement a forward-looking 10+ year Fleet Modernization Plan:

- Establish PAR (Programmed Acquisition and Replacement) levels for each department
- Adopt a green approach aligned with Santa Fe's environmental values

- Ensure the right vehicle is assigned to the right task
- Incorporate data analytics and telematics to drive fact-based, efficient management

This is a long-term approach and not a quick fix. It is a proposed solution that will span multiple administrations, guided by best practices and the City's fiduciary duty to residents. It should be viewed as a capital investment in the same category as other large capital and infrastructure investments — one that secures Santa Fe's ability to deliver essential services far into the future. This will be a continual rotation of fleet assets — replacing the old with the new — based on a data-driven approach designed to achieve maximum ROI on every dollar spent.
We respectfully submit this disposal list to the Governing Body for approval.

"A lot of people say that the longest journey starts with one step, Fleet and Finance believes it is one rotation of a wheel." – Dave and Scott

Respectfully submitted,

Raymond "Scott" Gunter – Finance
David Jaramillo – Fleet Manager

City of Santa Fe, New Mexico
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Alan Webber, Mayor

Councilors:
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Alma G. Castro, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Lee Garcia, District 3
Pilar F.H. Faulkner, District 3
Jamie Cassutt, District 4
Amanda Chavez, District 4

Governing Body Summary

City of Santa Fe – 2025 Disposal Auction

Auction Date: October 18, 2025

Purpose and Authority

- Disposal governed by **Administrative Policy 2100-4-3** and **NMSA 1978, sec. 3-54-2**.
- Ensures transparency, accountability, and audit compliance.
- The 2025 Consolidated Disposal Auction List is submitted for approval.

Auction List Overview

- **Total Assets:** 293
  - **Vehicles:** 119
  - **Equipment:** 115
  - **Other:** 59
- One-third of listed vehicles have not been fueled in 90+ days.
- Items classified as **D/F under NAFA lifecycle standards**; beyond useful life.

Financial Impact

- Holding costs for D/F vehicles: ≈ **$13.70 per day, per vehicle**.
  - 119 vehicles ≈ **$595,000 annually**.
  - 334 citywide D/F units ≈ **$1.67M annually**.
- **Projected Auction Revenue (based on 2023 & 2024 Bentley's results):**
  - Conservative ≈ $191,000
  - Base Case ≈ $426,000
  - Optimistic ≈ $721,000
- All proceeds deposited into **General Fund**, with Bentley's providing lot-by-lot audited accounting.

Additional Benefits

- **Insurance savings:** immediate removal from schedules, reduced premiums, lower liability.
- **Operational savings:** fewer breakdowns, improved reliability, reduced maintenance spend.
- **Environmental alignment:** supports Green City and Climate Action commitments.

Strategic Justification

- Right-sizes fleet to service needs; eliminates unused and obsolete assets.
- Creates room for purpose-based, task-appropriate replacements.
- Embeds **NAFA standards** in fleet management for fact-based decisions.
- Establishes a **roadmap** for future disposals — recommended to be incorporated into all asset vetting.
- Supports a forward-looking **10+ year Fleet Modernization Plan**: PAR levels, green initiatives, data analytics, continual rotation of assets.

Requested Action

- Approve the **2025 Consolidated Disposal Auction List and Justification**.
- Authorize **Bentley's Auctioneers** to proceed.
- Designate **Raymond "Scott" Gunter – Finance** as Authorized Title Signer.
- Adopt **NAFA Standards** for fleet determination.

Appendix A – Possible Clarifying Questions and Answers

City of Santa Fe – 2025 Disposal Auction

Legal and Policy Authority

Q: What is the Governing Body's duty in approving this disposal list, and what benefits does approval provide?

A: The Governing Body has fiduciary responsibility under Administrative Policy 2100-4-3 and NMSA 1978, sec. 3-54-2 to safeguard the City's capital assets and approve their lawful disposal. This role is also supported by the New Mexico Constitution's Anti-Donation Clause (Art. IX, Sec. 14), which requires transparent and competitive disposition of public property.

Approving the current list could provide several benefits:
- Cost avoidance of ≈$595,000 annually (≈$1,630 per day) tied to 119 vehicles.
- Reduced liability and insurance exposure once units are removed.
- Relief for departments maintaining outdated vehicles.
- Progress toward the City's modernization plan and adoption of NAFA fleet lifecycle standards.
- Revenue projected between $191,000 and $721,000 to the General Fund.

The Governing Body may weigh these considerations at its discretion.

Scope and Asset Details

Q: How many assets are being disposed of, and what kinds?

A: The current list comprises 293 assets: 119 vehicles, 115 pieces of equipment, and 59 other assets. This number may adjust before auction, as City Disposal Policy 2100-4-3, Section II(C) authorizes the Disposal Committee to add, modify, or remove items valued under $500 without Governing Body approval. Higher-value items are deferred to later lists. All assets are reviewed for possible repurposing within departments before auction. The Governing Body may weigh these factors in its decision.

Q: How do we make sure low-value items are not mishandled?

A: Items valued under $500 may be adjusted by the Disposal Committee without Governing Body action, as authorized by policy. Even in these cases, items are vetted with other departments to see if they can be repurposed internally. This provides audit defensibility and ensures nothing of value is overlooked.

Q: Are there any assets that departments wanted to keep but were forced to give up?

A: Departments were not forced to give up vehicles or equipment arbitrarily. Each division completed a repurposing review to identify whether an asset still had practical value. In some cases, departments determined that keeping an older unit would pose safety risks,

require costly repairs that outweighed its worth, or take up space without serving a clear purpose. Only assets deemed surplus under these reviews advanced to the auction list. The Governing Body may weigh these factors in its decision.

Q: What if we later realize a piece of equipment is still useful?

A: Items approved and consigned to auction generally need to follow the transparent public process to avoid audit risk. The Governing Body may weigh this consideration.

Financial Impact

Q: How much will the City make?

A: Based on Bentley's history, projected proceeds range from $191,000 to $721,000. All proceeds are deposited into the General Fund. The Governing Body may weigh these factors in its decision.

For the upcoming October 18, 2025 auction, projections are as follows:
- Conservative case: ≈$191,000
- Base case: ≈$426,000
- Optimistic case: ≈$721,000
These estimates reflect expected bidder participation and asset condition.

Q: Where does the money from the auction go, and how will it be used?

A: Proceeds have historically been deposited into the General Fund, including the past three auctions (2023–2024). Operationally, these dollars are applied to modernization and cost avoidance, but allocation rests with the Governing Body. Directing proceeds into a dedicated Fleet or Capital Reserve Fund would require a future policy or budget action.

Q: Why not sell items directly to employees, children's groups, or nonprofits?
A: Direct transfers outside of the auction process are not legally permissible and present serious risks. The Anti-Donation Clause of the New Mexico Constitution (Art. IX, Sec. 14) prohibits giving public property to individuals, employees, children's groups, or nonprofits unless a constitutional exception applies. Direct donation or discounted sales would generally be unlawful.

There are also liability concerns. Many of these vehicles and equipment are beyond lifecycle and do not meet modern safety standards. If a surplus item donated or sold directly were to fail and cause harm — particularly to a child — the City could still be held responsible.

Finally, audit and compliance requirements under State law and City Disposal Policy 2100-4-3 mandate that assets be disposed of through a transparent, competitive process. Bypassing this process would invite audit findings, compliance violations, and potential penalties.

The auction process avoids these risks by:

- Ensuring fair market value for taxpayers.
- Providing open and equal access to all qualified bidders, including schools or nonprofits.
- Transferring liability to the buyer at the time of sale.

For these reasons, direct transfers — especially where children's use could be involved — are not in the best interest of the City or the public.

Q: How much are we saving on insurance?

A: Removing units takes them off insurance and liability schedules, saving ≈$450–$600 annually per vehicle while reducing exposure to high-cost claims. The Governing Body may weigh these benefits in its decision.

Lifecycle and Utilization

Q: Why are we using NAFA as a standard for the entire fleet?

A: NAFA standards are the national benchmark for public-sector fleet management, offering lifecycle replacement schedules, cost-per-mile analysis, and objective grading. They are widely used by cities across the U.S. and align with FEMA disaster readiness guidance and GSA fleet policy frameworks. Adoption is recommended but remains at the Governing Body's discretion.

Q: What if the Governing Body is not ready to adopt NAFA standards today?

A: Adoption of NAFA lifecycle standards is recommended to give the City consistent benchmarks. If the Governing Body wishes, approval of the disposal list can proceed now while NAFA adoption is tabled for later discussion.

A: The City's total fleet is 1,056 vehicles. Of these, 334 have been graded D/F under NAFA lifecycle standards, meaning they are beyond their cost-effective service life. The current auction proposes disposal of 119 of those vehicles. This represents a phased approach — addressing the most urgent units now while leaving future disposals and replacements to be considered in subsequent cycles. The Governing Body may weigh whether this staged approach provides the right balance between fiscal prudence and operational continuity. This represents about 31.6% of the entire fleet.

Q: Why are only 119 vehicles being disposed of now if more are graded D/F?

A: Of 1,056 fleet vehicles, 334 are graded D/F. The current auction addresses 119 of the most urgent. This staged approach balances modernization with budget realities. The Governing Body may weigh whether this balance is appropriate.

Q: Why not just keep repairing older vehicles instead of replacing them?

A: Repairs such as a $5,000 transmission rebuild may temporarily keep a vehicle moving but often exceed its value and provide no long-term benefit. The Governing Body may weigh whether continued repairs or disposal better serve the City.

Q: Why are so many vehicles being disposed of at once?

A: The 119 vehicles proposed are the most urgent subset of the 334 D/F-graded assets. The Governing Body may consider whether this phased approach is suitable.

Q: Why not hold them as backups?

A: Beyond-lifecycle units cost ≈$13.70 per day, carry insurance responsibilities, and often sit unused. The Governing Body may weigh whether retaining them offsets these impacts.

Q: What is "holding cost"?

A: Holding cost is the daily expense the City incurs to keep a vehicle in inventory after it has passed its useful lifecycle. It includes insurance, depreciation, liability exposure, storage space, and ongoing minor maintenance. Even if the vehicle is not driven, these costs continue until the unit is disposed of.

Q: How is the $13.70 per day holding cost calculated?

A: The figure comes from averaging across the fleet:
- Insurance premiums (≈$450–$600 annually per vehicle).
- Depreciation and obsolescence.
- Minor maintenance and inspections (oil, batteries, safety checks).
- Storage and yard management.
- Liability exposure (accidents, breakdowns, environmental leaks).

When annualized and divided by 365, these costs equal ≈$13.70 per day, per vehicle. Across the 119 vehicles on the current disposal list, this equals about $1,630 per day — or nearly $595,000 annually.

Q: Some vehicles still run — why dispose of them?

A: Running does not mean cost-effective or safe. NAFA grading reflects broader reliability and safety factors. The Governing Body may weigh whether retention is justified.

Q: What is the environmental benefit of disposal?

A: Older units emit more pollutants and consume more fuel. Their removal supports the City's Green Santa Fe goals and aligns with national climate commitments. The Governing Body may weigh these environmental benefits in its decision.

Q: Can you give an example of chasing good money after bad?

A: A 2024 Streets Division truck valued at ≈$2,000 required a $4,800 transmission rebuild, exceeding its worth. The Governing Body may weigh whether such cases argue for planned replacement.

Auction Process and Transparency

Q: How is the public assured the process is transparent?

A: Auctions are publicly advertised with online and on-site participation. Listings include photos, descriptions, and sale conditions. The Governing Body may weigh whether these measures provide sufficient transparency.

Q: Why Bentley's? Can we use another auctioneer?

A: Bentley's has been used with proven results and is included on the Statewide Price Agreement (SWPA #50-79000-25-02043), which extends eligibility to state agencies, counties, and municipalities. The Governing Body may weigh whether continued use is appropriate.

Q: Could the City run its own auction instead?

A: The City did manage a City-only auction in June 2023 using existing resources, but the larger Statewide auctions provide broader exposure and stronger competition. Bentley's supports both online and on-site bidding simultaneously, often leading to higher returns. The Governing Body may weigh whether to continue with this approach.

Q: How have past auctions performed financially, and does Bentley's deliver value?

A: In the three most recent auctions:
- June 2023 City-only Auction: ≈$765,000 net.
- October 2023 Statewide Auction: ≈$202,000 net.
- October 2024 Statewide Auction: ≈$475,000 net.

Combined, these generated over $1.44 million net for the City. This record demonstrates that Bentley's Statewide auctions provide broad exposure and competitive bidding. The Governing Body may weigh this track record when considering continued use.

Q: Why not recycle vehicles for scrap?

A: Scrap value is typically lower than auction proceeds, though recycling firms may still participate competitively. The Governing Body may weigh this trade-off.

Q: Are there risks of misuse of City logos or decals?

A: All markings are removed before auction. The Governing Body may weigh whether this safeguard is sufficient.

Q: What if no one bids?

A: Unsold assets may be reviewed for alternate disposal under policy. The Governing Body may weigh how much flexibility to allow in such cases.

Q: How does this auction fit into the City's broader modernization plan?

A: This disposal is one part of a proposed 10-year Fleet Modernization Plan. By auctioning outdated vehicles now, the City reduces unnecessary holding costs and liability, while freeing funds to reinvest in reliable, green, and right-sized assets. This connects directly to the City's goals for sustainability, fiscal responsibility, and improved public service.

Q: How do we assure the public that these items are not being given away unfairly?

A: All items are sold through a public, competitive auction process. This prevents favoritism, aligns with the Anti-Donation Clause, and ensures taxpayers receive fair market value.

Note: This appendix is provided to assist Governing Body deliberations, with the understanding that all final decisions remain at your discretion.

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City of Santa Fe, New Mexico

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Carol Romero-Wirth, District 2
Lee Garcia, District 3
Pilar F.H. Faulkner, District 3
Jamie Cassutt, District 4
Amanda Chavez, District 4

MEMORANDUM FOR RECORD

Date: 10/18/2025

To: Bentley's & Associates, LLC

From: R. Scott Gunter / Procurement Manager

SUBJECT: Authorization to Sell Vehicles and Miscellaneous Items at Auction / Authorization for Titling

1. Purpose. This memorandum formally authorizes Bentley's & Associates, LLC to conduct the sale of City of Santa Fe vehicles and miscellaneous equipment through public auction to the highest responsible bidder.
2. Auction Authority. The City of Santa Fe grants Bentley's & Associates, LLC the authority to act on its behalf for the purpose of selling City-owned vehicles and equipment at public auction scheduled for Saturday, October 18, 2025, in accordance with City of Santa Fe Administrative Policy 2100-4-3 (Disposal of Property) and applicable procurement and disposal requirements.
3. Point of Contact. The designated point of contact for this memorandum is R. Scott Gunter, Finance Department, City of Santa Fe, NM.
4. Titling and Registration Authority. This memorandum also serves as authorization to the State of New Mexico Motor Vehicle Division, and to any other respective State Motor Vehicle Department where applicable, to permit the lawful transfer, titling, and registration of vehicles or equipment sold at the auction. R. Scott Gunter is an authorized signer of vehicle titles for the City of Santa Fe and may execute all documents necessary to complete ownership transfer.

R. Scott Gunter

Finance Department
Central Purchasing Office
City of Santa Fe
c. 505-469-8949
RSGunter@santafenm.gov

City of Santa Fe New Mexico
Disposal Committee
Memorandum

DATE: 9/19/25

TO: **Governing Body**
Finance Committee

VIA: **Emily Oster, Finance Director** CMO 9/19/25

FROM: **City of Santa Fe Disposal Committee**
David Jaramillo – Fleet Section Manager
Rebecca Lovato-Sanouvong – Accounting Manager
Christopher Parker – Senior Budget Analyst
R. Scott Gunter – Procurement Manager

RE: **Statewide Auction 10/18/25 – Disposal Committee Approval**

ITEM:
The City will be taking part in the New Mexico Annual Statewide Auction, set for Saturday, October 18, 2025, at the Department of Public Safety track. This auction will facilitate the sale of capital assets, including vehicles, trucks, buses, transit vans, turf maintenance equipment, and other miscellaneous items. Bentley's Auction will be providing auction services.
In accordance with Disposal Policy 2100-4-3, the Disposal Committee has reviewed the attached Disposal List. They confirm that all listed items fulfill the criteria for disposal and adhere to the policy. The committee now seeks final approval from the Finance Committee, and the Governing Body for this list.

ACTION REQUESTED:
The Disposal Committee respectfully requests your review and approval.

Approved: David Jaramillo – Fleet Section Manager
Signature: David Jaramillo Date: 9/19/25

Approved: Rebecca Lovato-Sanouvong – Accounting Manager
Signature: R. Sanouvong Date: 9.19.25

Approved: Christopher Parker – Senior Budget Analyst
Signature: C Parker Date: 9/19/25

Approved: R. Scott Gunter – Procurement Manager
Signature: R Scott Gunter Date: 9/19/25

Proposed City of Santa Fe Auction List – October 18, 2025

To prevent eligible property from being excluded due to late submissions or clerical errors, the Disposal Committee is authorized to make limited adjustments to the attached disposal list.

- For items valued at less than $500, the Committee may add, modify, or remove entries without further Governing Body approval.
- This authority is granted under City Disposal Policy 2100-4-3, Section II(C). These items ordinarily qualify as "disposal without public notice." Most of these types of items have been lying around for years.

- Items valued at more than $500 will be deferred and placed on a future list for Governing Body action.

Estimated values will be based on comparable sales from previous auctions. Prior to auction, departments and divisions will review all items to determine if they can be repurposed for City use.

At the auction site, if breaking down larger lots into smaller units would generate additional revenue, the On-Site Auction Coordinator may authorize that adjustment. The Auction Coordinator also reserves the right to remove any item from the list. Most of these items have been lying around for years.

For items valued at less than $500, once they arrive at the auction lot, as much additional detail as possible will be entered into the spreadsheet to improve accuracy and transparency.

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	(1) BUFFALO FORGE DRILL PRESS	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	(2) FORKLIFTS (YARD LIFT 100)	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (2) SOUTHBEND LATHES	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	MISC. EQUIPMENT (BELT BENDER, METAL BENDER, DELTA TABLE SAWS, COMPRESSOR)	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	MISC. GARAGE EQUIPMENT (METAL DRAWERS, METAL SHOP CABINETS, SCREWS, BOLTS, ETC.)	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	MISC OFFICE FURNITURE (DESKS, CHAIRS, SHELVES)	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	MISCELLANEOUS CLEANING CHEMICALS	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (1) PALLET(s) MISC POOL EQUIPMENT	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	MYTANA PRESSURE WASHER	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	BIG FOUR TIRE CHANGER MARK VII	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	BAR LEAKS WELDER EQUIPMENT	YES	UNK	N/A

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (2) 3-DRAWER LATERAL FILE CABINET, BLACK	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (1) 3-DRAWER LATERAL FILE CABINET, TAN	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (2) - 3070 DOORS	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (1) - 4 DRAWER FILE CABINET, TAN	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (1) 4 DRAWER LATERAL FILE CABINET, BLACK	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (1) 4 DRAWER LATERAL FILE CABINET, TAN	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (1) CABINET WITH MISC. SCREW/BOLT/ETC (MISC. PARTS)	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (30)CHAIRS (MISC. MAKES AND MODEL)	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (6)CLOTH CHAIRS (MISC. MAKES AND MODELS)	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	COMMERCIAL REACH IN TRUE REFRIGERATOR SINGLE DOOR	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (4) MISC. MAKES AND MODEL COUCHES	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	HUS QUARNA XTORO DEMO SAW	YES	UNK	N/A

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	DINOSAUR STATUE	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (1) DOUBLE DOOR STORAGE CABINET, TAN	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	DUKE CO. OVERSHELF GLASS	YES	UNK	956-460-4-M
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	FLOOR BUFFER IMPERIAL POWRFLITE	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	GENERAC PORTABLE GENERATOR 5000 WATT	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	HOLLOW METAL DOOR, BLUE	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	JUMPING JACK TAMPERING RAMMER KRM-160	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (8)MATTRESSES (MISC. MAKES AND MODELS)	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	MISC EQUIPMENT FOR JUMPING EQUIPMENT	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	MISC EXERCISE EQUIPMENT (WILL BE LISTED WHEN AT LOT)	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	(QTY 6) MISC STORAGE CABINETS	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- 8 MISCELLANEOUS BACKPACK & 8 UPRIGHT VACCUMS & PARTS	YES	UNK	N/A

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	MODINE COMMERICAL UNIT HEATER, GAS	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (1) PALLET(s) MISC. PIPE & METAL BENDERS	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	SIMPSON 3100 PSI POWER WASHER	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	RAYPAK POOL HEATER, GAS BOILER	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	RAYPAK POOL HEATER GAS BOILER	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (2) TRUE SINGLE DOOR REACH IN COMMERCIAL FREEZERS (2X)	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	RIGID TOOL SET	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (2) SINGER SEWING MACHINES, EARLY 1950'S	YES	1950'S	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (4) MISC. STACKABLE CHAIRS, BLACK	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	STUDEBAKER CAB, ENGINE & FRAME (NOT TITLED TO THE CITY)	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (10) TABLES & BENCHES (MISC. MAKES AND MODELS)	YES	UNK	N/A

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	TITAN 630 30 QT. DOUGH MIXER	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	KNAACK JOB BOX TOOL STORAGE	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	TRUE T-49 REFRIDGERATOR	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (80) UNASSEMBLED HEADBOARDS & FOOTERS MISC. MAKES	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	QTY +/- (2) WHEEL GRINDERS (MISC. SIZES)	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	WOODTEK DUST COLLECTOR	YES	UNK	864-381
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	MCCALL REFRIGERATOR (TWO DOOR) MCCR2-G-12	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	EQUIPMENT	MCCALL REFRIGERATOR (TWO DOOR) MCCR2-G-12	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	OTHER	QTY +/- (1) 6' FOLDING TABLE	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	OTHER	ARMOIRES/WARDROBES (115)	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	OTHER	(QTY +/- 4) METAL SHOP CABINETS	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	OTHER	QTY +/- (40) METAL SPRING BED SECTIONS	YES	UNK	N/A

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1000431 - FMD - FACILITIES ADMI	N/A	OTHER	(QTY +/-25) MISC BOOKCASES	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	OTHER	QTY +/- (260) T-12 BULBS (4' & 8' LONG)	YES	UNK	N/A
1000431 - FMD - FACILITIES ADMI	N/A	OTHER	ASSEMBLED BEDS (46)	YES	UNK	N/A
1000431-FMD-FACILITIES ADMI	N/A	EQUIPMENT	DEWALT 12" 7790 ARM SAW	YES	UNK	N/A
1000431-FMD-FACILITIES ADMI	N/A	EQUIPMENT	SCOTSMAN ICEMAKER PRODIGY ELITE W/BIN	YES	UNK	N/A
1000431-FMD-FACILITIES ADMIN	N/A	EQUIPMENT	THURMADUKE STEAMTABLE, STANDARD, ELECTRIC 60IN	YES	UNK	N/A
1004150 5300271 PARKS MRC	24306.0	EQUIPMENT	BIG TEX TRAILER WHITE	YES	2005	16VPX162051H61575
1004150 5300271 PARKS MRC	29515.0	EQUIPMENT	SOD CUTTER RC-18 - 264	YES	UNK	N/A
1004150 5300271 PARKS MRC	29914.0	EQUIPMENT	TUF MAINTENANCE / ASTROTURF ATTACHMENT	YES	UNK	N/A
1004150 5300271 PARKS MRC	52725.0	EQUIPMENT	BIG TEX TRAILER BLACK	YES	2009	16VPX162591H34768
1004150 5300271 PARKS MRC	N/A	EQUIPMENT	JACOBSEN GREENSAIRE 24: AERATOR	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	EQUIPMENT	JOHN DEERE SERIES II 1600 TURBO MOWER	YES	UNK	1TC1600TAJG500074

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1004150 5300271 PARKS MRC	N/A	EQUIPMENT	JOHN DEERE SERIES II 1600 TURBO MOWER	YES	UNK	1TC1600TAJG500074
1004150 5300271 PARKS MRC	N/A	EQUIPMENT	KAWASAKI MULE PRO FXT 4X4	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	EQUIPMENT	ONE (1) GREEN METAL TREE DOLLY	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	EQUIPMENT	PROFESSIONAL TREE & TURF EQUIPMENT TRAILER SPRAYER	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	EQUIPMENT	QTY +/- (50) SMALL TRACTOR TIRES (MISC. SIZES)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	EQUIPMENT	CUSHMAN TD1500 TOP DRESSER	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	EQUIPMENT	AIR COMPRESSOR TANK	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	EQUIPMENT	BILLY GOAT	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	EQUIPMENT	BILLY GOAT	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	EQUIPMENT	BUFFALO BLOWER-LEAF/DEBRIS BLOWER (TOW BEHIND)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	EQUIPMENT	CLUB CART WORK CART #25	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	EQUIPMENT	EVENT STAGE (LOADED ON TRAILERS ABOVE 24306/52725)	YES	UNK	N/A

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (1) PALLET(s) OF CONCRETE BLOCK	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (1) PALLET(s) OF TRASHCAN LIDS	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (15) PALLET(s)S OF RED BRICK	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (2) PALLET(s)S OF RUBBER PLAYGROUND MATTING	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (8) ROLLS OF BLACK CHAINLINK FENCING	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (4) PALLET(s)S OF FLAGSTONE	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (5) PALLET(s) OF PLASTIC SLIDE STEPS	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (5) PALLET(s)S OF METAL TRASHCANS	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	50 HP PUMP MOTOR	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	BLUE PLAYGROUND EQUIPMENT / SEESAW (MISC. PARTS)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (4) PALLET(s)S OF REBAR/METAL WIRING	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	METAL BENCH	YES	UNK	N/A

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1004150 5300271 PARKS MRC	N/A	OTHER	METAL EXHAUST FAN / INOPERABLE	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (10) PALLETS METAL POST & METAL PIECES	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (10) PALLET MISC. METAL SCRAPS	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	MISC. NETTING	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	ONE (1) LARGE METAL BIKE RACK	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	ONE (1) LARGE METAL TRACTOR RIM	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	ONE (1) LARGE PLAYGROUND PIECE (OF WHAT?)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	ONE (1) LIGHTBAR	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	ONE (1) METAL FRAME	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	ONE (1) METAL GATE/TAILGATE	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	ONE (1) OR TWO (2) FIELD GOAL POST METAL	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (1) PALLET(s) METAL CANOPY PIECES	YES	UNK	N/A

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (1) PALLET(s) OF MISC SIZ SHAPE METAL FENCE WIRING	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (1) TRACTOR MUFFLER (UNK MAKE /MODEL)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (1) PALLET(s) OF CONCRETE & MOSS STONE	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (1) PALLET(s) OF MISC. GREENHOUSE PARTS AND MATERIALS	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (?) PALET MISCSCRAP METAL FRAME (FROM WHAT?)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (6) PALET MISC PALLET(s)S OF CONCRETE PAVERS	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (10) PALET MISC. SPOOL OF MATERIAL	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (3) ELECTRICAL BOXES (MISC. MAKE AND MODEL)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	MISC. TRACTOR CHAIR	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	TWO (2) DECOMMISSIONED PUMP COLUMNS	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	TWO (2) LARGE CONTAINERS	YES	UNK	N/A

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (2) TWO METAL SIGN HOLDER (MISC. SIZE)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (2) PALLET(s)S OF PLASTIC COATED CABLE (MISC SIZES)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (2) PALLET(s)S OF PLASTIC ROLLS (MISC SIZES)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (2) PALLET(s)S SCRAP METAL PIPES (MISC SIZES)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (2) TRACTOR CHAINS (MISC. SIZE)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	TWO (2) TRACTOR ENGINES (FROM WHAT?)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (14)RED METAL SIGN HOLDERS	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (10) LARGE TRACTOR TIRES (MISC SIZES)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (10) PALLET(s)S MISC. TORO MOWER PARTS & MATERIALS (MISC. PARTS)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (20) MEDIUM TRACTOR TIRES (MISC. SIZES)	YES	UNK	N/A
1004150 5300271 PARKS MRC	N/A	OTHER	QTY +/- (?) SIGNS(MISC. SIZE AND SHAPES)	YES	UNK	N/A

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1004150-5300271 PARKS MRC	52928.0	EQUIPMENT	STREET SWEEPER / BRANDON/ sterling chassis elgin sweeper body	YES	UNK	N/A
5115501 - PUA - PUBLIC UTILITIE	52586.0	EQUIPMENT	TOUGH SCREEN (SN# T4001344)	YES	2007	N/A
5115501 - PUA - PUBLIC UTILITIE	N/A	EQUIPMENT	QTY +/- (10) MISC PALLET OF BUS PARTS FROM STORAGE FROM THE 2000'S - PALLET(s)	YES	2010	N/A
5115501 - PUA - PUBLIC UTILITIE	N/A	EQUIPMENT	QTY +/- (4) TRUCK TOOL BOXES - RKI	YES	UNK	N/A
5115501 - PUA - PUBLIC UTILITIE	N/A	EQUIPMENT	ROLL OFF TRUCK BED - 1997 PETERBUILT	YES	UNK	N/A
5115501 - PUA - PUBLIC UTILITIE	N/A	EQUIPMENT	TOWMASTER FLAT BED TRAILER	YES	1997	N/A
5115501 - PUA - PUBLIC UTILITIE	N/A	EQUIPMENT	SNOW PLOW - OFF 2010 F-350	YES	UNK	N/A
5115501 - PUA - PUBLIC UTILITIE	N/A	OTHER	TRUCK BED - OFF 2008 F-250	YES	UNK	N/A
5115501 - PUA - PUBLIC UTILITIE	N/A	OTHER	CAMPER SHELL - OFF 2008 FORD RANGER	YES	UNK	N/A
5115501 - PUA - PUBLIC UTILITIE	N/A	OTHER	TRUCK BED - OFF 2008 DODGE RAM 2500	YES	UNK	N/A
5350457 - PKG - PARKING ADMINIS	N/A	EQUIPMENT	AMANO GATE MACHINES PLT QTY +/- (5) -PARKING	YES	UNK	N/A
5350457 - PKG - PARKING ADMINIS	N/A	EQUIPMENT	AMANO GATE MACHINES PLT QTY +/- (6) -PARKING	YES	UNK	N/A

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
5350457 - PKG - PARKING ADMINIS	N/A	EQUIPMENT	QTY +/- (6) PALLET(s) AMANO GATE MACHINES PLT PARKING	YES	UNK	N/A
5350457 - PKG - PARKING ADMINIS	N/A	EQUIPMENT	QTY +/- (6) PALLET(s) AMANO GATE MACHINES PLT QTY PARKING	YES	UNK	N/A
5350457 - PKG - PARKING ADMINIS	N/A	EQUIPMENT	QTY +/- (6) PALLET(s) AMANO TICKET MACHINES PLT QTY -PARKING	YES	UNK	N/A
5350457 - PKG - PARKING ADMINIS	N/A	EQUIPMENT	QTY +/- (6) PALLET(s) AMANO TICKET MACHINES -PARKING	YES	UNK	N/A
5350457 - PKG - PARKING ADMINIS	N/A	EQUIPMENT	QTY +/- (6) PALLET(s) STRADA DOORS	YES	UNK	N/A
5350457 - PKG - PARKING ADMINIS	N/A	EQUIPMENT	QTY +/- (6) STRADA DOORS - PARKING	YES	UNK	N/A
5350457 - PKG - PARKING ADMINIS	N/A	EQUIPMENT	QTY +/- (5) STRADA PAY MACHINES - PARKING	YES	UNK	N/A
5350457 - PKG - PARKING ADMINIS	N/A	EQUIPMENT	QTY +/- (5) STRADA PAY MACHINES - PARKING	YES	UNK	N/A
5350457 - PKG - PARKING ADMINIS	N/A	EQUIPMENT	QTY +/- (5) STRADA PAY MACHINES - PARKING	YES	UNK	N/A
5350457 - PKG - PARKING ADMINIS	N/A	EQUIPMENT	COLEMAN 5000 GENERATOR (1)	YES	UNK	N/A
5350457 - PKG - PARKING ADMINIS	N/A	EQUIPMENT	CRAFTSMAN 3.5 AIR COMPRESSOR (1)	YES	UNK	N/A
5350457 - PKG - PARKING ADMINIS	N/A	EQUIPMENT	QTY +/- (1) PALLET(s) EXPRESS MACHINE AMANO	YES	UNK	N/A

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
5350457 - PKG - PARKING ADMINIS	N/A	EQUIPMENT	QTY +/- (5) PALLET(s) METAL STANDS PLT	YES	UNK	N/A
5400091 - TAD - TRANSIT ADMINIS	26692.0	EQUIPMENT	GOLF CART - CLUB CAT	YES	UNK	N/A
5400091 - TAD - TRANSIT ADMINIS	26721.0	EQUIPMENT	GOLF CART - CLUB CAT	YES	UNK	N/A
5400091 - TAD - TRANSIT ADMINIS	N/A	EQUIPMENT	QTY +/- MISC PALLET OF BUS PARTS FROM STORAGE FROM THE 2000'S - PALLET(s)	YES	UNK	N/A
5400091 - TAD - TRANSIT ADMINIS	N/A	EQUIPMENT	GENERATOR LIGHT TOWER - POWER MFG.	YES	UNK	N/A
5400091 - TAD - TRANSIT ADMINIS	N/A	EQUIPMENT	GENERATOR LIGHT TOWER - POWER MFG.	YES	UNK	N/A
6201650 - FLT - FLEET MANAGEMEN	29481.0	EQUIPMENT	AIR COMPRESSOR CHAMPION	YES	UNK	N/A
6201650 - FLT - FLEET MANAGEMEN	N/A	EQUIPMENT	TIRE MACHINE COATS 8000-A	YES	UNK	N/A
6201650 - FLT - FLEET MANAGEMEN	N/A	EQUIPMENT	MISC. PALLET(s) OF OIL FILERS, AIR FILTERS, BELTS, BRAKES , ETC	YES	UNK	N/A
GCCC	56157.0	EQUIPMENT	GENIE BOOM LIFT GENIE/ 9/9/25 N/A CS 9/9/25	YES	UNK	N/A
GCCC	N/A	EQUIPMENT	BLACK KAIVAC CLEANING SYSTEM KAIVAC/ 2006	YES	UNK	N/A
GCCC	N/A	EQUIPMENT	GREY STYLE FLOOR MACHINE 160 RPM 2005	YES	UNK	N/A

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
GCCC	N/A	EQUIPMENT	WINDSOR BATTERY OPERATED FLOOR SWEEPER WINDSOR/RADIUS 280	YES	UNK	N/A
GCCC	N/A	EQUIPMENT	CHROME STERLING DOOR	YES	UNK	N/A
GCCC	N/A	EQUIPMENT	COMMERICAL FLOOR BUFFER TRIPLE S/ COUGAR 20/2011	YES	UNK	N/A
GCCC	N/A	EQUIPMENT	DAYTON MECHANICAL FLOOR SWEEPER/DAYTON/5Z042	YES	UNK	N/A
GCCC	N/A	EQUIPMENT	HAWK INDUSTRIAL FLOOR MACHINE-PREFERRED 1500 RPM/ HAWK INDUSTRIAL/HP1520-HS	YES	UNK	N/A
GCCC	N/A	OTHER	BLACK SCHWINN IC PRO SPIN BIKE - SCHWINN/IC PRO 2007	YES	UNK	N/A
GCCC	N/A	OTHER	BLACK SCHWINN IC PRO SPIN BIKE - SCHWINN/IC PRO 2007	YES	UNK	N/A
GCCC	N/A	OTHER	BLACK SCHWINN IC PRO SPIN BIKE - SCHWINN/IC PRO 2007	YES	UNK	N/A
5115501 - PUA - PUBLIC UTILITIE	N/A	EQUIPMENT	QTY =/- (4) BACKHOE NO FLAT TIRES - OFF OF CAT 420E BACKHOE	YES	UNK	N/A
1000086 - SDM - STREETS & SWEEP	22523.0	VEHICLE	FORD LT900 TRUCK	NO	1992	1FDYU90L4NVA17573
1000086 - SDM - STREETS & SWEEP	22524.0	VEHICLE	FORD LT900 TRUCK	NO	1992	1FDYU90L2NVA17572
1000086 - SDM - STREETS & SWEEP	23190.0	VEHICLE	FORD F-800 TRUCK	NO	1993	1FDXK84E9PVA38154

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1000086 - SDM - STREETS & SWEEP	23683.0	VEHICLE	FORD F-800 TRUCK	NO	1994	1FDXK84E3RVA31087
1000086 - SDM - STREETS & SWEEP	25077.0	VEHICLE	CHEVY BLAZER	NO	1996	1GNDT13W7T2211338
1000086 - SDM - STREETS & SWEEP	25771.0	VEHICLE	FORD F-150	NO	1997	1FTDF18W8VLB33206
1000086 - SDM - STREETS & SWEEP	26804.0	VEHICLE	CHEVROLET 2500	NO	1998	1GCGC24J2WE212379
1000086 - SDM - STREETS & SWEEP	29115.0	VEHICLE	CHEVY T -SERIES TRUCK	NO	2000	1GBM7C1CXYJ518537
1000171 - FSD - FIRE OPERATIONS	250064.0	VEHICLE	DODGE 3500 BUSH TRUCK	NO	2011	3D6WU7CL9BG540095
1000310 - PAD - POLICE ADMINIST	55203.0	VEHICLE	FORD FUSION	NO	2016	3FA6P0UU9GR125971
1004150 5300271 PARKS MRC	52363.0	VEHICLE	FORD STERLING TRUCK	NO	2005	49HAADBV65DU42684
1004150 5300271 PARKS MRC	52600.0	VEHICLE	CHEVROLET IMPALA	NO	2007	2G1WS55RX79416543
1004150 5300271 PARKS MRC	53830.0	VEHICLE	FORD F-150	NO	2008	1FTPX12V98FA70081
1004150 5300271 PARKS MRC - 6201650 - FLT - FLEET MANAGEMENT?	23149.0	VEHICLE	CHEVROLET GM4 1/2 TON	NO	1993	1GCEK14H8PZ227951

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1004150 5300271 PARKS MRC 6201650 - FLT - FLEET MANAGEMENT ?	29813.0	VEHICLE	FORD RANGER	NO	2009	1FTYR10D59PA35137
5100331 - ESD - OPERATIONS	25768.0	VEHICLE	FORD F-150 4X4	NO	1997	1FTDF18W2VLB29135
6201650 - FLT - FLEET MANAGEMEN	29358.0	VEHICLE	FORD CROWN VICTORIA	NO	2001	2FAFP71W41X147304
6201650 - FLT - FLEET MANAGEMEN	55195.0	VEHICLE	FORD E-350 CUTAWAY VAN	NO	2015	1FBSS3BL9EDA07657
TSF-CONVENTION CENTER	N/A	VEHICLE	GEM VEHICLE 2 SEATER ELECTRIC VEHICLE	NO	2007	5ASAK27467F043652
TSF-CONVENTION CENTER	N/A	VEHICLE	GEM VEHICLE 2 SEATER ELECTRIC VEHICLE	NO	2007	5ASAG47447F044697
1000086 - SDM - STREETS & SWEEP	50553.0	VEHICLE	FORD F-150	NO	1997	1FTRF18L72NB45004
1000086 - SDM - STREETS & SWEEP	51250.0	VEHICLE	FORD F-550 AERIAL TRUCK	NO	2003	1FDAF57P33ED85995
1000086 - SDM - STREETS & SWEEP	52047.0	VEHICLE	FORD RANGER	NO	2004	1FTZR15E74PB60476
1000086 - SDM - STREETS & SWEEP	53896.0	VEHICLE	INTERNATIONAL MA035	NO	2009	1HTMKAAR29H079493
1000086 - SDM - STREETS & SWEEP - 201650 - FLT - FLEET MANAGEMEN -	20204.0	VEHICLE	GMC 3500 R CONVENTIONAL	NO	1989	1GDJR34J9KJ505655

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1000171 - FSD - FIRE OPERATIONS	53837.0	VEHICLE	CHEVY UPLANDER	NO	2008	1GNDV23WX8D199651
1000171 - FSD - FIRE OPERATIONS	53847.0	VEHICLE	CHEVY UPLANDER	NO	2008	1GNDV23W58D206635
1000171 - FSD - FIRE OPERATIONS	53848.0	VEHICLE	CHEVY UPLANDER	NO	2008	1GNDV23W68D206143
1000171 - FSD - FIRE OPERATIONS	54434.0	VEHICLE	FORD E350 AMBULACE	NO	2011	1FDWE3FS9BDB20389
1000171 - FSD - FIRE OPERATIONS	54439.0	VEHICLE	FORD E-350 VAN Cutaway	NO	2011	1FTDS3EL6CDA02672
1000171 - FSD - FIRE OPERATIONS	54512.0	VEHICLE	FORD E-350 VAN Cutaway	NO	2012	1FDWE3FS7CDA56404
1000171 - FSD - FIRE OPERATIONS	54516.0	VEHICLE	FORD EXPLORER (Possible repurpose)	YES	2013	1FM5K8AR2DGA56168
1000171 - FSD - FIRE OPERATIONS	54520.0	VEHICLE	FORD EXPLORER (Possible repurpose)	YES	2013	1FM5K8AR9DGA56166
1000171 - FSD - FIRE OPERATIONS	54521.0	VEHICLE	FORD EXPLORER (Possible repurpose)	YES	2013	1FM5K8AR4DGA56169
1000310 - PAD - POLICE ADMINIST	51260.0	VEHICLE	FORD F-150 (Possible repurpose)	YES	2004	1FTPX14514NB27029
1000310 - PAD - POLICE ADMINIST	54881.0	VEHICLE	FORD TAURUS	NO	2014	1FAHP2MK3EG148332
1000310 - PAD - POLICE ADMINIST	54891.0	VEHICLE	FORD TAURUS	NO	2014	1FAHP2MK9EG148335

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1000310 - PAD - POLICE ADMINIST	54930.0	VEHICLE	FORD TAURUS	NO	2014	1FAHP2MK3EG178706
1000310 - PAD - POLICE ADMINIST	55549.0	VEHICLE	FORD F-250	NO	2016	1FTBF2B64GEB54955
1000310 - PAD - POLICE ADMINIST	55550.0	VEHICLE	FORD F-250	NO	2016	1FTBF2B66GEB54956
1000310 - PAD - POLICE ADMINIST	55916.0	VEHICLE	FORD FUSION	NO	2017	3FA6P0HD3HR265624
1000310 - PAD - POLICE ADMINIST	55936.0	VEHICLE	FORD TAURUS	NO	2017	1FAHP2MK8HG102998
1000310 - PAD - POLICE ADMINIST	55951.0	VEHICLE	FORD TAURUS	NO	2017	1FAHP2MKXHG102999
1000310 - PAD - POLICE ADMINIST	56116.0	VEHICLE	FORD EXPLORER	NO	2017	1FM5K8AR3HGE15016
1000310 - PAD - POLICE ADMINIST	56335.0	VEHICLE	FORD TAURUS	NO	2019	1FAHP2MK2KG106830
1000310 - PAD - POLICE ADMINIST	57212.0	VEHICLE	FORD EXPLORER	NO	2022	1FM5K8AW7NNA03503
1000310 - PAD - POLICE ADMINIST	57348.0	VEHICLE	FORD EXPLORER	NO	2023	1FM5K8AC1PGB12150
1000431 - FMD - FACILITIES ADMI	28317.0	VEHICLE	DODGE RAM TRUCK	NO	2001	3B7KC26Z31M258254
1000431 - FMD - FACILITIES ADMI	51293.0	VEHICLE	FORD F-250	NO	2004	1FDNX20S94EC14780

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1000431 - FMD - FACILITIES ADMI	51295.0	VEHICLE	FORD F-250	NO	2004	1FDNX20S04EC14781
1000431 - FMD - FACILITIES ADMI	52912.0	VEHICLE	FORD F-250 UTILITY TRUCK	NO	2006	1FDSF20P06EA57399
1004150 5300271 PARKS MRC	29810.0	VEHICLE	FORD RANGER	NO	2009	1FTYR15E39PA35798
1004150 5300271 PARKS MRC	29811.0	VEHICLE	FORD RANGER	NO	2009	1FTYR15E69PA35794
1004150 5300271 PARKS MRC	29812.0	VEHICLE	FORD RANGER	NO	2009	1FTYR15E89PA35795
1004150 5300271 PARKS MRC	29850.0	VEHICLE	FORD RANGER	NO	2009	1FTYR15E19PA35797
1004150 5300271 PARKS MRC	29852.0	VEHICLE	FORD RANGER	NO	2009	1FTYR15E89PA39412
1004150 5300271 PARKS MRC	51303.0	VEHICLE	CHEVY IMPALA	NO	2004	2G1WF52K449347565
1004150 5300271 PARKS MRC	52507.0	VEHICLE	FORD F-150	NO	2007	1FTPF12V07KB47879
1004150 5300271 PARKS MRC	52509.0	VEHICLE	FORD F-150	NO	2007	1FTPF12V57KB47876
1004150 5300271 PARKS MRC	52510.0	VEHICLE	FORD F-150	NO	2007	1FTPF12V37KB47875
1004150 5300271 PARKS MRC	52511.0	VEHICLE	FORD F-150	NO	2007	1FTPF12V17KB47874

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
1004150 5300271 PARKS MRC	52762.0	VEHICLE	CHEVROLET SILVERADO	NO	2005	1GCEC14Z15Z300192
1004150 5300271 PARKS MRC	53444.0	VEHICLE	FORD RANGER	NO	2010	1FTLR4FE1APA06797
1004150 5300271 PARKS MRC	53445.0	VEHICLE	FORD RANGER	NO	2010	1FTLR1FE1APA06801
1004150 5300271 PARKS MRC	53446.0	VEHICLE	FORD RANGER	NO	2010	1FTLR1FE3APA06802
1004150 5300271 PARKS MRC	53453.0	VEHICLE	FORD F-350 DUMPTRUCK	NO	2010	1FDWF3HR1AEA59961
1004150 5300271 PARKS MRC	53457.0	VEHICLE	FORD RANGER	NO	2010	1FTLR1FE4APA34818
1004150 5300271 PARKS MRC	53829.0	VEHICLE	FORD F-150	NO	2008	1FTPX12V38FA70075
1004150 5300271 PARKS MRC	53843.0	VEHICLE	FORD F-150	NO	2008	1FTPF12VX8KE91432
1004150 5300271 PARKS MRC - 6201650 - FLT - FLEET MANAGEMENT?	52010.0	VEHICLE	FORD F-150	NO	2004	1FTPX14514NC08208
2212850 - EMG - EMERGENCY MANAG	54650.0	VEHICLE	E-350 FORD AMBULANCE	NO	2013	1FDWE3FSXDDA34947
5100331 - ESD - OPERATIONS	26133.0	VEHICLE	FORD F-250 4X4	NO	1997	3FTHF26HXVMA49964
5100331 - ESD - OPERATIONS	51281.0	VEHICLE	BATTLE MOTORS CRANE CARRIER - LOW CARRIER	NO	2004	1CYCCL5834T046283

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
5100331 - ESD - OPERATIONS	53827.0	VEHICLE	FORD F-450 4X4	NO	2008	1FDXF47R68EE12846
5100331 - ESD - OPERATIONS	53893.0	VEHICLE	INTERNATIONAL SF547	NO	2009	1HTWXAHT19J079327
5100331 - ESD - OPERATIONS	54481.0	VEHICLE	AUTOCAR XPEDITOR	NO	2011	5VCACL8F2BH213044
5100331 - ESD - OPERATIONS	54543.0	VEHICLE	AUTOCAR XPEDITOR	NO	2011	5VCACR8F5BH213042
5100331 - ESD - OPERATIONS	54614.0	VEHICLE	PETERBILT 320	NO	2012	3BPZL20X7CF152211
5100331 - ESD - OPERATIONS	54616.0	VEHICLE	PETERBILT F/L	NO	2013	3BPZL20X5DF186827
5100331 - ESD - OPERATIONS	54766.0	VEHICLE	AUTOCAR XPEDITOR	NO	2013	5VCA3SLE0EH216666
5100331 - ESD - OPERATIONS	54786.0	VEHICLE	AUTOCAR XPEDITOR	NO	2016	5VCACRSF1GH221073
5100331 - ESD - OPERATIONS	54787.0	VEHICLE	AUTOCAR XPEDITOR	NO	2016	5VCACRSF3GH221074
5100331 - ESD - OPERATIONS	54915.0	VEHICLE	AUTOCAR XPEDITOR	NO	2014	5VCA3SLE9EH217296
5100331 - ESD - OPERATIONS	54917.0	VEHICLE	AUTOCAR XPEDITOR	NO	2014	5VCA3SLE1EH217289
5100331 - ESD - OPERATIONS	55928.0	VEHICLE	PETERBILT 320	NO	2017	3BPZL20X6HF173980

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
5115501 - PUA - PUBLIC UTILITIE	52505.0	VEHICLE	FORD F-150 (Possible repurpose)	YES	2007	1FTPX12V27FA32318
5115501 - PUA - PUBLIC UTILITIE	52549.0	VEHICLE	FORD F-150	NO	2007	1FTPX12V87NA40980
5115501 - PUA - PUBLIC UTILITIE - 6201650 - FLT - FLEET MANAGEMENT ?	52970.0	VEHICLE	CHEVY 1500	NO	2006	3GCEK14Z16G247577
5115501 - PUA - PUBLIC UTILITIE - 6201650 - FLT - FLEET MANAGEMENT ?	53846.0	VEHICLE	FORD F-150	NO	2008	1FTPX14V88FC19190
5115501 - PUA - PUBLIC UTILITIE - 6201650 - FLT - FLEET MANAGEMENT?	52761.0	VEHICLE	CHEVY 1500	NO	2005	1GCEC14Z95Z298594
5400091 - TAD - TRANSIT ADMINIS	29970.0	VEHICLE	CHEVY IMPALA	NO	2009	2G1WS57M391321096
5400091 - TAD - TRANSIT ADMINIS	50563.0	VEHICLE	FORD F-350	NO	2003	1FDWF37F73EA38736
5400091 - TAD - TRANSIT ADMINIS	53983.0	VEHICLE	GMC SAVANA	NO	2008	1GDJG316781200458
5400091 - TAD - TRANSIT ADMINIS	53985.0	VEHICLE	GMC SAVANA	NO	2008	1GDJG316681200628
5400091 - TAD - TRANSIT ADMINIS	54565.0	VEHICLE	HONDA CIVIC CNG	NO	2012	19XFB5F55CE003055

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
5400091 - TAD - TRANSIT ADMINIS	54705.0	VEHICLE	CHEVY EXPRESS CUTAWAY	NO	2013	1GB6G5BG7D1153038
5400091 - TAD - TRANSIT ADMINIS	55614.0	VEHICLE	CHEVY EXPRESS CUTAWAY	NO	2015	1GB6G5BG3F1247419
6201650 - FLT - FLEET MANAGEMEN	23101.0	VEHICLE	FORD TAURUS	NO	1993	1FACP57U0PG252448
6201650 - FLT - FLEET MANAGEMEN	24448.0	VEHICLE	CHEVY GMT-400	NO	1995	1GCGC24K8SE193307
6201650 - FLT - FLEET MANAGEMEN	24493.0	VEHICLE	CHEVY GMT-400	NO	1995	1GCEC14Z5SZ217991
6201650 - FLT - FLEET MANAGEMEN	25158.0	VEHICLE	FORD F-150	NO	1996	1FTEF14N5TLB34649
6201650 - FLT - FLEET MANAGEMEN	28217.0	VEHICLE	FORD EXPLORER	NO	2000	1FMZU71X8YZB57200
6201650 - FLT - FLEET MANAGEMEN	51284.0	VEHICLE	CHEVY SILVERADO	NO	2004	1GCEK19V74Z246663
6201650 - FLT - FLEET MANAGEMEN	52013.0	VEHICLE	FORD F-450	NO	2004	1FDXF47S04ED47358
6201650 - FLT - FLEET MANAGEMEN	52017.0	VEHICLE	CHEVY SILVERADO	NO	2004	1GCEK19V24E333779
6201650 - FLT - FLEET MANAGEMEN	52041.0	VEHICLE	FORD F-150	NO	2004	1FTPX14554NC50932
6201650 - FLT - FLEET MANAGEMEN	52624.0	VEHICLE	HONDA CIVIC	NO	2007	JHMFA36207S031084

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
6201650 - FLT - FLEET MANAGEMEN	52647.0	VEHICLE	CHEVY IMPALA	NO	2008	2G1WS553989229999
6201650 - FLT - FLEET MANAGEMEN	52913.0	VEHICLE	FORD F-250	NO	2006	1FTSF21P66EA49651
6201650 - FLT - FLEET MANAGEMEN	52935.0	VEHICLE	CHEVY SILVERADO	NO	2006	3GCEK14Z06G139466
6201650 - FLT - FLEET MANAGEMEN	52960.0	VEHICLE	FORD EXPLORER	NO	2006	1FMEU72E16UA58515
6201650 - FLT - FLEET MANAGEMEN	53831.0	VEHICLE	FORD F-150	NO	2008	1FTPX12V78FA70077
6201650 - FLT - FLEET MANAGEMEN	53858.0	VEHICLE	FORD EXPLORER	NO	2008	1FMEU73E48UB32477
6201650 - FLT - FLEET MANAGEMEN	54251.0	VEHICLE	FORD F-250	NO	2011	1FTBF2A63BEC06814
6201650 - FLT - FLEET MANAGEMEN	54275.0	VEHICLE	NISSAN XTERRA	NO	2011	5N1AN0NW0BC507528
6201650 - FLT - FLEET MANAGEMEN	54276.0	VEHICLE	NISSAN XTERRA	NO	2011	5N1AN0NW5BC506665
6201650 - FLT - FLEET MANAGEMEN	54601.0	VEHICLE	FORD EXPLORER	NO	2013	1FM5K8AR7DGC11006
6201650 - FLT - FLEET MANAGEMEN	55957.0	VEHICLE	FORD TAURUS	NO	2017	1FAHP2MKXHG103005
6201650 - FLT - FLEET MANAGEMEN	52768.0	VEHICLE	FORD FOCUS	NO	2005	1FAFP34N65W280188

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
5115501 - PUA - PUBLIC UTILITIE	53798.0	EQUIPMENT	CONCRETE MACHINE	N/A	2012	N/A
1000101 - LIB - LIBRARY ADMIN	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
1000111 - SSD - SENIORS ADMIN	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
1000131 - CAD - COMM HEALTH & S	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
1000211 - CLK - CITY CLERK ADMI	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
1000231 - HRD - HUMAN RESOURCES	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
1001001 - CAD - COM SVC ADMIN	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
1001501 - FBA - FINANCE ADMINIS	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
1002550 - ATT - CITY ATTORNEY	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
1002575 - CAC - CONSTITUENT SER	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
1002800 - EDD - ECONOMIC DEVELO	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
1004501 - LUA - PLANNING & LAND	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
2132775 - ART - ARTS & CULTURE	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
2607000 - FLM - SANTA FE FILM O	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
3250231 - HRD - ERP - HUMAN RES	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
5000361 - WWD - WASTEWATER OPER	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
5050381 - WTR - WATER OPERATION	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
5050385 - WTR - WATER SOURCE OF	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
5110351 - UCS - UTILITY CUSTOME	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
5456050 - AIR - AIRPORT- OPERATI	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
6203501 - ITA - ITT ADMINISTRAT	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
6203501 - ITA - ITT ADMINISTRAT	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
8000801 - BDD - BUCKMAN DIRECT	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A
8000801 - BDD - BUCKMAN DIRECT	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A

Dept/Org	FA #	Type (E/V/O)	Asset/Description	Repurpose Eligible	Year	VIN
MUNICIPAL COURT	N/A	NO ITEM SUBMITTAL	N/A	N/A	N/A	N/A

DISPOSAL COMMITTEE

DAVE JARAMILLO
FLEET SECTION MANAGER
SIG: [signature] DATE: 9/19/25

REBECCA LOVATO-SANOUVONG
ACCOUNTING MANAGER
SIG: [signature] DATE: 9-19-25

CHRISTOPHER PARKER
SENIOR BUDGET ANALYST
SIG: [signature] DATE: 9/19/25

R. SCOTT GUNTER
PROCUREMENT MANAGER
SIG: [signature] DATE: 9/19/25

CITY OF SANTA FE

Date: July 31, 2025

To: Governing Body

From: Carol Swenson, PW Business Operations Manager

Via: Regina Wheeler, Public Works Department Director RW

Subject: Streets Intersection Markings

ACTION:
Request for Approval of a Budget Amendment Resolution (BAR) to Appropriate the Unspent Balance of an FY25 One Time Appropriation of $290,671 from General Fund Balance to FY26 Complete Streets Supplies for Intersection Markings (Regina Wheeler, Public Works Director, rawheeler@santafenm.gov).

BACKGROUND AND SUMMARY:
Procurement of the markings was completed in FY25, but not in time to issue the purchase order. It is expected that the PO will be issued upon receipt of this funding in FY26 budget.

ATTACHMENTS:
BAR

FUNDING SOURCE:
One-time appropriation FY25
Fund Name/Number: General Fund/100
Munis Org Name/Number: Paint/Sign Operations/Maint/1000412
Munis Object Name/Number: Operating Supplies/530200

Log # *{Finance use only}*:	
Journal # *{Finance use only}*:	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
Public Works Department/Streets	7/30/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Streets/Operating Supplies	1000412	530200	ST2510000	290,671	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 290,671	$ -

JUSTIFICATION: *(use additional page if needed)*
--Attach supporting documentation/memo

To re-appropriate the unspent balance of a FY25 One-Time appropriation of $290,671 from the General Fund Balance to FY26 Complete Streets operating supplies for intersection markings projects city-wide.

{Complete section below if BAR results in a net change to ANY Fund}

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(290,671)
TOTAL:	**(290,671)**

Carol Swenson — 7/30/2025
Prepared By *{print name}* — Date

Regina Wheeler
Regina Wheeler (Aug 6, 2025 17:32:27 MDT)
Division Director Signature *{optional}* — Date

Regina Wheeler
Regina Wheeler (Aug 6, 2025 17:32:27 MDT)
Department Director Signature — Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date

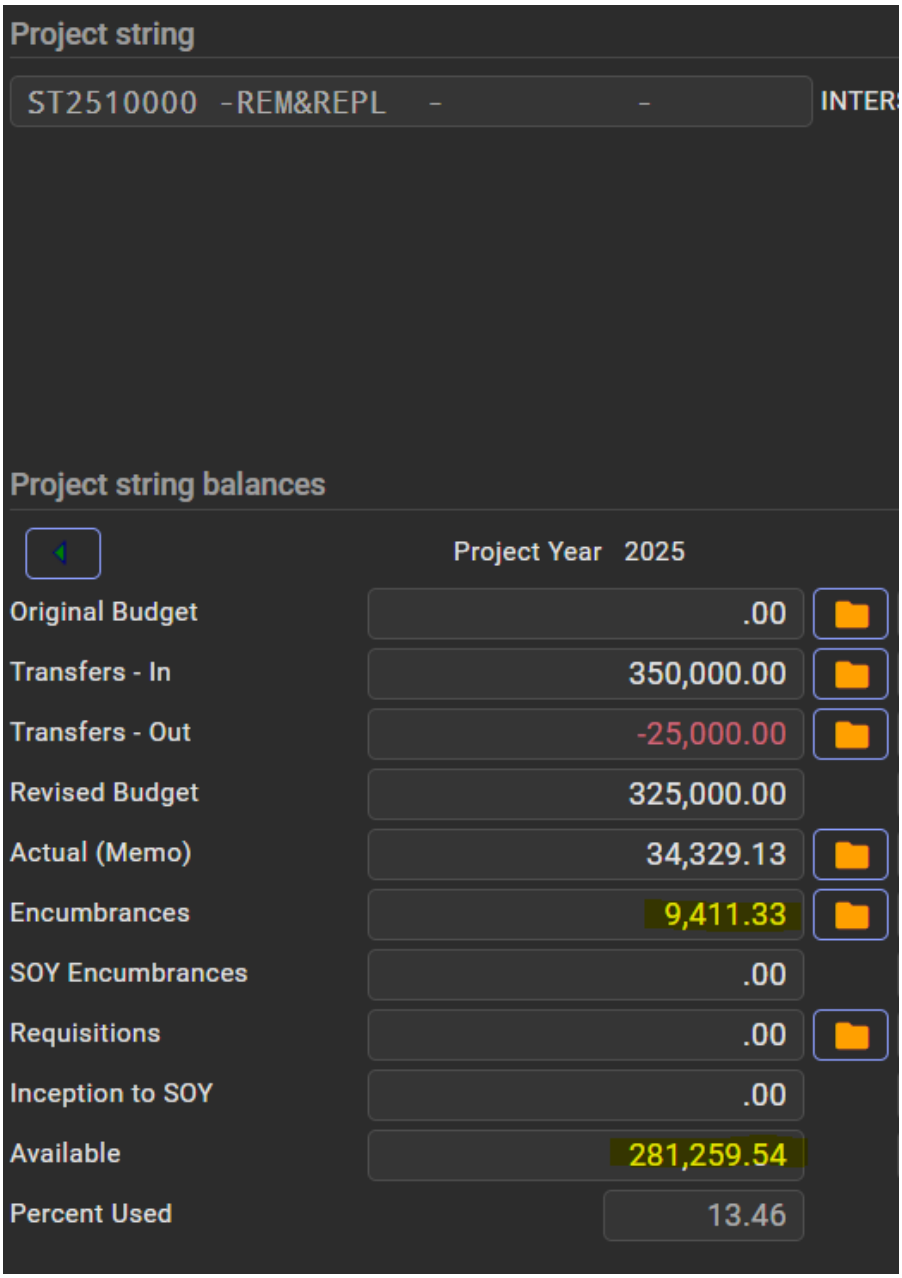
Agenda Item #:

Andy Hopkins
Budget Officer — Date

Finance Director *{≤ $5,000}* — Date

City Manager *{≤ $60,000}* — Date

1000412.530200: [PLID: ST2510000] $290,671



CITY OF SANTA FE

The Purchasing Memo

Date: June 24, 2025

To: Governing Body, Finance Committee, and Quality of Life Committee

From: Sandra Emory, Youth and Family Services Program Manager

Via: Henri Hammond-Paul, Community Health and Safety Department Director

Sierra Vigil-Trujillo, Youth and Family Services Project Administrator

Sierra Trujillo (Jun 25, 2025 07:59 MDT)

Subject: VAWA Grant FY26

ITEM AND ISSUE:

Request Approval of the State of New Mexico Crime Victims Reparation Commission (CVRC) STOP Violence Against Women Act (VAWA) Formula Grant Agreement #15JOVW.24.00517.STOP in the Amount of $77,211 with a Required Match of $25,737 to Fund a Full-Time Term Position to Respond to Domestic Violence in the City of Santa Fe. (Sandra Emory, Youth and Family Services Program Manager; sxemory@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $77,211 from the 2025 CVRC Grant Agreement to FY26 Revenue and Expenses for the Domestic Violence Response Team.

BACKGROUND AND SUMMARY:

The Santa Fe Police Department and the Youth and Family Services Division are collaborating to address the evolving safety needs in the City of Santa Fe. This partnership has launched initiative focused on reducing violence through prevention, intervention, and education. By integrating traditional policing methods with innovative, community-centric strategies, this collaborative effort aims to enhance public safety, support victims, and prevent future incidents of violence. This unified approach represents a comprehensive strategy for community safety, combining the police department's depth of experience with the proactive community engagement initiatives of the Community Violence Prevention Program, demonstrating a strong commitment to fostering a safer and more resilient Santa Fe.

The primary goal of applying for this grant is to enhance support for victims and increase offender accountability in Santa Fe through the development of a specialized Domestic Violence-Specific Response Team (DVRT). Key objectives include training and deploying a team, including a domestic violence response specialist. These efforts aim to establish a robust framework for addressing domestic violence effectively within the community.

The Youth and Family Services Division in partnership with the Santa Fe Police Department applied for a federal STOP Violence Against Women Act (VAWA) and Victims of Crime Act (VOCA) grant. The city received the grant agreement in May and this will be year one of a four year renewable grant.

PRIOR APPROVALS AND SUPPORTING INFORMATION:

FUNDING SOURCE:

Fund Name/Number: Human Service Fund/ 240

Munis Org Name/Number: 2400122

Munis Object Name/Number: Dept. of Justice VAWA thru CVRC/ 490555

Budget Officer / Designee: Andy Hopkins **Date:** 07/02/2025

Budget Officer Comment/Exceptions: _____

ASSOCIATED APPROVALS:

IT Components included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Treasury/Point of Sale Components included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Vehicles included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Construction to City Facilities, Furniture, and/or Fixtures included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this an externally funded purchase? ☑ Yes | ☒ No

If yes, what is the issuing agency: New Mexico Crime Victims Reparation Commission

Approval: ERIKA LUJAN ERIKA LUJAN (Jul 2, 2025 16:11 MDT) **Title:** Grant Manager **Date:** 07/02/2025

Comment/Exceptions: _____

Is this a Capital Asset or Project? ☐ Yes | ☒ No

Project Ledger Number: YFD2624001

Approval: Emily K. Oster **Title:** Finance Director **Date:** 07/03/2025

Comment/Exceptions: _____

ATTACHMENTS:

Grant agreement
Project ledger
BAR

Docusign Envelope ID: 4DAC634B-D029-4794-9E6E-4851FF427B7F

STATE OF NEW MEXICO
CRIME VICTIMS REPARATION COMMISSION

MICHELLE LUJAN GRISHAM
GOVERNOR

FRANK ZUBIA
DIRECTOR

May 22, 2025

RE: STOP Violence Against Women Formula Grant Program
Final Award Contract Federal Grant #15JOVW-24-GG-00517-STOP

Dear City of Santa Fe:

Congratulations once again on your agency being selected to receive a STOP Violence Against Women Act (STOP VAWA) federal subgrant award. The approved award amount is $77,211.00 and the required match is $25,737.00. The awards were approved at the May 22, 2025 Commission Meeting and are now final. This award period will begin July 1, 2025 and end June 30, 2026. This funding is for year one (1) of the 4-year grant cycle.

The week of June 9, 2025, you will receive an email from DocuSign with a link to the contract. Please digitally sign the contract through DocuSign before submitting your first invoice. You will have access to the award in WebGrants on or before the first invoice is due on August 11, 2025. If you do not receive the email from DocuSign or would like technical assistance, please contact me at (505) 709-0485 or Kristin.Wood-Hegner@cvrc.nm.gov or Grants Bureau Chief, Donna Richmond, at (505) 795-4486 or Donna.Richmond@cvrc.nm.gov.

As part of our grant monitoring policies and procedures we are in the process of reviewing or have reviewed your agency's most recent audit report. Audit reports are reviewed in their entirety. Agencies with unfavorable audit reports issued, material weaknesses, and/or significant deficiencies will have additional monitoring requirements.

- Your agency must maintain all source documents on file and be able to present them for desk or site audit.
- Submit invoices monthly.
- Submit time and activity sheets for all federal and match employees.

We appreciate your assistance and compliance with the additional financial monitoring within your agency. It is our collective duty to ensure that we are all good stewards of the funding we monitor and receive.

If you have any questions or need any technical assistance during the grant year, please do not hesitate to contact our office. We look forward to working with you this year.

Sincerely,

K Hegner

Kristin Wood-Hegner
VAWA Grant Administrator
New Mexico Crime Victims Reparation Commission
Kristin.Wood-Hegner@cvrc.nm.gov
(505) 709-0485

6200 UPTOWN BLVD. NE, SUITE 210 • ALBUQUERQUE, NM 87110
OFFICE (505) 841-9432 • FAX (505) 841-9437 • TOLL FREE 1-800-306-6262
Website: www.cvrc.state.nm.us • E-mail: cvrc.office@state.nm.us

Docusign Envelope ID: 4DAC634B-D029-4794-9E6E-4851FF427B7F

CVRC NEW MEXICO	**STATE OF NEW MEXICO** **CRIME VICTIMS REPARATION COMMISSION** **STOP Violence Against Women Formula Grant Program**	Subrecipient Award FY2026

1. SUBRECIPIENT NAME AND ADDRESS (Including Zip Code) City of Santa Fe PO Box 909 Santa Fe, NM 87501, NM	6. PROJECT TITLE OVW FY 2024 STOP Violence Against Women Formula Grant Program
	7. FEDERAL AWARD NUMBER: 15JOVW-24-GG-00517-STOP
2. SUBRECIPIENT IRS/TAX ID NO. 85-6000168	8. AWARD EFFECTIVE: 07/01/2025
3. SUBRECIPIENT UEI NO. QLN2YKMMJ8X6	9. SUBGRANT AWARD NUMBER: 2026-WF-309
4. APPROVED INDIRECT COST RATE (IF APPLICABLE) NA	10. PROJECT PERIOD: FROM 07/01/2025 TO 06/30/2026 BUDGET PERIOD: FROM 07/01/2025 TO 06/30/2026
5. METHOD OF PAYMENT Reimbursement	11. PREVIOUS AWARD AMOUNT: $0.00
	12. SUBRECIPIENT FEDERAL AWARD AMOUNT: $77,211.00 SUBRECIPIENT MATCH REQUIREMENT: $25,737.00 TOTAL FEDERAL AWARD: $77,211.00

13. STATUTORY AUTHORITY FOR GRANT
This project is supported under 34 U.S.C. §§ 10441, 10446 – 10451 (OVW-STOP) The New Mexico Crime Victims Reparation Commission FY26 STOP VAWA Formula Grant in the amount of $1,445,872.00 for the award period 07/01/2024 to 6/30/2026, the Subrecipient federal award amount for this project period comes from this federal allocation.

14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)
16.588 - Violence Against Women Formula Grants

15. SPECIAL CONDITIONS
This award is not a R & D award. The above subgrant project is approved subject to such conditions or limitations as are set forth on the attached page(s).

16. City of Santa Fe signifies acceptance of this STOP VAWA Formula award in accordance with the applicable rules and regulations as set forth in the State and Federal Guidelines and in adherence to the special conditions provided.

AGENCY APPROVAL	SUBRECIPIENT ACCEPTANCE
17. NMCVRC AUTHORIZED OFFICAL Frank Zubia, Director	21. NAME AND TITLE OF SUBRECIPIENT FINANCIAL POINT OF CONTACT Emily Oster
18. SIGNATURE OF AUTHORIZED OFFICIAL	22. SIGNATURE OF SUBRCIPIENT FINANCIAL POINT OF CONTACT Emily K. Oster
19. NMCVRC COMMISSION CHAIR David Karst, Chairman	23. NAME AND TITLE OF AUTHORIZED SUBRECIPIENT OFFICIAL [redacted] Mark Scott , City Manager
20. SIGNATURE OF COMMISSION CHAIR	24. SIGNATURE OF AUTHORIZED SUBRECIPIENT OFFICIAL

IN WITNESS WHEREOF, the City of Santa Fe has executed this Agreement as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

_____
ALAN WEBBER, MAYOR

DATE:_____

ATTEST:

_____
ANDRÉA SALAZAR, CITY CLERK

CITY ATTORNEY'S OFFICE:

_____
ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster
_____
EMILY OSTER, FINANCE DIRECTOR
09/09/2025

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New Mexico Crime Victims Reparations Commission
STOP VAWA Formula Grant Program
Subrecipient Grant Agreement

BETWEEN: New Mexico Crime Victims Reparations Commission (Recipient)
6200 Uptown Blvd NE, Suite 210
Albuquerque, NM 87110

AND: City of Santa Fe (Subrecipient)
PO Box 909
Santa Fe, NM 87501

PROJECT START DATE: July 1st, 2025

Grant Award Provisions

1. Legal Basis of Award. Pursuant to 10 NMAC 40.3, NMCVRC is authorized to enter into a grant agreement and to make an award, from funds received under the federal Violence Against Women Reauthorization Act of 2022 ("VAWA"), to Subrecipient for the purposes set forth herein.

2. Agreement Parties. This Grant Award Agreement, hereafter referred to as "Award," is between NMCVRC and the forenamed Subrecipient.

3. Effective Date. When all parties have duly executed this Award, and all necessary approvals have been obtained, this Award shall be effective and have a Project start date of **July 1st, 2025** and a Project end date of **June 30th, 2026**.

4. Subrecipient Administration. By signing and agreeing to this Award, Subrecipient will administer the project for which this Award is given in accordance with the applicable rules, regulations and conditions as set forth in Federal and State Guidelines. In addition, the following Special Conditions must be followed. By accepting this Award, the Subrecipient assumes the following administrative and financial responsibilities:
   - I. PAYMENT: Payment is on a reimbursement basis.
   - II. TERMINATION: This Award may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty days prior to the intended date of termination.
   - III. RECORDS AND AUDIT: Detailed expenditure records must be maintained. These records shall be subject to inspection by the New Mexico Crime Victims Reparation Commission (NMCVRC) and its representative(s), and the United States Department of Justice (DOJ), Office of Justice Programs (OJP), Office for Violence Against Women (OVW). NMCVRC shall have the right to audit the expenditures both before and after payment. Payment under this Award shall not foreclose the right of NMCVRC to recover excessive and/or illegal payments.
   - IV. ASSIGNMENT: Subrecipient shall not assign or transfer any interest in the Award without prior written approval from NMCVRC.
   - V. AMENDMENTS: This Award shall not be altered, changed or amended except by an instrument in writing executed by the parties hereto.
   - VI. EQUAL OPPORTUNITY COMPLIANCE: Subrecipient agrees to abide by all Federal and State laws, rules and regulations, and executive orders of the Governor of the State of New Mexico pertaining to equal employment opportunity. Subrecipient agrees that no person shall, on the basis of actual or perceived race, color, national origin, sex, religion, sexual preference, age or handicap, be excluded from employment with or participation in, be denied services, or be otherwise subjected to discrimination under any program or activity performed under this agreement. The Subrecipient agrees to submit an Office for Civil Rights certification of compliance form within 45 days of the beginning date of the Award.
   - VII. EFFECTIVE DATE: The start and end dates of the STOP VAWA grant are set forth in the approved program of the State of New Mexico Grant Application. Organizations that do not

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adhere to these responsibilities will be in violation of the terms of this Award and STOP VAWA Award will be subject to appropriate administrative action, including withholding of funds or possible cancellation of Award. **This award may be used for a period starting July 1st, 2025, and terminating on June 30, 2026.**

The above Special Conditions become part of the Grant Award and are accepted by Subrecipient.

By accepting this Award, Subrecipient assumes the following administrative and financial responsibilities:

1. The terms of this Award are contingent upon sufficient appropriations and authorization being made by the Office on Violence Against Women, for the performance of this Award. If OVW does not make sufficient appropriations and authorization, this Award shall terminate upon written notice being given by NMCVRC to Subrecipient.

2. Subrecipient must comply with specifications outlined in the solicitation under which the approved application was submitted. The program solicitation is hereby incorporated by reference into this Award.

3. The Primary Project Components (Project Plan) will guide the scope of work.

4. Project staff and consultants must be provided a copy of the project proposal and budget. In addition, the program manager agrees to disseminate project information to the project staff.

5. Subrecipient shall notify NMCVRC of all staff changes within three business days. Prior to the final selection of personnel to be hired or matched with grant funds, Subrecipient agrees to provide NMCVRC with the names and resumes of the candidates recommended for hiring for prior approval. Project staff resumes, including staff being used as match, must be submitted to NMCVRC for reimbursement for expenditures to occur. Replacement of any Subrecipient personnel, if approved, shall be with personnel of equal ability, experience and qualifications. Approval of replacement personnel shall not be unreasonably withheld. NMCVRC shall retain the right to request the removal of any of the Subrecipient's personnel at any time.

6. Subrecipient agrees to complete and keep on file, as appropriate, Immigration and Naturalization Service Employment Eligibility Verification Form (I-9). This form will be used to verify that persons are eligible to work in the United States.

7. Subrecipient agrees to comply with state laws and rules applicable to workers' compensation benefits for their employees. If the Subrecipient fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this Award may be terminated by NMCVRC.

8. Unless a waiver is granted, the authorized official, financial point of contact, project manager and anyone completing quarterly progress and/or financial reports must attend NMCVRC VAWA Grant Reporting training at least once during the Award period.

9. Subrecipient agrees that the Program Manager or appropriate designee shall attend the NMCVRC's Subgrantee Civil Rights Compliance training or webinar and agrees to disseminate this information to funded staff and volunteers. Subrecipient must also comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of the Subrecipient, or individuals defined (for purposes of this condition) as employees of the Subrecipient.

10. Any Subrecipient staff providing direct services to victims shall attend a minimum of one Victim Compensation Workshop held by NMCVRC during the Award.

11. Subrecipient agrees to cooperate and coordinate services with other VAWA-funded programs and other service providers in their region that serve victims of domestic violence, sexual assault, stalking and/or dating violence.

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12. If applicable, Subrecipient agrees to provide data to the New Mexico Interpersonal Violence Data Central Repository.

13. For the purpose of this contract, the definition of domestic violence is limited to the federal definition that can be found at www.justice.gov/ovw/domestic-violence.

14. Subrecipient agrees to **inform** all potentially eligible victims about crime victims' compensation, **assist all eligible victims in filling out** the application and **assist in submission** of applications to NMCVRC. In addition, Subrecipient agrees to assist NMCVRC staff regarding compensation inquiries.

15. Subrecipient agrees to inform and assist eligible victims of crime with New Mexico's Statewide Automated Victim Information and Notification Services (VINE) which accesses information about the custody status of potential offenders, or a particular state and/or county inmate's release, transfer, or escape from participating agencies over the phone, through the internet, or by email. When applicable, Subrecipient agrees to inform and assist eligible victims of crime with the New Mexico SAVIN (State Automated Victim Information Notification) System, a free service that provides information to crime victims and any interested members of the public with case status and hearing notifications on criminal court cases in the State of New Mexico.

16. Subrecipient must permanently post grievance policies and procedures in a conspicuous place within the agency, and on their agency website; this posting must include the names and contact information for NMCVRC as an agency funder.

17. The Subrecipient, upon final payment of the amount due under this Award, releases NMCVRC from all liabilities, claims and obligations whatsoever arising from or under this Award.

18. Requirements of the Award; remedies for noncompliance or for materially false statements.
The conditions of this Award are material requirements of the Award. Compliance with any assurances or certifications submitted by or on behalf of the Subrecipient that relate to conduct during the period of performance also is a material requirement of this Award. By signing and accepting this Award on behalf of the Subrecipient, the authorized Subrecipient official accepts all material requirements of the Award, and specifically adopts, as if personally executed by the authorized Subrecipient official, all assurances or certifications submitted by or on behalf of the Subrecipient that relate to conduct during the period of performance. Failure to comply with any one or more of these Award requirements — whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the Award period — may result in NMCVRC taking appropriate action with respect to the Subrecipient and the Award. Appropriate action can include and is not restricted to: NMCVRC may withhold Award funds, disallow costs, suspend or terminate the Award. The DOJ, including OVW and NMCVRC may take other legal action as appropriate. Any materially false, fictitious or fraudulent statement to the state or federal government related to this Award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812). Should any provision of a requirement of this Award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or unenforceable, such provision shall be deemed severable from this Award.

19. Quarterly reports will be received by NMCVRC no later than ten days after the end of the quarter and an annual progress report to be received no later than the due date. No faxed reports will be accepted. Late or inaccurate reporting will delay the payment process. Under the Government Performance and Results Act (GPRA), VAWA 2000 and subsequent legislation, Subrecipient is required to collect and maintain data that measures the effectiveness of their grant-funded activities. Accordingly, Subrecipient agrees to submit annual electronic progress reports on program activities and program effectiveness measures and to require submission of reports by sub-subrecipients.

20. Requirements to disclose whether Subrecipient is designated high-risk by a federal grant making agency.
If Subrecipient is designated high-risk by a federal grant making agency, currently or at any time during

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the course of the period of performance under this Award, Subrecipient must disclose that fact and certain related information to NMCVRC. For purposes of this disclosure, high-risk includes any status under which a federal awarding agency provides additional oversight due to Subrecipient's past performance, or other programmatic or financial concerns. Subrecipient's disclosure must include the following: the name of the federal awarding agency that currently designates Subrecipient as high-risk, the date Subrecipient was designated high-risk, the high-risk point of contact at the federal awarding agency and the reasons for the high-risk status, as set out by the federal awarding agency.

(a) Potential imposition of additional requirements. Subrecipient agrees to comply with any additional requirements that may be imposed by NMCVRC/OVW during the period of performance for this Award, if Subrecipient is designated as high-risk for purposes of the DOJ high-risk grantee list.

21. Policy for response to workplace related incidents of sexual misconduct, domestic violence and dating violence. The Subrecipient, and any sub-subrecipient at any tier, must have a policy, or issue a policy within 270 days of the Award date, to address workplace-related incidents of sexual misconduct, domestic violence and dating violence involving an employee, volunteer, consultant or contractor. The details of this requirement are posted on the OVW website at https://www.justice.gov/ovw/award-conditions (Award Condition: Policy for response to workplace-related sexual misconduct, domestic violence, and dating violence), and are incorporated by reference here.

22. Availability of general terms and conditions on OVW website. Subrecipient agrees to follow the applicable set of general terms and conditions that are available at https://www.justice.gov/ovw/award-conditions. These do not supersede any specific conditions in this award document.

23. Compliance with solicitation requirements. Subrecipient agrees that it must comply with requirements outlined in the solicitation under which the approved application was submitted, the applicable Solicitation Companion Guide, and any program-specific frequently asked questions (FAQs) on the OVW website (https://www.justice.gov/ovw/resources-and-faqs-grantees). The program solicitation, Companion Guide, and any program-specific FAQs are hereby incorporated by reference into this award.

24. VAWA 2013 nondiscrimination condition. Subrecipient acknowledges that 34 U.S.C. 12291(b)(13) prohibits subrecipients of OVW awards from excluding, denying benefits to, or discriminating against any person on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, or disability in any program or activity funded in whole or in part by OVW. Subrecipients may provide sex-segregated or sex-specific programming if doing so is necessary to the essential operations of the program, so long as the Subrecipient provides comparable services to those who cannot be provided with the sex-segregated or sex-specific programming. Subrecipient agrees that it will comply with this provision. Subrecipient also agrees to ensure that any sub-subrecipient at any tier will comply with this provision. See clause 50 below for further information.

25. Subrecipient agrees that grant funds will be used only for the purposes described in Subrecipient's application, unless NMCVRC determines that any of these activities are out of scope or unallowable. Subrecipient must not undertake any work or activities that are not described in Subrecipient's application, award documents, or approved budget, and must not use staff, equipment, or other goods or services paid for with grant funds for such work or activities, without prior written approval from NMCVRC.

26. Subrecipient product monitoring. Subrecipient agrees to monitor sub-subrecipients to ensure that materials and products (written, visual, or sound) developed with OVW formula grant program funding fall within the scope of the grant program and do not compromise victim safety. Subrecipient also agrees to have NMCVRC monitor any material and products (written, visual or sound) developed with OVW formula grant program funding that falls within the scope of the grant program.

27. Restrictions on lobbying and policy development. Federal funds may not be used by Subrecipient, or any sub-subrecipient at any tier, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, in order to avoid

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violation of 18 U.S.C. § 1913. Subrecipient, or any sub-subrecipient may, however, use federal funds to collaborate with and provide information to federal, state, local, tribal and territorial public officials and agencies to develop and implement policies and develop and promote state, local, or tribal legislation or model codes designed to reduce or eliminate domestic violence, dating violence, sexual assault and stalking (as those terms are defined in 34 U.S.C. § 12291(a)) when such collaboration and provision of information is consistent with the activities otherwise authorized under this grant program.

Federal law generally prohibits federal funds awarded by OVW from being used by NMCVRC, Award Subrecipient, or any sub-subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. § 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by Subrecipient would or might fall within the scope of these prohibitions, Subrecipient is to contact NMCVRC who will contact OVW for guidance, and may not proceed without the express prior written approval of OVW. Subrecipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express prior written approval of OVW.

28. Applicability of Part 200 Uniform Requirements and DOJ Grants Financial Guide. Subrecipient agrees to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by the Department of Justice (DOJ) in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements"), and the current edition of the DOJ Grants Financial Guide as posted on the OVW website, including any updated version that may be posted during the period of performance. Subrecipient agrees that all financial records pertinent to this Award, including the general accounting ledger and all supporting documents, are subject to review throughout the life of the Award, during the closeout process, andfor three years after submission of the final Federal Financial Report (SF-425) or as long as the records are retained, whichever is longer, pursuant to 2 C.F.R. 200.333, 200.336.

29. Requirement to report potentially duplicative funding. If Subrecipient currently has other active awards of federal funds, or if Subrecipient receives any other award of federal funds during the period of performance for this Award, Subrecipient must promptly determine whether funds from any other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this Award. If so, Subrecipient must promptly notify NMCVRC in writing of the potential duplication, and, if requested by NMCVRC, must seek a budget modification or a grant adjustment to scope of project to eliminate any inappropriate duplication of funding.

30. Any out of state travel line items or categories that are not specifically itemized in the approved budget must receive prior approval from NMCVRC before any funds for these items are expended.

31. Subrecipient agrees to maintain separate accounts and accounting records for STOP VAWA funds. Maintaining project-based accounting records does not provide enough detail to track federal funds, therefore, STOP VAWA funds cannot be commingled with any other funding source.

32. The Subrecipient agrees that grant funds will be used to supplement, not supplant, non-federal funds that would otherwise be available for the activities under this grant.

33. Payment is reimbursement only. In order to receive payment, Subrecipient must submit an Invoice and Record of Match (in Excel format) reflecting expenditures of the previous month into https://nmcvrcgrants.com/ by 11:59 PM on or before the 10th of each month. If the 10th is on a Friday, weekend or holiday the deadline will be the following business day by 11:59 PM. If documentation is late or inaccurate, reimbursement will be delayed until the following month or until the submitted documentation is corrected, this may result in a change in subgrantee status to that of high-risk or probationary status.

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34. Due to requirements by the NM Department of Finance Administration (DFA) all cash reimbursement invoices for grant expenditures made prior to June 30th will be due no later than July 6th. Cash reimbursement invoices received after July 6th for expenditures made prior to July 1st cannot be processed and those expenditures will become the responsibility of Subrecipient.

35. Subrecipient program income. Subrecipient understands and agrees that NMCVRC and OVW have responsibility for approval of program income earned by Subrecipient and any sub-subrecipient. Program income, as defined by 2 C.F.R. 200.1, means gross income earned by a non-federal entity that is directly generated by a supported activity or earned as a result of the federal award during the period of Award. Without prior approval, program income must be deducted from total allowable costs to determine the net allowable costs. In order to add program income to subaward, Subrecipient must seek approval from the NMCVRC prior to generating any program income. Any program income added to a subaward must be used to support activities that were approved in the budget and follow the conditions of the subaward agreement. Any program income approved by NMCVRC must be reported by Subrecipient, and any sub-subrecipient at any tier, to the NMCVRC so that it is reported on the quarterly Federal Financial Report (SF-425) in accordance with the addition alternative. If the program income amount changes (increases or decreases) during the project period, Subrecipient must have approval provided by NMCVRC/OVW by the end of the project period. Failure to comply with these requirements may result in audit findings for NMCVRC, Subrecipient and any sub-subrecipient at any tier.

36. Misuse of award funds. Subrecipient understands and agrees that misuse of award funds may result in a range of penalties, including suspension of current and future funds, suspension or debarment from federal grants, recoupment of monies provided under an award, and civil and/or criminal penalties.

37. Consultant compensation rates. Subrecipient acknowledges that consultants paid with award funds generally may not be paid at a rate in excess of $81.25 per hour, not to exceed $650 per day. To exceed this specified maximum rate, Subrecipient must submit to NMCVRC a detailed justification and have such justification approved by OVW through NMCVRC, prior to obligation or expenditure of such funds. Issuance of this award or approval of the award budget alone does not indicate approval of any consultant rate in excess of $81.25 per hour, not to exceed $650 per day. Although prior approval is not required for consultant rates below this specified maximum rate, Subrecipient is required to maintain documentation to support all daily or hourly consultant rates. See clause 57 below for further information.

38. STOP VAWA funding cannot be used to purchase food and/or beverages for any meeting, conference, training or other event, except if the following applies:

    - the location of the event is not in close proximity to food establishments;
    - if not serving food will significantly lengthen the day or necessitate extending the meeting;
    - if a special presentation at a conference requires a plenary address where there is no other time for food to be attained; or
    - other extenuating circumstances which necessitate the provision of food.

    If any of these circumstances apply, Subrecipient must submit a written request for approval to NMCVRC at least thirty (30) days prior to the event.

39. The Subrecipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant. The Subrecipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712. Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the Subrecipient should contact NMCVRC for guidance.

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40. Encouragement of policies to ban text messaging while driving. Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ and NMCVRC encourage the Subrecipient, and any applicable sub-subrecipient at any tier, to adopt and enforce policies banning employees from text messaging while driving.

41. Subrecipient agrees to maintain and furnish to NMCVRC, DOJ, Office of Chief Financial Officer (OCFO) and OVW upon request, detailed financial accounting and supportive records of expenditures and use of matching funds.

42. Subrecipient agrees to allow NMCVRC, DOJ, OCFO, and OVW access to the grant-funded project's documentation, redacted client files and other sources in order to determine that funds are being utilized in accordance with funding/contractual agreements and state and federal guidelines.

43. Subrecipient agrees that all equipment and/or technology purchased with grant funds will be used solely for the purpose purchased and for the life of the equipment and/or technology following the end of the grant budget period. Equipment purchased with grant funds shall be tagged and tracked in an organized inventory. Subrecipient agrees to notify NMCVRC of any changes regarding the use or distribution of equipment or technology purchased with Award funds.

44. Subrecipient agrees to provide NMCVRC with an annual agency financial audit. Subrecipient will comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements"), and the current edition of the DOJ Grants Financial Guide as posted on the OVW website to include any amendments made throughout the course of the Award period.

45. Effect of failure to address audit issues. Subrecipient understands and agrees that NMCVRC may withhold Award funds, or may impose other related requirements, if (as determined by NMCVRC and OVW) Subrecipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or terms of the Award), or other outstanding issues that arise in connection with audits, investigations, site visits, financial or programmatic monitoring findings or reviews of NMCVRC awards.

46. Performance progress reports and final report submission. Subrecipient agrees to provide NMCVRC with specific information regarding subawards made under this Award. Subrecipient will submit an annual report that includes:

    - an assessment of whether stated goals and objectives were achieved;
    - information on the effectiveness of activities carried out with grant funds, including the number of persons served and the number of persons seeking services who could not be served;
    - information on each subaward made; and
    - such other information as NMCVRC may prescribe.

    Subrecipient, and any applicable sub-subrecipients at any tier, are required to submit this report after the end of each calendar year and no later than March 1st each year. Subrecipient must use the designated forms and/or systems made available by NMCVRC for performance reporting, which identify the information that Subrecipient and any sub-subrecipient must collect and report as a condition of receiving funding under this Award. A final report is due 90 days after the end of the project period. This report must be submitted to NMCVRC with the Report Type marked "final," unless and until NMCVRC issues updated instructions for report submission.

47. Reporting Potential Fraud, Waste, and Abuse, and Similar Misconduct. Subrecipient must promptly refer to NMCVRC and the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award:

    (a) submitted a claim that violates the False Claims Act; or

(b) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by:

(a) online submission accessible via the OIG webpage at https://oig.justice.gov/hotline/contact-grants.htm (select "Submit Report Online");
(b) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; or
(c) by facsimile directed to the DOJ OIG Fraud Detection Office (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at https://oig.justice.gov/hotline.

48. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination – 28 C.F.R. Part 42. Subrecipient must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

49. Compliance with DOJ regulations to civil rights and nondiscrimination – 28 C.F.R. Part 38. Subrecipient must comply with all applicable requirements of 28 C.F.R. Part 38, which includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to Subrecipient's organizations that engage in or conduct explicitly religious activities as well as rules and requirements that pertain to subrecipients and sub-subrecipients that are faith base or religious organizations.

50. Compliance with DOJ regulations to civil rights and nondiscrimination – 28 C.F.R. Part 54. Subrecipient must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

51. Compliance with serving victims with limited English proficiency (LEP). In accordance with DOJ guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, subrecipients of federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited LEP. See U.S. Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. 67 Fed. Reg. 41.455 (2002). For more information on the civil rights responsibilities that subrecipients have in providing language services to LEP individuals, please see the website http://www.lep.gov.

52. Limited English Proficiency (LEP) and accessibility plan. All subrecipients that are working with victims must have a LEP and accessibility plan and policy in place and in practice to ensure that LEP persons, d/Deaf and hard of hearing, and individuals with disabilities have meaningful access to services. All staff must be provided with a copy of this plan and be trained on how to implement the policy and procedures.

53. Activities that compromise victim safety and recovery or undermine offender accountability. Subrecipient agrees that Award funds will not support activities that compromise victim safety and recovery or undermine offender accountability, such as:

(a) procedures or policies that exclude victims from receiving safe shelter, advocacy services, counseling, and other assistance based on their actual or perceived sex, age, immigration status, race, religion, sexual orientation, gender identity, mental health condition, physical health condition, criminal record, work in the sex industry, or the age and/or sex of their children;
(b) procedures or policies that compromise the confidentiality of information and privacy of persons receiving OVW-funded services;

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(c) procedures or policies that impose requirements on victims in order to receive services (e.g., seek an order of protection, receive counseling, participate in couples' counseling or mediation, report to law enforcement, seek civil or criminal remedies, etc.);
(d) procedures or policies that fail to ensure service providers conduct safety planning with victims;
(e) project design and budgets that fail to account for the access needs of participants with disabilities and participants who have Limited English Proficiency or are d/Deaf or hard of hearing; and
(f) any other activities outlined in the solicitation under which the approved application was submitted.

Subrecipient shall protect the confidentiality and privacy of persons receiving services, in accordance with STOP VAWA confidentiality provisions, 42 U.S.C.A. § 13925. Subrecipient agrees to comply with the provisions of 42 U.S.C. 13925(b)(2), non-disclosure of confidential or private information, which includes creating and maintaining documentation of compliance, such as policies and procedures for release of victim information. Subrecipient also agrees to ensure that any subgrantees at any tier meet these requirements.

54. If compelled by court order to release personally identifying information or information collected in connection with services requested, utilized or denied through Subrecipient's programs, Subrecipient shall:
    (a) make reasonable attempts to provide notice to victims affected by the disclosure, and document in writing such attempts; and
    (b) take steps necessary to protect the privacy and safety of persons affected, and document in writing such necessary steps.

55. Requirement to report actual or imminent breach of personally identifiable information (PII). Subrecipient must have written procedures in place to respond in the event of an actual or imminent breach (as defined in OMB M-17-12) if it:

    (a) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of personally identifiable information (PII) (as definedin 2 C.F.R. 200.79) within the scope of an OVW grant-funded program or activity: or
    (b) uses or operates a Federal information system (as defined in OMB Circular A-130).

    Subrecipient's breach procedures must include a requirement to report actual or imminent breach of PII to an NMCVRC no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

56. Training Guiding Principles. Subrecipient understands and agrees that any training or training materials developed or delivered with funding provided under this Award must adhere to the OVW Training Guiding Principles for Grantees and Subgrantees, available at https://www.justice.gov/ovw/resources-and-faqs-grantees#Discretionary.

57. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events. Subrecipient must comply with all applicable laws, regulations. policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

    Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide as posted on the OVW website (https://www.ojp.gov/funding/financialguidedoj/overview).

58. Compliance with general appropriations-law restrictions on the use of federal funds for this fiscal year. Subrecipient must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, for each fiscal year, are set out at https://www.justice.gov/ovw/awardconditions and are incorporated by reference here. Should a question

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arise as to whether a particular use of federal funds by Subrecipient might fall within the scope of an appropriations-law restriction, Subrecipient is to contact NMCVRC for guidance, and may not proceed without the express prior written approval of NMCVRC, who will seek OVW guidance.

59. Restrictions and certifications regarding non-disclosure agreements and related matters
No Subrecipient under this Award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or sub-subrecipient to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended and shall not be understood by the agency making this award (NMCVRC), to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

A. In accepting this award, Subrecipient represents that it neither requires nor has required internal confidentiality agreements or statements from employees or sub-subrecipients that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or sub-subrecipients from reporting waste, fraud, or abuse as described above; and certifies that, if it learns or is notified that it is or has been requiring its employees or sub-subrecipients to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of Award funds, will provide prompt written notification to NMCVRC and the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.
B. If Subrecipient does or is authorized under this award to make subawards, procurement contracts, or both — it represents that — it has determined that no other entity that Subrecipient's application proposes may or will receive award funds (whether through a subaward, procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or sub-subrecipients that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or sub-subrecipients from reporting waste, fraud, or abuse as described above; and it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and it certifies that, if it learns or is notified that any sub-subrecipient entity that receives funds under this award is or has been requiring its employees or sub-subrecipients to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

60. Confidentiality and information sharing. Subrecipient agrees to comply with the provisions of 34 U.S.C. 12291(b)(2), non-disclosure of confidential or private information, which includes creating and maintaining documentation of compliance, such as policies and procedures for release of victim information. Subrecipient also agrees to comply with the regulations implementing this provision at 28 CFR 90.4(b) and "Frequently Asked Questions (FAQs) on the VAWA Confidentiality Provision (34 U.S.C. 12291(b)(2))" on the OVW website at https://www.justice.gov/ovw/resources-and-faqs-grantees. Subrecipient will ensure that all their sub-subrecipients at any tier meet these requirements.

61. Publication disclaimer. Subrecipient agrees that all materials and publications (written, web-based, audio-visual, or any other format) resulting from Award activities shall contain the following statement: "This project was supported by Grant No. 15JOVW-24-GG-00517-STOP awarded by NMCVRC, OVW, and U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Justice." Subrecipient also agrees to ensure that any sub-subrecipient at any tier will comply with this condition.

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62. Publications disclaimer for STOP Formula subrecipients. Subrecipient agrees that all materials and publications (written, web-based, audio-visual, or any other format) resulting from subaward activities shall contain the following statement: "This project was supported by Subgrant No. 15JOVW-24-GG-00517-STOP awarded by NMCVRC, OVW, and U.S. Department of Justice's STOP Formula Grant Program. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the state or the U.S. Department of Justice."

63. Subrecipient understands and agrees that it has a responsibility to monitor its sub-subrecipients' compliance with applicable federal civil rights laws.

64. Requirements for subrecipients providing legal assistance. Subrecipient agrees that the legal assistance eligibility requirements, as set forth below, are a continuing obligation on the part of the recipient. The legal assistance eligibility requirements are: (1) any person providing legal assistance through a program funded under this grant program (A) has demonstrated expertise in providing legal assistance to victims of domestic violence, dating violence, sexual assault or stalking in the targeted population; or (B) (i) is partnered with an entity or person that has demonstrated expertise described in subparagraph (A); and (ii) has completed or will complete training in connection with domestic violence, dating violence, stalking, or sexual assault and related legal issues, including training on evidence-based risk factors for domestic and dating violence homicide; (2) any training program conducted in satisfaction of the requirement of paragraph (1) has been or will be developed with input from and in collaboration with a state, local, territorial, or tribal domestic violence, dating violence, sexual assault, or stalking victim service provider or coalition, as well as appropriate state, local, territorial, and tribal law enforcement officials; (3) any person or organization providing legal assistance through this Award has informed and will continue to inform state, local, territorial, or tribal domestic violence, dating violence, stalking, or sexual assault programs and coalitions, as well as appropriate state and local law enforcement officials of their work; and (4) Subrecipient's organizational policies do not require mediation or counseling involving offenders and victims physically together, in cases where sexual assault, dating violence, domestic violence or child sexual abuse is an issue. Subrecipient also agrees to ensure that any sub-subrecipient at any tier will comply with this condition.

65. Nonprofit status of subrecipients. NMCVRC will verify that Subrecipient, and any sub-subrecipients at any tier, except governmental rape crisis centers and tribal governmental programs, are organizations that are described in section 501(c)(3) of the Internal Revenue Code of 1986 and are exempt from taxation under section 501(a) of that Code.

66. Copyrighted works. Pursuant to 2 C.F.R. 200.315(b), Subrecipient may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under the award. NMCVRC and OVW reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, in whole or in part (including in the creation of derivative works), for federal purposes, and to authorize others to do so. In addition, the Subrecipient must obtain advance written approval from NMCVRC, and must comply with all conditions specified by NMCVRC in connection with that approval before:

    (a) using award funds to purchase ownership of, or a license to use, a copyrighted work; or
    (b) incorporating any copyrighted work, or portion thereof, into a new work developed under this award.

    It is the responsibility of Subrecipient to ensure that this condition is included in any subaward, contract or subcontract under this award.

67. Compliance with statutory and regulatory requirements: Subrecipient agrees to comply with all relevant statutory and regulatory requirements which may include, among other relevant authorities, the Violence Against Women Act of 1994, P.L. 103-322, the Violence Against Women Act of 2000, P.L. 106-386, the Violence Against Women and Department of Justice Reauthorization Act of 2005, P.L. 109-162, the Violence Against Women Reauthorization Act of 2013, P.L. 113-4, the Violence Against Women Act

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Reauthorization Act of 2022, P.L. 117-103, the Omnibus Crime Control and Safe Streets Act of 1968, 34 U.S.C. 10101 et seq., and OVW's implementing regulations at 28 CFR Part 90.

68. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and NMCVRC and OVW authority to terminate award). Subrecipient, and any sub-subrecipient at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of Subrecipient, sub-subrecipients, or individuals defined (for purposes of this condition) as "employees" of Subrecipient or of any sub-subrecipient.

    The details of Subrecipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OVW web site at https://www.justice.gov/ovw/award-conditions (Award Condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OVW authority to terminate award)) and are incorporated by reference here.

69. Determinations of suitability to interact with participating minors. This condition applies to this award if it is indicated - in the application for the award (as approved by DOJ) (or in the application for any subaward at any tier), the DOJ funding announcement (solicitation), or an associated federal statute - that a purpose of some or all of the activities to be carried out under the award (whether by NMCVRC, Subrecipient and any sub-subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

    NMCVRC, Subrecipient, and any sub-subrecipient at any tier, must make determinations of suitability before employees, volunteers, contractors or consultants may interact with minors. This requirement applies regardless of an individual's employment status. The details of this requirement are posted on the OVW web site at https://www.justice.gov/ovw/award-conditions (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

70. Requirements related to System for Award Management and unique entity identifiers. Subrecipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at https://www.sam.gov. This includes applicable requirements regarding registration with SAM, aswell as maintaining current information in SAM.

    Subrecipient also must comply with applicable restrictions on subawards to first-tier sub-subrecipients, including restrictions on subawards to entities that do not acquire and provide (to Subrecipient) the unique entity identifier required for SAM registration.

    The details of Subrecipient's obligations related to SAM and to unique entity identifiers are posted on the OVW website at https://www.justice.gov/ovw/award-conditions (Award Condition: Requirements related to System forAward Management (SAM) and unique entity identifiers), and are incorporated by reference here.

71. Termination or suspension. The Director of NMCVRC upon a finding that there (1) has been substantial failure by the subrecipient to comply with applicable laws, regulations, and/or the terms and conditions of the award or relevant solicitation, (2) has been failure by the subrecipient to make satisfactory progress toward the goals, objectives, or strategies set forth in the application, or (3) have been project changes proposed or implemented by the subrecipient to the extent that, if originally submitted, the application would not have been selected for funding, will terminate or suspend until the Director is satisfied that there is no longer such failure or changes, all or part of the award, in accordance with the provisions of 28 C.F.R. Part 18, as applicable mutatis mutandis. The federal regulation providing uniform rules for termination of grants and cooperative agreements is 2 C.F.R. 200.340.

72. Ongoing compliance with statutory certifications. Subrecipient agrees that compliance with the statutory certification requirements is an ongoing responsibility during the Award period and that, at a minimum, a hold may be placed on Subrecipient's funds for noncompliance with any of the requirements of 34 U.S.C. 10449 (regarding rape exam payments), 34 U.S.C. 10449(e) (regarding judicial notification), 34 U.S.C. 10450 (regarding certain fees and costs), and 34 U.S.C. 10451 (regarding polygraphing of sexual assault victims).

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Noncompliance with any of the foregoing may also result in termination or suspension of the Award or other remedial measures, in accordance with applicable laws and regulations.

73. Match requirement. Subrecipient agrees that the federal share of a grant made under the STOP Formula Program may not exceed 75 percent of the total costs of the total projects described in the application, including administrative costs. Victim service providers receiving STOP subawards for the purpose of providing victim services and Tribes receiving STOP subawards will not be required to provide matching dollars. If Subrecipient is a victim service provider that is a nonprofit organization, Subrecipient must be a nonprofit organization as described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code. Subrecipients that are not exempt victim service providers will provide no less than 25 percent matching funds for subaward unless granted a match waiver by CVRC.

74. Limitation on use of funds for awareness and public education. Subrecipient agrees that its Award may not be used to conduct public awareness or community education campaigns or related activities to broadly address domestic violence, dating violence, sexual assault or stalking. If it is within the scope of work, funds may be used to support, inform, and provide outreach about available services.

75. Prohibition on tort litigation. In accordance with 34 U.S.C. 12291 (b) Subrecipient agrees to not use funds under the STOP Program to fund civil representation in a lawsuit based on a tort claim. This paragraph should not be construed as a prohibition on providing assistance to obtain restitution in a protection order or criminal case.

76. Limitation on use of funds to approved activities. The Subrecipient agrees that grant funds will be used only for the purposes described in the Subrecipient's application, unless NMCVRC determines that any of these activities are out of scope or unallowable. The Subrecipient must not undertake any work or activities that are not described in the Subrecipient's application, award documents, or approved budget, and must not use staff, equipment, or other goods or services paid for with grant funds for such work or activities, without prior written approval from NMCVRC.

Additional monitoring requirements. For FFY2026 your additional financial compliance measures are:

- Your agency must maintain all source documents on file and be able to present them for desk or site audit.
- Submit invoices monthly.
- Submit time and activity sheets for all federal and match employees.

All guidelines as described in the STOP VAWA Program Guidelines must be followed. The above may be waived with written approval. The above Special Conditions become part of the Award and are accepted by Subrecipient.

Organizations which do not adhere to these Special Conditions, will be in violation of the terms of this Grant, and the STOP VAWA Formula Award will be subject to appropriate administrative action, including withholding of funds or possible termination of the Grant Award.

City of Santa Fe New Mexico

Finance Department

Project Ledger Request Form

Date of Request: 6/12/25

Project Title: STOP Violence Against Women Grant Program FY26

Project Type: ☐ CIP ☑ Grant ☑ Internal Tracking

Project ID: YFD2624001
Grant ID: F2602
Approved By: ERIKA LUJAN (Jun 23, 2025 08:17 MDT)
CT (Finance Use Only)

Department: Community Health and Safety Project Manager: Sandra Emory Ext: 6236

Project Date Range: July 1, 2025 to June 30, 2026 ☐ Create Fixed Asset

---

☐ Multi-Funding (complete all funding sources, should equal 100%)

Funding Source: CVRC STOP VAWA GRANT % of Funding: _____

MUNIS ORG: 2400122 MUNIS OBJ: 490555 Awarded Amount: $77,211.00

Funding Source: Local Match % of Funding: _____

MUNIS ORG: 2560122 MUNIS OBJ: _____ Awarded Amount: $25,737.00

Expense String Phase:

A project must have at least one phase identified, this can be used as an additional level of tracking, for example, CIP - Design, Construction, etc. For Grants can be used as reimbursable types, such as transportation, salaries.

(You can create more than one phase and you can default MUNIS ORGs and OBJs, optional)

Phase: Please see attached document MUNIS ORG: _____ MUNIS OBJ: _____

Grants Only (list all grants if applicable):

Grantor Name: DOJ-VAWA 15JOVW-24-00517-STOP Awarded Amount: 77,211.00

AR Charge Code: 2400122.490555 ☐ Grant funds multiple projects (Complete a form for each project)

Grantor Id: DOJ VAWA/P. THRU NM CVRC Federal CFDA (if applicable): 16.588

Grantor Name: _____ Awarded Amount: _____

AR Charge Code: _____ ☐ Grant funds multiple projects (Complete a form for each project)

Grantor Id: _____ Federal CFDA (if applicable): _____

(If grants please provide all grant award documents with form) ☑ Attached Grant Documentation

Expense String-

Domestic Violence Response Team- Domestic Violence Response Specialist (Salaries)- 2400122.500110- $56,773.00

Domestic Violence Response Team- Domestic Violence Response Specialist (FICA/Medicare)-2400122.503100- $2,940.78

Domestic Violence Response Team- Domestic Violence Response Specialist (Retirement/PERA)-2400122.503150- $9,530.54

Domestic Violence Response Team- Domestic Violence Response Specialist (Med/Life)-2400122.503200- $6,928.49

Domestic Violence Response Team- Domestic Violence Response Specialist (Retiree Health Care)-2400122.503250- $814.10

Domestic Violence Response Team- Domestic Violence Response Specialist (Dental)-2400122.503400- $223.10

Log # {Finance use only}:	
Journal # {Finance use only}:	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
Community Health and Safety/Youth and Family Services	6.20.25

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				{enter as positive #}	{enter as negative #}
Domestic Violence Response Team - Domestic Violence Response Specialist (Salaries)	2400122	500110	YFD2624001	56,773	
Domestic Violence Response Team - Domestic Violence Response Specialist (FICA/Medicare)	2400122	503100	YFD2624001	2,941	
Domestic Violence Response Team - Domestic Violence Response Specialist (Retirement/PERA)	2400122	503150	YFD2624001	9,531	
Domestic Violence Response Team - Domestic Violence Response Specialist (Med/Life)	2400122	503200	YFD2624001	6,928	
Domestic Violence Response Team - Domestic Violence Response Specialist (RHC)	2400122	503250	YFD2624001	814	
Domestic Violence Response Team - Domestic Violence Response Specialist (Dental)	2400122	503400	YFD2624001	223	
Operating Transfer to Community Development Fund	1000121	750240			(13,272)
REVENUES				{enter as negative #}	{enter as positive #}
DOJ- VAWA 15JOVW.24.00517.STOP DV FOR (FY26)	2400122	490555	YFD2624001	(77,210)	
DOJ VAWA Grant (FY26 Original Budget)	2400122	490555			63,938
Operating Transfer from General Fund	2400122	650100			13,272
				$ 0	$ 63,938

JUSTIFICATION: *(use additional page if needed)*
--Attach supporting documentation/memo

NM CVRC VAWA GRANT AWARD FOR DOMESTIC VIOLENCE RESPONSE SERVICES FY26

{Complete section below if BAR results in a net change to ANY Fund}	
Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	0

Sandra Emory
Prepared By {print name} Date

Division Director Signature {optional} Date

06/26/2025
Department Director Signature Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins 6/27/25
Budget Officer Date

Emily K. Oster
Finance Director {≤ $5,000} Date

City Manager {≤ $60,000} Date

6.26.25 BAR for CVRC

Interim Agreement Report 2025-06-27

Created:	2025-06-26
By:	Sierra Trujillo (svtrujillo@santafenm.gov)
Status:	Out for Signature
Transaction ID:	CBJCHBCAABAAYNMbwZHolpGxyQiF3FQH2lm1dBGUwgUR

Agreement History

Agreement history is the list of the events that have impacted the status of the agreement prior to the final signature. A final audit report will be generated when the agreement is complete.

"6.26.25 BAR for CVRC" History

Document created by Sierra Trujillo (svtrujillo@santafenm.gov)
2025-06-26 - 2:53:22 PM GMT- IP address: 63.232.20.2

Document emailed to HENRI HAMMOND-PAUL (hmhammondpaul@santafenm.gov) for signature
2025-06-26 - 2:55:38 PM GMT

Email viewed by HENRI HAMMOND-PAUL (hmhammondpaul@santafenm.gov)
2025-06-26 - 10:19:30 PM GMT- IP address: 104.47.64.254

Document e-signed by HENRI HAMMOND-PAUL (hmhammondpaul@santafenm.gov)
Signature Date: 2025-06-26 - 10:19:44 PM GMT - Time Source: server- IP address: 104.156.39.164

Document emailed to ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov) for signature
2025-06-26 - 10:19:45 PM GMT

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2025-06-27 - 4:38:19 PM GMT- IP address: 104.47.64.254

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CITY OF SANTA FE

Memorandum

Date: 08/25/2025

To: Governing Body

From: Scott Overlie, Public Works Project Manager III SAO

Via: Melissa McDonald, Parks and Open Spaces Division Director MMc
Regina Wheeler, Public Work Department Director RW

Reviewed By: Carol Swenson

ACTION:
Request for Approval of Capital Outlay Grant Agreement for Capital Appropriation Project 25-J3160 with the Department of Finance & Administration in the Total Amount of $250,000 for Shelby Street Pedestrian Bridge Replacement with a Reversion Date of June 30, 2029. (Scott Overlie, Project Manager III; saoverlie@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate Legislative Grant Proceeds of $250,000 to Parks and Open Space FY26 Revenue and Expenses for the Shelby Street Pedestrian Bridge Replacement Project.

BACKGROUND:
The design of the replacement Shelby Street pedestrian bridge is at 60% for a prefabricated bridge with actual rock façade to replace like with like. Historic Review Board has provided preliminary approval for this design. The City's Floodplain Manager, however, is requiring additional analysis due to potential restriction of the channel which may require relocation and re-design of the bridge. Construction was targeted to begin in the Fall of 2025, but the additional floodplain analysis will delay that start date.

The design is funded with a 2024 legislative appropriation for $240,000. This $250,000 grant is expected to be used toward construction that is roughly estimated at $1,250,000.

ATTACHMENTS:
Grant Agreement
BAR
PLID Form

GRANT MANAGER: ERIKA LUJAN Sep 3, 2025
ERIKA LUJAN (Sep 3, 2025 09:23:39 MDT)

NEW MEXICO CAPITAL OUTLAY GRANT AGREEMENT
CAPITAL APPROPRIATION PROJECT

THIS AGREEMENT is made and entered into by and between the State of New Mexico, Department of Finance & Administration, 407 Galisteo Street, Santa Fe, NM 87501, ("**Department**") and the City of Santa Fe, ("**Grantee**") (individually "**Party**" and collectively "**Parties**"). This Agreement shall be effective as of the date the Department executes it ("**Effective Date**").

WITNESSETH

WHEREAS, in the Laws of 2025, Chapter 159, Section 505, Paragarph 33, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of funds from this appropriation, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

AGREEMENT

I. PROJECT DESCRIPTION, GRANT AMOUNT, AND REVERSION

A. **25-J3160** ("**Project**") 6/30/2029 ("**Reversion Date**"). Laws of 2025, Chapter 159, Section 50533, Two Hundred Fifty Thousand Dollars and No Cents, $250,000.00, to demolish and remove an existing structure and to plan, design and construct a pedestrian bridge across the Santa Fe river at Shelby street in Santa Fe in Santa Fe county;.

B. Grantee's total reimbursements shall not exceed $250,000.00 Two Hundred Fifty Thousand Dollars and No Cents, ("**Appropriation Amount**") minus the allocation for Art in Public Places ("**AIPP amount**"), if applicable, $0.00 No Dollars and No Cents, which equals $250,000.00 Two Hundred Fifty Thousand Dollars and No Cents ("**Adjusted Appropriation Amount**").

C. In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I, the language of the laws cited herein shall control.

The information contained in Article I is referred to collectively as the "**Project Description**."

II. DISBURSEMENT LIMITATION

A. Upon the Effective Date, the Grantee shall submit to the Department a comprehensive procurement plan and expenditure plan, detailing a Project timeline with milestones, required procurements, and identifying expected expenditures per milestone (collectively, "**Project Budget**"). The Department shall review and approve the Project Budget by approving a Notice of Department's Obligation ("**Notice of Obligation**"), in accordance with the Project Description, a

sample of which is attached hereto as **Exhibit B** and incorporated herein by reference. After receipt of approved Notice of Obligation, the Grantee may be reimbursed for allowable costs up to the Adjusted Appropriation Amount. This Agreement and any reimbursements up to the Adjusted Appropriation Amount are expressly conditioned upon the following:

a. Irrespective of any Notice of Obligation, Grantee's expenditures shall be made in accordance with the Project Budget, on or before the Reversion Date and/or, if applicable, any Early Termination Date; and
b. The total amount received by Grantee shall not exceed the lesser of:
    i. the Adjusted Appropriation Amount identified in Article I (B) herein; or
    ii. the total of all amounts stated in the Notice(s) of Obligation evidencing the Department has received and accepted Grantee's Third Party Obligation(s); and
c. Grantee's expenditures are made and accounted for pursuant to the State Procurement Code, State's Model Accounting Practices, and execution of binding written obligations or purchase orders with third-party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project ("**Third Party Obligations**"); and
d. Grantee's submittal of timely Requests for Payment and supporting documentation in accordance with the procedures set forth in this Agreement; and
e. In the event capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
    i. must be approved by the applicable oversight entity (if any) in accordance with §§ 13-6-2, 13-6-2.1, and 13-6-3; or
    ii. If no oversight entity is required to approve the transaction, the Department of Finance and Administration's Infrastructure Planning Development Division (IPDD) must approve it as complying with the law.

B. Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(e)(i) or (ii) herein, the Department may, in its sole and absolute discretion, unless inconsistent with State Board of Finance imposed conditions, reimburse Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, limited to planning and design expenditures; and

C. Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

a. Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation, and request the Third Party to begin work after issuance of a Notice of Obligation by the Department.
b. Grantee acknowledges and agrees that any Third Party Obligations agreed to prior to receiving a Notice of Obligation are its sole responsibility.
c. Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party but prior to execution by the Grantee.
d. Department may, in its sole and absolute discretion, issue a Notice of Obligation for the particular amount of a Third Party Obligation that only obligates the Department to

reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is incorporated herein and attached hereto as **Exhibit B**.

D. Grantee shall provide all necessary qualified personnel, materials, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

E. Prior to entering into this Agreement, the Department conducted a risk assessment on the Grantee and a project readiness review for the Project. In accordance with State Model Accounting Practices, FIN 9.2, if the Department determines that the expenditure of Project funds by the Grantee requires special conditions, those conditions are identified and listed in **Exhibit C**, which is attached and incorporated by reference. The Parties agree that, to the extent the Department, in its sole and absolute discretion, determines additional special conditions are necessary or that existing special conditions are no longer required, it may update **Exhibit C** from time to time without the need for a formal amendment of this Agreement.

F. Project funds shall not be used for purposes other than those authorized by the Department in accordance with the Project Description.

G. Project funds cannot be used to reimburse the Grantee for indirect Project costs unless specifically allowed by law.

III. NOTICES

The following provisions shall apply whenever written notices, including written decisions, are to be given or received related to this Agreement.

A. The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

Grantee: City of Santa Fe
Name: Alan Webber
Title: Mayor
Address: PO Box 909, Santa Fe, NM 87504
Email: mayor@santafenm.gov
Telephone: 505-955-6590

B. The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

Grantee: City of Santa Fe
Name: Emily Oster
Title: Finance Director
Address: PO Box 909, Santa Fe, NM 87504
Email: ekoster@santafenm.gov
Telephone: 505-629-3411

C. The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

Department: DFA/Local Government Division
Name: Daniel Catanach
Title: Grant Manager
Address: Bataan Memorial Bldg. Rm 202, Santa Fe NM 87501
Email: danieln.catanach@dfa.nm.gov
Telephone: 505-231-6090

The Parties agree that all notices, including written decisions, related to this Agreement shall be sent to the persons named above by email or regular mail. For mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five (5) calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of the email.

IV. TERM & DEADLINE TO EXPEND FUNDS

A. The term of this Agreement shall begin on the Effective Date and terminate on the 30th day of June during the calendar year of the Reversion Date unless Terminated Before Reversion Date ("**Early Termination**") pursuant to Article V herein (collectively "**Term**").

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, the Early Termination Date of this Agreement.

a. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Reversion Date or Early Termination Date.
b. For purposes of this Agreement, an expenditure of funds has occurred on the date the particular quantity of goods is delivered to and received by the Grantee, title to the goods is transferred to the Grantee, and/or as of the date particular services are rendered to and accepted by the Grantee.
c. For purposes of this Agreement, an encumbrance of funds pursuant to a contract or purchase order with a third party does not qualify as an expenditure.

V. EARLY TERMINATION

A. General Provision. The Department may terminate this Agreement before the Reversion Date based on the Completion of the Project, Complete Expenditure of the Adjusted Appropriation, and/or Violation of this Agreement. Early Termination hereunder includes:

a. Termination due to completion of the Project before the Reversion Date;
b. Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date;
c. Termination for violation of the terms of this Agreement; or
d. Termination for suspected mishandling of public funds, including but not limited to fraud, waste, abuse, and conflicts of interest.

B. Non-appropriation. This Agreement is expressly contingent upon the New Mexico State Legislature making sufficient appropriations and authorizations for the Project Description.

a. If the Legislature does not appropriate the Appropriation Amount, this Agreement shall terminate upon the Department giving the Grantee written notice of such termination. Such termination shall be effective as of the effective date of the law making the non-appropriation.
    i. The Department's decision as to whether sufficient appropriations or authorizations are available shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the State of New Mexico in the event of Early Termination of this Agreement.
b. As used herein, "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature:
    i. Deauthorization, reauthorization, or revocation of a prior authorization.

C. Grant Disbursements in the Event of Early Termination. In the event of Early Termination, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II above.

D. Notice. Either Party may terminate this Agreement prior to the Reversion Date by providing the other Party with a minimum of fifteen (15) days advance written notice of the Early Termination. Grantee hereby waives any rights to assert an impairment of contract claim against the State of New Mexico in the event of Early Termination of this Agreement by the Department.

VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. Department, in its sole and absolute discretion, may provide written notice to Grantee to suspend entering into further obligations. Upon the receipt of such written notice by the Grantee:

a. Grantee shall immediately suspend entering into new or further written obligations with third parties;
b. Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
c. Department may direct the Grantee to implement a corrective action plan in accordance with Article VI (D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for a Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension. Where the Department, in its sole and absolute discretion, directs Grantee to suspend entering into new or further written obligations

with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension.

a. Such a corrective action plan must be approved by the Department and be signed by the Grantee.
b. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(c).
c. A corrective action plan shall be in addition to, and not in lieu of, any other equitable or legal remedy authorized hereunder or at law, including but not limited to Early Termination.

VII. AMENDMENTS

Unless expressly stated otherwise herein, this Agreement shall not be altered, changed, or amended except by an instrument in writing duly executed by both parties hereto with the same formalities as this agreement.

VIII. REPORTING

A. Database Reporting

a. Grantee shall provide the Department with quarterly reports of Project activity, entering the required Project information directly into a database required by the Department.
b. Additionally, Grantee shall certify on each Request for Payment form, attached hereto as **Exhibit A** and incorporated herein, that all information provided in the database is true and accurate, updates to the database have been maintained, and all Project activity complies with applicable law and the terms of this Agreement.
c. Grantee hereby acknowledges that failure to perform and/or certify updates to the database will jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of fourteen (14) days' advance written notice of any changes to the information the Grantee is required to report.
d. At the Department's discretion, all reports required hereunder may be directed to and facilitated through an electronic database.
e. Quarterly reports shall be due on the last day of the month, that is, 30 days prior to the end of the quarter following the execution of this Agreement by the Department and ending during the quarter of the submission of the final request for reimbursement for the Project, or the following quarter.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

i. request such additional information regarding the Project as it deems necessary; and
ii. conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

B. Requests for Additional Information/Project Inspection

a. During the term of this Agreement and the Record Retention Period, the Department may:
    i. Request additional information regarding the Project as it deems necessary and
    ii. Conduct on-site inspections of the Project at reasonable times and upon reasonable notice.
b. Grantee shall respond to such requests for additional information within the time established by the Department.

IX. REQUEST FOR PAYMENT PROCEDURES

A. Grantee shall request payment by submitting the form attached hereto as **Exhibit A**. Payment requests are subject to the following procedures:

a. Each Request for Payment must be in accordance with the Project Budget and contain proof of payment by the Grantee or liabilities incurred by the Grantee.
    i. Proof of payment must demonstrate the validity of an expenditure or liabilities incurred by Grantee.
    ii. However, Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
    iii. The Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or in a shorter period than the Department may prescribe in writing.
    iv. The Department reserves the right to make such payments directly to the contractors or vendors as a special condition under this Agreement.
    v. The Grantee is required to certify to the Department proof of payment to the third-party contractor or vendor within five (5) business days from the date the Department reimburses the Grantee.

B. Until the Project is fully planned, designed, and all necessary procurements identified in the Project Budget are completed, Grantee's reimbursements will be limited to the planning, design, and procurement costs outlined in the Project Budget. Once the planning, designing, and procuring stages are complete, the Grantee must obligate at least ten percent (10%) of the Adjusted Appropriation Amount within one (1) year and must have utilized at least eighty-five percent (85%) of the Adjusted Appropriation Amount six (6) months before the reversion date.

C. Deadlines. Grantee shall submit requests for Payments to the Department on the earlier of:

a. Immediately as Grantee receives them, but at a maximum of thirty (30) days from when Grantee incurred the expenditure or liability; or
b. Twenty (20) days from the date of Early Termination or Reversion Date for expenditures or liabilities incurred before the Early Termination date or Reversion Date.

D. Grantee's failure to abide by the requirements set forth in Article II and Article IX herein may result in the denial of its Request for Payment. Department reserves the right to reject a payment request for the Project unless and until it is satisfied that the expenditures or liabilities are for permissible purposes within the meaning of the Project Description, identified within the Project Budget, and that the Grantee is otherwise in compliance with this Agreement.

a. Department's authority to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department under this Agreement, at law, or in equity.

X. PROJECT CONDITIONS AND RESTRICTIONS

A. The following general conditions and restrictions shall apply to the Project:

a. The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code.
b. The Project's expenditures and liabilities must be accounted for in accordance with the State's Model Accounting Practices, as amended from time to time.
c. The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable.
d. The Project must provide a public benefit above and beyond any incidental benefit to private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico.
e. Without prior written approval from the Department and State Board of Finance, for the useful life of any asset purchased under this Agreement, Grantee shall not convert any property acquired, built, renovated, repaired, designed, or developed with Project funds to uses other than those specified in the Project Description.
    i. In addition to other remedies available at law or in equity, any disposal or conversion of property acquired, built, renovated, repaired, designed, or developed with Project funds without the Department's and the Board of Finance's express written approval will trigger the Department's right to reimbursement from Grantee of the Appropriated Amount, transfer proceeds from any disposition of property to the State, or otherwise provide consideration to the State for the Appropriated Amounts.
f. Grantee shall comply with all applicable federal and state laws, rules, and regulations pertaining to civil rights and equal employment opportunity.
    i. In accordance with all such laws, rules, and regulations, the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age, or handicap, be excluded from participation in the Project, use of the Project, employment with Grantee, or otherwise be denied benefits/subject to discrimination for any activity performed under this Agreement.
g. Where the Department, in its sole and absolute discretion, determines Grantee has failed to comply with the above conditions and restriction, Grantee agrees to take appropriate steps to correct any deficiencies immediately. The Grantee's failure to implement such appropriate steps within a reasonable time, but no longer than thirty (30) days after

notice from the Department, constitutes a breach of this Agreement and grounds for Early Termination.

XI. REPRESENTATIONS AND WARRANTIES

A. Reliance by Department.
   a. Grantee expressly acknowledges that the Department relies on the representations and warranties made by Grantee in this Agreement. Grantee acknowledges that such representations and warranties are a material inducement for the Department to enter into this Agreement and provide the Appropriated Amount.
   b. Grantee shall ensure all representations and warranties provided herein are true, accurate, and complete as of the date of the Effective Date and shall remain so throughout the Term of this Agreement. Grantee is responsible for promptly notifying the Department in writing of any changes or inaccuracies in the representations and warranties contained herein.

B. Grantee hereby represents and warrants the following:

   a. Grantee has taken all necessary steps to attain the legal authority to receive and expend the Project's funds.
   b. Grantee has duly authorized this Agreement, and the person executing it has authority to do so. Once executed by Grantee, this Agreement shall constitute a binding obligation of Grantee, enforceable according to its terms.
   c. Grantee's obligations hereunder do not conflict with any law, ordinance, or resolution applicable to Grantee, Grantee's charter (if applicable), or any judgment or decree to which Grantee is subject.
   d. Grantee has independently confirmed that the Project Description, including, but not limited to, the Appropriated Amount and Reversion Date, is consistent with the underlying appropriation in law.
   e. Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign and submit Requests for Payment on behalf of Grantee.
   f. Grantee will abide by New Mexico laws regarding conflicts of interest, governmental conduct, and whistleblower protection.
      i. Grantee agrees explicitly none of its officers or employees or its designees or agents, no member of the governing body, and no other public official of Grantee who exercises any function or responsibility with respect to this Agreement, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for the Project.
      ii. Further, Grantee will require all of its contractors to incorporate the language set forth in this paragraph prohibiting conflicts of interest in all subcontracts.
   g. No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of the State, any agency, or body in connection with the awarding of any Third Party Obligation.
      i. Grantee will require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans, and cooperative agreements.

C. Consequences of False or Misleading Representations. If any representation or warranty made by Grantee is found to be false or misleading, the Department shall have the right to exercise any or all of the following remedies:

a. **Termination of Agreement:** Department may terminate this Agreement immediately upon written notice to the Grantee.
b. **Repayment of Grant Funds:** Grantee shall repay all Appropriated Amounts disbursed under this Agreement, upon demand by the Department.
c. **Other Remedies:** Department may pursue any other remedies available at law or in equity.

D. Survival of Representations and Warranties. The representations and warranties made by the Grantee shall survive the Early Termination or expiration of this Agreement.

XII. PROJECT RECORDS

A. Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles and the State's Model Accounting Practices and, if feasible, maintain a separate bank account or fund with a separate organizational code to ensure separate budgeting and accounting of the funds.

B. For six (6) years following the Project's completion ("**Record Retention Period**"), Grantee shall maintain all Project-related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the Appropriated Amount from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department may prescribe.

C. Grantee shall make all Project records available to the Department, the Department's Independent Public Accountant, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department finds any funds were improperly expended, Grantee shall be required to reimburse the State all amounts found to be improperly expended.

XIII. IMPROPERLY REIMBURSED FUNDS

If the Department determines part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, after ten (10) days' notice to Grantee and the opportunity to return such funds to the Department, the Department may offset any funds due to Grantee from the State, until the Appropriation Amount is fully repaid.

XIV. LIABILITY

Neither Party shall be responsible for liability incurred as a result of the other Party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to

immunities and limitations of the New Mexico Tort Claims Act.

XV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Parties concerning the subject matter hereof. The Agreement supersedes all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

XVI. REQUIRED NON-APPROPRIATIONS CLAUSE

A. Grantee acknowledges and agrees to include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

    a. "The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of the State of New Mexico ("**Legislature**") for the performance of this Agreement.
    b. If the Legislature does not make sufficient appropriations and authorization, City of Santa Fe may immediately terminate this Agreement by giving Contractor written notice of such termination.
    c. The City of Santa Fe's decision as to whether sufficient appropriations are available shall be final and accepted by the Contractor. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Santa Fe or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Santa Fe or the State Department of Finance and Administration."

XVII. REQUIRED TERMINATION CLAUSE

A. Grantee acknowledges and agrees to include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

    a. "This contract is funded in whole or in part by funds made available by the State of New Mexico ("**State**"). Should the State terminate its Agreement with the City of Santa Fe, the City of Santa Fe may terminate this contract immediately by providing Contractor written notice of such termination.
    b. In the event of termination pursuant to this paragraph, the City of Santa Fe's only liability to Contractor shall be for goods and services delivered and accepted prior to the termination date."

XVIII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA

A. Throughout the term of this Agreement, Grantee shall:

    a. Submit all reports of annual audits and agreed-upon procedures required by § 12-6-3(A)-(B), NMSA 1978 by the due dates established in § 2.2.2 NMAC, reports of which must be a

public record pursuant to § 12-6-5(A), NMSA 1978 within forty-five (45) days of delivery to the State Auditor;

b. Have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
c. Timely submit all required financial reports to its budgetary oversight agency (if any); and
d. Use accounting methods and procedures consistent with Generally Accepted Accounting Principles and the State's Model Accounting Principals to expend the Appropriated Amount in accordance with applicable law and account for and safeguard Project funds and assets acquired with Project funds.

B. In the event Grantee fails to comply with the requirements of subparagraph A of this Article XVIII, Department may take one or more of the following actions:

a. Suspend new or further obligations pursuant to Article VI(A) of this Agreement;
b. Require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
c. Impose special conditions to address the non-compliance by giving Grantee notice of such special conditions in accordance with Article III of this Agreement;
    i. The Parties agree that any special conditions imposed to address non-compliance shall be incorporated into this Agreement, through **Exhibit C**, upon notice to Grantee, without need for formal amendment of this Agreement;
    ii. Special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III or
d. Terminate this Agreement pursuant to Article V(A) of this Agreement.

XIX. SEVERANCE TAX AND GENERAL OBLIGATION BONDS

A. Grantee acknowledges and agrees that the underlying appropriation for the Project may originate from the issuance of tax-exempt severance tax bonds or general obligation bonds by the State. Proceeds from such bonds are administered by the New Mexico State Board of Finance ("**SBOF**"), an entity separate and distinct from the Department.

a. Grantee acknowledges and agrees:
    i. It is Grantee's responsibility to determine through SBOF what (if any) conditions are currently imposed on the Project;
    ii. Department's failure to inform Grantee of an SBOF-imposed condition does not affect the validity or enforceability of the condition;
    iii. The SBOF may in the future impose further or different conditions upon the Project;
    iv. All SBOF conditions are attached to the Project and Appropriation Amount without the need for formal amendment of this Agreement;
    v. All applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s) and
    vi. The Department's obligation to reimburse Grantee from the Project is expressly contingent upon the satisfaction of the then-current SBOF conditions.

B. Grantee acknowledges and agrees SBOF may, at its sole and absolute discretion, require reimbursement or remove eligibility for bond proceeds for the Project if the Project doesn't

proceed sufficiently.

a. Grantee must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by Grantee in the Bond Questionnaire and Certification documents submitted to the SBOF.
b. Failure to comply may result in the reassignment of the bond proceeds. Upon reassignment of bond proceeds, this Agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, § 2.61.6, NMAC, as may be amended from time to time or re-codified.

XX. GENERAL PROVISIONS

A. Assignment: Grantee's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

B. Subcontractors: Grantee shall not enter any subgrant or subcontract in connection with its obligations under this Agreement without the prior written approval of the State. Upon request, Grantee shall submit to the Department a copy of each such subgrant or subcontract.

C. Binding Effect: Except as otherwise provided, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority: Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References: The captions and headings in this Agreement are for the convenience of reference only and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits, or other attachments are references to sections, subsections, exhibits, or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts: This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute the same agreement.

G. Digital Signatures: If any signatory signs this agreement using a digital signature in accordance with the State Policies regarding the use of digital signatures, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

H. Modification: Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment, properly executed and approved in accordance with applicable New Mexico law and State fiscal policies and rules.

Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the State.

I. Statutes, Regulations, Fiscal Rules, and Other Authority: Any reference in this Agreement to a statute, regulation, policy, or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended after the Effective Date of this Agreement.

J. External Terms and Conditions: Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Grantee's or a subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

K. Severability: The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with its intent.

L. Survival of Certain Agreement Terms: Any provision of this Agreement that imposes an obligation on a Party after the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

M. Third Party Beneficiaries: Except for the Parties' respective successors and assigns described in this Agreement, it does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits that third parties receive as a result of this Agreement are incidental to this Agreement and do not create any rights for such third parties.

N. Waiver: A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

O. Standard and Manner of Performance: Grantee shall perform its obligations under this Agreement in accordance with the highest standards of care, skill, and diligence in Grantee's industry, trade, or profession.

P. Licenses, Permits, and Other Authorizations: Grantee shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement and shall ensure that all employees, agents, and subcontractors secure and maintain at all times during the term of their employment, agency or subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

Q. Publicity: Any Publicity regarding the subject matter of this Agreement may not be released without prior written approval from the Department. For purposes of this agreement, "**Publicity**"

means notices, informational pamphlets, press releases, email responses, research, reports, signs, and similar public notices prepared by or for the Grantee or jointly with others.

a. Grantee shall obtain written approval prior to issuing any press release or making any public announcement regarding this agreement. Grantee agrees to obtain approval of the Department in advance with respect to all Public Relations, all communications with media, or all communications with any other member of the public with respect to this agreement, except to acknowledge that an agreement does exist.
b. For purposes of this agreement, "Public Relations" includes community relations and means those activities dedicated to maintaining the Department's image or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.
c. Violations of either Article XX (Q)(a) or (b) shall constitute a material Breach of Agreement.

R. Data Sharing: The State intends to secure and collate specific data generated by Grantee under this Agreement to use in support of the State's organizational, policy-making, and management of public resource functions. State, in accordance with **Exhibit E**, attached hereto and incorporated herein by reference, reserves the right to require Grantee and/or its subcontractors to provide specific data relevant to the above-listed functions. Data provided by Grantee may be incorporated into existing or future developed State integrated analysis tools or databases, including but not limited to geographic information system (GIS) networks and databases accessible by the public. Dissemination of data collected may include historical data and projections based on such historical data.

a. To the extent any data transferred as part of this Agreement is legally determined to be the property of Subrecipient or its subcontractors, Subrecipient and/or its subcontractors grants State a nonexclusive, fully paid-up right and license to reproduce, use, distribute, do derivative works based on, and archive data transferred as part of this Agreement.

S. Venue and Choice of Law: This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico, without regard to any conflict of law provisions. Any legal suit, action, or proceeding arising out of or related to this Agreement shall be instituted exclusively in the district courts located in Santa Fe, New Mexico. The Parties hereby irrevocably submit to the exclusive jurisdiction and venue of such courts in any such suit, action, or proceeding. The Parties waive any objection to the laying of the venue of any such suit, action, or proceeding in the district courts of Santa Fe, New Mexico, and irrevocably waive and agree not to plead or claim in any such court that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.

[SIGNATURE PAGE AND EXHIBITS FOLLOW]
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IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the Department's date of execution.

APPROVED BY DEPARTMENT:

Cabinet Secretary, Wayne Propst:

_____ _____

Signature Date

Chief Financial Officer, Mackie Romero:

_____ _____

Signature Date

Local Government Division Director, Cecilia Mavrommatis:

_____ _____

Signature Date

AS TO LEGAL FORM AND SUFFICIENCY

General Counsel's Office:

_____

Signature

_____ _____

(Print Name) (Title)

APPROVED BY GRANTEE:

Entity Name

Official with Authority to Bind Grantee:

Signature

(Title)

(Print Name)

Date

ATTEST:

ANDRÉA SALAZAR, CITY CLERK

Date

Fiscal Officer or Chief Financial Officer:

Emily K. Oster

EMILY OSTER, FINANCE DIRECTOR

Sep 10, 2025

Date

As To Legal Form And Sufficiency

Kevin L. Nault

Kevin L. Nault (Aug 20, 2025 11:40:41 MDT)

KEVIN NAULT, ASSISTANT CITY ATTORNEY

Aug 20, 2025

Date

EXHIBIT A

Request for Payment Form and Certification

STATE OF NEW MEXICO
GRANT APPROPRIATION
Request for Payment Form
Exhibit A

I. Grantee Information (Must match your DFA Substitute W-9 Form)

A. Grantee: _____

B. Address: _____
(Complete Mailing, including Suite, if applicable)

_____
City, State, Zip

C. Contact Name/Phone #: _____

D. Grant No: _____

E. Project Title: _____

F. Grant Expiration Date: _____

II. Payment Computation

A.	Payment Request No.	
B.	Grant Amount:	$ 0.00
C.	AIPP Amount *(If Applicable)*:	$ 0.00
D.	Funds Requested to Date:	$ 0.00
E.	Amount Requested this Payment:	
F.	Reversion Amount *(if applicable)*:	$ 0.00
G.	Grant Balance:	$ 0.00

H. ☐ Final Request for Payment *(if applicable)*

III. Fiscal Year : 2026 (July 1, 2025-June 30, 2026)

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. Certifications

☐ I hereby certify that all conditions and requirements for Payments outlined in the Agreement have been met, including but not limited to:
a. Submission and approval of a Project Budget as per Article IV, Section A of the Agreement.
b. Compliance with the Project Budget and expenditure of funds in accordance with the State Procurement Code and the State's Model Accounting Practices.
c. Submission of supporting documentation as required by the Agreement.
d. Maintenance of all necessary records and documentation as stipulated in the Agreement.

☐ I attest that the information provided is correct; expenditures are properly documented and valid or actual receipts, and that the activity fully complies with Article IX, Sec. 14 of the New Mexico Constitution, known as the "anti-donation" clause.

☐ I hereby certify that all representations and warranties made in the Agreement remain true, accurate, and complete as of the date of this request, and will continue to be so throughout the term of the Agreement. I acknowledge that these representations and warranties are a material inducement for the Department to approve this pay request.

_____
Grantee Fiscal Officer or **Fiscal Agent** *(if applicable)*

_____
Printed Name

Date: _____

_____
Grantee Representative

_____
Printed Name

Date: _____

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ PO # _____ Loc No.: _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

_____ _____
ASD Officer Date

_____ _____
Division Grant Manager Date

Revised 7/2025

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EXHIBIT B

Notice of Department's Obligation Form

NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT B

Notice of Obligation to Reimburse Grantee # _____

DATE: _____

TO: Department Representative: _____, Grant Manager

FROM: Grantee Entity: _____

Grantee Official Representative: _____

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: _____

Grant Termination Date: _____

As the designated representative of the Department for Grant Agreement number _____ entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): _____

The Amount of this Notice of Obligation: _____

The Total Amount of all Previously Issued Notices of Obligation: _____

The Total Amount of all Notices of Obligation to Date: $ 0.00

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: _____

Title: Grant Manager

Signature: _____

Date: _____

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

Revised 7/2025

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OPTIONAL EXHIBIT C
SPECIAL CONDITIONS

The capital outlay oversight requires grantees' accounting methods and procedures, including their internal control framework, to be scrutinized, so as to safeguard State capital outlay appropriations and assets acquired with such appropriations.

This Capital Outlay Special Grant Condition(s) **Exhibit C** is necessary pursuant to § 6-3b-1 et seq., NMSA 1978 (Public Finance Accountability Act) and MAPS Fin 9.2, due to the Grantees' material weaknesses, significant deficiencies, or findings that raised concerns as to the ability to expend grant funds in accordance with applicable law in the organization's FY[20XX] audit. The Special Conditions identified below apply to the authorized agent, [insert the Grantee or Fiscal Agent name].

Procurement - All purchases or contracts the Grantee enters that shall use funding from the Department capital appropriations grant must be approved by the Department prior to the initiation of implementing purchasing documents. The Grantee shall receive such prior approval via official correspondence from the Department, which may be through letter or email. The Grantee shall submit the following to the Department in pursuit of prior approval: purchasing policies and procedures, CFO certification, documentation of management and program approval, policies and procedures governing purchasing and contracting, a copy of the current procurement and contracting policies, and documentation regarding informing staff responsible for purchasing and contracting on such policies and procedures.

Budget - Provide documentation of approval of your current budget from DFA Local Government or other authoritative agency. Provide policies and procedures on who is responsible for and how annual budgets (expenditures and revenue) are established, monitored and adjusted. Provide a corrective action plan on how budget issues identified in your audit will be/have been addressed. Also include documentation on how staff responsible for budgeting is informed on budget policies and procedures.

Capital Assets - Provide a complete list of inventory including inventory control numbers and current location. Provide policies and procedures on capital assets and inventory and specify how the proposed purchased items will be included, tagged, and tracked in capital asset inventory. Also include documentation on how staff responsible for capital assets is informed on capital asset policies and procedures.

Travel and Per Diem - Provide policies and procedures on travel and per diem. Also include how staff who travel and those responsible for travel reimbursement are informed on travel and per diem policies and procedures.

Timely Audits – Provide policies and procedures on annual audits. Provide documentation on how and who is responsible for insuring that annual audits are completed timely. Also include documentation on how staff responsible for the annual audit is informed on audit policies and procedures.

Cash Management – policies and procedures on cash management of federal funds. Provide procedures used to draw and disburse federal funds. Provide procedures to reconcile draw amounts, deposits and disbursements; and to prepare federal cash reporting documents to ensure compliance with federal regulations.

The <Grantee> was required to, and has provided sufficient documentation regarding [insert specific names of the Special Condition(s)], as referenced in the <Grantee>'s [20XX] Audit file. Therefore, the criteria to enter into this agreement have been met.

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EXHIBIT D

Project Budget Worksheet *

*(Provided separately when grant agreement issued to Grantee)

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Exhibit E

Data Sharing Provisions for New Mexico Capital Outlay Agreements

I. Introduction:

This Data Sharing Provisions Exhibit ("Exhibit") is incorporated into the New Mexico Capital Outlay Agreements ("Agreements") between the State of New Mexico ("State") and [Insert Partner Name] ("Partner"). This Exhibit outlines the terms and conditions under which data will be shared between the Parties to ensure compliance with New Mexico state laws and regulations, focusing on data privacy, security, and compliance.

II. Definitions:

a. Authorized User: An employee, agent, assign, representative, independent contractor, or other person or entity authorized by Partner or State to access, use, or disclose information through this exhibit.

b. Confidential Information: All data or information shared in confidence, with the expectation that it will not be disclosed in an identifiable form. This includes data that is exempt from public disclosure under the New Mexico Inspection of Public Records Act (§ 14-2-1 et seq. NMSA 1978) or other relevant laws.

c. Data Storage: Electronic media that hold recorded information.

d. Data Transmission: The process of moving information over a network from its source to one or more destinations.

e. Direct Identifier: Records or data containing personal identifiers such as names, addresses, and social security numbers.

f. Disclosure: Permission to access, release, transfer, or otherwise communicate confidential information by any means to any third party, except as authorized by the Party that controls the record.

g. Encryption involves using algorithms to encode data, rendering it unreadable without a specific key. It may be necessary during data transmission and/or storage.

h. Information: Any data, figures, statistics, or other facts provided or learned about someone or something, including Confidential Information, that may be legally transmitted under this Exhibit.

i. Limited Dataset: A data file that omits Direct Identifiers.

j. Protected Personally Identifiable Information: Sensitive personal details such as social security numbers and financial account numbers, with specific exclusions as outlined in the Agreements.

III. Purpose:

The purpose of this exhibit is to promote transparency, facilitate information sharing between the parties, support better policy and decision-making, and enhance public services through collaborative

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data analysis from various sources.

IV. Use of Information:

a. Use of Information obtained or created under this exhibit shall be strictly limited to the purposes stated herein and in the agreements. The parties agree not to sell Information to third parties or use it for commercial, solicitation, or political purposes.

b. Each Party shall serve as the custodian of the Information and comply with all conditions for its use, including security measures to prevent unauthorized access.

c. The Parties shall follow all relevant federal and state laws and regulations governing the use of such Information.

V. Safeguarding Information:

a. Confidentiality: Access to Confidential Information shall be limited to the minimum necessary to accomplish the purposes of this Exhibit. Authorized Users must adhere to the confidentiality requirements.

b. Security: Security practices shall comply with the requirements of the New Mexico Department of Information Technology Act and related regulations. The Parties agree to notify each other within three business days of any suspected or actual security breach.

c. Information Storage and Transmission: Data Storage and Transmission shall take place on an encrypted server with appropriate security controls.

VI. Re-Disclosure of Information:

The Parties agree not to disclose Information except as required by law or with prior written approval of the other Party. If there is a public records request, the Party receiving it shall notify the other Party within three business days.

VII. Ownership of Information:

Legal title to Information shall remain with the provider. The Partner grants the State a royalty-free, non-exclusive, non-transferable license to use the Information in furtherance of the purposes outlined in this Exhibit.

Log # *{Finance use only}*:	
Journal # *{Finance use only}*:	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
Public Works / Parks & Open Space - Capital Outlay	7/31/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Construction - PrksTrls Cap / Shelby Bridge Pedestrian	3559980	572970	PWD2535518	250,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
NM DFA 25-J3160 Shelby Bridge	3559980	490210	PWD2535518	(250,000)	
				$ -	$ -

JUSTIFICATION: *(use additional page if needed)*
--Attach supporting documentation/memo

Agreement with DFA for Shelby Street Bridge in the total amount of $250,000. (25-J3160)

{Complete section below if BAR results in a net change to ANY Fund}

Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	**0**

Phillip Lujan — 7/15/2025
Prepared By *{print name}* — Date

Carol Svennson — Aug 28, 2025
Business Operations Manager — Date

Regina Wheeler — Aug 28, 2025
Regina Wheeler (Aug 28, 2025 11:56:27 MDT)
Department Director Signature — Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins — Sep 3, 2025
Budget Officer — Date

Finance Director *{≤ $5,000}* — Date

City Manager *{≤ $60,000}* — Date

City of Santa Fe New Mexico

Finance Department

Project Ledger Request Form

Date of Request: 08/25/2025

Project Title: Shelby Bridge at SF River & Shelby St.

Project Type: ☐ CIP ☑ Grant ☐ Internal Tracking

Project ID: PWD2535518

Grant ID: S2521

Approved By: ERIKA LUJAN (Sep 3, 2025 09:23:39 MDT)

CMT (Finance Use Only)

Department: Public Works / Parks Project Manager: Scott Overlie Ext: 231-6194

Project Date Range: 08/15/2024 to 06/30/2029 ☐ Create Fixed Asset

---

☐ Multi-Funding (complete all funding sources, should equal 100%)

Funding Source: NM DFA 25-J3~~130~~ 25-J3160 % of Funding: 100

MUNIS ORG: 3559980 MUNIS OBJ: 490210 Awarded Amount: 250,000

Funding Source: _____ % of Funding: _____

MUNIS ORG: _____ MUNIS OBJ: _____ Awarded Amount: _____

Expense String Phase:

A project must have at least one phase identified, this can be used as an additional level of tracking, for example, CIP - Design, Construction, etc. For Grants can be used as reimbursable types, such as transportation, salaries.

(You can create more than one phase and you can default MUNIS ORGs and OBJs, optional)

Phase: Construction MUNIS ORG: 3559980 MUNIS OBJ: 572970

Grants Only (list all grants if applicable): PL UPDATED WITH REAUTHRZ DFA CAP# 9/3/25

Grantor Name: CAP 24-13147 REAUTHORIZED # 25-J3160 Awarded Amount: 250,000.00

AR Charge Code: 3559980.490210 ☐ Grant funds multiple projects (Complete a form for each project)

Grantor Id: 700007 Federal CFDA (if applicable): N/A

Grantor Name: _____ Awarded Amount: _____

AR Charge Code: _____ ☐ Grant funds multiple projects (Complete a form for each project)

Grantor Id: _____ Federal CFDA (if applicable): _____

(If grants please provide all grant award documents with form) ☑ Attached Grant Documentation

Signature: SCOTT OVERLIE
SCOTT OVERLIE (Aug 28, 2025 11:10:31 MDT)

Email: saoverlie@santafenm.gov

Signature: Melissa McDonald

Email: mamcdonald@santafenm.gov

Packet - Legislative Grant Shelby Bridge 25-J3160 250K PWD2535518 REVISED 20250903

Final Audit Report 2025-09-10

Created:	2025-09-03
By:	Cathy Thompson (cmthompson@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAADm1Fp3S0F3SPLi9c8Pz0xeKAMrvjUS48

"Packet - Legislative Grant Shelby Bridge 25-J3160 250K PWD2535518 REVISED 20250903" History

Document created by Cathy Thompson (cmthompson@santafenm.gov)
2025-09-03 - 2:35:00 PM GMT- IP address: 63.232.20.2

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Signature Date: 2025-09-03 - 5:04:11 PM GMT - Time Source: server- IP address: 63.232.20.2

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2025-09-10 - 2:36:28 PM GMT- IP address: 104.47.65.254

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Document e-signed by EMILY OSTER (ekoster@santafenm.gov)

Signature Date: 2025-09-10 - 2:38:44 PM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.

2025-09-10 - 2:38:44 PM GMT

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Acrobat Sign

CITY OF SANTA FE

The Purchasing Memo

Date: August 11, 2025

To: Governing Body, Finance Committee, and Public Works & Utilities Committee

From: P. Fred Heerbrandt, P.E., Engineer Supervisor P. Fred Heerbrandt, P.E.

Via: Michael Dozier, Wastewater Management Division Director

Via: Jesse Roach, Interim Public Utilities Director

Subject: On-Call Collection System Construction Contract

Vendor Name: AnchorBuilt, Inc.

Munis Vendor Number: 9672

ITEM AND ISSUE:

The Public Utilities Department respectfully requests your review and approval of a On-Call construction contract in the amount of $1,081,875.00 per year for a total of $4,327,500.00 including NMGRT for Construction Services over a four-year term with AnchorBuilt, Inc.

Request for Approval of a Budget Adjustment Resolution (BAR) in the amount of $1,081,875.00 for Fiscal year 2026.

CONTRACT NUMBER:

The FY26 Munis contract number is 3260110

BACKGROUND AND SUMMARY:

The City of Santa Fe, Public Utilities Department, Wastewater Management Division (Division) wishes to establish a Price Agreement for On-Call Repair, Replacement, Extension, and Rehabilitation of Sewer Collection System Construction services work by New Mexico licensed contractors to provide miscellaneous repairs, upgrades, improvements, replacements, new construction services and material for facilities throughout the Paseo Real Wastewater Reclamation Facility, the Sanitary Sewer Collection System, and other remote locations.

PRIOR APPROVALS AND SUPPORTING INFORMATION:

FUNDING SOURCE:

Fund Name/Number: Enterprise Fund/Fund 500

Munis Org Name/Number: Wastewater Capital Projects/5000375

Munis Object Name/Number: WIP Construction/572970

Budget Officer / Designee: Andy Hopkins **Date:** 08/19/2025

Budget Officer Comment/Exceptions: _____

PROCUREMENT METHOD:

The procurement method used was NMSA 1978, Section 13-1-102, ITB

ITB 25119 – On-Call Collection System Construction Services – 3 Awards

Chief Procurement Officer (CPO)/Designee: _____ **Date:** 08/22/2025

CPO Comment/Exceptions: _____

ASSOCIATED APPROVALS:

IT Components included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Treasury/Point of Sale Components included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Vehicles included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Construction to City Facilities, Furniture, and/or Fixtures included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this an externally funded purchase? ☐ Yes | ☒ No

If yes, what is the issuing agency: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this a Capital Asset or Project? ☐ Yes | ☒ No

Project Ledger Number: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

ATTACHMENTS:

CPO Service Determination Email
On call Construction Contract-rate sheet
Certificate of Liability Insurance (COI)

Item #: _____
Munis Contract #: 3260110
ITB #: 25119

CITY OF SANTA FE

CONSTRUCTION PRICE AGREEMENT

ON-CALL COLLECTION SYSTEM CONSTRUCTION SERVICES

THIS PRICE AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **AnchorBuilt, Inc.,** hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

RECITALS

WHEREAS, the City, through its Governing Body, is authorized to enter into a construction Price Agreement for the project; and

WHEREAS, the City has procured this Price Agreement according to the established State and Local Purchasing procedures for Price Agreements of the type and amount; and

The City and the Contractor hereby agree as follows:

1. Scope of Work

A. The Contractor shall perform the following work:

The City of Santa Fe, Public Utilities Department, Wastewater Management Division (Division) wishes to establish a Price Agreement for On-Call Repair, Replacement, Extension, and Rehabilitation of Sewer Collection System Construction services work by New Mexico licensed contractors to provide miscellaneous repairs, upgrades, improvements, replacements, new construction services and material for facilities throughout the Paseo Real Wastewater Reclamation Facility, the Sanitary Sewer Collection System, and other remote locations.

The Division shall provide, at a minimum, a detailed scope of work and/or drawings, generally defining the construction work required for the project. The Contractor shall be responsible for verifications of all existing conditions, measurements, and dimensions for bidding.
The award of this Price Agreement is without assurance of quantity or dollar amount of work to be performed.

Contractors shall have the technical staff to perform diagnostic services and provide professionally prepared, stamped drawings, if needed, to obtain installation or construction permits. The Contractor is responsible for obtaining all required licenses, fees and permits required to perform the work. Contractor shall be responsible for any applicable Local, County, State and Federal requirements and permits including, but not limited to, the City of Santa Fe's Stormwater Pollution Prevention Program and Stormwater BMPs.

The City of Santa Fe Wastewater Management Division shall be able to utilize this On-Call Price Agreement as needed and as funding is available.

Wage Rates:

All work covered by this Price Agreement shall be in accordance with applicable City and State laws and is subject to the minimum wage rate determination issued by the Department of Workforce Solutions (DWS), if applicable.

A wage rate decision is required by the Public Works minimum Wage Act for construction, demolition or renovation purposes on projects costing sixty thousand dollars ($60,000) or more. The Contractor agrees to comply with the current prevailing wage rate schedule when applicable. For current wage rates or for additional information, visit: http://www.dws.state.nm.us . The Division will request a wage rate determination from the DWS for each project that is $60,000 or more.

When submitting a quote for a specific project valued at more than sixty thousand dollars ($60,000) for any portion of a public works project that is subject to the New Mexico Public Works Act, the Contractor is required to be registered with the Labor and Industrial Division of the Department of Workforce Solutions prior to submitting its quote. The Division may reject any quote that fails to provide a Public Works registration number for the prime Contractor and all other listed Contractors or subcontractors.

Other:

All work shall be in accordance with applicable City and state laws, the International Building Code (IBC) and the New Mexico building codes. The Contractor shall be responsible for all permits associated with this work as required by the governmental Authority Having Jurisdiction (AHJ). All work shall be in strict compliance with the national and state building mechanical, plumbing and electrical codes including SMACNA, and ASHRAE standards.

Contractors shall be capable of providing all coordination, supervision and services required for comprehensive general construction, facilities replacement, upgrade and improvement projects and to provide new construction services including incidental design. It can include site and utility work, mechanical work, pavement restoration, facilities repair, renovation, backfill services, digging, ditching, rock stabilization, concrete, and pour in place and form place finish. The utility work shall include pumping systems, gravity sewers, manholes, force mains, and related facilities. It may also include demolition and abatement projects.

All material shall be new and of the highest quality available for the type of work being performed. The purchase of major equipment or material must be preceded by submission of submittal data on the proposed equipment or material and shall be reviewed and approved by the Division.

The requesting entity reserves the right to purchase materials or specialty services directly from existing Statewide Price Agreements and other sources, and to provide these materials to the Contractor. The Contractor shall provide an itemized, quantifiable list of materials required for the project. Specialty services provided from Statewide Price Agreements and other sources shall be coordinated by the Contractor.

If the Contractor is requesting reimbursement for materials used on the work, copies of the invoices for the materials must be included when submitting invoices/pay applications. The Contractor may NOT add markups for the materials purchased.

The Division reserves the right to obtain quotes from multiple vendors covered under this Price Agreement and award a project to a contractor based on the quotes.

The Division reserves the right to provide an escort and/or full-time supervision of the Contractor and its employees during any or all phases of a project, should the Division feel it is in its best interest to provide these extraordinary security services.

The Division reserves the right to escort any or all employees of the Contractor off its property, for any inappropriate conduct or actions that jeopardize the safety, security, or wellbeing of the facility or any individual. Inappropriate behavior by the Contractor, its employees or subcontractors may be grounds for immediate removal from this Price Agreement. Any employee of the Contractor found in violation of any law, while on City property, will be prosecuted.

Contractor:

No person shall act as a Contractor without a license issued by the Construction Industries Division (CID), classified to cover the type of work to be performed. No bid on a Price Agreement shall be submitted unless the Contractor has a valid Contractor's license issued by the CID to bid and to perform the type of work to be undertaken, as set forth in §60-13-12, NMSA 1978.

Safety shall be of main concern and enforced by the Contractor on site. The Contractor shall comply with all local, state and federal laws governing safety, health and sanitation. The on-site superintendent shall always have a minimum OSHA 10 and preferably OSHA 30 card with them when on the jobsite. The Division shall not in any way be responsible for any fines set forth for such violations of codes, OSHA standards or any other governing agency having jurisdiction at the work site. The Contractor shall provide all needed safeguards, safety devices, protective equipment and take any actions necessary to protect the life and health of employees on the job; the safety of the public and to protect the property of the Division in connection with the performance of the work covered by this price Agreement.
All personnel working on the project and providing these services shall be experienced and certified in all areas related to this work and required by this Price Agreement. Journeymen level personnel shall have the ability and necessary skills to diagnose problems and to make the appropriate decisions needed to provide these services.

The Contractor shall follow the Occupational Safety and Health Act (OSHA) 29 CFR 1910.147 Standard pertaining to "Lockout/Tagout" procedures for hazardous energy.

The Contractor shall agree to provide required labor within 24 hours for emergency situations.

Contractor's price shall include labor costs, permits, overhead, profit, insurance, equipment, tools and any other fees required to successfully complete the work requested. The Contractor shall be capable of providing a work force with supervision, adequate to perform work for a forty (40) hour work week during normal working hours with the option of working non normal or overtime hours if

required. The Contractor shall be responsible for all permits, fees, and State and/or City inspections associated with their work.
Subcontracting of work is allowed and shall have prior approval by the Division. Subcontractors shall have the appropriate current valid Contractor's licenses for their work. Proof of licenses shall be furnished upon request.

There will be NO markups allowed for adding subcontractor costs or to cover general conditions (administrative costs and other related expenses) allowed on any of the quotes issued pursuant to this Price Agreement. If a subcontractor is hired for the project the reimbursement must be at actual cost of the subcontractor's cost. The cost of the subcontractor will be added at time of invoicing as a separate item to be paid by the Department.
Furnishing of submittal data for any/all new equipment and materials as well as O&M' s is required. Training of site personnel for the proper operation of newly installed equipment/systems and its related controls will be required for completion. This training will be acceptable to the person in charge of the facility and/or the City's Project manager in charge of the project.

The Contractor shall provide all protective coverings necessary to protect existing, adjacent finishes while performing its work. If any damage is encountered during the contractor's work, the contractor will be held responsible for repairing any damage done by his employees, subcontractors, and vendors. The Contractor shall restore any damage to existing and/or adjacent finishes damaged while performing work and to make new work inconspicuous with the existing adjacent finishes.

The Contractor and its employees agree to cooperate with and to abide by the rules and requirements of the Division to not interfere with the daily operations of the Division or to jeopardize the health, safety or welfare of the employees or general public conducting business with the Division.

Clean Up and Storage:

A. The Contractor will provide off-site legal disposal of all waste products, trash, and debris. The Division's trash receptacles will not be used by the Contractor. Sanitary facilities will "not" be available at the job site. Contractor shall be responsible for the provision and maintenance of portable toilets.
B. The Contractor, on a daily basis, shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Agreement. At completion of the Work, the Contractor shall remove the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials and shall then thoroughly clean the premises and the site to the Division's satisfaction.
C. Materials or equipment shall be delivered to the project in the manufacturer's original sealed, labeled containers and shall be adequately protected against moisture, dust, tampering or damage from improper handling or storage. Materials shall not be delivered to the site before they are needed.
D. Storage of materials and construction equipment shall be coordinated with the Division.

Task Order:

The Contractor shall be required to provide On-Call Construction Services for any number of the activities listed under Scope of Work upon the request of the Division. When a service is identified, the Division shall provide, at a minimum, a detailed scope of work and/or drawings defining work

required. Each project will be individually described in a "Task Order". The Task Order will describe the scope of work, the duration of the project with the date of Substantial Completion and if there are liquidated damages for not meeting the date of substantial completion. The date of Substantial Completion is the date when the space can be occupied or the Work used/operated and is turned over to the User Agency. Final completion is the date when the project is totally complete, the punch list work complete and the Contractor's final pay application/invoice is approved. The terms and conditions of the Contractor's Price Agreement will apply to all Task Orders.

Upon receiving the City's Task Order, the Contractor shall promptly visit the site and compare the Division's scope of work and/or drawings to the existing conditions and provide all services called for in addition to the requirements set forth in this Price Agreement. The Contractor will be required to provide a written quote (based upon the rates submitted in the Bid Form) sub-contractors list (including subcontractor's CID licenses) and cost summary to include the work to be performed, sub-contractors cost and the amount of time required for the completion of the project and submit to the Division at no cost to the Division. Project schedules, negotiated price, and completion dates shall be determined on a project-by-project basis and dependent upon the urgency of that task.

If any equipment or system cannot be economically repaired or has reached the end of its life cycle, the Contractor shall justify with costs and other information they need for replacement. If replacement is recommended, the Contractor will provide written justification for system and/or the model, size, and type of unit recommended along with any applicable efficiency data. The Division's standards will be discussed and taken into consideration when proposing replacement units or systems. Any replacement unit shall be reviewed and approved by the requesting entity.

Change Orders:

Any change orders to the project scope will require an additional Task Order with backup materials and labor costs and shall be substantiated that there was no way of knowing the additional services were needed when the original quote was provided. Change orders shall be managed closely by the Division. Preventative measures shall be taken by both the contractor and the Division prior to issuing the Notice to Proceed. Such measures may include soil tests (soil boring); clarification of ambiguity in the project plan, the scope of work, the Task Order, the drawings, etc.; the project scope should be completely defined and agreed upon before any work begins.

Other Construction Related Terms and Conditions:

Mediation:

Any controversy or claim arising between the parties shall be settled by mediation if the parties cannot reach a mutually agreeable solution. The parties shall endeavor to resolve their disagreement by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the procedures of the New Mexico Public Works Mediation Act (NMSA §13-4C-1 et seq.) except that before any party may select a mediator it must confer in good faith with the other party concerning the selection of a mutually acceptable mediator. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of notice of mediation session, unless stayed for a longer period by agreement of the parties or court order.

Inspection of Work:

If a Purchase Order is issued for the purchase of services, the following terms shall apply when applicable:

A. Services include services performed, workmanship, and material furnished or utilized in the performance of services.
B. The Contractor shall provide and maintain an inspection system acceptable to the Division covering the services under the Purchase Order. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Division during the term of performance of the Work and for as long thereafter as required.
C. The Division has the right to inspect and test all services contemplated to the extent practicable at all times and places during the term of the Project. The Division shall perform inspections and tests in a manner that will not unduly delay or interfere with the Contractor's performance.
D. If the Division performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in Purchase Order price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.
E. If any part of the services does not conform with the requirements, the Division may require the Contractor to re-perform the services in conformity with the requirements at no increase in Purchase Order amount. When the defects in services cannot be corrected by re-performance, the Division may:
   (1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements; and
   (2) reduce the Purchase Order price to reflect the reduced value of the services performed.
F. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements, the Division may:
   (1) by Agreement or otherwise, perform the services and charge to the Contractor any cost incurred by the Division that is directly related to the performance of such service; or
   (2) cancel the Purchase Order for default.

Suspension, Delay or Interruption of Work:

The Division may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the Work in whole or in part for such period as the Division may determine. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized.

If at any time there is a delay in the critical path of the Work due to postponement, due to the Contractor's efforts to justify an extension of the time or an increase in the Agreement Price beyond the deadlines or due to the Contractor's refusal to proceed with any of the approved Work, such delay and any Contractor costs resulting from it shall not serve as the basis for the extension of the Time for Completion or Agreement Completion Date or for an increase in the Price Agreement Price.

Permits and Fees:

A. IF APPLICABLE- The Contractor shall secure and pay for the Building Permit and other permits and governmental fees, licenses and inspections and Certificate of Occupancy necessary for

proper execution and completion of the Work. Changes or modifications to the Work shall include all requirements of this paragraph.

B. The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to performance of the Work.
C. IF APPLICABLE- Certificates of Inspection, use and occupancy will be delivered to the Division upon completion of the Work in sufficient time for occupation of the facility in accordance with the approved schedule for the Work. Contractor shall deliver a photocopy of the Building Permit to the Design Professional and requesting entity as soon as it is obtained.

Schedule, Progress Meetings and Reports:

A. The Contractor, promptly after being awarded a Project and before the first payment application, shall prepare and submit for the Division's information a Critical Path Construction Schedule for the Work that indicates the intended start and completion of the various construction activities, which shall be implemented and adhered to by the Contractor, Subcontractors, material suppliers and equipment suppliers. At a minimum, the schedule shall be a GANTT type schedule and shall not exceed time limits allowed by the Task Order or Notice to Proceed with no fewer work breakdown events than line items of the Schedule of Values.
B. The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the Division.
C. Progress meetings shall be scheduled on a regular basis. The purpose will be to review the upcoming activities, any open issues and current progress. The Contractor shall keep any meeting minutes as needed. Progress schedules shall be updated regularly. A three-week look-ahead schedule should be presented at every project meeting. A new schedule shall be presented with any change orders.
D. The Contractor shall prepare a daily report each day the Contractor, subcontractors or any other entity are on the project. The daily reports shall be maintained at the site and be well organized. The Division may request copies at any time. The reports may include:
    1. report date and who prepared the report;
    2. weather conditions - low temp, visibility, humidity, wind, wind direction, cloud conditions, precipitation amount, other notes;
    3. companies present by name and their number of workers, work location, total man hours that day for each company;
    4. equipment-type, source, units of work done, location of work, hour meter reading;
    5. material brought to site-description, units, quantity, quality, location, time;
    6. visitors to site -name, company, time;
    7. safety concerns-company, contact, noticed by, work activity, safety issue, requirement, outcome: and
    8. quality assurance and control -company, description of issue, specification section, issued by.

Close-out Requirements:

The Contractor shall submit to the Division a separate and detailed Closeout Schedule indicating the date of Final Completion and all work to be completed before Final Completion including Close-Out requirements. The punch list of incomplete or inadequate work shall also be submitted when the work is substantially complete. Failure to include any item on the punch list does not alter the responsibility of the Contractor to complete all work in accordance with the Price Agreement Documents.

Before final completion can be achieved, all Work must be complete and accepted including the following as applicable:

a. Work associated with Punch List(s);
b. testing, balance or performance operations complete and in agreement that associated work is in compliance with the Price Agreement Documents;
c. one hard copy and one electronic copy in .pdf format of final approved test, balance or performance report(s) complete with directory of contents submitted to the Division;
d. as-Built drawings delivered in AutoCAD or electronic format;
e. written certification signed by the Division of delivery and stocking of extra material, equipment or components required by the Purchase Order at a location established by the Division;
f. delivery of all warranties required by the Work;
g. all keys, passes, codes, software or other methods or components of control or security which have been correctly and adequately accounted for and closed-out;
i. Start-up of any new equipment and training of staff on all new equipment;
l. Operations and Maintenance Manuals;
m. a certified statement of Release of Liens (AlA Document G706A or approved form) and Consent of Surety.

Warranty:

The Contractor shall warrant its work (non-roofing and equipment), for materials and for workmanship furnished and performed under this Price Agreement for a period of one (1) year minimum from the date of acceptance or Substantial Completion. The Contractor shall warrant its work for repairs or restoration of existing systems and work for ninety (90) days from the date of acceptance or Substantial Completion. It is understood that some equipment is far beyond its normal life and a warranty cannot be extended/supplied. Contractor must pass on to the Division warranties of replaced roofs and equipment offered by the manufacturer.

Bid information:

Hourly rates are requested for the three (3) levels of personnel.

Superintendent: a person with supervisory experience who maintains control of the work and work site. This person may or may not actually perform work on the project.

Journeyman or Experienced Worker: a person licensed by the State for work required and being performed or a person with many years of experience with a high rate of pay.

Laborer: a person with minimal experience, performing minor forms of labor.

Materials and Parts:

Contractor shall submit billings, based on actual Contractor costs for materials, less any applicable percentage for discounts. If there is no discount to be offered, enter zero. Contractor shall provide verification that materials purchased were used for the project. Any unused, billed for materials shall be turned over to the Division for which the work was provided.

The City of Santa Fe requires that all materials shall be new and of the highest quality and at the

best attainable price available for the type of work being performed.

No used materials shall be used on the project. Recycled materials specifically prepared for reuse to meet "LEED" certification may be permitted with the requesting entity's approval.

The City of Santa Fe reserves the right to award this Price Agreement to multiple vendors. Bidders must include pricing for all items starting from item 001 through item 008 in order to allow for accurate comparisons. If a Bidder fails to include one or more of those items his Bid may be rejected.

2. **Compensation**

A. The total amount payable to the Contractor under this Price Agreement, including gross receipts tax and expenses, shall not exceed one million dollars eighty one thousand eight hundred seventy five dollars ($1,081,875.00) per fiscal year, for a total of four million three hundred twenty seven thousand five hundred dollars ($4,327,500.00) including gross receipts tax for the four (4) year term of this Contract. The applicable gross receipts tax shall be shown as a separate amount on each billing or request for payment made under the contract, consistent with NMSA 1978, Section 13-1-108. Wage rates will be paid as set forth in Exhibit A.

B. Payment in future fiscal years is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE received by the City no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within twenty-one days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked.

D. If the City fails to pay the contractor within twenty-one days after receipt of an undisputed request for payment, the City shall pay interest to the contractor beginning on the twenty-second day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until the payment is issued. If the City receives an improperly completed invoice, the City shall notify the sender of the invoice within seven days of receipt in what way the invoice is improperly completed, and the owner has no further duty to pay on the improperly completed invoice until it is resubmitted as complete.

E. **Notice of Extended Payment Provision for Grant Funded Price Agreements**. This price agreement allows the City to make payment within 45 days after submission of an undisputed request for payment for price agreements funded by grant money consistent with NMSA 1978, sec. 57-28-5(B).

A. **Term**

THIS PRICE AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This price agreement shall terminate **four (4) years from the date of final signature**.

B. Termination

A. Grounds. The City may terminate this price agreement for convenience or cause. For price agreements within their authority, the City Manager or their designee is authorized to provide the notice of termination, otherwise such notice of termination shall be provided by the Mayor or their designee as authorized by the Governing Body. The Contractor may only terminate this Price Agreement based upon the City's uncured, material breach of this Price Agreement.

B. Notice; City Opportunity to Cure.

1) Except as otherwise provided in Paragraphs 7.A and 17, the City shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2) Contractor shall give City written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the City's material breaches of this Price Agreement upon which the termination is based and (ii) state what the City must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the City does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the City does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3) Notwithstanding the foregoing, this Price Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the City; (ii) if, during the term of this Price Agreement, the Contractor is suspended or debarred by the City; or (iii) the Price Agreement is terminated pursuant to Paragraph 5, "Appropriations," of this Price Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Price Agreement, the City's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Price Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS PRICE AGREEMENT.*

C. **Appropriations**

The terms of this Price Agreement are contingent upon sufficient appropriations and authorization being made by the Governing Body for the performance of this Price Agreement. If sufficient appropriations and authorization are not made by the Governing Body, this Price Agreement shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Price Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Price Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

D. **Status of Contractor**

The Contractor and its agents and employees are independent contractors performing construction services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue

leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Price Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

E. Construction Price Agreement **Performance and Payment Bond**

A. When a construction Task Order is approved in excess of twenty-five thousand dollars ($25,000), the following bonds or security shall be delivered to the City and shall become binding on the parties upon the approval of the Task Order. If the Contractor fails to deliver the required performance and payment bonds, the Contractor's bid shall be rejected, its bid security shall be enforced to the extent of actual damages. Approval of a task order shall be made pursuant to the Procurement Code in the following manner:

(1) a performance bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the Task Order; and

(2) a payment bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the Task Order, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the Task Order.

B. A subcontractor shall provide a performance and payment bond on a public works building project if the subcontractor's contract for work to be performed on a project is one hundred twenty-five thousand dollars ($125,000) or more.

F. **Assignment**

The Contractor shall not assign or transfer any interest in this Price Agreement or assign any claims for money due or to become due under this Price Agreement without the prior written approval of the City.

G. **Subcontracting**

The Contractor shall not subcontract any portion of the services to be performed under this Price Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Price Agreement, nor shall any subcontract obligate direct payment from the City.

H. **Release**

Final payment of the amounts due under this Price Agreement shall operate as a release of the City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Price Agreement.

I. **Confidentiality**

Any confidential information provided to or developed by the Contractor in the performance of this Price Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

J. **Product of Service -- Copyright**

All materials developed or acquired by the Contractor under this Price Agreement shall become the property of the City and shall be delivered to the City no later than the termination date of this Price Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Price Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

K. **Conflict of Interest; Governmental Conduct Act**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Price Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Price Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Price Agreement, will continue to comply with, and that this Price Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the City relied when this Price Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Price Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Price Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Price Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Price Agreement to the contrary, the City may immediately terminate the Price Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

L. **Amendment**

A. This Price Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Price Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Price Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

M. **Change Orders**

A. Changes. The Contractor may only make changes or revisions within the Task Order as defined by Article 1 and/or Exhibit 1 after receipt of written approval by the Project Manager, or his/her designee. Such change may only be made to Tasks or Sub-Task as defined in the Scope of Work. Under no circumstance shall such change affect the:

1) Deliverable requirements, as outlined in the Task Order;
2) Due date of any Deliverable, as outlined in the Task Order;
3) Compensation of any Deliverable, as outlined in the Task Order;
4) Price Agreement compensation, as outlined in Article 2; or
5) Price Agreement termination, as outlined in Article 4.

B. Change Request Process. In the event that circumstances warrant a change to accomplish the Task Order as described above, a Change Request shall be submitted that meets the following criteria:

1) The Contractor shall draft a written Change Request for review and approval by the Project Manager to include:
(a) the name of the person requesting the change;
(b) a summary of the required change;
(c) the start date for the change;
(d) the reason and necessity for change;
(e) the elements to be altered; and
(f) the impact of the change.

2. The Project Manager shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the Project Manager are final. Change Requests, once approved, become a part of the Task Order, and become binding as a part of the original Task Order.

N. **Merger**

This Price Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Price Agreement.

All terms and conditions of the **ITB #25119 – On-Call Collection System Construction Services,** and the Contractor's response to such document(s) are incorporated herein by reference and is included in the order of precedence.

No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Price Agreement.

O. Penalties for violation of law

NMSA 1978, sections 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

P. **Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Price Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Price Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

Q. Applicable Law

The laws of the State of New Mexico shall govern this Price Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, section 38-3-2. By execution of this Price Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Price Agreement.

R. Workers Compensation

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Price Agreement may be terminated by the City.

S. Other Insurance

If the services contemplated under this Price Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Price Agreement, the following insurance coverage(s), naming the City as additional insured.

A. **Commercial General Liability** insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

B. **Broader Coverage and Limits**. The insurance requirements under this Price Agreement shall be the greater of (1) the minimum coverage and limits specified in this Price Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Price Agreement are sufficient to cover the obligations of Contractor hereunder.

C. Contractor shall maintain the above insurance for the term of this Price Agreement and name the City as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

T. Records and Financial Audit

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Price Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Price Agreement. The records shall be subject to inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Price Agreement shall not foreclose the right of the City to recover excessive or illegal payments

U. Indemnification

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims,

demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Price Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Price Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Price Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City.

V. New Mexico Tort Claims Act

Any liability incurred by the City of Santa Fe in connection with this Price Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Price Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

W. Invalid Term or Condition

If any term or condition of this Price Agreement shall be held invalid or unenforceable, the remainder of this Price Agreement shall not be affected and shall be valid and enforceable.

X. Enforcement of Price Agreement

A party's failure to require strict performance of any provision of this Price Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Price Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

Y. Notices

Any notice required to be given to either party by this Price Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City: Gilbert Rodriguez
73 Paseo Real
Santa Fe, NM 87507

To the Contractor: Raymond Zamora
P. O. Box 27688
Albuquerque, NM 87125-7688

Z. Authority

If Contractor is other than a natural person, the individual(s) signing this Price Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding Price Agreement.

AA. Progress Payments

Based upon Application for Payment submitted to the City by the Contractor and Certificates for Payment issued by the City, the City shall make progress payments on account of the Price Agreement sum to the Contractor as provided in the Price Agreement documents for the period ending the last day of the month as follows:

Not later than twenty-one (21) days following the end of the period covered by the Application for Payment, one hundred percent (100%) of the portion of the Price Agreement Sum properly allocable to labor, materials, and equipment incorporated in the work and one hundred percent (100%) of the portion of the Price Agreement sum properly allocable to materials and equipment suitably stored at the site or some other location agreed upon in writing for the period covered by the Application for Payment, less the aggregate of previous payments made by the City; and upon substantial completion of the entire work, a sum sufficient to increase the total payments to one hundred percent (100%) of the Price Agreement sum, less such amounts as the City shall determine for all incomplete work and unsettled claims as provided in the Price Agreement documents.

BB. Final Payment

Final payment, constituting the entire unpaid balance of the Price Agreement sum, unless it is a disputed payment, shall be paid by the City to the Contractor within twenty-one (21) calendar days, after all deficiencies to the Price Agreement document that were noted during the Substantial Completion Inspection and listed on the attachment to the Certificate of Substantial Completion have been corrected, and provided the Price Agreement has been fully performed and a final Certificate for Payment has been issued by the City. In addition, the Contractor shall provide to the City a certified statement of Release of Lien (AIA Document G706A or approved form), Consent of Surety, Warranty from Prime Contractor, Warranties from Suppliers and Manufacturers, training sessions, equipment/operating manuals, and as-built drawings.

CC. General and Special Provisions

A. Terms used in this Price Agreement which are defined in the Conditions of the Price Agreement shall have the meanings designated in those Conditions.

B. An enumeration of the Contractor's General Comprehensive Liability Insurance requirements appears in the General Conditions of the Price Agreement for construction. Insurance requirements are also described in the Instructions to the Bidder section of the Project Manual. Contractor shall maintain adequate insurance in at least the maximum amounts, which the City could be liable under the New Mexico Tort Claims Act and shall provide proof of such insurance coverage to the City. It is the sole responsibility of the Contractor to comply with the law.

C. This Price Agreement shall not become effective until: (1) approved by the Governing Body; and (2) signed by all parties required to sign this Price Agreement.

D. The Contractor shall maintain detailed time records which indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration and the State Auditor. The City shall have the right to audit billings both before and after payment. Payment under this Price Agreement shall not foreclose the right of the City to recover excessive illegal payments.

E. The Contractor warrants that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Price Agreement.

F. The Contractor hereby warrants that the Contractor complies with the Americans with Disabilities Act, 29 CFR 1630.

G. Gender, Singular/Plural. Words of any gender used in this Price Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

H. Captions and Section Headings. The captions and section headings contained in this Price Agreement are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this Price Agreement.

I. Certificates and Documents Incorporated. All certificates and documentation required by the provisions of the Price Agreement shall be attached to this Price Agreement at the time of execution and are hereby incorporated by reference as though set forth in full in this Price Agreement to the extent they are consistent with its conditions and terms.

J. Separability. If any clause or provision of this Price Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Price Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Price Agreement shall not be affected thereby.

K. Words and Phrases. Words, phrases, and abbreviations, which have well-known technical or trade meanings used in the Price Agreement documents shall be used according to such recognized meaning. In the event of a conflict, the more stringent meaning shall govern.

L. Relationship of Price Agreement Documents. The Price Agreement Documents are complementary, and any
requirement of one Price Agreement Document shall be as binding as if required by all.

M. Pursuant to NMSA 1978, section 13-1-191, reference is hereby made to the Criminal Laws of New Mexico (including NMSA 1978, sections 30-14-1, 30-24-2, and 30-41-1 through 30-41-3) which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code (NMSA 1978, sections 13-1-28 through 13-1-199) imposes civil and criminal penalties for its violation.

N. Pursuant to NMSA 1978, section 13-4-11. Reference is hereby made to the Minimum Wage on Public Works; weekly payments; posting wage scale; withholding funds.

IN WITNESS WHEREOF, the Parties have executed this Price Agreement as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

_____
ALAN WEBBER, MAYOR

DATE: _____

CONTRACTOR:

Raymond Zamora
_____
Raymond Zamora, President

DATE: Aug 11, 2025

NMBTIN#: 02-387068-00-0

ATTEST:

_____
ANDRÉA SALAZAR, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Aug 11, 2025 14:46:27 MDT)
_____
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster
_____
EMILY OSTER, FINANCE DIRECTOR

Bidder Instructions: *(Replace Department Instructions, prior to ITB release. Be sure to check row height to ensure the entire instructions are displayed.)*
Items - Bidders do not have the ability to add or delete items.
Approx. Qty. - Quantities provides are estimates, only, and do not establish a definite quantity contract. Actual quantities purchased under a resulting agreement may vary. Bidders may not change the Approx. Qty.
UOM (Unit of Measure) - Bidders do not have the ability to change the UOM. Any variation from the UOM identified may be provided in the Comments.
Article and Description - Bidder cannot change Article and Description. Any clarification, explanation, brand name identification, etc. must be provided in the
Unit Price - Bidders must provide pricing that conforms with the identified Unit Price.
Comments - Bidders may only provide comments to explain or clarify an item, identify a brand name, or provide information as specifically stated in the corresponding ITB document. Changes and additions to the items, including variations in pricing for an item, are not permitted. Any comments that do not conform to the requirements in the ITB or on this form will be disregarded, and will not be included in the resulting award, if bidder is awarded.

Item	Approx. Qty.	UOM	Article and Description	Unit Price	Comments
			Wage Rates for Projects Under $60,000.00		
1	1	Hourly	Superintendent – Regular Hourly Rate	$ 90.00	
2	1	Hourly	Superintendent – Overtime Hourly Rate	$ 90.00	
3	1	Hourly	Journeyman or experienced worker – Regular Hourly	$ 75.00	
4	1	Hourly	Journeyman or experienced worker – Overtime	$ 112.50	
5	1	Hourly	Laborer – Regular Hourly Rate	$ 45.00	
6	1	Hourly	Laborer – Overtime Hourly Rate	$ 67.50	
			Wage Rates for Projects Over $60,000.00		
7	1	Hourly	Superintendent – Regular Hourly Rate	$ 90.00	
8	1	Hourly	Superintendent – Overtime Hourly Rate	$ 90.00	
9	1	Hourly	Journeyman or experienced worker – Regular Hourly	$ 80.00	
10	1	Hourly	Journeyman or experienced worker – Overtime	$ 120.00	
11	1	Hourly	Laborer – Regular Hourly Rate	$ 50.00	
12	1	Hourly	Laborer – Overtime Hourly Rate	$ 75.00	
			Wage Rates for Emergency Response		
13	1	Hourly	Superintendent – Regular Hourly Rate	$ 90.00	
14	1	Hourly	Superintendent – Overtime Hourly Rate	$ 90.00	
15	1	Hourly	Journeyman or experienced worker – Regular Hourly	$ 80.00	
16	1	Hourly	Journeyman or experienced worker – Overtime	$ 120.00	
17	1	Hourly	Laborer – Regular Hourly Rate	$ 50.00	
18	1	Hourly	Laborer – Overtime Hourly Rate	$ 75.00	
			Other Rates		
19	1	Daily	Sanitary/toilet facilities, rental rates	$6.75	$200/Month
20	1	Rate/Mile	Travel Rate from the Contractors facility to the work site, pursuant to the New Mexico Per Diem and Mileage Act.	$1.25	

Item	Approx. Qty.	UOM	Article and Description	Unit Price	Comments
21	1	Disc	Discount off parts	0%	

Outlook

RE: Collection System On Call Construction

From DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>
Date Thu 1/23/2025 11:52 AM
To HEERBRANDT, PAUL F. <pfheerbrandt@santafenm.gov>; Purchasing DET <purchasing_det@santafenm.gov>
Cc MACALLISTER, LINDA M. <lmmacallister@santafenm.gov>

Greetings,

The scope of work as written would be Construction. This determination relates only to that question and is no comment on whether the scope of work or procurement method meet all legal standards. I reserve the right to change this determination if the scope of work differs from the scope of work submitted for the original determination. This procurement must be conducted using the processes and procedures set forth by the City of Santa Fe, Central Purchasing, the Procurement Manual, and state statutes.

Please note:

- Save this email as a PDF and upload it into the corresponding Munis records.
- Check with WorkQuest dba Horizons of New Mexico (vendor # 8673) (mloehman@horizonsofnewmexico.org) if this service appears on their approved list.
- If your request includes anything that needs to be reviewed and preapproved by another City Department/Division, please send the same SOW to the corresponding email address and include their response in your packet/Munis.
  -IT components (anything IT) - ereview@santafenm.gov
  -Vehicles – dmjaramillo@santafenm.gov
  -Grants - grants@santafenm.gov
  - Construction, Facilities, Furniture, Fixtures, Equipment, etc. - jsburnett@santafenm.gov
  -Emergency Related Purchases - bgwilliams@santafenm.gov
  -Asset over $5k - jxbolden@santafenm.gov
- Ensure that the appropriate templates and forms are used https://intranet.santafenm.gov/finance_1 and documented procedures/laws/rules are followed.
- > $20k per year, when processing this procurement, please ensure the procurement number issued by Munis and the procurement name are used in the appropriate documents and the subject of emails.
- If you are processing a procurement where the forecasted amount is =/> $60k, per NMSA 1978, Section 13-1-102, the procurement method must be ITB (if you choose not to use a cooperative or an existing contract). If you feel you need to process an RFP, you must get an Authorization and Plan approved before you process.
- < $20k per year, one quote is acceptable.
- From $20k to $60k per year, if you aren't using a cooperative or existing contract, you'll need to provide 3 quotes in your req. Must use the Munis Bid Module after 12/21/2023.
- Please keep this as part of the procurement file for future reference.
- Figure out your funding source and **inform Purchasing**. To ensure that the proper documents and language are used, it is important to identify the funding source for the subsequent contract. For instance, if federal funds are involved, the procurement request and subsequent contract must

include the necessary federal language. Therefore, it is crucial to determine the funding source beforehand.

- Please review the pages linked below to determine whether any of the existing contracts/price agreements or cooperative agreements are applicable to this request. You might be able to use an existing price agreement to save time and money.
  - https://www.generalservices.state.nm.us/state-purchasing/statewide-price-agreements/ (if you choose to use a Statewide, you do not need to ask Horizons if they can do the work. State Purchasing must offer the SOW to Horizons prior to placing the award on their website.)
  - https://naspovaluepoint.org/categories/
  - https://www.omniapartners.com/publicsector/contracts
  - https://www.buyboard.com/home.aspx
  - https://www.h-gac.com/Home
  - https://www.gsaelibrary.gsa.gov/
  - https://www.sourcewell-mn.gov/contract-search

- Submit or send your request to the appropriate MS Teams channel or email address:
  - RFPs requests to https://teams.microsoft.com/l/channel/19%3ad63b9c8b586d424fa5eed34177146ac5%40thread.tacv2/RFP%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
  - ITBs requests to https://teams.microsoft.com/l/channel/19%3a48e1e4588c0440a09cfbd9b907ed42d4%40thread.tacv2/ITB%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
  - Determination requests to purchasing_det@santafenm.gov
  - And all other requests to purchasing@santafenm.gov

Thank you for submitting this scope of work for my review.

Regards,

Travis Dutton-Leyda
Chief Procurement Officer
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501
505-629-8351
tkduttonleyda@santafenm.gov

https://santafenm.gov/finance-2/purchasing-1

Vendor Registration and Current Procurement Opportunities:
https://cityofsantafenmvendors.munisselfservice.com/Vendors/VBids/SearchResults.aspx

Internal Link: https://intranet.santafenm.gov/finance_1

CITY OF SANTA FE
FINANCE

"The future belongs to those who believe in the beauty of their dreams." — Eleanor Roosevelt

From: HEERBRANDT, PAUL F. <pfheerbrandt@santafenm.gov>
Sent: Thursday, January 23, 2025 10:52 AM
To: Purchasing DET <purchasing_det@santafenm.gov>
Cc: MACALLISTER, LINDA M. <lmmacallister@santafenm.gov>
Subject: Collection System On Call Construction

Requesting the determination of the contract type and procurement method for the following scope of work. Thanks

Collection System On Call Construction

The City of Santa Fe, Public Utilities Department, Wastewater Management Division (Division) wishes to establish a Price Agreement for On-Call Repair, Replacement, Extension, and Rehabilitation of Sewer Collection System Construction services work by New Mexico licensed contractors to provide miscellaneous repairs, upgrades, improvements, replacements, new construction services and material for facilities throughout the Paseo Real Wastewater Reclamation Facility, the Sanitary Sewer Collection System, and other remote locations.

The Division shall provide, at a minimum, a detailed scope of work and/or drawings, generally defining the construction work required for the project. The Contractor shall be responsible for verifications of all existing conditions, measurements, and dimensions for bidding.

The award of this Price Agreement is without assurance of quantity or dollar amount of work to be performed.

Contractors shall have the technical staff to perform diagnostic services and provide professionally prepared, stamped drawings, if needed, to obtain installation or construction permits. The Contractor is responsible for obtaining all required licenses, fees and permits required to perform the work. Contractor shall be responsible for any applicable Local, County, State and Federal requirements and permits including, but not limited to, the City of Santa Fe's Stormwater Pollution Prevention Program and Stormwater BMPs.

The City of Santa Fe Wastewater Management Division shall be able to utilize this On-Call Contract as needed and as funding is available.

Wage Rates:

All work covered by this Price Agreement shall be in accordance with applicable City and State laws and is subject to the minimum wage rate determination issued by the Department of Workforce Solutions (DWS), if applicable.

A wage rate decision is required by the Public Works minimum Wage Act for construction, demolition or renovation purposes on projects costing sixty thousand dollars ($60,000) or more. The Contractor agrees to comply with the current prevailing wage rate schedule when applicable. For current wage rates or for additional information, visit: http://www.dws.state.nm.us . The Division will request a wage rate determination from the DWS for each project that is $60,000 or more.

When submitting a quote for a specific project valued at more than sixty thousand dollars ($60,000) for any portion of a public works project that is subject to the New Mexico Public Works Act, the Contractor is required to be registered with the Labor and Industrial Division of the Department of Workforce Solutions prior to submitting its quote. The Division may reject any quote that fails to provide a Public Works registration number for the prime Contractor and all other listed Contractors or subcontractors.

Other:

All work shall be in accordance with applicable City and state laws, the International Building Code (IBC) and the New Mexico building codes. The Contractor shall be responsible for all permits associated with this work as required by the governmental Authority Having Jurisdiction (AHJ).

All work shall be in strict compliance with the national and state building mechanical, plumbing and electrical codes including SMACNA, and ASHRAE standards.

Contractors shall be capable of providing all coordination, supervision and services required for comprehensive general construction, facilities replacement, upgrade and improvement projects and to provide new construction services including incidental design. It can include site and utility work, mechanical work, pavement restoration, facilities repair, renovation, backfill services, digging, ditching, rock stabilization, concrete, and pour in place and form place finish. The utility work shall include pumping systems, gravity sewers, manholes, force mains, and related facilities. It may also include demolition and abatement projects.

All material shall be new and of the highest quality available for the type of work being performed. The purchase of major equipment or material must be preceded by submission of submittal data on the proposed equipment or material and shall be reviewed and approved by the Division.

The requesting entity reserves the right to purchase materials or specialty services directly from existing Statewide Price Agreements and other sources, and to provide these materials to the Contractor. The Contractor shall provide an itemized, quantifiable list of materials required for the project. Specialty services provided from Statewide Price Agreements and other sources shall be coordinated by the Contractor.

If the Contractor is requesting reimbursement for materials used on the work, copies of the invoices for the materials must be included when submitting invoices/pay applications. The Contractor may NOT add markups for the materials purchased.

The Division reserves the right to obtain quotes from multiple vendors covered under this Price Agreement and award a project to a contractor based on the quotes.

The Division reserves the right to provide an escort and/or full-time supervision of the Contractor and its employees during any or all phases of a project, should the Division feel it is in its best interest to provide these extraordinary security services.

The Division reserves the right to escort any or all employees of the Contractor off its property, for any inappropriate conduct or actions that jeopardize the safety, security, or wellbeing of the facility or any individual. Inappropriate behavior by the Contractor, its employees or subcontractors may be grounds for immediate removal from this Price Agreement. Any employee of the Contractor found in violation of any law, while on City property, will be prosecuted.

Contractor:

No person shall act as a Contractor without a license issued by the Construction Industries Division (CID), classified to cover the type of work to be performed. No bid on a contract shall be submitted unless the Contractor has a valid Contractor's license issued by the CID to bid and to perform the type of work to be undertaken, as set forth in §60-13-12, NMSA 1978.

Safety shall be of main concern and enforced by the Contractor on site. The Contractor shall comply with all local, state and federal laws governing safety, health and sanitation. The on-site superintendent shall always have a minimum OSHA 10 and preferably OSHA 30 card with them when on the jobsite. The Division shall not in any way be responsible for any fines set forth for such violations of codes, OSHA standards or any other governing agency having jurisdiction at the work site. The Contractor shall provide all needed safeguards, safety devices, protective equipment and take any actions necessary to protect the life and health of employees on the job; the safety of the public and to protect the property of the Division in connection with the performance of the work covered by this price Agreement.

All personnel working on the project and providing these services shall be experienced and certified in all areas related to this work and required by this Price Agreement. Journeymen level personnel shall have the ability and necessary skills to diagnose problems and to make the appropriate decisions needed to provide these services.

The Contractor shall follow the Occupational Safety and Health Act (OSHA) 29 CFR 1910.147 Standard pertaining to "Lockout/Tagout" procedures for hazardous energy.

The Contractor shall agree to provide required labor within 24 hours for emergency situations.

Contractor's price shall include labor costs, permits, overhead, profit, insurance, equipment, tools and any other fees required to successfully complete the work requested. The Contractor shall be capable of providing a work force with supervision, adequate to perform work for a forty (40) hour work week during normal working hours with the option of working non normal or overtime hours if required. The Contractor shall be responsible for all permits, fees, and State and/or City inspections associated with their work.

Subcontracting of work is allowed and shall have prior approval by the Division. Subcontractors shall have the appropriate current valid Contractor's licenses for their work. Proof of licenses shall be furnished upon request.

There will be NO markups allowed for adding subcontractor costs or to cover general conditions (administrative costs and other related expenses) allowed on any of the quotes issued pursuant to this Price Agreement. If a subcontractor is hired for the project the reimbursement must be at actual cost of the subcontractor's cost. The cost of the subcontractor will be added at time of invoicing as a separate item to be paid by the Department.

Furnishing of submittal data for any/all new equipment and materials as well as O&M' s is required. Training of site personnel for the proper operation of newly installed equipment/systems and its related controls will be required for completion. This training will be acceptable to the person in charge of the facility and/or the City's Project manager in charge of the project.

The Contractor shall provide all protective coverings necessary to protect existing, adjacent finishes while performing its work. If any damage is encountered during the contractor's work, the contractor will be held responsible for repairing any damage done by his employees, subcontractors, and vendors. The Contractor shall restore any damage to existing and/or adjacent finishes damaged while performing work and to make new work inconspicuous with the existing adjacent finishes.

The Contractor and its employees agree to cooperate with and to abide by the rules and requirements of the Division to not interfere with the daily operations of the Division or to jeopardize the health, safety or welfare of the employees or general public conducting business with the Division.

Clean Up and Storage:

A. The Contractor will provide off-site legal disposal of all waste products, trash, and debris. The Division's trash receptacles will not be used by the Contractor. Sanitary facilities will "not" be available at the job site. Contractor shall be responsible for the provision and maintenance of portable toilets.

B. The Contractor, on a daily basis, shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Agreement. At completion of the Work, the Contractor shall remove the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials and shall then thoroughly clean the premises and the site to the Division's satisfaction.

C. Materials or equipment shall be delivered to the project in the manufacturer's original sealed, labeled containers and shall be adequately protected against moisture, dust, tampering or damage from improper handling or storage. Materials shall not be delivered to the site before they are needed.

D. Storage of materials and construction equipment shall be coordinated with the Division.

Task Order:

The Contractor shall be required to provide On-Call Construction Services for any number of the activities listed under Scope of Work upon the request of the Division. When a service is identified, the Division shall provide, at a minimum, a detailed scope of work and/or drawings defining work required. Each project will be individually described in a "Task Order". The Task Order will describe the scope of work, the duration of the project with the date of Substantial Completion and if there are liquidated damages for not meeting the date of substantial completion. The date of Substantial Completion is the date when the space can be occupied or the Work used/operated and is turned over to the User Agency. Final completion is the date when the project is totally complete, the punch list work complete and the Contractor's final pay application/invoice is approved. The terms and conditions of the Contractor's Price Agreement will apply to all Task Orders.

Upon receiving the City's Task Order, the Contractor shall promptly visit the site and compare the Division's scope of work and/or drawings to the existing conditions and provide all services called for in addition to the requirements set forth in this Price Agreement. The Contractor will be required to provide a written quote (based upon the rates submitted in the Bid Form) sub-contractors list (including subcontractor’s CID licenses) and cost summary to include the work to be performed, sub-contractors cost and the amount of time required for the completion of the project and submit to the Division at no cost to the Division. Project schedules, negotiated price, and completion dates shall be determined on a project-by-project basis and dependent upon the urgency of that task.

If any equipment or system cannot be economically repaired or has reached the end of its life cycle, the Contractor shall justify with costs and other information they need for replacement. If replacement is recommended, the Contractor will provide written justification for system and/or the model, size, and type of unit recommended along with any applicable efficiency data. The Division's standards will be discussed and taken into consideration when proposing replacement units or systems. Any replacement unit shall be reviewed and approved by the requesting entity.

Change Orders:

Any change orders to the project scope will require an additional Task Order with backup materials and labor costs and shall be substantiated that there was no way of knowing the additional services were needed when the original quote was provided. Change orders shall be managed closely by the Division. Preventative measures shall be taken by both the contractor and the Division prior to issuing the Notice to Proceed. Such measures may include soil tests (soil boring); clarification of ambiguity in the project plan, the scope of work, the Task Order, the drawings, etc.; the project scope should be completely defined and agreed upon before any work begins.

Other Construction Related Terms and Conditions:

Mediation:

Any controversy or claim arising between the parties shall be settled by mediation if the parties cannot reach a mutually agreeable solution. The parties shall endeavor to resolve their disagreement by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the procedures of the New Mexico Public Works Mediation Act (NMSA §13-4C-1 et seq.) except that before any party may select a mediator it must confer in good faith with the other party concerning the selection of a mutually acceptable mediator. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of notice of mediation session, unless stayed for a longer period by agreement of the parties or court order.

Inspection of Work:

If a Purchase Order is issued for the purchase of services, the following terms shall apply when applicable:

A. Services include services performed, workmanship, and material furnished or utilized in the performance of services.

B. The Contractor shall provide and maintain an inspection system acceptable to the Division covering the services under the Purchase Order. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Division during the term of performance of the Work and for as long thereafter as required.

C. The Division has the right to inspect and test all services contemplated to the extent practicable at all times and places during the term of the Project. The Division shall perform inspections and tests in a manner that will not unduly delay or interfere with the Contractor's performance.

D. If the Division performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in Purchase Order price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.

E. If any part of the services does not conform with the requirements, the Division may require the Contractor to re-perform the services in conformity with the requirements at no increase in Purchase Order amount. When the defects in services cannot be corrected by re-performance, the Division may:

(1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements; and
(2) reduce the Purchase Order price to reflect the reduced value of the services performed.

F. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements, the Division may:

(1) by Agreement or otherwise, perform the services and charge to the Contractor any cost incurred by the Division that is directly related to the performance of such service; or
(2) cancel the Purchase Order for default.

THE PROVISIONS OF THIS ARTICLE ARE NOT EXCLUSIVE AND DO NOT WAIVE THE REQUESTING ENTITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THE PURCHASE ORDER/PRICE AGREEMENT.

Suspension, Delay or Interruption of Work:

The Division may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the Work in whole or in part for such period as the Division may determine. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized.

If at any time there is a delay in the critical path of the Work due to postponement, due to the Contractor's efforts to justify an extension of the time or an increase in the Agreement Price beyond the deadlines or due to the Contractor's refusal to proceed with any of the approved Work, such delay and any Contractor costs resulting from it shall not serve as the basis for the extension of the Time for Completion or Agreement Completion Date or for an increase in the Contract Price.

Permits and Fees:

A. IF APPLICABLE- The Contractor shall secure and pay for the Building Permit and other permits and governmental fees, licenses and inspections and Certificate of Occupancy necessary for proper execution and completion of the Work. Changes or modifications to the Work shall include all requirements of this paragraph.

B. The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to performance of the Work.

C. IF APPLICABLE- Certificates of Inspection, use and occupancy will be delivered to the Division upon completion of the Work in sufficient time for occupation of the facility in accordance with the approved schedule for the Work. Contractor shall deliver a photocopy of the Building Permit to the Design Professional and requesting entity as soon as it is obtained.

Schedule, Progress Meetings and Reports:

A. The Contractor, promptly after being awarded a Project and before the first payment application, shall prepare and submit for the Division's information a Critical Path Construction Schedule for the Work that indicates the intended start and completion of the various construction activities, which shall be implemented and adhered to by the Contractor, Subcontractors, material suppliers and equipment suppliers. At a minimum, the schedule shall be a GANTT type schedule and shall not exceed time limits allowed by the Task Order or Notice to Proceed with no fewer work breakdown events than line items of the Schedule of Values.

B. The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the Division.

C. Progress meetings shall be scheduled on a regular basis. The purpose will be to review the upcoming activities, any open issues and current progress. The Contractor shall keep any meeting minutes as needed. Progress schedules shall be updated regularly. A three-week look-ahead schedule should be presented at every project meeting. A new schedule shall be presented with any change orders.

D. The Contractor shall prepare a daily report each day the Contractor, subcontractors or any other entity are on the project. The daily reports shall be maintained at the site and be well organized. The Division may request copies at any time. The reports may include:

1. report date and who prepared the report;
2. weather conditions - low temp, visibility, humidity, wind, wind direction, cloud conditions, precipitation amount, other notes;
3. companies present by name and their number of workers, work location, total man hours that day for each company;
4. equipment-type, source, units of work done, location of work, hour meter reading;
5. material brought to site-description, units, quantity, quality, location, time;
6. visitors to site -name, company, time;
7. safety concerns-company, contact, noticed by, work activity, safety issue, requirement, outcome: and
8. quality assurance and control -company, description of issue, specification section, issued by.

Close-out Requirements:

The Contractor shall submit to the Division a separate and detailed Closeout Schedule indicating the date of Final Completion and all work to be completed before Final Completion including Close-Out requirements. The punch list of incomplete or inadequate work shall also be submitted when the work is substantially complete. Failure to include any item on the punch list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents.

Before final completion can be achieved, all Work must be complete and accepted including the following as applicable:

a. Work associated with Punch List(s);
b. testing, balance or performance operations complete and in agreement that associated work is in compliance with the Contract Documents;
c. one hard copy and one electronic copy in .pdf format of final approved test, balance or performance report(s) complete with directory of contents submitted to the Division;

d. as-Built drawings delivered in AutoCAD or electronic format;
e. written certification signed by the Division of delivery and stocking of extra material, equipment or components required by the Purchase Order at a location established by the Division;
f. delivery of all warranties required by the Work;
g. all keys, passes, codes, software or other methods or components of control or security which have been correctly and adequately accounted for and closed-out;
i. Start-up of any new equipment and training of staff on all new equipment;
l. Operations and Maintenance Manuals;
m. a certified statement of Release of Liens (AIA Document G706A or approved form) and Consent of Surety.

Warranty:

The Contractor shall warrant its work (non-roofing and equipment), for materials and for workmanship furnished and performed under this Price Agreement for a period of one (1) year minimum from the date of acceptance or Substantial Completion. The Contractor shall warrant its work for repairs or restoration of existing systems and work for ninety (90) days from the date of acceptance or Substantial Completion. It is understood that some equipment is far beyond its normal life and a warranty cannot be extended/supplied. Contractor must pass on to the Division warranties of replaced roofs and equipment offered by the manufacturer.

Bid information:

Hourly rates are requested for the three (3) levels of personnel.

Superintendent: a person with supervisory experience who maintains control of the work and work site. This person may or may not actually perform work on the project.

Journeyman or Experienced Worker: a person licensed by the State for work required and being performed or a person with many years of experience with a high rate of pay.

Laborer: a person with minimal experience, performing minor forms of labor.

Materials and Parts:

Contractor shall submit billings, based on actual Contractor costs for materials, less any applicable percentage for discounts. If there is no discount to be offered, enter zero. Contractor shall provide verification that materials purchased were used for the project. Any unused, billed for materials shall be turned over to the Division for which the work was provided.

The City of Santa Fe requires that all materials shall be new and of the highest quality and at the best attainable price available for the type of work being performed.

No used materials shall be used on the project. Recycled materials specifically prepared for reuse to meet "LEED" certification may be permitted with the requesting entity's approval.

The City of Santa Fe reserves the right to award this Price Agreement to multiple vendors. Bidders must include pricing for all items starting from item 001 through item 016 in order to allow for accurate comparisons. If a Bidder fails to include one or more of those items his Bid may be rejected.

P. Fred Heerbrandt, P.E.

Engineer Supervisor Wastewater

City of Santa Fe

505-955-4623

pfheerbrandt@santafenm.gov



Log # *{Finance use only}*:	
Journal # *{Finance use only}*:	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
Public Utilities/Wastewater	8/5/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WW Capital Projects/WIP Construction	5000375	572970	n/a	$ 1,081,875	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 1,081,875	$ -

JUSTIFICATION: *(use additional page if needed)*
--Attach supporting documentation/memo
To increase account 572970 for Anchorbuilt. Plese see memo for detail and please add **Anchorbuilt COLLECTION** for posting of BAR

ON-CALL NO PL#

{Complete section below if BAR results in a net change to ANY Fund}

Fund(s) Affected	Fund Balance Increase/(Decrease)
500	(1,081,875)
TOTAL:	**(1,081,875)**

Linda MacAllister 8/5/2025
Prepared By *{print name}* Date

Division Director Signature *{optional}* Date

Department Director Signature Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins 08/19/2025
Budget Officer Date

Finance Director *{≤ $5,000}* Date

City Manager *{≤ $60,000}* Date

Client#: 1144006 ANCHOINC1

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 6/24/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Bridget Brakeall
USI Insurance Services, LLC 4100 Osuna Road NE Suite 2-203 Albuquerque, NM 87109	PHONE (A/C, No, Ext): 602.374.1331 FAX (A/C, No): E-MAIL ADDRESS: bridget.brakeall@usi.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Continental Casualty Company	20443
INSURER B : Builders Trust of New Mexico	99999
INSURER C : Valley Forge Insurance Company	20508
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
AnchorBuilt, Inc.
P.O. Box 27688
Albuquerque, NM 87125-7688

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY	X	X	6080684959	03/10/2025	03/10/2026	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$100,000
							MED EXP (Any one person)	$15,000
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:							$
C	AUTOMOBILE LIABILITY	X	X	6080684962	03/10/2025	03/10/2026	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR			6080684976	03/10/2025	03/10/2026	EACH OCCURRENCE	$5,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$5,000,000
	DED X RETENTION $10,000							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N		X	WC1000003908	03/10/2025	03/10/2026	X PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y	N / A					E.L. EACH ACCIDENT	$2,000,000
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$2,000,000
							E.L. DISEASE - POLICY LIMIT	$2,000,000
A	Stored Material			6080684959	03/10/2025	03/10/2026	*See Desc Of Ops	
C	HAPD			6080684962	03/10/2025	03/10/2026	*See Desc Of Ops	
A	Leased/Rented Eq			6080684959	03/10/2025	03/10/2026	*See Desc Of Ops	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Insurer A - Stored Material - Limit $750,000; Deductible $2,5000 - Temp Storage - Limit $300,000
Insurer C- HAPD - Limit $75,000 - Compensation Deductible $500; Collison Deductible $1,000
Insurer A - Leased and Rented Equipment - Limit $500,000; Deductible $1,0000

The General Liability and Automobile Liability policies include an automatic Additional Insured endorsement (See Attached Descriptions)

CERTIFICATE HOLDER

City of Santa Fe
2651 Siringo Road, Building E
Santa Fe, NM 87505-0000

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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DESCRIPTIONS (Continued from Page 1)

that provides Additional Insured status to the Certificate Holder, only when there is a written contract or written agreement between the named insured and the certificate holder and with regard to work performed by or on behalf of the named insured. The General Liability and Automobile Liability policies contain a special endorsement with "Primary and Noncontributory" wording, when required by written contract. The General Liability, Automobile Liability, and Workers' Compensation policies provide a Blanket Waiver of Subrogation in favor of the same, when required by written contract. Aggregate limits apply per project. The General Liability, Automobile Liability, and Workers Compensation are in the underlying schedule of the Umbrella policy.

1. ADDITIONAL INSUREDS

a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **H.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury** or **property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **H.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

A. Controlling Interest

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or

2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

B. Co-owner of Insured Premises

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

C. Lessor of Equipment

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

D. Lessor of Land

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The

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coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

E. Lessor of Premises

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury** or **property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

F. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

G. State or Governmental Agency or Subdivision or Political Subdivisions – Permits

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:

a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or

b. the construction, erection, or removal of elevators; or

c. the ownership, maintenance or use of any elevators covered by this insurance; or

2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

a. **Bodily injury**, **property damage** or **personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or

b. **Bodily injury** or **property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

H. Trade Show Event Lessor

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** caused by:

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a. the **Named Insured's** acts or omissions; or

b. the acts or omissions of those acting on the **Named Insured's** behalf,

in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.

2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard**.

2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE

The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision **2.**, the additional insured's own insurance means insurance on which the additional insured is a named insured. Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

3. BODILY INJURY – EXPANDED DEFINITION

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

Bodily injury means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** is amended to add the following provisions:

A. BROAD KNOWLEDGE OF OCCURRENCE

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or an **employee** designated by any of the above to give such notice.

B. NOTICE OF OCCURRENCE

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

5. BROAD NAMED INSURED

WHO IS AN INSURED is amended to delete its Paragraph **3.** in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph **4.** below, any organization in which a **Named Insured** has management control:

a. on the effective date of this **Coverage Part**; or

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b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

(a) any partnership, limited liability company or joint venture; or

(b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or

B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.

4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph **3.** above, this insurance does not apply to:

a. bodily injury or **property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor

b. personal or advertising injury caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.

5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

6. BROADENED LIABILITY COVERAGE FOR DAMAGE TO YOUR PRODUCT AND YOUR WORK

A. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusions **k.** and **l.** and replace them with the following:

This insurance does not apply to:

k. Damage to Your Product

Property damage to **your product** arising out of it, or any part of it except when caused by or resulting from:

(1) fire;

(2) smoke;

(3) collapse; or

(4) explosion.

l. Damage to Your Work

Property damage to **your work** arising out of it, or any part of it and included in the **products-completed operations hazard**.

This exclusion does not apply:

(1) If the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor; or

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(2) If the cause of loss to the damaged work arises as a result of:

(a) fire;

(b) smoke;

(c) collapse; or

(d) explosion.

B. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, $100,000 is the most the Insurer will pay under **Coverage A** for the sum of **damages** arising out of any one **occurrence** because of **property damage** to **your product** and **your work** that is caused by fire, smoke, collapse or explosion and is included within the **product-completed operations hazard**. This sublimit does not apply to **property damage** to **your work** if the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor.

C. This **Broadened Liability Coverage For Damage To Your Product And Your Work** Provision does not apply if an endorsement of the same name is attached to this policy.

7. CONTRACTUAL LIABILITY – RAILROADS

With respect to operations performed within 50 feet of railroad property, the definition of **insured contract** is replaced by the following:

Insured Contract means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner is not an **insured contract**;

b. A sidetrack agreement;

c. Any easement or license agreement;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement;

f. That part of any other contract or agreement pertaining to the **Named Insured's** business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Named Insured** assumes the tort liability of another party to pay for **bodily injury** or **property damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

(1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;

(2) Under which the **Insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(1)** above and supervisory, inspection, architectural or engineering activities.

8. ELECTRONIC DATA LIABILITY

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A. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion **p. Electronic Data** and replace it with the following:

This insurance does not apply to:

p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

(1) any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or

(2) the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate **electronic data** that does not result from physical injury to tangible property.

However, unless Paragraph **(1)** above applies, this exclusion does not apply to **damages** because of **bodily injury**.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relation expenses or any other loss, cost or expense incurred by the **Named Insured** or others arising out of that which is described in Paragraph **(1)** or **(2)** above.

B. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, $100,000 is the most the Insurer will pay under **Coverage A** for all **damages** arising out of any one **occurrence** because of **property damage** that results from physical injury to tangible property and arises out of **electronic data**.

C. The following definition is added to **DEFINITIONS**:

Electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

D. For the purpose of the coverage provided by this **ELECTRONIC DATA LIABILITY** Provision, the definition of **property damage** in **DEFINITIONS** is replaced by the following:

Property damage means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it;

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the **occurrence** that caused it; or

c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate **electronic data**, resulting from physical injury to tangible property. All such loss of **electronic data** shall be deemed to occur at the time of the **occurrence** that caused it.

For the purposes of this insurance, **electronic data** is not tangible property.

E. If Electronic Data Liability is provided at a higher limit by another endorsement attached to this policy, then the $100,000 limit provided by this **ELECTRONIC DATA LIABILITY** Provision is part of, and not in addition to, that higher limit.

9. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES

The estates, heirs, legal representatives and **spouses** of any natural person **Insured** shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, and **spouses** only for

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claims arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided however that the **spouse** of a natural person **Named Insured** and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

10. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

Expected or Intended Injury

Bodily injury or **property damage** expected or intended from the standpoint of the **Insured**. This exclusion does not apply to **bodily injury** or **property damage** resulting from the use of reasonable force to protect persons or property.

11. GENERAL AGGREGATE LIMITS OF INSURANCE - PER PROJECT

A. For each construction project away from premises the **Named Insured** owns or rents, a separate Construction Project General Aggregate Limit, equal to the amount of the General Aggregate Limit shown in the Declarations, is the most the Insurer will pay for the sum of:

1. All **damages** under **Coverage A**, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and

2. All medical expenses under **Coverage C**,

that arise from **occurrences** or accidents which can be attributed solely to ongoing operations at that construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations, nor the Construction Project General Aggregate Limit of any other construction project.

B. All:

1. **Damages** under **Coverage B**, regardless of the number of locations or construction projects involved;

2. **Damages** under **Coverage A**, caused by **occurrences** which cannot be attributed solely to ongoing operations at a single construction project, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and

3. Medical expenses under **Coverage C** caused by accidents which cannot be attributed solely to ongoing operations at a single construction project,

will reduce the General Aggregate Limit shown in the Declarations.

C. The limits shown in the Declarations for Each Occurrence, for Damage To Premises Rented To You and for Medical Expense continue to apply, but will be subject to either the Construction Project General Aggregate Limit or the General Aggregate Limit shown in the Declarations, depending on whether the **occurrence** can be attributed solely to ongoing operations at a particular construction project.

D. When coverage for liability arising out of the **products-completed operations hazard** is provided, any payments for **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard** will reduce the Products-Completed Operations Aggregate Limit shown in the Declarations, regardless of the number of projects involved.

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E. If a single construction project away from premises owned by or rented to the **Insured** has been abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.

F. The provisions of **LIMITS OF INSURANCE** not otherwise modified by this endorsement shall continue to apply as stipulated.

12. IN REM ACTIONS

A quasi in rem action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were in personam against the **Named Insured**.

13. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE

Solely with respect to **bodily injury** that arises out of a **health care incident**:

A. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Insuring Agreement** is amended to replace Paragraphs **1.b.(1)** and **1.b.(2)** with the following:

b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:

(1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.

(2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and

B. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to:

i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

ii. delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

Contractual Liability

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

iii. add the following additional exclusions:

This insurance does not apply to:

Discrimination

any actual or alleged discrimination, humiliation or harassment, including but not limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

Dishonesty or Crime

Any actual or alleged dishonest, criminal or malicious act, error or omission.

Medicare/Medicaid Fraud

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any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

Services Excluded by Endorsement

Any **health care incident** for which coverage is excluded by endorsement.

C. DEFINITIONS is amended to:

i. add the following definitions:

Health care incident means an act, error or omission by the **Named Insured's employees** or **volunteer workers** in the rendering of:

a. **professional health care services** on behalf of the **Named Insured** or

b. Good Samaritan services rendered in an emergency and for which no payment is demanded or received.

Professional health care services means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

a. Physician;

b. Nurse;

c. Nurse practitioner;

d. Emergency medical technician;

e. Paramedic;

f. Dentist;

g. Physical therapist;

h. Psychologist;

i. Speech therapist;

j. Other allied health professional; or

Professional health care services does not include any services rendered in connection with human clinical trials or product testing.

ii. delete the definition of **occurrence** and replace it with the following:

Occurrence means a **health care incident**. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence**;

iii. amend the definition of **Insured** to:

a. add the following:

the **Named Insured's employees** are **Insureds** with respect to:

(1) **bodily injury** to a co-**employee** while in the course of the co-**employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and

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(2) **bodily injury** to a **volunteer worker** while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

the **Named Insured's volunteer workers** are **Insureds** with respect to:

(1) **bodily injury** to a co-**volunteer worker** while performing duties related to the conduct of the **Named Insured's** business; and

(2) **bodily injury** to an **employee** while in the course of the **employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

b. delete Subparagraphs **(a)**, **(b)**, **(c) and (d)** of Paragraph **2.a.(1)** of **WHO IS AN INSURED**.

D. The **Other Insurance** condition is amended to delete Paragraph **b.(1)** in its entirety and replace it with the following:

Other Insurance

b. Excess Insurance

(1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the **Named Insured** to be excess of this coverage.

14. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES

WHO IS AN INSURED is amended to delete its last paragraph and replace it with the following:

No person or organization is an **Insured** with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a **Named Insured** in the Declarations, except that if the **Named Insured** was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense first occurred after such termination date;

b. the **bodily injury** or **property damage** first occurred after such termination date; and

c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company; and

If the joint venture, partnership or limited liability company is or was insured under a **consolidated (wrap-up) insurance program**, then such insurance will always be considered valid and collectible for the purpose of paragraph **c.** above. But this provision will not serve to exclude **bodily injury**, **property damage** or **personal and advertising injury** that would otherwise be covered under the **Contractors General Liability Extension Endorsement** provision entitled **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**. Please see that provision for the definition of **consolidated (wrap-up) insurance program**.

15. LEGAL LIABILITY – DAMAGE TO PREMISES / ALIENATED PREMISES / PROPERTY IN THE NAMED INSURED'S CARE, CUSTODY OR CONTROL

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion **j. Damage to Property** in its entirety and replace it with the following:

This insurance does not apply to:

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j. Damage to Property

Property damage to:

(1) Property the **Named Insured** owns, rents, or occupies, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

(2) Premises the **Named Insured** sells, gives away or abandons, if the **property damage** arises out of any part of those premises;

(3) Property loaned to the **Named Insured**;

(4) Personal property in the care, custody or control of the **Insured**;

(5) That particular part of real property on which the **Named Insured** or any contractors or subcontractors working directly or indirectly on the **Named Insured's** behalf are performing operations, if the **property damage** arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

Paragraphs **(1), (3)** and **(4)** of this exclusion do not apply to **property damage** (other than damage by fire) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

Paragraph **(2)** of this exclusion does not apply if the premises are **your work**.

Paragraphs (**3), (4), (5)** and **(6)** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph **(6)** of this exclusion does not apply to **property damage** included in the **products-completed operations hazard**.

Paragraphs **(3)** and **(4)** of this exclusion do not apply to **property damage** to:

i. tools, or equipment the **Named Insured** borrows from others, nor

ii. other personal property of others in the **Named Insured's** care, custody or control while being used in the **Named Insured's** operations away from any **Named Insured's** premises.

However, the coverage granted by this exception to Paragraphs **(3)** and **(4)** does not apply to:

a. property at a job site awaiting or during such property's installation, fabrication, or erection;

b. property that is **mobile equipment** leased by an **Insured**;

c. property that is an **auto**, aircraft or watercraft;

d. property in transit; or

e. any portion of **property damage** for which the **Insured** has available other valid and collectible insurance, or would have such insurance but for exhaustion of its limits, or but for application of one of its exclusions.

A separate limit of insurance and deductible apply to such property of others. See **LIMITS OF INSURANCE** as amended below.

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B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in **LIMITS OF INSURANCE**.

C. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, $25,000 is the most the Insurer will pay under **Coverage A** for **damages** arising out of any one **occurrence** because of the sum of all **property damage** to borrowed tools or equipment, and to other personal property of others in the **Named Insured's** care, custody or control, while being used in the **Named Insured's** operations away from any **Named Insured's** premises. The Insurer's obligation to pay such **property damage** does not apply until the amount of such **property damage** exceeds $1,000. The Insurer has the right but not the duty to pay any portion of this $1,000 in order to effect settlement. If the Insurer exercises that right, the **Named Insured** will promptly reimburse the Insurer for any such amount.

D. Paragraph **6.**, Damage To Premises Rented To You Limit, of **LIMITS OF INSURANCE** is deleted and replaced by the following:

6. Subject to Paragraph **5.** above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under **Coverage A** for **damages** because of **property damage** to any one premises while rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, including contents of such premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. The Damage To Premises Rented To You Limit is the greater of:

a. $500,000; or

b. The Damage To Premises Rented To You Limit shown in the Declarations.

E. Paragraph **4.b.(1)(a)(ii)** of the **Other Insurance** Condition is deleted and replaced by the following:

(ii) That is property insurance for premises rented to the **Named Insured**, for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;

16. LIQUOR LIABILITY

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Liquor Liability**.

This **LIQUOR LIABILITY** provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

17. MEDICAL PAYMENTS

A. LIMITS OF INSURANCE is amended to delete Paragraph **7.** (the Medical Expense Limit) and replace it with the following:

7. Subject to Paragraph **5.** above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under **Coverage C – Medical Payments** for all medical expenses because of **bodily injury** sustained by any one person. The Medical Expense Limit is the greater of:

(1) $15,000 unless a different amount is shown here: $N,NNN,NNN,NNN; or

(2) the amount shown in the Declarations for Medical Expense Limit.

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B. Under **COVERAGES**, the **Insuring Agreement** of **Coverage C** – **Medical Payments** is amended to replace Paragraph **1.a.(3)(b)** with the following:

(b) The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

18. NON-OWNED AIRCRAFT

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended as follows:

The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured**, provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;

2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and

3. the aircraft is not being used to carry persons or property for a charge.

19. NON-OWNED WATERCRAFT

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraph **(2)** of the exclusion entitled **Aircraft, Auto or Watercraft**, and replace it with the following.

This exclusion does not apply to:

(2) a watercraft that is not owned by any **Named Insured**, provided the watercraft is:

(a) less than 75 feet long; and

(b) not being used to carry persons or property for a charge.

20. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION

A. Under **DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:

Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

B. Under **COVERAGES**, **Coverage B – Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to:

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:

This insurance does not apply to:

Knowing Violation of Rights of Another

Personal and advertising injury caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

(a) the **Named Insured**; or

(b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.

2. add the following exclusions:

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This insurance does not apply to:

Employment Related Discrimination

Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any **Insured**.

Premises Related Discrimination

discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any **Insured**.

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from

Provision **1. ADDITIONAL INSURED** of this endorsement; or

attachment of an additional insured endorsement to this **Coverage Part**.

This **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

21. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY

A. Under **COVERAGES**, **Coverage B –Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Contractual Liability**.

B. Solely for the purpose of the coverage provided by this **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** provision, the following changes are made to the section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B:**

1. Paragraph **2.d.** is replaced by the following:

d. The allegations in the **suit** and the information the Insurer knows about the offense alleged in such **suit** are such that no conflict appears to exist between the interests of the **Insured** and the interests of the indemnitee;

2. The first unnumbered paragraph beneath Paragraph **2.f.(2)(b)** is deleted and replaced by the following:

So long as the above conditions are met, attorneys fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as **defense costs**. Such payments will not be deemed to be **damages** for **personal and advertising injury** and will not reduce the limits of insurance.

C. This **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** Provision does not apply if **Coverage B –Personal and Advertising Injury Liability** is excluded by another endorsement attached to this **Coverage Part**.

This **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

22. PROPERTY DAMAGE – ELEVATORS

A. Under **COVERAGES**, **Coverage A** – **Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended such that the **Damage to Your Product** Exclusion and subparagraphs **(3)**, **(4)** and **(6)** of the **Damage to Property** Exclusion do not apply to **property damage** that results from the use of elevators.

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B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

23. SUPPLEMENTARY PAYMENTS

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

A. Paragraph **1.b.** is amended to delete the $250 limit shown for the cost of bail bonds and replace it with a $5,000. limit; and

B. Paragraph **1.d.** is amended to delete the limit of $250 shown for daily loss of earnings and replace it with a $1,000. limit.

24. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

25. WAIVER OF SUBROGATION - BLANKET

Under **CONDITIONS**, the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or

2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

1. is in effect or becomes effective during the term of this **Coverage Part**; and

2. was executed prior to the **bodily injury**, **property damage** or **personal and advertising injury** giving rise to the **claim**.

26. WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS

Note: The following provision does not apply to any public construction project in the state of Oklahoma, nor to any construction project in the state of Alaska, that is not permitted to be insured under a **consolidated (wrap-up) insurance program** by applicable state statute or regulation.

If the endorsement **EXCLUSION – CONSTRUCTION WRAP-UP** is attached to this policy, or another exclusionary endorsement pertaining to Owner Controlled Insurance Programs (O.C.I.P.) or Contractor Controlled Insurance Programs (C.C.I.P.) is attached, then the following changes apply:

A. The following wording is added to the above-referenced endorsement:

With respect to a **consolidated (wrap-up) insurance program** project in which the **Named Insured** is or was involved, this exclusion does not apply to those sums the **Named Insured** become legally obligated to pay as **damages** because of:

1. **Bodily injury**, **property damage**, or **personal or advertising injury** that occurs during the **Named Insured's** ongoing operations at the project, or during such operations of anyone acting on the **Named Insured's** behalf; nor

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CNA PARAMOUNT

Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed as follows:

I. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:

A. In the performance of your ongoing operations subject to such **written contract**; or

B. In the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury** or **property damage** included in the **products-completed operations hazard**, and only if:

1. The **written contract** requires you to provide the additional insured such coverage; and

2. This **Coverage Part** provides such coverage; and

C. Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

1. Coverage broader than what you are required to provide by the **written contract**; or

2. A higher limit of insurance than what you are required to provide by the **written contract**.

Any coverage granted by this Paragraph **I.** shall apply solely to the extent permissible by law.

II. If the written contract requires additional insured coverage under the 07-04 edition of CG2010 or CG2037, then paragraph **I.** above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:

A. In the performance of your ongoing operations subject to such **written contract**; or

B. In the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury** or **property damage** included in the **products-completed operations hazard**, and only if:

1. The **written contract** requires you to provide the additional insured such coverage; and

2. This **Coverage Part** provides such coverage.

III. But if the **written contract** requires:

A. Additional insured coverage under the 11-85 edition, 10-93 edition, or 10-01 edition of CG2010, or under the 10-01 edition of CG2037; or

B. Additional insured coverage with “arising out of” language;

then paragraph **I.** above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of **your work** that is subject to such **written contract**.

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IV. But if the **written contract** requires additional insured coverage to the greatest extent permissible by law, then paragraph **I.** above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of **your work** that is subject to such **written contract**.

V. The insurance granted by this endorsement to the additional insured does not apply to **bodily injury**, **property damage**, or **personal and advertising injury** arising out of:

A. The rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:

1. The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and

2. Supervisory, inspection, architectural or engineering activities; or

B. Any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **Coverage Part**.

VI. Under **COMMERCIAL GENERAL LIABILITY CONDITIONS,** the Condition entitled **Other Insurance** is amended to add the following, which supersedes any provision to the contrary in this Condition or elsewhere in this **Coverage Part**:

Primary and Noncontributory Insurance

With respect to other insurance available to the additional insured under which the additional insured is a named insured, this insurance is primary to and will not seek contribution from such other insurance, provided that a **written contract** requires the insurance provided by this policy to be:

1. Primary and non-contributing with other insurance available to the additional insured; or

2. Primary and to not seek contribution from any other insurance available to the additional insured.

But except as specified above, this insurance will be excess of all other insurance available to the additional insured.

VII. Solely with respect to the insurance granted by this endorsement, the section entitled **COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

1. Give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;

2. Send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and

3. Make available any other insurance, and endeavor to tender the defense and indemnity of any **claim** to any other insurer or self-insurer, whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph **3.** does not apply to other insurance under which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.

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Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement

VIII. Solely with respect to the insurance granted by this endorsement, the section entitled **DEFINITIONS** is amended to add the following definition:

Written contract means a written contract or written agreement that requires you to make a person or organization an additional insured on this **Coverage Part**, provided the contract or agreement:

A. Was executed prior to:

1. The **bodily injury** or **property damage**; or

2. The offense that caused the **personal and advertising injury**;

for which the additional insured seeks coverage; and

B. Is still in effect at the time of the **bodily injury** or **property damage occurrence** or **personal and advertising injury** offense.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

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CONTRACTORS EXTENDED COVERAGE ENDORSEMENT - BUSINESS AUTO PLUS

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

I. LIABILITY COVERAGE

A. Who Is An Insured

The following is added to **Section II, Paragraph A.1., Who Is An Insured**:

1. **a.** Any incorporated entity of which the Named Insured owns a majority of the voting stock on the date of inception of this Coverage Form; provided that,

   b. The insurance afforded by this provision **A.1.** does not apply to any such entity that is an **insured** under any other liability "policy" providing **auto** coverage.

2. Any organization you newly acquire or form, other than a limited liability company, partnership or joint venture, and over which you maintain majority ownership interest.

   The insurance afforded by this provision **A.2.**:

   a. Is effective on the acquisition or formation date, and is afforded only until the end of the policy period of this Coverage Form, or the next anniversary of its inception date, whichever is earlier.

   b. Does not apply to:

   (1) **Bodily injury** or **property damage** caused by an **accident** that occurred before you acquired or formed the organization; or

   (2) Any such organization that is an **insured** under any other liability "policy" providing **auto** coverage.

3. Any person or organization that you are required by a written contract to name as an additional insured is an **insured** but only with respect to their legal liability for acts or omissions of a person, who qualifies as an **insured** under **SECTION II – WHO IS AN INSURED** and for whom Liability Coverage is afforded under this policy. If required by written contract, this insurance will be primary and non-contributory to insurance on which the additional insured is a Named Insured.

4. An **employee** of yours is an **insured** while operating an **auto** hired or rented under a contract or agreement in that **employee's** name, with your permission, while performing duties related to the conduct of your business.

"Policy", as used in this provision **A. Who Is An Insured,** includes those policies that were in force on the inception date of this Coverage Form but:

1. Which are no longer in force; or

2. Whose limits have been exhausted.

B. Bail Bonds and Loss of Earnings

Section II, Paragraphs A.2. (2) and A.2. (4) are revised as follows:

1. In **a.(2),** the limit for the cost of bail bonds is changed from $2,000 to $5,000; and

2. In **a.(4),** the limit for the loss of earnings is changed from $250 to $500 a day.

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(4) Your **employees** may know of an **accident** or **loss**. This will not mean that you have such knowledge, unless such **accident** or **loss** is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

The following is added to **Section IV, Paragraph A.2.b.**:

(6) Your **employees** may know of documents received concerning a claim or **suit**. This will not mean that you have such knowledge, unless receipt of such documents is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

B. Transfer Of Rights Of Recovery Against Others To Us

The following is added to **Section IV, Paragraph A.5. Transfer Of Rights Of Recovery Against Others To Us**:

We waive any right of recovery we may have, because of payments we make for injury or damage, against any person or organization for whom or which you are required by written contract or agreement to obtain this waiver from us.

This injury or damage must arise out of your activities under a contract with that person or organization.

You must agree to that requirement prior to an **accident** or **loss**.

C. Concealment, Misrepresentation or Fraud

The following is added to **Section IV, Paragraph B.2.**:

Your failure to disclose all hazards existing on the date of inception of this Coverage Form shall not prejudice you with respect to the coverage afforded provided such failure or omission is not intentional.

D. Other Insurance

The following is added to **Section IV, Paragraph B.5.**:

Regardless of the provisions of Paragraphs **5.a.** and **5.d.** above, the coverage provided by this policy shall be on a primary non-contributory basis. This provision is applicable only when required by a written contract.

That written contract must have been entered into prior to **Accident** or **Loss**.

E. Policy Period, Coverage Territory

Section IV, Paragraph B. 7.(5).(a). is revised to provide:

a. 45 days of coverage in lieu of 30 days.

V. DEFINITIONS

Section V. paragraph C. is deleted and replaced by the following:

Bodily injury means bodily injury, sickness or disease sustained by a person, including mental anguish, mental injury or death resulting from any of these.

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BUILDERS TRUST®
OF NEW MEXICO

WAIVER OF SUBROGATION

Insured Name: ANCHORBUILT INC
Insured Policy Number: WC100-0003908-2025A

Builders Trust of New Mexico waives any right of recovery of subrogation against the certificate holder named on this certificate of insurance, but only to the extent that the employers to whom we provide coverage performs work under a written contract with the certificate holder that requires this waiver.

Name of Person	Name of Organization
	Blanket Waiver of Subrogation

Date: 12/11/2024 Countersigned by Randy L. Akin

Agency Number: 2 – 4
Agency Name: USI Insurance Services LLC

(505) 345-3477 ■ 1-800-640-3369 ■ FAX (505) 344-7245
5931 OFFICE BOULEVARD, NE SUITE 3 ALBUQUERQUE, NM 87109 ■ P.O. BOX 91330 ALBUQUERQUE, NM 87199-1330
www.builderstrust.com

CITY OF SANTA FE

Date: July 24, 2025

To: Governing Body

From: Tim Farrell, Facilities Division Property Development Manager Timothy Farrell

Via: Regina Wheeler, Public Works Department Director Regina Wheeler (Jul 28, 2025 10:39:34 MDT)
Sam Burnett, Facilities Division Director JOHN BURNETT (Jul 27, 2025 15:08:14 MDT)

Subject: Midtown Remediation and Demolition

Vendor Name: Keers Facility Services, LLC

Vendor Number: 7887

ACTION:
Request for Approval of Construction Contract with Keers Facility Services in the Total Amount of $938,322 Including NMGRT for Remediation and Demolition Services at Midtown Required to Implement the Approved Master Plan. (Tim Farrell, Facilities Division Property Development Manager; tgfarrell@santafenm.gov)

CONTRACT NUMBER:
The FY25 Munis Contract Number is 3250629.

BACKGROUND AND SUMMARY:
The Facilities Division issued an Invitation to Bid for Phase 1 Remediation and Demolition services for selected buildings at Midtown. The procurement scope was developed based on Section 3.7 of the Midtown Master Plan Phase 1 Urban Design Vision which identifies areas for Phase 1 redevelopment which requires demolition of Luke Hall, LaSalle Hall, Kennedy Hall, and Apartments A/B & C/D. Keers Remediation Inc. was the sole qualified respondent.

The Contractor will provide remediation and demolition services of LaSalle Hall, Apartments A/B, and Apartments C/D. All of these buildings are decommissioned, present an active nuisance and risk of incident, and are in the way of new infrastructure. Work is planned to be completed in the Fall of 2025. Funding is available from legislative appropriation grants.

After this Phase 1 demolition of La Salle Hall and the Apartments, a Phase 2 demolition contract will be developed to demolish additional buildings which could include Luke, Kennedy, King, Alexis, and or Alumni Halls.

ATTACHMENTS:
Construction Contract
Proposal
Certificate of Insurance
Horizons Service List
CPO Determination

PRIOR APPROVALS AND SUPPORTING INFORMATION:

FUNDING SOURCE:
Fund Name/Number: Legislative Appropriation
Munis Org Name/Number: MetroRedev/2120128
Munis Object Name/Number: WIP Constr/572970

Budget Officer/Designee: Andy Hopkins Date: 08/21/2025
Budget Officer Comment/Exceptions: _____

PROCUREMENT METHOD:
The procurement method for this contract is the Invitation to Bid No. 25111, dated April 21, 2025.

Chief Procurement Officer (CPO)/Designee: _____ Date: 08/22/2025
CPO Comment/Exceptions: _____

ASSOCIATED APPROVALS:
IT Components included? ☐ Yes | ☒ No
Approval: _____ Date: _____
Comment/Exceptions: _____

Treasury/Point of Sale Components included? ☐ Yes | ☒ No
Approval: _____ Title: _____ Date: _____
Comment/Exceptions: _____

Vehicles included? ☐ Yes | ☒ No
Approval: _____ Date: _____
Comment/Exceptions: _____

Construction to City Facilities, Furniture, and/or Fixtures, included? ☒ Yes | ☐ No
Approval: _____ Date: _____
JOHN BURNETT (Jul 27, 2025 15:08:14 MDT)
Comment/Exceptions: _____

Capital Asset or Project? ☐ Yes | ☒ No
Project Ledger No.: _____
Approval: _____ Date: _____
Comment/Exceptions: _____

Is this a Grant Funded Purchase? ☐ Yes | ☒ No
Approval: _____ Title: _____ Date: _____
Comment/Exceptions: _____

Item #: _____
Munis Contract #: 3250629
ITB #: 25111

CITY OF SANTA FE

CONSTRUCTION CONTRACT

THIS CONTRACT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **Keers Facility Services, LLC**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

RECITALS

WHEREAS, the City, through its Governing Body, is authorized to enter into a construction Contract for the project; and

WHEREAS, the City has procured this Contract according to the established State and Local Purchasing procedures for contracts of the type and amount; and

The City and the Contractor hereby agree as follows:

1. Scope of Work

The Contractor will provide remediation and demolition services for multiple buildings, structures and related facilities located at the City's Midtown Campus at 1600 St Michaels Drive, Santa Fe, NM 87501. The Contract will cover the initial projects listed below and any additional on-call services as required.

Initial Buildings will be:

- LaSalle Hall Dormitory
- Student Apartments A and adjacent laundry facility
- Student Apartments B and adjacent laundry facility

The City anticipates a ninety (90) day period in which each remediation and demolition project should be completed after a Notice to Proceed is issued. Liquidated damages of $100.00 per day will be assessed for failure to complete all work within 90 days.

The Contractor will perform or provide all services related to the project and obtain all required permits. Contractor represents that all tasks will be performed in accordance with professional standards and further represents that the advice and consultation provided shall be within its authority and capacity as a professional. Contractor will comply with the regulations, laws, ordinances and requirements of all governmental impact applicable to assigned project.

Environmental Reports and Remediation

The City of Santa Fe has obtained environmental reports prepared by a New Mexico licensed

Environmental Consultant Company and the reports will be provided by the City to the Contractor and Contractor will perform remediation as set forth in the reports and under the conditions below.

Remediation

The work is to include all preparation and work needed to properly remove and dispose of identified hazardous, contaminated or environmentally hazardous materials located in and around the buildings at the Midtown Campus. For Asbestos abatement, Contractor will provide employees, subcontractors, or agents to perform this work in accordance with all Environmental Protection Agency (EPA) regulations as set forth in the National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines. For lead paint and hazardous material abatement, Contactor will provide employees, subcontractors, or agents to perform this work in accordance with all EPA regulations as set forth in Title IV of the Toxic Substances Control Act (TSCA) as well as other authorities in the Hazard Reduction Act of 1992. The Contractor/subcontractor will assume responsibility for all EPA fines including those attributable to the Using Agency if the Contactor/subcontractor is found to be illegally, intentionally, or accidently releasing any regulated asbestos or hazardous material. Prior to the removal of any asbestos of hazardous material the Contractor/subcontractor shall provide a written statement to the City certifying that they will abide by these EPA regulations and guidelines.

SPECIFICATIONS

The structures will be remediated as specified in the environmental reports and then demolished., Contractor shall make the lot(s) ready for new construction upon completion prior to invoicing.

The contractor shall be responsible for the following:

A. Compliance with all applicable laws, ordinances and codes of the federal, state and local governments and shall commit no trespass on any public or private property in performing any of the work as outlined. Contractor shall obtain all licenses, certifications, and inspections required City, County, State, and/or Federal law, and provide copies of all permits, certificates, and other proofs of compliance prior to a Notice to Proceed being issued by the Director of the City's Public Works Department, Facilities Division, or a person the Director designates in writing ("Facilities Director").

B. Locating and protecting services, curbs, gutters, sidewalks, streets, and roadways and notifing utility providers to remove their respective service if required (e.g., PNM, FM Mechanical for Gas, City of Santa Fe Water Dept.). The Contractor shall terminate and cap off all existing utilities at the street right of way, subject to approval by City code enforcement inspectors.

C. Completely demolish and remove the entire structure including all related and unrelated, attached and detached, surface and subsurface structural systems, materials, fixtures and utility systems, all pavement, concrete slabs, piers, foundations, poles, posts and all other improvements including all related and unrelated as described, all stumps, specified trees, shrubs, and vegetation.

D. Removing the cement materials and ensuring proper recycling at a recycling facility such as Mountainair Concrete, located in Mountainair, NM.

D. Removing overgrown brush, dead trees and/or fallen limbs, any trees within fifteen feet of the structures as well as any saplings on the lot(s). Contractor shall thoroughly clean the premises and remove project waste materials, rubbish, tools, demolition equipment,

machinery, surplus materials, vegetation, downed trees, rubble, debris, etc. from the property to the satisfaction of the Facilities Director and properly dispose of or recycle removed materials at landfills, transfer stations, and recycling centers approved by the Facilities Director for each respective type of waste in compliance with local codes and laws. All dump fees and receipts for this demolition project will be submitted to the City along with invoices.

E. Providing dust control.

F. Uniformally grading the lot(s) including backfilling with material approved in writing by the Facilities Director in all excavated areas and grading to the elevation necessary to provide positive surface drainage to all areas of the site. Erosion control will be used on the lot(s) where needed to provide proper surface drainage away from the surrounding properties, leaving all surfaces clear, clean and uniformly smooth.

H. Disking, raking, seeding with native grass, and covering all seed with straw.

J. Immediately repairing damage to adjacent structures, sidewalks and streetscape , at the Contractor's expense.

K. N.

Additional Specifications

B. A. Reuse of Materials – No materials from the project are proposed for reuse by the City.

C. Salvage of Materials – The Contractor shall take ownership of all scrap/salvage materials.

D.

E. Responsibility for Temporary Facilities – The Contractor will be responsible for all temporary facilities necessary to successfully complete the project – to include, but not limited to, portable restrooms, site fencing, site security, water, etc. Contractor must also obtain water from a fire hydrant with the rental of a hydrant meter from the City of Santa Fe.

F. Properties Adjacent to the Premises – Caution and care must be exercised to prevent damage to adjacent structures, sidewalks and streetscape. Contractor shall apply to the Facilities Director for all street closures at least 48 hours in advance.

The City reserves the right to provide an escort and/or full-time supervision of the Contractor and its employees during any or all phases of the project, should the City feel it is in its best interest to provide this extraordinary oversight and assistance.

The City reserves the right to escort any or all employees of the Contractor off its property, for any inappropriate conduct or actions that jeopardize the safety, security or wellbeing of the facility or any individual. Inappropriate behavior by the Contractor, its employees or subcontractors may be grounds for immediate termination of the Contract. Any employee of the Contractor found in violation of any law, while on the City's property, may be prosecuted.

Materials Storage

A. Materials or equipment for any remediation will be delivered to the project in the manufacturer's original sealed, labeled containers and will be adequately protected against moisture, dust, tampering or damage from improper handling or storage. Materials shall not be delivered to the site before they are needed.

B. Storage of materials and construction equipment shall be coordinated with the City.

Task Order
Contractor will accept all Task Orders from the Facilities Director. Contractor will accept Task Orders from other City of Santa Fe staff only with written approval of the scope of work from the Facilities Division Director.

The Contractor will be required to provide On-Call Remediation and Demolition for any number of the activities listed under Scope of Work upon the request of the City's Facilities Director or Director of Public Works. When a service is identified, the City will provide, at a minimum, a detailed scope of work and/or drawings defining work required. Each project will be individually described in a "Task Order". The Task Order will describe the scope of work, the duration of the project with the date of Substantial Completion and if there are liquidated damages for not meeting the date of substantial completion. The date of Substantial Completion is the date when the space can be occupied or the work in the applicable Task Order is complete and the premises where remediation occurred is turned over to the City Final completion is the date when the project is totally complete, the punch list work complete and the Facilities Director has approved the Contractor's final pay application/invoice. The terms and conditions of the Contractor's Contract will apply to all Task Orders.

Upon receiving the City's Task Order, the Contractor will promptly visit the site and compare the scope of work and/or drawings to the existing conditions and provide a written quote for all services called for in addition to the requirements set forth in the Contract. The Contractor will be required to provide a written quote based upon the rates submitted in the Bid Form and a cost summary to include the work to be performed and the amount of time required for the completion of the project and submit to the City at no cost to the City. Project schedules, negotiated price, and completion dates will be determined on a project-by-project basis and be dependent upon the urgency of that task. Failure to respond to the City's requests may be grounds for termination of this Contract. The Contractor will not commence work until the City's Facilities Director or Director of Public Works provides a Notice to Proceed.

OTHER CONSTRUCTION RELATED TERMS AND CONDITIONS

Mediation
Any controversy or claim arising between the parties shall be settled by mediation if the parties cannot reach a mutually agreeable solution. The parties will endeavor to resolve their disagreement by mediation which, unless the parties mutually agree otherwise, will be in accordance with the procedures of the New Mexico Public Works Mediation Act (NMSA 1978, Section 13-4C-1 et seq.) except that before any party may select a mediator, it must confer in good faith with the other party concerning the selection of a mutually acceptable mediator. Mediation will proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of **sixty (60) days** from the date of notice of mediation session, unless stayed for a longer period by agreement of the parties or court order.

Inspection of Work
If a Task Order is issued for demolition services, the following terms will apply when applicable:

A. Services include services performed, workmanship, and material furnished or utilized in the performance of services.

B. The Contractor will provide and maintain an inspection system acceptable to the City covering the services under the Task Order. Complete records of all inspection work performed by the Contractor will be maintained and made available to the City or other party to the Task Order during the term of performance of the Work and for as long thereafter as required.

C. During and after the completion of demolition, the City has the right to inspect and test for proper and completed Remediation (as set forth above in "Remediation"). The City shall perform inspections and tests in a manner that will not unduly delay or interfere with Contractor's performance.

D. If the City performs Environmental inspections or tests on the premises, the Contractor will furnish, and will require subcontractors to furnish, at no increase in Task Order price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.

E. If any part of the services does not conform with the requirements, the City may require the Contractor to re-perform the services in conformity with the requirements at no increase in Task Order price. When the defects in services cannot be corrected by re-performance, the City may:
   1. require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements; and
   2. reduce the Task Order price to reflect the reduced value of the services performed.

F. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements, the City may:
   1. Perform the services and charge to the Contractor any cost incurred by the City that is directly related to the performance of such service; or
   2. cancel the Task Order for default.

THE PROVISIONS OF THIS ARTICLE ARE NOT EXCLUSIVE AND DO NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THE TASK ORDER/CONTRACT.

Suspension, Delay or Interruption of Work

The City may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the Work in whole or in part for such period as the City may determine. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized.

If at any time there is a delay in the critical path of a Task Order due to postponement by the Contractor or a subcontractor, or an increase in the price due to the Contractor's failure to perform work according to the schedule approved in the Task Order and Notice to Proceed, such delay and any Contractor costs resulting from it shall not serve as the basis for the extension of the Time for Completion or Agreement Completion Date or for an increase in the Contract Price.

Permits and Fees

A. IF APPLICABLE — The Contractor will secure and pay for any building permit and other permits and governmental fees, licenses and inspections, and Certificate of Occupancy necessary for proper execution and completion of the Work (permits as set forth in "Additional Specifications" above). Changes or modifications to the Work shall include all requirements of this paragraph.

B. The Contractor will comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to performance of the Work.

C. Any Certificates of Inspection, use and occupancy required under law will be delivered to the City upon completion of the Work in sufficient time for occupation of the facility in accordance with the approved schedule in the Task Order. Contractor will deliver a photocopy of the Building Permit to the City employee authorizing the Task Order and any City-contracted engineer or project manager as soon as it is obtained.

Schedule, Progress Meetings and Reports

A. The Contractor, promptly upon receiving a Notice to Proceed issued by the Facilities Director or Director of Public Works and before the first payment application, shall prepare and submit for the City's information a Critical Path Demolition Schedule for the Task Order that indicates the intended start and completion of the various demolition activities, which shall be implemented and adhered to by the Contractor, Subcontractors, material suppliers and equipment suppliers. At a minimum, the schedule will be a GANTT type schedule and will not exceed time limits allowed by the Task Order or Notice to Proceed with no fewer work breakdown events than line items of the Schedule of Values. An updated schedule shall be presented with any change orders, and an updated schedule shall be presented if requested by the City's Project Manager.

B. The Contractor will perform the Work in general accordance with the most recent schedule submitted to the City.

C. Progress meetings will be scheduled on a regular basis. The purpose will be to review the upcoming activities, any open issues and current progress. The Contractor will keep any meeting minutes as needed. Progress schedules will be updated regularly. A three-week look-ahead schedule should be presented at every project meeting.

D. The Contractor will prepare a daily report each day the Contractor, subcontractors or any other entity performs work on the project. The daily reports will be maintained at the site and be well organized. The City may request copies at any time. The reports shall include as appropriate:

1. Report date and who prepared the report;
2. Weather conditions – low temp, visibility, humidity, wind, wind direction, cloud conditions, precipitation amount, other notes;
3. Companies present by name and their number of workers, work location, total man hours that day for each company;
4. Equipment – type, source, units of work done, location of work, hour meter reading;
5. Material brought to site – description, units, quantity, quality, location, time;
6. Visitors to site – name, company, time;
7. safety concerns – company, contact, noticed by, work activity, safety issue, requirement, outcome; and
8. Quality assurance and control – company, description of issue, specification section, issued by, etc.

Close-out Requirements
The Contractor will submit to the City a separate and detailed Closeout Schedule indicating the date of Final Completion and all work to be completed before Final Completion including Close-Out requirements. The punch list of incomplete or inadequate demolition work will also be submitted when the work is substantially complete. Failure to include any item on the punch list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents.

Before final completion can be achieved, all Work must be complete and accepted including the following as applicable:
A. Work associated with Punch List(s);
B. All Storm Water Pollution Prevention Permits (SWPPP) have been updated or closed.

Warranty
The Contractor will warrant its work for materials and for workmanship furnished and performed under the Contract for a period of one (1) year minimum from the date of Substantial Completion. The Contractor will warrant its work for repairs or restoration of existing systems, appliances and work for ninety (90) days from the date of Substantial Completion.

This Contract is without assurance of quantity or dollar amount of work to be performed.

Minimum Requirements of Qualifications
Contractor is required to have a valid Contractor's license issued by the Construction Industries Division (CID) and be classified to perform the type of work to be undertaken, as set forth in NMSA 1978, Section 60-13-12.

All personnel working on the project and providing services under a Task Order shall be experienced and certified in all areas related to this work and required by the Contract. Journeymen level personnel shall have the ability and necessary skills to diagnose problems and to make the appropriate decisions needed to provide these services.

Price Schedule
Hourly rates are required for the three (3) levels of personnel:
A. **Superintendent**: a person with supervisory experience who maintains control of the work and work site. This person may or may not actually perform work on the project.
B. **Journeyman or Experienced Worker**: a person licensed by the State for work required and being performed or a person with many years of experience with a high rate of pay.
C. **Laborer**: a person with minimal experience, performing minor forms of labor.

Materials and Parts
Contractor will submit billings, based on actual Contractor costs for materials, less any applicable percentage for discounts. If there is no discount to be offered, enter zero. Contractor will provide verification that the materials purchased were used for the project. Any unused, billed for materials shall be turned over to the City.

The City of Santa Fe requires that all materials will be new and of the highest quality and at the best attainable price available for the type of work being performed.

No used materials will be used on the project. Recycled materials specifically prepared for reuse to meet "LEED" certification may be permitted with written approval of the Facilities Director.

The Contractor shall furnish all tools, equipment, materials, supplies, and manufactured articles and furnish all labor, transportation, and services, including fuel, power, water, and essential communications, and perform all work or other operations required for the fulfillment of the Contract in strict accordance with the contract documents for each Task Order.

The Contractor hereby acknowledges and assures the City that it has sufficient experience in constructing this type of work and therefore is familiar with all combinations of materials, labor, and equipment that are required for the successful completion of this project.

For each Task Order, the Contractor shall complete all work, and all work, materials, and services not expressly indicated or called for in the contract documents which may be necessary for the complete, safe and proper construction of the work in good faith shall be provided by the awarded Contractor at no increase in cost to the City:

1. Contractor will be responsible for adherence to the Contract documents, specifications and approved directives and change orders.
2. Contractor will be responsible for City and State CID requirements and permit.
3. Contractor will be responsible for verifications of all existing conditions, measurements and dimensions.
4. Contractor will be responsible for all permits, fees, and State and/or City inspections associated with the construction.

The City of Santa Fe is an Equal Opportunity Employer and all qualified applicants will receive consideration for employment without regard to ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition or citizenship status (though citizenship status may impact hiring and retention under federal law). The Contractor will be required to conform to state, federal, and local Equal Employment Opportunity laws and regulations.

2. <u>Compensation</u>

A. The City shall pay to the Contractor in full payment for services satisfactorily performed at the rate of eight hundred sixty-seven thousand three hundred and eleven dollars ($867,311.00), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Contract shall be paid by the City to the Contractor, as follows:

The Unit Bid Contract Total is shown in Exhibit A "Pricing" and determined as follows:

Base Bid	$ 867,311.00
Gross Receipts Tax (8.1875%)	$ 71,011.09
Base Bid plus NMGRT	$ 938,322.09

The total amount payable to the Contractor under this Contract, including gross receipts tax and expenses, shall not exceed nine hundred thirty-eight thousand three hundred twenty-two dollars and nine cents ($938,322.09). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Contract shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Contract reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Contract being amended in writing prior to those services in excess of the total compensation amount being provided.

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the Facilities Director. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within twenty-one days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked.

D. If the City fails to pay the Contractor within twenty-one days after receipt of an undisputed request for payment, the City shall pay interest to the Contractor beginning on the twenty-second day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until the payment is issued. If the City receives an improperly completed invoice, the City shall notify the sender of the invoice within seven days of receipt in what way the invoice is improperly completed, and the owner has no further duty to pay on the improperly completed invoice until it is resubmitted as complete.

E. **Notice of Extended Payment Provision for Grant Funded Contracts**. This contract allows the City to make payment within 45 days after submission of an undisputed request for payment for contracts funded by grant money consistent with NMSA 1978, sec. 57-28-5(B).

3. Term

THIS CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This contract shall terminate **6 (six) months from the date of final approval signature**.

4. Termination

A. Grounds. The City may terminate this Contract for convenience or cause. For contracts within their authority, the City Manager or their designee is authorized to provide the notice of termination, otherwise such notice of termination shall be provided by the Mayor or their designee as authorized by the Governing Body. The Contractor may only terminate this Contract based upon the City's uncured, material breach of this Contract.

B. Notice; City Opportunity to Cure.

1. Except as otherwise provided in Paragraphs 7.A and 17, the City shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Contractor shall give City written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the City's material breaches of this Contract upon which the termination is based and (ii) state what the City must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the City does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the City does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3. Notwithstanding the foregoing, this Contract may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the City; (ii) if, during the term of this Contract, the Contractor is suspended or debarred by the City; or (iii) the Contract is terminated pursuant to Paragraph 5, "Appropriations," of this Contract.

C. Liability. Except as otherwise expressly allowed or provided under this Contract, the City's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Contract. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS CONTRACT.*

5. Appropriations

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the Governing Body for the performance of this Contract. If sufficient appropriations and authorization are not made by the Governing Body, this Contract shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Contract to unilaterally reduce funding, the Contractor shall have the option to terminate the Contract or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor

The Contractor and its agents and employees are independent contractors performing construction services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Contract. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Construction Contract Performance and Payment Bond

A. When a task order is approved in excess of twenty-five thousand dollars ($25,000), the following bonds or security shall be delivered to the City and shall become binding on the parties upon

the execution of the contract. If the Contractor fails to deliver the required performance and payment bonds, the Contractor's bid shall be rejected, its bid security shall be enforced to the extent of actual damages. Award of the contract shall be made pursuant to the Procurement Code in the following manner:

1. a performance bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the contract; and

2. a payment bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the contract, for the protection of all persons supplying labor and material to the Contractor or its subcontractors for the performance of the work provided for in the contract.

B. A subcontractor shall provide a performance and payment bond on a public works building project if the subcontractor's contract for work to be performed on a project is one hundred twenty-five thousand dollars ($125,000) or more.

8. Assignment

The Contractor shall not assign or transfer any interest in this Contract or assign any claims for money due or to become due under this Contract without the prior written approval of the City.

9. Subcontracting

The Contractor shall not subcontract any portion of the services to be performed under this Contract without the prior written approval of the Facilities Director. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Contract, nor shall any subcontract obligate direct payment from the City.

10. Release

Final payment of the amounts due under this Contract shall operate as a release of the City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Contract.

11. Confidentiality

Any confidential information provided to or developed by the Contractor in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

12. Product of Service -- Copyright

All materials developed or acquired by the Contractor under this Contract shall become the property of the City and shall be delivered to the City no later than the termination date of this Contract. Nothing developed or produced, in whole or in part, by the Contractor under this Contract shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

13. Conflict of Interest; Governmental Conduct Act

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Contract, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Contract.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Contract, will continue to comply with, and that this Contract complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the City relied when this Contract was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Contract, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Contract or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Contract or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Contract to the contrary, the City may immediately terminate the Contract.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

14. Amendment

A. This Contract shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Contract to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Contract, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

15. Change Orders

A. Changes. The Contractor may only make changes or revisions within the Scope of Work as defined by Article 1 and/or Exhibit 1 after receipt of written approval by the City Manager or his/her designee. Such change may only be made to Tasks or Sub-Task as defined in the Scope of Work. Under no circumstance shall such change affect the:

1) Deliverable requirements, as outlined in the Scope of Work;
2) Due date of any Deliverable, as outlined in the Scope of Work;
3) Compensation of any Deliverable, as outlined in the Scope of Work;
4) Contract compensation, as outlined in Article 2; or
5) Contract termination, as outlined in Article 4.

B. Change Request Process. In the event that circumstances warrant a change to accomplish the Scope of Work as described above, a Change Request shall be submitted that meets the following criteria:

1) The Project Manager shall draft a written Change Request for review and approval by the City Manager to include:
(a) the name of the person requesting the change;

(b) a summary of the required change;
(c) the start date for the change;
(d) the reason and necessity for change;
(e) the elements to be altered; and
(f) the impact of the change.

2. The City Manager shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the City Manager are final. Change Requests, once approved, become a part of the Contract, and become binding as a part of the original Contract.

16. Merger

This Contract incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written contract.

All terms and conditions of **ITB #25111** and the Contractor's response to such document(s) are incorporated herein by reference and are included in the order of precedence.

No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract.

17. Penalties for Violation of Law

NMSA 1978, sections 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

18. Equal Opportunity Compliance

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Contract. If Contractor is found not to be in compliance with these requirements during the life of this Contract, Contractor agrees to take appropriate steps to correct these deficiencies.

19. Applicable Law

The laws of the State of New Mexico shall govern this Contract, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, section 38-3-2. By execution of this Contract, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Contract.

20. Workers' Compensation

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Contract may be terminated by the City.

21. Other Insurance

If the services contemplated under this Contract will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Contract, the following insurance coverage(s), naming the City as additional insured.

A. **Commercial General Liability** insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

B. **Business Automobile Liability** insurance for all owned, non-owned automobiles, with a combined single limit not less than $1,000,000 per accident.

C. **Broader Coverage and Limits**. The insurance requirements under this Contract shall be the greater of (1) the minimum coverage and limits specified in this Contract, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Contract are sufficient to cover the obligations of Contractor hereunder.

D. Contractor shall maintain the above insurance for the term of this Contract and name the City as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

22. Records and Financial Audit

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Contract's term and effect and retain them for a period of three (3) years from the date of final payment under this Contract. The records shall be subject to inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the City to recover excessive or illegal payments

23. Indemnification

The Contractor shall indemnify, hold harmless, or insure the City, including its officers, employees or agents, against liability, claims, damages, losses or expenses, including attorney fees for counsel of the City's choosing, only to the extent that the liability, damages, losses or costs are caused by, or arise out of, the acts or omissions of the indemnitor or its officers, employees, agents, or contractors. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Contract is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) business days after it receives notice thereof, notify the City.

24. New Mexico Tort Claims Act

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

25. Invalid Term or Condition

If any term or condition of this Contract shall be held invalid or unenforceable, the remainder of this Contract shall not be affected and shall be valid and enforceable.

26. Enforcement of Contract

A party's failure to require strict performance of any provision of this Contract shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Contract shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

27. Notices

Any notice required to be given to either party by this Contract shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City:
Tim Farrell
Property Development Manager
City of Santa Fe - Facilities Division
2561 Siringo Road, Building E
Santa Fe, NM 87505
tgfarrell@santafenm.gov

To the Contractor:
Chris Lara
Service Coordinator
Keers Facility Services LLC
5904 Florence Avenue NE
Albuquerque, NM 87113
clara@keers.com

28. Authority

If Contractor is other than a natural person, the individual(s) signing this Contract on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

29. Progress Payments

Based upon Application for Payment submitted to the City by the Contractor and Certificates for Payment issued by the City, the City shall make progress payments on account of the Contract sum to the Contractor as provided in the Contract documents for the period ending the last day of the month as follows:

Not later than twenty-one (21) days following the end of the period covered by the Application for Payment, one hundred percent (100%) of the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the work and one hundred percent (100%) of the portion of the Contract sum properly allocable to materials and equipment suitably stored at the site or some other location agreed upon in writing for the period covered by the Application for Payment, less the aggregate of previous payments made by the City; and upon substantial completion of the entire work, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract sum, less such amounts as the City shall determine for all incomplete work and unsettled claims as provided in the Contract documents.

30. Final Payment

Final payment, constituting the entire unpaid balance of the Contract sum, unless it is a disputed payment, shall be paid by the City to the Contractor within twenty-one (21) calendar days, after all deficiencies to the Contract document that were noted during the Substantial Completion Inspection and listed on the attachment to the Certificate of Substantial Completion have been corrected, and provided the Contract has been fully performed and a final Certificate for Payment has been issued by the City. In addition, the Contractor shall provide to the City a certified statement of Release of Lien (AIA Document G706A or approved form), Consent of Surety, Warranty from Prime Contractor, Warranties from Suppliers and Manufacturers, training sessions, equipment/operating manuals, and as-built drawings.

31. Schedule

The Contractor shall, within five (5) days after the effective date of Notice to Proceed, prepare and submit a progress schedule covering project operations for the 30-day Contract period. This progress schedule shall be of the type generally referred to as a Critical Path Method (CPM), Critical Path Schedule (CPS), and Critical Path Analysis (CPA), and other similar designations. The CPM shall be used to control the timing and sequences of the project. All work shall be done in accordance with the CPM Planning and Scheduling. A written statement of explanation shall be submitted with the progress schedule. All costs incurred by the Contractor to implement the CPM shall be borne by the Contractor and are part of their Contract.

32. General and Special Provisions

A. Terms used in this Contract which are defined in the Conditions of the Contract shall have the meanings designated in those Conditions.

B. An enumeration of the Contractor's General Comprehensive Liability Insurance requirements appears in the General Conditions of the Contract for construction. Insurance requirements are also described in the Instructions to the Bidder section of the Project Manual. Contractor shall maintain adequate insurance in at least the maximum amounts, which the City could be liable under the New Mexico Tort Claims Act and shall provide proof of such insurance coverage to the City. It is the sole responsibility of the Contractor to comply with the law.

C. This Contract shall not become effective until:

1. approved by the Governing Body; and
2. signed by all parties required to sign this Contract.

D. The Contractor shall maintain detailed time records which indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration and the State Auditor. The City shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the City to recover excessive illegal payments.

E. The Contractor warrants that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Contract.

F. The Contractor hereby warrants that the Contractor complies with the Americans with Disabilities Act, 29 CFR 1630.

G. Gender, Singular/Plural. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

H. Captions and Section Headings. The captions and section headings contained in this Contract are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this Contract.

I. Certificates and Documents Incorporated. All certificates and documentation required by the provisions of the Contract shall be attached to this Contract at the time of execution and are hereby incorporated by reference as though set forth in full in this Contract to the extent they are consistent with its conditions and terms.

J. Separability. If any clause or provision of this Contract is illegal, invalid or unenforceable under present or future laws effective during the term of this Contract, then and in that event, it is the intention of the parties hereto that the remainder of this Contract shall not be affected thereby.

K. Words and Phrases. Words, phrases, and abbreviations, which have well-known technical or trade meanings used in the Contract documents shall be used according to such recognized meaning. In the event of a conflict, the more stringent meaning shall govern.

L. Relationship of Contract Documents. The Contract Documents are complementary, and any requirement of one Contract Document shall be as binding as if required by all.

M. Pursuant to NMSA 1978, section 13-1-191, reference is hereby made to the Criminal Laws of New Mexico (including NMSA 1978, sections 30-14-1, 30-24-2, and 30-41-1 through 30-41-3) which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code (NMSA 1978, sections 13-1-28 through 13-1-199) imposes civil and criminal penalties for its violation.

N. Pursuant to NMSA 1978, section 13-4-11. Reference is hereby made to the Minimum Wage on Public Works; weekly payments; posting wage scale; withholding funds.

IN WITNESS WHEREOF, the Parties have executed this Contract as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

_____
ALAN WEBBER, CITY MAYOR
DATE: _____

CONTRACTOR:
Keers Facilities Services LLC

Cameron Kilcup (Jun 27, 2025 13:26 MDT)

CAMERON KILCUP, MANAGING MEMBER
DATE: 06/27/2025

NMBTIN #: 03-383880-00-1

ATTEST:

_____
ANDREA SALAZAR, CITY CLERK

CITY ATTORNEY'S OFFICE:

Kevin L. Nault
Kevin L. Nault (Jun 27, 2025 13:55 MDT)

ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster

EMILY OSTER, FINANCE DIRECTOR

Keers Facility Services Construction Contract

Final Audit Report 2025-06-27

Created:	2025-06-27
By:	MATTHEW HARDING (mrharding@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAhXPY2RpPIX6SvlrPVJtAc4ZVI4dq8b8J

"Keers Facility Services Construction Contract" History

Document created by MATTHEW HARDING (mrharding@santafenm.gov)
2025-06-27 - 4:37:59 PM GMT- IP address: 63.232.20.2

Document emailed to camkilcup@keers.com for signature
2025-06-27 - 4:39:54 PM GMT

Email viewed by camkilcup@keers.com
2025-06-27 - 4:53:51 PM GMT- IP address: 96.72.10.145

Signer camkilcup@keers.com entered name at signing as Cameron Kilcup
2025-06-27 - 7:26:43 PM GMT- IP address: 73.98.3.113

Document e-signed by Cameron Kilcup (camkilcup@keers.com)
Signature Date: 2025-06-27 - 7:26:45 PM GMT - Time Source: server- IP address: 73.98.3.113

Document emailed to klnault@santafenm.gov for signature
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Email viewed by klnault@santafenm.gov
2025-06-27 - 7:54:35 PM GMT- IP address: 172.59.1.12

Signer klnault@santafenm.gov entered name at signing as Kevin L. Nault
2025-06-27 - 7:55:15 PM GMT- IP address: 172.59.1.12

Document e-signed by Kevin L. Nault (klnault@santafenm.gov)
Signature Date: 2025-06-27 - 7:55:17 PM GMT - Time Source: server- IP address: 172.59.1.12

Agreement completed.
2025-06-27 - 7:55:17 PM GMT

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Proposal/Service Agreement

Project Title: ITB 25111 Midtown Demolition
Proposal Number: 25-103-Revised Proposal 04/19/25
Date: April 19, 2025

EXHIBIT A

Submitted to:	Mr. Timothy Farrell	Project Name:	ITB 25111 MIDTOWN DEMOLITION
Client:	COSF Facilities Division	Project Location:	SANTA FE, NM 87501
Mailing Address:	2651 Siringo Rd. Bldg. E	Telephone/Fax:	1-505-955-5935
City/State/Zip:	Santa Fe, NM 87505	Email Address:	TGFARRELL@SANTAFENM.GOV

SCOPE OF WORK

The proposed work consists of the following:

Type of Services	☑ Building Demolition LaSalle Hall, Student Apartments A, B & Laundry Facilities ☑ Other: Building Demo & Waste Disposal Haul Off
Scope of Work	• ***Student Apartments A, B and Laundry Facilities, Sandia, Jemez, Sangre de Cristo and Ortiz apartment buildings.*** • ***Demolition and hauling per walk-thru of existing 2 story buildings (Sandia, Jemez, Sangre de Cristo and Ortiz) in their entirety (approximately 34,640 sf), including roofing system, interior/exterior frame wall partitions, furniture,*** • ***concrete slab, concrete footings, asphalt (approximately 24,440 sf), trash encloser, concrete sidewalk and concrete curb and gutter (approx. 702lf.*** • ***LaSalle Building:*** • ***Demolition and hauling per walk-thru of existing 2 story building in its entirety (approximately 31,515 sf) including roofing system, interior/exterior wall partitions, 2nd level concrete slab, 1st level concrete slab, concrete footings, furniture, countertops, windows and doors.*** • ***Seeding of all three work sites Is included in this proposal.*** • ***The student apartments A & B still need the asbestos survey performed.***
Project Locations	Midtown Site located at 1600 Saint Michaels Drive., Santa fe, NM.
Specific Project Exclusions	***Asbestos containing materials less than 1% by point counting/lead based paint, utility disconnections, capping of utilities, owner salvage items in LaSalle Hall. excavation for utilities, off site work, traffic control, underground utility work, shoring/bracing, unearth debris removal, dewatering, water pumping, geo textile fabric, base coarse, compaction testing, rock excavation, backfill, surveying, removal of pier soils, work not specified in this proposal, bond, unforeseen conditions. Asbestos abatement in the student apartments A & B.***
Proposed Time Frame	Approximately up to 90 working days Monday through Friday for the building demolition and debris hauling.
Treatment/ Storage/Disposal Facility	A landfill that accepts construction debris in Santa Fe, NM.
Other Details	The City of Santa Fe, to move items out of LaSalle Hall before the building is demolished. All items in student apartments will be salvaged or demolished by the demolition contractor.

TECHNICAL PROCEDURES

In completing the scope of work, all technical procedures employed will be in accordance with the Keers' proprietary QualPRO® Quality system. Our 193-page QualPRO manual consists of work practice procedures, checklists, and forms that our employees and supervisors use to provide you with a quality, end result in compliance with applicable EPA, OSHA, USHUD, NMED, TDH, and DOT governmental regulations.

WASTE MANAGEMENT

Unless otherwise indicated all asbestos-containing waste will be permanently disposed of at the Special Waste Disposal's landfill (EPA permit No. SWM-013035(SP). Hydrocarbon contaminated soils/water will be treated at the Special Waste Disposal's Hydrocarbon Landfarm Facility (NMED permit No. DP-1012). Both facilities are located in Torrance County, New Mexico.

LIABILITY PROTECTION

This proposal includes $1,000,000 of hazardous substances specific general liability, auto and workmen compensation insurances, written with A-Rated insurance carriers.

This proposal includes use of the Keers proprietary project documentation system **ProDOC™**. This system consists of: regulatory notifications, daily logs, visual and final inspection reports, air monitoring reports, manometer logs, final inspection report, and waste manifests. **ProDOC™** documents important regulatory/liability information for the protection of the facility owner.

REGULATORY COMPLIANCE

This project is subject to one or more of the following Federal governmental regulation or equivalent delegated State regulation: OSHA (29 CFR 1910 and 1926), EPA (40 CFR 260-299, 40 CFR 763, Subparts E and G), National Emission Standards for Hazardous Air Pollutants (NESHAPS 40 CFR 61, Subpart M), and DOT (49 CFR 100-177) and 24 CFR Part 35. This Proposal/Agreement is in compliance with the applicable regulatory sections.

PROJECT QUALITY/SAFETY ASSURANCE

This project proposal includes our 107-point QA/QC (health, safety, quality and regulatory Control) job site inspection program.

IMPORTANT NOTICE REGARDING REMOVAL OF ASBESTOS FLOORING

Our services are intended to remove asbestos-containing materials only. If flooring products are re-installed, it is the installer's responsibility to prepare the floor for reinstallation according to manufacture's recommendations and requirements. Keers will not be responsible for floor preparation.

IMPORTANT REMINDER: REGULATORY NOTIFICATIONS

Asbestos

On most asbestos abatement projects, a notice of intent to remove asbestos must be filed with the local NESHAPS regulatory authorities, 10 working days before work can begin. In many locations, local regulatory agencies bill the owner a fee based on the number of asbestos removal units stated on the notification. If you need help estimating what this fee is in your area, please ask your local Keers' Service Coordinator.

Toxic Mold

On some mold remediation projects, a notice of intent to remediate mold must be filed with the local regulatory authorities, (Texas: 5 working days.)

Lead

On some lead abatement projects, a notice of intent to remove lead must be filed with the local or national regulatory authorities, (Texas: 7 working days, USHUD: 5 business days.)

Proposal/Service Agreement

Project Title: ITB 25111 Midtown Demolition
Proposal Number: 25-103-Revised Proposal 04/19/25
Date: April 19, 2025

Submitted to:	MR. TIMOTHY FARRELL	Project Name:	ITB 25111 MIDTOWN DEMOLITION
Client:	COSF FACILITIES DIVISION	Project Location:	SANTA FE, NM 87501
Mailing Address:	2651 SIRINGO RD. # E	Telephone/Fax:	1-505-955-5935
City/State/Zip:	SANTA FE, NM 87505	Email Address:	TGFARRELL@SANTAFENM.GOV

PRICING: ITB 25111 Midtown Demolition

BUILDING DEMOLITION LASALLE HALL STUDENT APARTMENTS A & B INCLUDING THE ATTACHED LAUNDRY FACILITIES	$ 867,311.00
PLUS, NM GRT @ 8.1875%	71,011.09
TOTAL WITH NM GRT FOR BUILDING DEMOLITION SERVICES	$ 938,322.09

Note: We reserve the right to withdraw this proposal if not accepted within 30 days.

Keers Facility Services, LLC Signature: Christopher Lara Date: **04/19/25**
Name/Title: Christopher Lara, Service Coordinator, E-mail: **clara@keers.com**

Limitation of Authority: Proposals over $50,000 require Keers corporate review and signature by an officer and approval to be valid.
Reviewed and approved by: _____ Date: _____
Name/Title

CUSTOMER ACCEPTANCE

The above proposals (pages 1-6) are hereby accepted. You are authorized to complete the work as described.
Client Signature: _____

Name/Title: _____ **Date:**

Please Return to:
Keers Facility Services, LLC
5904 Florence Ave. NE, Albuquerque, NM 87113
Telephone: (505) 823-9006 or Toll Free 800-327-8642
Fax: (505) 823-2766 or Above Email Address

Service Center Located in El Paso, Texas

Proposal/Service Agreement

Project Title: ITB 25111 Midtown Demolition
Proposal Number: 25-103-Revised Proposal 04/19/25
Date: April 19, 2025

General Conditions

Scope of Work

Keers Facility Services, LLC (Contractor) agrees to furnish necessary labor, materials, supplies, equipment and tools to perform and complete in a professional workmanlike manner, the services described in the proposal.

Payment

100% upon completion of scope of work unless credit arrangements have been made, or work duration is longer than one (1) month. Then the contractor will submit invoices monthly, or as otherwise agreed, for completed portions of services or additional work authorized pursuant to Paragraph 5 herein. Client agrees to pay the invoiced amount within 20 days from date of invoice. Any payment not received by Contractor within 30 days shall be considered delinquent and the amounts due contractor shall accrue a late charge of 1 percent per month for each month from date of invoice. In the event any payment due Contractor under the terms of this Agreement is delinquent, Contractor may suspend all services until all delinquent payments have been received.

Standard of Care

a. While performing services under this agreement, Contractor shall exercise the degree of skill ordinarily exercised where performing the kind of services stated in the "Scope of Work".

b. Contractor assumes no responsibility for errors in public data utilized, statements from sources outside of Contractor, or developments resulting from situations outside the control of the contractor.

c. The standard of care set forth herein is the sole and exclusive standard of care that will be applied to measure Contractor's performance of the services or the creation of its work product.

There are no other representations or warranties made by Contractor. In particular, but not by way of limitation, Contractor makes no representation or warranty that the implementation or use of the recommendations, findings, conclusions, or final results produced as a result of performing the services will result in compliance with applicable law or provide a perfect result. Furthermore, with regard to microbial remediation, the contractor makes no warranties, claims, or guarantees that mold has been forever eliminated. It is possible that mold may return, unless the environment which supports mold growth is altered, which may or may not be possible, even given the best efforts of the contractor. Moreover, to the extent allowed by law, any and all implied representations or warranties arising out of the services are hereby expressly disclaimed and negated. IN PARTICULAR, BUT NOT BY WAY OF LIMITATION, NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY.

Time For Performance

The work will be completed within the calendar days as described in the scope of work, or as expeditiously as possible.
If the Contractor is delayed at any time in the progress of the work by any act or omission of the Client, or by its officers, directors, employees, agents and assigns ("Representatives"), or by any separate contractor employed by the Client, or by changes ordered in the work, or by labor dispute, fire, unusual delay in transportation, adverse weather conditions, unavoidable casualties, or any causes beyond the Contractor's control, or by delay authorized by the owner pending arbitration, then the contract time shall be extended by agreement for such reasonable time as required.

Additional Work

The Client, without invalidating the agreement, may order changes in the work within the general scope of the agreement consisting of additions, deletions or revisions of the scope, cost of services and time being adjusted accordingly. All such changes in the work shall be authorized in writing. The cost or credit to the Client resulting from a change in the work shall be determined by one or more of the following: (1) by mutual agreement of either a fixed fee and/or unit price to be multiplied by the units worked in determining the total sum; (2) hourly rate per man hour multiplied by the man hours expended; or (3) by other mutually agreeable cost methods. If the outcome of the completed work indicates that additional or different work is required: the Contractor will notify the Client and will use his best professional judgment in assisting the Client in deciding how to proceed. The cost of services will be equitably adjusted by written change order or supplemental agreement between both parties.

Access, Approvals, Permits

Client shall arrange for access and make all provisions for Contractor to enter public and private property as required for Contractor to perform the specified services. Client shall furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approval and consent from others as may be necessary. Unless expressly stated in the proposal as the responsibility of contractor.

Client Provided Information

Work will not commence until the Contractor has received a duly executed copy of this contract. The Client shall direct its officers, directors, employees, subcontractors and agents to render reasonable assistance and to provide (promptly upon request) all necessary or appropriate data to the Contractor in connection with its performance under this agreement.

Any data furnished shall be furnished at the Client's expense, and the Contractor shall be entitled to rely upon its accuracy and completeness. The Client shall locate for the Contractor, and shall assume responsibility for the accuracy of his representations, as to the locations of all underground utilities, tanks, structures, or other installations, unless the express responsibility of the Contractor as stated in the "Scope of Work".

Safety

In an emergency affecting the safety of persons or property, the Contractor shall act, at his discretion, to prevent threatened damage, injury or loss. Any additional compensation and/or extension of time claimed by the Contractor on account of emergency work shall be determined as set forth, under the Additional Work section.

Hazardous Substances

Nothing herein shall be construed or interpreted as requiring Contractor to assume the status of a generator of any hazardous substances or hazardous materials, as those terms are defined under any applicable federal, state and local laws, statutes regulations, ordinances, rules or orders. If any hazardous, toxic or dangerous substances as defined by federal, state or local laws, statutes, regulations, ordinances, rules or orders, ("Hazardous Substances") are encountered at the site, and if these Hazardous Substances require handling, transportation or disposal at an off-site facility, Contractor will assist in advising the Client of his options. However, Contractor will not "arrange" for disposal of, accept title to, sign manifests for, or take control of any Hazardous Substances, unless expressly stated in the "Scope of Work". Client shall indemnify and hold Contractor harmless from any claims, damages, fines and fees, litigation or expenses, arising out of or in any way related to handling, transportation and disposal of any Hazardous Substances in the course of Contractor's performance of this Agreement

Restoration

The Client understands that in the normal course of work, some minor damage to property may occur including damage to landscaping, pavement, sprinkler systems, and interior building finishes. While the Contractor will act to minimize damage, the Client understands that the cost of restoration is not included in this agreement unless expressly stated in the scope of work.

Independent Contractor

Contractor shall perform all work under this agreement as an independent contractor, retaining complete control over its personnel and operations. Neither Contractor nor its subcontractors shall be, or shall be construed to be Client's

employees or agents, or have authority to bind Client in any way.

Indemnity

a. Contractor shall indemnify and hold harmless Client, and its respective officers, directors, employees, subcontractors, agents and assigns ("Representatives"), from and against any and all liabilities, claims, causes of action, suits, losses, damages, costs and demands, including reasonable attorneys' fees, resulting from or arising out of, personal injury, including death or property damage, to the extent such injury, death or property damage is caused by the negligence or willful misconduct of Contractor or its Representatives; and, provided that such injury, death, or property damage is not caused by the sole or contributory negligence of Client, or its Representatives; and provided further, that Contractor's liability hereunder shall be limited to and not exceed the insurance coverage and limits of liability identified in this proposal or the total cost of services under of this agreement, whichever amount is less.

b. Client shall indemnify and hold harmless Contractor, and its Representatives, from and against any and all liabilities, claims, causes of action, suits, losses, damages, costs and demands, including reasonable attorneys' fees, resulting from or arising out of, personal injury, including death or property damage, to the extent such injury, death or property damage is caused by the negligence or willful misconduct of Client or its Representatives; and provided further that such injury, death, or property damage is not caused by the sole or contributory negligence of Contractor or its Representatives.

c. The provisions this paragraph shall survive the completion of the work or the termination of the agreement between Contractor and Client.

Dispute Resolution

All claims, disputes and other matters in question between the Contractor and Client arising out of, or relating to, this agreement or breach thereof, shall be decided by arbitration in accordance with the construction industry rules of the American Arbitration Association, unless the parties mutually agree otherwise. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Notice of demand for arbitration shall be filed in writing with the other party to the contract agreement within a reasonable time after the claim, dispute or other matter in question has arisen.

Subcontractors

The Contractor reserves the right to remove any person, firm or corporation (Subcontracted to the Contractor) from participation in the services being provided to the Client.

Termination

If the work is stopped for a period of thirty (30) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, through no act or fault of the Contractor or its Representatives, or if the Client has failed to make payment as provided in this agreement for work performed, or has otherwise stopped the contractor's work, then the Contractor may at his option provide three (3) days notice to the Client, terminate this agreement and recover from the Client, payment for all work completed, with all costs arising out of such termination.

Sample Handling and Retention

Generally, test samples or specimens are consumed and/or substantially altered during analysis. Contractor, at its sole discretion, will cause disposal of test samples, unless Client requests otherwise, in writing.

Reporting

By virtue of entering into this Agreement and providing services hereunder, Contractor does not assume responsibility for any conditions at the site that may present a danger, either potential or real, to the health, safety or the environment, except as set forth in the "Scope of Work".

Client hereby agrees to promptly notify Contractor of any Hazardous Substances and any special risk to human health, the environment or equipment on site of which Client is or becomes aware. By virtue of entering into this agreement or of providing services hereunder, Contractor does not assume control of or responsibility for reporting to any federal, state or local public agencies or governmental authorities any conditions at the site that may present a potential danger to health, safety, or the environment.

Waste Characterization

Prior to Contractor's performance of any services under this agreement, Client shall provide Contractor with an accurate waste characterization, which fully informs Contractor of the chemical, physical and hazardous characteristics of any waste to be managed pursuant to this agreement, unless the express responsibility of Contractor as stated in "Scope of Work". Client shall promptly notify Contractor if the waste characterization, or process generating the waste, changes in any respect during the term of this agreement.

Non-conforming Waste

Within a reasonable time after receipt of waste, Contractor may reject any waste that does not materially conform to the characterization or sample provided to Contractor by Client. Contractor shall immediately orally notify Client of such rejection and the manner in which the waste is non-conforming and shall confirm such oral notification in writing within a reasonable period of time. In the event of such rejection, Contractor shall have the right to: (a) return the waste to Client; or (b) arrange for treatment or disposal of the waste at another permitted facility. In any event, Client shall pay all additional fees and costs incurred in the handling of non-conforming waste, including, without limitation, transportation, storage, treatment, and disposal charges.

Title To Waste

Title, responsibility and risk of loss for waste conforming to the waste characterization shall pass from Client to Contractor as follows: (a) if Contractor provides transportation, upon departure of the Contractor vehicle carrying the waste from Client's site; (b) if Client provides transportation, upon acceptance of the waste at the Contractor facility or facility designated by Contractor.

Entire Agreement

The agreement and any referenced attachments constitute the entire agreement between Contractor and Client and supersedes all prior or oral or written representations or agreements. This agreement shall not be modified except in writing and signed by both parties.

Severability

If any of these General Conditions shall be finally determined to be invalid and unenforceable in sole or in part, the remaining provisions hereof shall remain in full force and effect and be binding upon the parties.

Applicable Law and Venue

This Agreement shall be governed by the laws of the state of New Mexico. All actions, disputes, claims or other matters arising from this agreement shall be decided per the "Disputes Clause" in Albuquerque, New Mexico.

Limitations of Liability

In no event will the contactor be liable to the Client or anyone else (including third-party beneficiaries), for any consequential, incidental, special or indirect damages, including lost revenue and profits that result in any way connected with the services provided herein.

The Client agrees that the liability of the contractor arising out of any kind of legal claim (whether in contract, tort or otherwise) in any way connected with the services provided will not exceed the amount the Client originally paid the contractor for the service, or the available insurance identified elsewhere in the agreement, whichever amount is less.

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 03/31/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Chad Rush	
Brown & Brown Insurance Services, Inc. PO Box 94450 Albuquerque NM 87199	PHONE (A/C, No, Ext): (505) 821-5888	FAX (A/C, No):
	E-MAIL ADDRESS: Chad.Rush@bbrown.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Nautilus Insurance Company	
INSURED Keers Facility Services, LLC 5904 Florence Ave NE Albuquerque NM 87113	INSURER B : Key Risk Insurance Company	
	INSURER C : Great Divide Insurance Company	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 25-26 Master w/UMB **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [ ] LOC [ ] OTHER:			ECP2040046-12	04/01/2025	04/01/2026	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 100,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
B	AUTOMOBILE LIABILITY [X] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY			BAP2040037-12	04/01/2025	04/01/2026	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) Uninsured motorist	$ 1,000,000 $ $ $ $ 1,000,000
A	[X] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [X] RETENTION $ 0			FFX2040047-12	04/01/2025	04/01/2026	EACH OCCURRENCE AGGREGATE	$ 10,000,000 $ 10,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N: Y If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		WCA2040038-12	04/01/2025	04/01/2026	[X] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
A				ECP2040046-12	04/01/2025	04/01/2026		

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Job Number: 240057

Project Title: COSF-MTC King Hall

CERTIFICATE HOLDER

City of Santa Fe
Attn: Tim Farrell
PO Box 909
Santa Fe NM 87504

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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Additional Named Insureds

Other Named Insureds

Keers Environmental, LLC

Keers Facility Services, LLC

Keers Industries dba Keers Environmental

Keers Industries, Inc dba Special Waste Disposal

Keers Industtries, Inc

Keers Remediation Inc dba Keers Clean

Keers Remedition Inc dba Keers Proclean

Special Waste Disposal Inc

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ADDITIONAL COVERAGES

Ref #	Description	Coverage Code	Form No.	Edition Date
	Professional			

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
1,000,000	2,000,000		5,000	Per Claim	

Ref #	Description	Coverage Code	Form No.	Edition Date
	Pollution	POL		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
1,000,000	2,000,000		5,000	Other	

Ref #	Description	Coverage Code	Form No.	Edition Date
	THIRD PARTY CLAIMS EXPENSE	TPCLE		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
1,000,000					

Ref #	Description	Coverage Code	Form No.	Edition Date
	EMERGENCY Remediation Costs			

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
1,000,000					

Ref #	Description	Coverage Code	Form No.	Edition Date
	COV A & B			

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
			5,000		

Ref #	Description	Coverage Code	Form No.	Edition Date
	Limited cyber Liability			

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
50,000	25,000		1,000		

Ref #	Description	Coverage Code	Form No.	Edition Date
	THIRD PARTY CLAIMS EXPENSE	TPCLE		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
1,000,000					

Ref #	Description	Coverage Code	Form No.	Edition Date
	Mold			

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
1,000,000	2,000,000		5,000	Per Claim	

Ref #	Description	Coverage Code	Form No.	Edition Date
	Underinsured motorist combined single limit	UNCSL		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
1,000,000					

Ref #	Description	Coverage Code	Form No.	Edition Date
	Medical payments	MEDPM		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
5,000					

Ref #	Description	Coverage Code	Form No.	Edition Date
	Experience Mod Factor 1	EXP01		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium

OFADTLCV

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ADDITIONAL COVERAGES

Ref #	Description	Coverage Code	Form No.	Edition Date
	Increased employer's liability	INEL		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium

Ref #	Description	Coverage Code	Form No.	Edition Date
	Terrorism Premium	TTER		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium

Ref #	Description	Coverage Code	Form No.	Edition Date

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium

Ref #	Description	Coverage Code	Form No.	Edition Date

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium

Ref #	Description	Coverage Code	Form No.	Edition Date

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium

Ref #	Description	Coverage Code	Form No.	Edition Date

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium

Ref #	Description	Coverage Code	Form No.	Edition Date

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium

Ref #	Description	Coverage Code	Form No.	Edition Date

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium

Ref #	Description	Coverage Code	Form No.	Edition Date

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium

Ref #	Description	Coverage Code	Form No.	Edition Date

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium

Ref #	Description	Coverage Code	Form No.	Edition Date

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium

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Services Offered to the City of Santa Fe (2025)

Approved:
These services have been approved by the New Mexico Council for Purchasing from Persons with Disabilities and are available through Horizons of New Mexico.

- ADA Accessibility Consulting Services
- Auctioneering Services
- Bulk Mailing and Sorting
- Call Center Services
- Computer Refurbishing
- Courier Services
- Decontamination, Sanitation and Sterilization Services
- Debris Removal
- Document Imaging
- Document Shredding
- Envelope Stuffing
- General Labor
- Hard Drive Destruction
- Janitorial and Housekeeping Services – Including Carpet Cleaning & Floor Care
- Landscape Irrigation
- Landscaping
- Mailing Services
- Management of an Assistive Technology Reuse and Recycling Program
- Medical Waste Disposal
- Meeting Minute Preparation Services
- Pest Control and Extermination Services
- Printing Services
- Rest Area Maintenance
- Screen Printing
- Snow Removal
- Temporary Staffing Services
- Yard, Grounds, and Lawn Maintenance

Permissive:
The services have been approved by the New Mexico Council for Purchasing from Persons with Disabilities as permissible for sale under the State Use Act through Horizons of New Mexico. While the Council recognizes that certain Horizons of New Mexico members are capable of performing the services listed below, said services are considered permissive and excluded from the mandatory aspect of the State Use Program. Any procurement of the below services through Horizons of New Mexico is at the discretion of the purchasing agent and will be considered by the Council on a case-by-case basis.

- Graphic Design
- Graphic Design - Logo Design
- IT – Enterprise Application
- IT – IV & V
- IT Network and Database Management
- IT Support
- IT Security Services
- IT – Web Design
- IT – Web Programmer
- Marketing
- Social Media Marketing
- Training Services

For the complete State Use service list, please go to: http://horizonsofnewmexico.org/services.html

From: DUTTON-LEYDA, TRAVIS K.
To: KAHAHANE, ELIZABETH L.; Purchasing DET
Subject: Re: Determination Request – Demolition Services
Date: Friday, November 8, 2024 5:07:26 PM
Attachments: image001.png

Hello, demolition is construction.

Thank you.

Regards,

Travis Dutton-Leyda
Chief Procurement Officer
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501
505-629-8351
tkduttonleyda@santafenm.gov

https://santafenm.gov/finance-2/purchasing-1

Internal Link: https://intranet.santafenm.gov/finance_1



From: KAHAHANE, ELIZABETH L. <elkahahane@santafenm.gov>
Sent: Friday, November 8, 2024 5:06:39 PM
To: Purchasing DET <purchasing_det@santafenm.gov>
Subject: RE: Determination Request – Demolition Services

Aloha,

A friendly reminder… Thank you!

Best,
Elizabeth "Lisa" Kahahane
Contract Administrator | Facilities Division | Public Works Dept.
Email: elkahahane@santafenm.gov
M: (505) 795-2439

O: (505) 955-5934

From: KAHAHANE, ELIZABETH L.
Sent: Wednesday, November 6, 2024 3:05 PM
To: Purchasing DET <purchasing_det@santafenm.gov>
Subject: Determination Request – Demolition Services

Good afternoon,

Facilities Division is requesting a SOW determination for the following:

- The City of Santa Fe is seeking bids from qualified companies to provide demolition services for multiple buildings at 1600 St Michaels Drive (Midtown Site).

Please let me know if additional information is required.
Thank you!

Best,
Elizabeth "Lisa" Kahahane
Contract Administrator | Facilities Division | Public Works Dept.
Email: elkahahane@santafenm.gov
M: (505) 795-2439
O: (505) 955-5934

CITY OF SANTA FE
FACILITIES

GB Packet_Midtown Remediation Demo_07 17 2025 ELK2 SB RW2 TF2

Final Audit Report 2025-07-28

Created:	2025-07-24
By:	Elizabeth Kahahane (elkahahane@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAoj_Nzrq4ySj6K3qTyD05AUeqRkCXPrz-

"GB Packet_Midtown Remediation Demo_07 17 2025 ELK2 SB RW2 TF2" History

Document created by Elizabeth Kahahane (elkahahane@santafenm.gov)
2025-07-24 - 7:49:52 PM GMT- IP address: 63.232.20.2

Document emailed to Timothy Farrell (tgfarrell@santafenm.gov) for signature
2025-07-24 - 7:54:49 PM GMT

Email viewed by Timothy Farrell (tgfarrell@santafenm.gov)
2025-07-24 - 8:00:09 PM GMT- IP address: 104.47.64.254

Document e-signed by Timothy Farrell (tgfarrell@santafenm.gov)
Signature Date: 2025-07-24 - 8:01:57 PM GMT - Time Source: server- IP address: 63.232.20.2

Document emailed to JOHN BURNETT (jsburnett@santafenm.gov) for signature
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Email viewed by JOHN BURNETT (jsburnett@santafenm.gov)
2025-07-24 - 9:45:10 PM GMT- IP address: 104.156.39.164

Email viewed by JOHN BURNETT (jsburnett@santafenm.gov)
2025-07-27 - 9:08:00 PM GMT- IP address: 73.228.3.65

Document e-signed by JOHN BURNETT (jsburnett@santafenm.gov)
Signature Date: 2025-07-27 - 9:08:14 PM GMT - Time Source: server- IP address: 73.228.3.65

Document emailed to rawheeler@santafenm.gov for signature
2025-07-27 - 9:08:17 PM GMT

Email viewed by rawheeler@santafenm.gov
2025-07-27 - 9:08:20 PM GMT- IP address: 20.159.64.152

Powered by Adobe Acrobat Sign

Signer rawheeler@santafenm.gov entered name at signing as Regina Wheeler

2025-07-28 - 4:39:32 PM GMT- IP address: 63.232.20.2

Document e-signed by Regina Wheeler (rawheeler@santafenm.gov)

Signature Date: 2025-07-28 - 4:39:34 PM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.

2025-07-28 - 4:39:34 PM GMT

GB Packet_Midtown Remediation Demo_07 17 2025 ELK2 SB RW2 TF2

Final Audit Report 2025-08-28

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Agreement completed.

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CITY OF SANTA FE

Date: August 4, 2025

To: Governing Body

From: Regina Wheeler, Public Works Department Director Regina Wheeler (Aug 4, 2025 10:48:11 MDT)

Via: Kyle Morgan, Interim Emergency Management Director Kyle Morgan
Jesse Roach, Interim Director of Utilities

Subject: Investment Grade Audit and Microgrid Design for Community Resiliency

Vendor Name: Yearout Energy Services Company LLC DBA Energy Systems Group Southwest

Vendor Number: 3069

ACTION:
Request for Approval of a Professional Services Agreement with Yearout Energy Services Company, LLC DBA Energy Systems Group Southwest in the Total Amount of $500,827 Including NMGRT for an Investment Grade Audit and Microgrid Design for Community Resiliency for a Term of 18 Months. (Regina Wheeler, Public Works Director, rawheeler@santafenm.gov)

CONTRACT NUMBER:
The FY26 Munis Contract Number is 3260085.

BACKGROUND AND SUMMARY:
Power outages that occur during disasters impact City of Santa Fe operations, visitors, and residents. During extreme weather, PNM has adopted a Public Safety Power Shutoff policy to reduce risk of fire, further increasing the likelihood of power outages. The City has backup generators on some critical facilities, but this microgrid project will assess and design provision of power by renewable microgrids. Renewable microgrids will build on the City's significant behind the meter solar capacity and utilize battery storage, control logic, and renewable energy generation to power facilities without the need for access to diesel fuel.

With this project, the City of Santa Fe would not only create resiliency and reduce human suffering and property loss during a disaster but also power more City daily operations with renewable power, further reducing climate impacts. There may be energy cost savings and broader grid benefits during normal operations resulting from energy storage and controls at facilities that could significantly reduce peak demand and energy use during peak times.

In alignment with the City of Santa Fe Disaster Mitigation Plan and following the approach outlined in the Department of Defense Climate Adaption Plan, the goal of the project is to utilize renewable microgrids to ensure essential services such as water, wastewater, transportation and emergency services during a disaster. Specific facilities that will be assessed for feasibility to be powered with renewable microgrids include drinking water pumps, wastewater plant, collection pumps, emergency

operations center, emergency shelter facilities, Santa Fe Regional Airport, Santa Fe Trails Transit Operations Facility, Complete Streets, City leadership, police and fire stations.

The scope of work this contract includes is as follows:

- Identify facilities that combined would create a backbone of essential services of water, wastewater, transportation and emergency services and leverage existing behind the meter solar capacity.
- Determine feasibility of installing and operating a renewable microgrid behind the meter at each facility to provide five days of power.
- Design microgrid systems for each facility.
- Develop energy savings estimates, construction cost estimates, equipment specifications and construction project plans.

The State of New Mexico Energy, Minerals and Natural Resources Department oversees projects performed under this Statewide Price Agreement and certifies designs and energy savings calculations. Yearout Energy Services completed the City's last renewable energy audit and installation of over three megawatts of solar at seventeen facilities. Yearout was authorized by the State to provide a discount to the City for this work that will build on the previous energy audit.

This contract is funded by the Building Resilient Infrastructure in Communities (BRIC) Grant which provided a 75% federal share with a 25% City match. Once this feasibility and design phase of the project is completed, estimated to take one year, additional FEMA funding will be sought for construction.

Public Works Department is managing the project, and the Office of Emergency Management is managing the grant and interfacing with FEMA and the New Mexico Department of Homeland Security and Emergency Management.

ATTACHMENTS:
Professional Services Agreement
Proposal – Exhibits A through D
Statewide Price Agreement 40-00000-23-00029
Certificate of Insurance
CPO Determination / Blanket List
Horizons Services List

PRIOR APPROVALS AND SUPPORTING INFORMATION:

FUNDING SOURCE:
Fund Name/Number: CIPRESRCE/Fund 315
Munis Org Name/Number: Resource Conservation CIP/3159981
Munis Object Name/Number: WIP Construction/572970
Project Ledger No.: PWD2531532

Budget Officer/Designee: Andy Hopkins Date: 08/19/2025
Budget Officer Comment/Exceptions: _____

PROCUREMENT METHOD:
The procurement method used was NMSA 1978, Section 13-1-129, utilizing the existing Statewide Price Agreement 40-00000-23-00029, which expires on January 11, 2028.

Chief Procurement Officer (CPO)/Designee: _____ Date: 08/20/2025
CPO Comment/Exceptions: _____

ASSOCIATED APPROVALS:
IT Components included? ☐ Yes | ☒ No
Approval: _____ Title: _____ Date: _____
Comment/Exceptions: _____

Treasury/Point of Sale Components included? ☐ Yes | ☒ No
Approval: _____ Title: _____ Date: _____
Comment/Exceptions: _____

Vehicles included? ☐ Yes | ☒ No
Approval: _____ Title: _____ Date: _____
Comment/Exceptions: _____

Construction to City Facilities, Furniture, and/or Fixtures, included? ☐ Yes | ☒ No
Approval: _____ Title: _____ Date: _____
Comment/Exceptions: _____

Is this an externally funded purchase? ☒ Yes | ☐ No
If yes, what is the issuing agency: Building Resilient Infrastructure in Communities (BRIC) Grant EMT-2022-BR-001 (which provided a 75% federal share with a 25% City match)
Approval: _____ Title: _____ Date: _____
Comment/Exceptions: _____

Capital Asset or Project? ☐ Yes | ☒ No
Project Ledger Number: _____
Approval: ERIKA LUJAN ERIKA LUJAN (Aug 25, 2025 08:27:16 MDT) Title: Grants Manager Date: 08/25/2025
Comment/Exceptions: _____

Item #: _____
Munis Contract #: _____
SWPA/GSA/Coop/RFP/ITB#: _____

CITY OF SANTA FE

PROFESSIONAL SERVICES CONTRACT

FOR

INVESTMENT-GRADE ENERGY AUDIT AND PROJECT PROPOSAL

THIS AGREEMENT is made and entered into by and between the **CITY OF SANTA FE**, a governmental entity hereinafter referred to as the "Agency," and **YEAROUT ENERGY SERVICES COMPANY, LLC. DBA ENERGY SYTEMS GROUP SOUTHWEST (ESG)**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed.

RECITALS

WHEREAS, this Agreement was created for use by New Mexico government entities to obtain an Investment-Grade Energy Audit of a facility from a private energy service company (ESG);

WHEREAS, authority exists in the law for Agency to enter into this contract, and funds have been budgeted, appropriated and otherwise made available; a sufficient unencumbered balance thereof remains available for payment; and the required approval, clearance and coordination have been accomplished from and with appropriate agencies;

WHEREAS, Contractor is a company with experience and technical and management capabilities to provide for the discovery, engineering, procurement, installation, financing, savings guarantee, maintenance and monitoring of energy and water conserving measures at facilities similar in size, function and system type to Agency's facilities;

WHEREAS, Contractor has been selected in accordance with Statewide Price Agreement 40-00000-23-00029AH, pertaining to the discovery, engineering, procurement, installation, financing, savings guarantee, maintenance and monitoring of energy and water conserving measures at Agency's facilities;

WHEREAS, Agency has selected Contractor to provide the services described herein;

WHEREAS, Agency desires to enter into a contract to have Contractor perform an Investment-Grade Energy Audit and Project Proposal to determine the feasibility of entering into an Guaranteed Utility Savings Contract to provide for installation and implementation of energy and water conserving measures at Agency's facilities; and

WHEREAS, if energy and water conserving measures are determined to be feasible, and if the amount of savings can be reasonably sufficient to cover all costs, as defined by Agency, associated with an Energy Savings Performance Contracting project, the parties intend to negotiate a

Guaranteed Utility Savings Contract under which the Contractor will design, procure, install, implement, maintain and monitor such energy and water conserving measures. However, this intent does not commit Agency to entering into such a Guaranteed Utility Savings Contract.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound hereby, Agency and Contractor hereto covenant and agree that the following Exhibits are attached hereto (or will be, as provided in this Agreement) and are made a part of this Agreement by reference.

IT IS AGREED BETWEEN THE PARTIES:

1. <u>Scope of Work</u>.

With respect to the structure(s) identified in Exhibit B, Contractor shall:

A. Perform an Investment-Grade Energy Audit (Audit) in accordance with this Agreement. Contractor shall work diligently to assess validity of information provided and to confirm or correct the information as needed to provide a complete and accurate Audit including schematic architectural and engineering design, as required. Agency will assist Contractor in performing the Audit as described in this Agreement. Agency will work diligently to provide full and accurate information needed by Contractor for the Audit. The parties contemplate that development of the Audit will be an iterative process and that Agency's Director of Public Works or Facilities Director shall have a reasonable amount of time, not less than 30 calendar days but not exceeding 90 calendar days from Agency receipt of Audit report, to review and determine acceptance of Audit report. The Director of Public Works or Facilities Director shall communicate any deficiencies to Contractor or approve the Notice of Acceptance (Exhibit A) if no deficiencies are found.

B. Submit a Project Proposal (Proposal) to Agency within 30 calendar days of Audit report submittal that provides a package of energy and water conserving measures, including details as specified in this Agreement.

C. In order to successfully implement this project, Contractor shall:

I. **Conduct assessment.**

(a) Meet with Agency to establish interests, plans, problems, and any other issues related to facilities and operation of facilities.

(b) Collect data and background information on buildings, equipment and facilities operation and energy use for the most recent three years (as available or data from previous Investment Grade Audit if applicable) from the effective date of this Contract as follows:

(1) Building square footage;

(2) Construction data of buildings and major additions including building envelope;

(3) Utility company invoices;

(4) Occupancy and usage information;

(5) Description of all energy-consuming or energy-saving equipment used on the premises, as available;
(6) Description of energy management procedures utilized on the premises;
(7) Description of any energy-related improvements made or currently being implemented;
(8) Description of any changes in the structure of the facility or energy-using or water-using equipment;
(9) Description of future plans regarding building modifications or equipment modifications and replacements;
(10) Drawings, as available (may include mechanical, plumbing, electrical, building automation and temperature controls, structural, architectural, modifications and remodels);
(11) Original construction submittals and factory data (specifications, pump curves, and any similar documentation), as available;
(12) Operating engineer logs, maintenance work orders, and any similar documentation, as available;
(13) Records of maintenance expenditures on energy-using equipment, including service contracts;
(14) Prior energy audits or studies, if any

(c) Perform a preliminary walk-through of facilities and interview staff and occupants to identify potential measures.
(d) Meet with Agency to present preliminary findings and establish agreement on measures to analyze.

II. **Identify potential measures.**

(a) Interview the facility manager, maintenance staff, subcontractors and occupants of each building regarding:
(1) Facility operation, including energy management procedures;
(2) Equipment maintenance problems;
(3) Comfort problems and requirements;
(4) Equipment reliability;
(5) Projected equipment needs;
(6) Occupancy and use schedules for the facility and specific equipment;
(7) Past, planned, and desired facility improvements.
(8) Critical loads in the event of an emergency.
(9) How facility use may change in the event of an emergency.

(b) Survey major energy-using equipment, including indoor and outdoor lighting, heating and heat distribution systems, cooling systems and related equipment, automatic temperature control systems and equipment, air distribution systems and equipment, outdoor ventilation systems and equipment, exhaust systems and equipment, hot water

systems, electric motors, transmission and drive systems, special systems (including kitchen/dining equipment), renewable energy systems, other energy using systems, and water consuming systems (restroom fixtures, water fountains, irrigation systems, and other water systems).

(1) Verify settings of control systems that include computer controls systems and building thermostats
(2) Measure lighting levels at various locations in a building to determine if recommended lighting levels exist
(3) Inspect filters for heating and cooling systems to determine the status of maintenance activities
(4) Consider maintenance staff and occupant concerns related to heating, cooling, and lighting
(5) Determine energy requirements in an emergency

(c) Perform "late-night" surveys outside of normal business hours or on weekends to confirm building system and occupancy schedules, if deemed necessary.

(d) Develop a preliminary list of potential energy and water conserving measures as well as resiliency measures. Consider the following for each system:

(1) Comfort and maintenance problems;
(2) Energy use, loads, proper sizing, efficiencies and hours of operation;
(3) Current operating condition;
(4) Remaining useful life;
(5) Feasibility of system replacement;
(6) Hazardous materials and other environmental concerns;
(7) Agency's future plans for equipment replacement or building renovations;
(8) Facility operation and maintenance procedures that could be affected;
(9) Capability to monitor energy performance and verify savings.

III. **Analyze measures.**

(a) Establish base year consumption by examining utility bills for the past three years for electricity, gas, steam, water, and any other energy or fuel types. Present base year consumption in terms of energy units as used in utility bills, in terms of dollars, and in terms of dollars per square foot. Describe the process used to determine the base year (such as averaging, selecting most representative contiguous 12 months, or other methods). Consult with facility personnel to account for any anomalous schedule or operating conditions on billings that could skew the base year representation. Contractor shall account for periods of time when equipment was broken or malfunctioning in calculating the base year.

(b) Estimate loading, usage and/or hours of operation for all major end uses of total facility consumption including, but not limited to: lighting, heating, cooling, motors (fans and pumps), plug loads, and other major energy and water using equipment. Where loading or usage are highly uncertain (including variable loads such as cooling), Contractor will use its best judgment, spot measurements or short-term monitoring. Contractor should not assume that equipment run hours equal the operating hours of the building(s) or facility staff estimates.

(c) Reconcile annual end-use estimated consumption with the annual base year consumption. This reconciliation will place reasonable "real-world" limits on potential savings.

(d) Propose adjustments to the baseline for energy and water conserving measures that will be implemented in the future. Adjustments made to the energy baseline shall only be made for any of the following changes in conditions affecting the facility:

(1) utility rates;

(2) number of days in the utility billing cycle;

(3) floor area of the facility;

(4) operational schedule of the facility;

(5) facility temperature;

(6) weather, if change is significant;

(7) amount of equipment or lighting used in the facility, if change is significant;

(8) space type(s) in the facility, if change is significant; and

(9) material change(s) in or to the facility.

(e) Develop a preliminary analysis of potential energy and water conserving measures as well as resiliency measures. This resulting list of measures shall be compiled and submitted to Agency within 180 calendar days of the execution of this Contract. Furthermore:

(1) List all potential measures, whether cost-effective or not. Consider technologies in a comprehensive approach including, but not limited to: lighting systems, heating/ventilating/air conditioning equipment and distribution systems, controls systems, building envelope, motors, kitchen equipment, pools, renewable energy systems, other special equipment, irrigation systems, and water conserving devices.

(2) Identify measures which appear likely to be cost effective and therefore warrant detailed analysis.

(3) For each measure, prepare a preliminary estimate of energy or water cost savings, including description of analysis methodology, supporting calculations and assumptions used to estimate savings.

(f) Meet with Agency to present preliminary findings prior to thorough analysis. Describe how the projected project economics meet the

Agency's terms for completing the Investment-Grade Energy Audit and Proposal Contract. Discuss assessment of energy use, savings potential, project opportunities, and potential for developing an energy performance contract. Develop a list of recommended measures for further analysis. The Agency shall have the option to reject calculations of savings, potential savings allowed, or project recommendations.

(g) Perform final analysis of savings and costs for each energy and water conserving measure, including the following:
    (1) Follow the methodology of American Society of Heating, Refrigerating, and Air-Conditioning Engineers or other nationally-recognized authority following the engineering principle(s) identified for each retrofit option.
    (2) Utilize assumptions, projections and baselines which best represent the true value of future energy or operational savings. Include accurate marginal costs for each unit of savings at the time the audit is performed, documentation of material and labor cost savings, adjustments to the baseline to reflect current conditions at the facility, calculations which account for the interactive effects of the recommended measures.
    (3) Use best judgment regarding the employment of instrumentation and recording durations so as to achieve an accurate and faithful characterization of energy use.
    (4) Use markups and fees stated above in all cost estimates.
    (5) Develop a preliminary measurement and verification plan for each measure.
    (6) Follow additional guidelines for analysis and report preparation given below.

(h) Develop microgrid solution for appropriate sites as determined during the IGA process.

II. **Provide Investment-Grade Energy Audit Report**

The report provides an engineering and economic basis for negotiating a potential Guaranteed Utility Savings Contract between the Agency and the Contractor.

(a) Contractor shall prepare and submit to Agency a draft Investment-Grade Energy Audit Report within 365 days calendar days of the date of execution of this Contract. The report shall provide the following information:
    (1) Overview, which shall include:
        i) Contact information;
        ii) Summary table of recommended energy and water conserving measures as well as resiliency measures, with itemization for each measure of total design and construction cost, annual maintenance costs, the first

year cost avoidance (in dollars and energy units), simple payback and equipment service life;

iii) Summary of annual energy and water use by fuel type and costs of existing or base year condition;

iv) Calculation of cost savings expected if all recommended measures are implemented and total percentage savings of total facility energy cost;

v) Description of the existing facility, mechanical and electrical systems;

vi) Summary description of measures, including estimated costs and savings for each as detailed above;

vii) Discussion of measures considered but not investigated in detail;

Conclusions and recommendations.

(2) Base year energy use, which shall include:

i) Description and itemization of current billing rates, including schedules and riders;

ii) Summary of all utility bills for all fuel types and water;

iii) Identification and definition of base year consumption and description of how established;

Reconciliation of estimated end use consumption (i.e. lighting, cooling, heating, fans, plug loads, etc) with base year (include discussion of any unusual findings).

(3) Full written description of each energy and water conserving measure and resiliency measures, which shall include:

i) Existing conditions;

ii) Description of equipment to be installed and how it will function;

iii) Discussion of facility operations and maintenance procedures that will be affected by installation/implementation;

iv) Plan for installing or implementing the recommended measure.

(4) Allowable cost and savings factors approved for consideration. Agency will provide Contractor with sufficient guidance to develop savings estimates, which shall include:

i) Payment sources that can be incorporated:

- Energy and water cost savings;
- Material/commodity savings, including scheduled replacement of parts (only for years that these cost savings are applicable);
- Outside labor cost savings, including maintenance contracts;

- In-house labor costs;
- Deferred maintenance cost;
- Offset of future capital cost;
- Outside incentive funds (utility incentives, grants, etc.);
- Any savings related to maintenance and operation of the facilities will be limited to those that can be thoroughly documented;

ii) Payment sources that may also be considered and negotiated;

iii) Additional factors related to establishing savings that cover all costs:

- Escalation rates that apply to each payment source. These are rates to be used in cash flow projections for project development purposes; *NOTE: Contractor shall use federal government guidelines on utility escalation rates to ensure reasonableness.* Interest rates (municipal tax-exempt rates for public agencies);
- Agency cash outlay (Agency's sole discretion);

iv) The markup costs are presented in Exhibit B: Cost and Pricing. These rates will be used in the Investment-Grade Energy Audit and subsequent Guaranteed Utility Savings Contract.

(b) Savings calculations

(1) Base year energy use and cost.

(2) Post-retrofit energy use and cost.

(3) Savings estimates including analysis methodology, supporting calculations and assumptions used.

(4) Annual savings estimates. The cost savings for all energy conserving measures must be estimated for <u>each year</u> during the contract period. Savings must be able to be achieved <u>each year</u> (cannot report average annual savings over the term of the contract).

(5) Savings estimates must be limited to savings allowed by the Agency as described above.

(6) Percent cost-avoidance projected.

(7) Description and calculations for any proposed rate changes.

(8) Explanation of how savings interactions between retrofit options are accounted for in calculations.

(9) Operation and maintenance savings, including detailed calculations and description. Ensure that maintenance savings are only applied in the applicable years and only during the lifetime of the particular equipment.

(10) If computer simulation is used, include a short description and state key input data. If requested by Agency, access will be provided to the program and all assumptions and inputs used, and/or printouts shall be provided of all input files and important output files and included in the Investment-Grade Energy Audit with documentation that explains how the final savings figures are derived from the simulation program output printouts.
(11) If manual calculations are employed, formulas, assumptions and key data shall be stated.
(12) Conclusions, observations, and caveats.

(c) Cost estimate -- detailed scope of the construction work needed, suitable for cost estimating. Include all anticipated costs associated with installation and implementation. Provide specifications for major mechanical components as well as detailed lighting and water fixture counts.

(1) Engineering/design costs.
(2) Contractor/vendor estimates for labor, materials, and equipment; include special provisions, overtime, etc., as needed to accomplish the work with minimum disruption to the operations of the facilities.
(3) Permit costs.
(4) Construction management fees.
(5) Environmental costs or benefits (disposal, avoided emissions, handling of hazardous materials, etc.).
(6) Note that all markups and fees stated in this Contract shall be used in the cost estimates, unless otherwise documented and justified due to change in scope or size of project or other unforeseen circumstances.
(7) Conclusions, observations, and caveats.
(8) Other cost categories as defined above under “markups” in Section 3b above.

(d) Other
(1) Estimate of average useful service life of equipment.
(2) Preliminary commissioning plan.
(3) Preliminary measurement and verification plan, following the International Performance Measurement and Verification Protocol (IPMVP), explaining how savings from each measure is to be measured and verified (stipulated by Contract, utility bill analysis, end-use measurement and calculation, etc.). The Preliminary M&V plan shall follow the format provided in Exhibit C: Guidelines for Draft Measurement and Verification Plan.

(4) Discussion of impacts that facility would incur after contract ends. Consider operation and maintenance impacts, staffing impacts, budget impacts, etc., and identify who is responsible for maintenance.

(5) Compatibility with existing systems. NOTE: Include the name of the existing controls system, if new controls systems will have to be compatible with an existing brand of controls. Also note if a sole-source vendor is established for controls systems.

(6) Complete appendices that document the data used to prepare the analyses. Describe how data were collected.

(e) Contractor shall meet with Agency to: review the recommendations, savings calculations and impact of the measures on the operations of the facility; describe how the projected project economics meet the Agency's terms for completing the Investment-Grade Energy Audit and Project Proposal; and discuss the willingness and capability of Agency to make capital contributions to the project to improve the economics of the overall project.

(f) Contractor shall revise Audit Report as directed by Agency and shall submit **final Investment-Grade Energy Audit Report** within 30 days of the above meeting.

V. **Provide Project Proposal (term sheet).**

(a) In anticipation of Contractor and Agency entering into an Guaranteed Utility Savings Contract to design, install, and monitor the energy and water conserving measures proposed in the Investment-Grade Energy Audit Report, Contractor shall prepare a proposal for terms to be incorporated in the Guaranteed Utility Savings Contract, which shall include:

(1) Project Cost is the <u>total</u> amount Agency will pay for the project and Contractor's services. Costs must be consistent with maximum markups and fees established above. Costs may include but are not limited to: engineering, designing, packaging, procuring, installing (from Investment-Grade Energy Audit Report results); performance/payment bond costs; construction management fees; commissioning costs; maintenance fees; monitoring fees; training fees; legal services; overhead and profit; other markups.

(2) Include a List of Services that will be provided as related to each cost.

(3) Expected term of the Energy Performance Contract.

(4) Description of how the project will be financed including available interest rates and financing terms, based on interest

rates likely available to Agency at this time, and based on a 60-day and 90-day lock option.

(5) Explanation of how the savings will be calculated and adjusted due to weather (such as heating and cooling degree days), occupancy or other factors. Monitoring and verification methods shall be consistent with the International Performance Monitoring and Verification Protocol 2000.

(6) Analysis of annual cash flow for Agency during the contract term.

(7) Contractor agrees to meet with Agency to present results and negotiate final terms.

(b) Services will be performed at locations attached in Exhibit B

2. Compensation.

A. Except as provided for in subparagraphs 2D and 2E below, the Agency shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work at the rate of four hundred sixty-two thousand nine hundred twenty-five dollars ($462,925). New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling thirty-seven thousand nine hundred two dollars ($37,902) shall be paid by the Agency to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed five hundred thousand eight hundred twenty-seven dollars ($500,827).**

Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work. All invoices MUST BE received by the Agency no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

B. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed five hundred thousand eight hundred twenty-seven dollars ($500,827). This amount is a maximum and not a guarantee that the work assigned to the Contractor under this Agreement to be performed shall equal the amount stated herein. This amount is based on a maximum of 689,729 gross square feet at eleven and a quarter US dollar cents ($0.1125) per square foot of audited facility floor area which was part of the previous Investment Grade Audit and twenty-two and a half US dollar cents ($0.225) per square foot of audited facility floor area which was not part of the previous Investment Grade Audit as per Exhibit B, Cost and Pricing and allowance for microgrid design as described per Exhibit B. Agency shall only pay for facility floor area actually audited. Areas not audited Contractor will not be charged to Agency.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the Agency finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the Agency that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the agency shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

D. Agency shall have no payment obligations under this contract, provided that Contractor and Agency execute a Guaranteed Utility Savings Contract within 180 days after issuance of the Notice of Acceptance (Exhibit A) of the final Investment-Grade Energy Audit and Project Proposal, but the fee indicated above shall be incorporated into Contractor's project costs in the Guaranteed Utility Savings Contract and paid through the Guaranteed Utility Savings Contract funding mechanisms.

E. Agency shall have no payment obligations under this Contract in the event that Contractor's final Investment-Grade Energy Audit and Project Proposal does not contain a package of energy and water conservation measures which, if implemented and as meeting terms of Scope of Work, will provide the Agency with utility cost savings sufficient to fund Agency's payments of all costs and fees associated with the Guaranteed Utility Savings Contract, including: 1) the fee associated with the Investment-Grade Energy Audit; 2) all monthly payments on a lease purchase agreement to finance the measures; and 3) any annual fees for monitoring and maintenance incurred by the Contractor. Should the Contractor determine at any time during the Investment-Grade Energy Audit that savings cannot be attained to meet these terms, the Investment-Grade Energy Audit will be terminated by written notice by Contractor to Agency. In this event, this Agreement shall be terminated and Agency shall have no obligation to pay, in whole or in part, the amounts specified in subparagraphs 2A or 2B.

3. Term.

This Agreement shall terminate 18 months from contract execution unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with NMSA 1978, § 13-1-150, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in NMSA 1978, § 13-1-150. An exception is that for contracts entered into pursuant to the Public Facility Energy Efficiency and Water Conservation Act (6-23 NMSA 1978), the term shall not exceed twenty-five years, including all extensions and renewals.

4. Termination.

A. Grounds. The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement.

B. Notice; Agency Opportunity to Cure.

1. Except as otherwise provided in Paragraph (4)(B)(3), the Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.
2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.
3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Paragraph 5, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the Agency's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

D. Termination Management. Immediately upon receipt by either the Agency or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Agency's Governing Body for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature,

this Agreement shall terminate immediately upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor, and its agents and employees, are independent contractors performing professional services for the agency and are not employees of the State of New Mexico or the Agency. The Contractor, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico or the Agency as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the State of New Mexico or the Agency unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the Agency.

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the Procuring Agency.

9. Release.

Final payment of the amounts due under this Agreement shall operate as a release of the Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Agency.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the Agency and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part,

by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. <u>Conflict of Interest; Governmental Conduct Act</u>.

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1. in accordance with NMSA 1978, § 10-16-4.3, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any Agency employee while such employee was or is employed by the Agency and participating directly or indirectly in the Agency's contracting process;
2. this Agreement complies with NMSA 1978, § 10-16-7(A) because (i) the Contractor is not a public officer or employee of the State; (ii) the Contractor is not a member of the family of a public officer or employee of the State; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the State, a member of the family of a public officer or employee of the State, or a business in which a public officer or employee of the State or the family of a public officer or employee of the State has a substantial interest, public notice was given as required by NMSA 1978, § 10-16-7(A) and this Agreement was awarded pursuant to a competitive process;
3. in accordance with NMSA 1978, § 10-16-8(A), (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the State within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the State whose official act, while in State employment, directly resulted in the Agency's making this Agreement;
4. this Agreement complies with NMSA 1978, § 10-16-9(A)because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family; (iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by NMSA 1978, § 10-16-7(A), this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;
5. in accordance with NMSA 1978, § 10-16-13, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

6. in accordance with NMSA 1978, § 10-16-3 and § 10-16-13.3, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the Agency.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the Agency relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Agency if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Agency and notwithstanding anything in the Agreement to the contrary, the Agency may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

13. Amendment.

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

14. Merger.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

15. Penalties for violation of law.

The Procurement Code, NMSA 1978 §§ 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, executive orders of the Governor of the State of New Mexico, and the Agency's Charter pertaining to equal employment opportunity. In accordance with all such laws of the State

of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-2. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Agency.

19. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Agency, the Department of Finance and Administration and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

20. Indemnification.

The Contractor shall defend, indemnify and hold harmless the Agency and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Agency and the Risk Management Division of the New Mexico General Services Department by certified mail.

21. New Mexico Employees Health Coverage.

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $250,000 dollars.

B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: http://insurenewmexico.state.nm.us/.

22. Employee Pay Equity Reporting.

Contractor agrees if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If contractor has (250) or more employees contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90 days) of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter. Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90 days) of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement

applies even though contractor itself may not meet the size requirement for reporting and be required to report itself.

Notwithstanding the foregoing, if this Contract was procured pursuant to a solicitation, and if Contractor has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this Agreement.

23. Invalid Term or Condition.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

24. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

25. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the Agency:	**To the Contractor:**
Regina Wheeler, Public Works	**Colby Geer, President**
City of Santa Fe	**7601 Jefferson Street NE, Suite 160**
737 Agua Fria St., Santa Fe, NM 87501	**Albuquerque, NM 87109**
rawheeler@santafenm.gov	**cageer@esg.email**

26. Authority.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

27. Entire Agreement.

This Agreement, the attached addendum of federally-required provisions, and any amendments adopted pursuant to Article 13 (Amendment) constitute the entirety of the agreement between the Parties.

IN WITNESS WHEREOF, the Parties have executed this Contract as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

_____
ALAN WEBBER, MAYOR

CONTRACTOR:

Colby Geer
Colby Geer (Jul 22, 2025 08:03 MDT)
_____
COLBY GREER, PRESIDENT

DATE: 07/22/2025

NMBTIN#: 03-260362-00-2

ATTEST:

_____
CITY CLERK

CITY ATTORNEY'S OFFICE:

Kevin L. Nault
Kevin L. Nault (Jul 22, 2025 23:57:54 MDT)
_____
ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Ostar
_____
FINANCE DIRECTOR



Notice of Final Project Acceptance

Date of Notice _____

Client: _____

Contractor: _____

Contract Name / #: _____

Notice is hereby given that ***Client*** accepts the Project and establishes a Performance Commencement Date of _____.

Client Signatory

Signature _____

Name _____

Title _____

Date _____

When completely executed, this form is to be scanned and returned to the Contractor via electronic correspondence.

Exhibit B

Cost and Pricing

Facility	Street Address	City	State	Zip	Gross Area (ft^2)
Santa Fe Police Department HQ	2515 CAMINO ENTRADA	Santa Fe	NM	87507	26,000
Mary Esther Gonzales Senior Center	1121 Alto St	Santa Fe	NM	87501	17,000
Genoveva Chavez Community Center	3221 Rodeo Rd	Santa Fe	NM	87507	138,000
Santa Fe Fire Department Station 8	6796 Jaguar Drive	Santa Fe	NM	87507	33,500
Wastewater Treatment Facility	73 Paseo Real	Santa Fe	NM	87507	177,400
Canyon Road Water Treatment Plant	1780 Canyon Road	Santa Fe	NM	87501	11,000
Buckman Direct Diversion Plant	341 Caja Del Rio Road	Santa Fe	NM	87506	75,000
Emergency Operations Center	1600 St. Michaels Dr. Bldg 2	Santa Fe	NM	87505	9,950
Pasatiempo Senior Center	664 Alta Vista St	Santa Fe	NM	87505	19,000
Luisa Senior Center	1500 Luisa St	Santa Fe	NM	87505	6,500
Santa Fe Fire Department Station 6	West Alameda Street	Santa Fe	NM	87501	1,562
Santa Fe Fire Department Station 9	2501 Camino Entrada	Santa Fe	NM	87507	10,500
Santa Fe Fire Department Station 10 Airport	121 Aviation Drive	Santa Fe	NM	87505	12,868
Santa Fe Fire Department Station 1	200 Murales Road	Santa Fe	NM	87501	16,000
Santa Fe Fire Department Station 4	1130 Arroyo Chamiso Road	Santa Fe	NM	87505	8,242
Santa Fe Fire Department Station 7	2391 Richards Avenue	Santa Fe	NM	87507	12,000
Santa Fe Fire Department Station 3	1751 Cerrillos Road	Santa Fe	NM	87507	10,500
Depeartment of Information Technology Data Center	715 Alta Vista St	Santa Fe	NM	87505	70,530
Canyon Road Sewer Lift	1519 Canyon Road	Santa Fe	NM	87501	25,507
City Wellfield	Various - Along Alameda/Agua Fria	Santa Fe	NM		2,000
Interfaith Community Shelter	2801 Cerillos Rd	Santa Fe	NM	87507	6,670

Facility	Street Address	City	State	Zip	Gross Area (ft^2)
Square Footage (ft^2) Phase 1 Facilities	-----	-----	-----	-----	477,900
Square Footage (ft^2) NEW Facilities	-----	-----	-----	-----	211,829
IGA Fee Phase 1 ($0.1175/$ft^2$)					$53,764
IGA Fee NEW ($0.225/$ft^2$)					$47,662
NMGRT (8.1875%)					$8,304
Total IGA Fee + NMGRT					$109,729

IGA and Microgrid/Resiliency Study

Investment Grade Audit	Gross Area (SQFT)	Price/SQFT	Total
Facilities included in current EPC project	477,900	$0.1125	$53,764
Facilities NOT in current EPC project	211,829	$0.2250	$47,662
IGA Subtotal	689,729		$101,425
Microgrid Design			**Total**
Allowance for Microgrid Development & Design			$210,000
Allowance for Microgrid Interconnection Packages			$136,500
Allowance for Utility Supplemental Reviews			$15,000
Microgrid Design Subtotal			$361,500
Project Subtotal			$462,925
NMGRT (8.1875%)			$37,902
TOTAL			$500,827



GSD Purchasing Zone	Facility Area (sqft)		
	< 25K	25-100K	100K +
Zone 5	$0.250	$0.225	$0.200
Zones 2 and 8	$0.275	$0.250	$0.225
Zones 4 and 6	$0.300	$0.275	$0.250
Zones 1, 7, 9, and 12	$0.325	$0.300	$0.275
Zones 3, 10, and 11	$0.350	$0.325	$0.300

Exhibit C

Guidelines for Draft Measurement and Verification Plan

The Measurement and Verification Plan shall be developed following State requirements and industry best practices.

Exhibit D

Performance Measures

(Performance Measures should be based on the Scope of Work and must be tied to the Agency's Strategic Plan. The Plan should be referenced in the Performance Measures and the applicable part of the Strategic Plan copied below or in an attachment. To the extent possible based on the nature of the work to be performed, the Performance Measures should be "Output" oriented and specify an "Outcome.")

Performance Measures in the Scope of Work shall contain measurable goals and objectives that are linked to the performance measures of the Agency's Strategic Plan:

Example: Goal: Reduce or Increase or Other Service [insert blank].[1]

Objective: To reduce or increase or Other Service [insert blank] by [blank] percent or by a certain time.[2]

Activities: [Insert what services the Contractor is expected to perform to accomplish goals and objectives including an evaluation of the process and the outcome as well as provides efficiency measures that relate efforts to outputs of services].

OR: Through satisfactory completion of the Scope of Work set forth above and submission of acceptable Deliverables, the Contractor will assist the Agency to meet the portions of its Strategic Plan set forth below ***(insert additional language if necessary to describe how Contractor's work will assist the Agency to fulfill its duties).***

1 A goal is an "output" measure. It measures the quantity of a service provided. For example, the number of students graduated or promoted; the number of two-lane highways repaired; or the number of crimes investigated. It also can measure the quantity of a service provided that meets a certain quality requirement. For example, the number of students graduated or promoted who meet a minimum preset level of achievement; the number of miles of roads repaired to a minimum safety standard; or the number of criminal investigations performed that result in identification of a prime suspect.

2 An accomplishment is an "outcome" measure. These indicators measure accomplishments or results that occur (at least partially) because the services were provided. For example, the percentage of students achieving a specified skill level in reading, the percentage of miles of roads in excellent, good or fair condition; or the percent reduction in serious crimes or the percent of residents who perceive their neighborhoods as safe.

Docusign Envelope ID: 5662B728-A81D-437D-A294-5A20E2BC9A93

State of New Mexico
General Services Department
Purchasing Division

Contract Amendment Cover Page

Awarded Vendor:
0000011132
Trane U.S. Inc.
5501 San Diego Avenue NE
Albuquerque, NM 87113

Contact: Zully De La Pava Torrado
Email: zully.delapava@trane.com
Telephone No. (915) 593-3484

Contract Number: 40-00000-23-00029AG

Amendment No.: One

Term: January 12, 2024 – January 11, 2028

Ship To:
All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.

Invoice:
As Requested at time of order

For questions regarding this contract please contact:
Dennis Romero (505) 660-8605

ya

Procurement Specialist: Yvette Anaya

Telephone No.: (505) 500-9737

Email: Yvette.anaya@gsd.nm.gov

Title: Qualified Providers of Energy Performance Contracting Services, ESCO

This amendment is to be attached to the respective Contract and become a part thereof.

This amendment is issued to reflect the following effective immediately:

Update Appendix Sections:

N: Model Guaranteed Utility Savings Contract

O: Model Attachments for Guaranteed Utility Savings Contract

Except as modified by this amendment, the provisions of the Contract shall remain in full force and effect.

Docusign Envelope ID: 5662B728-A81D-437D-A294-5A20E2BC9A93

State of New Mexico
General Services Department
General Services Contract Amendment
Agreement No.: 40-00000-23-00029AG
Amendment No.: One

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **General Services Department**, hereinafter referred to as the "Procuring Agency," and **Trane U.S. Inc.,** hereinafter referred to as the "Contractor".

The purpose of this Amendment is to Update Appendices N and O.

IT IS MUTUALLY AGREED BETWEEN THE PARTIES THAT THE FOLLOWING PROVISIONS OF THE ABOVE-REFERENCED CONTRACT ARE AMENDED AS FOLLOWS:

1. **Appendices:**

    a. **N: Model Guaranteed Utility Savings Contract**
    b. **O: Model Attachments for Guaranteed Utility Savings Contract**

All other Articles and Deliverables of the original contract remain the same.

Docusign Envelope ID: 5662B728-A81D-437D-A294-5A20E2BC9A93

IN WITNESS WHEREOF, the Parties hereby execute this Agreement, which will take effect on the last signature date of the required approval authorities below. Each of the signatories, below, may execute this Agreement by hard copy original, facsimile, digital or electronic signature, any of which shall be deemed to be a true and original signature hereunder.

By: _____ Date: 6/2/2025
Zully De La Pava Torrado, Area Sales Manager
Trane U.S. Inc.

The records of the Taxation and Revenue Department reflect that Contractor is registered with the Taxation and Revenue Department of the State to pay gross receipts and compensating taxes:

BTIN: 01-509460-00-0

NOTE: **Taxation and Revenue is only verifying the registration and will not confirm or deny taxability statements contained in this contract.**

By: Ann Marie Lucero Date: 6/2/2025
Taxation & Revenue Department

This Agreement has been approved by the State Purchasing Agent:

By: Dorothy Mendonca Date: 6/2/2025
Dorothy Mendonca
State Purchasing Agent
State of New Mexico

Docusign Envelope ID: 5662B728-A81D-437D-A294-5A20E2BC9A93

APPENDIX N

MODEL GUARANTEED UTILITY SAVINGS CONTRACT

Docusign Envelope ID: 5662B728-A81D-437D-A294-5A20E2BC9A93

STATE OF NEW MEXICO
NAME OF AGENCY
PROFESSIONAL SERVICES CONTRACT #_____
For Energy Performance Contracting

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Savings Guarantee
Schedule A — Energy and Cost Savings Guarantee
Schedule B — Baseline Energy Consumption; Methodology to Adjust Baseline
Schedule C — Savings Measurement and Verification Plan; Post-Retrofit M&V Plan; Annual M&V Reporting Requirements
Schedules D-G — *[optional schedules]*
Payments and Schedule
Schedule H — Final Project Cost & Project Cash Flow Analysis
Schedule I — Financing Agreement and Payment Schedule
Schedule J — Compensation to Contractor for Annual Services
Schedule K — Rebates, Incentives and Grants
Schedules L-P — *[optional schedules]*
Design and Construction Phase
Schedule Q — Description of Project Site(s)
Schedule R — Equipment to be Installed by Contractor
Schedule S — Construction and Installation Schedule
Schedule T — Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment
Schedule U — Standards of Comfort
Schedule V — Contractor's Training Responsibilities
Schedules W-AA — *[optional schedules]*
Post-Construction
Schedule BB — Contractor's Maintenance Responsibilities
Schedule CC — Agency's Maintenance Responsibilities
Schedule DD — Facility Maintenance Checklist
Schedules EE-II — *[optional schedules]*
Administration
Schedule JJ — Alternative Dispute Resolution Procedures
Schedules KK-OO — *[optional schedules]*
Optional Schedules
Pre-Existing Service Contracts
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Facility Changes Checklist
Current and Known Capital Projects at Facility

Exhibits

Exhibit I — Performance Bond
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Optional Exhibits

- Manifest of Ownership
- Minority and Woman-Owned Business Certification
- Certification that Financing Term is no Longer than the Aggregated Equipment Lifetime
- Notice to Proceed with Construction Phase
- Record of Reviews by Agency

Appendices

Appendix A RFP for Contractor Solicitation (Pre-qualification Phase; Final Selection Phase)
Appendix B Contractor Proposal (Pre-qualification Phase; Final Selection Phase)
Appendix C Investment-Grade Energy Audit and Project Development Contract
Appendix D Investment-Grade Energy Audit Report

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STATE OF NEW MEXICO
NAME OF AGENCY
PROFESSIONAL SERVICES CONTRACT #_____
For Energy Performance Contracting

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **NAME OF AGENCY**, hereinafter referred to as the "Agency," and **NAME OF CONTRACTOR**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Department of Finance and Administration ("DFA").

RECITALS

WHEREAS, Agency owns and operates the Project Site(s), and is in need of energy and water cost saving equipment and services designed to save energy and associated energy costs at said Project Sites; and

WHEREAS, Agency has been authorized to enter into a third party financing agreement for all professional services, equipment and construction for the purchase and installation of energy and water cost savings measures, collectively referred to as the "Work" (as hereinafter defined); and

WHEREAS, Contractor has developed or become knowledgeable about certain procedures for controlling energy and water consumption through services provided and equipment installed and maintained at project sites similar in scope and scale of Agency; and

WHEREAS**,** Contractor was selected after a determination that its proposal was the most advantageous to Agency pursuant to a Request for Proposal and contract for the Investment Grade Audit and Project Development Proposal (as hereinafter defined); and

WHEREAS, Contractor has made an assessment of the utility consumption characteristics of the Project Site(s) and existing Equipment described in Schedule Q (Description of Project Site(s)), which was delivered to Agency as an Investment-Grade Energy Audit Report which Agency has approved and is attached as Appendix D; and

WHEREAS, Agency desires to retain Contractor to purchase, install and service certain energy and water cost savings equipment and to provide other services and strategies described in the attached Schedules, for the purpose of achieving energy and water cost reductions within Project Site(s), as more fully described herein; and

WHEREAS, Agency is authorized under the New Mexico Constitution and state law, Chapter 6, Article 23, New Mexico Statutes Annotated (NMSA) 1978, to enter into this Contract for the purposes set forth herein.

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NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound hereby, Agency and Contractor hereto covenant and agree that the following Schedules, Exhibits and Appendices are attached hereto (or will be, as provided in this Contract) and are made a part of this Contract by reference.

IT IS AGREED BETWEEN THE PARTIES:

1. Definitions.

A. "Commencement Date" means the date described in Section 6 (Commencement Date);

B. "Contract" means this Energy Performance Contract and all Schedules, Exhibits, and Appendices attached hereto;

C. "Contract Sum" means the sum of all materials, labor, auditing, design, engineering, project construction management fees, overhead, profit, contingency, subcontracted services related to the project;

D. "Energy and Cost Savings Guarantee" means the guarantee of Schedule A (Savings Guarantee) that is achieved as a result of the installation and operation of the Equipment and provision of services provided for in this Contract as specified in Schedule J (Compensation to Contractor for Annual Services) and in accordance with the Savings Calculation Formula as set forth in Schedule C (Savings Measurement and Verification (M&V) Plan; Post-Retrofit M&V Plan; Annual M&V Reporting Requirements);

E. "Energy and Water Cost Savings" means the savings as provided in Schedule A ((Savings Guarantee);

F. "Equipment" means the material goods enumerated in Schedule R (Equipment to be Installed by Contractor) that is now, or hereafter from time to time, attached hereto and incorporated herein by reference, together and with any and all additions, modifications, attachments, replacements and parts thereof;

G. "Event of Default" means those events described in Sections 65 (Events of Default by Contractor) and 64 (Events of Default by Agency) hereof;

H. "Interim Period" means the period from contract execution until the Commencement Date;

I. "Investment Grade Audit" means a study by the Contractor selected for a particular energy performance contracting project, which includes detailed descriptions of the improvements

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recommended for the project, the estimated costs of the improvements and the utility and operations and maintenance cost savings projected to result from the recommended improvements;

J. "Project Site(s)" means the facilities of the Agency in need of energy and water saving equipment and services designed to reduce consumption and associated costs at said Project Site(s);

K. "Qualified Provider" means the Contractor, who is a person experienced in the design, implementation and installation of energy or water conservation measures and who meets the experience qualifications developed by the Energy, Minerals and Natural Resources Department (EMNRD) for energy conservation measures or the Office of the State Engineer for water conservation measures;

L. "Substantial Completion" means the stage in the progress of the Work where the Work is sufficiently complete in accordance with the Contract Documents so that the Agency can utilize and take beneficial use of the Work for its intended use or purpose.

M. "Work" means the Equipment, materials, professional services and construction services for the project at Agency's Project Site, as described by this Agreement and attachments.

2. Scope of Work.

Contractor shall:

A. perform and complete the Work at the Agency's Project Site, as defined and described in this Agreement and the attached Schedules, Exhibits, and Appendices;

B. provide the Equipment, together with installation, maintenance and other services as provided herein, as in Schedule R (Equipment to be Installed by Contractor) based upon the terms and conditions set forth in Schedule S (Construction and Installation Schedule);

C. provide the Work and all related services identified in Schedule R (Equipment to be Installed by Contractor) and the services detailed in Schedule BB (Contractor's Maintenance Responsibilities) and Schedule J (Compensation to Contractor for Annual Services);

D. supervise and direct the Work and shall be responsible for the engineering, design, and quality control; construction means, methods, techniques, sequences, and procedures; and for coordinating all portions of the Work under this Contract; and

E. comply with all federal, state, and local government laws, codes, and regulations in effect at the time the Agreement is fully executed.

3. Compensation.

A. The Agency shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work at the rate of _____ dollars ($_____) in FYXX (USE FISCAL YEAR NUMBER TO DESCRIBE YEAR; DO NOT USE FY1, FY2, ETC.).

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The New Mexico gross receipts tax levied on the amounts payable under this Agreement in FYXX totaling _____ dollars ($_____) shall be paid by the Agency to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed** _____ dollars ($_____) **in FYXX.**

(REPEAT LANGUAGE FOR EACH FISCAL YEAR COVERED BY THE AGREEMENT -- USE FISCAL YEAR NUMBER TO DESCRIBE EACH YEAR; DO NOT USE FY1, FY2, ETC.).

Payment in FYXX, FYXX, FYXX, and FYXX is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the DFA. All invoices MUST BE received by the Agency no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

B. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed _____ dollars ($_____) as set forth in Schedule H (Final Project Cost & Project Cash Flow Analysis). This amount is a maximum and not a guarantee that the work assigned to the Contractor under this Agreement to be performed shall equal the amount stated herein. Payment terms are described in Schedule I (Financing Agreement and Payment Schedule).

D. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the Agency finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the Agency that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the agency shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

4. <u>Term</u>.

The Energy Performance Contract shall have a term no greater than 25 years and no greater than the cost-weighted average lifetime of the equipment, in compliance with Section 6-23-3 NMSA 1978. Agency's goal is for a term no greater than its desired financing term.

A. THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE DFA. This Agreement shall terminate on **DATE** unless terminated pursuant to paragraph 4, <u>infra</u>, or paragraph 5. In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978. An exception is that for contracts entered into pursuant

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to the Public Facility Energy Efficiency and Water Conservation Act (6-23 NMSA 1978), the term shall not exceed twenty-five years, including all extensions and renewals.

Prior to the Commencement Date the final contract and technical schedules are negotiated and executed by signature. At that point in time the Contractor typically begins the final design of the project and finalizes the construction schedule with the Agency. The "Interim Period" refers to the construction period, during which some amount of energy savings will start to accrue. The treatment of those energy savings can be negotiated to either be credited to the Contractor's guarantee or credited to the Agency. If such savings are credited to the Contractor's guarantee, it is recommended that such credit be extended for a specified period of time (e.g. 1-2 years). If the Contractor is credited with the interim period savings, the Agency and Contractor will need to agree to develop an approach to the measurement of those savings.

B. Subject to the following sentence, the term of this Contract shall be _____ years measured beginning with the Commencement Date. Nonetheless, the Contract shall be effective and binding upon the parties immediately upon its execution, and the period from contract execution until the Commencement Date shall be known as the "Interim Period". All energy savings achieved during the interim period will be fully credited to the Agency.

5. Termination.

The Agency has an option to terminate the contract but the Contractor does not. Contractor's termination is considered a default as described in the default clause.

A. Termination. This Agreement may be terminated by the Agency upon written notice delivered to the Contractor at least ten (10) days prior to the intended date of termination. By such termination, the Contractor may not nullify obligations already incurred for performance or failure to perform prior to the date of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the Agency or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE STATE'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B. Termination Management. Immediately upon receipt by the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under this Agreement. Any non-expendable personal property or equipment provided to

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or purchased by the Contractor with contract funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

6. Commencement Date.

This section defines the Commencement Date which is the actual beginning date for the savings guarantee period. It is standard for this date to be the first month AFTER the Contractor has completed construction and delivered a notice that all equipment is installed and operating. In addition, the Agency will have accepted the installation by signing a Certificate of Acceptance which should be attached to the contract. It also clearly states that no payment for any of the Contractor's on-going services (e.g. measurement and verification, project monitoring, maintenance, training etc.) will be made prior to the Commencement Date. It is recommended that the repayment obligation of project financing be arranged to coincide with the Commencement Date. The timing of the Commencement Date may also need to be arranged to accommodate the Agency's fiscal year for the purpose of appropriations and budgeting. This date alignment should not prevent the Contractor from timely remuneration for training and other services performed prior to Commencement Date.

A. The Commencement Date shall be the first day of the month after the month in which all schedules are in final form and accepted by Agency and Contractor shall have delivered a Notice to Agency that it has installed and commenced operating all of the Equipment specified in **Schedule R (Equipment to be Installed by Contractor)** and in accordance with the provisions of **Schedule S (Construction and Installation Schedule)** and **Schedule T (Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment);** and Agency has inspected and accepted said installation and operation as evidenced by the Certificate of Acceptance as set forth in **Exhibit VI (Agency Certificate of Acceptance—Installed Equipment).**

B. Notwithstanding anything to the contrary in **Sections herein (Purchase and Sale; Commencement Date and Terms; Interim Period),** the Commencement Date shall not occur and the Agency shall not be required to accept the work under this Contract unless and until all Equipment installation for the Project Site(s) is completed by Contractor in accordance with the terms and conditions of this Contract. Agency shall have _____ days after notification by the Contractor to inspect and accept the Equipment. Agency reserves the right to reject the Equipment if installation fails to meet reasonable standards of workmanship, does not comply with applicable building codes, or is otherwise not in compliance with this Contract. Contractor shall not be paid in full, including retainage, until after the punch list is completed and Contractor has satisfied any and all claims for labor and materials and the Certificate of Acceptance has been signed. The Certificate of Acceptance will not be unreasonably withheld by the Agency.

C. Compensation payments due to Contractor for on-going services and maintenance under this Contract as set forth in **Schedule J (Compensation to Contractor for Annual Services)** shall begin no earlier than _____ from the Commencement Date as defined herein.

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7. Performance Measures.

Contractor shall substantially perform the following Agency Performance Measures:

A. *[Insert Agency Performance Measure involving facility capital upgrades, if applicable.]*

B. *[Insert Agency Performance Measure involving operational cost reduction, if applicable.]*

C. *[Insert other Agency Performance Measure, if applicable]*

Agency Performance Measures documentation is provided as Attachment I.

8. Contractor is Qualified Provider.

This section records the certification by EMNRD of the Contractor as a Qualified Provider, pursuant to Sections 6-23-2E and 6-23-5 NMSA 1978, which must be completed prior to the execution of this contract. An EMNRD Certification of Contractor as Qualified Provider must be signed by EMNRD and attached to the contract (Exhibit III).

Contractor is certified as a Qualified Provider by EMNRD to perform the Work, pursuant to Sections 6-23-2E and 6-23-5 NMSA 1978 and as shown by Exhibit III (EMNRD Certification of Contractor as Qualified Provider).

9. Investment-Grade Energy Audit Report and Project Development Proposal.

This section records the certification by EMNRD of the Investment-Grade Energy Audit Report which must be completed prior to the execution of this contract. An EMNRD Certification of Guaranteed Energy Savings must be signed by EMNRD and attached to the contract - Exhibit IV(Agency Certificate of Acceptance – Installed Equipment). If the list of measures is not completely finalized prior to the signing of this contract, then language to that effect should be included.

Contractor has provided the complete Investment-Grade Energy Audit Report and Project Development Proposal of the Project Site(s), as set forth in Appendix D (Investment-Grade Energy Audit and Project Proposal Contract) and dated _____. The Investment-Grade Energy Audit Report includes all energy conservation measures agreed upon by Agency and Contractor for implementation in the Work. The guaranteed energy savings of energy conservation measures stated in the Investment-Grade Energy Audit Report appear to be accurately estimated and reasonable and are certified by EMNRD, as shown in Exhibit IV (EMNRD Certification of Guaranteed Energy Savings).

10. Schedules, Exhibits and Appendices.

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Contractor has provided and Agency has approved the following Schedules, Exhibits and Appendices, copies of which are attached hereto (or will be as provided for in the Contract), set forth in their entirety as Attachment II and made a part of this Contract by reference.

A. Schedules

<u>Savings Guarantee</u>	
Schedule A	Energy and Cost Savings Guarantee
Schedule B	Baseline Energy Consumption; Methodology to Adjust Baseline
Schedule C	Savings Measurement and Verification Plan; Post-Retrofit M&V Plan; Annual M&V Reporting Requirements
Schedules D-G	*[optional schedules]*
<u>Payments and Schedule</u>	
Schedule H	Final Project Cost & Project Cash Flow Analysis
Schedule I	Financing Agreement and Payment Schedule
Schedule J	Compensation to Contractor for Annual Services
Schedule K	Rebates, Incentives and Grants
Schedules L-P	*[optional schedules]*
<u>Design and Construction Phase</u>	
Schedule Q	Description of Project Site(s)
Schedule R	Equipment to be Installed by Contractor
Schedule S	Construction and Installation Schedule
Schedule T	Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment
Schedule U	Standards of Comfort
Schedule V	Contractor's Training Responsibilities
Schedules W-AA	*[optional schedules]*
<u>Post-Construction</u>	
Schedule BB	Contractor's Maintenance Responsibilities
Schedule CC	Agency's Maintenance Responsibilities
Schedule DD	Facility Maintenance Checklist
Schedules EE-II	*[optional schedules]*
<u>Administration</u>	
Schedule JJ	Alternative Dispute Resolution Procedures
Schedules KK-OO	*[optional schedules]*

<u>Optional Schedules</u>

Pre-Existing Service Contracts

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Energy Savings Projections
Facility Changes Checklist
Current and Known Capital Projects at Facility

B. Exhibits

Exhibit I Performance Bond
Exhibit II Labor and Material Payment Bond
Exhibit III EMNRD Certification of Contractor as Qualified Provider
Exhibit IV EMNRD Certification of Guaranteed Energy Savings
Exhibit V Agency Approval of Contracts and Agreements
Exhibit VI Agency Certificate of Acceptance—Installed Equipment
Exhibit VII Equipment Warranties

Optional Exhibits

Manifest of Ownership
Minority and Woman-Owned Business Certification
Certification that Financing Term is no Longer than the Aggregated Equipment Lifetime
Notice to Proceed with Construction Phase
Record of Reviews by Agency

C. Appendices

Appendix A RFP for Contractor Solicitation (Pre-qualification Phase; Final Selection Phase)
Appendix B Contractor Proposal (Pre-qualification Phase; Final Selection Phase)
Appendix C Investment-Grade Energy Audit and Project Development Contract
Appendix D Investment-Grade Energy Audit Report

11. Purchase and Sale.

When using a third-party lease-purchase structure the Contractor will receive 100% of the Contract Sum from the Agency once the Exhibit VI (Agency Certificate of Acceptance—Installed Equipment) is signed. The payments to the Contractor during the construction period (Interim Period) can be drawn down by the Contractor from the proceeds of the lease through an escrow account set up by the leasing Contractor. Payments will be made based upon the percentage of work completed and approved by the Agency. The Agency should require a percentage retainage be withheld from the Contractor until the Exhibit VI (Agency Certificate of Acceptance—Installed Equipment) is executed, at which time final payment can be made.

A. Agency agrees to lease Equipment through a third-party financier, **NAME OF LENDER**, as provided for in a separate lease document, Schedule I (Financing Agreement and Payment Schedule).

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B. Contractor shall be responsible to pay for all labor, materials, equipment, tools, construction equipment and machinery, transportation and other facilities and services necessary for the proper execution and completion of the Work.

12. Energy Usage Records and Data.

This section ensures that the Contractor has access to the historical energy consumption, facility operations and occupancy data in order to develop baseline utility consumption. At a minimum, there should be 24 months of data made available, however, 36 months is recommended. Existing facility conditions, operations and equipment needs to be carefully recorded to establish an accurate baseline. This will serve as a record of your buildings as they were configured prior to project installation and will be critical to the establishment and adjustment of baseline, and measurement of savings. As well, any prior technical studies and/or energy audits should also be made available for the Contractor's review and verification.

Agency has furnished and shall continue to furnish (or authorize its energy suppliers to furnish) during the Term of this Contract to Contractor or its designee, upon its request, all of its records and complete data concerning energy and water usage and related maintenance for the Project Site(s).

13. Location and Access.

This states the Agency's responsibility for providing adequate space and protection for the installed equipment and authorizes the Contractor's access to the facility to perform routine and emergency operations.

Contractor acknowledges that there exists sufficient space on the Project Site(s) for the installation and operation of the Equipment. Agency shall take reasonable steps to protect such Equipment from harm, theft and misuse during the term of this Contract. Agency shall provide access to the Project Site(s) for Contractor to perform any function related to this Contract during regular business hours, or such other reasonable hours as may be requested by Contractor and acceptable to the Agency. Contractor shall be granted immediate access to make emergency repairs or corrections as it may, in its discretion, determine are needed. The Contractor's access to Project Site(s) to make emergency repairs or corrections as it may determine are needed shall not be unreasonably restricted by the Agency. Contractor shall immediately notify the Agency when emergency action is taken and follow up with written notice within three (3) business days specifying the action taken, the reasons therefore, and the impact upon the Project Site(s), if any.

14. Permits and Approvals.

This standard construction provision requires the Contractor comply with all code requirements, pay all associated permit fees and provide the Agency with copies of each permit and license required to do the work. The Agency agrees to assist the Contractor to the best of its ability to obtain all required permits and approvals.

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Agency shall use its best efforts to assist Contractor in obtaining all necessary permits and approvals for installation of the Equipment. In no event shall Agency, however, be responsible for payment of any permit fees. The equipment and the operation of the equipment by Contractor shall at all times conform to all federal, state and local code requirements. Contractor shall furnish copies of each permit or license which is required to perform the work to the Agency before the Contractor commences the portion of the work requiring such permit or license.

15. Coordination During Installation.

This standard provision directs the Agency and Contractor to coordinate the equipment installation activities to not interfere with the Agency's business activities. If an installation will require interference, the Contractor must first obtain the Agency's written approval to proceed. If a facility generates revenue for the Agency (e.g. civic center, theater, arena etc.) and scheduled revenue-producing activities are interrupted due to the fault of the Contractor, either during project installation or operation, then a provision for the collection of damages may be negotiated.

The Agency and Contractor shall coordinate the activities of Contractor's equipment installers with those of the Agency, its employees, and agents. Contractor shall not commit or permit any act which will interfere with the performance of business activities conducted by the Agency or its employees without prior written approval of the Agency.

16. Construction Schedule; Equipment Installation.

Construction and equipment installation shall proceed in accordance with the construction schedule approved by Agency and attached as Schedule S (Construction and Equipment Installation Schedule).

17. Systems Startup and Equipment Commissioning.

This section requires the Contractor to conduct performance testing of the equipment as specified in its Commissioning Plan located in Schedule T (Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment), and verify the specified operating parameters to make certain the system is working properly. In most instances this activity occurs prior to the Agency's final acceptance of the project as fully installed, however, if any testing is negotiated to occur after project acceptance, language to that effect should be included here. It also requires the Contractor notify the Agency of when the testing will take place and gives the Agency (or its designee) the right to be present during all tests. Make sure the commissioning plan includes manufacturer's startup and performance sheets.

The Contractor shall conduct a thorough and systematic performance test of each element and total system of the installed Equipment in accordance with the procedures specified in Schedule T

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(Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment) and prior to acceptance of the project by the Agency as specified in Exhibit VI (Certificate of Acceptance—Installed Equipment). Testing shall be designed to determine if the Equipment is functioning in accordance with both its published specifications and the Schedules to this Contract, and to determine if modified building systems, subsystems or components are functioning properly within the new integrated environment. The Contractor shall provide notice to the Agency of the scheduled test(s) and the Agency and/or its designees shall have the right to be present at any or all such tests conducted by Contractor and/or manufacturers of the Equipment. The Contractor shall be responsible for correcting and/or adjusting all deficiencies in systems and Equipment operations that may be observed during system commissioning procedures as specified in Schedule T (Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment). The Contractor shall be responsible for correcting and/or adjusting all deficiencies in Equipment operation that may be observed during system testing procedures. Prior to Agency acceptance Contractor shall also provide Agency with reasonably satisfactory documentary evidence that the Equipment installed is the Equipment specified in Schedule R (Equipment to be Installed by Contractor).

18. Equipment Warranties.

This warranty provision requires all installed equipment be new and protected by appropriate written manufacturers' warranties for a minimum of one year, covering parts and performance. It also requires warranties provide for the installation of only new parts (not used or reconditioned) during the warranty period. While equipment warranties will be transferred to the Agency after completed project installation, this provision makes the Contractor responsible for pursuing any necessary remedies during the warranty period. If the Contractor fails to exercise the warranty and damages occur, the Contractor is responsible for all costs of repair and any lost savings.

A. Contractor warrants that all equipment sold and installed as part of this Contract is new, will be materially free from defects in materials or workmanship, will be installed properly in a good and workmanlike manner, and will function properly for a period of at least one (1) year from the date of the Substantial Completion for the particular energy conservation measure, if operated and maintained in accordance with the procedures established per building. Substantial Completion does not occur until the Equipment or system has been commissioned, accepted, and Exhibit V (Notice of Substantial Completion) is fully executed.

B. After the warranty period, Contractor shall have no responsibility for performing maintenance, repairs, or making manufacturer warranty claims relating to the Equipment, except as provided in Schedule BB (Contractor's Maintenance Responsibilities).

C. Contractor further agrees to assign to Agency all available manufacturer's warranties relating to the Equipment and to deliver such written warranties and which shall be attached and set forth as Exhibit VII (Equipment Warranties); pursue rights and remedies against the manufacturers under the warranties in the event of Equipment malfunction or improper or defective function, and defects in parts, workmanship and performance. Contractor shall, during the warranty period, notify

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the Agency whenever defects in Equipment parts or performance occur, which give rise to such rights and remedies and those rights and remedies are exercised by Contractor. During this period, the cost of any risk of damage or damage to the Equipment and its performance, including damage to property and equipment of the Agency or the Project Site(s), due to Contractor's failure to exercise its warranty rights, shall be borne solely by Contractor.

D. All warranties, to the extent transferable, shall be transferable and extend to the Agency. The warranties shall specify that only new, not reconditioned, parts may be used and installed when repair is necessitated by malfunction. All extended warranties shall be addressed as the property of the owner and appropriately documented and titled.

E. Notwithstanding the above, nothing in this Section shall be construed to alleviate/relieve the Contractor from complying with its obligations to perform under all terms and conditions of this Contract and as set forth in all attached Schedules.

19. Standards of Comfort.

*This section references the **Schedule U (Standards of Comfort)** which the Contractor is contractually liable to maintain throughout the term of the contract. These standards are negotiated between the Contractor and Agency to reflect realistic ranges of heating, cooling and hot water temperatures, lighting levels, chilled water requirements, and other specified comfort and operating parameters to be maintained.*

Contractor shall maintain and operate the Equipment in a manner which will provide the standards of heating, cooling, ventilation, hot water supply, and lighting quality and levels as described in Schedule U (Standards of Comfort). During the term of this Contract, Contractor and Agency will maintain, according to Schedule BB (Contractor's Maintenance Responsibilities) and Schedule CC (Agency's Maintenance Responsibilities), and operate the Equipment in a manner that will provide the standards of comfort and levels of operation as described in Schedule U (Standards of Comfort).

20. Environmental Requirements, Excluded Material and Activities.

This section addresses hazardous materials and establishes that the Contractor may encounter such materials but is not responsible for identification, handling or any work. The Agency will be responsible for such handling at its expense. In the event the Contractor discovers such materials, the Contractor will stop work and the Agency will handle it. Neither the Contractor's stoppage of work nor the Agency's discovery is grounds for default. If work can commence, any lost time will be added to the time schedule. The Contractor is responsible for any hazardous materials related to equipment it brings to the site.

Agency recognizes that in connection with the installation and/or service or maintenance of Equipment at Agency's Project Site(s), Contractor may encounter, but is not responsible for, any work relating to (i) asbestos, materials containing asbestos, or the existence, use, detection, removal,

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containment or treatment thereof; (ii) fungus (any type of form of fungi, including mold or mildew, and myotoxins, spores, scents or by-products produced or released by fungi); (iii) incomplete or damaged work or systems or code violations that may be discovered during or prior to the work of this agreement; or (iv) pollutants, hazardous wastes, hazardous materials, contaminants other than those described in this Section below (collectively "Hazardous Materials"), or the storage, handling, use, transportation, treatment, or the disposal, discharge, leakage, detection, removal, or containment thereof. The materials and activities listed in the foregoing sentence are referred to as "Excluded Materials and Activities." Agency agrees that if performance of work involves any Excluded Materials and Activities, Agency will perform or arrange for the performance of such work and shall bear the sole risk and responsibility therefore. In the event Contractor discovers Hazardous or Excluded Materials, Contractor shall immediately cease work, remove all Contractor personnel or subcontractors from the site, and notify the Agency. The Agency shall be responsible to handle such Materials at its expense. Contractor shall undertake no further work on the Project Site(s) except as authorized by the Agency in writing. Notwithstanding anything in this Contract to the contrary, any such event of discovery or remediation by the Agency shall not constitute a default by the Agency. In the event of such stoppage of work by Contractor, the Time for Completion of Work will be automatically extended by the amount of time of the work stoppage and any additional costs incurred by Contractor as a result will be added by Change Order.

Contractor shall be responsible for any hazardous or other materials, including, without limitation, those listed in this section that it may bring to the Project Site(s).

21. Polychlorinated Biphenyl (PCB) Ballasts; Mercury Lamps.

The Contractor is required to have an agreement with an approved PCB ballast disposal company that will properly handle transport, recycling, and incineration, providing information for site handling and a Certificate of Destruction. Similarly the Contractor is required to have an agreement with an approved lamp disposal company. In both cases, the Agency will sign manifests of ownership.

A. Contractor shall enter into an agreement with an approved PCB ballast disposal company that will provide an informational packet, packing receptacles and instructions, labels and shipping materials, transportation, and recycling or incineration services for PCB ballasts. All capacitors and asphalt potting compound materials removed from Agency's PCB ballasts will be incinerated in a federally approved facility. After proper disposal, a Certificate of Destruction will be provided by the approved facility to Agency. Contractor's responsibility shall be for the proper and legal management of any of Agency's PCB ballasts removed as a result of the installation of the Equipment and shall be limited only until said PCB ballasts are loaded onto an approved PCB ballast disposal Contractor's vehicle for transportation.

B. Contractor shall enter into an agreement with an approved lamp disposal company, who will provide approved containers, materials required to label, transportation, recycling or incineration in accordance with EPA requirements, and a copy of the manifest.

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C. Agency agrees to sign manifests of ownership for all PCB ballasts and mercury lamps removed from the Project Site(s).

22. Training by Contractor.

In many performance contracts the training of facility personnel is often conducted prior to acceptance by the Agency of the completed installation. There are occasions, however, where it may be necessary to conduct training after project acceptance, which can be noted and included in the appropriate schedule. If there are charges for unscheduled training, such charges should be noted in this section.

The Contractor shall conduct the training program described in Schedule V (Contractor's Training Responsibilities) hereto. The must be completed prior to acceptance of the Equipment installation. The Contractor shall provide ongoing training whenever needed with respect to updated or altered Equipment, including upgraded software. Such training shall be provided at no charge to the Agency and shall have no effect on prior acceptance of Equipment installation.

23. Equipment Service, Actions by Contractor.

This section refers to the maintenance and service responsibilities of each party as they are specified in Schedules CC (Agency's Maintenance Responsibilities) and BB (Contractor's Maintenance Responsibilities). It also states that if the Agency is at fault for causing additional maintenance or repair to the equipment, then the Agency will be charged by the Contractor for the cost of the required maintenance or repair.

Contractor shall provide all service, repairs, and adjustments to the Equipment installed under terms of this Contract pursuant to Schedule BB (Contractor's Maintenance Responsibilities). Agency shall incur no cost for Equipment service, repairs, and adjustments, except as set forth in Schedule J (Compensation to Contractor for Annual Services), provided, however, that when the need for maintenance or repairs principally arises due to the negligence or willful misconduct of the Agency or any employee or other agent of Agency, and Contractor can so demonstrate such causal connection, Contractor may charge Agency for the actual cost of the maintenance or repair insofar as such cost is not covered by any warranty or insurance proceeds.

24. Malfunctions and Emergencies.

This section requires the Agency to notify the Contractor within a specified number of hours of actually knowing about any situation that impacts the performance of the equipment. As described here, the impacts cover both pre-existing energy related equipment and the newly installed equipment. The impacts defined here include equipment malfunction or modification, interruption of power supply or any emergency situation which may affect the Energy and Cost Savings Guarantee. If such an impact is known by the Agency to have occurred and the Agency delays in

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notifying the Contractor and doesn't correct the situation, it will treated as a Material Change and the baseline will be adjusted accordingly. If the Agency makes an effort to assess the situation and incorrectly determines it doesn't have an impact, then the Contractor will not fault the Agency, although an adjustment to the baseline may still be warranted.

A. Agency shall use its best efforts to notify the Contractor or its designated subcontractors within 24 hours after the Agency's actual knowledge and occurrence of: (i) any malfunction in the operation of the Equipment or any preexisting energy related equipment that might materially impact upon the guaranteed energy savings, (ii) any interruption or alteration to the energy supply to the Project Site(s), or (iii) any alteration or modification in any energy-related equipment or its operation.

B. Where Agency exercises due diligence in attempting to assess the existence of a malfunction, interruption, or alteration it shall be deemed not at fault in failing to correctly identify such conditions as having a material impact upon the guaranteed energy savings. Agency shall notify Contractor within twenty-four (24) hours upon its having actual knowledge of any emergency condition affecting the Equipment. Contractor shall respond or cause its designee(s) to respond within ____ hours and shall promptly proceed with corrective measures. Any telephonic notice of such conditions by Agency shall be followed within three business days by written notice to Contractor from Agency. If Agency unreasonably delays in so notifying Contractor of a malfunction or emergency, and the malfunction or emergency is not otherwise corrected or remedied, Contractor may charge Agency for its loss, due to the delay, associated with the guaranteed savings under this Contract for the particular time period, provided that Contractor is able to show the direct causal connection between the delay and the loss.

C. The Contractor shall provide a written record of all service work performed. This record will indicate the reason for the service, description of the problem and the corrective action performed.

25. Actions by Agency.

This section states the Agency may not make any changes to the operation and maintenance of the equipment without the prior written approval of the Contractor unless otherwise indicated in ***Schedule CC (Agency's Maintenance Responsibilities)*** *or if there is an emergency and the Contractor can't be reasonably notified. In the case of such emergency, the Agency should follow instructions provided by the Contractor for emergency action.*

Agency shall not move, remove, modify, alter, or change in any way the Equipment or any part thereof without the prior written approval of Contractor except as set forth in Schedule CC (Agency's Maintenance Responsibilities). Notwithstanding the foregoing, Agency may take reasonable steps to protect the Equipment if, due to an emergency, it is not possible or reasonable to notify Contractor before taking any such actions. In the event of such an emergency, Agency shall take reasonable steps to protect the Equipment from damage or injury and shall follow instructions for emergency

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action provided in advance by Contractor. Agency agrees to maintain the Project Site(s) in good repair and to protect and preserve all portions thereof which may in any way affect the operation or maintenance of the Equipment.

26. Modification of Equipment.

During the Term of this Contract, Agency will not, without the prior written consent of Contractor, affix or install any accessory Equipment or device on any of the Equipment if such addition will change or impair the originally intended functions, value or use of the Equipment without Contractor's prior written approval, which shall not be unreasonably withheld.

27. Upgrade or Alteration of Equipment.

This section describes the terms and conditions under which the Contractor may make changes to the equipment, operating procedures or take other energy savings actions. If such changes are implemented during any time during the contract they must be described in a supplemental schedule and be approved by the Agency. Any equipment replaced is required to be new and have the potential to produce at least as much or more savings. If computer software is updated, the licensing provisions of ***Section 41 (Ownership of Certain Proprietary Property Rights)*** *still apply.*

A. Contractor shall at all times have the right, subject to Agency's prior written approval, which approval shall not be unreasonably withheld, to change the Equipment, revise any procedures for the operation of the Equipment or implement other energy saving actions in the Project Site(s), provided that: (i) the Contractor complies with the standards of comfort and services set forth in Schedule U (Standards of Comfort) herein; (ii) such modifications or additions to, or replacement of the Equipment, and any operational changes, or new procedures are necessary to enable the Contractor to achieve the guaranteed energy and cost savings at the Project Site(s) and; (iii) any cost incurred relative to such modifications, additions or replacement of the Equipment, or operational changes or new procedures shall be the responsibility of the Contractor.

B. All modifications, additions or replacements of the Equipment or revisions to operating or other procedures shall be described in a supplemental Schedule(s) to be provided to the Agency for approval, which shall not be unreasonably withheld, provided that any replacement of the Equipment shall, unless otherwise agreed, be new and have equal or better potential to reduce energy consumption at the Project Site(s) than the Equipment being replaced. The Contractor shall have the right to update any and all software to be used in connection with the Equipment in accordance with the provisions of Section 41 (Ownership of Certain Proprietary Rights) and Schedule BB (Contractor's Maintenance Responsibilities). All replacements of and alterations or additions to the Equipment shall become part the Equipment described in Schedule R (Equipment to be Installed by Contractor) and shall be covered by the provisions and terms of **Section 16 (Construction Schedule; Equipment Installation).**

28. Material Change Defined.

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This section defines the term "Material Change" which covers any condition other than weather that affects building energy use by more than the negotiated percentage (see above discussion). It is typical for the percent of deviation to be negotiated as a value ranging between 2% and 5% based on aggregate consumption costs. The lower value (2%) may be appropriate for large facilities (over $20,000/month utility bills) and the higher value (5%) may be appropriate for small facilities (less than $5,000/month utility bills).

A. A Material Change shall include any change in or to the Project Site(s), whether structural, operational or otherwise in nature which reasonably could be expected, in the judgment of the Agency, to increase or decrease annual energy consumption in accordance with the provisions and procedures set forth in Schedule B (Baseline Energy Consumption; Methodology to Adjust Baseline) and Schedule C (Savings Measurement and Verification Plan; Post-Retrofit M&V Plan; Annual M&V Reporting Requirements) by at least __ % after adjustments for climatic variations.

B. Actions by the Agency which may result in a Material Change include, but are not limited to, the following:

i) manner of use of the Project Site(s) by the Agency; or
ii) hours of operation for the Project Site(s) or for any equipment or energy using systems operating at the Project Site(s); or
iii) Permanent changes in the comfort and service parameters set forth in Schedule U (Standards of Comfort); or
iv) occupancy of the Project Site(s); or
v) structure of the Project Site(s); or
vi) types and quantities of equipment used at the Project Site(s) or
vii) modification, renovation or construction at the Project Site(s); or
viii) the Agency's failure to provide maintenance of and repairs to the Equipment in accordance with Schedule CC (Agency's Maintenance Responsibilities); or
ix) any other conditions other than climate affecting energy use at the Project Site(s) including but not limited to the replacement, addition or removal of energy and water consuming devices whether plug in or fixed assets,
x) casualty or condemnation of the Project Site(s) or Equipment, or
xi) changes in utility provider or utility rate classification, or
xii) any other conditions other than climate affecting energy or water use at the Project Site(s).
xiii) Modifications, alterations or overrides of the energy management system schedules or hours of operation, set back/start up or holiday schedules.

29. Reported Material Changes; Notice by Agency.

This section requires the Agency to notify the Contractor in writing if there are any actual or planned changes to the facility which would effect energy consumption by more than the specified

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percentage. In the event of an emergency or situation that would prevent advance notification, the Agency has a specified number of hours to inform the Contractor that a Material Change has occurred.

The Agency shall use its best efforts to deliver to the Contractor a written notice describing all actual or proposed Material Changes in the Project Site(s) or in the operations of the Project Site(s) at least __ days before any actual or proposed Material Change is implemented or as soon as is practicable after an emergency or other unplanned event. Notice to the Contractor of Material Changes which result because of a bona fide emergency or other situation which precludes advance notification shall be deemed sufficient if given by the Agency within ____ hours after having actual knowledge that the event constituting the Material Change occurred or was discovered by the Agency to have occurred.

30. Other Adjustments.

This section states that if all building conditions and operations stay the same, then energy consumption will not vary more than the negotiated percentage during any month when compared to the baseline use for that month and after adjustments for weather are made. See above discussion. In the event such a variation occurs, the Contractor will try to determine the cause of the deviation and report its findings the Agency. The Contractor and Agency will then determine what adjustments will be made to the baseline as described in ***Schedule B (Baseline Energy Consumption; Methodology to Adjust Baseline)****.*

As agreed in **Section 29 (Reported Material Changes; Notice by Agency)** Agency will alert Contractor of materials changes as known. Both parties have a vested interest in meeting the guaranteed savings of the Contract. As such, the Contractor shall work with Agency to investigate, identify and correct any changes that prevent the guaranteed savings from being realized. As a result of such investigation, Contractor and Agency shall determine what, if any, adjustments to the baseline will be made in accordance with the provisions set forth in Schedule B (Baseline Energy Consumption; Methodology to Adjust Baseline) and Schedule C (Savings Measurement and Verification Plan; Post-Retrofit M&V Plan; Annual M&V Reporting Requirements). Any disputes between the Agency and the Contractor concerning any such adjustment shall be resolved in accordance with the provisions of Schedule JJ (Alternative Dispute Resolution Procedures) hereto.

31. Corrective Action; Accuracy of the Services.

This section directs the Contractor to protect the Project Site(s) and its contents to repair and restore to the original condition any damage caused by the Contractor in connection with this contract. Any costs incurred to correct such damage are to be paid by the Contractor. The Contractor is solely responsible for the technical professional accuracy of all work performed under this Contract including work done by subcontractors or others.

A. Contractor shall perform all tasks/phases under the Contract, including construction, and install the Equipment in such a manner so as not to harm the structural integrity of the buildings

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or their operating systems and so as to conform to the standards set forth in Schedule U (Standards of Comfort) and the construction schedule specified in Schedule S (Construction and Installation Schedule). Contractor shall repair and restore to its original condition any area of damage caused by Contractor's performance under this Contract. The Agency reserves the right to review the work performed by Contractor and to direct Contractor to take certain corrective action if, in the opinion of the Agency, the structural integrity of the Project Site(s) or its operating system is or will be harmed. All costs associated with such corrective action to damage caused by Contractor's performance of the work shall be borne by Contractor.

B. Contractor shall remain responsible for the professional and technical accuracy of all services performed, whether by the Contractor or its subcontractors or others on its behalf, throughout the term of this Contract.

32. Annual Reporting Requirements; Annual ENERGY STAR Rating.

At the end of each year during the guarantee period as specified in Schedule A (Savings Guarantee) and no later than ninety (90) days thereafter, the Contractor shall complete and submit the data required in Schedule C (Savings Measurement and Verification Plan; Post-Retrofit M&V Plan; Annual M&V Reporting Requirements). The Contractor shall provide an ENERGY STAR rating for each eligible facility for each year of the guarantee period if applicable.

33. Other Documents.

This section makes the original Request for Proposals (RFP) and the selected Contractor's proposal part of the contract. It also acknowledges the completion of the Contractor's Technical Energy Audit Report and its approval and acceptance by the Agency. It is recommended that the original Technical Energy Audit Report in its entirety be attached and/or referenced as an Exhibit to this contract. It is important to note the last sentence of this provision makes it clear that if there is any future discrepancy between the Technical Energy Audit Report and any technical schedule(s), the terms of this contract shall apply.

This Contract incorporates herein and makes a part hereof the entire Request for Proposal and Project Development Proposal, labeled Appendix A and B, respectively. Notwithstanding, the provisions of this Contract and the attached Schedules, Exhibits and Appendices shall govern in the event of any inconsistencies between the Investment-Grade Energy Audit Report and the provisions of this Contract.

34. Energy and Cost Savings Guarantee.

This section establishes the term of the Energy and Cost Savings Guarantee to be on an annual basis and structured to cover any and all annual payments (debt service/lease payment and on-going Contractor fees) to be made by the Agency. It ensures that the Contractor's savings

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guarantee will at least cover annual project lease-purchase costs (principal and interest) and all annual Contractor service fees for maintenance.

Contractor has formulated and, subject to the adjustments provided for in Sections 28, 29 and 30 (Material Changes), has guaranteed the annual level of energy and water cost savings to be achieved as a result of the installation and operation of the Equipment and provision of services provided for in this Contract in accordance with the methods of savings measurement and verification as set forth in Schedule C (Savings Measurement and Verification Plan; Post-Retrofit M&V Plan; Annual M&V Reporting Requirements). The Energy and Cost Savings Guarantee is set forth in annual increments for the term of the Contract as specified in Schedule A (Savings Guarantee) and has been structured by the Contractor to be sufficient to cover any and all annual payments required to be made by the Agency as set forth in Schedule J (Compensation to Contractor for Annual Services) and Schedule I (Financing Agreement and Payment Schedule).

35. Annual Review and Reimbursement/Reconciliation.

At the end of each year of the contract and within a specified number of days, there will be a review and reconciliation of the actual achieved savings (subject to any adjustments made for weather, occupancy, operations etc.) with the Contractor's guaranteed savings. If there is a savings shortfall, the Contractor is contractually liable to reimburse the Agency for the difference between what was actually achieved and the amount guaranteed. If in any future year, the achieved savings exceed the guarantee, the excess savings will be used to reimburse the Contractor for any shortfall payments made in previous years. It is recommended that all excess savings be retained by the Agency except when the Contractor has had a previous year's shortfall and not be credited to satisfy savings guarantees in future years of the contract. Agency may negotiate to receive cash, equipment or services equivalent to any deficiency in savings.

A. Energy-related cost savings shall be measured and/or calculated as specified in Schedule C (Savings Measurement and Verification Plan; Post-Retrofit M&V Plan; Annual M&V Reporting Requirements) and a report provided within ninety (90) days of the end of the year for the previous year for each anniversary of the Commencement Date.

B. In the event the Energy and Cost Savings achieved during such guarantee year are less than the Guaranteed Energy and Cost Savings as defined in Schedule A (Savings Guarantee), Contractor shall pay the Agency an amount equal to the deficiency.

C. The Contractor shall remit such payments to the Agency within ___ days of written notice by the Agency of such monies due. When the total energy savings in any one year during the guarantee period exceed the Energy and Cost Savings Guarantee as set forth in Schedule A (Savings Guarantee) and are in addition to those monies due the Contractor for compensation for services as set forth in Schedule J (Compensation to Contractor for Annual Services), such excess savings shall first be applied to reimburse Contractor for any payment Contractor made to Agency to meet Contractor's guarantee for previous years in which the energy savings fell short of Contractor's

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Energy and Cost Savings Guarantee under the terms as set forth in Schedule A (Savings Guarantee). In no event shall credit for excess savings be used to satisfy saving guarantees in future years of the Contract

36. Contractor Compensation and Fees.

This section ensures that the Contractor's savings guarantee will, at a minimum, cover annual project financing costs (principal and interest). In addition, it states that all annual Contractor service fees for maintenance will also be paid from savings.

Contractor has structured the Energy and Cost Savings Guarantee referred to in Section 34 above, to be sufficient to include any and all annual payments required to be made by the Agency in connection with financing/purchasing the Equipment to be installed by Contractor under this Contract as set forth in Schedule I (Financing Agreement and Payment Schedule). Actual energy and operations savings achieved by Contractor through the operation of Equipment and performance of services by Contractor shall be sufficient to cover any and all annual fees to be paid by Agency to Contractor for the provision of services as set forth and in accordance with the provisions of Schedules J (Compensation to Contractor) and BB (Contractor's Maintenance Responsibilities).

37. Billing Information Procedure.

A. Payments due to Contractor shall be calculated each _____in the following manner:

i) By the _____ day after receipt, Agency shall provide Contractor with copies of all energy bills for the Project Site(s) which it shall have received for the preceding month;

ii) Upon receipt of the required information, Contractor shall calculate the savings in accordance with the agreed-upon calculation formulae in Schedule C (Savings Measurement and Verification Plan; Post-Retrofit M&V Plan; Annual M&V Reporting Requirements).

B. Based upon paragraphs (i) and (ii) above, Contractor shall prepare and send to Agency a _____invoice which shall set forth for each_____ the amounts of the energy and operations dollar savings calculated in accordance with Schedule C (Savings Measurement and Verification Plan; Post-Retrofit M&V Plan; Annual M&V Reporting Requirements)and for the services as provided for in Schedule J (Compensation to Contractor for Annual Services). The invoice will set forth the total _____payment due from Agency.

38. Payment.

Agency shall pay Contractor within ___ days of receipt of Contractor's invoice.

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39. Effective Date of Payment Obligation.

This section states that no Contractor fees for ongoing maintenance, monitoring or other services shall be paid until all equipment in installed and operating in accordance with the agreed upon Construction Schedule and Agency has approved the completed installation and signed the Exhibit VI (Certificate of Acceptance—Installed Equipment).

Notwithstanding the above provisions, Agency shall not be required to begin any payments to Contractor under this Contract unless and until all equipment installation is completed by Contractor in accordance with the provisions of Section 16 (Construction Schedule; Equipment Installation) and Schedule T (Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment), and accepted by Agency as evidenced by the signed Certificate of Acceptance as set forth in Exhibit VI (Certificate of Acceptance—Installed Equipment), and unless and until said equipment is fully and properly functioning.

40. Open Book Pricing.

This section establishes that the Contractor will fully disclose all costs, providing access to records for all labor and material costs, making them available for three years beyond final payment.

Open book pricing will be required, such that the Contractor shall fully disclose all costs of materials and labor purchased and subcontracted by the Contractor and a list of hourly rates and position descriptions for labor or services provided by the Contractor. Estimates for number of hours required for the project and deviations of these budgeted hours shall require prior written approval by the owner or shall not be paid. Contractor shall maintain cost accounting records on authorized work performed under actual costs for labor and material, or other basis requiring accounting records. Contractor shall afford Agency access to these records and preserve them for a period of three (3) years after final payment. Costs will be evaluated through price analysis to compare costs with reasonable criteria such as established catalog and market prices or historical prices. The pricing methodology and individual cost markups disclosed during preliminary contract negotiations will be expected to be applied, providing the scope and size of the project remain the same as assumed when markups were disclosed.

41. Ownership of Certain Proprietary Property Rights.

This provision addresses the Contractor's proprietary rights over customized (or exclusive) software used in an energy management system which may control, manage and perform other functions in conjunction with the project (there may other technical designs, processes, formulas etc., which this provision would cover). Of particular importance is the stipulation that grants the Agency a continuing license (at no charge) to use and operate the project without violating any Contractor's proprietary rights.

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Agency shall not, by virtue of this Contract, acquire any interest in any formulas, patterns, devices, secret inventions or processes, copyrights, patents, other intellectual or proprietary rights, or similar items of property which are or may be used in connection with the Equipment. The Contractor shall grant to the Agency a perpetual, irrevocable royalty-free license for any and all software or other intellectual property rights necessary for the Agency to continue to operate, maintain, and repair the Equipment in a manner that will yield guaranteed utility consumption reductions for the specified contract term. Contractor shall not be liable for providing new versions of software or other enhancements if or unless such new versions or enhancements are necessary to achieve the guaranteed utility consumption reductions.

42. Ownership of Existing Equipment.

This provision states that the Agency has ownership of all existing equipment and that the Contractor shall notify the Agency in writing of what equipment and materials are to be replaced. If the Agency chooses to keep the equipment to be replaced, the Contractor will be notified and the Agency responsible for identifying the location of where the property is to be stored or relocated. The Contractor is responsible for all equipment and materials to be disposed. The exception to this is the treatment of any hazardous or environmentally sensitive materials.

Ownership of the equipment and materials presently existing at the Project Site(s) at the time of execution of this Contract shall remain the property of the Agency even if it is replaced or its operation made unnecessary by work performed by Contractor pursuant to this Contract. If applicable, Contractor shall advise the Agency in writing of all equipment and materials to be replaced at the Project Site(s) and the Agency shall within ____days designate in writing to the Contractor which equipment and materials that should not be disposed of off-site by the Contractor. It is understood and agreed to by both Parties that the Agency shall be responsible for and designate the location and storage for any equipment and materials that should not be disposed of off-site. The Contractor shall be responsible for the disposal of all equipment and materials designated by the Agency as disposable off-site in accordance with all applicable laws and regulations regarding such disposal.

43. Damages to Equipment or Property.

This section needs to reflect the individual Agency's standard requirements with regard to insurance and indemnification.

Contractor shall be responsible for (i) any damage to the Equipment or other property on the Project Site(s) and (ii) any personal injury where such damage or injury occurs as a result of Contractor's performance under this Contract.

44. Liabilities.

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Neither party shall be liable for any special, incidental, indirect, punitive or consequential damages, arising out of or in connection with this Contract. Further, the liability of either party under this Contract shall not exceed the Contract Sum in the aggregate.

45. Appropriations.

This section protects the Agency in the event no funds or insufficient funds are appropriated to cover the financial payments due to the Contractor under the terms of this Contract, in effect terminating the contract with no penalty to the Agency. This is a standard provision in public sector performance contracting and is generally accepted by the ESCO industry since it is unlikely that funding for utilities (source of funds) would be withheld.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, this Agreement shall terminate on the last day of the fiscal year for which appropriations were made, without penalty or expense to the Agency of any kind whatsoever, except as to the portions of payments herein agreed upon for which Agency and/or other funds shall have been appropriated and budgeted or are otherwise available, and upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

46. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the State of New Mexico unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

47. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency.

48. Release.

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Final payment of the amounts due under this Agreement shall operate as a release of the Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

49. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Agency.

50. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

51. Conflict of Interest; Governmental Conduct Act.

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer or state employee or former state employee have been followed.

52. Amendment.

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

53. Merger.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

54. Penalties for violation of law.

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The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

55. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

56. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

57. Insurance.

At all times during the term of this Contract, Contractor shall maintain in full force and effect, at its expense: (1) Workmen's Compensation Insurance sufficient to cover all of the employees of (Contractor) working to fulfill this Contract, and (2) Casualty and Liability Insurance on the Equipment and Liability Insurance for its employees and the possession, operation, and service of the Equipment. The limits of such insurance shall be not less than $_____ for injury to or death of one person in a single occurrence and $_____ for injury to or death of more than one person in a single occurrence and $_____ _ for a single occurrence of property damage. Such policies shall name the Agency as an additional insured.

Prior to commencement of work under this Contract, Contractor will be required to provide Agency with current certificates of insurance specified above. These certificates shall contain a provision that coverages afforded under the policies will not be canceled or changed until at least thirty (30) days' prior written notice has been given to Agency.

58. Workers Compensation.

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The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Agency.

59. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Agency, the Department of Finance and Administration and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments

60. Indemnification.

The Contractor shall defend, indemnify and hold harmless the Agency and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Agency and the Risk Management Division of the New Mexico General Services Department by certified mail.

61. Invalid Term or Condition.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

62. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

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63. Conditions Beyond Control Of The Parties.

If a party ("performing party") shall be unable to reasonably perform any of its obligations under this Contract due to acts of God, insurrections or riots, or similar events, this Contract shall at the other party's option (i) remain in effect but said performing party's obligations shall be suspended until the said events shall have ended; or, (ii) be terminated upon ten (10) days notice to the performing party, in which event neither party shall have any further liability to the other.

64. Events of Default by Agency.

A. Each of the following events or conditions shall constitute an "Event of Default" by Agency:

i) any failure by Agency to pay Contractor any sum due for a service and maintenance period of more than ___ days after written notification by Contractor that Agency is delinquent in making payment and provided that Contractor is not in default in its performance under the terms of this Contract; or

ii) any other material failure by Agency to perform or comply with the terms and conditions of this Contract, including breach of any covenant contained herein, provided that such failure continues for _____ days after notice to Agency demanding that such failures to perform be cured or if such cure cannot be effected in _____ days, Agency shall be deemed to have cured default upon the commencement of a cure within _____ days and diligent subsequent completion thereof;

iii) any representation or warranty furnished by Agency in this Contract which was false or misleading in any material respect when made.

65. Events of Default by Contractor.

A. Each of the following events or conditions shall constitute an "Event of Default" by Contractor:

i) the standards of comfort and service set forth in Schedule U (Standards of Comfort) are not provided due to failure of Contractor to properly design, install, maintain, repair or adjust the Equipment except that such failure, if corrected or cured within __ days after written notice by Agency to Contractor demanding that such failure be cured, shall be deemed cured for purposed of this Contract.

ii) any representation or warranty furnished by Contractor in this Contract is false or misleading in any material respect when made;

iii) failure to furnish and install the Equipment and make it ready for use within the time specified by this Contract as set forth in Schedule R (Equipment to be Installed by Contractor) and Schedule S (Construction and Installation Schedule);

iv) provided that the operation of the facility is not adversely affected and provided that the standards of comfort in Schedule U (Standards of Comfort) are maintained, any failure by Contractor to perform or comply with the terms and conditions of this Contract, including breach of any covenant contained herein except that such failure, if corrected or cured within __ days

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after written notice by the Agency to Contractor demanding that such failure to perform be cured, shall be deemed cured for purposes of this Contract;

v) any lien or encumbrance upon the equipment by any subcontractor, laborer or material vendor of Contractor;

vi) the filing of a bankruptcy petition whether by Contractor or its creditors against Contractor which proceeding shall not have been dismissed within_____ days of its filing, or an involuntary assignment for the benefit of all creditors or the liquidation of Contractor.

vii) failure by the Contractor to pay any amount due the Agency or perform any obligation under the terms of this Contract or the Energy and Cost Savings Guarantee as set forth in Schedule A (Savings Guarantee).

66. Remedies upon Default by Agency.

If an Event of Default by Agency occurs, Contractor may, without a waiver of other remedies which exist in law or equity, exercise any remedies available at law or in equity or other appropriate proceedings including bringing an action or actions from time to time for recovery of amounts due and unpaid by Agency, and/or for damages which shall include all costs and expenses reasonably incurred in exercise of its remedy.

67. Remedies Upon Default by Contractor.

In the Event of Default by Contractor, Agency may exercise any remedies at law or equity, or institute other proceedings, including, without limitation, bringing an action or actions from time to time for specific performance, and/or for the recovery of amounts due and unpaid and/or for damages, which shall include all costs and expenses reasonably incurred, including attorney's fees.

68. Assignment.

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the Agency.

69. Assignment by Contractor.

This assignment provision first acknowledges that the Agency selected the Contractor for its unique expertise and qualifications to perform the services specified in the contract. The Contractor may not assign this contract to another Contractor without the written approval of the Agency and any Contractor assigned this contract must fully comply with all terms and conditions. In addition, the Contractor and any assignee remain contractually liable to the Agency for fulfilling all of the Contractor's obligations as specified in the contract.

The Contractor may, with prior written approval of the Agency, which consent shall not be unreasonably withheld, delegate its duties and performance under this Contract, and/or utilize Contractors, provided that any assignee(s), delegee(s), or Contractor(s) shall fully comply with the

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terms of this Contract. Notwithstanding the provisions of this paragraph, the Contractor shall remain jointly and severally liable with its assignees(s), or transferee(s) to the Agency for all of its obligations under this Contract.

70. Assignment by Agency.

In turn, this provision allows the Agency to transfer or assign this contract to a new building owner or occupant. The Agency and its assignee, however, still remain responsible to the Contractor for the Agency's obligations as specified in the contract.

Agency may transfer or assign this Contract and its rights and obligations herein to a successor or purchaser of the Buildings or an interest therein. The Agency shall remain jointly and severally liable with its assignees or transferees to the Contractor for all of its obligations under this Contract.

71. Representations and Warranties.

This boilerplate provision states that each party has the requisite authority and ability to enter into this contract.

A. Each party warrants and represents to the other that:

i) it has all requisite power, authority, licenses, permits, and franchises, corporate or otherwise, to execute and deliver this Contract and perform its obligations hereunder;

ii) its execution, delivery, and performance of this Contract have been duly authorized by, or are in accordance with, its organic instruments, and this Contract has been duly executed and delivered for it by the signatories so authorized, and it constitutes its legal, valid, and binding obligation;

iii) its execution, delivery, and performance of this Contract will not breach or violate, or constitute a default under any Contract, lease or instrument to which it is a party or by which it or its properties may be bound or affected; or

iv) it has not received any notice, nor to the best of its knowledge is there pending or threatened any notice, of any violation of any applicable laws, ordinances, regulations, rules, decrees, awards, permits or orders which would materially and adversely affect its ability to perform hereunder.

72. Additional Representations of the Parties.

These additional representations address several areas specific to the performance contract. The Agency certifies it has or will provide the Contractor will all energy and energy-related records and all future records to be provided will be truthful and accurate. The Agency also declares it has not entered into any leases or service contracts relating to energy equipment or servicing of pre-existing equipment and will notify the Contractor within a specified period of time if it does so.

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A. Agency hereby warrants, represents and promises that:

i) it has provided or shall provide timely to Contractor, all records relating to energy usage and energy-related maintenance of Project Site(s) requested by Contractor and the information set forth therein is, and all information in other records to be subsequently provided pursuant to this Contract will be true and accurate in all material respects; and

ii) it has not entered into any leases, contracts or Contracts with other persons or entities regarding the leasing of energy efficiency equipment or the provision of energy management services for the Project Site(s) or with regard to servicing any of the energy related equipment located in the Project Site(s). Agency shall provide Contractor with copies of any successor or additional leases of energy efficiency equipment and contracts for management or servicing of preexisting equipment at Project Site(s) which may be executed from time to time hereafter within ____ days after execution thereof.

B. Contractor hereby warrants, represents and promises that before commencing performance of this Contract:

i) it shall have become licensed or otherwise permitted to do business in the State of New Mexico.

ii) it shall have provided proof and documentation of required insurance and bonds pursuant to this Contract;

iii) it shall make available, upon reasonable request, all documents relating to its performance under this Contract, including all contracts and subcontracts entered into;

iv) it shall use qualified subcontractors who are qualified, licensed and bonded in this state to perform the work so subcontracted pursuant to the terms hereof;

v) the Equipment will meet or exceed the provisions set forth in Section 17 (Systems Start Up and Equipment Commissioning) and in Schedule T (Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment).

vi) the Equipment is or will be compatible with all other Project Site(s) mechanical and electrical systems, subsystems, or components with which the Equipment interacts, and that, as installed, neither the Equipment nor such other systems, subsystems, or components will materially adversely affect each other as a direct or indirect result of Equipment installation or operation;

vii) it is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to complete the Work and perform its obligations under this Contract.

73. Construction Performance and Payment Bonds, Labor and Material Payment Bonds.

Such executed bonds are incorporated herein by reference as **Exhibit I (Performance Bond)** and **Exhibit II (Labor and Material Payment Bond, if applicable).**

74. Further Documents.

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The parties shall execute and deliver all documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Contract**.**

75. Methods of Operation by Agency.

The parties acknowledge and agree that said Energy and Cost Savings would not likely be obtained unless certain procedures and methods of operation designed for energy and water conservation shall be implemented, and followed by Agency on a regular and continuous basis.

76. Agency's Maintenance Responsibilities.

This provision protects both the Contractor and the Agency by establishing a method for the Contractor to supervise the Agency's compliance with the scheduled routine and preventative maintenance activities to be performed by the Agency (either by in-house personnel or existing maintenance contract). This checklist should be developed for both the newly installed and pre-existing energy-related equipment.

Agency agrees that it shall adhere to, follow and implement the energy conservation procedures and methods of operation to be set forth on Schedule CC (Agency Maintenance Responsibilities), to be attached hereto and made a part hereof after Agency's approval, such approval not to be unreasonably withheld, conditioned or delayed.

77. Inspection of Project Site(s).

Agency agrees that Contractor shall have the right once a month, with prior notice, to inspect Project Site(s) to determine if Agency is complying, and shall have complied with its obligations as set forth in **Section 76 (Agency's Maintenance Responsibilities).** For the purpose of determining Agency's said compliance, the checklist to be set forth at **Schedule DD (Facility Maintenance Checklist)** as completed and recorded by Contractor during its monthly inspections, shall be used to measure and record Agency's said compliance. Agency shall make the Project Site(s) available to Contractor for and during each monthly inspection, and shall have the right to witness each inspection and Contractor's recordation on the checklist. Agency may complete its own checklist at the same time. Contractor agrees to not interfere with the Agency operations during any monthly inspection.

78. Waiver Of Liens.

Contractor shall obtain and furnish to Agency a Waiver of Liens from each vendor, material manufacturer and laborer in the supply, installation and servicing of each piece of Equipment.

79. Conflicts of Interest.

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Conflicts of interest relating to this Contract are strictly prohibited. Except as otherwise expressly provided herein, neither party hereto nor any director, employee or agent of any party hereto shall give to or receive from any director, employee or agent of any other party hereto any gift, entertainment or other favor of significant value, or any commission, fee or rebate in connection with this Contract. Likewise, neither party hereto nor any director, employee or agent of either party hereto, shall without prior notification thereof to the other party enter into any business relationship with any director, employee or agent of the other party or of any affiliate of the other party, unless such person is acting for and on behalf of the other party or any such affiliate. A party shall promptly notify the other party of any violation of this section and any consideration received as a result of such violation shall be paid over or credited to the party against whom it was charged. Any representative of any party, authorized by that party, may audit the records of the other party related to this Contract, upon reasonable notice and during regular business hours including the expense records of the party's employees involved in this Contract, upon reasonable notice and during regular business hours, for the sole purpose of determining whether there has been compliance with this section.

80. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the Agency: [insert name, address and email].

To the Contractor: [insert name, address and email].

81. Non-Substitution.

In the rare event that funds were not appropriated or the Agency is in default, and to protect the Contractor, this provision prevents the Agency from securing funding for the same purposes for a period of one year following the termination of the contract.

In the event of a termination of this contract due to the non-appropriation of funds or in the event this Contract is terminated by Contractor due to a default by the Agency, the Agency agrees, to the extent permitted by state law, not to purchase, lease, rent, borrow, seek appropriations for, acquire or otherwise receive the benefits of any of the same and unique services performed by Contractor under the terms of this Contract for a period of three-hundred sixty five (365) calendar days following such default by Agency, or termination of this Contract due to non-appropriations.

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82. Authority.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represent and warrant that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract. (I've encountered some situations where there was a question whether the person signing had authority; having the contractor assure the agency the person signing has authority creates an argument the agency has no obligation to check.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the DFA Contracts Review Bureau below.

By: _____ Date:_____
Agency

By: _____ Date:_____
Agency's Legal Counsel –Certifying legal sufficiency

By: _____ Date: _____
Contractor

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The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and compensating taxes.

ID Number: **00-000000-00-0**

By: _____ Date:_____
Taxation and Revenue Department

This Agreement has been approved by the DFA Contracts Review Bureau:

By: _____ Date:_____
DFA Contracts Review Bureau

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Performance Measures

(Performance Measures should be based on the Scope of Work and must be tied to the Agency's Strategic Plan. The Strategic Plan should be referenced in the Performance Measures and the applicable part of the Strategic Plan copied below or in an attachment. To the extent possible based on the nature of the work to be performed, the Performance Measures should be "Output" oriented and specify an "Outcome.")

Performance Measures in the Scope of Work shall contain measurable goals and objectives that are linked to the Performance Measures of the Agency's Strategic Plan:

Example: Goal: Reduce or Increase or Other Service [insert blank].[3]

Objective: To reduce or increase or Other Service [insert blank] by [blank] percent or by a certain time.[4]

Activities: [Insert what services the Contractor is expected to perform to accomplish goals and objectives including an evaluation of the process and the outcome as well as provides efficiency measures that relate efforts to outputs of services].

OR: Through satisfactory completion of the Scope of Work set forth above and submission of acceptable Deliverables, the Contractor will assist the Agency to meet the portions of its Strategic Plan set forth below ***(insert additional language if necessary to describe how Contractor's work will assist the Agency to fulfill its duties).***

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3. A goal is an "output" measure. It measures the quantity of a service provided. For example, the number of students graduated or promoted; the number of two-lane highways repaired; or the number of crimes investigated. It also can measure the quantity of a service provided that meets a certain quality requirement. For example, the number of students graduated or promoted who meet a minimum preset level of achievement; the number of miles of roads repaired to a minimum safety standard; or the number of criminal investigations performed that result in identification of a prime suspect.
4. An accomplishment is an "outcome" measure. These indicators measure accomplishments or results that occur (at least partially) because the services were provided. For example, the percentage of students achieving a specified skill level in reading, the percentage of miles of roads in excellent, good or fair condition; or the percent reduction in serious crimes or the percent of residents who perceive their neighborhoods as safe.

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APPENDIX O

MODEL ATTACHMENTS FOR GUARANTEED UTILITY SAVINGS CONTRACT

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CONTRACT ATTACHMENT I: Schedules, Exhibits, and Appendices

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Savings Guarantee

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Schedule B Baseline Energy Consumption; Methodology to Adjust Baseline
Schedule C Savings Measurement and Verification Plan; Post-Retrofit M&V Plan; Annual M&V Reporting Requirements
Schedule D-G Left blank for optional schedules

Payments and Schedule

Schedule H Final Project Cost & Project Cash Flow Analysis
Schedule I Financing Agreement and Payment Schedule
Schedule J Compensation to ESCO for Annual Services
Schedule K Rebates, Incentives and Grants
Schedule L-P Left blank for optional schedules

Design and Construction Phase

Schedule Q Description of Project Site(s)
Schedule R Equipment to be Installed by ESCO
Schedule S Construction and Installation Schedule
Schedule T Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment
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Schedule BB ESCO's Maintenance Responsibilities
Schedule CC Institution's Maintenance Responsibilities
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Pre-Existing Service Contracts
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Exhibit III (i) Certificate of Acceptance—Investment Grade Audit Report
Exhibit III (ii) Certificate of Acceptance—Installed Equipment
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Optional Exhibits
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Minority and Woman-Owned Business Certification

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Notice to Proceed with Construction Phase
Record of Reviews by Institution

Appendices

Appendix A	RFP for ESCO Solicitation (Pre-qualification Phase; Final Selection Phase)
Appendix B	ESCO Proposal (Pre-qualification Phase; Final Selection Phase)
Appendix C	Investment Grade Audit and Project Development Contract
Appendix D	Investment Grade Audit Report

SAVINGS GUARANTEE SCHEDULES

SCHEDULE A. SAVINGS GUARANTEE

Fully describe all provisions and conditions of the ESCO's energy saving guarantee. The guarantee should be defined in units of energy to be saved for the duration of the contract term. Reference to the annual reconciliation of achieved vs. guaranteed savings should be included (there is also language in the body of the contract regarding annual reconciliation. See *Section 35 (Annual Review and Reimbursement/Reconciliation)*.

SCHEDULE B. BASELINE ENERGY CONSUMPTION; METHODOLOGY TO ADJUST BASELINE

The baseline energy consumption is the "yardstick" by which all savings achieved by the installed project will be measured.

B.1. BASELINE ENERGY CONSUMPTION

Present the methodology and all supporting documentation used to calculate the baseline including unit consumption and current utility rates for each fuel type. Also include baseline documentation regarding other cost savings such as material savings (e.g. bulbs, ballasts, filters, chemicals etc.), and cost savings associated with the elimination of outside maintenance contracts.

Energy and Water Baseline Development - Describe in general terms how the baseline for this ECM is defined.

- Describe variables affecting baseline energy or water use. Include variables such as weather, operating hours, set point changes, etc. Describe how each variable will be quantified, i.e., measurements, monitoring, assumptions, manufacturer data, maintenance logs, engineering resources, etc.

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- Define key system performance factors characterizing the baseline conditions. Include factors such as comfort conditions, lighting intensities, temperature set points, etc.
- Define requirements for Institution's witnessing of measurements if different than whole project data requirements.
- Provide details of baseline data collected, including: Parameters monitored, Details of equipment monitored, i.e., location, type, model, quantity, etc., Sampling plan, including details of usage groups and sample sizes, Duration, frequency, interval, and seasonal or other requirements of measurements, Personnel, dates, and times of measurements, Proof of Institution's witnessing of measurements (if required), Monitoring equipment used, Installation requirements for monitoring equipments (test plug for temperature sensors, straight pipe for flow measurement etc.), Certification of calibration/calibration procedures followed, Expected accuracy of measurements/monitoring equipment, Quality control procedures used, Form of data (.xls, .cvs, etc.), Results of measurements (attach appendix and electronic forma as necessary), Completed data collection forms, if used.
- Provide details of baseline data analysis performed, including: Analysis using results of measurements, Weather normalized regressions, Weather data used and source of data

B.2 METHODOLOGY TO ADJUST BASELINE.

Periodically (at least on an annual basis), the baseline will be adjusted to account for the prevailing conditions during the measurement period. Adjustments made to the energy baseline shall only be made for any of the following changes in conditions affecting the facility:

- utility rates;
- number of days in the utility billing cycle;
- floor area of the facility;
- operational schedule of the facility;
- facility temperature;
- weather, if change is significant;
- amount of equipment or lighting used in the facility, if change is significant;
- space type(s) in the facility, if change is significant; and
- material change(s) in or to the facility.

All methodologies used to account for any of these adjustments to the baseline shall be clearly defined.

SCHEDULE C. SAVINGS MEASUREMENT AND VERIFICATION PLAN; POST-RETROFIT M&V PLAN; ANNUAL M&V REPORTING REQUIREMENTS

The monitoring and verification (M&V) process is divided into three phases:

C.1 Savings Measurement and Verification Plan
C.2 Post-Installation M&V Plan
C.3 Annual M&V Reporting Requirements
Also see **Schedule B (Baseline Energy Consumption; Methodology to Adjust Baseline**.

The latest version of the *International Performance Monitoring and Verification Protocol (IPMVP)* is used as the basis of the savings calculation and verification methodology.

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To help ensure plans and reports are complete and consistent, use the process and tables provided.

C.1 SAVINGS MEASUREMENT AND VERIFICATION PLAN.

A preliminary monitoring and verification plan would typically have been developed in the Investment Grade Audit process. In the Energy Savings Performance Contract process this plan is finalized.

Include a description of the energy savings measurement, monitoring and calculation procedures used to verify and compute the savings performance of the installed equipment. Include methods to compare the level of energy that would have been consumed without the project referred to as the "Baseline") with the amount of energy that was actually consumed during a specific time period (monthly, quarterly, etc.). Explicitly describe all methods of measuring savings including engineered calculations, metering, equipment run times, pre- and post-installation measurements, etc. for all equipment installed. Provide a clear methodology for converting energy savings into energy cost savings. Define the utility rates to be used for the baseline and actual energy costs. Clearly describe how the calculations are affected by rising or lowering utility rates. Clearly predictable annual variations are usually handled through established procedures for each identified factor (e.g., weather, billing days, occupancy, etc.) in the savings formulas. Explicitly define any routine adjustments that will be made during the performance period. Non-routine adjustments may be required for issues such as changes in production shifts, facility closures, adding new wings or loads (such as computer labs) require a conceptual approach versus a method to cover each eventuality. Specify how permanent changes, such as changes in square footage, will be handled. Options include use of agreement clauses that allow predictable or expected changes and/or through a “re-open” clause that allows either party to renegotiate the baseline. A Facility Changes Checklist or other method may be provided by the ESCO for the Institution to notify the ESCO of any changes in the facility that could have an impact on energy use (occupancy, new equipment, hours of use, etc.).

Prepare the M&V Plan as presented below.

List of Processes and Tables:

Risk, Responsibility and Perfomance Matrix.

M&V Plan and Savings Calculation Methods

- Proposed Annual Savings Overview
- Site Use and Savings Overview (Optional)
- M&V Plan Summary
- Schedule of Verification Reporting Activities
- Proposed Annual Savings For ECM
- Expected Year 1 Savings for ECM
- ENERGY STAR Ratings

Risk, Responsibility and Performance Matrix.

The ESCO shall complete and include the matrix below to summarize the allocation of responsibility for key items related to M&V.

RISK, RESPONSIBILITY AND PERFORMANCE MATRIX

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RESPONSIBILITY/DESCRIPTION	CONTRACTOR PROPOSED APPROACH
1. Financial	
a. Interest rates: Neither the contractor nor the Institution has significant control over prevailing interest rates. Higher interest rates will increase project cost, financing/project term, or both. The timing of the TO signing may impact the available interest rate and project cost.	
b. Construction costs: The contractor is responsible for determining construction costs and defining a budget. In a fixed-price design/build contract, the Institution assumes little responsibility for cost overruns. However, if construction estimates are significantly greater than originally assumed, the contractor may find that the project or measure is no longer viable and drop it before TO award. In any design/build contract, the Institution loses some design control. **Clarify design standards and the design approval process (including changes) and how costs will be reviewed.**	
c. M&V confidence: The Institution assumes the responsibility to determine the confidence that it desires to have in the M&V program and energy savings determinations. The desired confidence will be reflected in the resources required for the M&V program, and the ESCO must consider the requirement prior to submittal of the final proposal. **Clarify how project savings are being verified (e.g., equipment performance, operational factors, energy use) and the impact on M&V costs.**	

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d. Energy Related Cost Savings: The Institution and the contractor may agree that the project will include savings from *recurring* and/or *one-time* costs. This may include one-time savings from avoided expenditures for projects that were appropriated but will no longer be necessary. Including one-time cost savings before the money has been appropriated may involve some risk to the Institution. Recurring savings generally result from reduced O&M expenses or reduced water consumption. These O&M and water savings must be based on actual spending reductions. **Clarify sources of nonenergy cost savings and how they will be verified.**	
e. Delays: Both the contractor and the Institution can cause delays. Failure to implement a viable project in a timely manner costs the Institution in the form of lost savings, and can add cost to the project (e.g., construction interest, re-mobilization). **Clarify schedule and how delays will be handled.**	
f. Major changes in facility: The Institution controls major changes in facility use, including closure. **Clarify responsibilities in the event of a premature facility closure, loss of funding, or other major change.**	
2. Operational	
a. Operating hours: The Institution generally has control over operating hours. Increases and decreases in operating hours can show up as increases or decreases in "savings" depending on the M&V method (e.g., operating hours multiplied by improved efficiency of equipment vs. whole-building/utility bill analysis). **Clarify whether operating hours are to be measured or stipulated and what the impact will be if they change.** If the operating hours are stipulated, the baseline should be carefully documented and agreed to by both parties.	

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b. Load: Equipment loads can change over time. The Institution generally has control over hours of operation, conditioned floor area, intensity of use (e.g., changes in occupancy or level of automation). Changes in load can show up as increases or decreases in "savings" depending on the M&V method. **Clarify whether equipment loads are to be measured or stipulated and what the impact will be if they change**. If the equipment loads are stipulated, the baseline should be carefully documented and agreed to by both parties.	
c. Weather: A number of energy efficiency measures are affected by weather. Neither the contractor nor the Institution has control over the weather. Should the Institution agree to accept risk for weather fluctuations, it shall be contingent upon aggregate payments not exceeding aggregate savings. **Clearly specify how weather corrections will be performed.**	
d. User participation: Many energy conservation measures require user participation to generate savings (e.g., control settings). The savings can be variable and the contractor may be unwilling to invest in these measures. **Clarify what degree of user participation is needed and utilize monitoring and training to mitigate risk.** If performance is stipulated, document and review assumptions carefully and consider M&V to confirm the capacity to save (e.g., confirm that the controls are functioning properly).	
3. Performance	
a. Equipment performance: The contractor has control over the selection of equipment and is responsible for its proper installation, commissioning, and performance. The contractor has responsibility to demonstrate that the new improvements meet expected performance levels including specified equipment capacity, standards of service, and efficiency. **Clarify who is responsible for initial and long-term performance, how it will be verified, and what will be done if performance does not meet expectations.**	

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b. Operations: Performance of the day-to-day operations activities is negotiable and can impact performance. However, the contractor bears the ultimate risk regardless of which party performs the activity. **Clarify which party will perform equipment operations, the implications of equipment control, how changes in operating procedures will be handled, and how proper operations will be assured.**	
c. Preventive Maintenance: Performance of day-to-day maintenance activities is negotiable and can impact performance. However, the contractor bears the ultimate risk regardless of which party performs the activity. **Clarify how long-term preventive maintenance will be assured, especially if the party responsible for long-term performance is not responsible for maintenance (e.g., contractor provides maintenance checklist and reporting frequency). Clarify who is responsible for performing long-term preventive maintenance to maintain operational performance throughout the contract term. Clarify what will be done if inadequate preventive maintenance impacts performance.**	
d. Equipment Repair and Replacement: Performance of day-to-day repair and replacement of contractor-installed equipment is negotiable, however it is often tied to project performance. The contractor bears the ultimate risk regardless of which party performs the activity. **Clarify who is responsible for performing replacement of failed components or equipment replacement throughout the term of the contract.** Specifically address potential impacts on performance due to equipment failure. Specify expected equipment life and warranties for all installed equipment. Discuss replacement responsibility when equipment life is shorter than the term of the contract.	

M&V PLAN AND SAVINGS CALCULATION METHODS OUTLINE

Fill in the following tables or provide equivalent information.

PROPOSED ANNUAL SAVINGS OVERVIEW

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[Include all applicable fuels/commodities for project, e.g., electric energy, electric demand, natural gas, fuel oil, coal, water, etc.]

ECM	Total energy savings (MBtu/yr)	Electric energy savings (kWh/yr)	Electric demand savings (kW/yr)*	Natural gas savings (MBtu/yr)**	Water savings (gallons/yr)	Other energy savings (MBtu/yr) **	Total energy and water cost savings, Year 1 ($/yr)	Other energy-related O&M cost savings, Year 1 ($/yr)	Total cost savings, Year 1 ($/yr)
Total savings									

First Year Guaranteed Cost Savings: $

Notes
*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.
MBtu=10^6 Btu.
**If energy is reported in units other than MBtu, provide a conversion factor to MBtu for link to cost schedules (e.g., 0.003413 MBtu/kWh).

SITE USE AND SAVINGS OVERVIEW

	Total energy savings (MBtu/yr)	Electric energy savings (kWh/yr)	Electric demand savings (kW/yr)*	Natural gas savings (MBtu/yr)**	Water savings (gallons/yr)	Other energy savings (MBtu/yr)**
Total proposed project savings						
Usage for entire site**						
% Total site usage saved						
Project square footage (KSF)						
Total site square footage (KSF)						
% Total site area affected						

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Notes MBtu=10^6 Btu *Annual electric demand savings (kW/yr) is the sum of the monthly demand savings. **If energy is reported in units other than MBtu, provide a conversion factor to MBtu for link to cost schedules (e.g., 0.003413 MBtu/kWh). ***Define usage period. KSF = 10^3 square feet.

M&V PLAN SUMMARY

ECM No.	ECM Description	M&V Option Used*	Summary of M&V Plan

*M&V options include A, B, C, and D of the International Performance Measurement and Verification Protocol (IPMVP).

SCHEDULE OF VERIFICATION REPORTING ACTIVITIES

Item	[a]Recommended time of submission	[a]Institution's review and acceptance period
Post-Installation Report	30 to 60 days after acceptance	30 days
Annual Report	30 to 60 days after annual performance period	30 days

[a]Times are recommended based on industry practice; modify as needed.

PROPOSED ANNUAL SAVINGS FOR EACH ECM

[Include all applicable fuels/commodities for project, such as: electric energy, electric demand, natural gas, fuel oil, coal, water, etc.]

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	Total energy use (MBtu/yr)	Electric energy use (kWh/yr)	Electric energy cost, Year 1 ($/yr)	Electric demand* (kW/yr)	Electric demand cost, Year 1 ($/yr)	Natural gas use (MBtu/yr)**	Natural gas cost, Year 1 ($/yr)	Water use (gallons/yr)	Water cost, Year 1 ($/yr)	Other energy use (MBtu/yr)**	Other energy cost, Year 1 ($/yr)	Other energy-related O&M costs, Year 1 ($/yr)	Total costs, Year 1 ($/yr)
Baseline use													
Post-installation use													
Savings													

Notes

*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.
MBtu = 10^6 Btu.
**If energy is reported in units other than MBtu, provide a conversion factor to MBtu for link to cost schedules (e.g., 0.003413 MBtu/kWh).

ECM-SPECIFIC M&V PLAN AND SAVINGS CALCULATION METHODS

Develop section for each ECM.

- Summarize the scope of work, location, and how cost savings are generated. Describe source of all savings including energy, water, O&M, and other (if applicable).
- Specify the M&V guideline and option used from the International Performance Measurement and Verification Protocol (IPMVP).
- Provide an overview of M&V Activities for ECM. Explain intent of M&V plan, including what is being verified.
- Provide an overview of savings calculations methods for ECM. Provide a general description of analysis methods used for savings calculations.

Proposed Energy and Water Savings Calculations and Methodology

- Provide detail description of analysis methodology used. Describe any data manipulation or analysis that was conducted prior to applying savings calculations.
- Detail all assumptions and sources of data, including all stipulated values used in calculations.
- Include equations and technical details of all calculations made. (Use appendix and electronic format as necessary.) Include description of data format (headings, units, etc.).
- Details of any savings or baseline adjustments that may be required.
- Detail energy and water rates used to calculate cost savings. Provide post-acceptance performance period energy and water rate adjustment factors.
- Detail proposed savings for this energy conservation measure for post-acceptance performance period. Include table - Proposed Annual Savings for Each ECM.

Operations and Maintenance Cost Savings

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- Provide justification for O&M cost savings. Describe how savings are generated. Detail cost savings calculations.
- Provide post-acceptance performance period other cost savings adjustment factors.

Details of other savings (if applicable)

- Provide justification for cost savings. Describe how savings are generated. Detail cost savings calculations.
- Provide post-acceptance performance period other cost savings adjustment factors.

Post-Installation M&V Activities - Describe the intent of post-installation verification activities, including what will be verified.

- Describe variables affecting post-installation energy or water use. Include variables such as weather, operating hours, set point changes, etc. Describe how each variable will be quantified, i.e., measurements, monitoring, assumptions, manufacturer data, maintenance logs, engineering resources, etc.
- Define key system performance factors characterizing the post-installation conditions such as lighting intensities, temperature set points, etc.
- Define requirements for Institution witnessing of measurements if different than whole project data requirements.
- Provide details of post-installation data to be collected, including: Parameters to be monitored, Details of equipment to be monitored (location, type, model, quantity, etc.), Sampling plan, including details of usage groups and sample sizes, Duration, frequency, interval, and seasonal or other requirements of measurements, Monitoring equipment to be used, Installation requirements for monitoring equipment, Calibration requirements/procedures, Expected accuracy of measurements/monitoring equipment, Quality control procedures to be used, Form of data to be collected (.xls, .cvs, etc.), Sample data collection forms (optional)
- Detail data analysis to be performed.

Post-Acceptance Performance Period Verification Activities

- Describe variables affecting post-acceptance performance period energy or water use. Include variables such as weather, operating hours, set point changes, etc. Describe how each variable will be quantified, i.e., measurements, monitoring, assumptions, manufacturer data, maintenance logs, engineering resources, etc.
- Define key system performance factors characterizing the post-acceptance performance period conditions. Include factors such as comfort conditions, lighting intensities, temperature set points, etc.
- Describe the intent of post-acceptance performance period verification activities – what will be verified.
- Provide detailed schedule of post-acceptance performance period verification activities and inspections.
- Define requirements for Institution witnessing of measurements if different than whole project data requirements.
- Provide details of post-acceptance performance period data to be collected, including: Parameters to be monitored, Details of equipment to be monitored (location, type, model,

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quantity, etc.), Sampling plan, including details of usage groups and sample sizes, Duration, frequency, interval, and seasonal or other requirements of measurements, Monitoring equipment to be used, Installation requirements for monitoring equipment, Calibration requirements/procedures, Expected accuracy of measurements/monitoring equipment, Quality control procedures to be used, Form of data to be collected (.xls, .cvs, etc.), Sample data collection forms (optional)

- Detail data analysis to be performed.
- Define O&M and repair reporting requirements. Detail verification activities and reporting responsibilities of Institution and contractor on operations and maintenance items. Define reporting schedule.

ENERGY STAR: For each building included in the project, ESCO will provide a Portfolio Manager rating. Also, for applicable buildings, ESCO includes the cost to provide services and complete the annual application for a building ENERGY STAR label. ESCO shall provide a Portfolio Manager rating and energy performance target score estimate. For each eligible building, ESCO shall provide a pre-retrofit Energy Performance Rating using EPA ENERGY STAR's Portfolio Manager, the weather normalized energy intensity in kBtu/SF, and an estimated post-retrofit Energy Performance Rating. If the building type is not eligible for rating in Portfolio Manager, then the normalized source EUI will suffice. ESCO shall provide a completed Cash Flow Opportunity Calculator (CFO Calculator) for the project, with variables inserted that represent the most likely options available to the customer. This will enable the ESCO and the customer to have an agreed-upon format for discussing project financing options and the potential costs of project delays. The CFO Calculator will be provided in both hard copy and electronic format, so that the agency can run its own analyses on financing options in the agreed format. ESCO will submit a completed Cash Flow Opportunity spreadsheet using the Cash Flow Opportunity Calculator (CFO Calculator) for the total project which shall include all facilities to be improved.

C.2 POST-INSTALLATION M&V PLAN.

The Post-Installation M&V Plan updates the M&V Plan and includes detailed measurements, monitoring, and inspections.

List of Processes and Tables:

- Proposed Annual Savings Overview
- Expected Savings Overview for First Performance Year
- Impact to Energy Cost Savings from Changes between Final Proposal and As-Built Conditions for ECM
- Expected Year 1 Savings for ECM
- ENERGY STAR Ratings

POST-INSTALLATION REPORT OUTLINE

Post-Acceptance Performance Period Dates Covered: _____ to_____

EXECUTIVE SUMMARY

Project Background - Provide an overview of project background, including:

- Dates of relevant contract modifications

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- Post-acceptance performance period dates covered
- Project acceptance date (actual or expected)

Brief Project and ECM Descriptions

- Provide an overview what was done and how savings are generated.
- Note any changes in project scope between the final proposal (including any relevant contract modifications) and as-built conditions.

Proposed and expected energy and cost savings for Year 1 of the post-acceptance performance period

- Proposed Annual Savings Overview.
- Compare expected savings for first performance year to first year guaranteed cost savings. State whether guarantee is expected to be fulfilled for first year.

Note: Expected savings are prediction for first year based on post-installation M&V activities. Verified savings for first year of post-acceptance performance period will be documented in annual report. The proposed savings for each ECM are included in TO-4 of the contract.

Proposed Annual Savings Overview

[Include all applicable fuels/commodities for project, e.g., electric energy, electric demand, natural gas, fuel oil, coal, water, etc.]

ECM	Total energy savings (MBtu/yr)	Electric energy savings (kWh/yr)	Electric demand savings (kW/yr)*	Natural gas savings (MBtu/yr)**	Water savings (gallons/yr)	Other energy savings (MBtu/yr)**	Total energy and water cost savings, Year 1 ($/yr)	Other energy-related O&M cost savings, Year 1 ($/yr)	Total cost savings, Year 1 ($/yr)
Total savings									

Notes

MBtu=10^6 Btu.

*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.

**If energy is reported in units other than MBtu, provide a conversion factor to MBtu for link to cost schedules (e.g., 0.003413 MBtu/kWh).

Expected Savings Overview for 1st Performance Year

[Include all applicable fuels/commodities for project, e.g., electric energy, electric demand, natural gas, fuel oil, coal, water, etc.]

ECM	Total energy savings (MBtu/yr)	Electric energy savings (kWh/yr)	Electric demand savings (kW/yr)*	Natural gas savings (MBtu/yr)**	Water savings (gallons/yr)	Other energy savings (MBtu/yr)**	Total energy and water cost savings,	Other energy-related O&M cost	Total cost savings, Year 1 ($/yr)

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							Year 1 ($/yr)	savings, Year 1 ($/yr)	
Total savings									

Notes

MBtu=10^6 Btu.

*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.

**If energy is reported in units other than MBtu, provide a conversion factor to MBtu for link to cost schedules (e.g., 0.003413 MBtu/kWh).

Guaranteed Cost Savings for First Performance Year

First Year Guaranteed Cost Savings:	$

Energy, Water, and O&M Rate Data

- Detail energy and water rates used to calculate cost savings for this period.
- Provide post-acceptance performance period rate adjustment factors for energy, water, and O&M cost savings, if used.
- Report actual energy and water rates at site for same period (optional).

Savings Adjustments

- Provide summary of any energy and/or cost savings adjustments required between final proposal (including any relevant contract modifications) and as-built conditions.
- Describe the impact in changes between the final proposal (including any relevant contract modifications) and as-built conditions based on post-installation M&V results.

Construction Period Savings

- Provide a summary of construction period savings, if applicable.
- Provide overview of how construction period savings are calculated.

Status of Rebates - Include if applicable.

- Provide a summary of the source of any third-party rebates or incentives provided on this project.
- Provide status of any third-party rebates or incentives.

ECM-SPECIFIC M&V ACTIVITIES AND EXPECTED FIRST YEAR SAVINGS

Develop section for each ECM.

Overview of ECM, M&V Plan, and Savings Calculation for ECM

- Summarize the scope of work, location, and how cost savings are generated.
- Describe source of all savings including energy, water, O&M, and other (if applicable).

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- Provide an overview of M&V activities for ECM. Explain the intent of M&V plan, including what is being verified.
- Provide an overview of Savings Calculation Methods for ECM. Provide a general description of analysis methods used for savings calculations.

Installation Verification

- Detail any changes between final proposal (including any relevant contract modifications) and as-built conditions.
- Provide details of energy and cost savings impact from changes between final proposal (including any relevant contract modifications) and as-built conditions based on post-installation M&V results. Include Impact to Energy and Cost Savings from Changes between Final Proposal and As-built Conditions for each ECM.

Impact to Energy and Cost Savings from Changes between Final Proposal and As-built Conditions for Each ECM

	Total energy savings (MBtu/yr)	Electric energy savings (kWh/yr)	Electric energy cost savings, Year 1 ($/yr)	Electric demand savings * (kW/yr)	Electric demand cost savings, Year 1 ($/yr)	Natural gas savings (MBtu/yr) **	Natural gas cost savings, Year 1 ($/yr)	Water savings (gallons/yr)	Water cost savings, Year 1 ($/yr)	Other energy savings (MBtu/yr) **	Other energy cost savings, Year 1 ($/yr)	Other energy-related O&M cost savings, Year 1 ($/yr)	Total cost savings, Year 1 ($/yr)
Proposed													
Expected													
Variance													

Notes
MBtu = 10^6 Btu.
*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.
**If energy is reported in units other than MBtu, provide a conversion factor to MBtu for link to cost schedules (e.g., 0.003413 MBtu/kWh).

Note: Expected savings are prediction for first year based on post-installation M&V activities. Verified savings for first year of post-acceptance performance period will be documented in the annual M&V report. The proposed savings for each ECM are included in the contract.

- Describe construction period savings (if applicable). Include date ECM was in effect, and reference acceptance documentation.
- Detail savings calculations for construction period savings.

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Post-Installation M&V Activities Conducted - Detail measurements, monitoring, and inspections conducted in accordance with M&V plan (include all that apply for each one):

- Measurement equipment used.
- Equipment calibration documentation.
- Dates/times of data collection or inspections, names of personnel, and documentation of Institution witnessing.
- Details to confirm adherence to sampling plan.
- Include all post-installation measured values. Include periods of monitoring and durations and frequency of measurements. (Use appendix and electronic format as necessary). Include description of data format (headings, units, etc.).
- Describe how performance criteria have been met.
- Detail any performance deficiencies that need to be addressed by ESCO or Institution.
- Note impact of performance deficiencies or enhancements on generation of savings.

Expected Savings Calculations and Methodology

- Provide detailed description of analysis methodology used. Describe any data manipulation or analysis that was conducted prior to applying savings calculations.
- Detail all assumptions and sources of data, including all stipulated values used in calculations.
- Include equations and technical details of all calculations made. (Use appendix and electronic format as necessary.) Include description of data format (headings, units, etc.).
- Details of any baseline or savings adjustments made.
- Detail energy and water rates used to calculate cost savings. Provide post-acceptance performance period energy and water rate adjustment factors, if used. Report actual energy and water rates at site for same period (optional).
- Detail expected savings for this energy conservation measure for first year. Include Expected Year 1 Savings for ECM.

Details of O&M Savings (if applicable)

- Describe source of savings.
- Describe verification activities.
- Provide post-acceptance performance period O&M cost savings adjustment factors, if applicable.

Details of other savings (if applicable)

- Describe source of savings.
- Describe verification activities.
- Provide post-acceptance performance period adjustment factors, if applicable.

Note: Expected savings are prediction for first year based on post-installation M&V activities. Verified savings for first year of post-acceptance performance period will be documented in the annual report. The proposed savings for each ECM are included in Schedule TO-4 of the contract.

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Expected Year 1 Savings for ECM

[Include all applicable fuels/commodities for project, e.g., electric energy, electric demand, natural gas, fuel oil, coal, water, etc.]

	Total energy use (MBtu/yr)	Electric energy use (kWh/yr)	Electric energy cost ($/yr)	Electric demand * (kW/yr)	Electric demand cost ($/yr)	Natural gas use (MBtu/yr)**	Natural gas cost ($/yr)	Water use (gallons/yr)	Water cost ($/yr)	Other energy use (MBtu/yr)**	Other energy cost ($/yr)	Other energy-related O&M costs ($/yr)	Total costs ($/yr)
Baseline use													
Post-installation use													
Savings													

Notes
MBtu = 10^6 Btu.
*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.
**If energy is reported in units other than MBtu, provide a conversion factor to MBtu for link to cost schedules (e.g., 0.003413 MBtu/kWh).

ENERGY STAR Ratings: For each building included in the project, ESCO will provide an updated Portfolio Manager rating. Also, for applicable buildings, ESCO includes the cost to provide services and complete the annual application for a building ENERGY STAR label.

C.3 ANNUAL M&V REPORTING REQUIREMENTS

Summarize the project including energy, water and operational cost savings (in dollars and MMBTUs) for the annual reporting period, annual emission reductions and ENERGY STAR rating (if applicable). This summary information is useful for tracking and reporting on annual project performance.

Prepare the Annual Report as presented below.

List of Processes and Tables:

- Annual Report Overview
- Proposed Annual Savings Overview
- Verified Savings Overview for Performance Year # _____
- Verified Savings for Performance Period to Date
- Verified Annual Savings for ECM for Performance Year #_____

Annual Report Overview

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Institution Name/Institution Contact (Include Email and Phone Number)	
Facility Name/Facility Contact (Include Email and Phone Number)	
ESCO Name/ESCO Contact (Include Email and Phone Number)	
Total Square Footage of Project Site/Contract Start Date/Contract End Date	
Current Repayment Year (ex. Yr. 3/ 2005)	
Reporting Timeframe (ex. Jan 1-Dec. 31)	
Installed Project Cost (no financing costs)	
Total Contract Value of Guaranteed Savings	
Annual Value of Guaranteed Savings	
Measured Energy Savings	
Operational Savings	
Avoided Capital Cost (if applicable)	
Annual Dollar Value of Achieved Savings	
Total Annual Achieved Energy Savings (MMBTU)	
Electric	
Natural Gas	
Oil	
Coal	
Steam	
Other	

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Annual Water Savings (kgal)	
Annual Avoided NOx Emissions (Tons)	
Annual Avoided SOx Emissions (Tons)	
Annual Avoided CO2 Emissions (Tons)	
ENERGY STAR Rating	

ENERGY STAR Ratings: For each building included in the project, ESCO will provide an updated Portfolio Manager rating to be included in the Measurement and Verification report at the conclusion of each year of project operation (alternately, at the conclusion of each of the first xx years of project operation). Also, for applicable buildings, ESCO includes the cost to provide services and complete the annual application for a building ENERGY STAR label.

ANNUAL MEASUREMENT AND VERIFICATION REPORT OUTLINE

Post-Acceptance Performance Period Dates Covered: _____ to_____

Contract year #: _____

EXECUTIVE SUMMARY

Project Background - Provide an overview of project background, including:

- Date of Contract Execution and primary parties to the contract
- Dates of relevant contract modifications
- Post-acceptance performance period dates covered
- Project acceptance date (actual or expected)

Brief Project and ECM Descriptions - Provide an overview including what was done and how savings are generated.

Summary of proposed and verified energy and cost savings. Compare verified savings for Performance Year # to Guaranteed Cost Savings for Year #. State whether guarantee is fulfilled for year. If not, provide detailed explanation.

- Define post-acceptance performance period.
- Include Proposed Annual Savings Overview.

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Proposed Annual Savings Overview

[Include all applicable fuels/commodities for project, e.g., electric energy, electric demand, natural gas, fuel oil, coal, water, etc.]

ECM	Total energy savings (MBtu/yr)	Electric energy savings (kWh/yr)	Electric demand savings (kW/yr)*	Natural gas savings (MBtu/yr)**	Water savings (gallons/yr)	Other energy savings (MBtu/yr)	Total energy and water cost savings, Year # ($/yr)	Other energy-related O&M cost savings, Year # ($/yr)	Total cost savings, Year # ($/yr)
Total Savings									

Notes
MBtu = 10^6 Btu.
*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.
**If energy is reported in units other than MBtu, provide a conversion factor to MBtu for link to cost schedules (e.g., 0.003413 MBtu/kWh).

Note: The proposed savings for each ECM are included in the contract as well as the guaranteed savings.

Verified Savings for Performance Year

[Include all applicable fuels/commodities for project, e.g., electric energy, electric demand, natural gas, fuel oil, coal, water, etc.]

ECM	Total energy savings (MBtu/yr)	Electric energy savings (kWh/yr)	Electric demand savings (kW/yr)*	Natural gas savings (MBtu/yr)**	Water savings (gallons/yr)	Other energy savings (MBtu/yr)	Total energy and water cost savings, Year # ($/yr)	Other energy-related O&M cost savings, Year # ($/yr)	Total cost savings, Year # ($/yr)
Total savings									

Notes
MBtu = 10^6 Btu.
*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.
**If energy is reported in units other than MBtu, provide a conversion factor to MBtu for link to cost schedules (e.g., 0.003413 MBtu/kWh).

Savings Adjustments - Provide summary of any energy and/or cost savings adjustments required.
Performance and O&M Issues

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Note impact of operating deficiencies or enhancements on generation of savings.
Note impact of maintenance deficiencies on generation of savings.
Detail any deficiencies needed to be addressed by contractor or Institution.

Energy, Water, and O&M Rate Data

Detail energy and water rates used to calculate cost savings for this period.
Provide post-acceptance performance period rate adjustment factors for energy, water and O&M, if used.
Report actual energy and water rates at site for same period (optional).

Verified Savings To Date - Include Table 3**.**

Verified Savings for Post-Acceptance Performance Period to Date

[Include all applicable fuels/commodities for project, e.g., electric energy, electric demand, natural gas, fuel oil, coal, water, etc.]

Year #	Total energy savings (MBtu/yr)	Electric energy savings (kWh/yr)	Electric demand savings (kW/yr)*	Natural gas savings (MBtu/yr)**	Water savings (gallons/ yr)	Other energy savings (MBtu/yr)	Total energy and water cost savings, Year # ($/yr)	Other energy-related O&M cost savings, Year # ($/yr)	Total cost savings, Year # ($/yr)	Guaranteed cost savings for year
Total savings										

Notes
MBtu = 10^6 Btu.
*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.
**If energy is reported in units other than MBtu, provide a conversion factor to MBtu for link to cost schedules (e.g., 0.003413 MBtu/kWh).

DETAILS FOR EACH ECM

Develop section for each ECM.

Overview of ECM, M&V Plan, and Savings Calculation for ECM

- Summarize the scope of work, location, and how cost savings are generated. Describe source of all savings including energy, water, O&M, and other (if applicable).
- Provide an overview of M&V Activities for ECM. Explain the intent of M&V plan, including what is being verified.
- Provide an overview of savings calculation methods for ECM. Provide a general description of analysis methods used for savings calculations.

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M&V Activities Conducted This Period - Detail measurements, monitoring and inspections conducted this reporting period in accordance with M&V plan (include all that apply for each one):

- Measurement equipment used.
- Equipment calibration documentation.
- Dates/times of data collection or inspections, names of personnel, and documentation of Institution witnessing.
- Details to confirm adherence to sampling plan.
- Include all measured values for this period. Include periods of monitoring and durations and frequency of measurements. (Use appendix and electronic format as necessary). Include description of data format (headings, units, etc.).
- Describe how performance criteria have been met.
- Detail any performance deficiencies that need to be addressed by ESCO or Institution. Note impact of performance deficiencies or enhancements on generation of savings.

Verified Savings Calculations and Methodology

- Provide detailed description of analysis methodology used. Describe any data manipulation or analysis that was conducted prior to applying savings calculations.
- Detail all assumptions and sources of data, including all stipulated values used in calculations.
- Include equations and technical details of all calculations made. (Use appendix and electronic format as necessary.) Include description of data format (headings, units, etc.).
- Details of any baseline or savings adjustments made.
- Detail energy and water rates used to calculate cost savings. Provide post-acceptance performance period energy and water rate adjustment factors, if used. Report actual energy and water rates at site for same period (optional).
- Detail verified savings for this energy conservation measure for performance year.

Details of O&M Savings (if applicable)

- Describe source of savings.
- Describe verification activities.
- Provide post-acceptance performance period O&M cost savings adjustment factors, if applicable.

Details of other savings (if applicable)

- Describe source of savings.
- Describe verification activities.
- Provide post-acceptance performance period adjustment factors, if applicable.

Verified Annual Savings For ECM for Performance Year #

[Include all applicable fuels/commodities for project, e.g., electric energy, electric demand, natural gas, fuel oil, coal, water, etc.]

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	Total energy use (MBtu/ yr)	Electric energy use (kWh/yr)	Electric energy cost, Year # ($/yr)	Electric demand* (kW/yr)	Electric demand cost, Year # ($/yr)	Natural gas (MBtu/ yr)**	Natural gas cost, Year # ($/yr)	Water use (gallons/ yr)	Water cost, Year # ($/yr)	Other energy use (MBtu/yr)	Other energy cost, Year # ($/yr)	Other energy-related O&M costs, Year # ($/yr)	Total costs, Year # ($/yr)
Baseline use													
Perform-ance Year # use													
Savings													

Notes
MBtu = 10^6 Btu.
*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.
**If energy is reported in units other than MBtu, provide a conversion factor to MBtu for link to cost schedules (e.g., 0.003413 MBtu/kWh).

O&M Activities

Operating requirements

1. State organization(s) responsible for equipment operations. If appropriate, detail how responsibilities are shared.
2. Detail any deficiencies needed to be addressed by contractor or Institution.
3. Note impact of operating deficiencies or enhancements on generation of savings.

Preventive Maintenance requirements - State organization(s) responsible for performing maintenance. If appropriate, detail how responsibilities are shared.

Verification of scheduled maintenance items completed by ESCO or Institution

1. Detail any deficiencies needed to be addressed by contractor or Institution.
2. Note impact of maintenance deficiencies on generation of savings.

Repair and replacement requirements

1. State organization(s) responsible for performing maintenance. If appropriate, detail how responsibilities are shared.
2. Summary of activities conducted this period by contractor or Institution.
3. Detail any deficiencies needed to be addressed by contractor or Institution.
4. Note impact of maintenance deficiencies on generation of savings.

SCHEDULE D. Left blank for optional schedule related to Savings Guarantee
SCHEDULE E. Left blank for optional schedule related to Savings Guarantee
SCHEDULE F. Left blank for optional schedule related to Savings Guarantee

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SCHEDULE G. Left blank for optional schedule related to Savings Guarantee

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PAYMENTS SCHEDULES

SCHEDULE H. FINAL PROJECT COST & PROJECT CASH FLOW ANALYSIS

This schedule contains a spreadsheet depiction of the expected financial performance of the project throughout the entire contract term. The documentation should clearly identify all financial components of the project, including interest rates, current fuel prices, any escalation rates, guaranteed savings figures, ESCO compensation figures, cash-flow projections, and projected Net Present Value of any cumulative positive cash flow benefits to the Institution. Savings projections should be delineated by utility/fuel type and should identify ongoing annual service fees provided over the contract term. Project cost breakdowns should identify both hard costs (labor costs, subcontractor costs, cost of materials and equipment, and miscellaneous costs like permits, bonds taxes, insurance, mark-ups, overhead and profit, etc.).

SCHEDULE I. FINANCING AGREEMENT AND PAYMENT SCHEDULE

This schedule contains a copy of the project financing agreement or terms and conditions of whatever financing vehicle is used (lease, COPs, bank financing etc.). An amortization and payment schedule should also be included as well as the progress payment disbursement schedule that will be used to pay the ESCO during the Interim Period (construction and installation) for the agreed-upon percentages of work completed.

SCHEDULE J. COMPENSATION TO ESCO FOR ANNUAL SERVICES

This should contain the amount and frequency of any payments that may be made to the ESCO for maintenance, monitoring or other services negotiated as part of the contract. It should contain information about how the compensation is calculated (e.g. a percentage of savings above and beyond the guarantee, flat fee etc.), and if an annual inflation index is to be used to escalate fees over the duration of the contract term. An hourly fee structure will also likely be included to cover ESCO costs for any services provided beyond the scope agreed to at the time of contract execution.

SCHEDULE K. REBATES, INCENTIVES AND GRANTS

List and describe any rebates, incentives and grants related to this project.

SCHEDULE L. Left blank for optional schedule related to Payments and Schedule
SCHEDULE M. Left blank for optional schedule related to Payments and Schedule
SCHEDULE N. Left blank for optional schedule related to Payments and Schedule
SCHEDULE O. Left blank for optional schedule related to Payments and Schedule
SCHEDULE P. Left blank for optional schedule related to Payments and Schedule

DESIGN, AUDIT AND CONSTRUCTION PHASE SCHEDULES

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SCHEDULE Q. DESCRIPTION OF PROJECT SITE(S); PRE-EXISTING EQUIPMENT INVENTORY

This schedule contains basic information about the condition of the Project Site(s) at the time of contract execution. Such information would include facility square footage, building construction, use, occupancy, hours of operation etc., and any special conditions that may exist.

The inventory is important to include for the purpose of identifying what equipment was in place and how it was configured at the time of contract execution. This schedule is important to the accurate establishment of baseline, savings measurement and may need to be referred to in the later years of the contract.

SCHEDULE R. EQUIPMENT TO BE INSTALLED BY ESCO

Schedule H: This schedule should specify all of the newly installed equipment including manufacturer, quantity, location and warranties (you can also have a separate schedule for warranties). This schedule should also describe any modifications that may have been made to existing equipment, if applicable.

SCHEDULE S. CONSTRUCTION AND INSTALLATION SCHEDULE

Include the timetables and milestones for project construction and installation. If so desired, document required insurance, subcontractor lists and any MBE/WBE required subcontracts or break out into a separate schedule. NOTE: It is important that the construction/installation phase of the project be treated in compliance with individual institutional requirements and the appropriate governing statutes. Since construction is just one component of the overall project, a separate construction contract may be desirable and in some cases necessary. The construction contract would then be referred to in the body of the contract and attached as an exhibit, appendix or other type of attachment. Another approach would be to consolidate the appropriate construction language for inclusion in the body of the final contract. This will need to be decided as appropriate on a case-by-case basis.

SCHEDULE T. SYSTEMS START-UP AND COMMISSIONING OF EQUIPMENT; OPERATING PARAMETERS OF INSTALLED EQUIPMENT

Specify the performance testing procedures that will be used for start-up and commissioning of the installed equipment and total system. Define procedures for developing and implementing a commissioning plan and specify any requirements for the Institution and/or third party review and approvals, pre-functional inspections, use of manufacturers' start-up procedures, and for executing functional performance tests. Include operating parameters should for the operation of the installed equipment such as temperature setbacks, equipment run times, load controlling specifications and other conditions for the operation of the equipment.

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Provide a general commissioning schedule, including any seasonal testing, and outline commissioning tracking and reporting requirements, including periodic and final commissioning reports, and any other required submittals such as a systems manual. Prescribe any requirements for warranty walk-through or other commissioning follow-up procedures.

Include specific provisions on how the Institution's project requirements or design intent for each measure or system will be defined. Define any requirements for certification that the tests followed the specified procedures and met or exceeded the expected results.

Define the qualifications and affiliation of the commissioning agent, and provide an overview of the roles and responsibilities of the commissioning agent, ESCO and the Institution in the commissioning process. Provide for the Institution to be notified of and present during all commissioning procedures. Include a provision for the documentation of the Institution's attendance at the various tests and the Institution's approval that the tests followed the specified procedures and met or exceed the expected results.

Because of the design-build nature of ESPCs, the details of the commissioning activities are developed along with the project scope, rather than being explicitly defined at the beginning of the project. Commissioning requirements must be: 1) specified in the contract, 2) defined explicitly after design, 3) implemented during construction, 4) completed prior to final project acceptance, and 5) followed-up on after acceptance.

Specify commissioning that will be completed during the following stages:

- Commissioning Process Defined at the Time of Contract Execution
- Defining Commissioning Activities During Project Design
- Implementing Commissioning Activities During Construction
- Completing Commissioning Activities Prior to Project Acceptance

PHASE 1 – CONTRACT DEVELOPMENT

Outline the project's specific commissioning requirements including:

- Qualifications and affiliation of the Commissioning Agent (CxA);
- Roles and responsibilities of CxA, ESCO and Institution, including witnessing of Cx activities;
- Process that will be followed to document the design intent or Institution's project requirements for each energy conservation measure (ECM) or system;
- Requirements for Institution or 3rd party design reviews or submittal approvals;
- Schedule for developing and approving a Cx plan, including expected content such as:
    - Pre-functional inspections,
    - Functional testing procedures,
    - Required use of manufactures' start-up procedures,
- Plan for seasonal testing and conditional acceptance, if needed;
- Contents and timing of periodic project reports, Final Cx Report, and
- Systems Manual;
- Requirements for CxA oversight of O&M training; and
- Plan for warranty walk-though or other follow-up procedures.

Designate both the affiliation and qualifications of the Commissioning Agent (CxA) that will lead the commissioning process for the project. The key responsibilities of the CxA are: 1) Directing the

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commissioning team in the completion of the commissioning requirements; 2) Overseeing or performing the commissioning tests; and 3) Verifying the adequacy of the commissioning results.

Develop a written design intent for each system or ECM installed documenting the Institution's project requirements. Specific operational parameters, design details, performance requirements (conditions in addition to energy savings), or other provisions that are established by a design intent are:

- Operational parameters, such as temperature setback capabilities or operator interface features;
- Requirements for design details or ancillary items, such as sensors, valves, access, electrical, existing equipment demolition, etc.;
- Performance requirements, such as equipment efficiencies, or ton-hours of chilled water to be delivered.

PHASE 2 – PROJECT DESIGN

Commissioning related activities performed by the Cx team in the design phase include:

- ESCO completes project design;
- Institution and CxA review design and approve equipment submittals;
- ESCO and Institution document the design intent for each ECM or system;
- CxA develops a draft Cx Plan, including the specifics of all pre-functional inspections and functional performance tests;
- CxA develops Cx specifications for project (if needed);
- Institution and ESCO review and accept Cx documents;
- CxA issues Final Commissioning Plan and specifications.

PHASE 3 – CONSTRUCTION

Commissioning related activities that occur during the construction phase include:

- Construction observation by Institution's Cx representative and
- Commissioning Agent;
- Periodic Cx meetings are held with the project team;
- Cx progress reports are submitted by the CxA;
- Pre-functional inspections are completed and certified by the ESCO prior to equipment start-up and functional testing;
- Manufactures' start-up procedures are completed by the ESCO or manufacturer's representative.

PHASE 4 – PROJECT ACCEPTANCE

In this phase the functional performance tests are executed and the procedures are documented by the CxA, explicitly including how the Institution's project requirements or design intent prescribed for each system were met. Any items that did not pass shall be tracked and presented to the project team in a deficiency log. The ESCO will rectify the items and then perform a retest in the presence of the CxA to confirm that the items have been fixed. The deficiency log is then updated by the CxA, noting the date and corrective action taken. The Institution may choose to specify consequences for multiple failed re-tests to limit the possibility of excessive use of the CxA's time. The ESCO then assembles the Final Commissioning Report or a Systems Manual including, at minimum, the following:

- Commissioning summary report;
- ESCO certified pre-functional checklists;
- Completed manufacturers start-up sheets;
- Results of functional testing and verification of system performance;
- Detailed operating procedures / sequences of operations;

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- Closed out deficiency log;
- Overview of training provided to O&M staff.
- Some Agencies may prefer to receive a more comprehensive Systems Manual, which is
- required for LEED certification. A systems manual typically brings together
- comprehensive project documentation:
- Institution's project requirements or design intent;
- Schematic system drawings;
- Approved submittals;
- Recommended record keeping procedures;
- Maintenance procedures & schedules;
- Test requirements for ongoing commissioning.

PHASE 5 – POST-ACCEPTANCE PHASE

Commissioning activities that typically extend beyond Project Acceptance include deferred functional testing and warranty verification. Some functional testing may be postponed until seasonal conditions are appropriate to evaluate the system. When some functional testing has been deferred, acceptance of the project is conditional upon the success of the scheduled tests. Most equipment installed will have a one-year warranty provided by the manufacturer. A warranty check-out with the ESCO after 8 to 10 months of operation is a recommended commissioning activity. Reviewing the equipment warranties and performing a site walkthough at this time can identify any problems that may still be covered by a manufacturer's or contractor's warranty.

SCHEDULE U. STANDARDS OF COMFORT

Explicitly describe the standards of comfort to be maintained for heating, cooling, lighting levels, hot water temperatures, humidity levels and/or any special conditions for occupied and unoccupied areas of each building.

SCHEDULE V. ESCO'S TRAINING RESPONSIBILITIES

Describe the ESCO's training program or sessions for facility personnel including the duration and frequency of the specified training. Describe any provisions for on-going training, commitments to train newly hired facility personnel, and training with respect to possible future equipment or software upgrades. Also specify any fees associated with the Institution's request for training beyond what the ESCO is contractually bound to provide.

SCHEDULE W. Left blank for optional schedule related to Design and Construction Phase
SCHEDULE X. Left blank for optional schedule related to Design and Construction Phase
SCHEDULE Y. Left blank for optional schedule related to Design and Construction Phase
SCHEDULE Z. Left blank for optional schedule related to Design and Construction Phase
SCHEDULE AA. Left blank for optional schedule related to Design and Construction Phase

POST-CONSTRUCTION SCHEDULES

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Also see Schedule T: Start-Up Commissioning

SCHEDULE BB. ESCO'S MAINTENANCE RESPONSIBILITIES

Include a complete description of the ESCO's specific operations and maintenance responsibilities along with the time intervals for their performance of the stated O&M activities.

The description shall include but is not limited to:

1. Description of ESCO's operations and maintenance responsibilities.
2. Performance period for ESCO's performance of the stated operating and maintenance activities.
3. Period of time for Maintenance during or after warranty period.
4. Payment terms for Maintenance: annually and for how much.

SCHEDULE CC. INSTITUTION'S MAINTENANCE RESPONSIBILITIES

Describe the operations and maintenance responsibilities that may be assigned to facility staff as agreed to by both parties. In some instances this will contain no more than a description of routine O&M currently being performed on existing energy consuming equipment in the facility. In other cases, facility staff may be used to provide some maintenance on the new equipment installed under the performance contract, with the ESCO providing any specialized services as needed.

The description shall include but is not limited to:

1. Description of the Institution's operations and maintenance responsibilities.
    a. Existing maintenance and operations
    b. Additional maintenance and operations necessitated by the Work

Institution shall provide all maintenance tasks on all existing equipment at all times. Institution shall provide all maintenance duties on new equipment after Substantial Completion. Maintenance Duties will be outlined in Operation and Maintenance Manuals, which will be provided by ESCO.

SCHEDULE DD. FACILITY MAINTENANCE CHECKLIST

This checklist is a method by which the ESCO may record and track the Institution's compliance with any of the maintenance procedures being performed by facility personnel. The checklist typically specifies simple list of tasks and the corresponding schedule for the performance of the prescribed procedures. Facility staff will complete the checklist and forward it to the ESCO, usually on a monthly basis. (This checklist is a very useful tool for both the ESCO and Institution to verify that the required maintenance activities are being performed at the scheduled intervals).

SCHEDULE EE. Left blank for optional schedule related to Post-Construction Phase
SCHEDULE FF. Left blank for optional schedule related to Post-Construction Phase

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SCHEDULE GG. Left blank for optional schedule related to Post-Construction Phase
SCHEDULE HH. Left blank for optional schedule related to Post-Construction Phase
SCHEDULE II. Left blank for optional schedule related to Post-Construction Phase

ADMINISTRATION SCHEDULES

SCHEDULE JJ. ALTERNATIVE DISPUTE RESOLUTION

This schedule describes methods for resolving disputes or claims relating to construction or the contract, wherein the parties agree to exercise good faith efforts (e.g., mediation, dispute resolution board) and to only use litigation as a last resort. This schedule is included as an alternative to costly binding arbitration and litigation.

SCHEDULE KK. Left blank for optional schedule related to Administration
SCHEDULE LL. Left blank for optional schedule related to Administration
SCHEDULE MM. Left blank for optional schedule related to Administration
SCHEDULE NN. Left blank for optional schedule related to Administration
SCHEDULE OO. Left blank for optional schedule related to Administration

OPTIONAL SCHEDULES

PRE-EXISTING SERVICE CONTRACTS

Information regarding the scope and cost of pre-existing equipment service contracts should be located in this schedule. This gives both the Institution and ESCO information about how and when the existing equipment is being serviced. As well, if the ESCO is credited with any maintenance savings or is taking over any existing service contracts, the scopes and costs of such Contracts will useful in tracking the performance of the ESCO in providing the required services and documenting any attributable cost savings.

ENERGY SAVINGS PROJECTIONS

This schedule should contain the projected energy savings in units for each year of the contract. Oftentimes these projections are broken down on a measure by measure basis although some measures may be aggregated into general categories such as lighting or HVAC. If there are several buildings involved in the project, this schedule should contain projections for each facility, even though they may all be covered under a single guarantee.

FACILITY CHANGES CHECKLIST

A "Facility Changes Checklist" or other method may be provided by the ESCO for the Institution to notify the ESCO of any changes in the facility that could have an impact on energy consumption (e.g. occupancy, new equipment acquisition, hours of use etc.). This checklist is generally submitted on a monthly basis or quarterly basis.

CURRENT AND KNOWN CAPITAL PROJECTS AT FACILITY

If there are any current or planned capital projects to be implemented in the facility, that information should be contained in this schedule. This information could prove to be very useful in the out-years of the contract to avoid potential disputes over long-term energy savings performance, overall facility energy consumption and costs.

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EXHIBITS

EXHIBIT I	PERFORMANCE BOND/CONSTRUCTION BOND
EXHIBIT II	LABOR AND MATERIAL PAYMENT BOND ***if required***
EXHIBIT II (i)	CERTIFICATE OF ACCEPTANCE—TECHNICAL AUDIT
EXHIBIT II (ii)	CERTIFICATE OF ACCEPTANCE—INSTALLED EQUIPMENT
EXHIBIT III	EQUIPMENT WARRANTIES

APPENDICES

APPENDIX A	RFP FOR ESCO SOLICITATION
APPENDIX B	ESCO PROPOSAL
APPENDIX C	INVESTMENT GRADE AUDIT AND PROJECT PROPOSAL CONTRACT
APPENDIX D	INVESTMENT GRADE AUDIT REPORT

NOTE: THESE SCHEDULES CAN BE INCLUDED AS OPTIONAL AND INCLUDED OR COMBINED WITH OTHERS OR MAY BE CONTAINED IN THE AUDIT REPORT AS DESIRED.

Certificate Of Completion

Envelope Id: 5662B728-A81D-437D-A294-5A20E2BC9A93
Status: Completed
Subject: Please Electronically Sign: SWPA# 40-00000-23-00029AG
Source Envelope:
Document Pages: 80
Signatures: 3
Envelope Originator:
Certificate Pages: 5
Initials: 2
Yvette Anaya
AutoNav: Enabled
1100 S Saint Francis Dr
EnvelopeId Stamping: Enabled
Santa Fe, NM 87502
Time Zone: (UTC-07:00) Mountain Time (US & Canada)
yvette.anaya@gsd.nm.gov
IP Address: 164.64.62.10

Record Tracking

Status: Original
5/23/2025 10:28:20 AM
Holder: Yvette Anaya
yvette.anaya@gsd.nm.gov
Location: DocuSign
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Pool: StateLocal
Storage Appliance Status: Connected
Pool: General Services Department
Location: Docusign

Signer Events	Signature	Timestamp
Johnny DeSha johnny.desha@gsd.nm.gov Procurement Specialist Manager Security Level: Email, Account Authentication (None), Login with SSO	 Signature Adoption: Pre-selected Style Using IP Address: 164.64.62.10	Sent: 5/23/2025 10:34:55 AM Viewed: 5/23/2025 2:06:22 PM Signed: 5/23/2025 2:06:32 PM
Electronic Record and Signature Disclosure: Accepted: 3/25/2025 7:13:20 AM ID: d1ec4280-451a-42ce-b36b-a39ed00bc76f		
ZULLY DE LA PAVA TORRADO zully.delapava@trane.com Security Level: Email, Account Authentication (None)	 Signature Adoption: Uploaded Signature Image Using IP Address: 98.6.229.90	Sent: 5/23/2025 2:06:34 PM Resent: 5/29/2025 12:58:22 PM Viewed: 5/29/2025 12:58:57 PM Signed: 6/2/2025 11:35:53 AM
Electronic Record and Signature Disclosure: Accepted: 1/14/2024 9:29:33 PM ID: 26d6612e-1a70-4dc7-9b9c-afa41bbfa3bd		
Ann Marie Lucero annmarie.lucero@tax.nm.gov District Mgr. State of New Mexico Taxation and Revenue Signing Group: 33300 - CRS Verification Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 164.64.133.222	Sent: 6/2/2025 11:35:55 AM Viewed: 6/2/2025 11:57:03 AM Signed: 6/2/2025 11:58:14 AM
Electronic Record and Signature Disclosure: Accepted: 6/2/2020 2:28:54 PM ID: 4e14c1ed-cee7-47c4-9f77-dc41a9cef910		
Dorothy Mendonca dorothy.mendonca@gsd.nm.gov SPD Division Director / State Purchasing Agent General Services Department Signing Group: 35000 - State Purchasing Agent Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 164.64.62.10	Sent: 6/2/2025 11:58:16 AM Viewed: 6/2/2025 12:30:31 PM Signed: 6/2/2025 12:30:47 PM
Electronic Record and Signature Disclosure:		

Signer Events	Signature	Timestamp
Accepted: 4/14/2023 7:24:59 AM ID: 51f6380f-50f7-4227-afb5-572b373dfb7c		
Yvette Anaya yvette.anaya@gsd.nm.gov Executive Procurement Officer New Mexico General Services Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 164.64.62.10	Sent: 6/2/2025 12:30:49 PM Viewed: 6/2/2025 12:46:40 PM Signed: 6/2/2025 12:47:38 PM
Electronic Record and Signature Disclosure: Not Offered via Docusign		
In Person Signer Events	**Signature**	**Timestamp**
Editor Delivery Events	**Status**	**Timestamp**
Agent Delivery Events	**Status**	**Timestamp**
Intermediary Delivery Events	**Status**	**Timestamp**
Certified Delivery Events	**Status**	**Timestamp**
Carbon Copy Events	**Status**	**Timestamp**
Witness Events	**Signature**	**Timestamp**
Notary Events	**Signature**	**Timestamp**

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/23/2025 10:34:55 AM
Certified Delivered	Security Checked	6/2/2025 12:46:40 PM
Signing Complete	Security Checked	6/2/2025 12:47:38 PM
Completed	Security Checked	6/2/2025 12:47:38 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

A. ELECTRONIC RECORD AND SIGNATURE DISCLOSURE (ERSD)

From time to time, New Mexico General Services Department (GSD), on behalf of the State of New Mexico (SONM), may be required by law to provide you with certain written notices or disclosures. Stated below are the terms and conditions for GSD's providing you such notices and disclosures electronically through the DocuSign system. Please read this information carefully. If you are able to access this information electronically and agree to **this Electronic Record and Signature Disclosure (ERSD)**, please confirm your agreement by selecting the check-box next to "I agree to use electronic records and signatures" before clicking "CONTINUE" within the DocuSign system.

B. Obtaining paper copies

At any time up to twenty (20) calendar days following your use of DocuSign to electronically sign a document, you may request a paper copy of any record provided or made available electronically to you by GSD. You will have the ability to download and print documents SONM sends you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a twenty (20) calendar day period after such documents are first sent to you. Following the twenty (20) day period, if you want GSD to send you paper copies of any such documents from GSD's office, you will be charged a $1.00 per-page fee plus postage. You may request delivery of such paper copies from GSD by following the procedure stated in Section H, below.

C. Withdrawing your consent

If you decide to receive notices and disclosures from GSD electronically, you may at any time change your mind and inform GSD you want to receive required notices and disclosures only in paper format. The procedure concerning how you may inform GSD of your decision to receive future notices and disclosures in paper format as well as withdraw your consent to receive notices and disclosures electronically is stated in Section D, immediately below.

D. Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed with which GSD will be able to complete certain steps in specific transactions and deliver paper copies to you. GSD will need: (1) to send the required notices or disclosures to you in paper format; and (2) wait until GSD receives your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from SONM or to electronically sign documents generated and sent to you from SONM.

E. All notices and disclosures will be sent to you electronically

Unless you inform GSD otherwise according to these procedures, GSD will electronically provide you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements and other documents that are required to be provided or made available to you during the course of your electronic signature relationship with SONM. To reduce the possibility of inadvertent non-receipt, GSD prefers to provide all required notices and disclosures by the same method and to the same email or physical address that you furnish to GSD. Thus, you may receive the disclosures and notices electronically or in paper form. If you do not agree with this procedure, please inform GSD according to the procedures stated in Section I, below. Please also refer to Section D, immediately above, which states the consequences resulting from your declination of electronic delivery of notices and disclosures.

F. How to contact GSD:

You may inform General Services Department (GSD) of any changes you select regarding State Purchasing Division's (SPD) electronic communications with you, to request paper copies of certain information from SPD, and to withdraw your prior consent to receive notices and disclosures electronically by emailing your request(s) to SPD at: *GSD.SPDinfo@state.nm.us*

G. To advise SPD of your new email address

To inform SPD of a change in the email address to which SPD sends you notices and disclosures electronically, you must send an email to SPD at *GSD.SPDinfo@state.nm.us* and in the body of such request you must include your previous and new email addresses.

H. To request paper copies from SPD

To request delivery of paper copies of electronic notices and disclosures that DocuSign and/or SPD have previously provided to you, you must send an email to SPD at *GSD.SPDinfo@state.nm.us* and in the body of your email request state your email address, full name, mailing address, and telephone number. SPD will charge you a $1.00 per page copy fee plus postage.

I. To withdraw your consent with SPD

To inform SPD that you no longer wish to receive notices and disclosures in electronic format you may:

(1) Decline to sign a document from within a signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may:

(2) Send SPD an email to *GSD.SPDinfo@state.nm.us* and in the body of your request state your email address, full name, mailing address, and telephone number.

J. Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current DocuSign system requirements may be found at:
https://support.docusign.com/guides/signer-guide-signing-system-requirements

K. Acknowledging your access and consent to receive and sign documents electronically

To confirm that you are able to electronically access the information contained in this Electronic Record and Signature Disclosure (ERSD), please confirm that you have: (1) read this ERSD, and either: (2) you are able to print on paper or electronically save this ERSD for your future reference and access; or (3) you are able to email this ERSD to an email address where you will be able to print this ERSD on paper and/or save this ERSD for your future reference and access. Further, if you consent to receiving notices and disclosures from DocuSign and/or SPD exclusively in electronic format, then select the check-box next to "I agree to use electronic records and signatures," before you click "CONTINUE" within the DocuSign system.

By selecting the check-box next to "I agree to use electronic records and signatures," you confirm that:

- You have read this Electronic Record and Signature Disclosure (ERSD); and
- You can print this ERSD on paper, or you can save and/ or send this ERSD to a location where you can print this ERSD, for your future reference and access; and
- Until or unless you notify SPD as stated in this ERSD, you consent to exclusively receive through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by SPD during the course of your electronic signature relationship with SPD.

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State of New Mexico
General Services Department
State Purchasing Division

Statewide Price Agreement Cover Page

Awarded Vendor:
0000011132
Trane U.S. Inc.
5501 San Diego Avenue NE
Albuquerque, NM 87113

Attn: Zully De La Pava Torrado
Email: zully.delapava@trane.com
Phone: (915) 593-3484

Agreement Number**:** **40-00000-23-00029AG**

Payment Terms**:** **Net 30**

F.O.B.**:** **Destination**

Delivery**:** **Per Contract**

Ship To:
All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.

Invoice:
As Requested at time of order

For questions regarding this agreement please contact:
Dennis Romero (505) 660-8605

Procurement Specialist**:** **Tami Concha**

Telephone No.**:** **(505) 660-3671**

Email: **Tami.Concha@gsd.nm.gov**

Title**:** **Qualified Providers of Energy Performance Contracting Services, ESCO**

Term**:** **January 12, 2024 – January 11, 2028**

The attached Agreement is made subject to the "terms and conditions" as indicated.

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STATEWIDE PRICE AGREEMENT
#40-00000-23-00029AG
STATE OF NEW MEXICO
FOR

Qualified Providers of Energy Performance Contracting Services, ESCO

THIS AGREEMENT is made and entered into by and between the **General Services Department** and the **State of New Mexico**, herein after referred to as the "Agency", and **Trane U.S. Inc.,** herein after referred to as the "Contractor."

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. DEFINITIONS

"**Agencies**" or "**Agency**" means eligible governmental entities under the Public Facilities Energy Efficiency and Water Conservation Act [NMSA 1978, 6-23], which are state government, local governments, public schools, higher educational institutions, and other instrumentalities of state government.

"**Agreement Administrator**" shall mean the State Purchasing Division (SPD) of the General Service Department.

"**Close of Business**" means 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the given date.

"**Contract**" means any agreement for the procurement of items of tangible personal property, services or construction derived from an Invitation to Bid (ITB) or Request For Proposals (RFP).

"**Deliverable**" means any measurable, tangible, verifiable outcome, result, or item that must be produced to complete a project or part of a project.

"**ECMD**" means the Energy Conservation and Management Division of the Energy, Minerals and Natural Resources Department.

"**EMNRD**" means the Energy, Minerals and Natural Resources Department.

"**Energy Conservation Measure,**" or **"ECM"**, means a training program or a modification to a facility, including buildings, systems or vehicles, designed to reduce energy consumption or conservation-related operating costs. More specifically, ECMs that may be proposed by Qualified Providers are stated in the EPC Statute and include:

(a) Insulation of the building structure or systems within the building;
(b) Storm windows or doors, caulking or weather-stripping, multi-glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area or other window and door system modifications that reduce energy consumption;
(c) Automated or computerized energy control systems;
(d) Heating, ventilating or air conditioning system modifications or replacements;

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(e) Replacement of modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code or nationally accepted standards for the lighting system after the proposed modifications are made;
(f) Energy recovery systems;
(g) Solar heating and cooling systems or other renewable energy systems;
(h) Cogeneration or combined heat and power systems that produce steam, chilled water or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;
(i) Energy conservation measures that provide long-term operating cost reductions;
(j) Maintenance and operation management systems that provide long-term operating cost reductions;
(k) Traffic control systems; or
(l) Alternative fuel options or accessories for vehicles.

ECMs may also include "conservation-related cost savings," which are cost savings, other than utility cost savings, in the operating budget of a Governmental Unit that are a direct result of energy or water conservation measures implemented pursuant to a Guaranteed Utility Savings Contract.

"**Energy Performance Contracting**" or **"EPC"** means a project that is backed up by a written guarantee stating that the utility cost savings and conservation-related cost savings will meet or exceed the costs of implemented ECMs or WCMs.

"**ESCO**" means Energy Service Company that can provide energy audit, project development, implementation, financing, and monitoring services to Agencies for ECMs or WCMs.

"**Guaranteed Utility Savings Contracts**," means contracts for the evaluation and recommendation of energy or water conservation measures and for the implementation of one or more of those measures, and which contract provides that all payments, except obligations on termination of the contract before its expiration, are to be made over time and the savings are guaranteed to the extent necessary to make the payments for the conservation measures.

"**Investment-Grade Energy Audit**" means a study approved by a Professional Engineer registered in New Mexico that evaluates in detail the technical and economic issues necessary to justify the investment related to the proposed ECMs or WCMs.

"**Local Public Body**" means every political subdivision of the state and the agencies, instrumentalities and institutions thereof.

"**New Mexico State Purchasing Agent**" or "**NMSPA**" means the purchasing agent for the State of New Mexico or a designated representative. May be used interchangeably with "State Purchasing Agent" or "SPA".

"**Pre-qualified**" means the status of an ESCO or vendor that has been selected through an RFP process, certified by EMNRD as a Qualified Provider, and has established a statewide price

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agreement with the State Purchasing Agent. A pre-qualified ESCO or vendor is eligible for secondary selection processes for EPC services that Agencies may conduct.

"**Price Agreement**" means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property or service to the procuring agency which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.

"**Procuring Agency**" means any state agency or local public body that chooses to procure products or services under this agreement. Other units of government, including cities, counties, school districts, institutions of higher education and other jurisdictions not subject to the procurement authority of the SPA, are authorized to buy from this agreement.

"**Products and Services Schedule**" refers to the complete list of products and services offered under this agreement and the price for each. Product and service descriptions may be amended with the prior approval of the Agreement Administrator. New products and services shall not be added to the Products and Services Schedule.

"**Qualified Provider**" means a person experienced in the design, implementation and installation of energy or water conservation measures and who meets EMNRD's experience qualifications for energy conservation measures or the Office of the State Engineer for water conservation measures.

"**State (the State)**" means the State of New Mexico.

"**Statewide Price Agreement**" means the contract that selected Offerors would execute in order to be deemed a Qualified Provider.

"**State Purchasing Agent,**" or SPA, means the purchasing agent for the State of New Mexico or a designated representative.

"**Third-Party Fee**" means a one (1) percent fee on the pre-gross receipts tax total of the project cost.

"**Utility Cost Savings**" means the amounts saved by a Governmental Unit in the purchase of energy or water that are a direct result of energy or water conservation measures implemented pursuant to a Guaranteed Utility Savings Contract.

"**Water Conservation Measure,**" or **"WCM"**, means a training program, change in maintenance practices, or facility or landscape alteration designed to reduce water consumption or conservation-related operating costs.

"You" and **"your"** refers to **Selected ESCO Contractor.** "We," "us" or "our" refers to the State of New Mexico, agencies, commissions, institutions, political subdivisions and local public bodies allowed by law to participate in the Agreement and whose accounts are created under this Agreement.

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2. SCOPE OF WORK

Pre-qualified Energy Services Companies (ESCOs) will provide Energy Performance Contracting (EPC) services for New Mexico governmental entities ("Agencies" or "Agency"). ESCOs selected through the Request for Proposals (RFP) process and who also enter into statewide price agreements, will each be deemed Qualified Providers by the Energy Conservation and Management Division (ECMD) of the Energy, Minerals and Natural Resources Department (EMNRD). ESCOs selected through separate federal, state, or private procurement processes for EPC services are not pre-qualified.

Qualified Providers are approved to provide proposals to Agencies that may choose to utilize EPC services for upgrading facilities, fleets, and water infrastructure with energy and water conservation measures (ECMs and WCMs). Such EPC services are allowed by the Public Facility Energy Efficiency and Water Conservation Act ("EPC Statute"), as amended. The statute citation is New Mexico Statutes Annotated (NMSA) 1978, Chapter 6, Article 23 (6-23).

Eligible Agencies under the EPC Statute are state agencies, K-12 public school districts, higher education governmental entities, municipal and county governments, and other political subdivisions. EPC enables these Agencies to access financing and accomplish energy projects without using capital budgets; project financing costs are offset by energy cost savings. The Agencies and selected Qualified Providers will follow the EPC statute and program guidelines of EMNRD.

The selected ESCOs will commit to the EPC Statute and EMNRD's program guidelines via subsequent contracts with Agencies for specific projects. The term of the Statewide Price Agreement will be four (4) years, with continuation subject to an annual review by EMNRD of each Qualified Provider's performance. The Statewide Price Agreement will contain schedules of markups and fees as stated in the Offeror's RFP response. Compensation to Qualified Providers for specific work projects will be detailed in the resulting contracts with Agencies to implement EPC projects.

The Qualified Provider will be required to develop proposals for potential projects. Agreements established between the Qualified Provider and the Agency, as described in the following, will incorporate current state statutes and directives that directly relate to EPC, including:

- Public Facility Energy Efficiency and Water Conservation Act [NMSA 1978, 6-23]; and
- Energy Efficiency Standards for Public Buildings, [NMSA 1978, 15-3-36].

The selection of ESCOs and subsequent contracting with Qualified Providers serves as a major step to enable Agencies to initiate EPC projects that upgrade facilities and generate avoided energy costs. There are three (3) phases possible in a complete EPC project, after an Agency's selection of a Qualified Provider, as follows:

Phase 1: Investment-Grade Energy Audit and Project Proposal

The selected Qualified Provider and the Agency will execute the Investment-Grade Energy Audit and Project Proposal contract. This contract sets specific expectations and provides a detailed process for both the Qualified Provider and the Agency. The contract also defines the deliverables to Agency and establishes the basis for the Guaranteed Utility Savings Contract to follow. The Investment-Grade Energy Audit and Project Proposal will identify and evaluate cost-saving measures and define the proposed project scope, cost, savings, and cash-flow over the

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proposed financing term. A project proposal will present bundled ECMs and WCMs that can be financed through guaranteed savings.

Phase 2: Guaranteed Utility Savings Contract and Implementation
Upon satisfactory completion of the Investment-Grade Energy Audit and Project Proposal, the Agency will have the option to execute a Guaranteed Utility Savings Contract with the Qualified Provider to implement the recommended project. The Guaranteed Utility Savings Contract will define the final agreed upon scope of work and all its associated costs and mutual responsibilities between the Qualified Provider and Agency, as well as improvement measures, the equipment and labor costs associated with them, and all guaranteed energy and maintenance cost savings. The Qualified Provider will solicit financing companies on behalf of Agency using the Financing Bid Package. A separate financing agreement will be developed including Qualified Provider payment schedules and lender financing terms and schedules. Upon execution of the Guaranteed Utility Savings Contract, the Qualified Provider proceeds to final design, construction, and commissioning of the ECMs and WCMs. Qualified provider shall inform EMNRD ECMD of contract execution and the total amount of the contract to initiate an invoice for the third-party fee.

Phase 3: Performance Period
The Performance Period of the Guaranteed Utility Savings Contract begins upon construction completion and project acceptance by Agency. The Guaranteed Utility Savings Contract may include a number of services the Qualified Provider will provide until the end of the contract, including, but not limited to, measurement and verification of savings, the savings guarantee, staff training, and contract maintenance services.

Each of the Agencies has the option to procure services of an ESCO to implement ECMs and WCMs in Agency facilities, which will avoid Agency energy costs. Selected ESCOs that establish Statewide Price Agreements will be deemed Qualified Providers for selection by any of the Agencies. The primary purposes of this Qualified Provider selection process are:

(1) To ensure the Qualified Provider meets minimum qualifications and can implement successful EPC projects;
(2) To provide each Agency with the opportunity to procure services of a Qualified Provider in a timely and cost-effective way;
(3) To increase the number of successful Guaranteed Utility Savings Contracts statewide, as a means to implement comprehensive energy, transportation, and water efficiency projects.

There will be multiple ESCOs selected to become Qualified Providers. Selection will be based on the quality of proposals as determined by the evaluation committee. The number of EPC projects is not pre-determined and inclusion on a statewide price agreement is not a guarantee of engaging in EPC projects. However, it is also possible that the Qualified Provider may be engaged in developing and implementing more than one project at any point in time. The number of EPC projects moving forward for Agency facilities will depend on the subsequent proposals for potential projects, as requested by the Agencies.

3. PAYMENT PROVISIONS

All payments under this agreement are subject to the following provisions.

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A. Acceptance - In accordance with Section 13-1-158 NMSA 1978, the agency shall determine if the product or services provided meet specifications. No payment shall be made for any products or services until the products or services have been accepted in writing by the procuring agency. Unless otherwise agreed upon between the procuring agency and the contractor, within fifteen (15) days from the date the procuring agency receives written notice from the contractor that payment is requested for services or within thirty (30) days from the receipt of products, the procuring agency shall issue a written certification of complete or partial acceptance or rejection of the products or services. Unless the procuring agency gives notice of rejection within the specified time period, the products or services will be deemed to have been accepted.

B. Issuance of Orders - Only written signed orders are valid under this Price Agreement. A Purchase Order is the approved form for state agencies issuing Contract Orders under this Price Agreement. Other authorized government entities may utilize Purchase Orders or forms adapted by them for their own use.

C. Payment of Invoice - Upon acceptance that the products or services have been received and accepted, payment shall be tendered to the contractor within thirty (30) days after the date of invoice. After the thirtieth (30th) day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the contractor at the rate of one and one half percent (1.5 %) per month. Contractor may submit invoices for payment no more frequently than monthly. Payment will be made to the contractor's designated mailing address. Payment on each invoice shall be due within thirty (30) days from the date of the acceptance of the invoice. The Procuring Agencies and the State agree to pay in full the balance shown on each account's statement, by the due date shown on said statement.

D. Late Charges - If the State fails to pay as required above, the Contractor may assess a late fee on the unpaid balance of more than sixty (60) days. Late fees will be assessed at a rate based upon the billing address of each State or Procuring Agency account; therefore, the periodic (monthly) late fee rate shall be one and one half percent (1.5%) and the corresponding Annual Percentage Rate for the State of New Mexico will be eighteen percent (18%). No late fee on new purchases will be assessed during the billing cycle when the purchase was made.

E. Fees:

The Contractor agrees to remit an administrative reporting fee payable by check to the State Purchasing Division for an amount equal to one percent (1.00 %) of the total sales and other revenues derived from the New Mexico state agencies and local public bodies. The Contractor shall indicate the contract number 40-00000-23-00029AG and include the remittance check with the quarterly sales report.

Reports may be submitted via U.S. mail to NM State Purchasing Division or via email to: GSD.QuarterlyUsageR@gsd.nm.gov

For payment of fees through U.S. Mail:

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New Mexico State Purchasing Division
Attn: Compliance
P.O. Box 6850
Santa Fe, New Mexico 87502

4. TERM

THIS PRICE AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE AGENCY. This Price Agreement shall begin on date approved by the agency and end four (4) years from the date of approval.

5. DEFAULT

The State reserves the right to cancel all or any part of any orders placed under this Price Agreement without cost to the State, if the Vendor fails to meet the provisions of this Price Agreement and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the State due to the Vendor's default. The Vendor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Vendor; such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the State shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Vendor to meet the required delivery scheduled. The rights and remedies of the State provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this contract.

6. TERMINATION

A. For Cause - Either party may terminate this agreement for cause based upon material breach of this agreement by the other party, provided that the non-breaching party shall give the breaching party written notice specifying the breach and shall afford the breaching party a reasonable opportunity to correct the breach. If within thirty (30) days after receipt of a written notice the breaching party has not corrected the breach or, in the case of a breach which cannot be corrected in thirty (30) days, begun and proceeded in good faith to correct the breach, the non-breaching party may declare the breaching party in default and terminate the agreement effective immediately. The non-breaching party shall retain any and all other remedies available to it under the law.

7. AMENDMENT

This Price Agreement may be amended by mutual agreement of the State Purchasing Agent and the contractor upon written notice by either party to the other. An amendment to this Price Agreement SHALL NOT AFFECT ANY OUTSTANDING ORDERS issued prior to the effective date of the amendment as mutually agreed upon, and as published by the State Purchasing Agent. Amendments affecting price adjustments and/or extension of contract expiration are not allowed unless specifically provided for in the proposal and contract documents.

8. STATUS OF CONTRACTOR

The contractor, and contractor’s agents and employees, are independent contractors for the agency and are not employees of the State of New Mexico. The contractor, and contractor’s

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agents and employees, shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this agreement. The contractor acknowledges that all sums received hereunder are personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.

9. ASSIGNMENT

A. Neither this price agreement, any orders placed under this price agreement, any interest therein, nor claim thereunder, shall be assigned or transferred by the Vendor, except as set forth in Subparagraph 10B below or as expressly authorized in writing by the State Purchasing Agent. No such assignment or transfer shall relieve the Vendor from the obligations and liabilities under this Price Agreement.

B. Vendor agrees that any and all claims for overcharge resulting from antitrust violations which are borne by the State as to goods, services, and materials purchased in connection with this bid are hereby assigned to the State.

10. SUBCONTRACTING

The contractor shall not subcontract any portion of any services to be performed under this agreement without written approval from the State Purchasing Agent. The following subcontractor(s) have been approved to supply resources for this agreement: case by case basis.

11. NON-COLLUSION

In signing this agreement, the Vendor certifies he/she has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with the offer submitted to the State Purchasing Agent.

12. INSPECTION OF PLANT

The State Purchasing Agent may inspect, at any reasonable time, during Contractor's regular business hours and upon prior written notice the part of the contractor's, or any subcontractor's plant or place of business, which is related to the performance of this contract.

13. COMMERCIAL WARRANTY

The Vendor agrees that the tangible personal property or services furnished under this price agreement shall be covered by the most favorable commercial warranties the Vendor gives to any customer for such tangible personal property or services, and that the rights and remedies provided herein shall extend to the State and are in addition to and do not limit any rights afforded to the State by any other clause of this order. Vendor agrees not to disclaim warranties of fitness for a particular purpose of merchantability.

14. CONDITION OF PROPOSED ITEMS

All proposed items are to be NEW and of most current production, unless otherwise specified.

15. RECORDS OF AUDIT

During the term of this agreement and for three years thereafter, the contractor shall maintain detailed records pertaining to the services rendered and products delivered. These records shall be subject to inspection by the agency, the State Auditor and other appropriate state and federal authorities. The agency shall have the right to audit billings both before and after payment.

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Payment under this agreement shall not foreclose the right of the agency to recover excessive or illegal payments.

16. APPROPRIATIONS

The terms of this agreement, and any orders placed under it, are contingent upon sufficient appropriations and authorization being made by the legislature of New Mexico for the performance of this agreement. If sufficient appropriations and authorization are not made by the legislature, this agreement, and any orders placed under it, shall terminate upon written notice being given by the agency to the contractor. The agency's decision as to whether sufficient appropriations are available shall be accepted by the contractor and shall be final.

17. RELEASE

The contractor, upon final payment of the amount due under this agreement, releases the agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this agreement. The contractor agrees not to purport to bind the State of New Mexico, unless the contractor has express written authority to do so, and then only within the strict limits of that authority.

18. CONFIDENTIALITY

Any confidential information provided to or developed by the contractor in the performance of this agreement shall be kept confidential and shall not be made available to any individual or organization by the contractor without prior written approval by the procuring agency.

19. CONFLICT OF INTEREST

The contractor warrants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with any performance required under this agreement. The contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

20. APPROVAL OF CONTRACTOR REPRESENTATIVES

The agency reserves the right to require a change in contractor representatives if the assigned representatives are not, in the opinion of the agency, serving the needs of the State of New Mexico adequately.

21. SCOPE OF AGREEMENT

This agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written agreement. No prior agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

22. NOTICE

The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

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23. EQUAL OPPORTUNITY COMPLIANCE

The contractor agrees to abide by all federal and state laws, rules and regulations, and executive orders of the governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, and executive orders of the governor of the State of New Mexico, the contractor agrees to assure that no person in the United States shall on the grounds of race, color, religion, national origin, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity performed under this agreement. If contractor is found to be not in compliance with these requirements during the life of this agreement, contractor agrees to take appropriate steps to correct these deficiencies.

24. INDEMNIFICATION

The contractor shall hold the state and its agencies and employees harmless and shall indemnify the state and its agencies and employees against any and all claims, suits, actions, liabilities and costs of any kind, including attorney's fees for personal injury or damage to property arising from the acts or omissions of the contractor, its agents, officers, employees or subcontractors. The contractor shall not be liable for any injury or damage as a result of any negligent act or omission committed by the agency, its officers or employees.

25. NEW MEXICO EMPLOYEES HEALTH COVERAGE.

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to:

1) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2008 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;

2) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $500,000 dollars or;

3) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $250,000 dollars.

B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additonal information: http://bewellnm.com.

D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed

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against it); Contractor agrees these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a statewide price agreement) of $250,000, $500,000 or $1,000,000, depending on the dollar value threshold in effect at that time.

26. APPLICABLE LAW
This agreement shall be governed by the laws of the State of New Mexico.

27. LIMITATION OF LIABILITY
The contractor's liability to the agency, or any procuring agency, for any cause whatsoever shall be limited to the purchase price paid to the contractor for the products and services that are the subject of the agency's, or the procuring agency's, claim. The foregoing limitation does not apply to paragraph 27 of this agreement or to damages resulting from personal injury caused by the contractor's negligence.

28. BINDING ARBITRATION
Any controversy or claim arising between the parties shall be settled by binding arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

29. INCORPORATION BY REFERENCE AND PRECEDENCE
This agreement is derived from (1) the request for proposal, (including any written clarifications to the request for proposals and any agency response to questions); (2) the contractor's best and final offer; and (3) the contractor's response to the request for proposals.

In the event of a dispute under this agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) amendments to the agreement in reverse chronological order; (2) the agreement, including the scope of work; (3) the request for proposals, including attachments thereto and written responses to questions and written clarifications; (4) the contractor's best and final offer; and (5) the contractors response to the request for proposals.

30. WORKERS' COMPENSATION
The contractor agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this agreement may be terminated by the agency.

31. IMPRACTICALITY OF PERFORMANCE
A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

32. INVALID TERM OR CONDITION
If any term or condition of this agreement shall be held invalid or unenforceable, the remainder of this agreement shall not be affected and shall be valid and enforceable.

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33. ENFORCEMENT OF AGREEMENT

A party's failure to require strict performance of any provision of this agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

34. PATENT, COPYRIGHT AND TRADE SECRET INDEMNIFICATION

The contractor shall defend, at its own expense, the state and its agencies against any claim that any product or service provided under this agreement infringes any patent, copyright to trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the agency based upon contractor's trade secret infringement relating to any product or services provided under this agreement, the contractor agrees to reimburse the state for all costs, attorneys' fees and amount of the judgment. To qualify for such defense and or payment, the agency shall:

A. give the contractor prompt written notice within 48 hours of any claim;
B. allow the contractor to control the defense of settlement of the claim; and
C. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

A. provide the agency the right to continue using the product or service and fully indemnify the agency against all claims that may arise out of the agency's use of the product or service;
B. replace or modify the product or service so that it becomes non-infringing; or,
C. accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the agency to the extent such modification is the cause of the claim.

35. SURVIVAL

The agreement paragraph titled "patent, copyright, trademark, and trade secret indemnification; indemnification; and limit of liability" shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement

36. DISCLOSURE REGARDING RESPONSIBILITY

The Contractor and/or any of its Principals who seek to enter into a contract greater than twenty thousand dollars ($20,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agree to disclose whether they, or any principal of their company:

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Are presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body.

Have within a three-year period preceding this offer, been convicted of or had civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract; violation of Federal or state antitrust statutes related to the submission of offers; or commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property.

Are presently indicted for, or otherwise criminally or civilly charged by any (federal, state or local) government entity with, commission of any of the offenses enumerated in Paragraph B of this disclosure.

Have preceding this offer, been notified of any delinquent federal or state taxes in an amount that exceeds $3,000.00 of which the liability remains unsatisfied.

A. Taxes are considered delinquent if both of the following criteria apply:
   1) The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
   2) The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
   3) The taxpayer has within a three year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.

Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

The Offeror shall provide immediate written notice to the Procurement Manager or Buyer if, at any time prior to contract award, the Offeror learns that its disclosure was erroneous when submitting or became erroneous by reason of changed circumstances.

A disclosure that any of the items in this requirement exist will not necessarily result in withholding an award under this solicitation. However, the disclosure will be considered in the determination of the Offeror's responsibility. Failure of the Offeror to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of an Offeror is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

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The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts. If during the performance of the contract, the contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the contractor must provide immediate written notice to the Procurement Manager or Buyer. If it is later determined that the Offeror knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

37. NOTIFICATION

Either party may give written notice to the other party in accordance with the terms of paragraph. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three (3) business days after being mailed.

To agency:
State Purchasing Agent
State Purchasing Division
P.O. Box 6850
Santa Fe, New Mexico 87502

To contractor:
Trane U.S., Inc.
Zully De La Pava Torrado
Area Sales Manager
5501 San Diego Avenue NE
Albuquerque, NM 87113
Email: zully.delapava@trane.com
Phone: (915) 593-3484

Either party may change its representative or address above by written notice to the other in accordance with the terms of Paragraph 37. The carrier for mail delivery and notices shall be the agent of the sender.

38. AMENDMENTS

This agreement shall only be amended by written instrument executed by the parties.

39. SUCCESSION

This agreement shall extend to and be binding upon the successors and assigns of the parties.

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IN WITNESS WHEREOF, the Parties hereby execute this Agreement, which will take effect on the last signature date of the required approval authorities below. Each of the signatories, below, may execute this Agreement by hard copy original, facsimile, digital or electronic signature, any of which shall be deemed to be a true and original signature hereunder.

By: _____ Date: 1/17/2024
Zully De La Pava Torrado, Area Sales Manager
Trane U.S. Inc.

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State to pay gross receipts and compensating taxes:

BTIN: 01-509460-00-0

NOTE: **Taxation and Revenue is only verifying the registration and will not confirm or deny taxability statements contained in this contract.**

By: Ann Marie Lucero Date: 1/18/2024
Taxation & Revenue Department

This Agreement has been approved by the State Purchasing Agent:

By: _____ Date: 1/18/2024
State Purchasing Agent
State of New Mexico

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1. Completed Cost Response Form

APPENDIX D

COST RESPONSE FORMS

Please include the information in Appendix D in File 2 of your proposal. Instructions calling for brief responses indicate a short response of 2-4 sentences is requested.

In the table below, provide your company's proposed Maximum Percentage of Total Project Price for this project, for each category listed. These percentages must be equal to or less than the maximums proposed in the ESCO pre-qualification process. This format is required and must be completed in its entirety. Use only the categories shown. Ranges are acceptable.

Clearly describe how incidental and ancillary work will be charged (billed hourly, billed as a markup of equipment and labor costs, etc.). Incidental and ancillary work includes but is not limited to work that is related to ensure jobsite safety and security, jobsite cleanliness and sanitation, limited demolition, and other incidental work that is necessary to enable subcontractors to perform their work in a timely manner.

Project Construction Cost Category	Maximum Percent of Total Project Price	Self-Performed or Subcontracted
Pre-Construction Costs		
Design and other Engineering *Professional architectural and engineering services; Energy modeling*	6 – 9%	Both
Pre-Construction Services *Construction management and project development services*	3 – 5%	Both
Other Pre-Construction Costs *Site visits, Owner meetings, Legal review, Accounting services, etc.*	1 – 1.5%	Both
Construction Costs		
Trade Subcontractors *Construction contractors subcontracted to ESCO; Lighting, construction, sheet metal, etc.*	N/A until Investment Grade Audit is completed	
Design/Build Subcontracts *Construction and design contractors*	N/A until Investment Grade Audit is completed	
Direct Purchase Equipment *Equipment directly purchased by ESCO*	N/A until Investment Grade Audit is completed	
Construction Management *Construction manager and site superintendent*	9.5 – 14%	Self-Performed
Project Engineering *Design engineer inspections; Engineering analysis*	1.4 – 2%	Both

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General Conditions *Miscellaneous non-staffing costs; Equipment rentals, security fencing, etc.*	8 – 12%	Both
Construction Completion *Commissioning, Training, Construction M&V, O&M Manuals*	1 – 4%	Self-Performed
Other Construction Costs *Site visits, Owner meetings, Permits, Insurance, Bonds, Warranty Labor*	1 – 5%	Both

Profit Markup

In the table below provide the maximum percentage markup that will be applied to direct purchases of equipment, material, and subcontractors for this project. The percentage must be equal to or less than the maximums proposed in the ESCO pre-qualification process. Note that overhead is included in Construction Costs - General Conditions.

	Maximum % Markup
Profit Percent	7 – 15%

If a proposal is from a joint venture partnership, include proposed maximum allowable markups in the schedule format above for each participating company.

Contingency

Briefly describe your company's typical level of contingency budget for lighting, electrical, mechanical, controls projects, and other projects and how it proposes to apply contingency to cover changes in work scope and subcontractor change orders. Note that all unused contingency funds will revert to the Owner or be applied to additional work scope through a change order approved by the Owner.

Trane reduces contingency levels by providing comprehensive design, development, and preconstruction services. Project scopes are clearly defined in proposals as well as any general inclusions and or exclusions to avoid inflated contingency costs carried. Although highly dependent on the scope and site conditions this percentage of contingency to project price can range from 1 – 5 %. Minor or foreseen scope changes can be planned into the contingency during preconstruction and approved through change order approval process. Any additional owner-controlled contingency can be applied to unforeseen conditions, scope or subcontractor change orders, or additional scope that benefits the project or deferred future projects.

Investment Grade Audit Fee

Please refer to Figure D.1 and Table D.1 for mandatory pricing of Investment-Grade Energy Audit and Project Proposal Price Ranges

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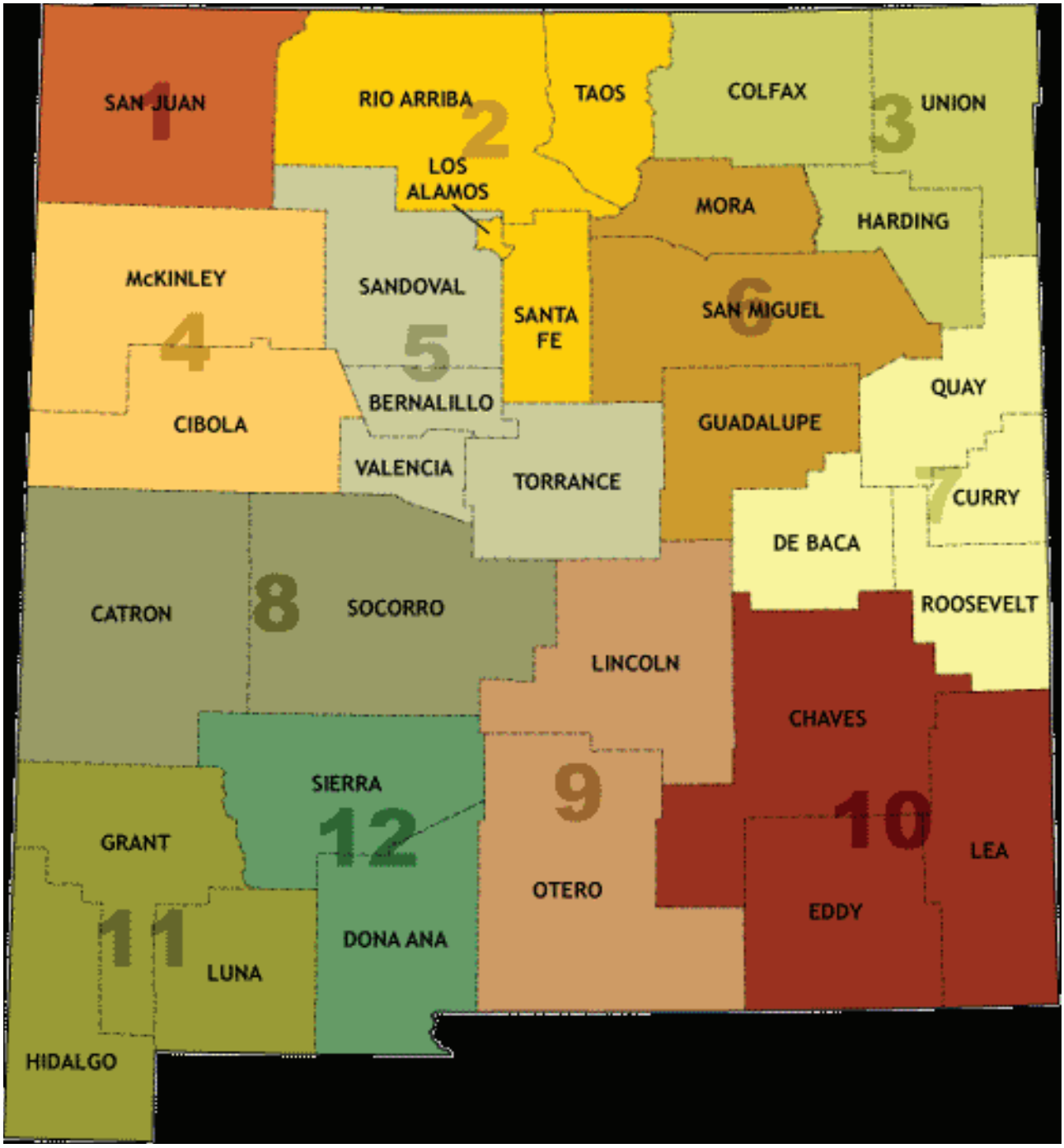

Figure D.1. GSD Purchasing Zones

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Table D.1. Mandatory Pricing of Investment-Grade Energy Audit and Project Proposal.

Pricing

Tiered Audit Pricing based on Difficulty and Price Range ($/sqft)	GSD Purchasing Zone	Facility Area (sqft)		
		< 25K	25-100K	100K +
One-way travel distance to Zone from Albuquerque (Central & Broadway)	Zone 5	$0.250	$0.225	$0.200
	Zones 2 and 8	$0.275	$0.250	$0.225
	Zones 4 and 6	$0.300	$0.275	$0.250
	Zones 1, 7, 9, and 12	$0.325	$0.300	$0.275
	Zones 3, 10, and 11	$0.350	$0.325	$0.300

Self-Performed Work Fees

In the table below, provide the position descriptions and hourly rates for labor and services as performed by your company.

The purpose of this is to enable confirmation through open book pricing.

Labor Category	GSA Regional Ceiling Labor Rate
Project Engineer II – Controls	$ 304.98
Project Engineer II – Energy	$ 308.91
Project Engineer II – Systems	$ 308.91
Project Manager – Contracts	$ 264.03
Project Engineer Team Leader	$ 308.91
Project Administrator – Contracting	$ 136.23

Annual Costs and Fees

Measurement and Verification – Annual Fee

Briefly describe how the post-retrofit Measurement & Verification annual fee is determined.

The Measurement and Verification Services cost is the annual cost for the services necessary after acceptance of the project to annually verify the Energy Performance Contract guarantees. The cost for the guarantee is based upon the M&V option utilized, the risk of savings failure, the field time to measure building performance, and the time to document and present the report.

Trane takes a thorough but tailored approach to Measurement & Verification fees. This starts early in project development by evaluating each Energy Conservation Measure's potential M&V options and aligning the accuracy and detail of those options against the cost to provide M&V services through the guaranteed term. Most often, remote access through controls, monitoring services provided by Trane, and energy modeling can reduce post-construction M&V costs by providing efficient means to collect and analyze information quickly. This balance provides our customers

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with the detail and supporting information to validate performance while ensuring that funds are tightly managed and can be applied to the most needed improvements.

Warranty

Briefly describe how the warranty cost is determined.

Warranty is the burdened labor cost associated with time anticipated to be expended by ESCO staff in supporting their direct purchase equipment warranties; and/or equipment provided by subcontractors. This warranty cost may also include costs for extended equipment warranties in those cases where the required/specified equipment warranty is longer than the equipment warranty offered by the manufacturer.

Trane offers robust warranty programs for Trane manufactured equipment, as well as any other directly purchased equipment including extended warranty options for most equipment. All major equipment in project scopes will have a warranty period defined for both equipment and labor, outlined for each measure or service.

Other

Briefly describe any other fees and how they will be determined.

Equipment/Labor Cost Competition

Briefly describe your company's process to solicit bids on equipment/labor or to ensure price/cost competition and the best value for the Owner.

Trane assembles all aspects of projects to create the most beneficial project for our customers. This includes an open non-manufacturer specific approach for direct material purchase as well as a competitive bidding structure for all major trades where it is mutually determined to add value. Local consultants, subcontractors, and trades are also included in most project scope to ensure that projects are beneficial to communities and owners.

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Open Book Pricing

Briefly describe your company's approach to open book pricing and the method for maintaining cost accounting records on authorized work performed under actual costs for labor and material, or other basis requiring accounting records.

Trane uses open book pricing with the belief that cost transparency gives clients a clear understanding of the full project scope, as well as its financial and operational impact. By involving the client early in the decision-making process – from choosing equipment to selecting subcontractors – Trane maintains the transparency that results in the optimal project solution. We do this by providing linked spreadsheets that represent a breakdown of project costs, pricing, mark-ups, pro-forma details, savings, and contract termination implications. Our local team has extensive experience with open book pricing through the high volume of work that we perform for state and local government public entities. In addition, as an ESCO authorized to serve federal government clients, we have completed many projects that incorporate the federal ESCO open book pricing methodology. We will conform to the pricing transparency methodology that the University desires.

Best Value

Briefly describe how your approach to performance contracting delivers best value for the investment. Describe any utility rebates or other financial incentives or grants you can potentially provide and/or facilitate.

Value is defined for Trane as a mutually beneficial project that accomplishes the outcomes of our customers. Preconstruction and project development efforts are managed closely with transparency and milestones that serve to keep scopes limited to the most impactful improvements, measure, and or initiatives limiting costs in early stages to facilitate more comprehensive projects in implementation. Trane also approaches pricing competitively throughout the project cycles as described above.

Trane has in-house engineering teams that evaluate and facilitate local utility, state, and federal incentives, rebates, and supplemental funding and credits. Trane also has relationships with consultants that can support the facilitation of these items if needed. These services and capabilities are all included to lower overall net costs so that critical, larger, and or more impactful projects can be accomplished.

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2. Completed forms for Markups, Fees, and Total Cost Response

2. Cost

This section provides supporting information for Factor "B(2) Cost" as shown in Table 1., Evaluation Points Summary.

a) Audit Costs

The State of New Mexico intends to establish standard audit costs for all projects based on GSD purchasing zones found in Figure D.1. These standard costs are shown in Table D.2. Pricing.

Trane agrees to established standard audit costs.

b) Open Book Pricing

Open book pricing is full disclosure by the contractor to the Facility Owner of all costs and markups for materials, labor, and services received during the project development, implementation, and performance period phases. Open book pricing will be required such that all costs, including all costs of subcontractors and Offerors, are fully disclosed.

Trane uses open book pricing with the belief that cost transparency is the key to ensure that customers clearly understand the full project scope and its impact on the financial and operational results. As a leading global provider of indoor comfort systems, Trane has the ability to provide financial advantage to customers who choose to install the systems that Trane manufactures as part of the project. By involving the customer early in the decision-making process – from choosing equipment to selecting subcontractors – Trane maintains the transparency that allows customers to make the choices that best suit their specific needs.

In order to ensure that each customer is receiving the best value, Trane presents an open book project pricing proposal. We do this by providing linked spreadsheets that represent a breakdown of project costs, pricing, mark-ups, proforma detail, savings, and termination implications.

Our Southwest Trane team has extensive experience with open book pricing through the extensive work that we do for state and local government public agencies. In addition, as an ESCO authorized to serve federal government clients, Trane has completed many projects that incorporate the federal ESCO open book pricing methodology.

c) Third Party Review

A fee of one percent of the total project cost will be included in the final project cost to fund an independent third party review of the overall project. This review will include the audit, construction, and commissioning phases.

Offerors **must** agree to all sections of the Factor "B(2) Cost" to pass.

Trane agrees that a fee of one percent of the total project cost will be included in the final project cost to fund an independent third-party review of the overall project.

Trane agrees to all sections of the Factor "B(2) Cost."

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1100 S Saint Francis Dr
Santa Fe, NM 87502
Tami.Concha@gsd.nm.gov
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Signer Events	Signature	Timestamp
Natalie Martinez natalie.martinez1@gsd.nm.gov Deputy Director New Mexico General Services Security Level: Email, Account Authentication (None), Login with SSO	NM Signature Adoption: Pre-selected Style Using IP Address: 172.59.0.76	Sent: 1/13/2024 12:09:49 PM Viewed: 1/13/2024 12:10:23 PM Signed: 1/13/2024 12:11:13 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Dennis Romero Dennis.Romero@gsd.nm.gov Utility Engineer General Services Department Security Level: Email, Account Authentication (None)	Dennis Romero Signature Adoption: Pre-selected Style Using IP Address: 164.64.62.10	Sent: 1/13/2024 12:11:15 PM Viewed: 1/13/2024 12:11:49 PM Signed: 1/13/2024 12:11:57 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Tami Concha tami.concha@gsd.nm.gov Procurement Specialist II New Mexico General Services, State Purchasing Division Security Level: Email, Account Authentication (None)	JC Signature Adoption: Pre-selected Style Using IP Address: 98.230.199.22	Sent: 1/13/2024 12:11:59 PM Viewed: 1/13/2024 12:15:46 PM Signed: 1/13/2024 12:15:57 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
ZULLY DE LA PAVA TORRADO Zully.delapava@trane.com Security Level: Email, Account Authentication (None)	 Signature Adoption: Uploaded Signature Image Using IP Address: 98.6.229.90	Sent: 1/13/2024 12:15:59 PM Resent: 1/17/2024 6:42:02 AM Viewed: 1/17/2024 8:17:08 AM Signed: 1/17/2024 10:43:41 AM
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Signer Events	Signature	Timestamp
Ann Marie Lucero annmarie.lucero@tax.nm.gov District Mgr. State of New Mexico Taxation and Revenue Signing Group: 33300 - CRS Verification Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 6/2/2020 2:28:54 PM ID: 4e14c1ed-cee7-47c4-9f77-dc41a9cef910	 Signature Adoption: Pre-selected Style Using IP Address: 164.64.133.192	Sent: 1/17/2024 10:43:43 AM Viewed: 1/18/2024 11:14:09 AM Signed: 1/18/2024 11:16:18 AM
Dorothy Mendonca dorothy.mendonca@gsd.nm.gov SPD Division Director / State Purchasing Agent General Services Department Signing Group: 35000 - State Purchasing Agent Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 4/14/2023 7:24:59 AM ID: 51f6380f-50f7-4227-afb5-572b373dfb7c	 Signature Adoption: Uploaded Signature Image Using IP Address: 164.64.62.10	Sent: 1/18/2024 11:16:20 AM Viewed: 1/18/2024 11:21:05 AM Signed: 1/18/2024 11:21:19 AM

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	1/13/2024 12:09:49 PM
Certified Delivered	Security Checked	1/18/2024 11:21:05 AM
Signing Complete	Security Checked	1/18/2024 11:21:19 AM
Completed	Security Checked	1/18/2024 11:21:19 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

A. ELECTRONIC RECORD AND SIGNATURE DISCLOSURE (ERSD)

From time to time, New Mexico General Services Department (GSD), on behalf of the State of New Mexico (SONM), may be required by law to provide you with certain written notices or disclosures. Stated below are the terms and conditions for GSD's providing you such notices and disclosures electronically through the DocuSign system. Please read this information carefully. If you are able to access this information electronically and agree to **this Electronic Record and Signature Disclosure (ERSD)**, please confirm your agreement by selecting the check-box next to "I agree to use electronic records and signatures" before clicking "CONTINUE" within the DocuSign system.

B. Obtaining paper copies

At any time up to twenty (20) calendar days following your use of DocuSign to electronically sign a document, you may request a paper copy of any record provided or made available electronically to you by GSD. You will have the ability to download and print documents SONM sends you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a twenty (20) calendar day period after such documents are first sent to you. Following the twenty (20) day period, if you want GSD to send you paper copies of any such documents from GSD's office, you will be charged a $1.00 per-page fee plus postage. You may request delivery of such paper copies from GSD by following the procedure stated in Section H, below.

C. Withdrawing your consent

If you decide to receive notices and disclosures from GSD electronically, you may at any time change your mind and inform GSD you want to receive required notices and disclosures only in paper format. The procedure concerning how you may inform GSD of your decision to receive future notices and disclosures in paper format as well as withdraw your consent to receive notices and disclosures electronically is stated in Section D, immediately below.

D. Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed with which GSD will be able to complete certain steps in specific transactions and deliver paper copies to you. GSD will need: (1) to send the required notices or disclosures to you in paper format; and (2) wait until GSD receives your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from SONM or to electronically sign documents generated and sent to you from SONM.

E. All notices and disclosures will be sent to you electronically

Unless you inform GSD otherwise according to these procedures, GSD will electronically provide you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements and other documents that are required to be provided or made available to you during the course of your electronic signature relationship with SONM. To reduce the possibility of inadvertent non-receipt, GSD prefers to provide all required notices and disclosures by the same method and to the same email or physical address that you furnish to GSD. Thus, you may receive the disclosures and notices electronically or in paper form. If you do not agree with this procedure, please inform GSD according to the procedures stated in Section I, below. Please also refer to Section D, immediately above, which states the consequences resulting from your declination of electronic delivery of notices and disclosures.

F. How to contact GSD:

You may inform General Services Department (GSD) of any changes you select regarding State Purchasing Division's (SPD) electronic communications with you, to request paper copies of certain information from SPD, and to withdraw your prior consent to receive notices and disclosures electronically by emailing your request(s) to SPD at: *GSD.SPDinfo@state.nm.us*

G. To advise SPD of your new email address

To inform SPD of a change in the email address to which SPD sends you notices and disclosures electronically, you must send an email to SPD at *GSD.SPDinfo@state.nm.us* and in the body of such request you must include your previous and new email addresses.

H. To request paper copies from SPD

To request delivery of paper copies of electronic notices and disclosures that DocuSign and/or SPD have previously provided to you, you must send an email to SPD at *GSD.SPDinfo@state.nm.us* and in the body of your email request state your email address, full name, mailing address, and telephone number. SPD will charge you a $1.00 per page copy fee plus postage.

I. To withdraw your consent with SPD

To inform SPD that you no longer wish to receive notices and disclosures in electronic format you may:

(1) Decline to sign a document from within a signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may:

(2) Send SPD an email to *GSD.SPDinfo@state.nm.us* and in the body of your request state your email address, full name, mailing address, and telephone number.

J. Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current DocuSign system requirements may be found at:
https://support.docusign.com/guides/signer-guide-signing-system-requirements

K. Acknowledging your access and consent to receive and sign documents electronically

To confirm that you are able to electronically access the information contained in this Electronic Record and Signature Disclosure (ERSD), please confirm that you have: (1) read this ERSD, and either: (2) you are able to print on paper or electronically save this ERSD for your future reference and access; or (3) you are able to email this ERSD to an email address where you will be able to print this ERSD on paper and/or save this ERSD for your future reference and access. Further, if you consent to receiving notices and disclosures from DocuSign and/or SPD exclusively in electronic format, then select the check-box next to "I agree to use electronic records and signatures," before you click "CONTINUE" within the DocuSign system.

By selecting the check-box next to "I agree to use electronic records and signatures," you confirm that:

- You have read this Electronic Record and Signature Disclosure (ERSD); and
- You can print this ERSD on paper, or you can save and/ or send this ERSD to a location where you can print this ERSD, for your future reference and access; and
- Until or unless you notify SPD as stated in this ERSD, you consent to exclusively receive through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by SPD during the course of your electronic signature relationship with SPD.

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 10/1/2025 | 9/23/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER: Lockton Companies, LLC DBA Lockton Insurance Brokers, LLC in CA CA license #0F15767 8110 E Union Ave., Ste. 100 Denver CO 80237 denver-certs@lockton.com	CONTACT NAME: Lusine Hovsepyan PHONE (A/C, No, Ext): (213) 655-9760 FAX (A/C, No): E-MAIL ADDRESS: Lusine.Hovsepyan@lockton.com
INSURED 1527991 Yearout Energy Services Company LLC 7601 Jefferson NE, Ste 160 Albuquerque, NM 87109-4496	INSURER A: Valley Forge Insurance Company — NAIC # 20508 INSURER B: National Fire Insurance Co of Hartford — 20478 INSURER C: The Continental Insurance Company — 35289 INSURER D: American Casualty Company of Reading, PA — 20427 INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER:** 20861480 **REVISION NUMBER:** XXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT X LOC X OTHER: Deductible: $100K	N	N	7040271214	10/1/2024	10/1/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 2,000,000 $ 1,000,000 $ 25,000 $ 2,000,000 $ 4,000,000 $ 4,000,000
B	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY	N	N	7040271228	10/1/2024	10/1/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) Comp/Collision	$ 2,000,000 $ XXXXXXX $ XXXXXXX $ XXXXXXX $ $1,000
C	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000	N	N	7040271309	10/1/2024	10/1/2025	EACH OCCURRENCE AGGREGATE	$ 10,000,000 $ 10,000,000 $ XXXXXXX
D D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N / N/A If yes, describe under DESCRIPTION OF OPERATIONS below		N	WC 7 40271245 (CA) WC 7 40271231 (AOS)	10/1/2024 10/1/2024	10/1/2025 10/1/2025	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Evidence of Insurance- Yearout Energy Services Company LLC added to the above policies effective 5.1.2024

CERTIFICATE HOLDER

20861480
Evidence of Insurance

CANCELLATION See Attachments

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Alma G. Castro, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Lee Garcia, District 3
Pilar F.H. Faulkner, District 3
Jamie Cassutt, District 4
Amanda Chavez, District 4

Dear City Staff,

In accordance with State Statute and City Ordinances, this document serves as a blanket ***services'*** determination and is valid until June 30, 2026, for the types of general, professional, and construction services that are clearly one of the types pre-established and approved by the State Purchasing Agent and City CPO.

Please continue to obtain determinations for services that do not clearly and fully fit within the types listed below. For mixed or hybrid services, unclear scopes of work, and design-build projects, specific determinations will be required. In these cases, please email purchasing_det@santafenm.gov to obtain the necessary CPO determinations for your procurement needs.

Should you have any questions or require clarification on a particular service, feel free to contact CPD.

The following are General Services:

- Air/bus, vehicle charter/rental service
- Animal/k9 boarding - basic
- Auctioneers
- Audio-visual equipment setup and routine maintenance for events and presentations (including projectors, microphones, and speakers)
- Automotive mechanical services – all - including vehicle inspection, diagnostics, repair labor, parts replacement, and routine maintenance (e.g., oil changes, brake service, tune-ups, etc.)
- Banking Services (routine, transaction-based)
- Boiler testing/water treatment service
- Bookkeeping service (routine, transaction-based)
- Biohazard clean-up and disinfection services for crime scenes, homicides, suicides, unattended deaths, car accidents, deadly car crashes and cleanup of police units, along with any other biohazard situations. Building alarm systems, service and repair
- Check collection service
- Clothing, textile fabrication repair service

General Services (continued):

- Commercial laundry service, dry cleaning, etc.
- Communications systems installation, servicing, and repair
- Conference and trade show coordination
- Debt collection service
- Delivery/courier service
- Document storage, duplication, retrieval, review, and destruction service
- Drug testing and screening (standard tests)
- Engraving service
- Equipment installation, preventive maintenance, inspection, calibration, and repair
- Equipment rental services
- Exams administration and scoring service
- Executive recruitment
- Firefighting/suppression service
- Food preparation, vending, and catering services
- Health screening, basic diagnostic (wellness, blood pressure monitoring, blood draw, etc.)
- Herbicide application service
- Household goods packing, storage, transportation service
- HVAC system maintenance service - Includes filter changes, inspections, cleaning, minor repairs, and system diagnostics.
- Information Technology - Hosting only
- Information Technology Help Desk Services
- Information Technology Services requiring software or equipment
- Information Technology Software and Hardware Support Services
- Interpretive services: written/oral/sign language
- Inventory service
- Janitorial service, carpet cleaning, window washing
- Laboratory testing and analysis (standard tests only)
- Land clearing/debris removal service
- Landscaping—tree planting, grooming service, lawn mowing, etc. (but not landscape architects)
- Language translation service
- Linen rental service

General Services (continued):

- Marine equipment inspection, certification, and repair
- Medical equipment rental or repair service (wheelchairs, walkers, etc.), including measurements, adjustments, and modifications to meet patient needs
- Metal/pipe/wiring detection service
- Office furnishings installation, refurbishment, and repair service
- Package inspection and crating
- Painting service
- Paper shredding
- Parking lot sweeping/snow removal service
- Pest/weed control service
- Photographic/micrographic processing and delivery, includes aerial and ground photography (if analysis is included, then personal service)
- Printing/duplicating service
- Process serving
- Property management (rent collection, property maintenance, etc.)
- Recycling/disposal/litter pickup service
- Retreat and workshop planning, conduct, coordination, etc.
- Security/armored car services
- Shop welding/metal fabrication service
- Software as a Service
- Steam cleaning, high pressure washing, parts cleaning service
- Studio photography service (does not include portrait painting)
- Telephone interview service (conduct of survey using prescribed survey instrument)
- Towing service
- Traffic control services – including certified flaggers, barricade setup/removal, temporary signage, and traffic control plans (not involving permanent installations or design engineering)
- Training – when offered as a regular course by an institution (such as a college or university)
- Travel service — air, surface, water
- Videotaping and recording service
- Warehouse dry/cold storage rental service
- Weather information service

The following are Professional Services:

- Accountants (certified public accountants and registered public accountants)
- Actuaries
- Analysts of processes, programs, fiscal impact, and compliance
- Appraisers
- Archeologists
- Architects
- Artwork, original (services creating the artwork)
- Audio/video media productions (design, development, and/or oversight of)
- Auditors
- Broadband
- Business process re-engineering
- Counselors
- Consultants (including IT Consultants)
- Curriculum/Examination development
- Data Backup Services
- Data Storage and Management Services
- Design
- Economists
- Engineers
- Environmental monitoring: noise level, safety, hazardous gas detection, radiation monitoring service, etc.
- Financial Advisors
- Grant writing
- Graphic designers (creative or original in nature)
- Hearing officer services
- Independent Verification and Validation
- Information Technology Hosting when it includes Maintenance and Support
- Information Technology Maintenance
- Information Technology Management
- Information Technology Programming
- Information Technology Risk Assessment

Professional Services (Continued):

- Insurance Adjusters/Brokers
- Investigators (personnel-related, etc.)
- Investment advisors and management
- Labor negotiators
- Landscape Architects
- Lawyers
- Lobbyists
- Managed Network Services
- Management and system analysts
- Management consultants
- Marketing consultants (including identifying market opportunities, conduct of marketing programs, planning, promotion, market research surveys, etc.)
- Medical arts practitioners
- Medical – doctors, immunizations, etc.
- Mental health support – Therapists, Counselors, etc.
- Network Cybersecurity Services
- Network Installation
- Physicals
- Planners
- Policy Advisors
- Polygraph services
- Product Development Services
- Program/Project Managers
- Psychologists
- Public relations advisors/Publicists
- Publication development (creation of audio/video productions, brochures, pamphlets, maps, signs, posters, annual reports, etc.)
- Researchers
- Scientists (Bio/Chem/Env/Geo/Hydro/Mech, etc.)
- Social and Human Services - Includes case management, outreach, crisis intervention, supportive housing assistance, and other services intended to support vulnerable or at-risk populations. Services may be delivered by licensed or trained professionals in coordination with public or nonprofit systems.

Professional Services (Continued):

- Speech writers
- Statisticians
- Surveyors
- Trade developers
- Training – when it is specifically designed for an agency as opposed to established courses (such as out of the box training offered to all at a training company, university, or college)
- Veterinarian services
- Web design and development

The following are Construction Services:

- Bid-Build (Standard)
- Construction Managers
- New Construction (including buildings, roads, bridges, utilities)
- Remodeling and Renovations (interior and exterior work)
- Demolition (including site clearance)
- Excavation and Earthwork
- Electrical Work (installation, repair, upgrades)
- Permanent installation or upgrades of audio-visual systems (including wiring and structural modifications)
- Plumbing (installation, repair, maintenance)
- Masonry and Concrete Work
- Roofing (installation, repair, maintenance)
- Structural Repair and Reinforcement
- Stucco installation, repair, and finishing
- Painting and Finishing (for construction purposes)
- Mechanical Work (HVAC systems, etc.)
- Site Preparation and Land Grading
- Utility Installation and Repair (water, sewer, gas lines)

Travis Dutton-Leyda, Chief Procurement Officer

_____ Date: 06/30/2025

Emily Oster, Finance Director

Emily K. Oster Date: 06/30/2025

Services Offered to the City of Santa Fe (2025)

Approved:
These services have been approved by the New Mexico Council for Purchasing from Persons with Disabilities and are available through Horizons of New Mexico.

- ADA Accessibility Consulting Services
- Auctioneering Services
- Bulk Mailing and Sorting
- Call Center Services
- Computer Refurbishing
- Courier Services
- Decontamination, Sanitation and Sterilization Services
- Debris Removal
- Document Imaging
- Document Shredding
- Envelope Stuffing
- General Labor
- Hard Drive Destruction
- Janitorial and Housekeeping Services – Including Carpet Cleaning & Floor Care
- Landscape Irrigation
- Landscaping
- Mailing Services
- Management of an Assistive Technology Reuse and Recycling Program
- Medical Waste Disposal
- Meeting Minute Preparation Services
- Pest Control and Extermination Services
- Printing Services
- Rest Area Maintenance
- Screen Printing
- Snow Removal
- Temporary Staffing Services
- Yard, Grounds, and Lawn Maintenance

Permissive:
The services have been approved by the New Mexico Council for Purchasing from Persons with Disabilities as permissible for sale under the State Use Act through Horizons of New Mexico. While the Council recognizes that certain Horizons of New Mexico members are capable of performing the services listed below, said services are considered permissive and excluded from the mandatory aspect of the State Use Program. Any procurement of the below services through Horizons of New Mexico is at the discretion of the purchasing agent and will be considered by the Council on a case-by-case basis.

- Graphic Design
- Graphic Design - Logo Design
- IT – Enterprise Application
- IT – IV & V
- IT Network and Database Management
- IT Support
- IT Security Services
- IT – Web Design
- IT – Web Programmer
- Marketing
- Social Media Marketing
- Training Services

For the complete State Use service list, please go to: http://horizonsofnewmexico.org/services.html

GB Packet_Yearout DBA ESGS_Microgrid Design_$501k

Final Audit Report 2025-08-05

Created:	2025-08-04
By:	Elizabeth Kahahane (elkahahane@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAiBoclOubl9SSyjv9UkWy245pbxlc_d1H

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2025-08-04 - 4:47:03 PM GMT

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Signer rawheeler@santafenm.gov entered name at signing as Regina Wheeler
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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 10/1/2025 | 9/23/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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PRODUCER Lockton Insurance Brokers,LLC CA License #0B99399 777 S. Figueroa Street, 52nd fl. Los Angeles CA 90017 213-689-0065	**CONTACT NAME:** **PHONE (A/C, No, Ext):** **FAX (A/C, No):** **E-MAIL ADDRESS:**
INSURED 1527991 Yearout Energy Services Company LLC 7601 Jefferson NE Ste 160 Albuquerque, NM 87109-4496	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A :** Valley Forge Insurance Company — 20508 **INSURER B :** National Fire Insurance Co of Hartford — 20478 **INSURER C :** The Continental Insurance Company — 35289 **INSURER D :** American Casualty Company of Reading, PA — 20427 **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 20636584 **REVISION NUMBER:** XXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X **COMMERCIAL GENERAL LIABILITY** CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC OTHER:	N	N	7040271214	10/1/2024	10/1/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 2,000,000 $ 1,000,000 $ 25,000 $ 2,000,000 $ 4,000,000 $ 4,000,000 $
B	**AUTOMOBILE LIABILITY** X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY	N	N	7040271228	10/1/2024	10/1/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) Comp/Collision	$ 2,000,000 $ XXXXXXX $ XXXXXXX $ XXXXXXX $ $1,000
C	X **UMBRELLA LIAB** X OCCUR **EXCESS LIAB** CLAIMS-MADE DED X RETENTION $ 10,000	N	N	7040271309	10/1/2024	10/1/2025	EACH OCCURRENCE AGGREGATE	$ 10,000,000 $ 10,000,000 $ XXXXXXX
D D	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: N **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	N	WC 7 40271245 (CA) WC 7 40271231 (AOS)	10/1/2024 10/1/2024	10/1/2025 10/1/2025	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

20636584
City of Santa Fe Public Works
Facilities Division
120 S Federal Pl #305
Santa Fe NM 87501-0000

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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GB Packet_Yearout DBA ESGS_Microgrid Design_$501k

Final Audit Report 2025-09-03

Created:	2025-08-18
By:	ALYSSA PEREZ (aeperez@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAIGkTgWUal42KKxYfEV_9U_9K11Ud-irh

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2025-08-19 - 4:13:41 PM GMT- IP address: 104.47.65.254

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CITY OF SANTA FE

The Purchasing Memo

Date: August 12, 2025

To: Governing Body, Finance Committee, and Quality of Life Committee

From: Kristen Woods, Youth and Family Services Program Manger KRISTEN WOODS

Via: Henri Hammond-Paul, Community Health and Safety Department Director HHP

Subject: St. Elizabeth's Shelter Corporation Homeless Services

Vendor Name: St. Elizabeth's Shelter Corporation

Munis Vendor Number: 1552

ITEM AND ISSUE:

Community Health and Safety respectfully requests your review and approval of a Professional Services Contract in the total amount of $250,000 for Homelessness Response for a term of one year with St. Elizabeth's Shelter Corporation.

CONTRACT NUMBER:

The FY26 Munis contract number is 3260013

BACKGROUND AND SUMMARY:

The City of Santa Fe released RFP #25135 in March of 2025 to solicit applications from organizations, agencies, or service providers to Provide services in support of individuals experiencing homelessness and/or housing insecurity. The City of Santa Fe's Youth and Family Services Division has been looking at solutions for homelessness in our community. Since the pandemic, there has been a concerted effort to address encampments, provide non-congregate shelter solutions and care for the increasing homeless population. The city was open and willing to look at ways of reimagining the City's approach to preventing and responding to homelessness. St. Elizabeth Shelter will provide the following services-for the City:

- Continue operating a 122-unit mixed-use rental property at 3007 S. St. Francis Dr., housing recently homeless and lower-income individuals in separate apartments.
- The program's goal is to provide the resources needed for these recently homeless individuals to maintain their housing while making connections to available community services to enable continued living as independently as possible, whether at this property or moving to another residence.
- Participate in coordination with the City and community partners around data and cases to ensure system effectivity.

They were chosen by the Evaluation Committee in April of 2025.

PRIOR APPROVALS AND SUPPORTING INFORMATION:

FUNDING SOURCE:

The funding source is split:

$130,000:

Fund Name/Number: Community Development Fund/Fund 240

Munis Org Name/Number: Community Services/2400122

Munis Object Name/Number: Grants and Services/ 510400

$120,000:

Fund Name/Number: General Fund/Fund 100

Munis Org Name/Number: Community Services/1001001

Munis Object Name/Number: Service Contracts/ 510310

Budget Officer / Designee: Andy Hopkins **Date:** 08/12/2025

Budget Officer Comment/Exceptions: _____

PROCUREMENT METHOD:

The procurement method used was NMSA 1978, Section 13-1-111, RFP

This was procured through MUNIS RFP #25135.

Chief Procurement Officer (CPO)/Designee: _____ **Date:** 08/14/2025

CPO Comment/Exceptions: _____

ASSOCIATED APPROVALS:

IT Components included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Treasury/Point of Sale Components included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Vehicles included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Construction to City Facilities, Furniture, and/or Fixtures included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this an externally funded purchase? ☐ **Yes |** ☒ **No**

If yes, what is the issuing agency: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this a Capital Asset or Project? ☐ **Yes |** ☒ **No**

Project Ledger Number: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

ATTACHMENTS:

Horizons declination
CPO Service Determination Email
Department approval email from ITT, Fleet, or Facilities [pick one or more or delete]
Procurement document: RFP
Vendor's Bid (Note: proposals and Evaluation Committee Reports shall only be emailed (by CPD) to the committee directly, not included in this packet.)
Certificate of Liability Insurance (COI) (add City as an additional insured, project specifics, contact person, and primary project location)
Professional Services Contract
Federally required forms (list all. Examples: SAM.gov check, etc.)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 1/6/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER ZIA INSURANCE AGENCY P.O. BOX 2105 SANTA FE, NM 87504 CONRAD SCHOTT	CONTACT NAME: CONRAD SCHOTT PHONE (A/C, No, Ext): (505) 983-7329 FAX (A/C, No): (505) 986-6116 E-MAIL ADDRESS:
INSURED ST. ELIZABETH SHELTER 804 ALARID ST SANTA FE, NM 87505	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A: PHILADELPHIA INDEMNITY INS CO INSURER B: NEW MEXICO MUTUAL CASUALTY INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES CERTIFICATE NUMBER: 2019-01 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY [X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR [X] PROFESSIONAL LIAB GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC	X	Y	PHPK2632478	12/14/2024	12/14/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 100,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS [ ] HIRED AUTOS [ ] NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	Y	11253.131	01/05/2025	01/05/2026	[ ] WC STATU-TORY LIMITS [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
THE CERTIFICATE HOLDER IS AN ADDITIONAL INSURED

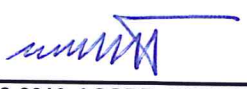
CERTIFICATE HOLDER

CITY OF SANTA FE
PO BOX 909
SANTA FE, NM 87504

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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Item #: _____
Munis Contract #: 3260013
RFP#: 25135

CITY OF SANTA FE

PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **St. Elizabeth Shelter Corporation**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

RECITALS

WHEREAS, the Chief Procurement Officer of the City has made the determination that this Agreement is in accordance with the provisions of the New Mexico Procurement Code (NMSA 1978, 13-1-28 et seq.) pursuant to NMSA 1978, section 13-1-102; and

WHEREAS, the Contractor is one of such requisite and qualifications and is willing to engage with the City for professional services, in accordance with the terms and conditions hereinafter set out, and the Contractor understanding and consenting to the foregoing is willing to render such professional services as outlined in the Agreement; and

The City and the Contractor hereby agree as follows:

1. Scope of Work

The Contractor shall provide the following services-for the City:

- St. Elizabeth Shelter will continue operating a 122-unit mixed-use rental property at 3007 S. St. Francis Dr.housing recently homeless and lower-income individuals in separate apartments. As such:
    a. 60 formerly homeless residents will be housed at any given time;
    b. They will be provided with a wide range of supportive services designed to help stabilize them in a safe, secure environment and maintain their newfound housing;
    c. An on-site program/case manager, case manager, supportive housing navigator and licensed therapist will help residents with their immediate and longer-term needs, including addressing and ameliorating their behavioral and physical health, as well as alcohol/substance abuse and other issues;
    d. Referrals will be made on an individual basis to partnering social-service agencies specializing in the issues presented by each resident to appropriately address and alleviate them;
    e. Staff will work with residents to counsel and teach needed life skills, such as job, financial, coping, hygiene, housekeeping, self-advocacy, etc.

- The program's goal is to provide the resources needed for these recently homeless individuals to maintain their housing while making connections to available community services to enable continued living as independently as possible, whether at this property or moving to another residence.
- Participate in coordination with the City and community partners around data and cases to ensure

system effectivity.:

a. Coordinated Entry (CE) to prioritize individuals for community services,;
b. Appointing a main point of contact for CE and by name list data entry;
c. Obtain ongoing training for the Lead in both the NM Homeless Management Information System (HMIS), CE and by name list; and
d. Participation in City-lead coordination efforts as appropriate.

2. Standard of Performance; Licenses

A. The Contractor does hereby accept its designation as a professional service, rendering services related to homeless services for the City, as set forth in this Agreement. The Contractor represents that Contractor possesses the personnel, experience, and knowledge necessary to perform the services described under this Contract.

B. The Contractor agrees to obtain and maintain throughout the term of this Contract, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives, and subcontractors.

3. Compensation

.A. The City shall pay to the Contractor in full payment for services satisfactorily performed at the rate of two-hundred and fifty thousand dollars ($250,000) , such compensation not to exceed $250,000,. **The total amount payable to the Contractor under this Agreement, shall not exceed $250,000**

B. Payment. The total compensation for the first year of this contract shall be $250,000. Compensation for subsequent years shall be contingent upon both approved and available budget appropriations and shall be based on actual utilization.
PLEASE NOTE NO PROPERTY TAX WILL BE PAID TO THE CONTRACTOR BY THE CITY. This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The Parties do not intend for the Contractor to continue to provide Services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the Services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for Services provided in excess of the total compensation amount without this Agreement being amended in writing prior to services, in excess of the total compensation amount being provided.

C. Payment shall be made upon Acceptance of each Deliverable and upon the receipt and Acceptance of a detailed, certified Payment Invoice. Payment will be made to the Contractor's designated mailing address. In accordance with Section 13-1-158 NMSA 1978, payment shall be tendered to the Contractor within thirty (30) days of the date of written certification of Acceptance. All Payment Invoices MUST BE received by the City no later than fifteen (15) days after the termination of this Agreement. Payment Invoices received after such date WILL NOT BE PAID.

D. **Notice of Extended Payment Provision For Grant Funded Contracts**. This contract allows the City to make payment within 45 days after submission of an undisputed request for payment.

4. Term

THIS CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. The total compensation for the first year of this contract shall be $250,000. Compensation for subsequent years shall be contingent upon both approved and available budget appropriations and shall be based on actual utilization. The City reserves the right to renew this contract on an annual basis by mutual agreement not to exceed a total of four (4) years in accordance with NMSA 1978, Sections 13-1-150 through 152.

5. Termination

A. Grounds. The City may terminate this Agreement for convenience or cause. For contracts within their authority, the City Manager or their designee is authorized to provide the notice of termination, otherwise such notice of termination shall be provided by the Mayor or their designee as authorized by the Governing Body. The Contractor may only terminate this Agreement based upon the City's uncured, material breach of this Agreement.

B. Notice; City Opportunity to Cure.

1) The City shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2) Contractor shall give City written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the City's material breaches of this Agreement upon which the termination is based and (ii) state what the City must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the City does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the City does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3) Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the City; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the City; or (iii) the Agreement is terminated pursuant to Paragraph 6, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the City's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

6. Appropriations

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the Governing Body for the performance of this Contract. If sufficient appropriations and authorization are not made by the Governing Body, this Contract shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Contract to unilaterally reduce funding, the Contractor shall have the option to terminate the Contract or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

7. Status of Contractor

The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Contract. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

8. Assignment

The Contractor shall not assign or transfer any interest in this Contract or assign any claims for money due or to become due under this Contract without the prior written approval of the City.

9. Subcontracting

The Contractor shall not subcontract any portion of the services to be performed under this Contract without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Contract, nor shall any subcontract obligate direct payment from the City.

10. Release

Final payment of the amounts due under this Contract shall operate as a release of the City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Contract.

11. Confidentiality

Any confidential information provided to or developed by the Contractor in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

12. Product of Service -- Copyright

All materials developed or acquired by the Contractor under this Contract shall become the property of the City and shall be delivered to the City no later than the termination date of this Contract. Nothing developed or produced, in whole or in part, by the Contractor under this Contract shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

13. Conflict of Interest; Governmental Conduct Act

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Contract, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Contract.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Contract, will continue to comply with, and that this Contract complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article are material representations of fact upon which the City relied when this Contract was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Contract, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article were erroneous on the effective date of this Contract or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in

Paragraphs A and B of this Article were erroneous on the effective date of this Contract or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Contract to the contrary, the City may immediately terminate the Contract.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

14. Amendment

A. This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Contract to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Contract, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

15. Entire Agreement.

This Agreement, together with any other documents incorporated herein by reference and all related Exhibits and Schedules constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter. In the event of any inconsistency between the statements in the body of this Agreement, and the related Exhibits and Schedules, the statements in the body of this Agreement shall control.

16. Merger

This Contract incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written contract.

terms and conditions of the **RFP Number 25135, Homeless Services** and the Contractor's response to such document(s) are incorporated herein by reference and is included in the order of precedence.

No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract.

17. Penalties for violation of law

NMSA 1978, sections 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kickbacks.

18. Equal Opportunity Compliance

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Contract. If Contractor is found not to be in compliance with these requirements during the life of this Contract, Contractor agrees to take appropriate steps to correct these deficiencies.

19. Applicable Law

The laws of the State of New Mexico shall govern this Contract, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, section 38-3-2. By execution of this Contract, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Contract.

20. Workers Compensation

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Contract may be terminated by the City.

21. Professional Liability Insurance

Contractor shall maintain professional liability insurance throughout the term of this Contract providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Contract.

22. Other Insurance

If the services contemplated under this Contract will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Contract, the following insurance coverage(s), naming the City as additional insured.

A. **Commercial General Liability** insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

B. **Broader Coverage and Limits**. The insurance requirements under this Contract shall be the greater of (1) the minimum coverage and limits specified in this Contract, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Contract are sufficient to cover the obligations of Contractor hereunder.

C. Contractor shall maintain the above insurance for the term of this Contract and name the City as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

23. Records and Financial Audit

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Contract's term and effect and retain them for a period of three (3) years from the date of final payment under this Contract. The records shall be subject to inspection by the City. The

City shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the City to recover excessive or illegal payments.

24. Indemnification

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Contract, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Contract. If any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Contract is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City.

25. New Mexico Tort Claims Act

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

26. Invalid Term or Condition

If any term or condition of this Contract shall be held invalid or unenforceable, the remainder of this Contract shall not be affected and shall be valid and enforceable.

27. Enforcement of Contract

A party's failure to require strict performance of any provision of this Contract shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Contract shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

28. Notices

Any notice required to be given to either party by this Contract shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City: Kristen Woods, krwoods@santafenm.gov

To the Contractor: Martin Ruybalid, director@steshelter.org, 505-982,6611 x 107

29. Authority

If Contractor is other than a natural person, the individual(s) signing this Contract on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter a binding contract.

30. Non-Collusion

In signing this Agreement, the Contractor certifies the Contractor has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the City's Chief Procurement Officer.

31. Default/Breach

In case of Default and/or Breach by the Contractor, for any reason whatsoever, the City may procure the goods or services from another source and hold the Contractor responsible for any resulting excess costs and/or damages, including but not limited to, direct damages, indirect damages, consequential damages, special damages, and the City may also seek all other remedies under the terms of this Agreement and under law or equity.

32. Equitable Remedies

The Contractor acknowledges that its failure to comply with any provision of this Agreement will cause the City irrevocable harm and that a remedy at law for such a failure would be an inadequate remedy for the City, and the Contractor consents to the City 's obtaining from a court of competent jurisdiction, specific performance, or injunction, or any other equitable relief in order to enforce such compliance. The City's rights to obtain equitable relief pursuant to this Agreement shall be in addition to, and not in lieu of, any other remedy that the City may have under applicable law, including, but not limited to, monetary damages.

33. Default and Force Majeure

The City reserves the right to cancel all, or any part of any orders placed under this Agreement without cost to the City, if the Contractor fails to meet the provisions of this Agreement and, except as otherwise provided herein, to hold the Contractor liable for any excess cost occasioned by the City due to the Contractor's default. The Contractor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Contractor; such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the City shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery scheduled. The rights and remedies of the City provided in this Clause shall not be exclusive and are in addition to any other rights now being provided by law or under this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Contract as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

_____
MAYOR ALAN WEBBER

CONTRACTOR:

Martin Ruybalid
Martin Ruybalid (Jun 19, 2025 09:19 MDT)
MARTIN RUYBALID, Director

DATE: 06/19/2025

NMBTIN#: 85-0347650

City of SF Business License #:02-059151-00-9

ATTEST:

_____
CITY CLERK

CITY ATTORNEY'S OFFICE:

Patricia Feghali
Patricia Feghali (Jun 20, 2025 09:08 MDT)
ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster
FINANCE DIRECTOR

From: Matt Loehman
To: WOODS, KRISTEN R.
Subject: Re: City of Santa Fe - First Right of Refusal
Date: Friday, October 25, 2024 4:26:31 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

Thank you very much for the opportunity, but we will decline this procurement.

Best regards,

Matt

Matt Loehman
Executive Director

Horizons of New Mexico
6121 Indian School Rd. NE, Suite 220
Albuquerque, NM 87110

office phone: (505) 345-1540
email: mloehman@horizonsofnewmexico.org
web: www.horizonsofnewmexico.org

The State Use Act helps people with disabilities become gainfully employed, and it saves you valuable time and resources otherwise used during the procurement process.

On Fri, Oct 25, 2024 at 4:22 PM WOODS, KRISTEN R. <krwoods@santafenm.gov> wrote:

> Good Afternoon,
>
> I am writing to see if you are interested in this Scope of Work for the City of Santa Fe:
>
> The City's Youth and Family Services Department is seeking qualified Consultants to provide services in support of individuals experiencing homelessness and/or housing insecurity. One or more consultants will be awarded a contract. Applicants are invited to propose projects or services in need of funding that relate to one or more of the following:

- Data Collection and Analysis
- Outreach Services
- Employment Development and Programming
- Program Evaluation
- Eviction Prevention Program Development/ Facilitation
- Grant Writing
- Homeless Services/ Operations
- Substance abuse programs and services
- Medical and/or mental health services
- Other miscellaneous services to homeless individuals or related to the prevention of homelessness.

Thank you!

Kristen Woods (she/her)

Program Manager, Youth and Family Services Division

Community Health and Safety Department

Office: (505) 955-6913 | Cell: (505) 479-2183 | Email: krwoods@santafenm.gov

CITY OF SANTA FE

*Disclaimer: This message and any attachments are intended for the use of the addresses(s) only and may be confidential and/or legally privileged. If the reader is not the intended recipient, DO NOT READ, notify sender and delete this message. In addition, be aware that any disclosure, copying, distribution or use of the contents of this message is strictly prohibited. The contents of this message, while possibly falling under the exceptions of the Inspection of Public Records ACT [NMSA Chapter 14, Article2] may be subject to inspection by the public.

Book time to meet with me

From: DUTTON-LEYDA, TRAVIS K.
To: WOODS, KRISTEN R.
Subject: RE: Determination Request
Date: Friday, October 4, 2024 1:10:21 PM

Greetings,

The scope of work as written would be Professional Services. This determination relates only to that question and is no comment on whether the scope of work or procurement method meet all legal standards. I reserve the right to change this determination if the scope of work differs from the scope of work submitted for the original determination. This procurement must be conducted using the processes and procedures set forth by the City of Santa Fe, Central Purchasing, the Procurement Manual, and state statutes.

Please note:

- Save this email as a PDF and upload it into the corresponding Munis records.
- Check with WorkQuest dba Horizons of New Mexico (mloehman@horizonsofnewmexico.org) if this service appears on their approved list.
- If any of your request include anything that needs to be reviewed and preapproved by another city Department/Division, please send your SOW to the corresponding email address, and provide their response to this office when you submit your procurement request for processing.
  -IT components - ereview@santafenm.gov
  -Vehicles – dmjaramillo@santafenm.gov
  -Grants - mtbonifer@santafenm.gov; cmthompson@santafenm.gov
  -Facilities, Furniture, Fixture, Equipment - jsburnett@santafenm.gov_
  -Emergency Related Purchases - bgwilliams@santafenm.gov
  -Asset over $5k - lmstorey@santafenm.gov
- Ensure that the appropriate templates and forms are used https://intranet.santafenm.gov/finance_1 and documented procedures/laws/rules are followed. _
- > $20k per year, when processing this procurement, please ensure the procurement number issued by Munis and the procurement name are used in the appropriate documents and the subject of emails.
- If you are processing a procurement where the forecasted amount is =/> $60k, per NMSA 1978, Section 13-1-102, if you aren't using a cooperative or existing contract, you must process an RFP.
- < $20k per year, one quote is acceptable.
- From $20k to $60k per year, if you aren't using a cooperative or existing contract, you'll need to provide 3 quotes in your req. Must use the Munis Bid Module after 12/21/2023.
- Figure out your funding source and **inform Purchasing**. To ensure that the proper

documents and language are used, it is important to identify the funding source for the subsequent contract. For instance, if federal funds are involved, the procurement request and subsequent contract must include the necessary federal language. Therefore, it is crucial to determine the funding source beforehand.

- Review the pages linked below to determine whether any of the existing price agreements/contracts or cooperative agreements are applicable to this request. You might be able to use an existing price agreement/contract to save time and money.
    - https://www.generalservices.state.nm.us/state-purchasing/statewide-price-agreements/ (if you choose to use a Statewide, you do not need to ask Horizons if they can do the work. State Purchasing must offer the SOW to Horizons prior to placing the award on their website.)
    - https://naspovaluepoint.org/categories/
    - https://www.omniapartners.com/publicsector/contracts
    - https://www.buyboard.com/home.aspx
    - https://www.h-gac.com/Home
    - https://www.gsaelibrary.gsa.gov/
    - https://www.sourcewell-mn.gov/contract-search

- Submit or send your request to the appropriate MS Teams channel or email address:
    - RFPs requests to https://teams.microsoft.com/l/channel/19%3ad63b9c8b586d424fa5eed34177146ac5%40thread.tacv2/RFP%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
    - ITBs requests to https://teams.microsoft.com/l/channel/19%3a48e1e4588c0440a09cfbd9b907ed42d4%40thread.tacv2/ITB%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
    - Determination requests to purchasing_det@santafenm.gov
    - And all other requests to purchasing@santafenm.gov

Thank you for submitting this scope of work for my review.

Regards,

Travis Dutton-Leyda
Chief Procurement Officer
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501
505-629-8351
tkduttonleyda@santafenm.gov

https://santafenm.gov/finance-2/purchasing-1

Internal Link: https://intranet.santafenm.gov/finance_1

CITY OF SANTA FE
FINANCE

More Procurement, less drama ~ John Blair

From: WOODS, KRISTEN R. <krwoods@santafenm.gov>
Sent: Friday, October 4, 2024 10:18 AM
To: DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>
Subject: Determination Request

Good Morning Travis!

I am hoping you can help me get a Determination on this Scope of Work. Please let me know if you have any questions.

The City of Santa Fe has an ambitious plan to continue its critical work of addressing the homelessness crisis as a top priority. This includes leveraging and scaling the success of the Micro-Community Initiative. Consultant will offer services to create and steward the Micro-community (SOS) Advisory Council.

The work includes:
A. Recruiting membership
B. Managing tasks associated with meetings
C. Communication management
D. Facilitating meetings at least monthly
E. Preparing presentations and other materials
F. Coordination with stakeholders as needed
G. Attending meetings as requested

The final deliverable will be a comprehensive resource / toolkit that is scalable and usable and contains practical information on procedures, workflow, best practices, and other information for easy replicability.

Thank you!

Kristen Woods (she/her)

Program Manager, Youth and Family Services Division
Community Health and Safety Department
Office: (505) 955-6913 | Cell: (505) 479-2183 | Email: krwoods@santafenm.gov

CITY OF SANTA FE

*Disclaimer: This message and any attachments are intended for the use of the addresses(s) only and may be confidential and/or legally privileged. If the reader is not the intended recipient, DO NOT READ, notify sender and delete this message. In addition, be aware that any disclosure, copying, distribution or use of the contents of this message is strictly prohibited. The contents of this message, while possibly falling under the exceptions of the Inspection of Public Records ACT [NMSA Chapter 14, Article2] may be subject to inspection by the public.

CITY OF SANTA FE

The Purchasing Memo

Date: August 29, 2025

To: Governing Body, Finance Committee, and Public Works & Utilities Committee

From: Jesse Roach, Interim Public Utilities Director JR

Subject: Amendment No.1 to Legal Contract- City Reservoir Infrastructure Improvements Projects

Vendor Name: Spencer Fane, LLP

Munis Vendor Number: 10717

ITEM AND ISSUE:

Public Utilities respectfully requests your review and approval of Amendment No.1 to Contract Number 3250308 with Spencer Fane, LLP (Contractor') for Legal Services. Amendment No.1 increases the amount of compensation and extends the term for mediation or litigation by $570,000 excluding tax for a total compensation of $616,668.75 not to exceed for a term of 4 years.

CONTRACT NUMBER:

Munis contract number is 3250308

BACKGROUND AND SUMMARY:

The Contractor will represent the City in mediation or litigation against contractors involved in City reservoir infrastructure improvement projects relating to the City's McClure Dam and Reservoir and Nichols Dam and Reservoir.

PRIOR APPROVALS AND SUPPORTING INFORMATION:

FUNDING SOURCE:

Fund Name/Number: WTRMGMNT / 505

Munis Org Name/Number: Wtr Rsrcs / 5050387

Munis Object Name/Number: Legal Cntr / 510200

Budget Officer / Designee: Andy Hopkins **Date:** 08/29/2025

Budget Officer Comment/Exceptions: _____

PROCUREMENT METHOD:

The procurement method used was NMSA 1978, Section 13-1-98, Exempt

Chief Procurement Officer (CPO)/Designee: _____ **Date:** 08/29/2025

CPO Comment/Exceptions: Legal advice, consultation, and representation-exempt per SFCC 1987, SECTION 11-13 (B)(3).

ASSOCIATED APPROVALS:

IT Components included? ☐ **Yes** | ☒ **No**

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Treasury/Point of Sale Components included? ☐ **Yes** | ☒ **No**

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Vehicles included? ☐ **Yes** | ☒ **No**

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Construction to City Facilities, Furniture, and/or Fixtures included? ☐ **Yes** | ☒ **No**

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this an externally funded purchase? ☐ **Yes** | ☒ **No**

If yes, what is the issuing agency: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this a Capital Asset or Project? ☐ **Yes** | ☒ **No**

Project Ledger Number: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

ATTACHMENTS:

Legal Services Contract
Original contract packet (with previous contract amendments)
Certificate of Liability Insurance (COI)

Item #: _____
Munis Contract #: 3250308
Original Contract Item #: 24-0674
SWPA/GSA/Coop/RFP/ITB #: _____

CITY OF SANTA FE,
AMENDMENT No. 1 TO
Contract # 3250308

LEGAL SERVICE CONTRACT

This AMENDMENT No. 1 (the "Amendment") amends the CITY OF SANTA FE CONTRACT, dated November 27, 2024 (the "Contract"), between the City of Santa Fe (the "City") and Spencer Fane, LLP. (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

RECITALS:

A. Pursuant to Article 3 of the Contract, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. COMPENSATION.

Article 3, paragraph A of the Contract is amended to increase the amount of compensation by a total of four hundred and fifty thousand dollars ($450,000) so that Article 3, paragraph A reads in its entirety as follows:

A. The City shall pay the Contractor the following hourly rates:

$350/hour for Randy Bartell, $250/hour for associate attorney time and $90/hour for paralegal time. In addition, the City shall pay the Contractor for expenses incurred in the performance of services in the Contract such as copying, telephone and computer research charges at the normal rate for such expenses charged by the Contractor to its other clients. Per Diem and mileage expenses shall not

exceed the amounts provided in the Per Diem and Mileage Act. Said services shall not exceed five hundred seventy thousand dollars ($570,000), plus gross receipts tax, currently forty-six thousand six hundred and sixty-eight and seventy-five cents ($46,668.75) for a total of six hundred and sixteen thousand six hundred sixty-eight and seventy-five cents ($616,668.75) for the term of this Contract.

2. TERM

THIS CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Contract shall terminate on September 1, 2028, unless terminated pursuant to paragraph 5 (Termination), or paragraph 6 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional service contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

CONTRACT IN FULL FORCE.

Except as specifically provided in this Amendment, the Contract remains and shall remain in full force and effect, in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Amendment No.1 to the Contract as of the dates set forth below.

CITY OF SANTA FE:

_____
ALAN WEBBER, MAYOR

DATE:_____

CONTRACTOR:
Spencer Fane, LLP
Randy Bartell
Randy Bartell (Aug 28, 2025 15:08:41 MDT)
Randy Bartell, Partner

DATE: Aug 28, 2025
NMBTIN: 0356929500

ATTEST:

_____
CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Aug 28, 2025 15:17:29 MDT)
_____
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Ostar
_____
FINANCE DIRECTOR

CITY OF SANTA FE

Date: October 4, 2024

To: Randy Randall, City Manager RR

Via: Erin McSherry, City Attorney EM

From: Marcos Martinez, Senior Assistant City Attorney MM
Amy Cawthon, Administrative Manager AC

Subject: Legal Contract – City Reservoir Infrastructure Improvement Projects

Vendor Name: Spencer Fane, LLC

Vendor Number: 10717

ITEM AND ISSUE:

The City Attorney's Office respectfully requests your review and approval of the Legal Contract in the Not to Exceed Amount of $129,825.00 Including NMGRT for City Reservoir Infrastructure Improvement Projects with Spencer Fane, LLC. (Marcos Martinez, Senior Assistant City Attorney, mdmartinez@santafenm.gov, 505-531-7895)

Action Requested: Approval of Legal Contract

BACKGROUND AND SUMMARY:
The Contractor will represent the City in mediation or litigation against contractors involved in City reservoir infrastructure improvement projects relating to the City's McClure Dam and Reservoir and Nichols Dam and Reservoir. The Water Department is funding this contract through Water Conservation 5050382.510200.

PROCUREMENT METHOD:
The procurement is Exempt 3-1-98 SFCC 1987 Section 11-3, subpart (B)(3)

Chief Procurement Officer Approval: _____ **Date:** Nov 22, 2024
Comment/Exceptions: Legal advice, consultation, and representation -exempt per SFCC 1987, Section 11-13(B)(3).

Supporting Information:

CONTRACT NUMBER:
The FY25 Munis contract number is 3250308

$$$$$ SOURCE/REVENUE: ☒Expense ☐Revenue

The funding source is: **FY24 GRT Revenue in Excess of Budget**
Fund Name/Number: Water 505
Munis Org Name/Number: Water Conservation 5050382
Munis Object Name/Number: Legal Contracts/510200

If the project is grant funded? List grant award number: *NO*

Grant Manager / Accounting Officer Approval: _____ **Date:** _____
Comment/Exceptions: _____

Project Ledger #: NO

Budget Officer Approval: *Andy Hopkins* **Date:** Nov 20, 2024
Comment/Exceptions: _____

CAPITAL ASSET (will this procurement result in a tangible item that costs more than $5,000?):

☐Yes | ☒ No

 # (if known): _____

Repair or Replacement of Existing Equipment:

☐Yes | ☒ No
If yes -> ☐Repair | ☐ Replacement

Please explain: _____

Capital Project:
(New and improvement projects that are going to cost $10,000 or more)
☐ Yes | ☒ No

Project Ledger #: _____

Anticipated length of project: _____

Asset Manager Approval: _____ **Date:** _____
Comment/Exceptions: _____

Department Approvals:
IT Components: ☐ **Yes | ☒ No**

Vehicles: ☐ **Yes** | ☒ **No**
Facilities, Furniture, Fixtures, Equipment: ☐ **Yes** | ☒ **No**

Approval:_____ **Title:**_____ **Date:**_____
Approval: _____ **Title:**_____ **Date:**_____
Comment & Exceptions:_____

Department Contract Administrator Contact Info: Amy Cawthon, Administrative Manager, amcawthon@santafenm.gov, 505-955-6512

ATTACHMENTS:
Current COI

Signature: Amy Cawthon

Email: amcawthon@santafenm.gov

Signature: Marcos Martinez
Marcos Martinez (Nov 18, 2024 15:28 MST)

Email: mdmartinez@santafenm.gov

Signature:

Email: ekmcsherry@santafenm.gov

Signature: Randy Randall
Randy Randall (Nov 18, 2024 18:05 MST)

Email: rrandall@santafenm.gov

Memo_Spencer Fane

Final Audit Report 2024-11-19

Created:	2024-11-18
By:	Gina Wolff (vawolff@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAcMEcOstJZdaxxzXhJdiOeYTpvN4-IZn6

"Memo_Spencer Fane" History

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Document e-signed by Randy Randall (rrandall@santafenm.gov)
Signature Date: 2024-11-19 - 1:05:45 AM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.
2024-11-19 - 1:05:45 AM GMT

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Client#: 92568 SPENFAN1

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 9/21/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Anna Rivas	
CBIZ Ins. Svcs Inc. (PE) 700 West 47th Street, Suite 1100 Kansas City, MO 64112 816 945-5500	PHONE (A/C, No, Ext): 816 841-2273	FAX (A/C, No):
	E-MAIL ADDRESS: anna.rivas@cbiz.com	

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : National Fire Insurance Co. of Hartford	20478
INSURER B : The Continental Insurance Company	35289
INSURER C : Crum & Forster Specialty Insurance Co.	44520
INSURER D : Travelers Casualty & Surety Co of Am.	31194
INSURER E : American Casualty Company of Reading	20427
INSURER F : Homeland Insurance Co of New York	34452

INSURED
Spencer Fane LLP
1000 Walnut Street, Suite 1400
Kansas City, MO 64106

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [ ] OCCUR [X] GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [X] PRO-JECT [ ] LOC [ ] OTHER:			7A34442631	09/19/2023	09/19/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$1,000,000 $100,000 $15,000 $1,000,000 $2,000,000 $2,000,000
E	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			BUA7034442659	09/19/2023	09/19/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$1,000,000 $ $ $
B	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED X RETENTION $10,000			7034442662	09/19/2023	09/19/2024	EACH OCCURRENCE AGGREGATE	$10,000,000 $10,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [N] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		WC734442645	09/19/2023	09/19/2024	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$1,000,000 $1,000,000 $1,000,000
C	Cyber Security			CYB106463	09/19/2023	09/19/2024	$4,000,000	
D	Crime			107319591	09/19/2023	09/19/2026	$3,000,000 Limit	
F	EPLI			MML2630322	09/19/2022	10/19/2023	$2,000,000 Limit	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

Insured Copy

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Mark A. Stolte

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0RSG

Item# 24-0674
Munis
Contract #
3250308

LEGAL SERVICE CONTRACT BETWEEN

THE CITY OF SANTA FE AND SPENCER FANE, LLP

THIS CONTRACT is made and entered into by and between the City of Santa Fe (the "City") and Spencer Fane, LLP. ("Spencer Fane" or the "Contractor"). The date of this Contract shall be the date when it is executed by the City.

1. **Scope of Services**

Spencer Fane, LLP agrees to represent the City in the following matters as requested by the City Attorney's Office:

Represent the City in mediation or litigation against contractors involved in City reservoir infrastructure improvement projects relating to the City's McClure Dam and Reservoir and Nichols Dam and Reservoir. The scope of representation includes but is not limited to: 1) evaluating the strengths and weaknesses of the case, 2) recommending courses of action and legal options to the City, 3) representing the City in coordination with the City Attorney's Office in mediation and litigation, 4) communicating the issues to the City Attorney's office, the Water Division, the City Manager, and the elected representatives of the City.

2. **Standard of Performance; Licenses**

A. The Contractor represents that Contractor possesses the personnel, experience and knowledge necessary to perform the services described under this Contract.

B. The Contractor agrees to obtain and maintain throughout the term of this Contract, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives, and subcontractors.

3. **Compensation**

A. The City shall pay to Contractor the following hourly rates:
$350/hour for Randy Bartell, $250/hour for associate attorney time and $ 90/hour for paralegal time. In addition, the City shall pay the Contractor for expenses incurred in the performance of services in the Contract such as copying, telephone and computer research charges at the normal rate for such expenses charged by the Contractor to its other clients. Per diem and mileage expenses shall not exceed the amounts provided in the Per Diem and Mileage Act. Said services shall not exceed one-hundred and twenty thousand dollars ($120,000), plus gross receipts tax, currently $9,825.00, for $129,825.00 in total for the term of this Contract.

B. The Contractor shall be responsible for payment of gross receipts taxes levied by the State of New Mexico on the sums payable under this Contract.

C. Payment shall be made upon receipt and approval by the City of detailed statements containing a report of services completed. Compensation shall be paid only for services performed.

4. **Term**

THIS CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Contract shall terminate on September 1, 2026, unless terminated pursuant to paragraph 5 (Termination), or paragraph 6 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

5. **Termination**

A. Termination. This Contract may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Contract, the City's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the City is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Contract. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Contract may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the City or if, during the term of this Contract, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of City funds or due to the Appropriations paragraph herein. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE City's OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS CONTRACT.*

B Termination Management. Immediately upon receipt by either the City or the Contractor of notice of termination of this Contract, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Contract without written approval of the City; 2) comply with all directives issued by the City in the notice of termination as to the performance of work under this Contract; and 3) take such action as the City shall direct for the protection, preservation, retention or transfer of all property titled to the City and records generated under this Contract. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the City upon termination and shall be submitted to the City as soon as practicable.

6. **Appropriations**

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Contract. If sufficient appropriations and authorization are not made by the City Council, this Contract shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Contract to unilaterally reduce funding, the Contractor shall have the option to terminate the Contract or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

7. **Status of Contractor**

The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Contract. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written
authority to do so, and then only within the strict limits of that authority.

8. **Assignment**
The Contractor shall not assign or transfer any interest in this Contract or assign any claims for money due or to become due under this Contract without the prior written approval of the City.

9. **Subcontracting**
The Contractor shall not subcontract any portion of the services to be performed under this Contract without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Contract, nor shall any subcontract obligate direct payment from the City.

10. **Release**
Final payment of the amounts due under this Contract shall operate as a release of the City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Contract.

11. **Confidentiality**
Any confidential information provided to or developed by the Contractor in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

12. **Product of Service -- Copyright**
All materials developed or acquired by the Contractor under this Contract shall become the property of the City and shall be delivered to the City no later than the termination date of this Contract. Nothing developed or produced, in whole or in part, by the Contractor under this Contract shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

13. **Conflict of Interest; Governmental Conduct Act**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Contract, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Contract.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Contract, will continue to comply with, and that this Contract complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 13 are material representations of fact upon which the City relied when this Contract was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Contract, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Contract or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Contract or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Contract to the contrary, the City may immediately terminate the Contract.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

14. **Amendment**

A. This Contract shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Contract to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Contract, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

15. **Merger**

This Contract incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Contract. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract.

16. **Penalties for violation of law**

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

17. **Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Contract. If Contractor is found not to be in compliance with these requirements during the life of this Contract, Contractor agrees to take appropriate steps to correct these deficiencies.

18. **Applicable Law**

The laws of the State of New Mexico shall govern this Contract, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of

competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Contract, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Contract.

19. **Workers Compensation**

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Contract may be terminated by the City.

20. **Insurance**

A. The Contractor shall maintain adequate legal malpractice insurance. It is the sole responsibility of the Contractor to be in compliance with the law. Such insurance shall provide that the City is named as an additional insured and that the City is notified no less than 30 days in advance of cancellation for any reason. The Contractor shall furnish the City with a copy of a Certificate of Insurance as a condition prior to performing services under this Contract. B. Contractor shall obtain and maintain Workers' Compensation insurance required by law to provide coverage for Contractor's employees throughout the term of this Contract. Upon request, Contractor shall provide the City with evidence of its compliance with such requirement.

21. **Records and Financial Audit**

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Contract's term and effect and retain them for a period of three (3) years from the date of final payment under this Contract. The records shall be subject to inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the City to recover excessive or illegal payments.

22. **Indemnification**

The Contractor shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Contractor's performance under this Contract as well as the performance of Contractor's employees, agents, representatives and subcontractors, including payments of all attorneys' fees and costs.

23. **NEW MEXICO TORT CLAIMS ACT**

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

24. **Invalid Term or Condition**

If any term or condition of this Contract shall be held invalid or unenforceable, the remainder of this Contract shall not be affected and shall be valid and enforceable.

25. **Notices**

Any notices required to be given under this Contract shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

CITY OF SANTA FE:
CITY ATTORNEY'S OFFICE
P.O. BOX 909
SANTA FE, NM
87501

CONTRACTOR:
SPENCE FANE, LLP
RANDY BARTELL
325 PASEO DE PERALTA, SANTA FE, NM 87501
SANTA FE, NM

IN WITNESS WHEREOF, the parties have executed this Contract on the dates set forth below.

CITY OF SANTA FE:

Randy Randall (Nov 27, 2024 16:44 CST)

JOHN BLAIR, CITY MANAGER

Date: Nov 27, 2024

CONTRACTOR:

Spencer Fane, LLP

Randy Bartell, Partner

Date: 9/4/2024

N.M. Taxation & Revenue
NMBTIN# 0356929500-GRT
City of Santa Fe Business
Registration #
ATTEST:

Andrea Salazar
Andrea Salazar (Dec 4, 2024 09:36 MST)

CITY CLERK XIV

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Sep 13, 2024 16:32 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster

EMILY OSTER, FINANCE DIRECTOR

0832_240904162904_001-c

Final Audit Report 2024-09-13

Created:	2024-09-13
By:	Amy Cawthon (amcawthon@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAjZ6hw2LzV7JzMt_I-5_J4Hhn18EtwYIT

"0832_240904162904_001-c" History

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2024-09-13 - 10:19:01 PM GMT- IP address: 63.232.20.2

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2024-09-13 - 10:30:22 PM GMT

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2024-09-13 - 10:31:54 PM GMT- IP address: 63.232.20.2

Document e-signed by Marcos Martinez (mdmartinez@santafenm.gov)
Signature Date: 2024-09-13 - 10:32:08 PM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.
2024-09-13 - 10:32:08 PM GMT

Powered by Adobe Acrobat Sign

CM - 505 - Spencer Fane - Exempt MEMO & COI

Final Audit Report 2024-11-26

Created:	2024-11-20
By:	JAMES EDWARDS (jwedwards@santafenm.gov)
Status:	Canceled / Declined
Transaction ID:	CBJCHBCAABAALaRANG42E0a9RLsw9f7K61b3lfuaYIEs

"CM - 505 - Spencer Fane - Exempt MEMO & COI" History

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2024-11-20 - 4:11:16 PM GMT- IP address: 63.232.20.2

Document sent to ALEXIS LOTERO (aclotero@santafenm.gov) and ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov) for signature. One of them to sign
2024-11-20 - 4:14:57 PM GMT

Email viewed by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)
2024-11-20 - 6:57:27 PM GMT- IP address: 104.47.65.254

Document e-signed by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)
Signature Date: 2024-11-20 - 6:58:36 PM GMT - Time Source: server- IP address: 63.232.20.2

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2024-11-20 - 6:58:39 PM GMT

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2024-11-22 - 5:46:04 AM GMT- IP address: 104.28.50.162

Document e-signed by Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
Signature Date: 2024-11-22 - 5:07:51 PM GMT - Time Source: server- IP address: 63.232.20.2

Document emailed to EMILY OSTER (ekoster@santafenm.gov) for signature
2024-11-22 - 5:07:55 PM GMT

Email viewed by EMILY OSTER (ekoster@santafenm.gov)
2024-11-26 - 8:55:56 PM GMT- IP address: 104.47.64.254

Document declined by EMILY OSTER (ekoster@santafenm.gov)
Decline reason: I'm sorry, I can't sign this one with the current packet. The Certificate of Insurance in the packet is expired and it does not list the City as the Certificate Holder. Please update the packet with a new Certificate of Insurance and resubmit. Thank you, Emily

Powered by Adobe Acrobat Sign

2024-11-26 - 9:11:52 PM GMT- IP address: 63.232.20.2

Powered by
Adobe
Acrobat Sign

Signature: 
Email: jdroach@santafenm.gov

Client#: 92568 SPENFAN1

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 9/18/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Anna Rivas	
CBIZ Ins. Svcs Inc. (PE) 700 West 47th Street, Suite 1100 Kansas City, MO 64112 816 945-5500	PHONE (A/C, No, Ext): 816 841-2273	FAX (A/C, No):
	E-MAIL ADDRESS: anna.rivas@CBIZ.com	

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Federal Insurance Company	20281
INSURER B : Chubb National Insurance Company	10052
INSURER C : Crum & Forster Specialty Insurance Co.	44520
INSURER D : Travelers Casualty & Surety Co of Am.	31194
INSURER E :	
INSURER F :	

INSURED
Spencer Fane, LLP
1000 Walnut Street, Suite 1400
Kansas City, MO 64106

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			36086975	09/19/2024	09/19/2025	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$1,000,000
							MED EXP (Any one person)	$15,000
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY			73645062	09/19/2024	09/19/2025	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR			5672380	09/19/2024	09/19/2025	EACH OCCURRENCE	$10,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$10,000,000
	DED RETENTION $							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N	N / A		71841263	09/19/2024	09/19/2025	X PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N						E.L. EACH ACCIDENT	$1,000,000
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$1,000,000
C	Cyber Security			CYB107898	09/19/2024	09/19/2025	$5,000,000 Limit	
D	CRM/EE Dishonesty			107319591	09/19/2023	09/19/2026	$3,000,000 Limit	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

City of Santa Fe
200 Lincoln Ave
Santa Fe, NM 87501

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Mark A. Stelte

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City of Santa Fe, New Mexico
Memorandum

Date: September 18, 2025

To: Finance Committee and Governing Body

From: Bernadette Salazar, Director of Human Resources Bernadette Salazar Sep 18, 2025

Via: Mark Scott, City Manager Mark Scott (Sep 18, 2025 18:10:50 MDT) Sep 18, 2025

RE: Request Approval of the Collective Bargaining Agreement between the City of Santa Fe and Local 3999 City of Santa Fe Employees of the American Federation of State, County and Municipal Employees, Council 18, AFL-CIO

ITEM:
This request is for approval of the Collective Bargaining Agreement between the City of Santa Fe and Local 3999 City of Santa Fe Employees of the American Federation of State, County and Municipal Employees, Council 18, AFL-CIO.

This request is also for approval of a Budget Amendment Resolution to appropriate unspent balances from the FY25 operating budget of $611,452 from general fund balance to the FY26 Human Resources budget to pay $1,000 retention incentives to AFSCME employees pursuant to the Collective Bargaining Agreement.

BACKGROUND AND SUMMARY:
The city and the Union entered into the collective bargaining agreement effective July 1, 2017, through June 30, 2020. Although the collective bargaining agreement had expired, it remained in effect pursuant to the evergreen provision of the Public Employees Bargaining Act (PEBA). The parties began negotiating the full contract in February 2020. In March 2020, AFSCME and the city agreed to postpone negotiations due to COVID. Negotiations resumed in September 2020. Below is a summary of actions that have occurred related to AFSCME and city negotiations.

Date	Action
June 2021	Amendment No. 3 approved to provide 4% salary increases for AFSCME bargaining unit employees
December 2021	Memorandum of Agreement to provide AFSCME bargaining unit employees with a $2,000.00 retention incentive
May 2022	Memorandum of Agreement to ensure AFSCME bargaining unit employees with 15 years of service or more are appropriately credited with their longevity incentive
June 2022	Amendment no. 4 to provide 8% salary increases for AFSCME bargaining unit employees
June 2023	Amendment no. 5 to provide 3% salary increases for AFSCME bargaining unit employees earning less than $100,000 annualized and 1% for those earning $100,000 or more annualized
November 21, 2023	AFSCME and the city began mediation with the Federal Mediation and Conciliation Services. The parties completed 9 sessions until June 10, 2024
December 2023	Memorandum of Agreement to provide AFSCME employees with a $1,150 retention incentive
June 10, 2024	AFSCME Leadership filed for final and binding arbitration
July 2024	Amendment no. 6 to provide pay increases for bargaining unit employees who were below the new minimum pay grade, 25% of the hybrid parity increases as recommended by the classification and compensation consultant and a 3% salary increase
December 2024	Memorandum of Agreement to provide AFSCME bargaining unit employees with a $1,000 retention incentive

On February 19, 2025, the City and AFSCME Local 3999 went to binding arbitration. On June 22, 2025, the arbitrator rendered a decision not to select either the city or AFSCME's last best offer. For fiscal year 2025, the Governing Body allocated $611,452.00, equivalent to the amount for the second hybrid parity increase for AFSCME bargaining unit employees. For fiscal 2026, the Governing Body allocated $3,070,868.00 for AFSCME bargaining unit employees. AFSCME and city leadership agreed to go back to the negotiating table with the hope of reaching agreement on the pending articles resulting in a full collective bargaining agreement. Both teams worked diligently and reached agreement on Monday, September 15, 2025.

Below is a summary of highlighted economic changes made to the agreement between the City of Santa Fe and AFSCME.

- Bargaining unit employees shall receive the second 25% of the recommended hybrid parity salary increase based on the compensation consultant's December 2023 recommendation up to the maximum of the pay grade
- Bargaining unit employees shall receive a 3% salary increase
- Bargaining unit employees shall receive the third 25% of the recommended hybrid parity salary increase based on the compensation consultant's December 2023 recommendation, up to the maximum of the pay grade
- Bargaining unit employees shall receive the fourth and final 25% of the recommended hybrid parity salary based on the compensation consultant's December 2023 recommendation, up to the maximum of the pay grade, the first full pay period in December 2025
- Bargaining unit employees hired prior to February 15, 2025, shall receive a one-time retention payment of $1,000.00
- Increase to tool allowance for employees who are required to own and maintain their own personal tools for use in the performance of their duties from $400 to $700 per year
- Increase to uninform allowances from up to $500 to $700 for employees who have been identified by the employer as required to wear a uniform beginning July 2026
- Increase to safety footwear from $200 to $400 per year for employees required to wear safety footwear
- Increase to shift differential from $1.00 per hour to $1.45 for swing shift and from $1.75 per hour to $1.95 for graveyard shift
- Increase to bilingual pay incentive from $40 per month to $100 for employees who demonstrate Spanish speaking proficiency as identified by the city
- Added a new level of bilingual pay incentive of $140 per month for employees who demonstrate Spanish speaking, reading, and writing proficiency as identified by the city
- Language clarification

The parties respectfully request approval of the Agreement between the City of Santa Fe and Local 3999 City of Santa Fe Employees of the American Federation of State, County and Municipal Employees, Council 18, AFL-CIO.

ATTACHMENTS:
Collective Bargaining Agreement

Log # *{Finance use only}*:	
Journal # *{Finance use only}*:	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
Human Resources/ Human Resources Division	9/18/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
AFSCME Incentive- Incentives	1000231	502200		568,000	
AFSCME Incentive- FICA	1000231	503100		43,452	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 611,452	$ -

JUSTIFICATION: *(use additional page if needed)*
--Attach supporting documentation/memo

Re-appropriation of funding from unexpended FY25 AFSCME CBA Allocation to support Incentives and related FICA expenses for AFSCME employees.

{Complete section below if BAR results in a net change to ANY Fund}

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(611,452)
TOTAL:	**(611,452)**

Chris Parker — 9/18/2025
Prepared By *{print name}* — Date

Division Director Signature *{optional}* — Date

Bernadette Salazar
Department Director Signature — Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins
Budget Officer — Date

Finance Director *{≤ $5,000}* — Date

City Manager *{≤ $60,000}* — Date

AGREEMENT

BETWEEN

THE CITY OF SANTA FE

AND THE

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES

WHOLE AGREEMENT IN EFFECT

SEPTEMBER 24, 2025 THROUGH JUNE 30, 2027

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ARTICLE 1 AUTHORITY

A. This agreement (hereinafter referred to as the "Agreement") has been made and entered into by and between the City of Santa Fe (hereinafter referred to as the "Employer"), and Local 3999, City of Santa Fe Employees, of the American Federation of State, County and Municipal Employees, Council 18, AFL-CIO, (hereinafter referred to as the "Union") pursuant to the applicable Public Employee Bargaining Act (PEBA).

B. The Public Employees Bargaining Act (PEBA) was enacted to guarantee City of Santa Fe Employees the right to organize and bargain collectively with the Employer, to promote harmonious and cooperative relationships between the Employer and City of Santa Fe employees and to protect the public interest by assuring, at all times, that they will make every effort to administer this Agreement in accordance with the true intent of its terms and provisions.

ARTICLE 2 PREAMBLE AND PURPOSE

A. The Union and Employer recognize the mission, goals and obligations of the City of Santa Fe as a provider of services to the citizens of the City of Santa Fe through its employees. The best possible services and programs will be provided consistent with available resources. The Employer and the Union agree to uphold the well-being and care of the citizens of Santa Fe.

B. The Employer and Union recognize that it is in the best interest of both parties, the employees and the public that all dealings between the parties continue to be characterized by mutual responsibility and respect. To ensure that this relationship continues and

improves, the Employer and Union, and their respective representatives at all levels, will apply the terms of this Agreement in accord with its intent and meaning, and consistent with the Union's status as exclusive bargaining representative of all employees in the bargaining unit. The parties shall bring to the attention of all employees in the bargaining unit their purpose to conduct themselves in a spirit of responsibility and respect.

C. The purpose of this Agreement is to establish terms and conditions of employment for employees covered herein and a means of adjustment of any and all differences or grievances, which may arise under the provisions of this Agreement. All of the parties hereto believe and affirm that this Agreement will enhance the welfare and benefit of the people of the City of Santa Fe.

ARTICLE 3 RECOGNITION

Section 1 General

The Employer recognizes, pursuant to the Public Employee Bargaining Act (PEBA) that the Union is the sole and exclusive representative in matters establishing and pertaining to terms and conditions of employment including, but not limited to, wages, hours, and working conditions for employees in the bargaining unit occupational groups identified in Appendix A to the Agreement.

Section 2 Bargaining Unit Information

Whenever requested in writing, but not more frequently than once a month, the Human Resources Department shall furnish the Union with the following bargaining unit information in an Excel format via email within five (5) business days. In the event such request cannot be fulfilled within five (5) business days, the Human Resources Department shall provide written notification to the Union and identify when the file will be available:

- Names;
- Departments, division, section, or unit, whichever is applicable;
- Addresses;
- City E-mail addresses;
- Dates of hire;
- Classification;
- Employee numbers;
- Titles;
- Work telephone number;
- Personal telephone number, if provided;
- Work site location;

- Salary data; and
- Breakdown of the total number of bargaining unit employees in each insurance program.

Any electronic media provided to the Union shall be returned to the Human Resources Department by the Union within fourteen (14) calendar days. Such information shall not be copied to any computer or other computer medium which is not owned by the Union's Executive Board.

The information provided shall be kept confidential by the Union and shall only be used for the purpose of administering this Agreement.

Section 3 Accretion

New groups of employees hired with the same or similar job classification(s) and/or job duties as those employees within the bargaining unit shall be placed in the bargaining unit as approved by the Labor Management Committee. If an agreement cannot be reached by the Labor Management Committee, the Union President and the Human Resources Department Director shall attempt to reach a mutual agreement. In the event that an agreement is not reached, either the Employer or Union may file a petition with the Public Employee Labor Relations Board for resolution.

Section 4 Privatization and Contracting Out

A. The Employer shall make every effort to utilize its bargaining unit employees to perform all work. However, the Employer and the Union President shall address the topic of contract workers that supplement, but do not replace, bargaining unit employees with contracted workers.

B. Generally, the Employer's intent to utilize contract workers will be for projects not to exceed twelve (12) months, when the Employer demonstrates that:

- The expertise is not available within the City's work force and cannot be accomplished by training the City's work force in a reasonable time frame; or

- The contract will result in cost savings to the City and/or the workload exceeds the present workforce capacity/ capability.

C. The Employer shall notify the Union in writing at least thirty (30) calendar days in advance of the use of contract workers or to extend the use of contract workers beyond twelve (12) months.

D. The City will notify the Union and the parties shall meet and confer, if requested by either party, when plans exist to utilize contract workers beyond twelve (12) months.

ARTICLE 4 PRINTING AND DISTRIBUTION

A. A bound document and index containing the entire text of this Agreement shall be printed by the Employer within thirty (30) calendar days following approval by the Governing Body. Consistent with the Americans with Disabilities Act (ADA), the Union and the Employer shall make reasonable accommodations where needed for persons with disabilities. The entire text of this Agreement, including any Memorandum of Understanding (MOU), amendment(s) and/or appendix associated with this Agreement, shall be posted on the Employer's intranet. The employer shall have the contract posted and available online. Physical copies of the contract shall be provided by the employer on request by the Union or employees. The Employer and Union shall equally share the cost of printing and binding this Agreement for all bargaining unit employees, including all special and subsequent printings.

B. The first full pay period following the printing of the Agreement, the Employer and Union shall ensure distribution to bargaining unit members and management through the division offices.

C. In the event an MOU (Memorandum of Understanding), amendment(s) and/or appendix (as defined in Article 35, Section 2, of this Agreement) is approved, copies shall be made available and distributed by the Union and the Employer, and shall be filed with the City Clerk’s Office within fifteen (15) calendar days.

ARTICLE 5 UNION RIGHTS

Section 1 Non-Interference

A. The parties acknowledge that each is free to conduct its affairs and business in the manner which each respectively believes to be in its own best interest subject to the provisions of this Agreement. The parties agree that neither shall interfere with the internal affairs of the officials or representatives of the other in the conduct of their internal business affairs and other matters not involving collective bargaining. However, nothing contained herein shall bar parties or their members from petitioning their elected political representatives, or fully and actively participating in the political process. The Union shall have the same or similar rights granted to other similarly situated organizations that have a relationship with the Employer.

B. Further, in accordance with the Public Employee Bargaining Act (PEBA), employees may form, join, or assist the Union for the purpose of collective bargaining through representatives chosen by employees without interference, restraint, or coercion. The Union shall have the exclusive right to elect or appoint as many Union staff, officials, and/or stewards it feels are necessary in order to assure that employees of the bargaining unit have union representation at any of the Employer's departments and work sites including, but not limited to, at least one (1) steward and alternate steward to represent each of the bargaining units at every work site. The Union shall share with the Employer a current list of individuals having authority to act on behalf of the Union on a monthly basis.

Section 2 Union Representation

A. Union representatives shall be afforded time with pay (union administrative leave with pay) during the employee's normal working hours, for: attending official meetings requested by the Employer; for any grievance or disciplinary meeting with the Employer; to meet with bargaining unit employees to investigate and discuss grievances, workplace-related complaints, other matters relating to employment relations, and to administer this Agreement; and for attending Labor/Management Committee Meetings. For meetings that require the attendance of the City Manager, both parties shall be allowed an equal number of representatives. Union Administrative Leave with Pay, as outlined above, shall be documented on a leave request form prescribed by the Employer (leave request form as union administrative leave with pay via the timekeeping system). Union representatives shall also provide reasonable notice to their supervisors upon becoming aware of a meeting or request for representation and prior to leaving their worksites for union business. A leave request form will be submitted prior to leaving their work sites, for Union business. For meetings scheduled with less than twenty-four (24) hours' notice and require the presence of a union representative, the request for union administrative leave with pay shall be submitted as soon as practicable. Union administrative leave shall not unduly interfere with operations.

Union Officers shall be granted union administrative leave as follows for purposes identified in Section 2.A:

Union President:	no more than twenty (20) hours per week
Union Vice-President:	no more than twelve (12) hours per week
Union Secretary Treasurer:	no more than four (4) hours per week
Six (6) Union Chief Steward:	no more than five (5) hours per week
Union Recording Secretary:	no more than four (4) hours per week

Union Officers who hold multiple union officer positions, as identified above, shall only be compensated for one union officer position. Additional time may be requested if needed to administer the collective bargaining agreement by submitting a request to the Human Resources Director.

B. Bargaining unit employees who are appointed to the Union's negotiating team shall be granted leave with pay to participate in negotiations scheduled during the bargaining unit employees' normal working hours. Upon written mutual agreement with the Employer, Union negotiating team members shall be granted leave with pay during their normal working hours for caucuses that exceed one-half (1/2) hours when such time is used for the purpose of preparing for and drafting proposed contract language for negotiations. There shall be no more than five (5) members on the union negotiating team and the City shall have no more than five (5) members.

Section 3 Union Business

A. The Employer will not unreasonably deny requests for annual leave, compensatory time, and/or leave without pay to enable union representatives to conduct union business during the normal workday. Union representatives, however, shall provide notice to their supervisors prior to leaving their work sites commensurate with annual leave, compensatory leave, and leave without pay policies.

B. Subject to staffing requirements needed to deliver services to the public, the Employer will grant leave without pay up to a maximum total of two hundred forty (240) work hours per calendar year for Executive Board members and one hundred sixty (160) work hours per calendar year for all other Union Officers to conduct Union business. Requests for leave without pay will be made on a leave request form.

Section 4 Union Rights

A. The Union has the exclusive right to elect or appoint the Union staff, officials and stewards as it feels are necessary to carry out its responsibilities and obligations.

B. The Union will be allowed access to public areas of City facilities and communication with bargaining unit employees as follows:

1. For the purpose of the administration of this Agreement, Union representatives shall have reasonable access to bargaining unit employees, subject to Sections 2 and 3 of this Article and with advance scheduling with the supervisor. Such access shall not interfere with the work of employees.

2. Union officials may request to use City conference rooms and meeting facilities for union meetings, subject to advance scheduling and availability.

3. The City will identify a space approximately 4' by 4' at work sites around the City where the Union may place information on bulletin boards. These bulletin boards may be used for posting of Union official notices and literature. The Employer and employees shall not tamper with information posted on these bulletin boards. Information posted on the bulletin board shall not be derogatory, inflammatory, or negative against the City, any City employee, or a City elected official, and shall not contain political information.

4. City vehicles shall not be used for union business unless requested by management or unless the employee is on call and assigned a city vehicle.

5. City equipment and supplies may not be used for Union/City business except as set forth in this subsection.

6. The City's Internet e-mail system may be used only by Union, representatives, as identified on the list to the City, for union business, as outlined in PEBA.

7. Union representatives may use City printers for negligible use to print documents needed to administer this Agreement, such as a grievance form. Printing beyond negligible use, as determined by the City, or mass documents is prohibited.

C. Outside mail and hand-delivered mail marked "personal" or "confidential" and addressed to Union staff, officials, stewards and/or members shall be treated as confidential and shall not be opened by anyone except the addressee.

Section 5 New Employee Orientation

The Employer shall notify the Union and allow a Union representative and a trainee to be present at each scheduled, formal new employee orientation meeting. The Union shall also be afforded up to thirty (30) minutes for the purpose of conducting an overview of this Agreement to new employees during regularly scheduled orientation sessions.

ARTICLE 6 MANAGEMENT RIGHTS

It is agreed that, except as expressly modified by the terms of this Agreement, the Employer exclusively retains all rights, including but not limited to:

1. Determine the mission, budget, organization and number of employees allocated by position to meet the minimum staffing levels of each department;

2. Determine qualifications for employment; validate content of examinations; make requests for position audits and reclassifications; and ensure that best practices exist for the recruitment, interviewing and selection of applicants;

3. Direct employees and evaluate their performance based on standards of work established by the Employer;

4. Make assignments, transfer, or retain employees in positions, and make determination of job duties;

5. Provide reasonable rules and regulations governing the conduct of employees;

6. Provide reasonable standards and rules for employees' safety;

7. Determine the location and operation of its facilities;

8. Determine standards for work, hiring, promotion, transfer, assignment and retention of employees in positions;

9. Initiate corrective and/ or disciplinary action including, but not limited to, coaching and guidance, written reprimands, suspensions, demotions, alternate forms of discipline, transfers, and terminations for just cause pursuant to Article 9 of this Agreement;

10. Determine scheduling and all other actions necessary to carry out the Employer's functions;

11. Relieve an employee from his/her duties because of lack of funds or other legitimate reason;

12. Maintain efficiency of government operations; determine methods, means, equipment and personnel by which the Employer's operations are to be conducted;

13. In cases of an emergency or declared disaster, take such actions as may be necessary to carry out the missions of the Employer that might not implicitly follow all articles in this Agreement; and

14. Act in furtherance of all other duties and responsibilities set forth in the Constitution, federal laws, state statutes, administrative regulations, and executive orders of the Governor, as well as City of Santa Fe Ordinances, and Rules and Regulations.

ARTICLE 7 NON-DISCRIMINATION AND FAIR TREATMENT

Section 1 Compliance with Laws

Both the Employer and the Union agree to comply with all city, state and federal employment laws, including the Public Employees Bargaining Act (PEBA).

Section 2 Non-Discrimination

The Employer shall not practice nor tolerate discrimination against employees through employment practices including, but not limited to, recruitment, hiring, training, education, reassignment and promotion on the basis of any non-merit factors such as race, color, religion, sex, ancestry, ethnicity, national origin, political affiliation and/or beliefs, age, mental or physical disability, sexual orientation, gender identity, marital or family status, Union activity, or use of a second language other than English.

Section 3 Prohibited Practices

The Employer agrees that employees shall be protected from discrimination, intimidation, restraint, coercion or retaliation, including involuntary reassignment or changes in working conditions resulting from the filing of a discrimination complaint, grievance, prohibited practices complaint, complaints alleging wrongdoing by the Employer or other employees in the exercise of employees' constitutional rights, rights under state and federal regulations, to include but not limited to the New Mexico Human Rights Act and U.S. Equal Employment Opportunity laws and any rights or Union activity granted by this Agreement.

ARTICLE 8 SENIORITY

Section 1 General

Seniority is the length of continuous service as defined below. In the event an employee is re-hired by the City after the employee has been separated from the City due to resignation for more than twelve (12) consecutive months, the employee will be considered a new hire for seniority purposes according to this Article. Employees rehired within twelve (12) months shall retain their original hire date and their seniority. This provision does not apply to bargaining unit employees who have been terminated.

Section 2 City Seniority

City Seniority is the length of continuous service with the City of Santa Fe.

Section 3 Division Seniority

Division Seniority is the length of continuous service an employee has in his/her current division. Division Seniority is broken by reassignment to another division.

Section 4 Classification Seniority

Classification Seniority is the entry date the bargaining unit employee began working in his/her current job classification. Classification seniority is broken by promotion, reassignment, or transfer, to a different job classification.

Section 5 Identical Hire Dates

When two (2) or more employees have the same seniority date for determining job rights, the tie shall be broken with seniority based on the highest number of the last four (4) digits of the social security number (the highest number would be 9999, the lowest 0000). A tie will be settled by the toss of a coin.

Section 6 Military Service

Any employee who leaves City employment, other than employment in a temporary position, to enter the armed forces of the United States, National Guard or organized reserve, and who serves on active duty to complete remaining service in a reserve component, and who is still qualified to perform the duties of the City position previously held, shall be re-employed in such position or to a position of like seniority, status, and pay, as required by the Uniformed Services Employment and Re-employment Rights Act (USERRA 38 U.S.C. 4301-4333).

ARTICLE 9 CORRECTIVE/DISCIPLINARY PROCESS

Section 1 Confidentiality

All discipline matters shall be held in strict confidence by the Employer and the Union. Discussions with employees related to performance or behavioral issues shall be conducted in private.

Section 2 Representation

A. At any step of the corrective/disciplinary process, whether it be informal or formal, the employee or Employer may elect to have a representative present. Any bargaining unit

member may be a representative for this purpose. It is the responsibility of the employee and the Employer to make arrangements if either wishes representation.

B. Employees who do not wish union representation during the disciplinary process shall acknowledge such in writing to the Employer on the Waiver of Union Representation Form, and the Employer shall forward a copy to the Union.

C. At any step of the corrective/disciplinary process, should the employee seek legal representation, the Union has no obligation to represent the employee, and any cost associated with this legal representation shall be borne by the employee.

Section 3 General

A. The degree of discipline imposed shall normally be progressive in nature. However, depending on the severity of the infraction, the Employer may choose to impose a more severe level of discipline, including dismissal, without first choosing a lesser form of discipline. The level of discipline imposed shall be determined by the Employer based on the severity or reoccurrence of the infraction and will be considered on a case-by-case basis. Because of the serious nature of some infractions, an employee may be placed on paid administrative leave at any point during the investigative or disciplinary process.

B. The Employer, Union and/or Employee shall make an effort to hand-deliver any documentation, correspondence or disciplinary action, memos and/or forms, whether informal or formal, as outlined in this Article and shall be considered served immediately upon hand-delivery. In cases where hand-delivery is not possible, (1) such materials shall be mailed priority, certified return receipt requested, or e-mailed with delivery/read receipt confirmation, and shall be considered served on the date of postmark by the U.S. Postal Service or on the date of the delivery/read receipt confirmation: and (2) a photocopy, addressed to the Union President and/or Vice-President, of the return receipt slip shall be delivered by the Employer to the Union mailbox in the Human Resources Department.

C. Counting days - the first day of counting shall be the business day after the day of the alleged infraction. The term business day means Monday through Friday from 8:00 a.m. to 5:00 p.m. local time and does not include weekends, City declared holidays and full-day administrative closings.

D. Failure to meet deadlines herein shall constitute dismissal of proposed actions. This applies to both parties. However, any of the time limits or steps set forth in this article may be extended, waived or otherwise modified by mutual written agreement by the Employer and the Union and/or employee, and the request shall not be denied arbitrarily by either party.

E. The Human Resources Department or legal representatives may be present at any meeting during the disciplinary process for consultation on behalf of the Employer.

F. Violations of the City of Santa Fe Drug and Alcohol Testing Policy for DOT covered employees (Rule 16, as amended) and Transit Division employees (Rule 16A, as amended) will be addressed according to the procedures set forth in those policies.

G. Violations of the City of Santa Fe Reasonable Suspicion Drug and Alcohol Testing Policy will be addressed according to the provisions set forth in Article 12 and 17 of this Agreement.

Section 4 Just Cause

Bargaining unit employees are subject to disciplinary action for just cause. The burden to clearly demonstrate just cause rests with the Employer. Examples are outlined below:

1. Violation of or failure to comply with the federal or state constitution, statutes or City ordinances;
2. Careless, negligent or improper use of City property, equipment or funds;
3. Insubordination and/or failure to comply with or accept a reasonable, proper assignment from an authorized supervisor;
4. Inefficiency, incompetence or negligence in the performance of assigned job duties or failure to perform job requirements, or performance which continues to be unsatisfactory;
5. Disorderly conduct or threats or abuse of others;
6. Chronic tardiness or absenteeism;
7. Unauthorized leave or job abandonment;
8. Failure to obtain or maintain a current license or certificate required as a condition of employment;
9. Intentional falsification or mishandling of City records;
10. Unauthorized or illegal use, sale or possession of alcohol or illegal drugs, or being under the influence of such substances while on duty;
11. Harassment, intimidation and discriminatory behavior towards any person because of race, religion, gender, sexual orientation, gender identity, age, national origin, and disability;
12. Stealing from the City or other employees; or
13. Action which reflects poorly upon the integrity of the City of Santa Fe.

Section 5 Informal Discipline

A. Supervisors shall use informal coaching and guidance sessions whenever appropriate, as a way of communicating their concerns to employees. The purpose of these informal sessions is to allow supervisors the opportunity to discuss what is unacceptable about the employee's performance or behavior. The goal of these discussions is to ensure the employee understands the issue and what he/ she needs to do to correct identified infractions. At the informal and coaching stage, employees are encouraged to meet one on one with their Supervisor. Since these informal discussions are not part of the formal disciplinary process, documentation of the meeting shall not be placed in the employee's official Human Resources file, nor is the red Disciplinary /Corrective Action Form used. However, the supervisor may retain a dated record of what was discussed during these sessions.

B. Written Reprimands

1. A written reprimand is a written memorandum that documents infractions or poor performance by an employee. The Employer is not required to give the employee prior notification of a written reprimand, however shall offer Union representation first, per Section 2.

2. A written reprimand is not a formal disciplinary action. Therefore, it is not subject to Sections 6 and 7 of this Article. However, a written reprimand may be used as a basis for progressive discipline, within the timeframes discussed in Section 7. Written reprimands cannot be submitted to final and binding arbitration.

3. A written reprimand must be given within seven (7) business days from the date of discovery of the alleged infraction.

4. If an official investigation is deemed necessary by the Human Resources Department, the written reprimand must be given within seven (7) business days after the completion of the investigation. The employee must be notified of the investigation, unless such notification would jeopardize the confidential nature of the investigation. In the event of an official investigation, the Union President shall be notified by the Human Resources Department in writing of the name of the employee being investigated and his/her department.

5. A written reprimand may be retained in department files, but shall not be placed in the employee's official Human Resources file, unless such written reprimand(s) become an attachment to subsequent formal disciplinary actions.

6. Written reprimands shall be removed from the department file at the end of nine (9) months if there have been no disciplinary actions or other written reprimands imposed on the employee during that time period.

Section 6 Formal Discipline

The four types of formal discipline are: Suspension, demotion, dismissal, and an alternate form of discipline.

- A suspension is the temporary removal of an employee from his/her work assignment without pay for a period not to exceed thirty (30) calendar days.
- A demotion is a reassignment from a higher paid position to a lower paid position with a reduction in pay of at least 5% but not lower than the minimum of the new pay range. A demotion shall not result in a pay increase to other bargaining unit employees in the newly assigned classification based on City seniority.
- A dismissal is the removal of an employee from his/her employment.
- An alternate form of discipline may be implemented if mutually agreed upon by the Employer, employee and the Union.

A. Notice of Contemplated Action/Pre-Determination Meeting

1. The Employer shall serve an employee with a written Notice of Contemplated Disciplinary Action to initiate an alternate form of discipline, suspension, demotion or dismissal.

    a. Notice shall be served to the employee within ten (10) business days from the date of discovery of the alleged infraction(s).
    b. If an official investigation is deemed necessary by the Human Resources Department, the Notice of Contemplated Disciplinary Action must be given within ten (10) business days after the completion of the investigation. The employee must be notified of the investigation, unless such notification would jeopardize the confidential nature of the investigation.
    c. In the event of an official investigation, the Union President shall be notified by the Human Resources Department in writing of the name of the employee being investigated and his/her department.
    d. The Notice of Contemplated Disciplinary Action shall be in writing and shall specify the infractions or violations; evidence or examples of such infractions; the proposed disciplinary action; the date, time and place of the pre-determination meeting; and shall inform the employee of the right to representation.

B. A pre-determination meeting shall be held by the department director or division director not later than ten (10) business days from the date of service of the Notice of Contemplated Disciplinary Action. The employee's immediate supervisor shall be encouraged to attend. The pre-determination meeting shall serve as an opportunity for the employee to present his/her side of the alleged infractions(s) or violation(s) and to provide any information that may result in a reduction or dismissal of the proposed disciplinary action.

C. Notice of Action

1. Within seven (7) business days after the pre-determination meeting, the department or division director shall serve the employee with a Notice of Action memo (summary of pre-determination meeting and proposed disciplinary action, if any). If disciplinary action is taken, it will include supporting documentation and a red Disciplinary/ Corrective Action Form.

2. The red Disciplinary/Corrective Action Form shall state what disciplinary action is being recommended to the City Manager.

3. Disciplinary action shall be final when the City Manager has approved and signed the Disciplinary/ Corrective Action Form.

D. Appeal of Disciplinary Action

1. If the employee wishes to appeal the disciplinary action, the employee shall submit a written appeal to the City Manager within seven (7) business days from the date the employee was served with the Notice of Action memo. The written appeal must state the specific reasons why the disciplinary action should not be taken.

2. The City Manager has seven (7) business days from the receipt of the employee's written request to consider the appeal and respond in writing to affirm, modify or reject the disciplinary action. The City Manager, at his/her discretion, may also within this time period request a meeting with the Union and the employee to discuss the appeal and its settlement.

3. If the appeal of the disciplinary action is not satisfactorily resolved at the City Manager level, it may be submitted to final and binding arbitration, as per Article 11, Section 5, by the Union (not by the individual employee) within thirty (30) calendar days from the date of service of the City Manager's response.

4. If no appeal is requested, the disciplinary action shall be final when the Human Resources Director and the City Manager have approved and signed the Disciplinary/ Corrective Action Form.

Section 7 Removal of Disciplinary Action Forms from Human Resources File

A. Upon the order of an arbitrator or judge of competent jurisdiction, Disciplinary/ Corrective Action Forms and relevant documentation may be removed from an employee's official Human Resources file prior to the time frames outlined below.

B. An employee may request the removal of the red Disciplinary/Corrective Action Form(s) and other relevant documentation from his/her department file and from the employee's official Human Resources file upon written request to the Human Resources Director in accordance with Article 13. If there are no subsequent disciplinary actions in the employee's file, the form(s) and other relevant documentation shall be removed within seven (7) business days of service of the written request according to the following time frames:

1. Alternative discipline: 12 months
2. Suspension: 12 months
   - If a subsequent suspension occurs within twelve (12) months of the first suspension, both will remain for a period of twenty-four (24) months from the date of the second suspension.
3. Demotions: 30 months

ARTICLE 10 MEDIATION

A. Mediation is a confidential and voluntary process in which an impartial person(s) helps individuals or groups to discuss and negotiate resolutions to conflicts or disagreements in the workplace. The Employer, the Union or an employee(s) may request mediation as a way to resolve workplace disputes. Before mediation begins, all parties must be willing to engage in this process.

B. Any mediation provided shall be funded by the Employer.

C. Mediation may precede, but is not considered a part of the formal grievance process. If mediation fails to resolve conflicts or disagreements in the workplace, the Union or the employee(s) may elect to utilize the grievance process in accordance with the provision set forth in this Agreement.

D. The City and the Union will work together to host training offered by the Federal Mediation and Conciliation Services (FMCS). The parties will work together to host the training annually. An alternate provider may be substituted if mutually agreed upon by the Employer and Union.

ARTICLE 11 GRIEVANCE AND ARBITRATION

Section 1 Grievance

A. The purpose of this Article is to provide a mutually acceptable method for the prompt resolution of grievances filed by bargaining unit employees, the Union, or the Employer, in an atmosphere of cooperation and respect.

B. A "grievance" is an allegation made by the Union against the Employer that a violation, misapplication or misinterpretation of any provision of this Agreement has occurred. A bargaining unit member cannot file a grievance against another bargaining unit member.

C. The Union may file grievances on its own behalf, or on behalf of an employee or group of employees covered by this Agreement.

D. An individual employee may file a grievance under the provisions of this article and have it adjusted without the intervention of the Union as long as:

1. The adjustment is consistent with the terms of this Agreement;

2. At any hearing or meeting on a grievance brought forward by an individual employee, who has not requested the intervention of the Union, the Union shall still be afforded the opportunity to be present and make its views known;

3. At any step of the grievance process, should the employee seek legal representation, the Union has no obligation to represent the employee, and any cost associated with this legal representation shall be borne by the employee; and

4. An individual employee may not invoke arbitration under this article.

E. Before filing a formal grievance under the procedures established in this Article, employees are encouraged to try and resolve any issues with their immediate supervisor and if not, with their next level manager.

F. Grievances initiated by an employee or by the Union shall be filed within ten (10) business days of the day after the grievant was aware, or reasonably could have become aware, of the provision in the Agreement that allegedly was being violated.

G. Email submission of grievance documentation, correspondence, memos and/or forms shall be considered acceptable. The Employer, Union, and/or employee shall make an effort to hand deliver any grievance documentation, correspondence, memos and/or forms as outlined in this article and shall be considered served immediately upon email, hand delivery, or by certified U.S. Postal Service mail.

Section 2 Steps in the Grievance Procedure

A. All steps in the formal grievance process must be documented in writing via an Official Grievance Form. Employees and/or the Union must submit grievances in writing that include the specific details of what provision(s) in the Agreement was violated, and how and when it was violated.

B. The Official Grievance Form shall include the following information:

1. The employee's name, job title and work site;

2. The name, address and telephone number of the Union representative, if any;

3. The article(s) of the Agreement alleged to have been violated;

4. The date of the violation;

5. How the violation occurred: The grievant shall provide a detailed description of all the event(s) that resulted in specific violation and all the persons responsible for the violation;

6. The specific relief requested;

7. Any attempts(s) the grievant or Union made to resolve the matter with the immediate supervisor and/or with their next level manager; and

8. The signature of the grievant or of the Union representative.

- The President or Vice President shall sign off on the Official Grievance Form to assure the form is complete and that the grievance is justified.

C. Grievance relief actions agreed upon by the parties at any of the steps listed below shall be binding.

Section 3 Step 1: Supervisor and Division Director Level

- The Union or grievant shall meet with the supervisor and/or the Division Director or designee to attempt to resolve the matter within ten (10) business days of the day after receipt of the Official Grievance, unless the supervisor or division director is the person the grievance is against, or if the employee does not have a supervisor or division director, in that case the Union or grievant shall file directly to Step 2 with the department director. The supervisor and/or division director shall meet with the Union within ten (10) business days of the day after receipt of the Official Grievance to attempt to resolve the matter. The Human Resources Department shall participate at this meeting if requested by either the Union, the grievant, or the Employer.

- The supervisor, division director, or department director, whomever met with the Union or grievant, shall within ten (10) business days of the day after the meeting, provide a written response to the grievant.

Section 4 Step 2: Department Director Level

- If the grievance is not satisfactorily resolved at the supervisor/division director level, the Official Grievance shall be submitted to the department director. The department director shall respond in writing within ten (10) business days of the day after receipt of the written grievance and may, within this time period, request a meeting with the grievant and/or the Union to discuss the grievance and its settlement.

Section 5 Step 3: City Manager Level

- If the grievance is not satisfactorily resolved at Step 2, the department director level, the grievant and/or Union shall submit the Official Grievance to the City Manager within seven (7) business days of the day after receipt of the department director's written response. The City Manager shall respond in writing to the grievant and/or Union within ten (10) business days of the day after receipt of the Official Grievance and may within this time period, request a meeting with the grievant and/or Union to discuss the grievance and its settlement.

- If the grievance is not satisfactory resolved at this level, the Official Grievance, if it meets the definition of a Prohibited Practice, may be submitted to the Public Employees Labor Relations Board by the Union, but not by the individual grievant, within fifteen (15) business days after receipt of the City Manager's written response. The Official Grievance may also be submitted to final and binding

arbitration within twenty-one (21) business days after receipt of the City Manager's written response.

Section 6 Arbitration

A. Within fourteen (14) business days of the written demand for arbitration, the Union shall make a request for a panel of seven (7) arbitrators from the Federal Mediation and Conciliation Service (FMCS), unless the parties by such time can agree upon an arbitrator or alternative panel of arbitrators from which to select an arbitrator.

B. Within fourteen (14) business days of the receipt of a list of arbitrators, the parties will confer to select the arbitrator. The selection shall be made by the Union or grievant and the Employer alternatively eliminating names. The last name remaining shall be the arbitrator. The parties shall flip a coin to determine who shall strike the first name. If the Employer fails or refuses to strike a name from the list, the Union may request that the FMCS unilaterally appoint an arbitrator to hear the matter. Once an arbitrator is either selected by the parties or appointed by the FMCS, the arbitrator shall have full jurisdiction.

C. The decision of the arbitrator shall be based upon the facts established by the testimony and documents presented in the case.

- The arbitrator shall have no power to add to, subtract from, alter or modify any of these terms of the Agreement, but may give appropriate interpretation or application to such terms and provide appropriate relief.

- The arbitrator shall not have authority to make an award which includes a fine or other punitive damages or award of attorney's fees.

- Each party shall pay one-half (1/2) of the arbitrator's fees and expenses.

- The arbitrator's decision shall be final and binding on the parties.

- In arbitration cases challenging a disciplinary action, the Employer shall have the burden of proof by a preponderance of the evidence. In arbitration cases where the Union or grievant alleges a contractual violation or dispute over a working condition, the Union or grievant shall have the burden of proof.

Section 7 Miscellaneous

A. Tape recorders or other electronic recording devices shall not be used by any party participating in the grievance, except by mutual agreement of the parties. This provision shall not apply to arbitration hearings.

B. Any of the time limits or steps set out in this procedure may be extended, waived, or otherwise modified by written mutual agreement of the parties.

C. If at any step of the grievance procedure the Employer fails to respond within the designated time limits, the grievance shall be automatically forwarded to the next level.

D. Any grievance shall be considered as settled on the basis of the last answer of the Employer if not appealed to the next step or arbitration within the time limitations set forth herein.

E. A party to this Agreement or an individual grievant may be represented by counsel at any step of the grievance procedure at their own cost.

F. The issue of non-grievability may be properly raised at any step of the grievance procedure. The arbitrator shall decide all issues regarding the grievability of grievances.

G. Grievances may be withdrawn by the Union or grievant at any step of the grievance procedure without prejudice and without precedence except as to objections to timelines.

H. The arbitration procedure set forth in this article shall not apply to events which occur before the effective date of this Agreement.

ARTICLE 12 DRUG AND ALCOHOL TESTING

A. CDL Drug and Alcohol Testing

The provisions of Rule 16 and Rule 16A, as may be amended, of the City of Santa Fe Personnel Rules and Regulations are hereby incorporated. The positions of Swim Instructor and Swim Pool Lifeguard are deemed safety sensitive and shall be subject to random drug and alcohol testing in accordance with Rule 16A. Rule 16A, as may be amended, applies to Swim Instructors and Swim Pool Lifeguards.

B. Reasonable Suspicion Drug and Alcohol Testing Policy

The provisions of the City's Reasonable Suspicion Drug and Alcohol Testing Policy are hereby incorporated.

C. Reasonable Suspicion Training

The Employer agrees to provide reasonable suspicion training for the Union President, Vice President, and Chief Stewards on an annual basis.

D. Reasonable Suspicion Notice

The Union President or Vice President will be notified if a bargaining unit employee is suspected of being under the influence of drugs and/or alcohol during working hours upon management becoming aware of the situation. The Reasonable Suspicion determination will be made by the supervisor, HR, and/or Risk and Safety employees and the Union representative present and shall be based on observable signs or behaviors. If the Union representative does not arrive within 60 minutes, the evaluation will proceed. If there is disagreement in the determination, the HR employee or Risk and Safety employee shall make the final determination.

The Union President, Vice President, or one of the Chief Stewards, with notification to his/her supervisor, may accompany the employee during the testing process.

E. Certifications and Documentation of Drug and Alcohol Testing

1. The employer shall provide copies of certifications and documentation from the approved testing laboratory to the Union President a minimum of twice annually in January and July, and as changes occur, including but not limited to:
   - Testing equipment
   - Testing technicians
   - Federal laboratory certifications

F. Drug policy in regard to Cannabis

1. The employer shall not discriminate against a bargaining unit employee in hiring, termination, or imposing any conditions of employment or otherwise penalize a bargaining unit employee based upon the use of cannabis in compliance with state and federal laws. The City will not discipline a non-safety sensitive bargaining unit employee based upon the bargaining unit employee's use of cannabis provided that: (i) The use of cannabis by the employee is neither in the work place, during work hours, nor while the employee is performing tasks related to employment; and/or (ii) an employee is not impaired due to the consumption of cannabis in the workplace or while performing tasks related to employment.

2. Subsection (1) shall not apply to safety sensitive positions.

3. Nothing in this Section prohibits the City from taking adverse employment action: (i) if a bargaining unit employee who is unable to maintain licenses, credentials, or other qualifications that are reasonably necessary for the performance of the employee's position; or (ii) the bargaining unit employee is charged with a crime relating to his or her use, possession, sale, manufacture, distribution, dispensation, or transfer of cannabis.

4. The employer shall provide resources in the prevention of drug/alcohol abuse for bargaining unit employees.

ARTICLE 13 HUMAN RESOURCES RECORDS

A. The employee's only official Human Resources file shall be the file located in and maintained by the Human Resources Department. An employee or their designee, as authorized in writing by the employee, shall have the right to inspect and copy any portion of this file upon the advance notice to inspect via written request. Such request shall be granted within five (5) business days during normal business hours. In no event shall the employee remove the file from the Human Resources Office or remove any item from the official human resources file. A Human Resources representative shall monitor the inspection and copying of the file. These files are public record subject to the provisions of the Public Records Inspections Act.

B. Employees may submit written rebuttal to any material placed in their records and may request in writing to the Human Resources Department Director the removal of any material that, in the opinion of the employee, is unwarranted, inaccurate, irrelevant, untimely and incomplete. Except for the above, this file shall not be purged except as provided in Article 9, Section 7, of this Agreement.

C. Before a complaint or disciplinary action against an employee becomes part of the official HR file, the employee will be notified.

D. The employee may request in writing to the Human Resources Director the addition of any documentation he/she deems relevant to his/her Human Resources file. The Human Resources Director shall determine whether such information is appropriate for the employee's Human Resources file.

ARTICLE 14 TRAINING AND TUITION ASSISTANCE

A. Purpose: To assist employees to obtain new skills to remain competitive in our society and, in turn, to use those skills to support the City of Santa Fe.

B. The City of Santa Fe shall provide tuition and training assistance programs for bargaining unit employees. Through these programs, employees may choose to pursue training or course work that will permit job or career advancement with the City of Santa Fe. When sufficient budget is available, the Employer shall approve and pay tuition and training expenses in the amount of $1,600.00 per semester for each employee in accordance with procedures established in Policy 2500-6-1 (Training Assistance Policy) and Policy 2500-6-2 (Tuition Assistance Policy) as amended.

C. The Human Resources Department shall promote educational and training opportunities when they become available. If a bargaining unit employee is interested in tuition assistance, they shall provide the request on the Tuition Assistance Reimbursement Form at least fifteen (15) days before the date of the first class.

D. If a decision is made by the Human Resources Department to deny the employee and the employee wishes to appeal the decision, the employee shall submit a written appeal to the City Manager within five (5) working days from the date of response from the Human Resources Department.

E. The City Manager shall review the appeal and respond in writing to affirm or reject the decision within five (5) working days and may, within this time period, request a meeting with the Union and the employee to resolve the appeal. The City Manager's decision is final.

ARTICLE 15 SCHEDULING AND STAFFING

Section 1 Work Week

A. A normal workweek for a full-time employee is defined as a calendar week beginning at 12:01 a.m. Saturday and ending 12:00 midnight the following Friday. The normal workweek shall consist of forty (40) work hours, eight (8) hours per day in accordance with Section 3, of this Article, with two (2) consecutive days off.

B. Non-standard workweeks may exist at work sites that are required to operate six (6) or seven (7) consecutive days. Additionally, non-standard work hours such as four (4) - ten (10) hour workdays per workweek may be approved by the employer.

C. Normal work shifts for FLSA covered employees shall not be split into two (2) or more segments, unless the Union and Employer agree upon such shifts. Lunch periods do not create a split.

D. With the exception of Paragraph (B), this Section does not apply to employees in the Transit Division. The work schedules of Transit Division employees shall be reviewed as needed by the Employer and the Union.

Section 2 Flextime

A. Employees may request schedules that deviate from a work site's normal work schedule. Such requests shall include the justification (e.g., traffic congestion, physical fitness, Mentorship Leave Policy etc.), be in writing on a prescribed form, and must be submitted to his/her immediate supervisor for consideration.

B. The immediate supervisor will recommend approval or denial of flextime requests to the Department Director. The request will be approved or denied within seven (7) calendar days, at their discretion. Consideration of a flextime schedule request shall be made on a first-come, first-considered basis. In the event of a scheduling conflict, when all other factors are equal, classification seniority shall be the determining factor.

C. If a flextime schedule is approved, the employee shall make-up the work time within the same workweek. If the request is denied, the Employer shall provide the employee with a written explanation within seven (7) calendar days.

D. Approved flextime schedules are subject to periodic review by the Employer and existing schedules may be canceled by providing employees with a seven (7) calendar day advance written notice. In the case of emergencies and with agreement from the Union, flextime schedules may be modified without providing the seven (7) day notice period.

Section 3 Scheduling and Breaks

A. The Employer shall prepare employees' regular work schedules for posting at each work site at least seven (7) calendar days in advance of the beginning of a changed schedule, except in emergency situations. Changes to posted work schedules may be made to meet the operational needs of City government, but will not be made arbitrarily. Employees are not obligated to begin new work schedules until seven (7) calendar days after notification. In cases of emergency, the Employer may extend or change an employee's work schedule. Required overtime work is not considered to be a schedule change. The employer shall not arbitrarily adjust or alter an employee's work schedule just to avoid paying overtime.

B. The Employer shall provide full-time employees with an unrestricted lunch break lasting between a 1/2 hour to one (1) hour, and two (2) - fifteen (15) minute breaks during a normal workday. Time off for lunch and break periods are not to be accumulated nor used for the purpose of beginning the workday late or completing the workday early. Employees on less than full-time status will receive an unrestricted lunch break lasting between a 1/2 hour to

one (1) hour, and one (1)- fifteen (15) minute break for every four (4) hours worked. Any restriction of lunch breaks by the Employer shall be considered hours worked, and the Employer shall compensate the employee(s) accordingly. With mutual agreement between the employee and the Employer, an employee may forego lunch breaks.

C. The two (2) formal fifteen (15) minute breaks specified in Paragraph (B) of this Section do not apply to Transit Operators.

D. Employees in the Transit Division who work a split shift will receive $35.00 per pay period.

1. A split shift is defined as a shift with a break longer than two (2) hours during the work shift.
2. Employees must work four (4) or more split shifts per pay period to qualify for the split shift differential.

Section 4 Shift Bidding

The employer retains the right to determine scheduling needs based on the coverage, delivery of service requirements, and expertise needed to deliver quality service to the public. When multiple shifts are necessary, employees shall be offered shift bidding from the division seniority list as long as coverage and expertise are not compromised. A shift bid shall occur a minimum of once every twelve (12) months, with the most senior employee on the list being offered the first shift selection. All subsequent employees on the list shall be offered a shift selection until all employees on the list have selected a shift.

Section 5 Job Sharing

Job sharing of one (1) position by two (2) employees may be considered by the Employer on a case-by- case basis. Employees requesting to share a position shall make such requests in writing to the immediate supervisor and division director.

ARTICLE 16 LABOR MANAGEMENT COMMITTEE

A. The parties shall establish a Labor Management Committee (LMC) which shall be a standing committee for the duration of this Agreement.

B. The LMC shall meet on an as-needed basis, but not less than quarterly, at a mutually agreed upon time and place on paid status for all members.

C. The Union President and the Human Resources Director shall be members of the LMC and will appoint three (3) additional members from each negotiating team.

D. The LMC shall be free to address any topic of mutual interest or concern which affects working conditions of bargaining unit employees or furthers good labor management relations. Any agreement as to the interpretation of any of the terms in this Collective Bargaining Agreement shall be reduced to writing in the form of a Memorandum of Understanding, as set forth in Article 35, Section 2, of this Agreement.

E. This committee is not empowered to negotiate any revisions or amendments to this Agreement.

ARTICLE 17 EMPLOYEE ASSISTANCE PROGRAM

A. The Employer shall continue to contract with a qualified Employee Assistance Program (EAP) provider who shall provide free confidential counseling to members of the Union and their immediate family. Specifically, the program shall serve to help bargaining unit employees and their immediate family deal with personal and/or work-related problems. The EAP shall be staffed with qualified and licensed professionals. In addition to providing professional assessment and short-term counseling, the EAP may, whenever appropriate, serve as a referral source.

B. The Employer may recommend an employee seek assistance through the EAP. However, if an employee chooses to not follow through with the supervisor's recommendation, it shall not be held against the employee as a condition of employment. Employees may also self-refer when they recognize a need for services provided by the EAP.

C. Employees who choose to meet with the EAP after a supervisor referral is made, will be granted administrative leave in the amount of two (2) hours for the initial appointment. Subsequent appointments require that the employee use sick or annual leave, compensatory time or leave without pay. Self-referred employees are not afforded administrative leave for the first appointment, but shall use sick or annual leave, compensatory time or leave without pay for the purpose of attending appointments with the EAP.

D. If the Employer refers an employee to EAP as an alternate form of discipline, the employee will be granted up to twelve (12) hours administrative leave to attend counseling services as agreed upon and defined in Article 9, Section 6.

E. The EAP may not disclose any information to the Employer related to the employee's use of the program without the employee's written permission, except as provided by city, state and federal law.

F. These guidelines shall apply, unless otherwise specified in Rule 16 (or 16A), as may be amended, Drug and Alcohol Testing Rule for Federally Mandated Employees, Section 13, and in accordance with the City's Reasonable Suspicion Drug and Alcohol Testing Policy.

ARTICLE 18 HEALTH AND SAFETY

Section 1 Health and Safety Standards and Measures

A. Employees shall comply with standards, measures, and practices as may be prescribed by the Employer and Union in accordance with the City's Safety Manual and other applicable state and federal health and safety regulations to provide safe, sanitary, and healthy working conditions.

- The Employer and Union agree that the safety of all City employees and the public is paramount. Any employee who recognizes unsafe and/or dangerous conditions in the workplace shall notify an appropriate supervisor as soon as possible. In accordance with Article 7 Section 3, employees shall be protected from retaliation for bringing any safety concerns to the attention of their supervisors or the Office of Risk or Safety.

B. For all employees covered by this Agreement, the Employer shall:

1. Provide safe and healthy working conditions and practices;
2. Provide safe, healthy and clean work sites and grounds;
3. Provide a clean and safe area for employee meal and break periods;
4. Provide and maintain in safe working condition all city owned motor vehicles, tools, and equipment;
5. Provide employees with adequate information and routine training on communicable diseases and infestations to which they may have routine exposure; and
6. Respond reasonably to safety concerns brought forth by any employee, as promptly as the circumstances warrant.

Section 2 Personal Protective Equipment (PPE)

A. The Employer shall identify and provide personal protective equipment (PPE) to employees in field or shop positions, for example, and other areas as required by OSHA or determined by the Health and Safety Committee. OSHA general guidelines for PPE are:

1. Eye/ face protection - exposure from flying objects, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or light radiation.

2. Head protection - objects might fall from above and strike them on the head, or employees might bump their heads against fixed objects.

3. Foot/leg protection - possible falling or rolling objects or from crushing or penetrating materials, work involving exposure to hot substances or corrosive or poisonous materials. Employees required by the Employer to wear safety footwear shall be provided up to two (2) pairs of safety footwear, not to exceed $400.00 per year.

4. Hand/ arm protection - potential skin absorption of harmful substances, chemical or thermal burns, electrical dangers, bruises, abrasions, cuts, punctures, fractures, amputations. One (1) pair of safety/work gloves per month will be provided for employees who are exposed to these potential dangers.

5. Body protection - temperature extremes, hot splashes from molten metals and other hot liquids, potential impacts from tools, machinery and materials, and hazardous chemicals.

6. Hearing protection - loudness of noise and the duration of an employee's exposure to the noise.

B. The employer shall replace worn or damaged PPE and shall train employees in the proper care and use of PPE.

C. Employees shall properly wear any required PPE, shall attend PPE training sessions when offered, shall care for, clean, and maintain PPE, and shall inform their supervisor of the need to repair or replace any worn or damaged PPE.

Section 3 Health and Safety Committee

A. The parties shall establish a standing Health and Safety Committee (HSC) for the duration of this Agreement. The Union shall appoint six (6) members to the HSC. The Safety Manager shall appoint six (6) management members. The HSC shall meet on an as-needed basis, however not less than monthly unless mutually agreed upon. Both parties shall limit attendance at all HSC meetings to five (5) members each. Union members shall attend on paid status. The HSC shall be free to address any topic of Health and Safety concern

which affects working conditions of bargaining unit employees or furthers good safety practices. The HSC is empowered to and shall:

1. Recommend safety and health standards specific to each department's operations, and employee training for each department;

2. Review, determine, and recommend which PPE shall be required, based on job function assessments performed by the Office of Risk and Safety and the Union, specific to each division's work operations.

3. Review and make recommendations on a draft PPE Policy developed by the Office of Risk or Safety.

4. Review department loss control information to ensure adequate measures are being taken to prevent recurrence of the same or similar losses; and

5. Establish guidelines designed to minimize employee risk of ·violence, injury or abuse while on the job.

B. All recommendations developed by the HSC shall be referred to the Risk and Safety Managers for final determination and implementation.

Section 4 Emergency Transportation

An employee who suffers an on-the-job injury or illness and requires immediate emergency care, shall be transported to a treatment facility at the Employer's expense.

Section 5 Reimbursement for Property Loss

A. If the Employer requests that an employee use his/her personal property to perform his/her regular job duties, and the employee's property is damaged as a result, the Employer shall arrange for its repair or replacement on a case-by-case basis.

B. The Employer shall not require an employee to use his/her personal vehicle for City business. However, employees may voluntarily use their personal vehicles in compliance with Policy 62103-7-3 (City Vehicle Policy).

Section 6 Critical Incident Stress Debriefing

The Employer shall provide appropriate and adequate Critical Incident Stress Debriefing (CISD) to employees, as needed. CISD is to be used for critical job-related incidents including, but not limited to, mass casualty, work peer suicide, serious work injury, and/or work-related death of a co-worker. Such CISD shall include, when appropriate, initial debriefing, individual and group therapy/ counseling, and/or follow-up. All debriefings and other CISD sessions shall be strictly confidential. Where Workers Compensation benefits are available for an employee injury, this Section, if otherwise applicable, may be used to provide reasonable supplemental treatment not provided by Workers Compensation.

Section 7 Modified Work Assignments

A. Taking into account department budget, administrative restrictions, and work availability, the Employer shall make reasonable efforts to provide employees covered by this Agreement with opportunities for returning to work on a modified work assignment due to temporary medical restrictions while recovering from injury or illness.

B. An employee requesting an early return to work in a modified duty assignment may request such assignment for a period of time specified by the health care provider in his/her medical certifications, but not to exceed six (6) months. Any medical documentation requested by the Employer shall be confidential, with access restricted to the Employer's medical consultant, and shall be provided only with the employee's written consent.

C. An employee who returns to work on a modified work assignment shall be paid no less than the employee's last salary. In implementing this provision, the Employer will give preference for modified work assignments to workers injured on the job.

D. Any modified work assignments will comply with applicable federal, state and local laws and regulations including, but not limited to, the Americans with Disabilities Act, the Family and Medical Leave Act, and the State of New Mexico Workers Compensation Act.

ARTICLE 19 FURLOUGH, LAYOFF AND RECALL

Section 1 General

A. Upon determination by the Employer that a furlough or layoff of bargaining unit employees is deemed necessary, the Employer shall prepare and submit to the Union a detailed plan justifying the need for the furlough or layoff including all pertinent documents, including budgets, reports, and any other materials used in its determination.

B. A furlough is a temporary reduction of an employee's work hours within a workweek due to lack of funds. In the event of a furlough, full-time bargaining unit employees' hours shall not be reduced below twenty-four (24) hours per week. Part-time bargaining unit

employees' hours shall not be reduced below sixteen (16) hours per week. A furlough shall not exceed six (6) months.

C. A layoff, or reduction in force, is the elimination of a position or positions on a temporary or permanent basis because of a shortage of work or funds.

D. Management positions shall also be considered when devising such a plan for a furlough or layoff.

E. Prior to any furlough or layoff, the City Manager will meet with the Union to review and consider any cost-cutting measures within the bargaining unit represented by the Union that may reduce the need for, or extent of, the furlough or layoff.

F. Within seven (7) working days of receipt of a notice of furlough or layoff, the Union will develop a list of bargaining unit employees who wish to voluntarily participate in the furlough or layoff. That list will be presented to the City Manager for consideration.

Section 2 Notice

If a furlough or layoff is implemented, affected employees shall receive a minimum of twenty-eight (28) calendar days advance written notice. However, the Employer will attempt to provide as much advance notice as possible.

Section 3 Wages and Benefits

Upon layoff, laid-off employees shall be paid in full all due wages, accrued annual leave, longevity, administrative leave, accrued personal holiday and compensatory time.

Section 4 Order of Furlough/Layoff

Employees affected by furlough or layoff will be furloughed/laid-off in inverse order of city seniority by type of appointment in the following order:

1. Emergency
2. Temporary/Seasonal
3. Probationary
4. Term/Grant funded
5. Classified part-time
6. Classified full-time

Section 5 Recall Rights

A. Furloughed/laid-off employees shall be recalled to work in the reverse order in which they were furloughed/laid-off.

B. Laid-off employees shall have one (1) year recall rights. The employee is required to provide the correct mailing address as a condition of maintaining any recall rights. The employer may not fill any bargaining unit position without first offering the position to qualified laid-off bargaining unit employees in order of city seniority.

C. The Employer must give notice in writing to laid-off employees of recall opportunities. Recalled employees must give notice of acceptance or refusal of the position within five (5) work days, and if accepted, report for work within two (2) weeks of the date they were notified of the available position. The Employer will have met its recall obligation by sending the recall notice return receipt requested to the last known address provided by the employee to the Human Resources Department.

D. A laid-off bargaining unit employee may refuse one (1) recall offer. A second refusal of a recall offer will serve as a voluntary resignation and the City will have no further recall or employment obligation to the employee.

E. After twelve (12) consecutive months on layoff status, the City shall have no further recall or employment obligation to the laid-off employee.

Section 6 Classification Displacement

If a laid-off employee is placed in a lower paying classification as acceptance of a recall opportunity, the employee shall be reassigned to the former classification prior to layoff, upon the first available vacancy in that classification, based upon city seniority.

ARTICLE 20 FILLING OF VACANCIES

Section 1 Posting of Vacancies

A. All vacant classified bargaining unit positions advertised shall be advertised for a minimum of ten (10) calendar days. All advertisements will be posted on designated City bulletin boards or the employer's website or intranet. The employer and union may mutually agree in writing to lower the recruitment period on a case-by-case basis. Applications will be accepted concurrently from applicants not currently employed by the City of Santa Fe.

B. The position vacancy posting shall contain the classification of the position, the testing requirements for applicants, the minimum qualifications for the position, the FLSA and Union status; the work location of the vacancy; a description of working conditions; a general description of the position; examples of work; the pay range of the position; the

location where applications are to be filed; the opening and closing dates; and the time frames for accepting applications.

Section 2 Selection

A. Bargaining unit employees covered by this agreement who have applied for and met the minimum qualifications for the vacant position will be placed on the List of Eligible Candidates that identifies them as (1) qualified bargaining unit employees separate from (2) qualified non-bargaining unit and external candidates.

Qualified bargaining unit employees shall be interviewed for all bargaining unit positions. The interview will, among other things, confirm that the bargaining unit employee understands the essential functions and requirements of the position, and holds the knowledge, skills and abilities as advertised for the position, has a satisfactory job performance, and that there are no performance issues (e.g., excessive tardiness or absenteeism, etc.) or work agreements in place. If the choice is between equally qualified bargaining unit and non-bargaining unit candidates, the bargaining unit candidate shall be given preference. If the choice is between equally qualified bargaining unit candidates, preference shall be given based on City seniority.

B. Qualified bargaining unit employees who applied within the time limits and were not selected, after having gone through the interview process, shall be notified in writing by the hiring supervisor. The Human Resources Department shall notify in writing all unqualified or untimely applicants within fourteen (14) calendar days of certification of the eligibility list. After evaluating all candidates, with bargaining unit candidates considered first, the candidate who is best qualified for the position shall be offered the position.

C. If a bargaining unit employee is offered a promotion to another bargaining unit position and subsequently refuses to accept the position because of the salary, the Employer shall not hire an employee from outside the City at a pay rate higher than what was offered to the bargaining unit employee, unless mutually agreed to in writing by the Union and Employer.

Section 3 Promotion

A promotion shall be defined as movement of an employee from his/her position to a position of a higher pay grade within the bargaining unit. Promotions may result in a salary increase of five to twenty percent (5% - 20%), or the minimum of the new grade, whichever is greater. However, a promotion shall not result in an hourly pay rate that exceeds the top of the pay grade for the job classification into which the employee is being promoted. If the promotion results in more than a

twenty percent (20%) salary increase due to pay equity, the union will be notified. Promotional increases shall not create pay inequities based upon city seniority with other bargaining unit employees whose City seniority is higher than the person being promoted in the same classification.

Section 4 Classification Reduction Without Prejudice

A. Bargaining unit employees who are promoted and subsequently voluntarily agree to a classification reduction without prejudice shall have their pay reduced to the hourly rate received prior to promotion. Any hourly pay increases they would have received had they not been promoted will be added to their new hourly rate.

B. Bargaining unit employees who have never been promoted (e.g., hired into their current job classification) and voluntarily agree to a classification reduction without prejudice, shall have their pay reduced from five to twenty percent (5% to 20%), to allow the flexibility to maintain equity of pay with other employees in the same job classification and to address budgetary limitations.

Section 5 Transfer

A. At the request of a department director and upon approval of the City Manager, the Employer may transfer an employee from one position, division, or department to another position, division, or department within the City, provided the following conditions are met:

- The employee meets the minimum qualifications of the new classification;
- The employee is not being transferred because the Employer has failed to address poor work performance or behavior;
- The transfer is not being made for arbitrary or unjustified reasons;
- The Union President is notified within fourteen (14) calendar days prior to the transfer.

B. Employees who voluntarily transfer from one position to another, or from one division/ department to another, shall provide written notice to their current immediate supervisor no less than two (2) weeks in advance, when possible. Transfers will not be considered effective until the beginning of a new pay period. Employees will retain all accrued annual, sick and personal leave time, and compensatory time.

C. Lateral transfers from one pay grade to a different bargaining unit position of the same pay grade shall not result in a pay increase.

D. Transfers shall not create pay inequities based on City seniority with other bargaining unit employees whose City seniority is higher than the person being transferred in the same classification.

Section 6 Probationary Period

Probationary employees are not covered by this bargaining agreement.

The probationary period is set forth in the City of Santa Fe Personnel Rules and Regulations. At the time of execution of this Agreement, the Personnel Rules and Regulations set forth the probationary period as six (6) consecutive months which may be extended up to two (2) additional three (3) month periods.

Section 7 Temporary Employees

A. Temporary employees shall be governed by the applicable City of Santa Fe Personnel Rules and Regulations which, at the time of execution of this Agreement, is nine (9) months. Temporary employees are not covered by this Agreement.

B. When a temporary position shall be classified, the position shall be advertised pursuant to City policies.

Section 8 Emergency Appointment

A. An emergency appointment is the employment of a person when an emergency condition exists. The circumstances of the emergency hire, and proof that there are no candidates available on a valid list of eligibles, shall be documented by the Employer. The Human Resources Department shall make such documentation available to the Union within ten (10) working days from the date of request.

B. City policy limits emergency appointments, which at the time of execution of this Agreement, was limited to ninety (90) calendar days.

ARTICLE 21 LEAVES OF ABSENCE

Section 1 General

A. All requests for leave of absence, with or without pay, shall be made to the immediate supervisor for approval on forms prescribed by the Employer. All requests shall be

submitted in advance of the beginning date of the leave as specifically outlined in this article - except for requests for unanticipated sick leave which shall be submitted for approval at the earliest possible time.

B. Rule 13 of the Personnel Rules and Regulations and as amended shall apply; however, the Employer shall recognize and comply with the exceptions and deviations to Rule 13 as listed in the following sections of this article. Annual and sick leave accruals shall be calculated on a pro-rated basis based upon hours worked and paid leave status, up to a maximum of eighty (80) work hours per (2) two-week pay period.

Section 2 Sick Leave

A. Bargaining unit employees shall accrue and utilize sick leave pursuant to the provisions of Rule 13.30 (A)(1), except for 13.30 (A)(2) and (3)(F)(1) and as amended, and pursuant to Article 21, Section 1, above. To qualify for sick leave buy back, an employee shall have or maintain a minimum balance of four hundred fifty (450) hours at the end of each calendar year.

B. Sick leave shall be granted for personal medical treatment or illness. Sick leave may also be granted for illness or medical treatment of a member of the employee's immediate family. Immediate family, for this purpose, is defined as the employee's spouse, stepchild, domestic partner, child, parent, stepparent, brother, and sister.

C. The Employer shall require an employee to furnish a physician's statement for sick leave taken for three (3) or more consecutive days and/or a pattern of absenteeism has been established.

Section 3 Sick Leave Bank Program

A. Purpose of Sick Leave Bank Program.

1. A Sick Leave Bank shall be established to assist bargaining unit employees who qualify for Family and Medical Leave, and have exhausted their accumulated leave time.

2. This program allows bargaining unit employees to enroll in the Sick Leave Bank Program by donating a portion of their unused sick leave into a Sick Leave Bank that is available to assist bargaining unit employees who are eligible under the program.

3. Participation in the Sick Leave Bank Program is strictly voluntary, however, only those employees who enroll in the program may utilize the Sick Leave Bank.

4. Bargaining unit employees who elect to participate in the Sick Leave Bank Program shall do so by submitting an enrollment form to Human Resources and the Union during the City's annual benefit open enrollment period for an effective enrollment date of the first day of the fiscal year.

B. Donations to the Sick Leave Bank Program.

1. A bargaining unit employee must have a minimum of 80 hours of accumulated leave (sick, annual and/or compensatory time) at the time of program enrollment.

2. An automatic annual donation to the Sick Leave Bank will be made from an enrolled bargaining unit employee's accrued sick leave as a payroll deduction on the first pay period of each fiscal year ("Sick Leave Bank Enrollment Period").

3. Annual donations will be made in the amount of four (4) hours for a full-time employee and two (2) hours for a part-time employee.

4. If a participating employee does not have the required amount of accrued sick leave available for the automatic annual donation, shortages will be made up with a deduction from the employee's accrued annual leave and/ or compensatory time.

5. Enrollment in the Sick Leave Bank begins upon the employee's original donation during the annual *Sick Leave Bank Enrollment Period.*

6. Automatic donations will continue on an annual basis until written notification is received cancelling enrollment during a subsequent Sick Leave Bank Enrollment Period.

7. In addition to the automatic annual donation to the sick leave bank, bargaining unit employees may donate annual leave, compensatory time or individually accrued sick leave over 200 hours pursuant to the Agreement to another bargaining unit employee within the City if a situation arises which forces an enrolled employee to use all his/her sick leave, personal leave, compensatory time, administrative leave and annual leave for an absence on FMLA.

8. Leave donations shall be a minimum of one (1) hour increments.

9. Should an employee voluntarily leave employment with the City of Santa Fe, the

employee may donate up to two-hundred (200) hours of sick leave to AFSCME Local 3999 Sick Leave Bank.

10. Donated leave shall not extend the 12 weeks of leave permitted under the Family and Medical Leave Act.

C. Eligibility and Process to Request Family and Medical Leave and Sick Leave Bank Donations.

1. Employees must complete and submit their FMLA forms to the Human Resources Department as prescribed by Human Resources Policy 2500-5-6 (Family and Medical Leave of Absence) for eligibility and qualification review.

2. To receive leave from the Sick Leave Bank, an enrolled employee must have exhausted all annual leave, sick leave, administrative leave, personal leave, compensatory time and all other accumulated leave and qualify for leave under the Family and Medical Leave Act.

3. Employees who request the use of Sick Leave Bank hours shall request donated leave in writing to the Union. All requests must indicate the number of sick leave days/hours being requested.

4. Part-time enrolled employees with a serious health condition as defined by the FMLA who do not meet the eligibility criteria for the Family and Medical Leave Act (worked at least one (1) year and 1,250 hours during the 12-month period preceding the commencement of the leave) may be approved hours from the Sick Leave Bank on a prorated and case-by-case basis by the Local Executive Board.

5. Employees must solicit their own hours prior/ concurrently to using the Sick Leave Bank, except in catastrophic cases. Neither party may use the City's e-mail system for solicitation.

6. It is not the intent of this article to extend FMLA coverage beyond what is provided in the Act. The intent of this article is to simply clarify when a bargaining unit member may be eligible to request hours from the Sick Leave Bank.

Section 4 Annual Leave

A. Bargaining unit employees shall accrue and utilize annual leave pursuant to the provisions of the current Rule 13.20, and pursuant to Article 21, Section 1, above.

B. Employees shall make requests for annual leave to their immediate supervisor up to one year in advance and no later than the time proportionate to the amount of leave requested (i.e., if the employee is requesting two (2) weeks of annual leave, the employee shall request it two (2) weeks in advance, etc.). In cases of an emergency, an employee may request an immediate use of annual leave.

C. Requests for annual leave shall be considered on a first come, first served basis; however, when more than one (1) employee has requested the same annual leave time off at the same time, the supervisor shall select the requesting employee for approval of annual leave based on class seniority.

D. Supervisors shall approve or deny the employee(s) request for annual leave on the appropriate forms within a reasonable amount of time.

Section 5 Administrative Leave

Bargaining unit employees shall receive administrative leave pursuant to the provisions of the current Rule 13.60 (A) (1) as amended.

Section 6 Voting Leave

A. In accordance with the provision of Section 1-12-42, NMSA 1978, employees who are registered voters may absent themselves from work for up to two (2) hours for the purpose of voting between the opening and closing times of the polls.

B. The Employer shall specify the hours during this period in which the employee may be absent.

C. These provisions do not apply to any employee whose workday begins more than two (2) hours after the opening of the polls or ends more than three (3) hours prior to the closing of the polls.

D. If an employee is found to have abused this leave, the employee shall be subject to disciplinary action up to and including termination.

Section 7 Court Leave

A. When, in accordance with a subpoena, an employee appears as a witness before a federal or state grand jury or court, or before a federal or state agency, the employee shall be

entitled to leave with pay for the required period. Fees received as a witness, excluding reimbursement for travel and meals, shall be remitted to the City of Santa Fe Finance Department. In cases where employees are testifying against the city as the plaintiff or such appearances are for personal reasons, employees must use accrued annual, compensatory, or personal holiday leave time.

B. A person shall be entitled to leave with pay for serving on a federal or state grand or petit jury. Fees received as a juror, excluding reimbursement for travel, shall be remitted to the City of Santa Fe Finance Department.

C. An employee who is released from jury duty shall report to work upon release. Failure to adhere to this provision will be considered unauthorized absence and may result in disciplinary action.

D. At the employee's option, the hours of jury or court service may be taken as annual leave, provided the employee has sufficient leave available. An employee on annual leave will keep any compensation received from the jury or court service.

Section 8 Education Leave

A. The purpose of such leave is to permit employees to pursue education to attend for-credit courses from an accredited institution of higher learning as well as training courses. This leave is to provide each employee with the ongoing opportunity to receive the education needed to facilitate the development of knowledge, skills and abilities related to his/her growth within the organization. The Employer shall refer to and further comply with Article 14 of this Agreement regarding training and education.

B. An employee may request up to six (6) hours per week of educational leave for work on degree- related training or classes with pay for class attendance for courses that are scheduled during normal working hours and when approved according to the City of Santa Fe policies on tuition and training assistance. The Employer shall make every reasonable effort to accommodate employees' schedules to allow for training and education.

C. Alternative class schedules that deviate from only six (6) hours of educational leave per week may be mutually agreed upon by the immediate supervisor and the employee.

Section 9 Leave Without Pay (LWOP)

A. A department director may approve LWOP for up to ten (10) working days upon the written request from the employee. A request by an employee for LWOP in excess of ten (10)

working days must be approved by the department director, Human Resources Director, and City Manager.

B. LWOP, when requested, may be granted only when the department director can assure a position of like status and pay, at the location, upon the return of the person from LWOP.

C. If the department cannot assure a position in the same location and the employee agrees in writing to waive that requirement, LWOP may be granted.

D. LWOP may not exceed six (6) months during any twelve (12) month period in the case of a bargaining unit employee.

E. Employees shall not accrue sick or annual leave while on LWOP.

F. LWOP will be reported on a Human Resources Action Request Form only if it exceeds ten (10) working days.

G. Failure to report to work upon the expiration of approved LWOP shall be considered as a voluntary resignation on the part of the employee.

H. Return from LWOP in excess of ten (10) working days will be reported on a Human Resources Action Request Form.

Section 10 Personal Leave Day

A. Bargaining Unit employees shall be entitled each calendar year to receive one (1) personal leave day charged to personal holiday payroll code. The leave may be used for any purpose the employee wishes.

B. Personal leave days for full-time employees shall be eight (8) hours each. Personal leave days for part-time employees shall be four (4) hours each. Employees may not divide the personal leave day.

C. The personal leave day must be taken within the calendar year, or it will be forfeited to the AFSCME Sick Leave Bank.

D. The employee will forfeit their personal leave day to the AFSCME Sick Leave Bank upon separation if not used.

Section 11 Military Leave

A. In accordance with the provisions of pertinent state and federal law, all bargaining unit employees, except those in temporary or emergency status, who are members of organized units of the Army, Air National Guard, Air Force, Coast Guard, Navy, or Marine Reserves, shall be given up to fifteen (15) working days military leave with pay annually in addition to other authorized leave when they are ordered to active duty training with such organized units, with proper documentation.

B. In accordance with the provisions of state and federal law, the Governor as Commander-in-Chief, may grant any employee who is a member of the National Guard military leave with pay, in addition to that otherwise provided by law, not to exceed fifteen (15) working days per year for periods of active duty, with proper documentation.

Section 12 Family Medical Leave (FMLA)

Employees shall be granted family medical leave pursuant to the Family and Medical Leave Act of 1993 (FMLA), as amended.

Section 13 Parenting Leave for the Birth or Adoption of a Child

Pursuant to FMLA, bargaining unit employees shall be granted parental leave of twelve (12) weeks and the use, at their discretion, of sick leave, annual leave, leave without pay, and/or compensatory time or any combination thereof.

Section 14 Injury Leave

A. The first seven (7) days of absence following an employee's accidental injury arising out of an accident in the course of the employee's employment with the City shall be considered "injury leave" to be paid out of the appropriate department's budget with all the usual deductions made.

B. After the first seven (7) days of injury, the employee may continue on injury leave at full salary up to but not exceeding six (6) months.

C. During the period of time mentioned in Paragraph B, the employee will be allowed to accrue sick leave and annual leave at the normal rate, and PERA contributions will be matched "dollar for dollar" while the employee is on injury leave so that full PERA credit will continue.

D. If the employee will be out more than six (6) months, he/she can petition the Workers Compensation Claims Review Committee who will, on a case-by-case basis, review each case and, if compensation is to be continued, establish compensation at the rates of Workers Compensation (66 2/3%) and injury leave (33 1/3%).

E. During the period mentioned in Paragraph D, the employee will be allowed to accrue sick leave and annual leave on a prorated basis. PERA will also be paid on a prorated basis.

F. The employee is encouraged whenever possible to return to "light" or "limited" duty as an incentive toward rehabilitation.

Section 15 Bereavement Leave

A. In the event of a death in the employee's immediate family, employees may request the use of any available leave and/or leave without pay for bereavement and to attend to necessary arrangements. Requests for leave without pay are subject to Section 9 of this Article. A copy of a published death notice may be requested (e.g., obituary clipping, news article, Mass card, or funeral program).

B. Immediate family for bereavement leave is defined as a parent, stepparent, legal guardian, grandparent, spouse, child, stepchild, sister, stepsister, brother, stepbrother, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, niece, nephew, aunt, uncle, grandchild, and shall include persons living in the employee's household.

Section 16 Mentor Leave

The Employer shall allow bargaining unit employees up to one (1) hour of paid work time per week to participate in a recognized mentorship program as designated by the Human Resources Department.

Section 17 Administrative Leave for Educational Assistance

The Employer shall allow bargaining unit employees up to ten (10) hours of leave per calendar year, charged to administrative leave, for the purpose of participating and assisting a child or teen in school educational activities.

ARTICLE 22 OVERTIME AND COMPENSATORY TIME

Section 1 Overtime

The Employer shall compensate FLSA covered bargaining unit employees at the rate of one-and-a-half (1½) times the employee's regular rate of pay for hours worked in excess of forty (40) hours in a workweek. All overtime work requires the supervisor's prior authorization. Paid Holidays, Voting Time, Jury Duty, and Job-related classes and/or necessary training, and actual hours worked are considered as time worked for the purpose of computing overtime compensation. Other forms of paid and unpaid leave are not considered as time worked for overtime purposes. Only FLSA covered employees are eligible for overtime payment.

Section 2 Overtime Scheduling

A. The parties agree that offering overtime to employees whose classifications qualify them for the work tasks that require overtime is of primary importance. Each division shall maintain and post a division seniority list, by classification and/or job function, in descending order where the most senior employee is listed first.

B. Employees shall be offered overtime work on a rotational basis from the seniority lists, the first employee on the list being offered overtime first. When an employee works the requested overtime, he/she shall be rotated to the bottom of the list. If an employee declines the overtime, the subsequent employee on the list shall be offered the overtime, etc., until all employees on the list have been offered the opportunity to work overtime. If all employees decline overtime work, then the Employer shall assign overtime on a rotational basis in inverse order of the division seniority list.

C. Overtime compensation will be given in accordance with the FLSA.

D. Except in cases of emergencies, supervisors shall provide employees at least seven (7) calendar days' advance notice when assigning overtime pursuant to Paragraph B, above. An emergency is defined for this paragraph as a one-time crisis that was unforeseen or unavoidable.

E. The Employer shall not arbitrarily adjust or alter an employee's work schedule just to avoid paying overtime.

Section 3 Compensatory Time

A. Compensatory time is defined as time off in lieu of overtime pay. Compensatory time is accrued at the rate of one-and-a-half (1½) times the hours worked in excess of forty (40) hours in a workweek for FLSA non-exempt employees. For FLSA non-exempt employees, compensation is paid as overtime unless the employee elects in writing to receive compensatory time. FLSA non-exempt employees may carry up to a maximum of one

hundred (100) hours of compensatory time, and compensatory hours above one hundred (100) will be paid.

B. Bargaining unit employees who are FLSA exempt shall receive compensation for overtime worked in the form of straight-time compensatory time and are not eligible for overtime pay up to a maximum of one hundred (100) hours. Any compensatory time above one hundred (100) will not be paid out.

Section 4 Administrative Leave Rest Period

A. This section shall apply to all bargaining unit employees who are required to work sixteen (16) or more consecutive hours.

B. An affected employee shall be granted ten (10) hours of administrative leave by the Employer to be taken immediately following such work period.

Section 5 Overtime Work Rest Period

A. In the event a supervisor requests an employee to work an additional shift following his/her regular shift, the employee may, with supervisor approval, request leave to rest prior to the second shift.

ARTICLE 23 HOLIDAYS

A. The following days shall be observed as legal holidays:

1. New Year's Day
2. Martin Luther King Jr. Day
3. President's Day (Observed the Friday after Thanksgiving).
4. Memorial Day
5. Independence Day (4th of July)
6. Labor Day
7. Friday afternoon of Santa Fe Fiesta (four [4] hours)
8. Columbus Day/Indigenous Peoples' Day
9. Armistice Day/Veteran's Day
10. Thanksgiving Day
11. Christmas Day

B. The holidays listed in Paragraph A of this article shall be observed on the days indicated on the Employee Calendar provided by the Human Resources Department and distributed

by Payroll in accordance with the provisions of this Agreement. If the City recognizes an observed legal holiday not listed above, it shall be considered as such for bargaining unit employees.

C. The Holiday Pay Policy as described in the City's Personnel Rules and Regulations does not apply to bargaining unit employees.

D. Employees whose day off falls on the observed holiday shall be given comp time to be used at some future day. The comp time given shall be as follows:

1. Eight (8) hours for full-time employees, however, all employees working mandatory shifts shall be compensated at scheduled hours.
2. Four (4) hours for part-time employees, however, all employees working mandatory shifts shall be compensated at scheduled hours.
3. Employees who work on a voluntary flex or non-mandatory shift, will adjust their work to five 8-hour days for that holiday week.

E. Employees who are required to work on an observed holiday shall be compensated at the rate of two-and-a-half (2 ½) times their hourly rate including any pay differential.

F. Employees who work their normally scheduled work day on Christmas Day, New Year's Day, or Independence Day, when such days are not the official observed holiday, shall receive their normal pay (including overtime if applicable) plus accrued administrative leave at the rate of straight time for each hour worked, to be used at a future date.

ARTICLE 24 UNION SECURITY

Section 1 Payroll Deduction

A. The Employer shall make employee payroll deductions each pay period for:

1. Union membership dues;
2. Voluntary PEOPLE deductions. Rule 9.11 under Political Activity of the City of Santa Fe Personnel Rules and Regulations shall also be adhered to.

B. All money deducted from wages under this Article shall be remitted to the Union via AFSCME New Mexico Council 18 promptly after the payday covering the pay period of deduction.

C. Payroll deduction authorizations for Union membership dues in the possession of the

Employer on the effective date of this Agreement will be honored. The Employer will honor individual payroll deduction authorization forms received after the effective date of the Agreement. The Employer will begin the deduction promptly but in no event, no later than one (1) pay period after receipt of the payroll deduction authorization form from the employee or Union.

D. The duty of the Employer to honor payroll deduction authorizations shall continue until the expiration of this Agreement or until otherwise approved by the Union and notification in writing has been given to the Employer by a duly authorized officer.

Section 2 Dues Terminations and Reimbursements

A. Dues deductions may be terminated at the written request of the employee to the Employer and the union. The revocation letter shall be submitted only between November 1, and November 30, of each year to the Human Resources Department and the Union for processing.

B. The Employer shall immediately terminate dues deductions when an employee is transferred out of the bargaining unit or is separated from the City. In the event that dues deductions are to be terminated, the Employer shall notify the Union in writing the pay period the termination is to be effective. Notification shall include the names of the employees whose deductions are being terminated and the reason for the termination.

C. If in the event a reimbursement is owed to an employee due to a transfer out of the bargaining unit, the Employer shall request in writing to the Secretary-Treasurer no later than ten (10) business days after the effective date of the transfer, and shall include support documentation indicating the pay periods, amount and reason for reimbursement.

Section 3 Insufficient Earnings & Indemnification Clause

A. In accordance with the AFSCME Constitution, per capita tax payments increase every year; therefore, dues are increased accordingly. Beginning the first full pay period in March of each calendar year for the duration of this Agreement, the dues deductions shall increase by an amount to be set forth in writing by the Union to the Employer from a duly authorized officer. Such amount must be received in writing from the Union no later than January 1 of each year.

B. If an employee has insufficient earnings for the pay period, no dues deductions will be made for that employee for that pay period.

C. The Union agrees that it will indemnify and hold the Employer harmless from and against any claims, actions, or proceedings arising from deductions made by the Employer pursuant to this Article. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union. This paragraph C shall not be applicable to those claims alleging a breach by the Employer of its legal duties or obligation under the United States Constitution.

ARTICLE 25 WASH-UP TIME

The Employer shall provide a paid fifteen (15) minute period for employees in field, shop and aquatics job classifications of the bargaining unit to wash-up at the completion of their shift.

ARTICLE 26 CLASSIFICATION AND PAY PLAN

Section 1 Purpose

A. The Classification and Pay Plan is intended to be employee-based as well as provide for equitable employee compensation and career growth. The plan shall also establish competitive salaries to allow the City to recruit and retain qualified employees. The expressed objectives for the Classification and Pay Plan for the City of Santa Fe are:

1. To assign appropriate range assignments based on internal equity;
2. To establish entry pay rates that respond to the need to be competitive;
3. To establish the minimum and maximum compensation values for each job; and
4. To provide pay increases which recognize employee growth, and experience on the job.

B. The Classification and Pay Plan shall define pay ranges that allow consistent salary growth for each job classification in order to recognize employee longevity, and increased knowledge, skills, and abilities.

Section 2 Salary Increases for FY2026

Bargaining unit employees shall receive the second 25% of the recommended hybrid parity salary increase based on the compensation consultant's December 2023 recommendation, up to the maximum of the pay grade, the first full pay period following ratification and signature of this Agreement by the bargaining unit and Governing Body or resolution of impasse, whichever is later.

Bargaining unit employees shall receive a 3% salary increase the first full pay period following ratification and signature of this Agreement by the bargaining unit and Governing Body or resolution of impasse, whichever is later.

Bargaining unit employees shall receive the third 25% of the recommended hybrid parity salary increase based on the compensation consultant's December 2023 recommendation, up to the maximum of the pay grade, the first full pay period following ratification and signature of this Agreement by the bargaining unit and Governing Body or resolution of impasse, whichever is later.

Bargaining unit employees shall receive the fourth and final 25% of the recommended hybrid parity salary based on the compensation consultant's December 2023 recommendation, up to the maximum of the pay grade, the first full pay period in December 2025.

Bargaining unit employees hired prior to February 15, 2025, shall receive a one-time retention payment of $1000.00. Such payment shall be made the first full pay period following ratification and signature of this Agreement by the bargaining unit and Governing Body or resolution of impasse, whichever is later.

Section 3 Limited Reopener

Either party may request the reopener of negotiations on Article 26 by filing written notice with the other party during the month of March 2026. Either party may request successor negotiations by filing written notice with the other party during the month of February 2027 to commence negotiations in March 2027.

Section 4 Living Wage

Living Wage Increases will be addressed in accordance with the Living Wage Ordinance No. 2003-8 Section 28-1.5 B., as amended.

Section 5 Salary Survey

A. In order to verify the adequacy of the City pay levels with respect to general employment and economic conditions, the Employer shall conduct a classification and compensation survey once every 3 years for possible implementation in the fourth (4th) year. Data obtained in this survey shall include salary ranges (minimum and maximum pay rates) for all bargaining unit classifications within the Classification and Pay Plan.

B. The Employer shall forward a copy of the salary survey to the Union and at the Union's request, the parties shall meet to discuss the results of the survey. Revisions to the Pay Plan that result in increases or decreases of bargaining unit employees' pay are subject to negotiations.

Section 6 Revising and Creating Classifications; and Reorganizations

When the Employer is considering revisions to existing bargaining unit classifications, or reorganizing bargaining unit classifications, the Employer and Union shall meet within fourteen (14) calendar days prior to implementation to negotiate:

- The impact to current and newly created job classifications and salary; and
- Inclusion or exclusion in the bargaining unit.

Section 7 Right to Job Description

The Employer shall provide a written job description to a bargaining unit employee upon an employee's request. The Human Resources Department shall provide the Union with a copy of each job description and update upon written request.

Section 8 Temporary Upgrades

A. Employees shall not be required to perform duties of a higher classification as a regular assignment. However, when a bargaining unit employee is assigned in writing to temporarily work in a higher classification, the Employer shall select a bargaining unit employee based on rotating order utilizing class seniority.

B. The Employer shall compensate bargaining unit employees temporarily assigned to work at a higher classification for periods of five (5) consecutive work days or longer an increase of 10% of their wage to include all differentials and overtime pay at the rate of one-and-a-half (1½) times or the beginning wage of that classification, whichever is greater, for the duration of the reassignment. The Employer shall not alternate employees to avoid paying salary upgrade.

C. In cases where the immediate supervisor can plan in advance and assign an employee to working out of class prior to it taking effect, the immediate supervisor shall notify the Human Resources Department in writing no less than five (5) working days prior to the effective date of reassignment so that all necessary actions may be processed. Reassignments shall be effective on the first day of a pay period following the reassignment. In cases of emergency, the immediate supervisor shall notify the Human Resources Department at the first possible opportunity.

Section 9 Request for Reclassification

A. Either the Employer, or an employee covered by this Agreement who believes that his/her actual job position is not assigned to the classification that best represents the duties

assigned by the Employer, may initiate a request for a position classification review through procedures established by the Human Resources Department. Such procedures may include a desk audit of the employee's job. Employees shall request in writing such classification review through their immediate supervisor. The Employer shall forward such requests to the Human Resources Department within thirty (30) calendar days, excluding holidays.

B. All actions related to a request for a classification review must be completed by the Employer in a period not to exceed sixty (60) calendar days from the date it was submitted to the Human Resources Department. The employee requesting the classification review shall be notified in writing by the Human Resources Department after completion of the review to inform the employee of its status (approval or disapproval), with an explanation of the decision.

Section 10 Reclassification

A. If an employee's position is reclassified to a different job classification and the employee meets the minimum qualifications for that position, the employee shall be paid the appropriate salary for the new job classification, effective the first day of the pay period following the date the reclassification was approved by the Department Director, Human Resources Director, Finance Director, and City Manager.

B. For the purpose of maintaining equity within the Classification and Pay Plan, a reclassification may result in a salary increase from 0 to 20% or the minimum of the new grade, whichever is greater. The percentage of salary increase shall be consistent with the other bargaining unit employees within the new classification, unless the employee is currently earning more than existing bargaining unit employees in the same position classification.

C. Under no circumstance shall a reclassification result in a reduction in an employee's pay.

Section 11 Equity Adjustments

Normally, existing employees shall not be paid less than new employees in the same classification. If the City anticipates offering an applicant more than an existing employee, the Union President will be notified in writing. Pay equity issues shall be addressed on a case-by-case basis by the Human Resources Department and the Union.

ARTICLE 27 SPECIAL LICENSE AND CERTIFICATION

Section 1 Special License and Certification

Employees who acquire certification/licensure, which enable the employee to perform additional job duties and/or duties in another classification, are an asset to the City; however, it may not result in a pay increase in the employee's current classification. Compensation issues related to special licenses and certifications may be brought to the LMC for discussion.

Section 2 License and Certification Per Diem

Employees who are required to have a license or certification required for their job, shall receive per diem and mileage to attend certification exams, unless a city vehicle is made available. The maximum mileage allowed outside the city limits by law shall be paid to employees who test during their non-work hours. Should such examination take place during the employee's regular work hours, time required for testing and reasonable travel time to and from the site of the exam shall be considered hours worked. Employees who test during regular work hours shall be provided transportation to and from the examination site.

Section 3 Certification/Renewal Fees

A. The Employer shall reimburse employees the fees for such licenses (not including a regular driver's license) class certifications and/or renewals for one (1) certification level per year when these are required for the job unless certification tests are required more often per state law. However, the employee shall be responsible for ensuring that he/she meets all requirements of the certification(s), including pertinent application and training credits.

B. Employees who are required to have a CDL, and their routine work schedule falls during the normal business hours of the MVD, shall be compensated up to one (1) hour of straight time to renew their CDL every four (4) years. The Employer shall reimburse the cost of renewing the CDL when it is required for the employee's job.

ARTICLE 28 UNIFORM AND TOOL ALLOWANCE

Section 1 Uniforms Requirements

Uniforms for every twelve (12) month period will be made available in the most cost-effective manner and in compliance with IRS regulations for employees required to wear uniforms in the performance of their job.

A. The employer will determine which employees and job titles are required to wear uniforms and will determine the uniform specifications. Uniforms shall be consistent with and appropriate to the type of work that is performed by the employee. Employees may provide input into the composition of uniforms, but it is the Employer's responsibility to make the final determination. In addition, concerns or suggestions regarding uniforms may be

brought to the Labor Management Committee.

B. The employer will communicate to the employee via memorandum the specific uniform requirements no later than August 1st of each year to allow sufficient lead time for the procurement/clothing allowances for required uniform items.

C. Bargaining unit employees identified to receive a clothing allowance will receive the allowance no later than August 31st.

D. Employees are responsible to wear their required uniform during their work shift or as directed by the employer. It is the responsibility of the employees to maintain and clean their uniforms to present a professional image to the public. Failure to wear the required uniform may result in disciplinary action.

E. PPE (Personal Protective Equipment) is addressed in Article 18 of this Agreement.

F. Uniforms are only intended to be worn during work hours. Bargaining unit employees are not allowed to wear any clothing that bears a city logo while off duty. Failure to abide by this may result in disciplinary action. Alternate uniform requirements may exist at work sites with various work conditions. Some employees may only be required to wear uniform shirts on days designated by the supervisor.

G. Employees requesting to vary the required uniform shall submit their request in writing to their Division Director, including a justification for the request. Requests that are medically related shall have documentation attached from a medical professional. The employer shall respond to such request within 7 (seven) working days. Any denials by the employer may be appealed to the LMC.

H. Uniform articles that are adaptable for street wear will be taxable as per IRS regulations.

I. Uniforms shall be replaced within fourteen (14) business days when written notice is provided by the employee of damage occurring on the job and approved by the supervisor, division director, and department director.

Section 2. Tool Allowance and Damaged Tool Replacement

The Employer shall provide tools required to perform the job. Employees who are required to own and maintain their own personal tools for use in the performance of their duties, shall receive up to seven hundred dollars ($700.00) reimbursement per calendar year for the purchase replacement of tools damaged in the performance of their duties. The reimbursement can be used for the

purchase of new tools to keep up with changes in the automotive or equipment industry. The employee shall provide the Employer with a receipt as proof of purchase/justification for purchase and shall return the damaged tool(s) to the Employer.

Section 3. Procurement

Beginning Fiscal Year 2027, employees who have been identified by the employer as required to wear a uniform may receive up to a $700.00 clothing allowance annually depending on the nature of work as identified by the Employer.

- Employees shall be given the preference of vendor from which to purchase uniforms according to the approved list of vendors provided by the Purchasing Office.
- The employees shall choose the vendor but must purchase all uniform items from the chosen vendor, with the exception of footwear.
- Any oversight or miscalculation of uniform needs by the employee shall result in purchase of the required items at the cost of the employee.
- Employees may purchase only the uniform items specified as their official uniform.

ARTICLE 29 EMERGENCY CALL-IN GUARANTEE

A. When an employee is called in and is required to report to work for an emergency prior to the beginning of his/her work day or is called back after the conclusion of his/her normal work day, the employee will be guaranteed for each such call-in a minimum of three (3) hours at the straight time rate, or actual hours worked at the overtime rate of one-and-a-half (1 ½) times, whichever is greater.

B. On holidays the employee will be granted for each call-in a minimum of three (3) hours at the straight time rate, or actual hours worked at the overtime rate of two-and-a-half (2 ½) times, whichever is greater.

C. Once an employee has been called-in, any subsequent call-ins that are within the first call-in period shall not be considered a second call-in guarantee.

D. A second call-in guarantee will not be valid until after the first call-in guarantee time period has been exhausted.

E. Emergency call-in time shall commence at the time the employee is contacted and shall include a reasonable amount of time for travel to work.

F. If a bargaining unit employee is asked to stay after their regular work shift, the additional time worked shall be considered overtime and the provisions of this Article shall not apply.

G. Emergency call-in guarantee will not be considered part of a normal work day. Any time outside a normal work day will be paid at time-and-a-half.

ARTICLE 30 STANDBY TIME

A. Standby is defined as the time that an employee is required by their Department Director or designee to be ready to report for duty or to respond to a work-related call during his/her time off. A bargaining unit employee who is on standby time is not required to remain at any particular location and is free to engage in his or her own choice of activities so long as the below criteria are met. Standby assignments shall be rotated beginning with the employee with the most division seniority.

1. The bargaining unit employee on standby time shall ensure the cell phone or other means of communication between the City and the bargaining unit employee is working properly.

2. The bargaining unit employee must call back within fifteen (15) minutes of receiving a call, and report to work within thirty (30) minutes if needed. If a bargaining employee lives further than twenty (20) miles from the work location, the employee may request in writing to the Division Director an extension of time to report to the worksite.

3. Bargaining unit employees on standby must remain able to report to work and perform the functions of the job.

4. Bargaining unit employees on standby time that do not respond to a call, or are otherwise unable to respond to a call in a timely fashion shall forfeit all on-call pay for that 24-hour period and may be subject to disciplinary action.

5. Standby time shall not be paid when an employee is on any type of leave.

6. The employee shall be compensated in accordance with the FLSA for actual time worked.

B. In addition to other applicable provisions of this agreement, the Employer shall compensate an employee placed on standby for:

1. One (1) hour pay at the rate of one-and-a-half (1½) times their normal rate for standby occurring on a normal work day;
2. Two (2) hours pay at the rate of one-and-a-half (1½) times their normal rate for standby occurring on a regularly scheduled day off;
3. Four (4) hours pay at the rate of one-and-a-half (1½) times their normal rate for standby occurring on an observed holiday.

ARTICLE 31 SHIFT DIFFERENTIAL

A. Employees who are assigned to work a shift outside the "normal" day shift shall be compensated a shift differential as stated below, regardless of a work site's hours of operation.

B. A normal day shift is defined as a shift which begins between 6:00 a.m. to 9:00 a.m. A day shift is not eligible for a shift differential.

1. Employees who work a swing shift shall receive an additional $1.45 for each hour of work performed between the hours of 3:00 p.m. and 11:00 p.m.
2. Employees who work a graveyard shift shall receive an additional $1.95 for each hour of work performed between the hours of 11:00 p.m. and 7:00 a.m.

C. The Employer shall not change an employee's work schedule to avoid paying shift differential.

ARTICLE 32 PER DIEM AND MILEAGE

A. Employees required to work or travel out of town shall receive the appropriate per diem or actual expenses as provided by state law.

B. When requested in writing by the employee at least five (5) calendar days in advance, 80% of per diem shall be paid in advance prior to the employee's travel date. All other per diem reimbursements must be paid to the employee within two (2) weeks of the written request for reimbursement.

ARTICLE 33 BENEFITS

Section 1 Medical

The Employer shall continue to offer a group medical insurance plan and shall pay 76.25% of the cost of the group medical insurance premiums for all bargaining unit employees.

Section 2 Dental

The Employer shall continue to offer a dental coverage plan. The Employer shall pay 65% of the cost of premiums for the group dental insurance plan offered by the Employer for all bargaining unit employees who choose to participate in the plan. If the plan is changed as a result of a new contract or provider, any percent of premium increases or decreases charged by the provider shall be applied proportionately to both the Employer and bargaining unit employee based on the above percentage.

Section 3 Vision Insurance and Prescription Eyewear Benefits

The Employer shall continue to offer a vision coverage plan.

Prescription eyewear/ contacts shall be provided for bargaining unit employees, up to one hundred seventy-five dollars ($175) per twelve (12) month period. However, for employees in field or shop positions, such prescription eyewear must be City approved safety glasses. Requests for reimbursement must be submitted within three (3) months of purchase accompanied by the receipt to be evaluated for processing. Bargaining unit employees who select this vision care insurance shall not be eligible to receive the $175 benefit per 12 month period.

Section 4 Maintenance of Benefits

Payment of the Employer's share of medical benefits shall be maintained during all approved paid leave. An employee approved for leave without pay may choose to remain in the plan but will have to pay the full cost of both the Employer's and employee's share of premiums. If during a pay period, salary is not available to cover the premiums of any insurance coverage, the employee shall pay the full cost of premiums. Failure to pay premiums will result in termination of coverage.

Section 5 Maintenance of Benefits Upon Termination

The employee may choose to remain under the medical and dental coverage plan at 102% of the total monthly premiums under the Consolidated Omnibus Budget Act (COBRA) provision for eighteen (18) months due to termination; twenty-nine (29) months if termination was due to disabling condition or reductions in hours; or thirty-six (36) months for spouses or dependents upon death of the employee or when dependent child ceases to be qualified as a dependent under the group health plan. The employee must pay the premium with a cashier's check to the Employer by the 10th of each month or coverage will be discontinued.

Section 6 Deferred Compensation

The Employer shall continue to provide a deferred compensation plan under Section 457(b) of the Internal Revenue Code.

Section 7 Workers Compensation

The Employer shall comply with the New Mexico Worker's Compensation Act.

Section 8 Term Life Insurance

The Employer shall continue to provide a term life insurance plan with basic life coverage of a minimum of ten thousand ($10,000) dollars. The Employer shall continue to provide optional supplemental term life insurance coverage offered independently of the medical coverage based on the bargaining unit employee's salary at the rates prescribed by the insurance provider for two (2) times the employee's annual salary, with the Employer paying 60% of the cost of the employee's supplemental term life insurance premiums in compliance IRS regulations. Any percent of premium increases or decreases charged by the provider shall be applied proportionately to both the Employer and the bargaining unit employee based on the above percentage.

Section 9 Other Insurance Programs

The employer may continue to provide other insurance plans such as auto, universal life, long-term disability, cancer, intensive care, family life coverage, pre-paid legal, vision care and others. The insurance premiums shall be payroll deducted. Employees may subscribe to these insurances at the rates prescribed by the insurance firms. Such insurance shall continue to be offered only if at least ten percent (10%) of the employees elect to participate in a particular plan.

Section 10 Premium Only Plan (POP)

The Employer shall continue to provide an optional premium only plan in which the medical, dental, life, etc., premiums paid by an employee are tax deferred. The program shall comply with all IRS rules.

Section 11 Union Representation

The Union shall participate and have one vote in the Group Insurance Benefits Advisory Committee that is composed to establish, evaluate, advise on, and recommend group medical or dental insurance plans to the City Manager.

Section 12 Employee Parking

A. The Employer shall provide, without charge to employees, parking on a first-come, first-served basis at City facilities or at parking lots identified by the Parking Division.

B. The following parking guidelines for employees in the downtown area shall remain in effect as established:

1. Employees shall park assigned city vehicles in spaces allocated or assigned by the Parking Division.

2. Employees shall not park an assigned city vehicle or personal vehicle in spaces reserved for the mayor and/or city council.

3. The Employer shall provide the following for Union representatives conducting business as provided in Article 5.
   a. a parking placard/sign to be used at the airport; and
   b. validation stickers to be used at parking garages.
   c. Misuse of the parking placard/sign or validation stickers will result in withdrawal of the privileges for the Union representative.

Section 13 Other Miscellaneous Benefits

A. Bargaining unit employees may use their City of Santa Fe identification card to ride free on Santa Fe Trails buses and this benefit shall be subject to IRS regulations.

B. Bargaining unit employees shall be afforded the same wellness benefits as non-union employees in compliance with IRS regulations.

ARTICLE 34 INCENTIVE PAY ISSUES

Section 1 Snow and/or Ice Removal Standby

A. In order to address the City's responsibility to clear snow and/or ice where required, sometimes requiring that all available snow and/or ice removal equipment be deployed under twenty-four-hour operations, the following snow and/or ice removal standby pay system is established:

B. A snow and/or ice removal season is established. It is the period of the year when it is potentially necessary to remove snow and/or ice during twenty-four-hour operations. It is between October 1 and April 30. For this period, based on weather forecasts, the employer shall make the determination and assign employees to either eight (8) or twelve (12) hour shifts necessary to carry out the work required provide snow removal according to Article 22 Section 2 of this Agreement. If 12-hour shifts are assigned, "Shift 1" will start at 12:00 p.m. and end at 12:00 a.m.; and "Shift 2" will start at 12:00 a.m. and will end at 12:00 p.m.

These hours recognize the importance of having streets cleared to the maximum extent possible in advance of the morning rush hour peak traffic. If there are adequate staffing levels for snow and/or ice removal, the supervisor may consider three 8-hour shifts.

C. In advance of a snowfall, the Employer may place employees on snow and/or ice removal standby for the anticipated duration of the storm. The Employer shall notify employees in writing of said standby and shall retain copies of all notifications until the end of that fiscal year, June 30.

D. When the Employer has decided to begin snow and/or ice removal standby, all bargaining unit employees so assigned shall be paid standby time per Article 30 paragraphs B.1, B.2 and B.3, and shift differential pay as outlined in Article 31. Snow and/or ice standby shall be paid for all days employees are placed on standby time for, even if a storm does not materialize or if a storm ends earlier than expected.

E. If it is necessary to transition employees to any night shifts, it will be necessary for the employer to temporarily send some employees home to get into twenty-four hour snow and/or ice removal operations, as well as to maintain compliance with USDOT regulations governing maximum driving times and minimum rest periods for CDL licensed drivers. Employees whose shifts are split in this manner will be compensated in the amount identified in Article 15 Section 3 (D), except that Section 3 (D) (2) shall not apply; compensation stipulated in Article 15 Section 3 shall be provided only once in any pay period, provided that one or more split shifts are assigned to an employee in that pay period.

F. If employees are temporarily sent home early to transition to night shifts, and the storm ends early or does not materialize, the employer shall require these employees to report to work to complete their scheduled shift performing other snow related duties, as defined by the employer. At the employer's discretion, if snow related duties are not available, administrative leave may be considered, consistent with Article 21 Section 5, to assure that employees complete their scheduled shift.

G. Overtime rest period applies to this section in accordance with Article 22 Section 5.

Section 2 Emergency Incentive

In the event the City Manager declares an emergency, the provisions of Section 1 shall apply.

Section 3: Traffic Hazard Incentive Pay

Employees required to work in traffic, outside of their vehicle, more than fifty percent (50%) of their work week, are eligible for Traffic Hazard Incentive Pay. This incentive is an amount equal to $25.00 (twenty-five dollars) per month for full-time classified bargaining unit employees. This incentive is an amount equal to $12.50 (twelve dollars and fifty cents) per month for part-time bargaining unit employees.

Section 4: Bilingual Incentive

A. Eligibility Criteria

- Only job classifications identified by the LMC are eligible.
- The employer or employee who feels that a classification should be recognized for the bilingual incentive shall submit justification in writing to the Human Resources Director to share with the LMC for consideration.
- The language approved by the LMC for the bilingual incentive is Spanish.
- Employees are required to use Spanish on the job in the delivery of customer service a minimum of twenty-five percent (25%) of the time during the work week. Supervisors must concur that the bilingual incentive is warranted, and that the employee satisfies the 25% requirement.
- Employees shall complete the bilingual application, which is available at the Human Resources Department. Employees are responsible for completing the application in a timely manner, in relation to the testing date(s).
- Open enrollment will be available in March for a test date in April, with an effective date for the incentive occurring in July. Open enrollment will also be available in September for a test date in October with an effective date for the incentive occurring in January.
- The application shall immediately be returned to the Human Resources Department for review by the LMC.
- Employees shall successfully pass a bilingual exam recognized by the employer. The cost of the initial exam in a fiscal year shall be paid by the employer. Subsequent exams within the same fiscal year shall be paid by the employee, unless the re-take is required by the Employer because the employee changed job positions.

- If an employee fails the bilingual exam, and desires to reapply for the bilingual incentive, he/she shall successfully complete a Spanish course approved by the LMC. The employee shall wait for the next open enrollment to reapply.

B. Bilingual Incentive Pay

- The bilingual incentive for employees who demonstrate proficiency as identified by the City in Spanish speaking shall be an amount equal to one hundred dollars ($100.00) per month for full-time classified employees, and an amount equal to fifty dollars ($50.00) per month for part-time classified employees.

- The bilingual incentive for employees who demonstrate proficiency as identified by the City in Spanish speaking, reading, and writing shall be an amount equal to one hundred forty dollars ($140.00) per month for full-time classified employees, and an amount equal to seventy dollars ($70.00) per month for part-time classified employees. This higher incentive is limited to a total of twenty-five (25) bargaining unit employees. If more than twenty-five (25) employees qualify for this higher incentive, the LMC shall determine which employees will receive the incentive.

- The incentive pay shall become effective the first full pay period in January, following the successful completion of the test in October; or the incentive pay shall become effective the first full pay period in July, following the successful completion of the test in April.

- Employees previously approved for bilingual incentive pay will receive the incentive pay without having to re-apply and be re-tested provided that the employee still meets the criteria to receive the bilingual incentive as outlined in Section 4A above.

If an employee changes classification within the City, and the new classification position is identified by the Human Resources Department and LMC as eligible for the bilingual incentive, the employee shall not have to re-apply. If the new classification position is not identified by the Human Resources Department and the LMC, the bilingual incentive shall cease.

Section 5 Longevity Incentive

A. Based on uninterrupted City service, employees shall receive a longevity incentive each calendar year pursuant to the following schedule:

1. On the 5th anniversary date until the day before the 10th anniversary date, longevity leave is charged to administrative leave of eight (8) hours for full-time employees, and four (4) hours for part-time employees;

2. Beginning on the 10th anniversary date, longevity leave is charged to administrative leave of sixteen (16) hours for full-time employees, and eight (8) hours for part-time employees.

B. The employee shall be entitled to longevity leave days based upon their uninterrupted full years of service effective January 1 of each calendar year.

C. Longevity leave shall be used in no less than four (4) hour increments.

D. Longevity leave is not accruable and shall be used within the calendar year it was earned or it will be forfeited.

ARTICLE 35 WHOLE AGREEMENT

Section 1 Zipper Clause

The parties acknowledge that during negotiations which resulted in this Agreement, each party had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter appropriate for collective bargaining not removed by law. The understandings and agreements arrived at by the parties after the exercise of that right and opportunity, are set forth in this Agreement.

Section 2 Memorandum of Understanding

For the life of this Agreement each party waives the right and agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter referred to or covered by this Agreement. However, the matters within this Agreement may be interpreted during the term of the Agreement by mutual written agreement in the form of date specific Memorandum of Understanding (MOU) via the LMC.

Section 3 Employer Human Resources Policies

It is recognized that the Employer has certain Human Resources policies. The specifics of these policies have not been the subject of collective bargaining. The Union recognizes the Employer's right to establish, maintain, and modify such policies. However, such policies shall apply to bargaining unit employees so long as they do not conflict with the terms of this Agreement. The

union will be provided with notice of changes to City policies that affect bargaining unit employees' terms and conditions of employment. The Union will be given fourteen (14) days from the time of notice to provide written input. The parties may agree in writing to extend the time limit for written input. Input may result in revision or rescission of the proposed policy.

ARTICLE 36 GENERAL SAVINGS CLAUSE

A. Should any part of this Agreement or any provision contained herein be declared invalid by the Public Employees Labor Relations Board and/or any court of competent jurisdiction, the validity of the remaining portions shall not be affected.

B. Should this occur, the parties will immediately meet to negotiate a suitable provision to replace the provision held invalid.

ARTICLE 37 TERM OF AGREEMENT

A. This Agreement will become effective immediately upon ratification by the Union Membership and approval by the governing body and signature by the parties. This Agreement will remain in full force and effect and shall expire June 30, 2027.

B. All articles and provisions of this agreement shall be a mandatory subject of negotiations before the end of the term of agreement and shall begin in accordance with the City of Santa Fe Ordinance No. 2007-6, Section 2-A.

ARTICLE 38 APPROPIATIONS CLAUSE

The parties recognize that in accordance with PEBA and the Bateman Act, any provision of this Agreement that requires the expenditure of funds shall be contingent upon the specific appropriation of funds by the City's Governing Body. If sufficient appropriations are not made by the City's Governing Body, any Article of this Agreement which is dependent upon appropriation of funds by the Governing Body shall be subject to immediate re-negotiation upon written request by either party. Any subsequent agreement requiring the expenditure of funds shall be subject to specific appropriation of funds.

IN WITNESS THEREOF, the parties have signed their names and affixed the signature of their authorized representatives on this _____ day of _____, 2025.

CITY OF SANTA FE

_____

Alan Webber, Mayor

ATTEST:

_____

Andrea Salazar, City Clerk

APPROVED AS TO FORM:

Christopher W. Ryan

_____

Chris Ryan, Senior Assistant City Attorney

APPROVED:

Emily K. Oster

_____

Emily Oster, Finance Director

Bernadette Salazar

_____

Bernadette Salazar, Management Lead Negotiator

AFSCME REPRESENTATIVE:

Gilbert baca

_____

Gilbert Baca President Local 3999

Appendix A

ACCOUNT SPECIALIST
ACCOUNT TECHNICIAN
ACCOUNTANT
ACCOUNTING FINANCIAL ANALYST
ADMINISTRATIVE ASSISTANT
AIRPORT ACCESS CON SPECIALIST
AIRPORT MAINT WRK SR
AIRPORT OPERATIONS OFFICER
AQUATIC FACILITIES TECHNICIAN
ARCHAEOLOGICAL TECHNICIAN
ART SERVICES COORDINATOR
AUTO AND SECURITY SYS ADMIN
AUTO MECHANIC
AUTOCAD DRAFTER
AUTOMATED METER READER TECH
BDD ADV WATER TREATMENT OP
BDD CHARGE OPERATOR
BDD MAINT PLANNER/SCHEDULER
BDD MAINTENANCE MECHANIC
BUILDING PERMIT SPECIALIST
CDL TRANSIT DRIVER I
CDL TRANSIT DRIVER II
CDL TRANSIT DRIVER III
CDL TRANSIT DRIVER TRAINEE
CHEMIST
CITY LAND DOCUMENTS TECHNICIAN
COMMUNITY ART GALLERY MANAGER
CONSTRUCTION INSPECTOR
CONSTRUCTION LEAD WORKER
CONSTRUCTION PLANS EXAMINER I
CONSTRUCTION PLANS EXAMINER II
CONSTRUCTION PLANS EXAMINER III
CONSTRUCTION SUPERVISOR
CONTRACTS ADMINISTRATOR
CONVENTION SPECIALIST
CONVENTION SPECIALIST LEAD
COOK
CROSS CONNECTION SPECIALIST
CUSTODIAN
CUSTODIAN LEAD WORKER

CUSTOMER SERVICE REP
DIGITAL DUPLICATING TECHNICIAN
DISPATCHER
ECONOMIC DEV SPECIALIST
ECONOMIC DEV SPECIALIST II
ELECTRONIC REPAIR SHOP TECH
ENGINEER
ENGINEER ASSOCIATE
ENGINEERING TECHNICIAN SENIOR
ENVIRONMENTAL COMPLIANCE SPEC
ENVIRONMENTAL PROGRAMS COORD
EQUIPMENT OPERATOR LEAD WORKER
EQUIPMENT REPAIRMAN ADVANCED
EQUIPMENT REPAIRMAN BASIC
EQUIPMENT REPAIRMAN ENTRY
EQUIPMENT REPAIRMAN INTERMED
EQUIPMENT REPAIRMAN LEAD
EQUIPMENT SERVICE WORKER
ESD COLLECTIONS EQUIPMENT OPER
ESD MAINTENANCE WORKER
FIELD OPERATOR BASIC
FIELD OPERATOR ENTRY
FIELD OPERATOR LEAD
FINANCIAL ANALYST
GIS ANALYST
GIS COORDINATOR
GREEN BUILDING CODE SPECIALIST
HEAVY EQUIPMENT MECHANIC
ICE ARENA RECREATION TECH LEAD
INFORMATION SPECIALIST
INSPECTION TECHNICIAN
IPM MANAGER
IT PROCUREMENT COORDINATOR
ITT END USER SUPPORT TECH
JOURNEYMAN ELECTRICIAN
JOURNEYMAN MECHANICAL
LABORER
LAND USE COMPLIANCE OFFICER
LIBRARIAN
LIBRARY TECHNICIAN
MAINTENANCE SENIOR

MAINTENANCE SPECIALIST
MARKETING & SPEC EVENTS COORD
MULTIMEDIA PRODUCTION COORDINA
NETWORK ENGINEER
NON-CDL TRANSIT DRIVER
OFFICE ASSISTANT
ORDINANCE ENFORCEMENT SPEC
OUTREACH COORDINATOR
PAINT AND SIGN OPERATOR
PAINT AND SIGN TECHNICIAN SR
PAINT & SIGN LEAD OPERATOR
PAINT AND SIGN OPERATOR SENIOR
PARKING ATTENDANT SENIOR
PARKING ENFORCEMENT OFFICER
PARKING FIELD COLLECTOR
PARKING TECHNICIAN
PARKS EQUIPMENT OPERATOR
PARKS MAINTENANCE WORKER
PARKS MAINTENANCE WORKER SR
PERMIT TECHNICIAN
PIPEFITTER BASIC
PIPEFITTER ENTRY
PIPEFITTER INTERMEDIATE
PIPEFITTER LEAD
PLANNER
PLANNER SENIOR
PLANNER TECHNICIAN
PLANNING & LAND USE LONG-RANGE
PROCUREMENT ANALYST
PROJECT ADMINISTRATOR
PROJECT SPECIALIST
PROPERTY MANAGER
PUBLIC COMM RELATIONS OFFICER
PUBLIC UTILITIES INSPECTOR
PW PROJECT MANAGER I
PW PROJECT MANAGER II
PW PROJECT MANAGER III
PW PROJECT MANAGER III CON
RADIO MAINTENANCE TECHNICIAN
RECORDS TECHNICIAN
RECORDS TECHNICIAN LEAD

RECREATION COORDINATOR
RECREATION TECHNICIAN
REGISTRATION RECORDS SPEC
RESPITE CARE PROVIDER
SAFETY OFC & TRAINING ADM
SENIOR SERVICES PROGRAM COORD
SERVER ENGINEER
SENIOR GRAPHIC ARTIST
SIGNAL TECHNICIAN ENTRY
SIGNAL TECHNICIAN SENIOR
SIGNAL TECHNICIAN ADVANCED
STREETS MAINTENANCE WORKER
STREETS MAINTENANCE WORKER SR
STREETS EQUIPMENT OPERATOR
SUPPLY INVENTORY SUPERVISOR
SUPPLY INVENTORY TECHNICIAN
SUSTAINABILITY COORDINATOR
SWIM INSTRUCTOR
SWIM POOL LIFEGUARD
SYSTEM ADMINISTRATOR
SYSTEMS ANALYST
TRAFFIC SIGNAL ELECTRICIAN
TRANSIT DRIVER I
TRANSIT DRIVER II
TRANSIT DRIVER III
UTILITY BILLING INVESTIGATOR
UTILITY COLLECTIONS SPECIALIST
UTILITY HEAVY EQUIPMENT OPERAT
WASTE OPERATOR BASIC
WASTE OPERATOR LEAD
WASTE OPERATOR ENTRY
WASTE OPERATOR INTERMEDIATE
WASTE OPERATOR ADVANCED
WATER CONS ED & COMP SPEC
WATER CONSERVATION SPECIALIST
WATER LINE LOCATOR
WATER OPERATOR BASIC
WATER OPERATOR ENTRY
WATER OPERATOR INTERMEDIATE
WATER OPERATOR LEAD
WATER PROGRAM TECHNICIAN

WATER RESOURCE COORD ASSIST
WELDER
WILDLAND URBAN INTERFACE SPEC
WWM EQUIPMENT OPERATOR
WWM EQUIPMENT SPECIALIST SR.
WWM INSPECTION SENIOR
YOUTH PROGRAM COORDINATOR
YOUTH SPECIALIST
ZONING ENFORCEMENT SUPERVISOR

Signature: Christopher W. Ryan
Christopher W. Ryan (Sep 19, 2025 17:24:01 MDT)

Email: cwryan@santafenm.gov

Signature: Emily K. Oster

Email: ekoster@santafenm.gov

Signature: Bernadette Salazar

Email: bjsalazar@santafenm.gov

Signature:
Gilbert baca (Sep 22, 2025 14:25:15 MDT)

Email: gbhammer61@gmail.com

CITY OF SANTA FE

The Purchasing Memo

Date: September 2, 2025

To: Governing Body, Finance Committee, and Public Works & Utilities Committee

From: Joshua Chandler, Contract Administrator

Via: Eric Candeleria, ITT Department Director EC

Subject: Kronos ERP

Vendor Name: UKG Kronos Systems, LLC

Munis Vendor Number: 10540

ITEM AND ISSUE:

Request for Approval of Citywide Timekeeping and Workforce Management with UKG Kronos Systems LLC in the Total Amount of $211,153.10 Including NMGRT for the First Year of the Four-Year Term through July 13th, 2029. (Eric Candeleria, ITT Department Director; edcandelaria@santafenm.gov)

CONTRACT NUMBER:

The FY26 Munis contract number is 3260163.

BACKGROUND AND SUMMARY:

The City of Santa Fe has historically procured UKG Kronos Systems LLC services indirectly through their partner company, Immix Group. The City now seeks to establish a direct Sole Source procurement relationship with UKG Kronos Systems LLC. As an industry leader in human resources, payroll, and workforce management solutions, UKG will provide comprehensive services to all City departments, streamlining operations and enhancing administrative efficiency across municipal functions.

PRIOR APPROVALS AND SUPPORTING INFORMATION:

FUNDING SOURCE:

Fund Name/Number: ITT ERP/325

Munis Org Name/Number: ITT ERP/3253950

Munis Object Name/Number: Other Consulting/510340

Budget Officer / Designee: Andy Hopkins **Date:** 09/04/2025

Budget Officer Comment/Exceptions: _____

PROCUREMENT METHOD:

The procurement method used was NMSA 1978, Section 13-1-135, Coop

Chief Procurement Officer (CPO) / Designee: _____ **Date:** 09/05/2025

CPO Comment/Exceptions: OMNIA MA 24-6833

ASSOCIATED APPROVALS:

Approval: Eric Candelaria **Title: ITT Department Director** **Date:** 09/04/2025

All components included? ☒ **Yes** | ☐ **No**

Comment/Exceptions: _____

Vehicles included? ☐ **Yes** | ☒ **No**

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Construction to City Facilities, Furniture, and/or Fixtures included? ☐ **Yes** | ☒ **No**

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this an externally funded purchase? ☐ **Yes** | ☒ **No**

If yes, what is the issuing agency: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this a Capital Asset or Project? ☐ **Yes** | ☒ **No**

Project Ledger Number: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

ATTACHMENTS:

Linking Agreement to Omnia No. 24-6833

Omnia No. 24-6833 Executive Summary

Quote #322898

COI

W9

LINKING AGREEMENT
THE OMNIA MASTER AGREEMENT No. 24-6833
BETWEEN
CITY OF SANTA FE, NEW MEXICO
AND
UKG KRONOS SYSTEMS, LLC

This Linking Agreement (hereafter the "Linking Agreement"), effective as of the date last signed below ("Effective Date"), to the terms and conditions of the Omnia Master Agreement No. 24-6833 dated July 14, 2025, as amended (the "Omnia Master Agreement"), is entered into by and between UKG Kronos Systems, LLC (hereafter referred to as "UKG") and the City of Santa Fe, New Mexico (hereafter referred to as "Customer"). In consideration of those mutual undertakings and covenants, the parties agree as follows:

SECTION I - INTERPRETATION AND INTENT

All capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Omnia Master Agreement.

The Customer, as an eligible Participating Public Agency, assumes the rights and obligations of the Customer and is subject to the terms and conditions of the Omnia Master Agreement. The terms and conditions of the Omnia Master Agreement, as amended by this Linking Agreement, shall govern when Customer makes purchases of Services under the Omnia Master Agreement. In the event of a conflict between this Linking Agreement and the Omnia Master Agreement, this Linking Agreement shall govern.

The Customer is purchasing and UKG agrees to provide the Services at the price set forth in an applicable Order which is subject to the terms and conditions of the Omnia Master Agreement, as modified by this Linking Agreement.

SECTION II – COMPENSATION

The Customer shall pay to UKG in full payment for Services delivered as set forth in this Order and in accordance with the terms of the OMNIA Master Agreement. The total amount payable to UKG under this Order for the first year, including gross receipts tax and expenses, not to exceed two hundred eleven thousand, one hundred fifty-three dollars and ten cents. ($211,153.10). This amount is a maximum for the first year and not a guarantee that the work assigned to be performed by UKG under this Agreement shall equal the amount stated herein. The Customer shall remit payment in full to UKG on an annual basis in accordance with this Order

SECTION II - TERM

The term of this Linking Agreement commences on the Effective Date and shall run co-terminus with the Omnia Master Agreement, unless otherwise terminated in accordance with the Omnia Master Agreement.

SECTION III – INSURANCE

1. UKG shall procure and maintain, at all times and at its own expense, during the term of the Order entered into between the Customer and UKG, the types of insurance(s) specified below:

A. Commercial General Liability
UKG shall provide coverage on a Commercial General Liability Occurrence Coverage Form limits of $1,000,000.00 each occurrence and $2,000,000.00 annual aggregate. Limits may be achieved via a combination of primary and umbrella/excess insurance. Customer shall be included as an additional insured via blanket endorsement for General Liability and ongoing operations. Such protection shall be primary and non-contributory with respect to Customer's insurance, but only with respect to UKG's sole negligence. Upon written request, such blanket endorsement shall be provided to Customer.

B. Workers' Compensation
UKG shall provide Workers' Compensation Insurance as required by statute.

C. Umbrella/Excess Liability
Limits of liability of $5,000,000 per occurrence.

D. Automobile Liability
Limits of liability of at least $1,000,000 combined single limit, including but not limited to, all owned, hired and non-owned motor vehicles.

E. Professional Liability/Errors & Omissions/Cyber Risk Liability
UKG shall maintain coverage on a Professional Liability Form (or equivalent) in the amount of $5,000,000 per claim with a $5,000,000 annual aggregate.

F. All Risk Property Insurance
UKG shall provide All Risk Property Insurance in an amount not less than the full replacement cost of UKG' property.

G. Miscellaneous
UKG shall supply Customer with the above proof of insurance, as required upon the signing of this Agreement. All insurance companies for each of the coverages set forth above must be rated A- or better with a financial rating of VII or better in the most recent A.M. Best's Rating Guide.

SECTION IV - ADDITIONAL TERMS AND CONDITIONS OF THE CUSTOMER

1. Records and Audit. UKG shall maintain, and Customer and its representatives shall have the right to review all invoices associated with any Order incurred for the services under the Agreement, and similar materials relating to work performed for the Customer under this Agreement on file for at least three (3) years following the date of final payment to UKG by Customer. UKG shall maintain all invoices or applicable records for at least three (3) years following the date of final payment to UKG by Customer. Any duly authorized representative(s) of Customer shall have access to such invoices or applicable records upon a 30 day prior request at reasonable times, during usual and customary business hours.

2. Equal Opportunity Compliance. UKG maintains its commitment to non-discrimination, providing equal opportunity employment and complying with all such requirements and obligations relating to its employees under Applicable Law. Similarly, UKG adheres to its Code of Conduct, which includes non-discrimination requirements and available on our public website at https://www.ukg.com/about-us/esg. If UKG is found not to be in compliance with these requirements during the life of this Agreement, UKG agrees to take appropriate steps to correct these deficiencies.

3. New Mexico Tort Claims Act. Any liability incurred by Customer in connection with this Agreement is, to the extent applicable, subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended.

4. Governing Law and Venue. This Agreement is governed by and is to be interpreted solely in accordance with the laws of the State of New Mexico, without regard to any conflict of law provision that would result in the application of a different body of law, and each Party agrees to submit to exclusive venue in a court of competent jurisdiction.

IN WITNESS WHEREOF, the parties hereto have executed this Linking Agreement on the dates subscribed below.

CITY OF SANTA FE, NEW MEXICO	**UKG KRONOS SYSTEMS, LLC**
Dated:	Dated: 8/28/2025 | 10:09 AM EDT
By:	By: Signed by: Fabrice Pajot 7E4599F8AC5945F...
Name: ALAN WEBBER	Name: Fabrice Pajot
Title: MAYOR	Title: Sr Mgr. Order Processing

ATTEST:

_____

ANDREA SALAZAR, CITY CLERK

CITY ATTORNEY'S OFFICE:

_____

ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster

_____

EMILY OSTER, FINANCE DIRECTOR

Human Resource Information Systems and Related Products and Services
Executive Summary

Lead Agency: Cobb County

Solicitation: 24-6833

RFP Issued: June 28th, 2024

Pre-Proposal Date: July 10th ,2024

Response Due Date: August 8th, 2024

Proposals Received: #

Awarded to: UKG Kronos Solutions, LLC

Cobb County, GA, Department of Procurement issued RFP #24-6833 on June 28th, 2024, to establish a national cooperative contract for Human Resources Information Systems and Related Products and Solutions.

The solicitation included cooperative purchasing language Page 3 and Exhibit A: Section 1.1:

Page 3:
NATIONAL CONTRACT
Cobb County, GA, as the Principal Procurement Agency, defined in Attachment A, has partnered with OMNIA Partners, Public Sector, Inc., a Delaware corporation ("**OMNIA Partners**") to make the resultant contract (also known as the "**Master Agreement**" in materials distributed by OMNIA Partners) from this solicitation available to other public agencies nationally, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("**Public Agencies**"), through OMNIA Partners' cooperative purchasing program. Cobb County, GA, is acting as the contracting agency for any other Public Agency that elects to utilize the resulting Master Agreement. Use of the Master Agreement by any Public Agency is preceded by their registration with OMNIA Partners (a "**Participating Public Agency**") and by using the Master Agreement, any such Participating Public Agency agrees that it is registered with OMNIA Partners, whether pursuant to the terms of a Master Intergovernmental Cooperative Purchasing Agreement, a form of which is attached hereto on Attachment A, or as otherwise agreed to. Attachment A contains additional information about OMNIA Partners and the cooperative purchasing program.

Exhibit A: Section 1.1
1.1 Requirement
Cobb County, GA (hereinafter defined and referred to as "**Principal Procurement Agency**"), on behalf of itself and OMNIA Partners, Public Sector, Inc., a Delaware corporation ("**OMNIA Partners**"), is requesting proposals for Human Resource Information Systems and Related Products and Services. The intent of this Request for Proposal is any contract between Principal Procurement Agency and Supplier resulting from this Request for Proposal ("**Master Agreement**") be made available to other public agencies nationally, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("**Public Agencies**"), through OMNIA Partners' cooperative purchasing

program. The Principal Procurement Agency has executed a Principal Procurement Agency Certificate with OMNIA Partners, an example of which is included as Exhibit D, and has agreed to pursue the Master Agreement. Use of the Master Agreement by any Public Agency is preceded by their registration with OMNIA Partners as a Participating Public Agency in OMNIA Partners' cooperative purchasing program. Registration with OMNIA Partners as a Participating Public Agency is accomplished by Public Agencies entering into a Master Intergovernmental Cooperative Purchasing Agreement, an example of which is attached as Exhibit C, and by using the Master Agreement, any such Participating Public Agency agrees that it is registered with OMNIA Partners, whether pursuant to the terms of the Master Intergovernmental Purchasing Cooperative Agreement or as otherwise agreed to. The terms and pricing established in the resulting Master Agreement between the Supplier and the Principal Procurement Agency will be the same as that available to Participating Public Agencies through OMNIA Partners.

Notice of the solicitation was sent to potential offerors, as well as advertised in the following:

- Cobb County, GA website
- OMNIA Partners website
- USA Today, nationwide
- Arizona Business Gazette, AZ
- San Bernardino County Sun, CA
- Honolulu Star-Advertiser, HI
- The Herald-News – Will County (IL)
- The Advocate – New Orleans, LA
- The New Jersey Herald, NJ
- Albany Times Union, NY
- Daily Journal of Commerce, OR
- The State, SC
- Deseret News, UT
- Richmond Times-Dispatch, VA
- Seattle Daily Journal of Commerce, WA
- Helena Independent Record, MT
- Las Vegas Review-Journal
- Kennebec Journal, ME

On August 8th ,2024 proposals were received from the following offerors:

- Dayforce
- DLT Solutions
- Inovium
- NEOGOV
- UKG Kronos Systems, LLC

The proposals were evaluated by an evaluation committee. Using the evaluation criteria established in the RFP, the committee elected to enter into negotiations with UKG Kronos Systems, LLC and proceed with contract award(s) upon successful completion of negotiations.

Cobb County, GA, OMNIA Partners and UKG Kronos Systems, LLC successfully negotiated a contract, and the Cobb County, GA executed the agreement with a contract effective date of July 14, 2025.

Contract includes: The suppliers provided federal funds certifications which are available on the OMNIA Partners website for review.

Term:

Initial four-year agreement from July 14, 2025, through July 13, 2029, with the option to renew for three (3) additional one-year periods through July 13, 2032.

Pricing/Discount: Available upon request.

RENEWAL ORDER FORM

Quote#: Q-322898

Date:31 Jul, 2025

Customer Legal Name:
CITY OF SANTA FE

Customer Legal Address:
2651 SIRINGO RD, BUILDING F, SANTA FE, NM 87504 USA

Ship To: City of Santa Fe
1600 SAINT MICHAELS DR
SANTA FE, NM 87505-7615 USA

Bill To: City of Santa Fe
1600 SAINT MICHAELS DR
SANTA FE, NM 87505-7615 USA

Bill To Contact:

Payment Terms: Net 30 Days
Customer PO Number:
Renewal Term: 12 months
Billing Frequency: Annual
Billing Type: Advance

Currency:USD
Solution ID: 6140062

Order Notes:

“This Order is subject to the Master Agreement No 24-6833 entered into between Cobb County Board of Commissioner ("Lead Agency") and UKG Kronos Systems, LLC ("UKG") effective as of July 14th, 2025 (the " Omnia Master Agreement No. 24-6833 ") and used by Customer as an Omnia Participating Public Agency.”

Contract Summary

Contract Period Start Date: 7/1/2025 12:00:00 AM

Contract Period End Date: 6/30/2026 12:00:00 AM

Total Price: USD 175,222.54

The Total Price is the total billable amount (pre-tax) for the contract period listed above.

Annualized Contract Value: USD 175,032.00

The Annualized Contract Value is the value of the contract if all services are priced for 365 days. The Annualized Contract Value does not include estimated tax. Please note that this quote may include services priced for prorated periods.

SaaS Application

Product Name	Duration	Quantity	Monthly Total	Total Price
UKG PRO TIMEKEEPING HOURLY	12	1,700	USD 10,120.97	USD 121,451.64
UKG PRO LEAVE	12	1,700	USD 2,024.19	USD 24,290.33
UKG PRO WORKFORCE MANAGEMENT NON-PROD	12	1,700	USD 397.92	USD 4,775.02

ADDITIONAL TENANT				
UKG PRO WFM INTEGRATION TO UKG TELESTAFF	12	415	USD 0.00	USD 0.00
UKG PRO WORKFORCE MANAGEMENT ANALYTICS	12	1,700	USD 2,058.80	USD 24,705.55
Total Price				**USD 175,222.54**

City of Santa Fe		UKG Kronos Systems LLC	
Signature:	_____	Signature:	_____
Name:	_____	Name:	_____
Title:	_____	Title:	_____
Date:	_____	Date:	_____

The monthly price on this Order has been rounded to two decimal places for display purposes. As many as eight decimal places may be present in the actual price. Due to the rounding calculations, the actual price may not display as expected when displayed on your Order. Nonetheless, the actual price on your invoice is the true and binding total for this Order for purposes of amounts owed for the term. If you are tax exempt, please email a copy of your "Tax Exempt Certificate" to TaxExemption@ukg.com along with the quote number otherwise this order is subject to applicable taxes. The actual tax amount to be paid by Customer will be shown on Customer's invoice.

UKG is aligning our product brand and announcing that the UKG Dimensions® and UKG Pro® solutions will be one product suite under the name UKG Pro. Click here to learn more and view examples of current to future names

https://www.ukg.com/one-suite#WhatproductnamesarechangingunderUKGDimensions

Payment Terms: Net 30 Days
Currency: USD
Customer PO Number:

Quote Type: Renewal
Customer: CITY OF SANTA FE
Solution ID: 6140062
Contract #: 1202589 R21-NOV-24
Date: 04-AUG-2025
Prepared by: Jeana Spivak / US PublicSector4

Bill To: CITY OF SANTA FE
2651 SIRINGO RD, BUILDING F
SANTA FE NM 87504
UNITED STATES

Ship To: CITY OF SANTA FE
301 MONTEZUMA
SANTA FE NM 87504
UNITED STATES

Contact: RENEE MARTINEZ 12029 COMMUNICATIONS (ITT)
Email:

CONTRACT SUMMARY

Contract Period: 22-MAR-2025 - 21-MAR-2026

Description	Support Services	Estimated Tax	Subtotal
Equipment Support Services	25,130.08	1,225.12	26,355.20
Total	**25,130.08**	**1,225.12**	**26,355.20**

Annualized Contract Value: 25,130.08
The Annualized Contract Value is the value of the contract if all services are priced for 365 days. The Annualized Contract Value does not include estimated tax. Please note that this quote may include services priced for prorated periods.

IMPORTANT NOTES

This Order is subject to the Master Agreement No 24-6833 entered into between Cobb County Board of Commissioner ("Lead Agency") and UKG Kronos Systems, LLC ("UKG") effective as of July 14th, 2025 (the " Omnia Master Agreement No. 24-6833 ") and used by Customer as an Omnia Participating Public Agency.

Support Services are subject to applicable taxes. The tax amount shown on this quote is only an estimate. The actual tax due will be reflected on the invoice.

CITY OF SANTA FE	UKG KRONOS SYSTEMS LLC
Signature:_____	Signature:_____
Name:_____	Name:_____
Title:_____	Title:_____
Date:_____	Date:_____

Quote Type: Renewal
Customer: CITY OF SANTA FE
Solution ID: 6140062
Contract #: 1202589 R21-NOV-24
Date:
Prepared by: Jeana Spivak / US PublicSector4

Payment Terms: Net 30 Days
Currency: USD
Customer PO Number:

Bill To: CITY OF SANTA FE
2651 SIRINGO RD, BUILDING F
SANTA FE NM 87504
UNITED STATES

Ship To: CITY OF SANTA FE
301 MONTEZUMA
SANTA FE NM 87504
UNITED STATES

Contact: PATRICK BOWKER
Email: prbowker@santafenm.gov

EQUIPMENT SUPPORT SERVICES

Line	Support Service Level	Covered Product	Quantity	Start Date	End Date	Duration (days)
1	Depot Exchange	Data Collection: InTouch	76	22-MAR-2025	21-MAR-2026	365
2	Depot Exchange	Options: InTouch	88	22-MAR-2025	21-MAR-2026	365

	Support Services	Estimated Tax	Subtotal
Equipment Support Services	25,130.08	1,225.12	26,355.20

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 12/04/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MARSH USA, LLC. 99 HIGH STREET BOSTON, MA 02110 Attn: Boston.Certrequest@marsh.com CN101980216-US-MA-GAWUP-24-	**CONTACT NAME:** ? **PHONE (A/C, No, Ext):** **FAX (A/C, No):** **E-MAIL ADDRESS:**
INSURED UKG Inc. 900 Chelmsford Street Lowell, MA 01851	**INSURER(S) AFFORDING COVERAGE** — **NAIC #** **INSURER A :** Federal Insurance Company — 20281 **INSURER B :** Great Northern Insurance Company — 20303 **INSURER C :** ACE American Insurance Company — 22667 **INSURER D :** Arch Insurance Company — 11150 **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** NYC-011966145-02 **REVISION NUMBER:** 1

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	X **COMMERCIAL GENERAL LIABILITY** [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:			3606-40-33	12/01/2024	12/01/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ $ $ $ $ $	1,000,000 1,000,000 10,000 1,000,000 2,000,000 2,000,000
B	**AUTOMOBILE LIABILITY** X ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY			7361-70-85	12/01/2024	12/01/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $	1,000,000
A	X **UMBRELLA LIAB** X OCCUR **EXCESS LIAB** [ ] CLAIMS-MADE [ ] DED X RETENTION $ 10,000			7819-27-57	12/01/2024	12/01/2025	EACH OCCURRENCE AGGREGATE	$ $	10,000,000 10,000,000
C	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		7183-44-74	12/01/2024	12/01/2025	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $	1,000,000 1,000,000 1,000,000
D	PROF LIAB / TECH E&O / CYBER			NPL0067548-03	12/01/2024	12/01/2025	Limit:		10,000,000
A	COMMERCIAL PROPERTY			3606-40-33	12/01/2024	12/01/2025	ALL RISK		

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

City of Santa Fe
200 Lincoln Ave
Santa Fe, NM 87501

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Marsh USA LLC

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Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

▶ Go to *www.irs.gov/FormW9* for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

Print or type. See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
UKG Kronos Systems LLC

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☑ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
900 Chelmsford Street

Requester's name and address (optional)

6 City, state, and ZIP code
Lowell, MA 01851

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number
[ ][ ][ ] - [ ][ ] - [ ][ ][ ][ ]

or

Employer identification number
0 4 - 2 6 4 0 9 4 2

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person ▶ Mia Mar Date ▶ 2/12/2024

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

CITY OF SANTA FE

The Purchasing Memo

Date: August 18, 2025

To: Governing Body, Finance Committee, and Public Works & Utilities Committee

From: P. Fred Heerbrandt, P.E., Engineer Supervisor P. Fred Heerbrandt, P.E.

Via: Jesse Roach, Interim Public Utilities Director

Michael Dozier, Wastewater Management Division Director

Subject: General Services Contract Approval for Sewage Sludge Disposal Services

Vendor Name: Peter's Trucking, Inc.

Munis Vendor Number: 10041

ITEM AND ISSUE:

The Public Utilities Department respectfully requests your review and approval of a General Services Contract in the amount of $500,000.00 per year over the four year term of the contract, for a total not to exceed amount of $2,000,000.00, including NMGRT, for Sewage Sludge Disposal Services with Peter's Trucking Inc.

Approval of a Budget Adjustment Resolution (BAR) in the amount of $500,000.00 to fund the contract with Peter's Trucking Inc. for FY26.

CONTRACT NUMBER:

The FY26 Munis contract number is 3260090

BACKGROUND AND SUMMARY:

With the closure of NMED Groundwater Permit DP-135, which allowed land disposal of sewage sludge, the Paseo Real Water Reclamation Facility (PRWRF) must now rely more heavily on the use of landfilling to dispose of sewage sludge. During the process of the DP-135 permit closure and submission and approval of the new PRWRF Disposal Plan, residual sewage sludge built up at the facility. This contract will help the facility to catch up on disposal activities and maintain disposal activities over the next four years

PRIOR APPROVALS AND SUPPORTING INFORMATION:

FUNDING SOURCE:

Fund Name/Number: Wastewater Enterprise Fund/Fund 500

Munis Org Name/Number: Wastewater Operations Admin/5000361

Munis Object Name/Number: Service Contracts/510310

Budget Officer / Designee: Andy Hopkins **Date:** 08/19/2025

Budget Officer Comment/Exceptions: -

PROCUREMENT METHOD:

The procurement method used was NMSA 1978, Section 13-1-102, ITB

ITB 25164 was released on June 2, 2025. Bids were opened on July 2, 2025 with two compliant bidders

Chief Procurement Officer (CPO)/Designee: _____ **Date:** 08/22/2025

CPO Comment/Exceptions: _____

ASSOCIATED APPROVALS:

IT Components included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Treasury/Point of Sale Components included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Vehicles included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Construction to City Facilities, Furniture, and/or Fixtures included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this an externally funded purchase? ☐ Yes | ☒ No

If yes, what is the issuing agency: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this a Capital Asset or Project? ☐ Yes | ☒ No

Project Ledger Number: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

ATTACHMENTS:

CPO Service Determination Email
Vendor's Bid
bar

Certificate of Liability Insurance (COI)
General Services Contract

Item#:_____
Munis Contract #: 3260090
ITB #: 25164

CITY OF SANTA FE
GENERAL SERVICES CONTRACT

DEWATERED SEWAGE SLUDGE DISPOSAL

THIS CONTRACT is made and entered into by and between the City of Santa Fe, herein after referred to as the "City," and **Peter's Trucking Inc.** herein after referred to as the "Contractor."

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. **Definitions**

A. "Products and Services Schedule" refers to the complete list of products and services offered under this Contract and the price for each. Product and service descriptions may be amended with the prior approval of the Contract Administrator. New products and services shall not be added to the Products and Services Schedule.

B. "Business Hours" means 8:00 a.m. to 5:00 p.m. Mountain Time.

2. Scope of Work

3.

4. The City is the operator of the Paseo Real Wastewater Reclamation Facility (PRWRF) which produces about 1000 wet tons per month of bio-solids in conducting its dewatering operations. Some of the resulting dewatered sewage sludge is composted, but the rest will be transported to a landfill for disposal. However, no minimum volume of dewatered sewage sludge is guaranteed. The actual quantity of material may vary from the estimated amount and could be reduced to zero. The City of Santa Fe reserves the right to utilize dewatered sewage sludge in any manner allowed by law with a corresponding reduction in the volume of material being disposed of at the landfills.

5.

A. The Contractor shall perform the following work:

The Contractor shall transport of dewatered sewage sludge (NM Special Waste) from the Paseo Real Wastewater Reclamation Facility (PRWRF) to either the Caja del Rio Landfill, Santa Fe, NM, Estancia Valley Regional Landfill, Moriarty, NM, or the WM Valencia Regional Landfill, Los Lunas, NM., Sandoval County Landfill, Rio Rancho, NM, Northeastern New Mexico Regional Landfill, Wagon Mound, NM, Cerro Colorado Landfill, Albuquerque, NM, as directed by the City. The Contractor shall supply the appropriate vehicles that will be used in the transportation process. The required trips will vary depending on the needs of the facility. WWMD will dictate which one of the 6 locations to deliver to at the time of the order. All tip

fees will be paid directly to the landfill by the Contractor and billed to the City, including the proposed handling fee.

Storage capacity at the facility is limited and operations are generally 8 hours per day, 5 days per week. PRWRF staff will notify contractor of the sludge hauling needs on a weekly basis, providing a minimum of 48 hours' notice of the need for hauling services. The Contractor will be available for hauling loads at the frequency and interval that keeps the dewatering facility operational. The Contractor will work with PRWRF to develop communication protocols that engender an efficient and safe biosolids operation.

Service Requirements
Required trips will vary depending on the needs of the facility. Each time the truck is loaded, the Contractor's driver will be responsible for acquiring a paint filter test and pH test report, conducted by the PRWRF in-house laboratory before leaving the facility and provide the landfill with a copy of the passing test results. If this test(s) fails, then no load will commence. The Contractor's driver will also be provided with a completed Special Waste Manifest for the destination landfill. The Contractor's driver will be required to carry copies provided by PRWRF staff of the PRWRF Special Waste Spill Response Plan. The Contractors' drivers must also hold a Special Waste Hauler Registration with the New Mexico Environment Department, Solid Waste Bureau. This Waste Hauler Registration will remain active and current throughout the term of the price agreement and must be submitted to the City before an award and contract are issued.

Full Loads Required:
The Contractor will be required to haul a full load. PRWRF will assist with loading and will check trailers for full loads. Overfilled loads can spill over the corners of the trailer and a certain amount of expansion of loads has been observed during summer months. The Contractor's driver will be expected to take all overfill and underfill considerations into account on a per trip basis.

Equipment Requirements:
The Contractor will supply all equipment (truck, tarp, etc.) necessary for hauling of the dewatered sewage sludge to the landfill. Minimum load capacity shall be 10 tons. The Contractor is responsible for maintaining their vehicles in good mechanical condition and maintaining compliance with all applicable local, state, and federal laws and regulations.

Operating Expenses
Contractor agrees to bear *all* costs and expenses incidental to the operation of the equipment, whether empty or loaded, including without limitation, all risks of depreciation, all maintenance (including cleaning and washing), oil, tires, repairs, business taxes, consumption and sales taxes, personal taxes, transportation taxes, insurance coverage required herein, workers compensation premiums if required, payroll taxes, licenses, vehicle registration renewal fees, base plates, and all highway tolls. If the City is required to withhold or pay any taxes or make any other payment with respect to fees owed by Contractor, Contractor will reimburse the City, or permit the City to

make deductions for taxes or other payments required from any monies owed to Contractor. **Contractor will pay all tipping fees directly to the relevant disposal site and bill the City, including the proposed handling fee**. A valid **Certificate of Liability Insurance** must be submitted to the City before the contract is awarded and must remain current throughout the term of the price agreement. A valid **Truck Insurance Policy** with at least the minimum New Mexico statutory required limits for this type of Hauling must be submitted to the City before the price agreement is awarded. This Truck Insurance Policy must remain active throughout the term of the price agreement.
Contractor must list below the Dispatching Operations Base (DOB) address where trucks will leave and return. This DOB must remain the same throughout the term of the Agreement.

DOB Address: _24 Taylor Road, Santa Fe, NM 87508

Payment
Loads transported to the landfills will be paid on a per trip basis as calculated in the bid award, attached hereto as Exhibit A. The trip will also include beginning and ending truck odometer mileage for the Round Trip on the invoice. Trips to the landfill will be paid based on actual hours required to complete the trip at the hourly rate defined in the Price Item Schedule. Round Trip will be calculated from the DOB address of the awarded Contractors (above).

Minimum Requirements of Qualifications:
Contractor must be a registered Special Waste Hauler under the New Mexico Environment Department.

3. Compensation.

Payment:
The total compensation under this Agreement shall not exceed $500,000.00 per year over the four-year term of this contract, including New Mexico gross receipts tax paid at the rate of 8.1875%. This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The Parties do not intend for the Contractor to continue to provide Services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the Services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for Services provided in excess of the total compensation amount without this Agreement being amended in writing prior to services, in excess of the total compensation amount being provided.

Payment shall be made upon Acceptance of each Deliverable and upon the receipt and Acceptance of a detailed, certified Payment Invoice. Payment will be made to the Contractor's designated mailing address. In accordance with Section 13-1-158 NMSA 1978, payment shall be tendered to the Contractor within thirty (30) days of the date of written certification of Acceptance. All Payment Invoices MUST BE received by the City no later than fifteen (15) days after the termination of this Agreement. Payment Invoices received after such date WILL NOT BE PAID.

D. Performance Bond.
Not Applicable. The Parties agree there is no Performance Bond.

5. **Term**

THIS CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This contract shall terminate **four (4) years from date of final signature.** In no event shall the contract exceed a total of ten (10) years in accordance with NMSA 1978, Sections 13-1-150 through 152.

6. **Default and Force Majeure**

The City reserves the right to cancel all, or any part of any orders placed under this contract without cost to the City, if the Contractor fails to meet the provisions of this contract and, except as otherwise provided herein, to hold the Contractor liable for any excess cost occasioned by the City due to the Contractor's default. The Contractor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Contractor; such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above, unless the City shall determine that the supplies or services to be furnished by the sub-contractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery scheduled. The rights and remedies of the City provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this contract.

7. **Termination**

A. Grounds. The City may terminate this Contract for convenience or cause. For contracts within their authority, the City Manager or their designee is authorized to provide the notice of termination, otherwise such notice of termination shall be provided by the Mayor, or their designee as authorized by the Governing Body. The Contractor may only terminate this Contract based upon the City's uncured, material breach of this Contract.

B. Notice: City Opportunity to Cure.

1) The City shall give the Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2) Contractor shall give City written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the City's material breaches of this Contract upon which the termination is based and (ii) state what the City must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the City does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the City does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3) Notwithstanding the foregoing, this Contract may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the City; (ii) if, during the term of this Contract, the Contractor is suspended or debarred by the City; or (iii) the Contract is terminated pursuant to Paragraph 17, "Appropriations", of this Contract.

C. Liability. Except as otherwise expressly allowed or provided under this Contract, the City's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise

affect either party's liability for pre-termination defaults under or breaches of this Contract. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS CONTRACT.*

8. **Amendment**

A. This Contract shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Contract to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Contract, pursuant to the termination provisions as set forth in Paragraph 7 herein, or to agree to the reduced funding.

9. **Status of Contractor**

The Contractor, and Contractor's agents and employees, are independent Contractors for the City and are not employees of the City. The Contractor, and Contractor's agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City because of this Contract. The Contractor acknowledges that all sums received hereunder are personally reportable by the Contractor for income tax purposes, including without limitation, self-employment tax and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has written authority to do so, and then only within the strict limits of that authority.

10. **Assignment**

The Contractor shall not assign or transfer any interest in this Contract or assign any claims for money due or to become due under this Contract without the prior written approval of the City.

11. **Subcontracting**

The Contractor shall not subcontract any portion of the services to be performed under this Contract without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Contract, nor shall any subcontract obligate direct payment from the City.

12. **Non-Collusion**

In signing this Contract, the Contractor certifies the Contractor has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the City.

13. **Inspection of Plant**

The City may inspect, at any reasonable time during Contractor's regular business hours and upon prior written notice, the Contractor's plant or place of business, or any subcontractor's plant or place of business, which is related to the performance of this contract.

14. **Commercial Warranty**

The Contractor agrees that the tangible personal property or services furnished under this Contract shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such tangible personal property or services, and that the rights and remedies provided herein shall extend to the City and are in addition to and do not limit any rights afforded to the City by any other clause of this order. The contractor agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

15. **Condition of Proposed Items**

Where tangible personal property is a part of this Contract, all proposed items are to be NEW and of most current production, unless otherwise specified.

16. **Records and Audit**

During the term of this Contract and for three years thereafter, the Contractor shall maintain detailed records pertaining to the services rendered and products delivered. These records shall be subject to inspection by the City, the State Auditor and other appropriate state and federal authorities. The City shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the City to recover excessive or illegal payments.

17. **Appropriations**

The terms of this Contract, and any orders placed under it, are contingent upon sufficient appropriations and authorization being made by the Governing Body for the performance of this Contract. If sufficient appropriations and authorization are not made by the legislature, this Contract, and any orders placed under it, shall terminate upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Contract to unilaterally reduce funding, the Contractor shall have the option to terminate the Contract or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

18. **Release**

The Contractor, upon final payment of the amount due under this Contract, releases the City, its officers, and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. The Contractor agrees not to purport to bind the City, unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

19. **Confidentiality**

Any confidential information provided to or developed by the Contractor in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Contractor without prior written approval by the City.

20. **Conflict of Interest**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Contract, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Contract. The Contractor shall comply

with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Contract, will continue to comply with, and that this Contract complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Paragraph are material representations of fact upon which the City relied when this Contract was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Contract, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Contract or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Contract or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Contract to the contrary, the City may immediately terminate the Contract.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

21. **Approval of Contractor Representative(s)**

The City reserves the right to require a change in Contractor representative(s) if the assigned representative(s) are not, in the opinion of the City, adequately serving the needs of the City.

22. **Scope of Contract; Merger**

This Contract incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written contract.

All terms and conditions of the **ITB # 25164 - Dewatered Sewage Sludge Disposal** and the Contractor's response to such document(s) are incorporated herein by reference and is included in the order of precedence.

23. **Notice**

The Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

24. **Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws, and local Ordinances, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, the Contractor agrees to assure that no person in the United States shall on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this

Contract. If Contractor is found not to be in compliance with these requirements during the life of this Contract, Contractor agrees to take appropriate steps to correct these deficiencies.

25. **Indemnification**

The Contractor shall hold the City and its employees harmless and shall indemnify the City and its employees against any and all claims, suits, actions, liabilities and costs of any kind, including attorney's fees for personal injury or damage to property arising from the acts or omissions of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall not be liable for any injury or damage as a result of any negligent act or omission committed by the City, its officers or employees.

26. **New Mexico Tort Claims Act**

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

27. **Applicable Law**

The laws of the State of New Mexico shall govern this Contract, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-2. By execution of this Contract, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Contract.

28. **Limitation of Liability**

The Contractor's liability to the City, for any cause whatsoever shall be limited to the purchase price paid to the Contractor for the products and services that are the subject of the City's, claim. The foregoing limitation does not apply to paragraph 25 of this Contract or to damages resulting from personal injury caused by the Contractor's negligence.

29. **Incorporation by Reference and Precedence**

If this Contract has been procured pursuant to a request for proposals, this Contract is derived from (1) the request for proposal, (including any written clarifications to the request for proposals and any City response to questions); (2) the Contractor's best and final offer; and (3) the Contractor's response to the request for proposals.

In the event of a dispute under this Contract, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) amendments to the Contract in reverse chronological order; (2) the Contract, including the scope of work and all terms and conditions thereof; (3) the request for proposals, including attachments thereto and written responses to questions and written clarifications; (4) the Contractor's best and final offer if such has been made and accepted by the City; and (5) the Contractor's response to the request for proposals.

30. **Workers' Compensation**

The Contractor agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this Contract may be terminated by the City.

31. **Inspection**

If this contract is for the purchase of tangible personal property (goods), final inspection and acceptance shall be made at Destination. Tangible personal property rejected at Destination for non-conformance to specifications shall be removed at Contractor's risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

32. **Inspection of Services**

If this contract is for the purchase of services, the following terms shall apply.

A. Services, as used in this Article, include services performed, workmanship, and material furnished or utilized in the performance of services.

B. The Contractor shall provide and maintain an inspection system acceptable to the City covering the services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the City and for as long thereafter as the Contract requires. The City has the right to inspect and test all services contemplated under this Contract to the extent practicable at all times and places during the term of the Contract. The City shall perform inspections and tests in a manner that will not unduly delay or interfere with Contractor's performance.

C. If the City performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.

D. If any part of the services do not conform with the requirements of this Contract, the City may require the Contractor to re-perform the services in conformity with the requirements of this Contract at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the City may:

(1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements of this Contract; and

(2) reduce the contract price to reflect the reduced value of the services performed.

E. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Contract, the City may:

(1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the City that is directly related to the performance of such service; or

(2) terminate the contract for default.

33. **Insurance**

If the services contemplated under this Contract will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Contract, the following insurance coverage(s), naming the City as additional insured.

A. Commercial General Liability insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

B. Business Automobile Liability insurance for all owned, non-owned automobiles, with a combined single limit not less than $1,000,000 per accident.

C. Broader Coverage and Limits. The insurance requirements under this Contract shall be the greater of (1) the minimum coverage and limits specified in this Contract, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Contract are sufficient to cover the obligations of Contractor hereunder.

D. Contractor shall maintain the above insurance for the term of this Contract and name the City as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

34. **Impracticality of Performance**

A party shall be excused from performance under this Contract for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

35. **Invalid Term or Condition**

If any term or condition of this Contract shall be held invalid or unenforceable, the remainder of this Contract shall not be affected and shall be valid and enforceable.

36. **Enforcement of Contract**

A party's failure to require strict performance of any provision of this Contract shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Contract shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

37. **Patent, Copyright and Trade Secret Indemnification**

A. The Contractor shall defend, at its own expense, the City against any claim that any product or service provided under this Contract infringes any patent, copyright to trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the City based upon Contractor's trade secret

infringement relating to any product or services provided under this Contract, the Contractor agrees to reimburse the City for all costs, attorneys' fees and amount of the judgment. To qualify for such defense and or payment, the City shall:

1) give the Contractor prompt written notice within 48 hours of any claim;
2) allow the Contractor to control the defense of settlement of the claim; and
3) cooperate with the Contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the Contractor's opinion is likely to become the subject of a claim of infringement, the Contractor shall at its option and expense:

1) provide the City the right to continue using the product or service and fully indemnify the City against all claims that may arise out of the City's use of the product or service;
2) replace or modify the product or service so that it becomes non-infringing; or,
3) accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by the City to the extent such modification is the cause of the claim.

38. **Survival**

The Contract paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification; Indemnification; and Limit of Liability" shall survive the expiration of this Contract. Software licenses, leases, maintenance and any other unexpired Agreements that were entered into under the terms and conditions of this Contract shall survive this Contract.

39. **Disclosure Regarding Responsibility**

A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars ($60,000.00) with any City for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor's company is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body.

B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

C. The Contractor shall provide immediate written notice to the City if, at any time during the term of this Contract, the Contractor learns that the Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.

D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Contract. However, the disclosure will be considered in the determination of the Contractor's responsibility and ability to perform under this Contract. Failure of the Contractor to furnish a disclosure or provide additional information as requested will be grounds for immediate termination of this Contract pursuant to the conditions set forth in Paragraph 7 of this Contract.

E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person

in the ordinary course of business dealings.

F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Contract. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the City. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the City may terminate the involved contract for cause. Still further the City may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the City.

40. **Suspension, Delay or Interruption of Work**

The City may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the work in whole or in part for such period of time as the City may determine. The contract sum and contract time shall be adjusted for increases in cost and/or time associated with Contractor's compliance therewith. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized. Any compensation requested for which entitlement is granted and the contract sum adjusted, shall have profit included (for work completed) and for cost only (not profit) for Contractor costs incurred directly tied to the suspension itself and not otherwise covered by Contract remedy. Any change in Total Compensation must be reflected in an Amendment executed pursuant to Section 8 of this Contract.

41. **Notification**

Either party may give written notice to the other party in accordance with the terms of this Paragraph. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three (3) business days after being mailed.

To the City: Ron Lujan
73 Paseo Real
Santa Fe, NM 87507
pfheerbrandt@santafenm.gov

To the Contractor: Pedro Luis Marquez Carbajal
Peter's Trucking Inc.
2 Tusa Drive
Santa Fe, NM 87508
peterstruckinginc23@gmail.com

Either party may change its representative or address above by written notice to the other in accordance with the terms of this Paragraph. The carrier for mail delivery and notices shall be the agent of the sender.

To the Contractor: Pedro Luis Marquez Carbajal
Peter's Trucking Inc.

2 Tusa Drive
Santa Fe, NM 87508
peterstruckinginc23@gmail.com

42. **Succession**

This Contract shall extend to and be binding upon the successors and assigns of the parties.

IN WITNESS WHEREOF, the Parties have executed this Contract as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

_____
ALAN WEBBER, MAYOR

DATE:_____

CONTRACTOR:
PETER'S TRUCKING INC.

Pedro l. Marquez C.
Pedro l. Marquez C. (Aug 6, 2025 18:46:47 MDT)
Pedro Luis Marquez Carbajal, President

DATE: Aug 6, 2025

NMBTIN#: 03-625002-003

ATTEST:

_____
CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Aug 7, 2025 09:48:53 MDT)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster
FINANCE DIRECTOR

Item	Approx. Qty.	UOM	Article and Description	Unit Price	Comments
1	5	HR - Hours	Number of hours necessary to deliver sludge from the Paseo Real Wastewater Reclamation Facility to Estancia Valley Regional Landfill.	$1,050 @ $210/hr	5 hours round trip. This includes loading and unloading time. We are estimating this amount of time because the sludge tends to stick to the trailer, so it takes longer to unload. This travel time is also taking into consideration that a semi-truck takes longer to reach a location than a conventional vehicle.
2	2	HR - Hours	Number of hours necessary to deliver sludge from the Paseo Real Wastewater Reclamation Facility to Caja del Rio landfill.	$420 @ $210/hr	2 hours round trip. This includes loading and unloading time. We are estimating this amount of time because the sludge tends to stick to the trailer, so it takes longer to unload. This travel time is also taking into consideration that a semi-truck takes longer to reach a location than a conventional vehicle.
3	7	HR - Hours	Number of hours necessary to deliver sludge from the Paseo Real Wastewater Reclamation Facility to Waste Management Valencia Regional Landfill.	$1,470 @ $210/hr	7 hours round trip. This includes loading and unloading time. We are estimating this amount of time because the sludge tends to stick to the trailer, so it takes longer to unload. This travel time is also taking into consideration that a semi-truck takes longer to reach a location than a conventional vehicle.
4	5	HR - Hours	Number of hours necessary to deliver sludge from the Paseo Real Wastewater Reclamation Facility to Sandoval County Landfill, Rio Rancho, NM	$1,050 @ $210/hr	5 hours round trip. This includes loading and unloading time. We are estimating this amount of time because the sludge tends to stick to the trailer, so it takes longer to unload. This travel time is also taking into consideration that a semi-truck takes longer to reach a location than a conventional vehicle.
5	8	HR - Hours	Number of hours necessary to deliver sludge from the Paseo Real Wastewater Reclamation Facility to Northeastern New Mexico Regional Landfill, Wagon Mound, NM.	$1,680 @ $210/hr	8 hours round trip. This includes loading and unloading time. We are estimating this amount of time because the sludge tends to stick to the trailer, so it takes longer to unload. This travel time is also taking into consideration that a semi-truck takes longer to reach a location than a conventional vehicle.
6	7	HR - Hours	Number of hours necessary to deliver sludge from the Paseo Real Wastewater Reclamation Facility to Cerro Colorado Landfill, Albuquerque, NM	$1,470 @ $210/hr	7 hours round trip. This includes loading and unloading time. We are estimating this amount of time because the sludge tends to stick to the trailer, so it takes longer to unload. This travel time is also taking into consideration that a semi-truck takes longer to reach a location than a conventional vehicle.
7	1	$/HR.	Hourly rate for sludge Hauling Services including all labor, fuel, licenses, and incidentals.	$210/hr	
8	1	%	Handling fee for direct payment of tip fees	$ 160.00	

MACALLISTER, LINDA M. (Contractor)

From: DUTTON-LEYDA, TRAVIS K.
Sent: Wednesday, April 23, 2025 9:43 AM
To: HEERBRANDT, PAUL F.; Purchasing DET
Cc: MACALLISTER, LINDA M.
Subject: RE: Scope of Work Determination

Greetings,

The scope of work as written would be General Services. This determination relates only to that question and is no comment on whether the scope of work or procurement method meet all legal standards. I reserve the right to change this determination if the scope of work differs from the scope of work submitted for the original determination. This procurement must be conducted using the processes and procedures set forth by the City of Santa Fe, Central Purchasing, the Procurement Manual, and state statutes.

Please note:

- Save this email as a PDF and upload it into the corresponding Munis records.
- Check with WorkQuest dba Horizons of New Mexico (vendor # 8673) (mloehman@horizonsofnewmexico.org) if this service appears on their approved list.
- If your request includes anything that needs to be reviewed and preapproved by another City Department/Division, please send the same SOW to the corresponding email address and include their response in your packet/Munis.

  -Treasury (Point of Sale Systems) – questions: drsena@santafenm.gov; clromero@santafenm.gov. Request signature from: clromero@santafenm.gov

  -IT components (everything IT) – questions: ereview@santafenm.gov. Request signature from: edcandelaria@santafenm.gov;
  Copy: zxdushdurova@santafenm.gov; lenobes@santafenm.gov; lfworstell@santafenm.gov

  -Vehicles – questions: fleet@santafenm.gov. Request signature from: dmjaramillo@santafenm.gov

  -Grants – questions: grants@santafenm.gov. Request signature from: evlujan@santafenm.gov

  - Construction, Facilities, Furniture, Fixtures, Equipment, etc. – questions: fmdreview@santafenm.gov. Request signature from: jsburnett@santafenm.gov

  -Emergency Related Purchases – questions oem@santafenm.govand. Request signature from: bgwilliams@santafenm.gov

  -Asset over $5k – questions: accountspayable@santafenm.gov. Request signature from: jxbolden@santafenm.gov

- Ensure that the appropriate templates and forms are used https://intranet.santafenm.gov/finance_1 and documented procedures/laws/rules are followed.

- > $20k per year, when processing this procurement, please ensure the procurement number issued by Munis and the procurement name are used in the appropriate documents and the subject of emails.
- If you are processing a procurement where the forecasted amount is =/> $60k, per NMSA 1978, Section 13-1-102, the procurement method must be ITB (if you choose not to use a cooperative or an existing contract). If you feel you need to process an RFP, you must get an Authorization and Plan approved before you process.
- < $20k per year, one quote is acceptable.
- From $20k to $60k per year, if you aren't using a cooperative or existing contract, you'll need to provide 3 quotes in your req. Must use the Munis Bid Module after 12/21/2023.
- Please keep this as part of the procurement file for future reference.
- Figure out your funding source and **inform Purchasing**. To ensure that the proper documents and language are used, it is important to identify the funding source for the subsequent contract. For instance, if federal funds are involved, the procurement request and subsequent contract must include the necessary federal language. Therefore, it is crucial to determine the funding source beforehand.
- Please review the pages linked below to determine whether any of the existing contracts/price agreements or cooperative agreements are applicable to this request. You might be able to use an existing price agreement to save time and money.
    - https://www.generalservices.state.nm.us/state-purchasing/statewide-price-agreements/ (if you choose to use a Statewide, you do not need to ask Horizons if they can do the work. State Purchasing must offer the SOW to Horizons prior to placing the award on their website.)
    - https://naspovaluepoint.org/categories/
    - https://www.omniapartners.com/publicsector/contracts
    - https://www.buyboard.com/home.aspx
    - https://www.h-gac.com/Home
    - https://www.gsaelibrary.gsa.gov/
    - https://www.sourcewell-mn.gov/contract-search

- Submit or send your request to the appropriate MS Teams channel or email address:
    - RFPs requests to https://teams.microsoft.com/l/channel/19%3ad63b9c8b586d424fa5eed34177146ac5%40thread.tacv2/RFP%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
    - ITBs requests to https://teams.microsoft.com/l/channel/19%3a48e1e4588c0440a09cfbd9b907ed42d4%40thread.tacv2/ITB%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
    - Determination requests to purchasing_det@santafenm.gov
    - And all other requests to purchasing@santafenm.gov

Thank you for submitting this scope of work for my review.

Book time to meet with me

Regards,

Travis Dutton-Leyda
Chief Procurement Officer
City of Santa Fe

200 Lincoln Avenue
Santa Fe, NM 87501
505-629-8351
tkduttonleyda@santafenm.gov

https://santafenm.gov/finance-2/purchasing-1

Vendor Registration and Current Procurement Opportunities:
https://cityofsantafenmvendors.munisselfservice.com/Vendors/VBids/SearchResults.aspx

Internal Link: https://intranet.santafenm.gov/central_purchasing_division_cpd

CITY OF SANTA FE
FINANCE

"A journey of a thousand miles begins with a single step" ~ Lao Tzu

---

From: HEERBRANDT, PAUL F. <pfheerbrandt@santafenm.gov>
Sent: Wednesday, April 16, 2025 11:00 AM
To: Purchasing DET <purchasing_det@santafenm.gov>
Cc: MACALLISTER, LINDA M. <lmmacallister@santafenm.gov>
Subject: Scope of Work Determination

I have two trucking companies under contract now. Looking to get more to increase rate of disposal now that I have more landfill options.

Dewatered Sewage Sludge Hauling
Specifications:

The City of Santa Fe's (The City) Wastewater Management Division (WWMD) is seeking bids for On-Call services for transport of dewatered sewage sludge (NM Special Waste) from the Paseo Real Wastewater Reclamation Facility (PRWRF) to either the Caja del Rio Landfill, Santa Fe, NM, Estancia Valley Regional Landfill, Moriarty, NM, or the WM Valencia Regional Landfill, Los Lunas, NM., Sandoval County Landfill, Rio Rancho, NM, Northeastern New Mexico Regional Landfill, Wagon Mound, NM, Cerro Colorado Landfill, Albuquerque, NM, as directed by the City. The award Bidder will supply the appropriate vehicles that will be used in the transportation process. The required trips will va depending on the needs of the facility. WWMD will dictate which one of the 6 locations to deliver to at the time of th order. All tip fees will be paid directly to the landfill by the Contractor and billed to the City, including the proposed handling fee.

The City is the operator of the Paseo Real Wastewater Reclamation Facility (PRWRF) which produces about 1000 w tons per month of bio-solids in conducting its dewatering operations. Some of the resulting dewatered sewage slud composted, but the rest will be transported to a landfill for disposal. However, no minimum volume of dewatered sewage sludge is guaranteed. The actual quantity of material may vary from the estimated amount and could be reduced to zero. The City of Santa Fe reserves the right to utilize dewatered sewage sludge in any manner allowed b law with a corresponding reduction in the volume of material being disposed of at the landfills.

Storage capacity at the facility is limited and operations are generally 8 hours per day, 5 days per week. PRWRF sta notify contractor of the sludge hauling needs on a weekly basis, providing a minimum of 48 hours' notice of the nee hauling services. The Contractor will be available for hauling loads at the frequency and interval that keeps the dewatering facility operational. The awarded bidder will work with PRWRF to develop communication protocols tha engender an efficient and safe biosolids operation.

Service Requirements
Required trips will vary depending on the needs of the facility. Each time the truck is loaded, the driver will be responsible for acquiring a paint filter test and pH test report, conducted by the PRWRF in-house laboratory before leaving the facility and provide the landfill with a copy of the passing test results. If this test(s) fails, then no load wil commence. The driver will also be provided with a completed Special Waste Manifest for the destination landfill. Th driver will be required to carry copies provided by PRWRF staff of the PRWRF Special Waste Spill Response Plan. Th Contractors' drivers must also hold a Special Waste Hauler Registration with the New Mexico Environment Departr Solid Waste Bureau. This Waste Hauler Registration will remain active and current throughout the term of the price agreement and must be submitted to the City before an award is issued.

Full Loads Required:
The Contractor will be required to haul a full load. PRWRF will assist with loading and will check trailers for full loac Overfilled loads can spill over the corners of the trailer and a certain amount of expansion of loads has been observ during summer months. The contracted biosolids hauler will be expected to take all overfill and underfill considera into account on a per trip basis.

Equipment Requirements:
The Contractor will supply all equipment (truck, tarp, etc.) necessary for hauling of the dewatered sewage sludge to landfill. Minimum load capacity shall be 10 tons. The awarded bidder is responsible for maintaining their vehicles in good mechanical condition and maintaining compliance with all applicable local, state, and federal laws and regulations.

Operating Expenses
Contractor agrees to bear *all* costs and expenses incidental to the operation of the equipment, whether empty or loaded, including without limitation, all risks of depreciation, all maintenance (including cleaning and washing), oil, tires, repairs, business taxes, consumption and sales taxes, personal taxes, transportation taxes, insurance covera required herein, workers compensation premiums if required, payroll taxes, licenses, vehicle registration renewal f base plates, and all highway tolls. If the City is required to withhold or pay any taxes or make any other payment wit respect to fees owed by contractor, contractor will reimburse the City or permit the City to make deduction for taxe other payments required from any monies owed to contractor. **Contractor will pay all tipping fees directly to the relevant disposal site and bill the City, including the proposed handling fee**. A valid **Certificate of Liability Insurance** must be submitted to the City before the contract is awarded and must remain current throughout the te of the price agreement. A valid **Truck Insurance Policy** with at least the minimum New Mexico statutory required li for this type of Hauling must be submitted to the City before the price agreement is awarded. This Truck Insurance P must remain active throughout the term of the price agreement.
Bidder must list below the Dispatching Operations Base (DOB) address with Bid Submittal. This DOB must remain t same throughout the term of the Price Agreement. The DOB is defined as where the trucks will leave and return.

DOB Address: _____

Payment
Loads transported to the landfills will be paid on a per trip basis as calculated in the bid award. Trip will also include beginning and ending truck odometer mileage for the Round Trip on the invoice. Trips to the landfill will be paid bas actual hours required to complete the trip at the hourly rate defined in the Price Item Schedule. Round Trip will be calculated from the DOB address of the awarded contractors (above).

Minimum Requirements of Qualifications:
Contractor must be a registered Special Waste Hauler under the New Mexico Environment Department.

P. Fred Heerbrandt, P.E.

Engineer Supervisor Wastewater

City of Santa Fe

505-955-4623

pfheerbrandt@santafenm.gov

Log # *{Finance use only}*	
Journal # *{Finance use only}*	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
Public Utilities/Wastewater	8/18/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WW Operatins Admin/ervice Contracts	5000361	510310		$ 500,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
JUSTIFICATION: *(use additional page if needed)* *--Attach supporting documentation/memo*				$ 500,000	$ -

To increase account 510310 for PERTER'S TRUCKING. Plese see memo for detail and please add **PETERS** for posting of BAR

{Complete section below if BAR results in a net change to ANY Fund}	
Fund(s) Affected	Fund Balance Increase/(Decrease)
500	(500,000)
TOTAL:	**(500,000)**

Linda MacAllister 8/18/2025
Prepared By *{print name}* Date

Division Director Signature *{optional}* Date

Department Director Signature Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins 08/19/2025
Budget Officer Date

Finance Director *{≤ $5,000}* Date

City Manager *{≤ $60,000}* Date

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 07/29/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Nikki Lopez	
Insurance del Norte 810 Calle Mejia Suite 105 Santa Fe NM 87501	PHONE (A/C, No, Ext): (505) 820-6726	FAX (A/C, No): (505) 424-0242
	E-MAIL ADDRESS: nlopez@delnorteins.com	

INSURED	INSURER(S) AFFORDING COVERAGE	NAIC #
Peter's Trucking Inc 2 Tusa Dr Santa Fe NM 87508	INSURER A : United Financial Casualty Comp	11770
	INSURER B : Markel Insurance Company	38970F
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** CL2572915844 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:	Y		968073452	04/01/2025	04/01/2026	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 100,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☒ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY	Y		968073452	04/01/2025	04/01/2026	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) Policy Fee	$ 1,000,000 $ $ $ $
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $						EACH OCCURRENCE AGGREGATE	$ $ $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N: Y If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		MWC0165568-06	03/04/2025	03/04/2026	☐ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 100,000 $ 100,000 $ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

2010 Peterbilt 387 Vin # 1XP7D49X8AD799030
1992 Trail Trailer Vin # 1TKS0422XNM051061
2017 Armor Lite Trai Trailer Vin # 56EA65D24HA000324
1996 Peterbilt 377 Vin # 1XPCD69X0TN418598

CERTIFICATE HOLDER

City of Santa Fe
Po Box 909
Santa Fe NM 87504

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Shannon N. Lopez+

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AGENCY CUSTOMER ID: 00013627

LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Insurance del Norte	Peter's Trucking Inc
POLICY NUMBER	
CARRIER / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability Insurance: Notes

2010 Peterbilt 387 Vin # 1XP7D49X8AD799030
1992 Trail Trailer Vin # 1TKS0422XNM051061
2017 Armor Lite Trai Trailer Vin # 56EA65D24HA000324
1996 Peterbilt 377 Vin # 1XPCD69X0TN418598

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ADDITIONAL COVERAGES

Ref #	Description	Coverage Code	Form No.	Edition Date
	GL COV PROP DMG	GLCPD		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
1,000,000	2,000,000				

Ref #	Description	Coverage Code	Form No.	Edition Date
	Products/Completed Ops Aggregate	PRDCO		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
2,000,000					

Ref #	Description	Coverage Code	Form No.	Edition Date
	MDEXP	MDEXP		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
5,000					

Ref #	Description	Coverage Code	Form No.	Edition Date
	GL COV BI	GLCBI		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
1,000,000	2,000,000				

Ref #	Description	Coverage Code	Form No.	Edition Date
	Fire Damage	FIRDM		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
100,000					

Ref #	Description	Coverage Code	Form No.	Edition Date
	Personal & Advertising Injury	PIADV		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
1,000,000					

Ref #	Description	Coverage Code	Form No.	Edition Date
	Premium discount	PDIS		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium

Ref #	Description	Coverage Code	Form No.	Edition Date
	Catastrophe	CATAS		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
					$4.00

Ref #	Description	Coverage Code	Form No.	Edition Date
	Schedule rate adjustment	SRA		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
					$212.00

Ref #	Description	Coverage Code	Form No.	Edition Date
	Expense constant	EXCNT		

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium
					$160.00

Ref #	Description	Coverage Code	Form No.	Edition Date

Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium

OFADTLCV

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PETERS packet ITB GENERAL SERVICES int sign

Final Audit Report 2025-08-19

Created:	2025-08-19
By:	ALYSSA PEREZ (aeperez@santafenm.gov)
Status:	Canceled / Declined
Transaction ID:	CBJCHBCAABAA4gdKDDkAozjdOQBIwI9EdGguZs04LSw-

"PETERS packet ITB GENERAL SERVICES int sign" History

Document created by ALYSSA PEREZ (aeperez@santafenm.gov)
2025-08-19 - 7:20:08 PM GMT- IP address: 63.232.20.2

Document sent to ALEXIS LOTERO (aclotero@santafenm.gov) and ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov) for signature. One of them to sign
2025-08-19 - 7:23:47 PM GMT

Email viewed by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)
2025-08-19 - 8:32:27 PM GMT- IP address: 104.47.64.254

Document declined by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)
Decline reason: The FY26 WWD budget already includes $1M for sludge hauling services (split 50/50 between Serrano Trucking and GM Emulsion). This BAR should not be necessary until that current $1M has been spent.
2025-08-19 - 8:36:01 PM GMT- IP address: 63.232.20.2

Powered by Adobe Acrobat Sign

CITY OF SANTA FE

The Purchasing Memo

Date: August 13, 2025

To: Governing Body, Finance Committee, and Public Works & Utilities Committee

From: P. Fred Heerbrandt, P.E., Engineer Supervisor P. Fred Heerbrandt, P.E.

Via: Michael Dozier, Wastewater Management Division Director

Via: Jesse Roach, Interim Public Utilities Director

Subject: On-Call Collection System Construction Contract

Vendor Name: SKE Contractors, LLC

Munis Vendor Number: 10552

ITEM AND ISSUE:

The Public Utilities Department respectfully requests your review and approval of a On-Call construction contract in the amount of $1,081,875.00 per year for a total of $4,327,500.00 including NMGRT for Construction Services over a four-year term with SKE Contractors, LLC.

Request for Approval of a Budget Adjustment Resolution (BAR) in the amount of $1,081,875.00 for Fiscal year 2026 from the Enterprise Fund to WIP Construction.

CONTRACT NUMBER:

The FY26 Munis contract number is 3260111

BACKGROUND AND SUMMARY:

The City of Santa Fe, Public Utilities Department, Wastewater Management Division (Division) wishes to establish a Price Agreement for On-Call Repair, Replacement, Extension, and Rehabilitation of Sewer Collection System Construction services work by New Mexico licensed contractors to provide miscellaneous repairs, upgrades, improvements, replacements, new construction services and material for facilities throughout the Paseo Real Wastewater Reclamation Facility, the Sanitary Sewer Collection System, and other remote locations.

PRIOR APPROVALS AND SUPPORTING INFORMATION:

FUNDING SOURCE:

Fund Name/Number: Enterprise Fund/Fund 500

Munis Org Name/Number: Wastewater Capital Projects/5000375

Munis Object Name/Number: WIP Construction/572970

Budget Officer / Designee: Andy Hopkins **Date:** 08/19/2025

Budget Officer Comment/Exceptions: -

PROCUREMENT METHOD:

The procurement method used was NMSA 1978, Section 13-1-102, ITB

ITB 25119 – On-Call Collection System Construction Services – 3 Awards

Chief Procurement Officer (CPO)/Designee: _____ **Date:** 08/22/2025

CPO Comment/Exceptions: _____

ASSOCIATED APPROVALS:

IT Components included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Treasury/Point of Sale Components included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Vehicles included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Construction to City Facilities, Furniture, and/or Fixtures included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this an externally funded purchase? ☐ Yes | ☒ No

If yes, what is the issuing agency: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this a Capital Asset or Project? ☐ Yes | ☒ No

Project Ledger Number: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

ATTACHMENTS:

CPO Service Determination Email
Certificate of Liability Insurance (COI)
On Call Construction Contract

Rate Sheet

Item #: _____
Munis Contract #: 3260111
ITB #: 25119

CITY OF SANTA FE

CONSTRUCTION PRICE AGREEMENT

ON-CALL COLLECTION SYSTEM CONSTRUCTION SERVICES

THIS PRICE AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **SKE Contractors, LLC,** hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

RECITALS

WHEREAS, the City, through its Governing Body, is authorized to enter into a construction Price Agreement for the project; and

WHEREAS, the City has procured this Price Agreement according to the established State and Local Purchasing procedures for Price Agreements of the type and amount; and

The City and the Contractor hereby agree as follows:

1. Scope of Work

A. The Contractor shall perform the following work:

The City of Santa Fe, Public Utilities Department, Wastewater Management Division (Division) wishes to establish a Price Agreement for On-Call Repair, Replacement, Extension, and Rehabilitation of Sewer Collection System Construction services work by New Mexico licensed contractors to provide miscellaneous repairs, upgrades, improvements, replacements, new construction services and material for facilities throughout the Paseo Real Wastewater Reclamation Facility, the Sanitary Sewer Collection System, and other remote locations.

The Division shall provide, at a minimum, a detailed scope of work and/or drawings, generally defining the construction work required for the project. The Contractor shall be responsible for verifications of all existing conditions, measurements, and dimensions for bidding.
The award of this Price Agreement is without assurance of quantity or dollar amount of work to be performed.

Contractors shall have the technical staff to perform diagnostic services and provide professionally prepared, stamped drawings, if needed, to obtain installation or construction permits. The Contractor is responsible for obtaining all required licenses, fees and permits required to perform the work. Contractor shall be responsible for any applicable Local, County, State and Federal requirements and permits including, but not limited to, the City of Santa Fe's Stormwater Pollution Prevention Program and Stormwater BMPs.

The City of Santa Fe Wastewater Management Division shall be able to utilize this On-Call Price Agreement as needed and as funding is available.

Wage Rates:

All work covered by this Price Agreement shall be in accordance with applicable City and State laws and is subject to the minimum wage rate determination issued by the Department of Workforce Solutions (DWS), if applicable.

A wage rate decision is required by the Public Works minimum Wage Act for construction, demolition or renovation purposes on projects costing sixty thousand dollars ($60,000) or more. The Contractor agrees to comply with the current prevailing wage rate schedule when applicable. For current wage rates or for additional information, visit: http://www.dws.state.nm.us . The Division will request a wage rate determination from the DWS for each project that is $60,000 or more.

When submitting a quote for a specific project valued at more than sixty thousand dollars ($60,000) for any portion of a public works project that is subject to the New Mexico Public Works Act, the Contractor is required to be registered with the Labor and Industrial Division of the Department of Workforce Solutions prior to submitting its quote. The Division may reject any quote that fails to provide a Public Works registration number for the prime Contractor and all other listed Contractors or subcontractors.

Other:

All work shall be in accordance with applicable City and state laws, the International Building Code (IBC) and the New Mexico building codes. The Contractor shall be responsible for all permits associated with this work as required by the governmental Authority Having Jurisdiction (AHJ). All work shall be in strict compliance with the national and state building mechanical, plumbing and electrical codes including SMACNA, and ASHRAE standards.

Contractors shall be capable of providing all coordination, supervision and services required for comprehensive general construction, facilities replacement, upgrade and improvement projects and to provide new construction services including incidental design. It can include site and utility work, mechanical work, pavement restoration, facilities repair, renovation, backfill services, digging, ditching, rock stabilization, concrete, and pour in place and form place finish. The utility work shall include pumping systems, gravity sewers, manholes, force mains, and related facilities. It may also include demolition and abatement projects.

All material shall be new and of the highest quality available for the type of work being performed. The purchase of major equipment or material must be preceded by submission of submittal data on the proposed equipment or material and shall be reviewed and approved by the Division.

The requesting entity reserves the right to purchase materials or specialty services directly from existing Statewide Price Agreements and other sources, and to provide these materials to the Contractor. The Contractor shall provide an itemized, quantifiable list of materials required for the project. Specialty services provided from Statewide Price Agreements and other sources shall be coordinated by the Contractor.

If the Contractor is requesting reimbursement for materials used on the work, copies of the invoices for the materials must be included when submitting invoices/pay applications. The Contractor may NOT add markups for the materials purchased.

The Division reserves the right to obtain quotes from multiple vendors covered under this Price Agreement and award a project to a contractor based on the quotes.

The Division reserves the right to provide an escort and/or full-time supervision of the Contractor and its employees during any or all phases of a project, should the Division feel it is in its best interest to provide these extraordinary security services.

The Division reserves the right to escort any or all employees of the Contractor off its property, for any inappropriate conduct or actions that jeopardize the safety, security, or wellbeing of the facility or any individual. Inappropriate behavior by the Contractor, its employees or subcontractors may be grounds for immediate removal from this Price Agreement. Any employee of the Contractor found in violation of any law, while on City property, will be prosecuted.

Contractor:

No person shall act as a Contractor without a license issued by the Construction Industries Division (CID), classified to cover the type of work to be performed. No bid on a Price Agreement shall be submitted unless the Contractor has a valid Contractor's license issued by the CID to bid and to perform the type of work to be undertaken, as set forth in §60-13-12, NMSA 1978.

Safety shall be of main concern and enforced by the Contractor on site. The Contractor shall comply with all local, state and federal laws governing safety, health and sanitation. The on-site superintendent shall always have a minimum OSHA 10 and preferably OSHA 30 card with them when on the jobsite. The Division shall not in any way be responsible for any fines set forth for such violations of codes, OSHA standards or any other governing agency having jurisdiction at the work site. The Contractor shall provide all needed safeguards, safety devices, protective equipment and take any actions necessary to protect the life and health of employees on the job; the safety of the public and to protect the property of the Division in connection with the performance of the work covered by this price Agreement.
All personnel working on the project and providing these services shall be experienced and certified in all areas related to this work and required by this Price Agreement. Journeymen level personnel shall have the ability and necessary skills to diagnose problems and to make the appropriate decisions needed to provide these services.

The Contractor shall follow the Occupational Safety and Health Act (OSHA) 29 CFR 1910.147 Standard pertaining to "Lockout/Tagout" procedures for hazardous energy.

The Contractor shall agree to provide required labor within 24 hours for emergency situations.

Contractor's price shall include labor costs, permits, overhead, profit, insurance, equipment, tools and any other fees required to successfully complete the work requested. The Contractor shall be capable of providing a work force with supervision, adequate to perform work for a forty (40) hour work week during normal working hours with the option of working non normal or overtime hours if

required. The Contractor shall be responsible for all permits, fees, and State and/or City inspections associated with their work.
Subcontracting of work is allowed and shall have prior approval by the Division. Subcontractors shall have the appropriate current valid Contractor's licenses for their work. Proof of licenses shall be furnished upon request.

There will be NO markups allowed for adding subcontractor costs or to cover general conditions (administrative costs and other related expenses) allowed on any of the quotes issued pursuant to this Price Agreement. If a subcontractor is hired for the project the reimbursement must be at actual cost of the subcontractor's cost. The cost of the subcontractor will be added at time of invoicing as a separate item to be paid by the Department.
Furnishing of submittal data for any/all new equipment and materials as well as O&M' s is required. Training of site personnel for the proper operation of newly installed equipment/systems and its related controls will be required for completion. This training will be acceptable to the person in charge of the facility and/or the City's Project manager in charge of the project.

The Contractor shall provide all protective coverings necessary to protect existing, adjacent finishes while performing its work. If any damage is encountered during the contractor's work, the contractor will be held responsible for repairing any damage done by his employees, subcontractors, and vendors. The Contractor shall restore any damage to existing and/or adjacent finishes damaged while performing work and to make new work inconspicuous with the existing adjacent finishes.

The Contractor and its employees agree to cooperate with and to abide by the rules and requirements of the Division to not interfere with the daily operations of the Division or to jeopardize the health, safety or welfare of the employees or general public conducting business with the Division.

Clean Up and Storage:

A. The Contractor will provide off-site legal disposal of all waste products, trash, and debris. The Division's trash receptacles will not be used by the Contractor. Sanitary facilities will "not" be available at the job site. Contractor shall be responsible for the provision and maintenance of portable toilets.
B. The Contractor, on a daily basis, shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Agreement. At completion of the Work, the Contractor shall remove the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials and shall then thoroughly clean the premises and the site to the Division's satisfaction.
C. Materials or equipment shall be delivered to the project in the manufacturer's original sealed, labeled containers and shall be adequately protected against moisture, dust, tampering or damage from improper handling or storage. Materials shall not be delivered to the site before they are needed.
D. Storage of materials and construction equipment shall be coordinated with the Division.

Task Order:

The Contractor shall be required to provide On-Call Construction Services for any number of the activities listed under Scope of Work upon the request of the Division. When a service is identified, the Division shall provide, at a minimum, a detailed scope of work and/or drawings defining work

required. Each project will be individually described in a "Task Order". The Task Order will describe the scope of work, the duration of the project with the date of Substantial Completion and if there are liquidated damages for not meeting the date of substantial completion. The date of Substantial Completion is the date when the space can be occupied or the Work used/operated and is turned over to the User Agency. Final completion is the date when the project is totally complete, the punch list work complete and the Contractor's final pay application/invoice is approved. The terms and conditions of the Contractor's Price Agreement will apply to all Task Orders.

Upon receiving the City's Task Order, the Contractor shall promptly visit the site and compare the Division's scope of work and/or drawings to the existing conditions and provide all services called for in addition to the requirements set forth in this Price Agreement. The Contractor will be required to provide a written quote (based upon the rates submitted in the Bid Form) sub-contractors list (including subcontractor’s CID licenses) and cost summary to include the work to be performed, sub-contractors cost and the amount of time required for the completion of the project and submit to the Division at no cost to the Division. Project schedules, negotiated price, and completion dates shall be determined on a project-by-project basis and dependent upon the urgency of that task.

If any equipment or system cannot be economically repaired or has reached the end of its life cycle, the Contractor shall justify with costs and other information they need for replacement. If replacement is recommended, the Contractor will provide written justification for system and/or the model, size, and type of unit recommended along with any applicable efficiency data. The Division's standards will be discussed and taken into consideration when proposing replacement units or systems. Any replacement unit shall be reviewed and approved by the requesting entity.

Change Orders:

Any change orders to the project scope will require an additional Task Order with backup materials and labor costs and shall be substantiated that there was no way of knowing the additional services were needed when the original quote was provided. Change orders shall be managed closely by the Division. Preventative measures shall be taken by both the contractor and the Division prior to issuing the Notice to Proceed. Such measures may include soil tests (soil boring); clarification of ambiguity in the project plan, the scope of work, the Task Order, the drawings, etc.; the project scope should be completely defined and agreed upon before any work begins.

Other Construction Related Terms and Conditions:

Mediation:

Any controversy or claim arising between the parties shall be settled by mediation if the parties cannot reach a mutually agreeable solution. The parties shall endeavor to resolve their disagreement by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the procedures of the New Mexico Public Works Mediation Act (NMSA §13-4C-1 et seq.) except that before any party may select a mediator it must confer in good faith with the other party concerning the selection of a mutually acceptable mediator. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of notice of mediation session, unless stayed for a longer period by agreement of the parties or court order.

Inspection of Work:

If a Purchase Order is issued for the purchase of services, the following terms shall apply when applicable:

A. Services include services performed, workmanship, and material furnished or utilized in the performance of services.
B. The Contractor shall provide and maintain an inspection system acceptable to the Division covering the services under the Purchase Order. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Division during the term of performance of the Work and for as long thereafter as required.
C. The Division has the right to inspect and test all services contemplated to the extent practicable at all times and places during the term of the Project. The Division shall perform inspections and tests in a manner that will not unduly delay or interfere with the Contractor's performance.
D. If the Division performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in Purchase Order price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.
E. If any part of the services does not conform with the requirements, the Division may require the Contractor to re-perform the services in conformity with the requirements at no increase in Purchase Order amount. When the defects in services cannot be corrected by re-performance, the Division may:
   (1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements; and
   (2) reduce the Purchase Order price to reflect the reduced value of the services performed.
F. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements, the Division may:
   (1) by Agreement or otherwise, perform the services and charge to the Contractor any cost incurred by the Division that is directly related to the performance of such service; or
   (2) cancel the Purchase Order for default.

Suspension, Delay or Interruption of Work:

The Division may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the Work in whole or in part for such period as the Division may determine. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized.

If at any time there is a delay in the critical path of the Work due to postponement, due to the Contractor's efforts to justify an extension of the time or an increase in the Agreement Price beyond the deadlines or due to the Contractor's refusal to proceed with any of the approved Work, such delay and any Contractor costs resulting from it shall not serve as the basis for the extension of the Time for Completion or Agreement Completion Date or for an increase in the Price Agreement Price.

Permits and Fees:

A. IF APPLICABLE- The Contractor shall secure and pay for the Building Permit and other permits and governmental fees, licenses and inspections and Certificate of Occupancy necessary for

proper execution and completion of the Work. Changes or modifications to the Work shall include all requirements of this paragraph.

B. The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to performance of the Work.
C. IF APPLICABLE- Certificates of Inspection, use and occupancy will be delivered to the Division upon completion of the Work in sufficient time for occupation of the facility in accordance with the approved schedule for the Work. Contractor shall deliver a photocopy of the Building Permit to the Design Professional and requesting entity as soon as it is obtained.

Schedule, Progress Meetings and Reports:

A. The Contractor, promptly after being awarded a Project and before the first payment application, shall prepare and submit for the Division's information a Critical Path Construction Schedule for the Work that indicates the intended start and completion of the various construction activities, which shall be implemented and adhered to by the Contractor, Subcontractors, material suppliers and equipment suppliers. At a minimum, the schedule shall be a GANTT type schedule and shall not exceed time limits allowed by the Task Order or Notice to Proceed with no fewer work breakdown events than line items of the Schedule of Values.
B. The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the Division.
C. Progress meetings shall be scheduled on a regular basis. The purpose will be to review the upcoming activities, any open issues and current progress. The Contractor shall keep any meeting minutes as needed. Progress schedules shall be updated regularly. A three-week look-ahead schedule should be presented at every project meeting. A new schedule shall be presented with any change orders.
D. The Contractor shall prepare a daily report each day the Contractor, subcontractors or any other entity are on the project. The daily reports shall be maintained at the site and be well organized. The Division may request copies at any time. The reports may include:
    1. report date and who prepared the report;
    2. weather conditions - low temp, visibility, humidity, wind, wind direction, cloud conditions, precipitation amount, other notes;
    3. companies present by name and their number of workers, work location, total man hours that day for each company;
    4. equipment-type, source, units of work done, location of work, hour meter reading;
    5. material brought to site-description, units, quantity, quality, location, time;
    6. visitors to site -name, company, time;
    7. safety concerns-company, contact, noticed by, work activity, safety issue, requirement, outcome: and
    8. quality assurance and control -company, description of issue, specification section, issued by.

Close-out Requirements:

The Contractor shall submit to the Division a separate and detailed Closeout Schedule indicating the date of Final Completion and all work to be completed before Final Completion including Close-Out requirements. The punch list of incomplete or inadequate work shall also be submitted when the work is substantially complete. Failure to include any item on the punch list does not alter the responsibility of the Contractor to complete all work in accordance with the Price Agreement Documents.

Before final completion can be achieved, all Work must be complete and accepted including the following as applicable:

a. Work associated with Punch List(s);
b. testing, balance or performance operations complete and in agreement that associated work is in compliance with the Price Agreement Documents;
c. one hard copy and one electronic copy in .pdf format of final approved test, balance or performance report(s) complete with directory of contents submitted to the Division;
d. as-Built drawings delivered in AutoCAD or electronic format;
e. written certification signed by the Division of delivery and stocking of extra material, equipment or components required by the Purchase Order at a location established by the Division;
f. delivery of all warranties required by the Work;
g. all keys, passes, codes, software or other methods or components of control or security which have been correctly and adequately accounted for and closed-out;
i. Start-up of any new equipment and training of staff on all new equipment;
l. Operations and Maintenance Manuals;
m. a certified statement of Release of Liens (AlA Document G706A or approved form) and Consent of Surety.

Warranty:

The Contractor shall warrant its work (non-roofing and equipment), for materials and for workmanship furnished and performed under this Price Agreement for a period of one (1) year minimum from the date of acceptance or Substantial Completion. The Contractor shall warrant its work for repairs or restoration of existing systems and work for ninety (90) days from the date of acceptance or Substantial Completion. It is understood that some equipment is far beyond its normal life and a warranty cannot be extended/supplied. Contractor must pass on to the Division warranties of replaced roofs and equipment offered by the manufacturer.

Bid information:

Hourly rates are requested for the three (3) levels of personnel.

Superintendent: a person with supervisory experience who maintains control of the work and work site. This person may or may not actually perform work on the project.

Journeyman or Experienced Worker: a person licensed by the State for work required and being performed or a person with many years of experience with a high rate of pay.

Laborer: a person with minimal experience, performing minor forms of labor.

Materials and Parts:

Contractor shall submit billings, based on actual Contractor costs for materials, less any applicable percentage for discounts. If there is no discount to be offered, enter zero. Contractor shall provide verification that materials purchased were used for the project. Any unused, billed for materials shall be turned over to the Division for which the work was provided.

The City of Santa Fe requires that all materials shall be new and of the highest quality and at the

best attainable price available for the type of work being performed.

No used materials shall be used on the project. Recycled materials specifically prepared for reuse to meet "LEED" certification may be permitted with the requesting entity's approval.

The City of Santa Fe reserves the right to award this Price Agreement to multiple vendors. Bidders must include pricing for all items starting from item 001 through item 008 in order to allow for accurate comparisons. If a Bidder fails to include one or more of those items his Bid may be rejected.

2. **Compensation**

A. The total amount payable to the Contractor under this Price Agreement, including gross receipts tax and expenses, shall not exceed one million dollars eighty one thousand eight hundred seventy five dollars ($1,081,875.00) per fiscal year, for a total of four million three hundred twenty seven thousand five hundred dollars ($4,327,500.00) including gross receipts tax for the four (4) year term of this Contract. The applicable gross receipts tax shall be shown as a separate amount on each billing or request for payment made under the contract, consistent with NMSA 1978, Section 13-1-108. Wage rates will be paid as set forth in Exhibit A.

B. Payment in future fiscal years is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE received by the City no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within twenty-one days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked.

D. If the City fails to pay the contractor within twenty-one days after receipt of an undisputed request for payment, the City shall pay interest to the contractor beginning on the twenty-second day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until the payment is issued. If the City receives an improperly completed invoice, the City shall notify the sender of the invoice within seven days of receipt in what way the invoice is improperly completed, and the owner has no further duty to pay on the improperly completed invoice until it is resubmitted as complete.

E. **Notice of Extended Payment Provision for Grant Funded Price Agreements**. This price agreement allows the City to make payment within 45 days after submission of an undisputed request for payment for price agreements funded by grant money consistent with NMSA 1978, sec. 57-28-5(B).

3. Term

THIS PRICE AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This price agreement shall terminate **four (4) years from the date of final signature**.

4. Termination

A. Grounds. The City may terminate this price agreement for convenience or cause. For price agreements within their authority, the City Manager or their designee is authorized to provide the notice of termination, otherwise such notice of termination shall be provided by the Mayor or their designee as authorized by the Governing Body. The Contractor may only terminate this Price Agreement based upon the City's uncured, material breach of this Price Agreement.

B. Notice; City Opportunity to Cure.

1) Except as otherwise provided in Paragraphs 7.A and 17, the City shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2) Contractor shall give City written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the City's material breaches of this Price Agreement upon which the termination is based and (ii) state what the City must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the City does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the City does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3) Notwithstanding the foregoing, this Price Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the City; (ii) if, during the term of this Price Agreement, the Contractor is suspended or debarred by the City; or (iii) the Price Agreement is terminated pursuant to Paragraph 5, "Appropriations," of this Price Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Price Agreement, the City's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Price Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS PRICE AGREEMENT.*

5. Appropriations

The terms of this Price Agreement are contingent upon sufficient appropriations and authorization being made by the Governing Body for the performance of this Price Agreement. If sufficient appropriations and authorization are not made by the Governing Body, this Price Agreement shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Price Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Price Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor

The Contractor and its agents and employees are independent contractors performing construction services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue

leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Price Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Construction Price Agreement **Performance and Payment Bond**

A. When a construction Task Order is approved in excess of twenty-five thousand dollars ($25,000), the following bonds or security shall be delivered to the City and shall become binding on the parties upon the approval of the Task Order. If the Contractor fails to deliver the required performance and payment bonds, the Contractor's bid shall be rejected, its bid security shall be enforced to the extent of actual damages. Approval of a task order shall be made pursuant to the Procurement Code in the following manner:

(1) a performance bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the Task Order; and

(2) a payment bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the Task Order, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the Task Order.

B. A subcontractor shall provide a performance and payment bond on a public works building project if the subcontractor's contract for work to be performed on a project is one hundred twenty-five thousand dollars ($125,000) or more.

8. Assignment

The Contractor shall not assign or transfer any interest in this Price Agreement or assign any claims for money due or to become due under this Price Agreement without the prior written approval of the City.

9. Subcontracting

The Contractor shall not subcontract any portion of the services to be performed under this Price Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Price Agreement, nor shall any subcontract obligate direct payment from the City.

10. Release

Final payment of the amounts due under this Price Agreement shall operate as a release of the City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Price Agreement.

11. Confidentiality

Any confidential information provided to or developed by the Contractor in the performance of this Price Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

12. Product of Service -- Copyright

All materials developed or acquired by the Contractor under this Price Agreement shall become the property of the City and shall be delivered to the City no later than the termination date of this Price Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Price Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

13. Conflict of Interest; Governmental Conduct Act

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Price Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Price Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Price Agreement, will continue to comply with, and that this Price Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the City relied when this Price Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Price Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Price Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Price Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Price Agreement to the contrary, the City may immediately terminate the Price Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

14. Amendment

A. This Price Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Price Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Price Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

15. Change Orders

A. Changes. The Contractor may only make changes or revisions within the Task Order as defined by Article 1 and/or Exhibit 1 after receipt of written approval by the Project Manager, or his/her designee. Such change may only be made to Tasks or Sub-Task as defined in the Scope of Work. Under no circumstance shall such change affect the:

1) Deliverable requirements, as outlined in the Task Order;
2) Due date of any Deliverable, as outlined in the Task Order;
3) Compensation of any Deliverable, as outlined in the Task Order;
4) Price Agreement compensation, as outlined in Article 2; or
5) Price Agreement termination, as outlined in Article 4.

B. Change Request Process. In the event that circumstances warrant a change to accomplish the Task Order as described above, a Change Request shall be submitted that meets the following criteria:

1) The Contractor shall draft a written Change Request for review and approval by the Project Manager to include:
(a) the name of the person requesting the change;
(b) a summary of the required change;
(c) the start date for the change;
(d) the reason and necessity for change;
(e) the elements to be altered; and
(f) the impact of the change.

2. The Project Manager shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the Project Manager are final. Change Requests, once approved, become a part of the Task Order, and become binding as a part of the original Task Order.

16. Merger

This Price Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Price Agreement.

All terms and conditions of the **ITB #25119 – On-Call Collection System Construction Services,** and the Contractor's response to such document(s) are incorporated herein by reference and is included in the order of precedence.

No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Price Agreement.

17. Penalties for violation of law

NMSA 1978, sections 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

18. Equal Opportunity Compliance

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Price Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Price Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

19. Applicable Law

The laws of the State of New Mexico shall govern this Price Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, section 38-3-2. By execution of this Price Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Price Agreement.

20. Workers Compensation

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Price Agreement may be terminated by the City.

21. Other Insurance

If the services contemplated under this Price Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Price Agreement, the following insurance coverage(s), naming the City as additional insured.

A. **Commercial General Liability** insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

B. **Broader Coverage and Limits**. The insurance requirements under this Price Agreement shall be the greater of (1) the minimum coverage and limits specified in this Price Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Price Agreement are sufficient to cover the obligations of Contractor hereunder.

C. Contractor shall maintain the above insurance for the term of this Price Agreement and name the City as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

22. Records and Financial Audit

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Price Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Price Agreement. The records shall be subject to inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Price Agreement shall not foreclose the right of the City to recover excessive or illegal payments

23. Indemnification

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims,

demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Price Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Price Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Price Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City.

24. New Mexico Tort Claims Act

Any liability incurred by the City of Santa Fe in connection with this Price Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Price Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

25. Invalid Term or Condition

If any term or condition of this Price Agreement shall be held invalid or unenforceable, the remainder of this Price Agreement shall not be affected and shall be valid and enforceable.

26. Enforcement of Price Agreement

A party's failure to require strict performance of any provision of this Price Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Price Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

27. Notices

Any notice required to be given to either party by this Price Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City: Gilbert Rodriguez
73 Paseo Real
Santa Fe, NM 87507

To the Contractor: Brent Costlow
44 Coyote Mountain Rd.
Santa Fe, NM 87507

28. Authority

If Contractor is other than a natural person, the individual(s) signing this Price Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding Price Agreement.

29. Progress Payments

Based upon Application for Payment submitted to the City by the Contractor and Certificates for Payment issued by the City, the City shall make progress payments on account of the Price Agreement sum to the Contractor as provided in the Price Agreement documents for the period ending the last day of the month as follows:

Not later than twenty-one (21) days following the end of the period covered by the Application for Payment, one hundred percent (100%) of the portion of the Price Agreement Sum properly allocable to labor, materials, and equipment incorporated in the work and one hundred percent (100%) of the portion of the Price Agreement sum properly allocable to materials and equipment suitably stored at the site or some other location agreed upon in writing for the period covered by the Application for Payment, less the aggregate of previous payments made by the City; and upon substantial completion of the entire work, a sum sufficient to increase the total payments to one hundred percent (100%) of the Price Agreement sum, less such amounts as the City shall determine for all incomplete work and unsettled claims as provided in the Price Agreement documents.

30. Final Payment

Final payment, constituting the entire unpaid balance of the Price Agreement sum, unless it is a disputed payment, shall be paid by the City to the Contractor within twenty-one (21) calendar days, after all deficiencies to the Price Agreement document that were noted during the Substantial Completion Inspection and listed on the attachment to the Certificate of Substantial Completion have been corrected, and provided the Price Agreement has been fully performed and a final Certificate for Payment has been issued by the City. In addition, the Contractor shall provide to the City a certified statement of Release of Lien (AIA Document G706A or approved form), Consent of Surety, Warranty from Prime Contractor, Warranties from Suppliers and Manufacturers, training sessions, equipment/operating manuals, and as-built drawings.

31. General and Special Provisions

A. Terms used in this Price Agreement which are defined in the Conditions of the Price Agreement shall have the meanings designated in those Conditions.

B. An enumeration of the Contractor's General Comprehensive Liability Insurance requirements appears in the General Conditions of the Price Agreement for construction. Insurance requirements are also described in the Instructions to the Bidder section of the Project Manual. Contractor shall maintain adequate insurance in at least the maximum amounts, which the City could be liable under the New Mexico Tort Claims Act and shall provide proof of such insurance coverage to the City. It is the sole responsibility of the Contractor to comply with the law.

C. This Price Agreement shall not become effective until: (1) approved by the Governing Body; and (2) signed by all parties required to sign this Price Agreement.

D. The Contractor shall maintain detailed time records which indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration and the State Auditor. The City shall have the right to audit billings both before and after payment. Payment under this Price Agreement shall not foreclose the right of the City to recover excessive illegal payments.

E. The Contractor warrants that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Price Agreement.

F. The Contractor hereby warrants that the Contractor complies with the Americans with Disabilities Act, 29 CFR 1630.

G. Gender, Singular/Plural. Words of any gender used in this Price Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

H. Captions and Section Headings. The captions and section headings contained in this Price Agreement are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this Price Agreement.

I. Certificates and Documents Incorporated. All certificates and documentation required by the provisions of the Price Agreement shall be attached to this Price Agreement at the time of execution and are hereby incorporated by reference as though set forth in full in this Price Agreement to the extent they are consistent with its conditions and terms.

J. Separability. If any clause or provision of this Price Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Price Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Price Agreement shall not be affected thereby.

K. Words and Phrases. Words, phrases, and abbreviations, which have well-known technical or trade meanings used in the Price Agreement documents shall be used according to such recognized meaning. In the event of a conflict, the more stringent meaning shall govern.

L. Relationship of Price Agreement Documents. The Price Agreement Documents are complementary, and any requirement of one Price Agreement Document shall be as binding as if required by all.

M. Pursuant to NMSA 1978, section 13-1-191, reference is hereby made to the Criminal Laws of New Mexico (including NMSA 1978, sections 30-14-1, 30-24-2, and 30-41-1 through 30-41-3) which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code (NMSA 1978, sections 13-1-28 through 13-1-199) imposes civil and criminal penalties for its violation.

N. Pursuant to NMSA 1978, section 13-4-11. Reference is hereby made to the Minimum Wage on Public Works; weekly payments; posting wage scale; withholding funds.

IN WITNESS WHEREOF, the Parties have executed this Price Agreement as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

_____
ALAN WEBBER, MAYOR

DATE: _____

CONTRACTOR:

Karl W. Eberhart
Karl W. Eberhart (Aug 12, 2025 12:33:23 CDT)
Karl Eberhart, President

DATE: Aug 12, 2025

NMBTIN#: _____

ATTEST:

_____
ANDRÉA SALAZAR, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Aug 12, 2025 13:07:28 MDT)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster
EMILY OSTER, FINANCE DIRECTOR

EXHIBIT A

Santa Fe sewer maintanence bid sheet

Bidder Instructions: *(Replace Department Instructions, prior to ITB release. Be sure to check row height to ensure the entire instructions are displayed.)*

Items - Bidders do not have the ability to add or delete items.

Approx. Qty. - Quantities provides are estimates, only, and do not establish a definite quantity contract. Actual quantities purchased under a resulting agreement may vary. Bidders may not change the Approx. Qty.

UOM (Unit of Measure) - Bidders do not have the ability to change the UOM. Any variation from the UOM identified may be provided in the Comments.

Article and Description - Bidder cannot change Article and Description. Any clarification, explanation, brand name identification, etc. must be provided in the

Unit Price - Bidders must provide pricing that conforms with the identified Unit Price.

Comments - Bidders may only provide comments to explain or clarify an item, identify a brand name, or provide information as specifically stated in the corresponding ITB document. Changes and additions to the items, including variations in pricing for an item, are not permitted. Any comments that do not conform to the requirements in the ITB or on this form will be disregarded, and will not be included in the resulting award, if bidder is awarded.

Item	Approx. Qty.	UOM	Article and Description	Unit Price	Comments
			Wage Rates for Projects Under $60,000.00		
1	1	Hourly	Superintendent – Regular Hourly Rate	$89.00	
2	1	Hourly	Superintendent – Overtime Hourly Rate	$133.50	
3	1	Hourly	Journeyman or expirenced worker – Regular Hourly	$49.00	
4	1	Hourly	Journeyman or experienced worker – Overtime	$73.50	
5	1	Hourly	Laborer – Regular Hourly Rate	$45.00	
6	1	Hourly	Laborer – Overtime Hourly Rate	$67.50	
			Wage Rates for Projects Over $60,000.00		
7	1	Hourly	Superintendent – Regular Hourly Rate	$85.00	
8	1	Hourly	Superintendent – Overtime Hourly Rate	$127.50	
9	1	Hourly	Journeyman or expirienced worker – Regular Hourly	$45.00	
10	1	Hourly	Journeyman or expirienced worker – Overtime Hourly	$67.50	
11	1	Hourly	Laborer – Regular Hourly Rate	$40.00	
12	1	Hourly	Laborer – Overtime Hourly Rate	$60.00	
			Wage Rates for Emergency Response		
13	1	Hourly	Superintendent – Regular Hourly Rate	$95.00	
14	1	Hourly	Superintendent – Overtime Hourly Rate	$142.50	
15	1	Hourly	Journeyman or expirienced worker – Regular Hourly	$54.00	
16	1	Hourly	Journeyman or expirienced worker – Overtime Hourly	81	
17	1	Hourly	Laborer – Regular Hourly Rate	48	
18	1	Hourly	Laborer – Overtime Hourly Rate	$72.00	
			Other Rates		
19	1	Daily	Sanitary/toilet facilities, rental rates	$35.00	
20	1	Rate/Mile	Travel Rate from the Contractors facility to the work site, pursuant to the New Mexico Per Diem and Mileage Act.	0.70	
21	1	Disc	Discount off parts	0%	

Outlook

RE: Collection System On Call Construction

From DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>
Date Thu 1/23/2025 11:52 AM
To HEERBRANDT, PAUL F. <pfheerbrandt@santafenm.gov>; Purchasing DET <purchasing_det@santafenm.gov>
Cc MACALLISTER, LINDA M. <lmmacallister@santafenm.gov>

Greetings,

The scope of work as written would be Construction. This determination relates only to that question and is no comment on whether the scope of work or procurement method meet all legal standards. I reserve the right to change this determination if the scope of work differs from the scope of work submitted for the original determination. This procurement must be conducted using the processes and procedures set forth by the City of Santa Fe, Central Purchasing, the Procurement Manual, and state statutes.

Please note:

- Save this email as a PDF and upload it into the corresponding Munis records.
- Check with WorkQuest dba Horizons of New Mexico (vendor # 8673) (mloehman@horizonsofnewmexico.org) if this service appears on their approved list.
- If your request includes anything that needs to be reviewed and preapproved by another City Department/Division, please send the same SOW to the corresponding email address and include their response in your packet/Munis.
  -IT components (anything IT) - ereview@santafenm.gov
  -Vehicles – dmjaramillo@santafenm.gov
  -Grants - grants@santafenm.gov
  - Construction, Facilities, Furniture, Fixtures, Equipment, etc. - jsburnett@santafenm.gov
  -Emergency Related Purchases - bgwilliams@santafenm.gov
  -Asset over $5k - jxbolden@santafenm.gov
- Ensure that the appropriate templates and forms are used https://intranet.santafenm.gov/finance_1 and documented procedures/laws/rules are followed.
- > $20k per year, when processing this procurement, please ensure the procurement number issued by Munis and the procurement name are used in the appropriate documents and the subject of emails.
- If you are processing a procurement where the forecasted amount is =/> $60k, per NMSA 1978, Section 13-1-102, the procurement method must be ITB (if you choose not to use a cooperative or an existing contract). If you feel you need to process an RFP, you must get an Authorization and Plan approved before you process.
- < $20k per year, one quote is acceptable.
- From $20k to $60k per year, if you aren't using a cooperative or existing contract, you'll need to provide 3 quotes in your req. Must use the Munis Bid Module after 12/21/2023.
- Please keep this as part of the procurement file for future reference.
- Figure out your funding source and **inform Purchasing**. To ensure that the proper documents and language are used, it is important to identify the funding source for the subsequent contract. For instance, if federal funds are involved, the procurement request and subsequent contract must

include the necessary federal language. Therefore, it is crucial to determine the funding source beforehand.

- Please review the pages linked below to determine whether any of the existing contracts/price agreements or cooperative agreements are applicable to this request. You might be able to use an existing price agreement to save time and money.
  - https://www.generalservices.state.nm.us/state-purchasing/statewide-price-agreements/ (if you choose to use a Statewide, you do not need to ask Horizons if they can do the work. State Purchasing must offer the SOW to Horizons prior to placing the award on their website.)
  - https://naspovaluepoint.org/categories/
  - https://www.omniapartners.com/publicsector/contracts
  - https://www.buyboard.com/home.aspx
  - https://www.h-gac.com/Home
  - https://www.gsaelibrary.gsa.gov/
  - https://www.sourcewell-mn.gov/contract-search

- Submit or send your request to the appropriate MS Teams channel or email address:
  - RFPs requests to https://teams.microsoft.com/l/channel/19%3ad63b9c8b586d424fa5eed34177146ac5%40thread.tacv2/RFP%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
  - ITBs requests to https://teams.microsoft.com/l/channel/19%3a48e1e4588c0440a09cfbd9b907ed42d4%40thread.tacv2/ITB%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
  - Determination requests to purchasing_det@santafenm.gov
  - And all other requests to purchasing@santafenm.gov

Thank you for submitting this scope of work for my review.

Regards,

Travis Dutton-Leyda
Chief Procurement Officer
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501
505-629-8351
tkduttonleyda@santafenm.gov

https://santafenm.gov/finance-2/purchasing-1

Vendor Registration and Current Procurement Opportunities:
https://cityofsantafenmvendors.munisselfservice.com/Vendors/VBids/SearchResults.aspx

Internal Link: https://intranet.santafenm.gov/finance_1

CITY OF SANTA FE
FINANCE

"The future belongs to those who believe in the beauty of their dreams." — Eleanor Roosevelt

From: HEERBRANDT, PAUL F. <pfheerbrandt@santafenm.gov>
Sent: Thursday, January 23, 2025 10:52 AM
To: Purchasing DET <purchasing_det@santafenm.gov>
Cc: MACALLISTER, LINDA M. <lmmacallister@santafenm.gov>
Subject: Collection System On Call Construction

Requesting the determination of the contract type and procurement method for the following scope of work. Thanks

Collection System On Call Construction

The City of Santa Fe, Public Utilities Department, Wastewater Management Division (Division) wishes to establish a Price Agreement for On-Call Repair, Replacement, Extension, and Rehabilitation of Sewer Collection System Construction services work by New Mexico licensed contractors to provide miscellaneous repairs, upgrades, improvements, replacements, new construction services and material for facilities throughout the Paseo Real Wastewater Reclamation Facility, the Sanitary Sewer Collection System, and other remote locations.

The Division shall provide, at a minimum, a detailed scope of work and/or drawings, generally defining the construction work required for the project. The Contractor shall be responsible for verifications of all existing conditions, measurements, and dimensions for bidding.

The award of this Price Agreement is without assurance of quantity or dollar amount of work to be performed.

Contractors shall have the technical staff to perform diagnostic services and provide professionally prepared, stamped drawings, if needed, to obtain installation or construction permits. The Contractor is responsible for obtaining all required licenses, fees and permits required to perform the work. Contractor shall be responsible for any applicable Local, County, State and Federal requirements and permits including, but not limited to, the City of Santa Fe's Stormwater Pollution Prevention Program and Stormwater BMPs.

The City of Santa Fe Wastewater Management Division shall be able to utilize this On-Call Contract as needed and as funding is available.

Wage Rates:

All work covered by this Price Agreement shall be in accordance with applicable City and State laws and is subject to the minimum wage rate determination issued by the Department of Workforce Solutions (DWS), if applicable.

A wage rate decision is required by the Public Works minimum Wage Act for construction, demolition or renovation purposes on projects costing sixty thousand dollars ($60,000) or more. The Contractor agrees to comply with the current prevailing wage rate schedule when applicable. For current wage rates or for additional information, visit: http://www.dws.state.nm.us . The Division will request a wage rate determination from the DWS for each project that is $60,000 or more.

When submitting a quote for a specific project valued at more than sixty thousand dollars ($60,000) for any portion of a public works project that is subject to the New Mexico Public Works Act, the Contractor is required to be registered with the Labor and Industrial Division of the Department of Workforce Solutions prior to submitting its quote. The Division may reject any quote that fails to provide a Public Works registration number for the prime Contractor and all other listed Contractors or subcontractors.

Other:

All work shall be in accordance with applicable City and state laws, the International Building Code (IBC) and the New Mexico building codes. The Contractor shall be responsible for all permits associated with this work as required by the governmental Authority Having Jurisdiction (AHJ).

All work shall be in strict compliance with the national and state building mechanical, plumbing and electrical codes including SMACNA, and ASHRAE standards.

Contractors shall be capable of providing all coordination, supervision and services required for comprehensive general construction, facilities replacement, upgrade and improvement projects and to provide new construction services including incidental design. It can include site and utility work, mechanical work, pavement restoration, facilities repair, renovation, backfill services, digging, ditching, rock stabilization, concrete, and pour in place and form place finish. The utility work shall include pumping systems, gravity sewers, manholes, force mains, and related facilities. It may also include demolition and abatement projects.

All material shall be new and of the highest quality available for the type of work being performed. The purchase of major equipment or material must be preceded by submission of submittal data on the proposed equipment or material and shall be reviewed and approved by the Division.

The requesting entity reserves the right to purchase materials or specialty services directly from existing Statewide Price Agreements and other sources, and to provide these materials to the Contractor. The Contractor shall provide an itemized, quantifiable list of materials required for the project. Specialty services provided from Statewide Price Agreements and other sources shall be coordinated by the Contractor.

If the Contractor is requesting reimbursement for materials used on the work, copies of the invoices for the materials must be included when submitting invoices/pay applications. The Contractor may NOT add markups for the materials purchased.

The Division reserves the right to obtain quotes from multiple vendors covered under this Price Agreement and award a project to a contractor based on the quotes.

The Division reserves the right to provide an escort and/or full-time supervision of the Contractor and its employees during any or all phases of a project, should the Division feel it is in its best interest to provide these extraordinary security services.

The Division reserves the right to escort any or all employees of the Contractor off its property, for any inappropriate conduct or actions that jeopardize the safety, security, or wellbeing of the facility or any individual. Inappropriate behavior by the Contractor, its employees or subcontractors may be grounds for immediate removal from this Price Agreement. Any employee of the Contractor found in violation of any law, while on City property, will be prosecuted.

Contractor:

No person shall act as a Contractor without a license issued by the Construction Industries Division (CID), classified to cover the type of work to be performed. No bid on a contract shall be submitted unless the Contractor has a valid Contractor's license issued by the CID to bid and to perform the type of work to be undertaken, as set forth in §60-13-12, NMSA 1978.

Safety shall be of main concern and enforced by the Contractor on site. The Contractor shall comply with all local, state and federal laws governing safety, health and sanitation. The on-site superintendent shall always have a minimum OSHA 10 and preferably OSHA 30 card with them when on the jobsite. The Division shall not in any way be responsible for any fines set forth for such violations of codes, OSHA standards or any other governing agency having jurisdiction at the work site. The Contractor shall provide all needed safeguards, safety devices, protective equipment and take any actions necessary to protect the life and health of employees on the job; the safety of the public and to protect the property of the Division in connection with the performance of the work covered by this price Agreement.

All personnel working on the project and providing these services shall be experienced and certified in all areas related to this work and required by this Price Agreement. Journeymen level personnel shall have the ability and necessary skills to diagnose problems and to make the appropriate decisions needed to provide these services.

The Contractor shall follow the Occupational Safety and Health Act (OSHA) 29 CFR 1910.147 Standard pertaining to "Lockout/Tagout" procedures for hazardous energy.

The Contractor shall agree to provide required labor within 24 hours for emergency situations.

Contractor's price shall include labor costs, permits, overhead, profit, insurance, equipment, tools and any other fees required to successfully complete the work requested. The Contractor shall be capable of providing a work force with supervision, adequate to perform work for a forty (40) hour work week during normal working hours with the option of working non normal or overtime hours if required. The Contractor shall be responsible for all permits, fees, and State and/or City inspections associated with their work.

Subcontracting of work is allowed and shall have prior approval by the Division. Subcontractors shall have the appropriate current valid Contractor's licenses for their work. Proof of licenses shall be furnished upon request.

There will be NO markups allowed for adding subcontractor costs or to cover general conditions (administrative costs and other related expenses) allowed on any of the quotes issued pursuant to this Price Agreement. If a subcontractor is hired for the project the reimbursement must be at actual cost of the subcontractor's cost. The cost of the subcontractor will be added at time of invoicing as a separate item to be paid by the Department.

Furnishing of submittal data for any/all new equipment and materials as well as O&M' s is required. Training of site personnel for the proper operation of newly installed equipment/systems and its related controls will be required for completion. This training will be acceptable to the person in charge of the facility and/or the City's Project manager in charge of the project.

The Contractor shall provide all protective coverings necessary to protect existing, adjacent finishes while performing its work. If any damage is encountered during the contractor's work, the contractor will be held responsible for repairing any damage done by his employees, subcontractors, and vendors. The Contractor shall restore any damage to existing and/or adjacent finishes damaged while performing work and to make new work inconspicuous with the existing adjacent finishes.

The Contractor and its employees agree to cooperate with and to abide by the rules and requirements of the Division to not interfere with the daily operations of the Division or to jeopardize the health, safety or welfare of the employees or general public conducting business with the Division.

Clean Up and Storage:

A. The Contractor will provide off-site legal disposal of all waste products, trash, and debris. The Division's trash receptacles will not be used by the Contractor. Sanitary facilities will "not" be available at the job site. Contractor shall be responsible for the provision and maintenance of portable toilets.

B. The Contractor, on a daily basis, shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Agreement. At completion of the Work, the Contractor shall remove the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials and shall then thoroughly clean the premises and the site to the Division's satisfaction.

C. Materials or equipment shall be delivered to the project in the manufacturer's original sealed, labeled containers and shall be adequately protected against moisture, dust, tampering or damage from improper handling or storage. Materials shall not be delivered to the site before they are needed.

D. Storage of materials and construction equipment shall be coordinated with the Division.

Task Order:

The Contractor shall be required to provide On-Call Construction Services for any number of the activities listed under Scope of Work upon the request of the Division. When a service is identified, the Division shall provide, at a minimum, a detailed scope of work and/or drawings defining work required. Each project will be individually described in a "Task Order". The Task Order will describe the scope of work, the duration of the project with the date of Substantial Completion and if there are liquidated damages for not meeting the date of substantial completion. The date of Substantial Completion is the date when the space can be occupied or the Work used/operated and is turned over to the User Agency. Final completion is the date when the project is totally complete, the punch list work complete and the Contractor's final pay application/invoice is approved. The terms and conditions of the Contractor's Price Agreement will apply to all Task Orders.

Upon receiving the City's Task Order, the Contractor shall promptly visit the site and compare the Division's scope of work and/or drawings to the existing conditions and provide all services called for in addition to the requirements set forth in this Price Agreement. The Contractor will be required to provide a written quote (based upon the rates submitted in the Bid Form) sub-contractors list (including subcontractor’s CID licenses) and cost summary to include the work to be performed, sub-contractors cost and the amount of time required for the completion of the project and submit to the Division at no cost to the Division. Project schedules, negotiated price, and completion dates shall be determined on a project-by-project basis and dependent upon the urgency of that task.

If any equipment or system cannot be economically repaired or has reached the end of its life cycle, the Contractor shall justify with costs and other information they need for replacement. If replacement is recommended, the Contractor will provide written justification for system and/or the model, size, and type of unit recommended along with any applicable efficiency data. The Division's standards will be discussed and taken into consideration when proposing replacement units or systems. Any replacement unit shall be reviewed and approved by the requesting entity.

Change Orders:

Any change orders to the project scope will require an additional Task Order with backup materials and labor costs and shall be substantiated that there was no way of knowing the additional services were needed when the original quote was provided. Change orders shall be managed closely by the Division. Preventative measures shall be taken by both the contractor and the Division prior to issuing the Notice to Proceed. Such measures may include soil tests (soil boring); clarification of ambiguity in the project plan, the scope of work, the Task Order, the drawings, etc.; the project scope should be completely defined and agreed upon before any work begins.

Other Construction Related Terms and Conditions:

Mediation:

Any controversy or claim arising between the parties shall be settled by mediation if the parties cannot reach a mutually agreeable solution. The parties shall endeavor to resolve their disagreement by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the procedures of the New Mexico Public Works Mediation Act (NMSA §13-4C-1 et seq.) except that before any party may select a mediator it must confer in good faith with the other party concerning the selection of a mutually acceptable mediator. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of notice of mediation session, unless stayed for a longer period by agreement of the parties or court order.

Inspection of Work:

If a Purchase Order is issued for the purchase of services, the following terms shall apply when applicable:

A. Services include services performed, workmanship, and material furnished or utilized in the performance of services.

B. The Contractor shall provide and maintain an inspection system acceptable to the Division covering the services under the Purchase Order. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Division during the term of performance of the Work and for as long thereafter as required.

C. The Division has the right to inspect and test all services contemplated to the extent practicable at all times and places during the term of the Project. The Division shall perform inspections and tests in a manner that will not unduly delay or interfere with the Contractor's performance.

D. If the Division performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in Purchase Order price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.

E. If any part of the services does not conform with the requirements, the Division may require the Contractor to re-perform the services in conformity with the requirements at no increase in Purchase Order amount. When the defects in services cannot be corrected by re-performance, the Division may:

(1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements; and
(2) reduce the Purchase Order price to reflect the reduced value of the services performed.

F. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements, the Division may:

(1) by Agreement or otherwise, perform the services and charge to the Contractor any cost incurred by the Division that is directly related to the performance of such service; or
(2) cancel the Purchase Order for default.

THE PROVISIONS OF THIS ARTICLE ARE NOT EXCLUSIVE AND DO NOT WAIVE THE REQUESTING ENTITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THE PURCHASE ORDER/PRICE AGREEMENT.

Suspension, Delay or Interruption of Work:

The Division may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the Work in whole or in part for such period as the Division may determine. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized.

If at any time there is a delay in the critical path of the Work due to postponement, due to the Contractor's efforts to justify an extension of the time or an increase in the Agreement Price beyond the deadlines or due to the Contractor's refusal to proceed with any of the approved Work, such delay and any Contractor costs resulting from it shall not serve as the basis for the extension of the Time for Completion or Agreement Completion Date or for an increase in the Contract Price.

Permits and Fees:

A. IF APPLICABLE- The Contractor shall secure and pay for the Building Permit and other permits and governmental fees, licenses and inspections and Certificate of Occupancy necessary for proper execution and completion of the Work. Changes or modifications to the Work shall include all requirements of this paragraph.

B. The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to performance of the Work.

C. IF APPLICABLE- Certificates of Inspection, use and occupancy will be delivered to the Division upon completion of the Work in sufficient time for occupation of the facility in accordance with the approved schedule for the Work. Contractor shall deliver a photocopy of the Building Permit to the Design Professional and requesting entity as soon as it is obtained.

Schedule, Progress Meetings and Reports:

A. The Contractor, promptly after being awarded a Project and before the first payment application, shall prepare and submit for the Division's information a Critical Path Construction Schedule for the Work that indicates the intended start and completion of the various construction activities, which shall be implemented and adhered to by the Contractor, Subcontractors, material suppliers and equipment suppliers. At a minimum, the schedule shall be a GANTT type schedule and shall not exceed time limits allowed by the Task Order or Notice to Proceed with no fewer work breakdown events than line items of the Schedule of Values.

B. The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the Division.

C. Progress meetings shall be scheduled on a regular basis. The purpose will be to review the upcoming activities, any open issues and current progress. The Contractor shall keep any meeting minutes as needed. Progress schedules shall be updated regularly. A three-week look-ahead schedule should be presented at every project meeting. A new schedule shall be presented with any change orders.

D. The Contractor shall prepare a daily report each day the Contractor, subcontractors or any other entity are on the project. The daily reports shall be maintained at the site and be well organized. The Division may request copies at any time. The reports may include:

1. report date and who prepared the report;
2. weather conditions - low temp, visibility, humidity, wind, wind direction, cloud conditions, precipitation amount, other notes;
3. companies present by name and their number of workers, work location, total man hours that day for each company;
4. equipment-type, source, units of work done, location of work, hour meter reading;
5. material brought to site-description, units, quantity, quality, location, time;
6. visitors to site -name, company, time;
7. safety concerns-company, contact, noticed by, work activity, safety issue, requirement, outcome: and
8. quality assurance and control -company, description of issue, specification section, issued by.

Close-out Requirements:

The Contractor shall submit to the Division a separate and detailed Closeout Schedule indicating the date of Final Completion and all work to be completed before Final Completion including Close-Out requirements. The punch list of incomplete or inadequate work shall also be submitted when the work is substantially complete. Failure to include any item on the punch list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents.

Before final completion can be achieved, all Work must be complete and accepted including the following as applicable:

a. Work associated with Punch List(s);
b. testing, balance or performance operations complete and in agreement that associated work is in compliance with the Contract Documents;
c. one hard copy and one electronic copy in .pdf format of final approved test, balance or performance report(s) complete with directory of contents submitted to the Division;

d. as-Built drawings delivered in AutoCAD or electronic format;
e. written certification signed by the Division of delivery and stocking of extra material, equipment or components required by the Purchase Order at a location established by the Division;
f. delivery of all warranties required by the Work;
g. all keys, passes, codes, software or other methods or components of control or security which have been correctly and adequately accounted for and closed-out;
i. Start-up of any new equipment and training of staff on all new equipment;
l. Operations and Maintenance Manuals;
m. a certified statement of Release of Liens (AIA Document G706A or approved form) and Consent of Surety.

Warranty:

The Contractor shall warrant its work (non-roofing and equipment), for materials and for workmanship furnished and performed under this Price Agreement for a period of one (1) year minimum from the date of acceptance or Substantial Completion. The Contractor shall warrant its work for repairs or restoration of existing systems and work for ninety (90) days from the date of acceptance or Substantial Completion. It is understood that some equipment is far beyond its normal life and a warranty cannot be extended/supplied. Contractor must pass on to the Division warranties of replaced roofs and equipment offered by the manufacturer.

Bid information:

Hourly rates are requested for the three (3) levels of personnel.

Superintendent: a person with supervisory experience who maintains control of the work and work site. This person may or may not actually perform work on the project.

Journeyman or Experienced Worker: a person licensed by the State for work required and being performed or a person with many years of experience with a high rate of pay.

Laborer: a person with minimal experience, performing minor forms of labor.

Materials and Parts:

Contractor shall submit billings, based on actual Contractor costs for materials, less any applicable percentage for discounts. If there is no discount to be offered, enter zero. Contractor shall provide verification that materials purchased were used for the project. Any unused, billed for materials shall be turned over to the Division for which the work was provided.

The City of Santa Fe requires that all materials shall be new and of the highest quality and at the best attainable price available for the type of work being performed.

No used materials shall be used on the project. Recycled materials specifically prepared for reuse to meet "LEED" certification may be permitted with the requesting entity's approval.

The City of Santa Fe reserves the right to award this Price Agreement to multiple vendors. Bidders must include pricing for all items starting from item 001 through item 016 in order to allow for accurate comparisons. If a Bidder fails to include one or more of those items his Bid may be rejected.

P. Fred Heerbrandt, P.E.

Engineer Supervisor Wastewater

City of Santa Fe

505-955-4623

pfheerbrandt@santafenm.gov



Log # *{Finance use only}*:	
Journal # *{Finance use only}*:	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
Public Utilities/Wastewater	8/5/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WW Capital Projects/WIP Construction	5000375	572970	n/a	$ 1,081,875	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 1,081,875	$ -

JUSTIFICATION: *(use additional page if needed)*
--Attach supporting documentation/memo

To increase account 572970 for SKE. Plese see memo for detail and please add **SKE COLLECTION** for posting of BAR

ON-CALL NO PL#

{Complete section below if BAR results in a net change to ANY Fund}

Fund(s) Affected	Fund Balance Increase/(Decrease)
500	(1,081,875)
TOTAL:	**(1,081,875)**

Linda MacAllister 8/5/2025
Prepared By *{print name}* Date

Division Director Signature *{optional}* Date

Department Director Signature Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins 08/19/2025
Budget Officer Date

Finance Director *{≤ $5,000}* Date

City Manager *{≤ $60,000}* Date

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 7/3/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Higginbotham Insurance Agency, Inc. 1400 FM 528, Suite F Webster TX 77598	**CONTACT NAME:** Sarah Sowinski **PHONE (A/C, No, Ext):** 281-990-6051 **FAX (A/C, No):** 281-990-6052 **E-MAIL ADDRESS:** ssowinski@Higginbotham.com
	INSURER(S) AFFORDING COVERAGE / **NAIC #**
	INSURER A : The Charter Oak Fire Insurance — 25615
INSURED SKECO SKE Contractors, LLC P.O. Box 1111 Cypress TX 77410	**INSURER B :** The Travelers Indemnity Co of America — 25666
	INSURER C :
	INSURER D :
	INSURER E :
	INSURER F :

COVERAGES **CERTIFICATE NUMBER:** 300813630 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X **COMMERCIAL GENERAL LIABILITY** CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:			CO-B0617015	5/1/2025	5/1/2026	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG 	$ 1,000,000 $ 300,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
B	**AUTOMOBILE LIABILITY** X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY			BA-B061821A	5/1/2025	5/1/2026	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$ 1,000,000 $ $ $ $
	UMBRELLA LIAB OCCUR **EXCESS LIAB** CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE AGGREGATE 	$ $ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ $ $
A	Inland Marine Ded. $2,500			CO-B0617015	5/1/2025	5/1/2026	Scheduled Equip. Rented/Leased Equip. Install Floater/Ded.	On File $250,000 $250,000/$1,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The General Liability and Automobile Liability policies include a blanket automatic additional insured endorsement that provides additional insured status and General Liability and Automobile Liability policies include a blanket waiver of subrogation endorsement to the certificate holder only when there is a written contract between the named insured and the certificate holder that requires such status.

The General Liability and Automobile Liability policies have a blanket Primary & Non Contributory endorsement that affords that coverage to certificate holders only where there is a written contract between the Named Insured and the certificate holder that requires such status.

CERTIFICATE HOLDER

City of Santa Fe
200 Lincoln Avenue
Santa Fe NM 87501

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Alma G. Castro, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Lee Garcia, District 3
Pilar F.H. Faulkner, District 3
Jamie Cassutt, District 4
Amanda Chavez, District 4

DATE: September 4, 2025

TO: Mayor Alan M. Webber and Committees:
Quality of Life, Finance, and Governing Body

FROM: Terry Lease, Asset Development Manager TL

VIA: Johanna Nelson, Office of Economic Development, Director JN

ISSUE: Disposition of Property Known as Las Estrellas Tract 6A

ITEM AND ISSUE:
The Office of Economic Development, Asset Development, respectfully requests your review and approval of a Donation Agreement between the City of Santa Fe and Homewise, a private, not-for-profit, New Mexico Corporation, to donate Las Estrellas Tract 6A for development as affordable housing. (Terry Lease, Asset Development Manager, tjlease@santafenm.gov).

BACKGROUND AND SUMMARY:
On January 25, 2023 the Governing Body approved Resolution 2023-4 that, among other things, adopted a strategy for donating or selling a property identified as Las Estrellas Tract 6A for an affordable housing project. The resolution provided for the removal of Tract 6A from the Las Estrellas Residential Covenants ("Residential Covenants"), or to limit assessments for Tract 6A to support greater affordability. On January 31, 2025 City entered into a Professional Services Agreement with Attorney Garrison to act as declarant for the City.

As provided for in the resolution, a request for qualifications was drafted and issued in December of 2023 by the Office of Affordable Housing. RFQ submissions were received and scored by a panel of City staff. In March 2024 the Homewise submission was identified and selected as the finalist based on the evaluation criteria in the RFQ, and negotiations of a donation agreement began shortly thereafter. Negotiations for the terms of the donation agreement concluded in March of 2025.

This Donation Agreement, if approved, requires Homewise to: obtain approval of a development plan from the Planning Commission or other required City entities, secure all land use entitlement approvals required to develop the site, adhere to the Las Estrellas Master Plan, and include deed restrictions that assures an affordability period of no less than 45-years. Homewise will also be required to comply with the City of Santa Fe Land Use Code, and other applicable local, state and federal regulations. The Donation Agreement incorporates the RFQ and the Homewise RFQ submission.

ACTION: Approval of a Donation Agreement between the City and Homewise for the donation of Las Estrellas Tract 6A for development as an affordable housing project.

PRIOR APPROVALS AND SUPPORTING INFORMATION:

FUNDING SOURCE:

Fund Name/Number: None - Donation

Munis Org Name/Number:

Munis Object Name/Number:

Budget Officer / Designee: Andy Hopkins **Date:** 09/08/2025

Budget Officer Comment/Exceptions: _____

ATTACHMENTS:

1. Donation Agreement
2. Resolution

ITEM # _____

REAL ESTATE DONATION AGREEMENT

This REAL ESTATE DONATION AGREEMENT **("Agreement")** is made and entered into as of the date of the last signature ("Effective Date"), by and between the CITY OF SANTA FE, a municipality chartered under the laws of New Mexico, **("City"** or **"Donor")** and HOMEWISE, a private, not-for-profit, New Mexico Corporation **("Donee")**, collectively the **"Parties"**.

WHEREAS, a City may donate land or money for the construction, renovation, or purchase of affordable housing pursuant to NM Const. Art. IX, Section 14 and NMSA 1978, Section 6-27-1, et seq.; and

WHEREAS, it is the policy of the City to provide incentives and encourage proposals that support the production, acquisition and redevelopment of affordably priced homes in mixed income developments; and

WHEREAS, Donor is the fee simple owner of Tract 6A in the Las Estrellas Subdivision, Santa Fe, NM **("Site")**, and on January 25, 2023, the City's Governing Body approved Resolution 2023-4, as amended **("Resolution 2023-4")**, that provides for, among other things, donating or selling the Site to a developer certified as a "Qualifying Grantee" under the New Mexico Affordable Housing Act. The resolution also provided for the sale of 7-tracts of undeveloped land in the same subdivision **("7-tracts")**; and

WHEREAS, the Site and 7-tracts are all subject to: 1) Residential Declaration of Covenants, Conditions, and Restrictions ("Residential Covenants"); 2) Non-Residential Covenants, Conditions, and Restrictions ("Non-Residential Covenants" and, collectively, **("Covenants")**; and 3) the Las Estrellas Master Plan **("Master Plan")**, which governs the area's zoning, density, minimum requirements for affordable housing, and the location of open spaces; and

WHEREAS, the City as "Declarant" under the Covenants affecting the Site and 7-Tracts has the right to release and remove Site from the Residential Covenants, but not the Non-Residential Covenants; and

WHEREAS, the Site is the subject of the Request for Qualifications **("RFQ")**, identified as "RFQ # Tract 6A 23-02", which was released on December 11, 2023; and

WHEREAS, Donee submitted a submission to the RFQ, and the Evaluation Committee subsequently selected the Donee based on the cumulative score on the evaluation criteria in the RFQ as a development partner, and eventual owner of the Site, which decision will be presented to the Governing Body for consideration and potential approval; and

WHEREAS, the sale or donation of the Site conforms to the City's Five-Year Strategic Housing Plan "Affordable Housing Element," which was adopted in conformance to the Affordable Housing Act by Ordinance No. 2007-23 pursuant to the express statutory authority conferred upon municipalities to enact a housing code in NMSA 1978, Section 3-17-6(A)(7); and

WHEREAS, the City of Santa Fe acknowledges the Donee as a "Qualified Grantee" for purposes of local affordable housing ordinances and compliance with the New Mexico Affordable Housing Act; and

WHEREAS, Resolution 2023-4 requires that the City to retain its rights and duties as Declarant under both the Covenants and Master Plan until such time that Donee notifies Donor to either remove the Site from the Covenants prior to selling the 7-tracts, or the City shall request the Las Estrellas Residential Association Board and master Association Board limit assessments of the Site, which may affect or delay the closing of the sale of the 7-tracts; and

WHEREAS, Donee submitted written notice to the Donor to the RFQ manager on March 11, 2024, requesting the City remove Tract 6A from the Residential Covenants in order to meet the 40% affordability commitment in the Donee's RFQ submission.

WHEREAS, this is an "arm's length" transaction, and no identity of interest exists between the Donor and the Donee, their staff, board of directors, or elected officials; and

WHEREAS, Donee acknowledges that the City has no obligations or responsibilities with regard to development of the Site other than the transfer of the Site for those purposes.

Now therefore, it is agreed as follows:

1. SITE

The Site is identified as Tract 6A of the Las Estrellas Subdivision in Santa Fe, New Mexico, containing approximately 19.736 acres of undeveloped land, and is depicted in the attached Exhibit A and further described in the attached **Exhibit A1 ("Site")**. The Site is located immediately south of Veteran's Memorial Highway (NM 599) on Ridgetop Road. It is part of the Las Estrellas community, which is zoned as a Planned Residential Community (PRC).

2. DONOR'S OWNERSHIP

Donor represents that it is the sole fee simple owner of the Site and has all necessary authority to sell or donate the Site. There are no other contracts for sale or options involving the Site and no other party has any right, title, or interest in the Site and there are no leases affecting or relating to the Site. Between the date Donor executes this Agreement and the Settlement, Donor shall not subject the Site to or consent to any leases, liens, encumbrances, covenants, conditions, restrictions, easements, rights of way, or agreements, or take any other action affecting or modifying the status of title or otherwise affecting the Site without the written consent of the Donee.

3. EFFECTIVE DATE

The date upon which this Agreement shall be finally executed by the authorized representative of Donee and Donor shall be the effective date ("Effective Date") hereof.

4. REQUIREMENTS OF DONEE

A. Donor hereby agrees to convey to Donee and Donee hereby agrees to accept the donation from Donor, and Donee agrees to complete the following conditions within five (5) years of the execution of this agreement:

i Donee shall successfully obtain approval of its development plan from the Planning Commission or other required City entity;

ii Donee shall secure all land use entitlement approvals required to develop the Site;

iii Subject to approval by Donor, Donee shall submit a Proof of Funds letter issued by an FDIC insured bank, investment bank, or other financial institution as proof of having obtained all financing needed to accomplish the project, or that Donee has the monetary resources to cover all costs;

B. Donee has executed a Quitclaim Deed from Donee to Donor, included in this document as **Exhibit B** (the "Donee Deed"), conveying back to Donor all interest in the donated real estate and any improvements thereon if Donee does not complete the requirements in Section 4A of this Agreement within five (5) years of the execution of this Agreement. Said deed shall be escrowed by the Donor in case of default of any of said requirements, which will trigger formal notice of default, which shall be delivered by Donor to Donee (the "Default Notice"). Donee shall have thirty (30) days after delivery of the Default Notice to cure the default; or, if the cure requires more than thirty (30) days, Donee shall not be in default if Donee immediately initiates steps to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical, but in no event later than ninety (90) days after delivery to Donee of the Default Notice. In the event Donee fails to cure the default within the applicable time period set forth in the immediately preceding sentence, at which time the Donee Deed shall be filed by Donor into the real estate record of the Santa Fe County Clerk, effectively terminating this Real Estate Donation Agreement and vesting title to Site back to Donor.

Donee, as the Donor's agent under Section 26-1.18 ("Affordability controls on SFHP homes; rental prohibition"), shall at all times comply with the City of Santa Fe Homes Program requirements and processes for imposing and administering affordability liens, including dedicating any funds ever received for repayment of an affordability lien entered into pursuant to this Agreement to the purposes approved for the City's Affordable Housing Trust Fund. At the time of this Agreement, those purposes are (i) donating, provide or pay all, or a portion, of the costs of land for the construction on the land of affordable housing; (ii) donating, provide or pay all or a portion of the costs of conversion or renovation of existing buildings into affordable housing; (iii) providing or pay the costs of financing or infrastructure necessary to support affordable housing projects; or (iv) providing or pay all or a portion of the costs of acquisition, development, construction, financing, operating or owning affordable housing.

5. REQUIREMENTS OF DONOR

As the Donee provided written notice to Donor to remove the Site from the Residential Covenants to meet the affordability criteria in the RFQ, Donor as Declarant under the Covenants, or Donor's representative shall;

A. Release and remove the Site from the Residential Covenants within 90 days of the effective date of this agreement.

B. If Donor, or Donor's representative, has not successfully completed A, above, within 90-days of the Effective Date, Donee may either:

i. Terminate this Agreement by providing written notice to Donor.

ii. Extend Donor's time period to perform 5.A. above, by written agreement, with successive automatic 90-day renewals. Such automatic renewals shall continue until

written notice from Donee to Donor is received terminating said automatic renewals.

iii. Donee, with written notice to Donor, may withdraw Donee's request to remove the Site from the Residential Covenants.

6. ACTIONS OR SUITS

Unless set forth by Donor in an attachment to this Agreement, Donor warrants and represents that there are no actions or suits in law or equity or proceedings by any governmental agency now pending or, to the knowledge of the Donor, threatened against Donor in connection with the Site, and there is no outstanding order, writ, injunction, or decree of any court or governmental agency affecting the Site.

7. PROFFERS AND COMMITMENTS.

Donor represents there has not been made and will not be made, without Donee's prior written consent, any proffers or other commitments relating to the Site, which would impose any obligation on Donee or its successors and assigns, after Settlement as described in Paragraph 9, below, to make any contribution of money or dedications of land or to construct, install, or maintain any improvements of a public or private nature on or off the Site.

8. OTHER AGREEMENTS.

Donor warrants and represents that the execution and delivery of this Agreement, the completion of the transaction(s) contemplated hereby, and the fulfillment of the terms hereof will not result in a breach of any of the terms or provisions of, or constitute a default under, or conflict with, any agreement, indenture, or other instrument to which Donor is a party or by which it or the Site is bound, or any judgment, decree, order, or award of any court, governmental body, or arbitrator, or any law, rule, or regulation applicable to Donor.

9. SETTLEMENT.

a. Settlement and delivery of possession shall be within forty-five (45) business days of execution of this Agreement, allowing a reasonable time for preparation of documents ("Settlement"). Settlement shall be held at the offices of Stewart Title Company, as the "Settlement Agent", or at such other place as the parties may agree. Donor shall deliver to Donee, at Settlement, a fully executed Deed, conveying the Site in fee simple to Donee ("Deed"). Donee will pay for all costs associated with the closing.

b. Donor shall deliver to Donee at Settlement an affidavit, on a form acceptable to Donee or Donee's title insurance company, signed by Donor, that no labor or materials have been furnished to the Site within the statutory period for the filing of mechanics' or materialmen's liens against the Site, or if labor or materials have been furnished during the statutory period, an affidavit that the costs thereof have been paid in full.

c. Donor agrees to deliver to Donee or Settlement Agent the following at or prior to Settlement:
   (i) The fully executed Special Warranty Deed, see example as **Exhibit C**;
   (ii) The signed closing or settlement statement prepared or approved by Settlement Agent; and
   (iii) Any other documents reasonably required by Settlement Agent or Donee.

d. Donee agrees that 40% of all units built on the Site will be sold at an affordable price to low-and-moderate income households ("affordable homes"). Donee agrees to record a Land Use Restriction Agreement on the property substantially in the form of **Exhibit D** that will ensure an affordability period of no less than forty-five years for the affordable homes. The LURA shall be

recorded when the specific lots that the affordable homes will be located on have been identified.

10. TITLE.
The Site shall be conveyed free from all mortgages, deeds of trust, liens, security interests, and other financial encumbrances.

11. EXPENSES OF SETTLEMENT.

a. Donee shall pay for its own attorney's fees as well as other charges customarily paid by a Donee of real estate in New Mexico.
b. Donee shall pay for the preparation of any documents it is required to provide hereunder, and its own attorney's fees as well as other charges customarily paid by a Donor of real estate in New Mexico.
c. All real estate taxes, assessments, utility charges, and rent, if any, shall be prorated as of the date conveyance is executed.

12. USE OF SITE.
Donee shall use the Site solely for the purpose of developing for sale housing, of which 40% of units will be sold to low-to-moderate income households, as provided for in the RFQ and RFQ Submission.

13. DEFAULT.
In the event of any default, the non-defaulting party shall be entitled to pursue any remedies at law or inequity in connection with the default of the other party. The election to terminate this Agreement under the terms hereof shall not constitute a default.

14. PRIOR AGREEMENTS MERGER.
This Agreement supersedes any and all prior understandings and agreements between the parties and constitutes the entire agreement between them. No representations, warranties, conditions, or statements, oral or written, not contained herein shall be considered a part hereof. This Agreement may not be amended, altered, or modified except by an instrument in writing signed by the party sought to be charged therewith.

15. NOTICES.
Any notices required or permitted to be given hereunder shall be deemed to have been properly given if sent by United States certified or registered mail, return receipt requested, postage prepaid,or if delivered in hand, as follows:

If delivered or mailed to
Donor: City of Santa Fe
Attn. City Attorney's Office
PO Box 909
Santa Fe, NM 87504-0909

With a copy to: City of Santa Fe
Attn. Asset Development Manager
PO Box 909
Santa Fe, NM 87504-0909

Donee: Homewise, Inc.
Attn. Ms. Lisa Huval
500 2nd Street
Albuquerque, NM 87102

16. GOVERNING LAW.
Notwithstanding the place where this Agreement may be executed by any of the parties hereto, the parties expressly agree that all terms and provisions hereof shall be construed and enforced in accordance with the laws of the STATE OF NEW MEXICO.

17. CERTIFICATES AND DOCUMENTS INCORPORATED.
The following certificates and documents are incorporated herein to the extent they are consistent with the terms and conditions of this Agreement:

a. RFQ # Tract 6A 23-02.
b. Donee RFQ submission dated January 29, 2024.
c. Donee written notice to request that Tract 6A be removed from Residential Covenants to meet the affordability threshold in the RFQ submission.

18. MISCELLANEOUS.
Subject to the provisions hereof, this Amended Agreement shall bind and inure to the benefit of the parties hereto, their heirs, personal representatives, successors, and permitted assigns. No assignment of this Amended Agreement shall be permitted except with the written consent of the other party, which consent shall not be withheld unreasonably. The warranties, representations, and terms of this Amended Agreement shall survive delivery of the Deed and shall not be merged therein.

19. EXECUTION OF CONVEYANCE.
The approval and execution of this Donation Agreement grants the authority to fully execute the conveyance of the property via Deed by the Mayor.

[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]
[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of their last signature below.

DONOR: **CITY OF SANTA FE**

_____
ALAN M. WEBBER, MAYOR

DATE: _____

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
)SS
COUNTY OF SANTA FE)

This instrument was acknowledged before me this ___ day of _____, 20____ by Alan M. Webber, Mayor of the City of Santa Fe.

Seal:

_____
Notary Public

My Commission Expires:

_____

DONEE: **HOMEWISE, INC.**

Lisa Huval

LISA HUVAL, CHIEF GOVERNMENT AFFAIRS OFFICER

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
)SS
COUNTY OF SANTA FE)

This instrument was acknowledged before me this 4 day of Sept, 2025 by Lisa Huval, Chief Government Affairs Officer for Homewise, Inc., a New Mexico nonprofit corporation.

Seal:

STATE OF NEW MEXICO
NOTARY PUBLIC
KANDRA LYNN PAYNE
COMMISSION # 1139277
COMMISSION EXPIRES 12/02/2026

Notary Public

My Commission Expires:

12/2/26

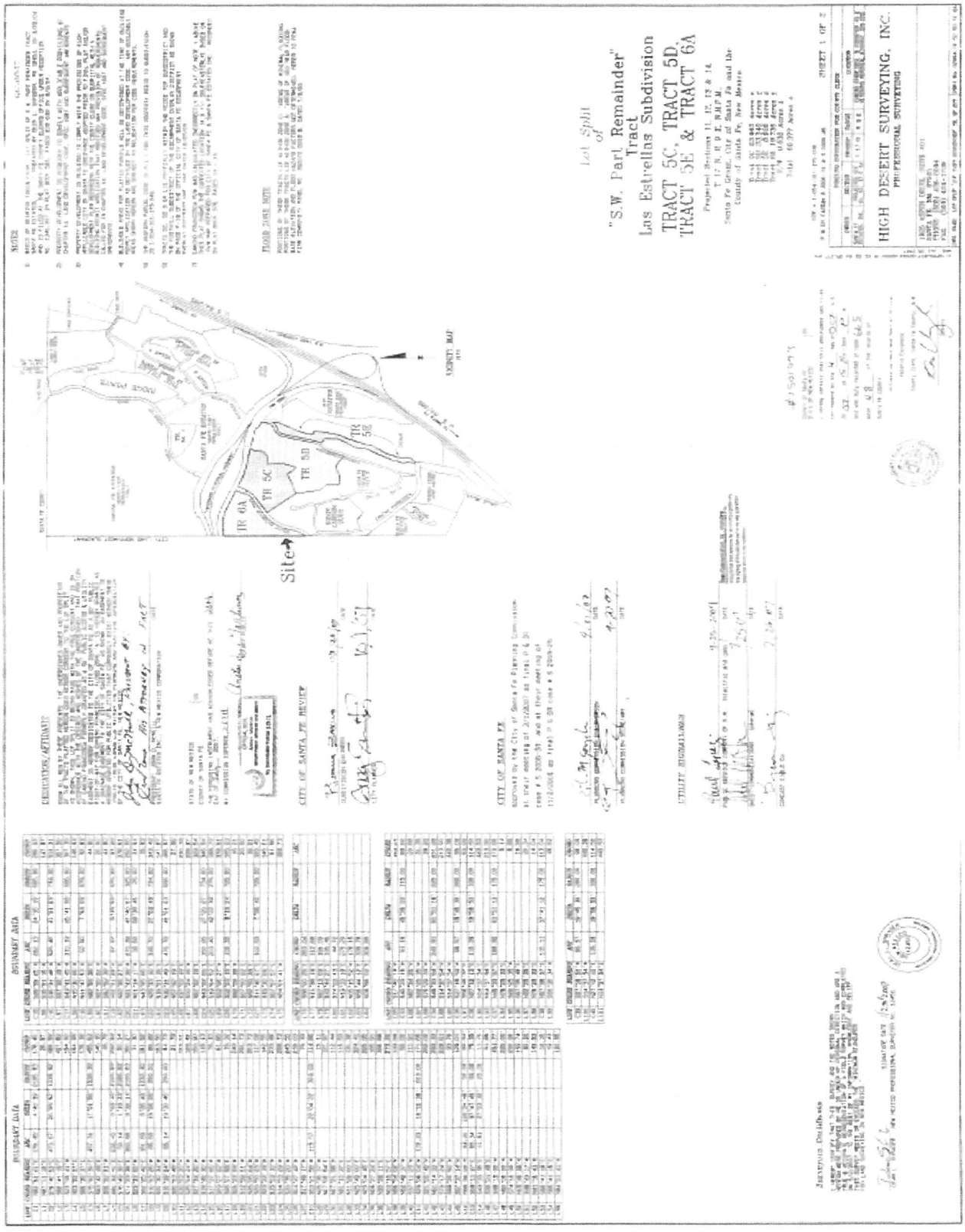
APPROVED AS TO FORM FOR ~~LEGAL~~ SUFFICIENCY:

CITY ATTORNEY

APPROVED AS TO FINANCE:

EMILY K. OSTER, FINANCE DIRECTOR
NO FUNDS ACCOUNT - DONATION

EXHIBIT A
To the Donation Agreement



"S.W. Part Remainder"
Tract
Las Estrellas Subdivision
TRACT 5C, TRACT 5D,
TRACT 5E & TRACT 6A
HIGH DESERT SURVEYING, INC.
SHEET 2 OF 2
TRACT 5C
TRACT 5D
TRACT 5E
TRACT 6A
TRACT 5G
Veterans Memorial Highway
CAMINO FRANCISCO
Legend

EXHIBIT A1
To the Donation Agreement

"TRACT 6A"
A CERTAIN PARCEL OF LAND KNOWN AS "TRACT 6A", CONTAINING 19.736 ACRES MORE OR LESS AND BEING SITUATE WITHIN PROJECTED SECTION 11 OF TOWNSHIP 17 NORTH, RANGE 09 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN, AND WITHIN THE CITY AND COUNTY OF SANTA FE, NEW MEXICO, AS SHOWN ON "LOT SPLIT OF THE SOUTHWEST PART REMAINDER TRACT, LAS ESTRELLAS SUBDIVISION, TRACT 5C, TRACT 5D, TRACT 5E & TRACT 6A", PREPARED BY DEAN SHRADER, NMPS, 12451, AND RECORDED ON OCTOBER 4, 2007, IN PLAT BOOK 665, PAGES 47-48, AS INST. #1501993, RECORDS OF SANTA FE COUNTY, NEW MEXICO.

EXHIBIT B
Special Warranty Deed from Donee to Donor

SPECIAL WARRANTY DEED

HOMEWISE, a private, not-for-profit organization, whose address is 2520 Camino Entrada Ste. A, Santa Fe, 500 2nd Street, Albuquerque, NM 87102, for no consideration paid, grants to The **CITY OF SANTA FE, a municipality chartered under the laws of New Mexico**, whose address is 200 Lincoln Avenue, Santa Fe, New Mexico, 87501, the following real estate in Santa Fe County, New Mexico described on Exhibit A, attached hereto and incorporated herein. Together with all and singular the rights and appurtenances thereto in anywise belonging including, without limitation, all rights, privileges, and easements, and conditions, and subject to covenants, restrictions, rights, rights of way and easements now of record, if any.

HOMEWISE, INC.

L Huval
LISA HUVAL, CHIEF GOVERNMENT AFFAIRS OFFICER

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
)SS
COUNTY OF SANTA FE)

This instrument was acknowledged before me this 4 day of Sept., 2025 by Lisa Huval, Chief ~~Government Affairs Officer for Homewise~~, Inc., a New Mexico nonprofit corporation.

Seal:

STATE OF NEW MEXICO
NOTARY PUBLIC
KANDRA LYNN PAYNE
COMMISSION # 1139277
COMMISSION EXPIRES 12/02/2026

Notary Public

My Commission Expires:

12/2/26

ACCEPTANCE by the CITY OF SANTA FE, of donation of real estate.

CITY OF SANTA FE

_____
ALAN M. WEBBER, MAYOR

ATTEST:

_____
ANDRÉA SALAZAR, CITY CLERK

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
)ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me this ___ day of _____, 20____ by Alan M. Webber, Mayor of the City of Santa Fe.

Seal:

_____
Notary Public

My Commission Expires:

_____

EXHIBIT A (to EXHIBIT B)
Special Warranty Deed from Donee to Donor

A parcel of land lying and being situate within the municipal limits of the City and County of Santa Fe, State of New Mexico, being more particularly described as follows:

"TRACT 6A"
A CERTAIN PARCEL OF LAND KNOWN AS "TRACT 6A", CONTAINING 19.736 ACRES MORE OR LESS AND BEING SITUATE WITHIN PROJECTED SECTION 11 OF TOWNSHIP 17 NORTH, RANGE 09 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN, AND WITHIN THE CITY AND COUNTY OF SANTA FE, NEW MEXICO, AS SHOWN ON "LOT SPLIT OF THE SOUTHWEST PART REMAINDER TRACT, LAS ESTRELLAS SUBDIVISION, TRACT 5C, TRACT 5D, TRACT 5E & TRACT 6A", PREPARED BY DEAN SHRADER, NMPS, 12451, AND RECORDED ON OCTOBER 4, 2007, IN PLAT BOOK 665, PAGES 47-48, AS INST. #1501993, RECORDS OF SANTA FE COUNTY, NEW MEXICO.

EXHIBIT C

To the Donation Agreement

SAMPLE QUIT-CLAIM DEED

The City of Santa Fe, a municipality chartered under the laws of New Mexico, whose address is 200 Lincoln Avenue, Santa Fe, New Mexico, 87501, for no monetary consideration and as a donation authorized by NM Const. Art. 9, Section 14 and NMSA 1978, Section 6-27-1, et seq., grants to Homewise, Inc., whose address is 500 2nd Street, Albuquerque, NM 87102, the real estate in Santa Fe County, New Mexico, described on Exhibit A, attached hereto and incorporated herein, together with all and singular the rights and appurtenances thereto in anywise belonging including, without limitation, all rights, privileges, and easements, and conditions, and subject to covenants, restrictions, rights, rights-of-way and easements now of record and any infrastructure of the City installed on or within the Site, if any. Also subject to those restrictions and conditions as contained on "Real Estate Donation Agreement between the City of Santa Fe and Homewise, Inc., dated _____, 20_____ and the Land Use Restriction Agreement by Homewise, Inc., dated _____, 20_____.

This deed is an absolute conveyance, the Grantor having donated the above described property to the Grantee for a fair and adequate consideration. Grantor declares that this conveyance is freely and fairly made to Grantee, and by its acceptance hereof, does hereby assume and agree to pay all obligations and any ad valorem taxes, following the date of recording of this deed in the records of the Santa Fe County Clerk.

Witness my hand and seal this _____ day of _____, 20_____.

CITY OF SANTA FE

_____
ALAN M. WEBBER, MAYOR

ATTEST:

_____
ANDRÉA SALAZAR, CITY CLERK

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
)SS.
COUNTY OF SANTA FE)

This instrument was acknowledged before me this ___ day of _____, 20_____ by Alan M. Webber, Mayor of the City of Santa Fe.

Seal:

_____
Notary Public

My Commission Expires:

_____

ACCEPTANCE by Homewise, Inc., a New Mexico nonprofit corporation, of donation of real estate and conditions imposed thereon by Grantor.

HOMEWISE, INC.

_____
LISA HUVAL, CHIEF GOVERNMENT AFFAIRS OFFICER

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
)SS.
COUNTY OF SANTA FE)

This instrument was acknowledged before me this ___ day of _____, 20____ by Lisa Huval, Chief Government Affairs Officer for Homewise Inc.

Seal:

_____
Notary Public

My Commission Expires:

_____

EXHIBIT A (to EXHIBIT C)
Sample Quitclaim Deed

A parcel of land lying and being situate within the municipal limits of the City and County of Santa Fe, State of New Mexico, being more particularly described as follows:

"TRACT 6A"
A CERTAIN PARCEL OF LAND KNOWN AS "TRACT 6A", CONTAINING 19.736 ACRES MORE OR LESS AND BEING SITUATE WITHIN PROJECTED SECTION 11 OF TOWNSHIP 17 NORTH, RANGE 09 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN, AND WITHIN THE CITY AND COUNTY OF SANTA FE, NEW MEXICO, AS SHOWN ON "LOT SPLIT OF THE SOUTHWEST PART REMAINDER TRACT, LAS ESTRELLAS SUBDIVISION, TRACT 5C, TRACT 5D, TRACT 5E & TRACT 6A", PREPARED BY DEAN SHRADER, NMPS, 12451, AND RECORDED ON OCTOBER 4, 2007, IN PLAT BOOK 665, PAGES 47-48, AS INST. #1501993, RECORDS OF SANTA FE COUNTY, NEW MEXICO.

EXHIBIT D
To the Donation Agreement
Land Use Restriction Agreement (LURA)

DECLARATION OF AFFORDABLE HOUSING RESTRICTIVE COVENANT

I. This Land Use Restriction Agreement ("LURA") is made and entered into this _____ day of _____by and between the City of Santa Fe, a New Mexico municipal corporation ("the City"), and Homewise, Inc., a New Mexico Nonprofit Corporation ("Donee").

II. The City has donated to Donee the Property described below for the purpose of construction by Donee of for-sale housing units ("Units"). The City requires the Donee to restrict the use of such property pursuant to the terms hereof as a condition of donating the property. Therefore, in consideration of the donation from the City to the Donee, the Donee agrees that the real estate located in the County of Santa Fe State of New Mexico and more specifically described on Exhibit A hereto (the "Property") is subject to the following restrictions:

i. The original homebuyers of the homes built on the lots listed in Exhibit A shall be persons or households of low or moderate income within the meaning of New Mexico Statutes Annotated Chapter 6, Article 27 and consistent with Santa Fe City Code Chapter 26 ("Eligible Homeowner).

ii. The City will deliver to Donee a release of this LURA with respect to each Unit on or before the date of the sale of the Unit.

iii. Upon sale of a Unit to an eligible homebuyer the Donee shall place a lien on the Unit via a subordinate mortgage and note signed by the eligible homebuyer(s) that shall:
   a. Be approved as to form by the Donor.
   b. Be equal to the difference between the appraised value of the Unit or 95% of the appraised value of the Unit and the effective affordable price for the homebuyer.
   c. Be non-amortizing and carry a rate of zero percent interest
   d. Establish an affordability period of no less than 45 years.
   e. Require that if the eligible homebuyer sells the home prior to the expiration of the affordability period, Homewise shall have the right of first refusal to purchase the home for a formula price and, if Homewise does not exercise its right of first refusal, then the Donor may exercise the right. If neither Homewise nor the Donor exercise the right of first refusal, then the lien shall require that the eligible homebuyer make a good faith attempt to sell the home to another income qualified buyer approved by Homewise or the Donor and the income qualified buyer shall assume the lien. The lien shall further state that if the eligible homebuyer is unable to find another income qualified buyer, the lien shall be repaid to Homewise, dedicated to the approved purposes for the City's Affordable Housing Trust Fund. At the time of this Agreement, those purposes are (i) donating, provide or pay all, or a portion, of the costs of land for the construction on the land of affordable housing; (ii) donating, provide or pay all or a portion of the costs of conversion or renovation of existing buildings into affordable housing; (iii) providing or pay the costs of financing or infrastructure necessary to

support affordable housing projects; or (iv) providing or pay all or a portion of the costs of acquisition, development, construction, financing, operating or owning affordable housing.

f. Require the buyer to complete the Questionnaire adopted in Appendix E of the City of Santa Fe Administrative Procedures, as updated, assessing the effectiveness of the Santa Fe Homes Program.

III. This LURA is for the benefit of, and is enforceable by, the City.

IV. This LURA shall run with the land and expire on the date that is 45 years after the date of recordation of this LURA in the records of Santa Fe County, New Mexico or when the LURA is released as described in section II.ii, whichever is soonest, at which point this LURA shall be of no further force or effect with no further action being required of the City, Donee or any then owner of any portion of the Property.

BY:

CITY OF SANTA FE

_____
ALAN M. WEBBER, MAYOR

ATTEST:

_____
ANDRÉA SALAZAR, CITY CLERK

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
)ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me this ___ day of _____, 20____ by Alan M. Webber, Mayor of the City of Santa Fe.

Seal:

_____
Notary Public

My Commission Expires:

_____

HOMEWISE, INC.

L Huval
LISA HUVAL, CHIEF GOVERNMENT AFFAIRS OFFICER

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
)ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me this 4th day of Sept., 2025 by Lisa Huval, Chief Government ~~Affairs Officer for Homewise, Inc., a New~~ Mexico nonprofit corporation.

Seal:

STATE OF NEW MEXICO
NOTARY PUBLIC
KANDRA LYNN PAYNE
COMMISSION # 1139277
COMMISSION EXPIRES 12/02/2026

K Payne
Notary Public

My Commission Expires:

12/2/2025

EXHIBIT A (to EXHIBIT D)
Donation Agreement Land Use Restriction

A parcel of land lying and being situate within the municipal limits of the City and County of Santa Fe, State of New Mexico, being more particularly described as follows:

[List specific lots that affordable homes will be located on. Number of specific lots must equal 40% of total units that will be built].

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2023-4

INTRODUCED BY:

Councilor Michael Garcia

Councilor Renee Villarreal

Mayor Alan Webber

A RESOLUTION

ADOPTING A STRATEGY FOR DONATING OR SELLING, AT BELOW-MARKET VALUE, A PROPERTY IDENTIFIED AS "LAS ESTRELLAS TRACT 6A" TO A DEVELOPER CERTIFIED AS A "QUALIFYING GRANTEE" UNDER THE NEW MEXICO AFFORDABLE HOUSING ACT TO DEVELOP SANTA FE HOMES PROGRAM HOMES, LOW-PRICED DWELLING UNITS, OR UNITS PRICE-RESTRICTED THROUGH ANOTHER AFFORDABLE HOUSING SUBSIDY; AND APPROVING AN ANNOUNCEMENT TO SELL THE REMAINING SEVEN LAS ESTRELLAS LOTS WITH A LOCAL PREFERENCE.

WHEREAS, it is a policy goal of the City of Santa Fe ("City") to provide incentives and encourage proposals that support the production, acquisition, and redevelopment of affordably priced homes in mixed-income developments; and

WHEREAS, according to Santa Fe Housing Act Coalition, market-rate rents in Santa Fe have increased by almost 50% since 2014, and 65% of Santa Fe renters cannot afford the median priced home; and

WHEREAS, according to the Santa Fe Association of Realtors' Summer 2022 quarterly property statistics report, the median sales price in Santa Fe increased over 20% since 2021; and

WHEREAS, on December 17, 2019, the City and Santa Fe Estates, Incorporated, a New Mexico corporation ("Santa Fe Estates") terminated a 90-year-old development and profit-sharing agreement between the parties, which resulted in the City reacquiring fee simple title to 250.1 acres in the Northwest Quadrant of the City ("Las Estrellas"); and

WHEREAS, Las Estrellas consists of nine tracts of land: Tract NPR1, Tract NPR3, Tract NPR4, Tract NPR5, Tract NPR6, Tract NPR7, Tract 2, Tract 6A, and Tract 8B-1A; and

WHEREAS, these nine tracts of land are all subject to certain covenants, conditions, and restrictions and the Las Estrellas Master Plan, which governs the area's zoning, density, minimum requirements for affordable housing, and the location of open spaces ("Master Plan"); and

WHEREAS, the Governing Body wishes to sell seven of the nine parcels in Las Estrellas (Tract NPR1, Tract NPR3, Tract NPR4, Tract NPR5, Tract NPR6, Tract NPR7, and Tract 2) to a purchaser who will develop the parcels according to the applicable covenants, conditions, restrictions, and Master Plan; and

WHEREAS, for the seven parcels it intends to sell, the Governing Body wishes to offer a preference to local purchasers; and

WHEREAS, in addition to the local preference and applicable restrictions, the Governing Body wishes to obtain at least the appraised value of the seven parcels; and

WHEREAS, while the City retains ownership of Las Estrellas, it is also the "Declarant" under both the Residential the Declaration of Covenants, Conditions and Restrictions ("Residential Covenants") and Non-Residential (AKA "Master") Declaration of Covenants, Conditions, and Restrictions ("Non-Residential Covenants"); and

WHEREAS, the Governing Body wishes to make Tract 6A available for an affordable housing project; and

WHEREAS, the eighth parcel is designated "Community Services", and, therefore, the City will retain it for one of the following uses: Police, Fire, Library, Administrative Offices, or Recreational Uses; and

WHEREAS, as the "Declarant" under the Residential Covenants affecting the property (including Tract 6A), the City has the right to remove Tract 6A from the Residential Covenants (but not the Non-Residential Covenants); and

WHEREAS, in addition, or in lieu, the City may request the Las Estrellas Residential Association and/or Master Association Board limit the assessments for Tract 6A to support greater affordability; and

WHEREAS, the City intends to donate or sell at a discount Tract 6A as identified in the attached Exhibit A and Exhibit B for the development of homes that meet the definition in SFCC 1987, Sections 26-1 and 26-1 as "Santa Fe Homes Program Homes" ("SFHP") or Low Priced Dwelling Units" ("LPDU"), or other affordability definitions either as rental units, owned units, or land trust homes.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE, that the City Manager shall create an Evaluation Committee that will release a Request for Qualifications ("RFQ") and select a "Qualified Grantee," or a consortium that includes a "Qualified Grantee," to develop Tract 6A for residential uses, offering a mix of housing types, tenures, and affordability levels. The City shall award a disposal contract pursuant to the RFQ based on the following evaluation criteria, as applied to the applicants' proposed project(s):

- Funding Feasibility – the proposed project budget is realistic, funds are leveraged at least at a 3:1 ratio from other committed funding sources, revenue is sufficient to accomplish the proposed project.
- Need/Benefit and Project Feasibility – the project concept is responsive to current/future market demand and the applicant provides a realistic timeframe for the

completion of the proposed activities.

- Affordability – the proposed project effectively meets the income eligibility requirements of the New Mexico Affordable Housing Act, and the applicant describes how it will achieve affordability targets; how the applicant and/or the City may monitor the project over time for compliance; and how the applicant will secure.
- Organizational Capacity and Management – the applicant adequately demonstrates experience and expertise in this type of housing construction, including work samples and funding commitments.
- Innovative Design and Sustainability Targets – the applicant demonstrates the ability to design and construct buildings that achieve high standards of sustainability, have innovative designs, and exceed the green building criteria in City code.

BE IT FURTHER RESOLVED that, based on the criteria above, the Evaluation Committee shall identify a development partner and potential future owner of Tract 6A, in order for staff to prepare an agreement regarding the proposed project for approval by the Governing Body.

BE IT FURTHER RESOLVED that the City Manager shall order an update to the November 16, 2021 appraisal, of Tract 6A and an updated appraisal for the seven parcels it intends to sell.

BE IT FURTHER RESOLVED that the City Manager shall develop a Real Estate Donation Agreement and Special Warranty Deed for Governing Body approval, imposing a land use restriction that will ensure an affordability period of no less than forty-five years and that will run concurrently with any requirements imposed by any other subsidy provider, to be executed upon transfer of Tract 6A.

BE IT FURTHER RESOLVED that, if the Qualifying Entity that is awarded Tract 6A deems it necessary to provide affordable housing, the City shall either remove Tract 6A from the

Residential Declaration of Covenants, Conditions, and Restrictions, prior to selling the other seven parcels, or the City shall request the Las Estrellas Residential Association Board and Master Association Board limit the assessments on Tract 6A.

BE IT FURTHER RESOLVED that the Governing Body approves the public announcement of sale for the seven parcels of Las Estrellas with the following minimum criteria:

1. a minimum bid of the appraised price or higher;
2. documentation of financial ability to pay for the land; and
3. documentation of financial viability to develop the land in accordance with the Master Plan.

BE IT FURTHER RESOLVED that the City will select a purchaser for the seven parcels of Las Estrellas as follows:

1. Requiring the minimum criteria, listed above;
2. Applying a local preference for local purchasers of up to six percent (6%), which is consistent with the weight of the local preference offered in City and State procurement; and
3. Selecting the offer that meets the minimum criteria and offers the highest purchase price, as adjusted by the local preference.

BE IT FURTHER RESOLVED that, to receive the local preference, a purchaser must meet one or both of the two following criteria, which may result in a cumulative six percent (6%) local preference if both criteria are met:

1. Hold a current City of Santa Fe or Santa Fe County business license, and have held said license for the proceeding three (3) years, to receive a three percent (3%) local preference, or
2. Provide a New Mexico Tax and Revenue Department Resident Business Certificate to receive a three percent (3%) local preference.

BE IT FURTHER RESOLVED that the purchase agreement shall stipulate that, in the event the purchaser is awarded a local preference, the purchaser shall not sell the property for a period of three (3) years, unless selling to a buyer who meets the qualifications for an equal or greater percentage of the local preference offered in the Request for Qualifications, except that the sale of developed homes or ready-to-build individual plots to individual homeowners is permitted. The purchase agreement shall require the purchaser to secure this requirement with a letter of credit in the amount of 2% of the contracted purchase price.

BE IT FURTHER RESOLVED that the purchase agreement shall stipulate that a purchaser awarded a local preference shall begin development of the property, including spine infrastructure, engineering, and utility development, within five (5) years of the completion of purchase and shall require the purchaser to secure compliance with this requirement with a letter of credit in the amount of 1% of the contracted purchase price.

PASSED, APPROVED, and ADOPTED this 25th day of January, 2023.

ALAN WEBBER, MAYOR

ATTEST:

KRISTINE MIHELCIC, CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2022/Resolutions/2023-4 (R) Las Estrellas Tract 6A Disposition

Signature:

Email: tjlease@santafenm.gov

Signature: Johanna Nelson (Sep 5, 2025 13:31:29 MDT)

Email: jcnelson@santafenm.gov

City of Santa Fe Affordable Housing Site Feasibility Study

Office of Economic Development

Las Estrellas Master Plan Tract 6A
12/1/23

City of Santa Fe Affordable Housing Site Feasibility Study

Prepared for

Office of Economic Development

Las Estrellas Master Plan Tract 6A
12/1/23

Prepared by

WILSON & COMPANY
HIGHER RELATIONSHIPS

4401 Masthead St. NE Suite 150
Albuquerque, NM 87109

© 2020 Wilson & Company, Inc., Engineers & Architects

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1. General Project Information

Background

The Santa Fe Estates Master Plan for Tract 6A was initially established in 1979, encompassing 28 acres with a planned configuration of 7 parcels, equating to a density of 2 units per acre. A significant revision occurred in 1996 when the Santa Fe Estates Master Plan was amended, resulting in a reduction of Tract 6A to 19.736 with 5.07 acres being dedicated to open space resulting in a total of 14.72 developable acres. The zoning was adjusted to R-5 (Residential-5 dwelling units per acre), allowing for an increased density of 60 units at a rate of 4.08 units per acre.

Further modification occurred in 2005 with the adoption of the Las Estrellas Master Plan. Tract 6A underwent a density redesignation, transitioning from R-4 (Residential - 4 dwelling units per acre) to R-5 (Residential - 5 dwelling units per acre). The unit count was subsequently raised to 70 market-rate units, including 9 affordable units with a density of 4.76 units per acre, in phase 3 of the development plan. A subsequent amendment modified the density once more, evolving from R-5 to RMLD (Residential - Multifamily Land Use Development). This adjustment saw a notable augmentation in the number of market-rate units from 70 to 103 and affordable units from 9 to 13, yielding a density of 6.99 units per acre. Additionally, the acreage experienced a slight increase from 14.72 acres to 14.73.

The subject site is situated adjacent to the off-ramp of Veterans Memorial Highway (NM-599), bounded by Veterans Memorial Highway to the north and west, South Ridgetop Rd. to the east, and Camino Francisca to the south. The surrounding area is characterized by a mix of residential uses of varied densities and land types, encompassing condominiums, single-family dwellings, and varying lot sizes, contributing to a diverse and dynamic local landscape.

Table 1: Tract 6A Density Changes

Tract 6A			
Year	**Acres**	**Units**	**Density**
1979	28	7	
1996	14.72	60	4.80 units per acre
2005	14.72	70 + 9 affordable	6.99 units per acre
Amended	14.73	103 + 13 affordable	6.99 units per acre

2. Legal Lot of Record

A CERTAIN PARCEL OF LAND KNOWN AS "TRACT 6A", CONTAINING 19.736 ACRES MORE OR LESS AND BEING SITUATE WITHIN PROJECTED SECTION 11 OF TOWNSHIP 17 NORTH, RANGE 09 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN, AND WITHIN THE CITY AND COUNTY OF SANTA FE, NEW MEXICO, AS SHOWN ON "LOT SPLIT OF THE SOUTHWEST PART REMAINDER TRACT, LAS ESTRELLAS SUBDIVISION, TRACT 5C, TRACT RD, TRACT 5E & TRACT 6A", PREPARED BY DEAN SHRADER, NMPS, 12451, AND RECORDED ON OCTOBER 4, 2007, IN PLAT BOOK 665, PAGES 47-48, AS INST. #1501993, RECORDS OF SANTA FE COUNTY, NEW MEXICO.

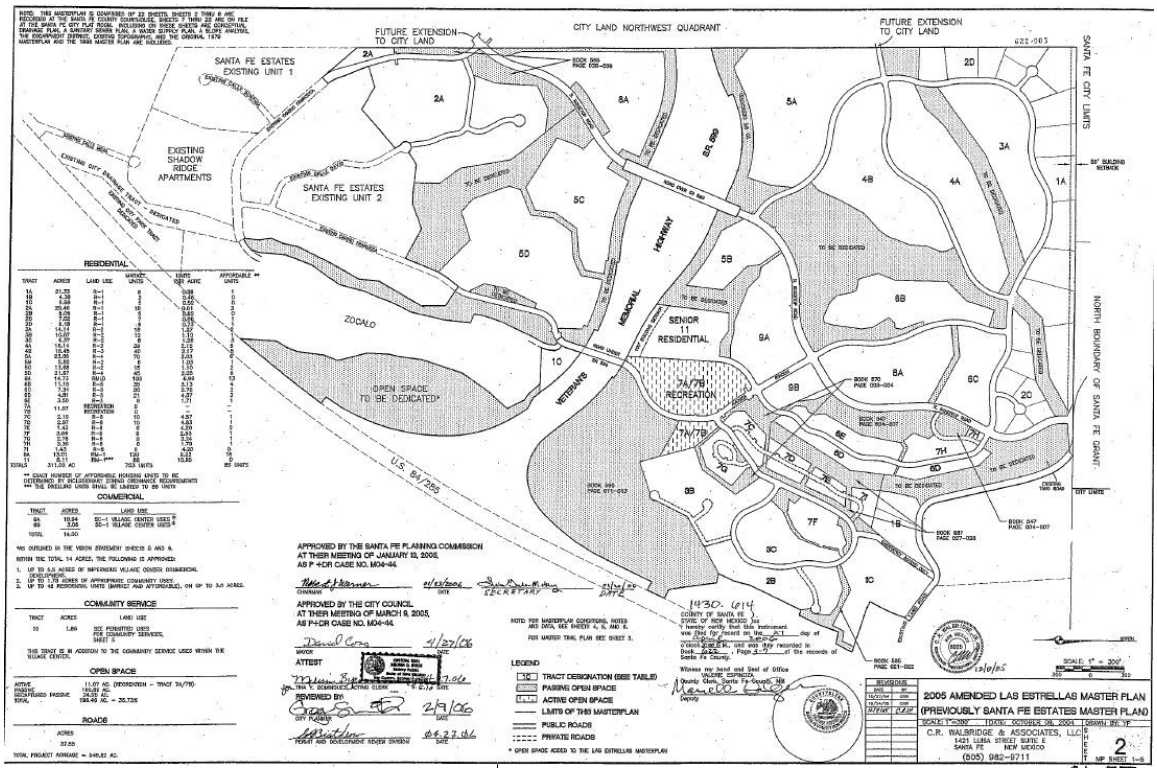

Figure 1: Santa Fe Estates Master Plan

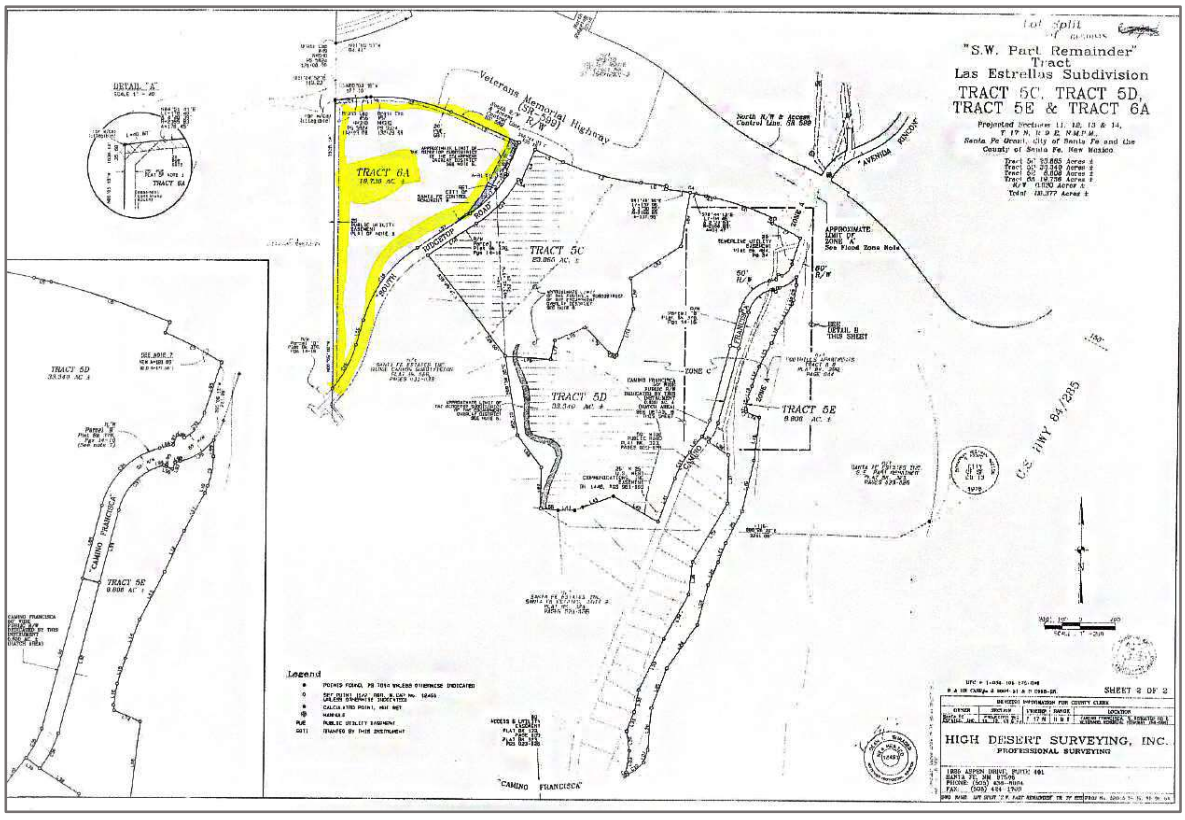

Figure 2: Tract 6A Survey

3. Existing Conditions

Roadways

Tract 6A can be accessible via Veterans Memorial Highway exit off/on-ramp to the north of the site. The site can also be accessed through a single lane two-way road; South Ridgetop Road that runs along the easternly portion of Tract 6A.

Dry Utilities

Tract 6A, adjacent to developments of varying densities, lacks key utilities (power, gas, cable). Future development would utilize the existing eastward infrastructure for supply. Such utilities would need to be extended to the site.

Wastewater

Currently there is no sewer service for the property. Per the conceptual utility master plan a lift station is planned for the northwest corner of the property and would pump wastewater north across Veterans Memorial Highway to a secondary lift station that would pump wastewater west to a collection system. Neither of the lift stations currently exist. An alternate option would be to install a lift station that would pump wastewater to Ridgetop Rd and into existing systems that are located within Ridge Canyon or Pinon Bluff Subdivisions. Both options need to be coordinated with the City Utility department since a current layout for development is unknown.

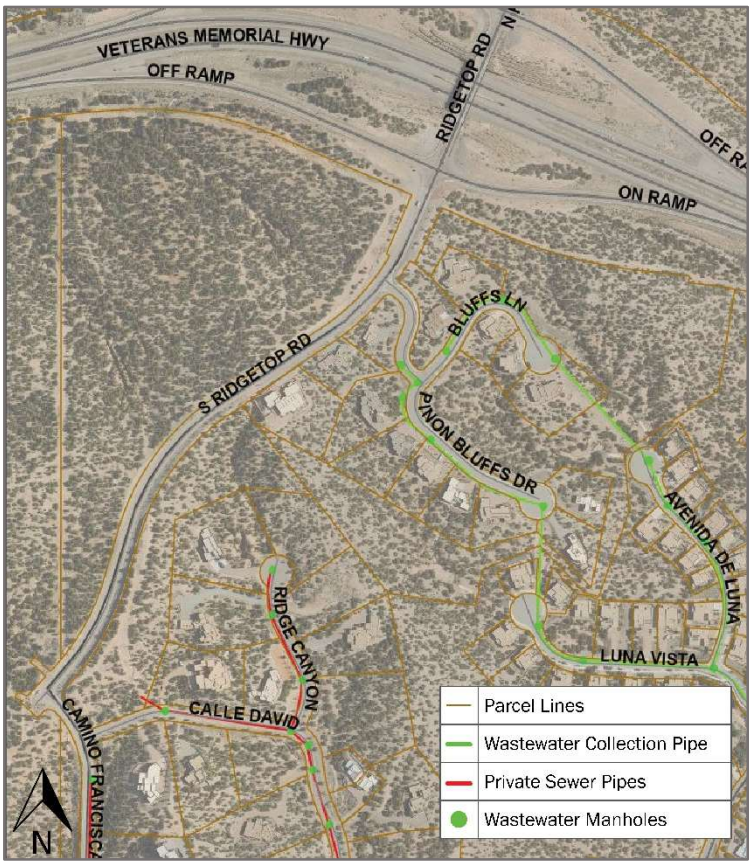

Figure 3: Wastewater Infrastructure

In the eastern sector of Tract 6A, a comprehensive network of wastewater collection pipes has been strategically deployed to facilitate efficient sewage management. Originating from the intersection of Avenida Rincon and Camino Francisca, this intricate network seamlessly extends its reach into the various subdivisions situated in the vicinity.

Conversely, to the southern expanse of Tract 6A, an organized network of private sewer lines has been meticulously established. These private sewer lines serve as a critical component in the local sewage disposal system, enhancing the overall sanitary conditions of the area.

The existence of these well-designed wastewater management systems reflects a proactive approach to land use in the specified tracts. Their careful integration into the overall landscape underscores the importance of sustainable development practices and serves as a noteworthy example of responsible land utilization within the broader context of urban planning and infrastructure development.

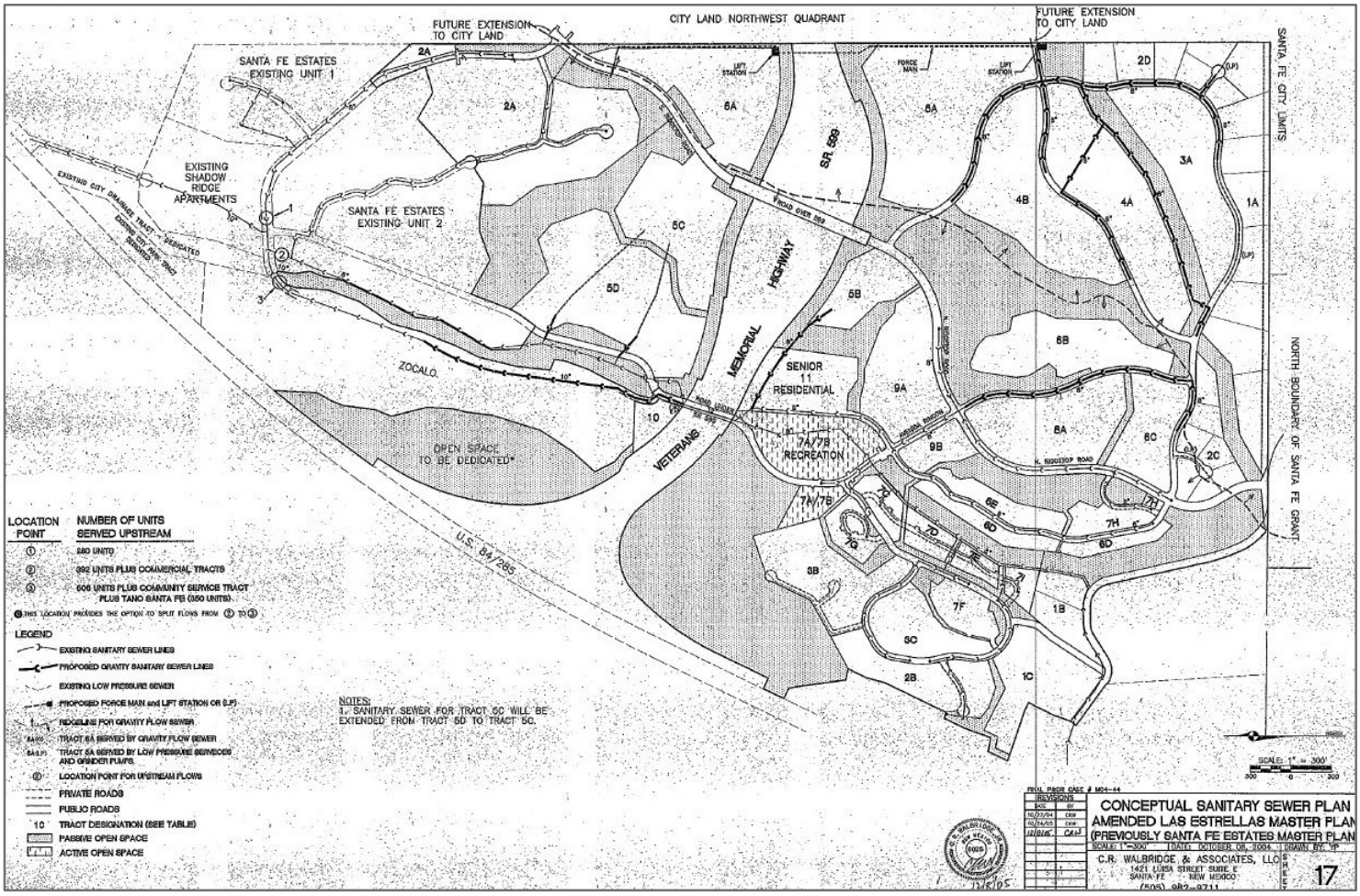

Figure 4: Conceptual Sanitary Sewer Plan

Water

Tract 6A is situated within a well-connected network of pipe distribution infrastructure, contributing to its strategic location in terms of water resource access. The distribution system runs along both the northern parcel boundary and the western section, ensuring comprehensive coverage.

There is a 12” PVC waterline located along the west property boundary and a 10” PVC waterline along the northern property boundary. The water is supplied by the 12” line that crosses under Veteran Memorial Highway. These lines have the capacity to feed the development the specifics of the service would need to be coordinated with the City’s Water Department since a current development layout is unknown.

The northern distribution pipeline plays a pivotal role in supplying water resources to the adjacent, more densely populated subdivision located to the east. This subdivision benefits from the presence of seven fire hydrants along key thoroughfares, namely Pinon Bluffs Drive, Luna Vista, Avenida de Luna, and Bluffs Lane. This not only enhances the overall safety of the area but also underscores the vital role of Tract 6A in supporting critical municipal services.

Simultaneously, the western distribution pipeline caters to the needs of a large lot residential development that spans South Ridgetop Rd, Ridge Canyon, and Calle David.

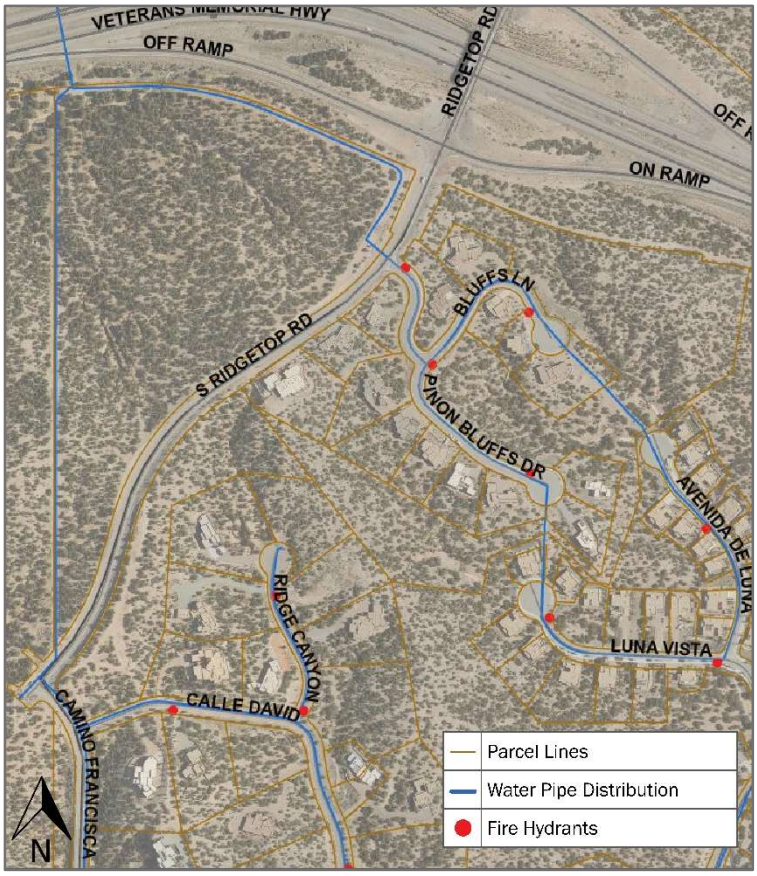

Figure 5: Water Infrastructure

Drainage

The property generally slopes from southeast to northwest. There also appears from city Lidar information to be little to no offsite stormwater that would impact the property. The eastern edge of the property sits on a ridge and most of the storm water is cut off by Ridgetop Rd. Per the attach slope analysis there are two minor arroyos on the property and there are no FEMA regulated floodplains. Of the 19.61 acres that was analyzed 16.24 acres have slopes between 0 and 20%. This amounts to 82% of the property that is available for full development. Per the City Code on lot ponding that is required for retention, detention, or infiltration. (SFCC 14-8.2- Terrain and Storm Management)

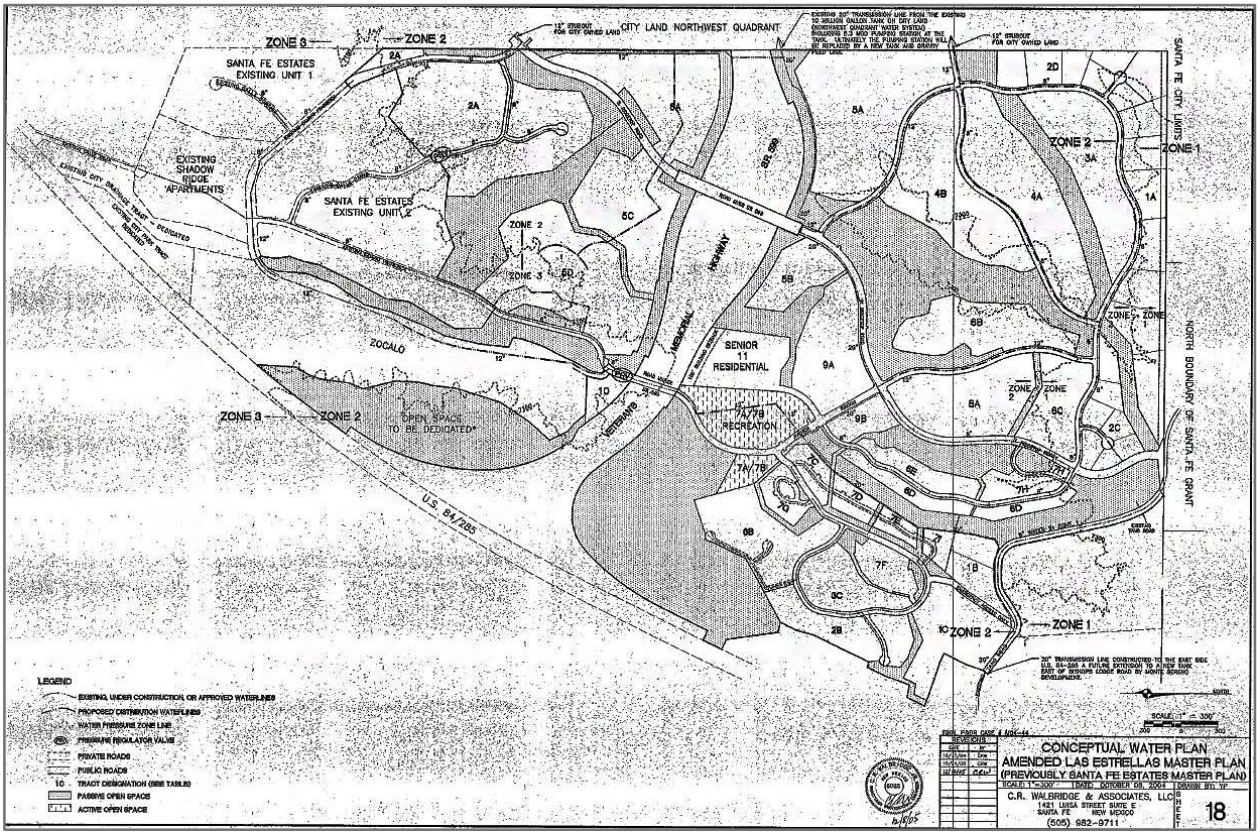

Figure 7: Conceptual Water Plan



Figure 6: Conceptual Drainage Plan

Open space

Dedicated open space enhances the appeal of Tract 6A, creating a harmonious blend of urban development and nature. This thoughtful integration extends throughout the area, connecting with adjacent subdivisions to form a cohesive network of green spaces. The Master Plan notes: *The open space tracts shown are reserved for future dedication as adjacent tracts are developed and are intended to meet the open space requirements of City Code.*

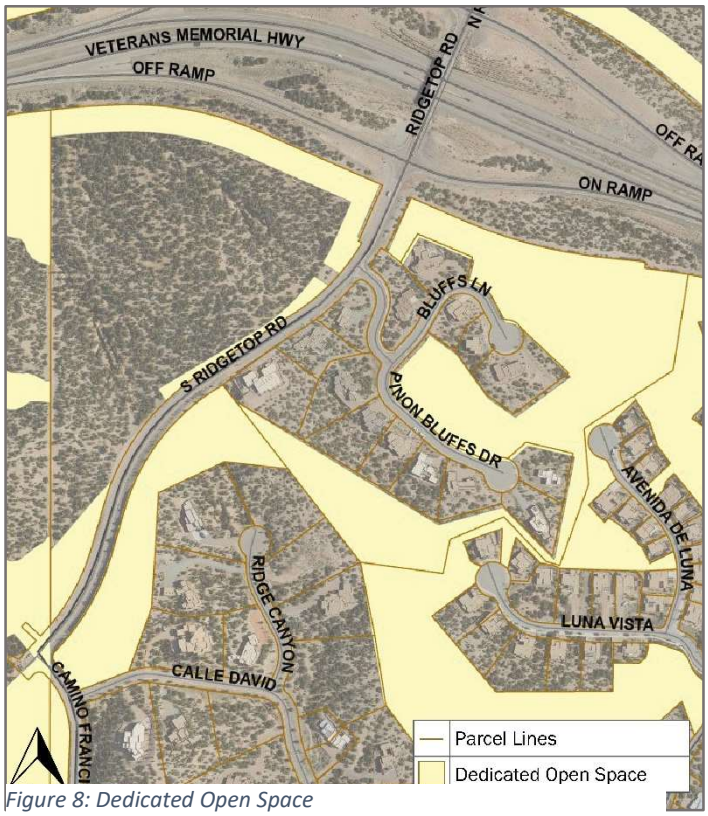

Figure 8: Dedicated Open Space

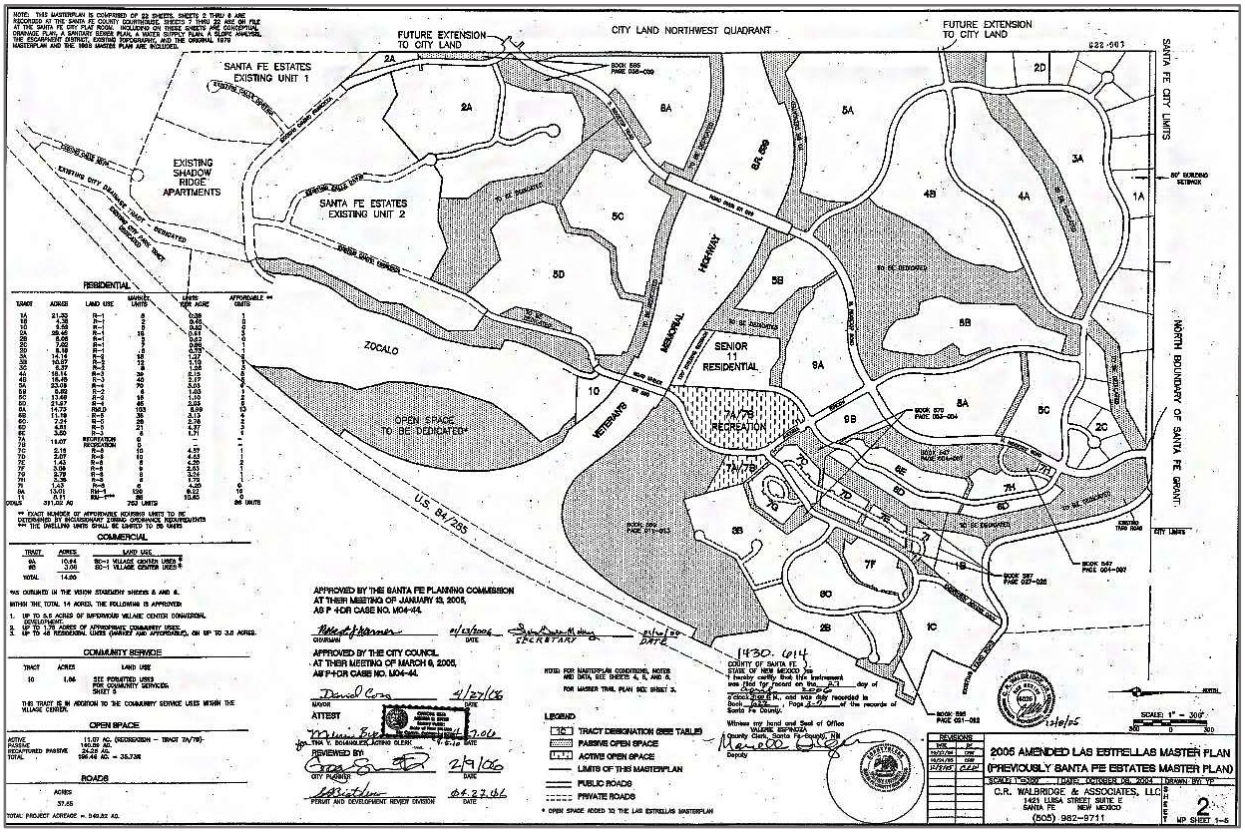

Figure 9: Las Estrellas Master Plan/ Open Space Dedication

4. Development Standards

Access and Circulation

The subject site has limited access through the off-ramps (north and south) of Veterans Memorial Highway and channeling into Ridgetop Road. As a result, circulation within Tract 6-A is very minimal. At least two connections to the existing road networks shall be provided. The Master Plan depicts a trail network south of Tract 6-A, access to the trail must also be provided.

Parking

The subject site would adhere to Santa Fe's Parking Standards. (Table 14-8.6-1.)

Table 2: Parking and Loading Requirements

Table 14-8.6-1:Parking and Loading Requirements		
Category	**Specific Use**	**Parking and Loading**
Household Living	Attached dwelling unit (2-5 units)	2 spaces per dwelling unit
	Attached dwelling unit (over 5 units): Less than 800 sq. ft. of heated floor area	1 assigned space and .25 unassigned space per dwelling unit
	Attached dwelling unit (over 5 units): 800- 1,200 sq. ft. of heated floor area	1 assigned space and .50 unassigned space per dwelling unit
	Attached dwelling unit (over 5 units): More than 1,200 sq. ft. of heated floor area	1 assigned space and 1 unassigned space per dwelling unit
	Detached dwelling unit	2 spaces per dwelling unit

Table 3: Bicycle Parking

Table 14-8.6-3: General off-street Bicycle Parking	
Automobile Parking Spaces Required	**Bicycle Spaces Required**
0-5	4
5-15	6
16-50	8
51-100	10
100 or more	12

Screening

Residential development on residentially zoned property that abuts major or secondary arterials shall be screened from those streets to mitigate noise and to promote residential privacy. Screening shall be by walls, fences, the planting of trees and shrubs or a combination of these. The provision of plant material shall, at a minimum, conform to the same requirements as for open space in SFCC Subsection 14-8.4(H) An alternative to screening shall be a twenty-five (25) foot setback of undisturbed trees, shrubs, grasses, or landscape treatment consisting of appropriate vegetative cover[1].

Landscaping

Landscaping for multi-family residential is required per SFCC Subsection 14-8.4 "Landscaping and Site Design". Below are the pertinent regulations that are applicable to multifamily development.

SFCC 14-8.4- Landscaping and Site Design

(E) Water Harvesting and Irrigation Standards:

Water conservation and stormwater management shall guide landscape and site planning, design, installation, and management. Landscape planning shall begin early in the development process in conjunction with the requirements of Section 14-8.2 (Terrain and Stormwater Management). Landscape design shall apply the principles of xeriscaping and achieve the highest industry standards for irrigation efficiency. Alternative sources of irrigation water shall be developed, including harvested water from roof and site runoff. Gray water use is recommended where appropriate. Potable water shall be used only as a back-up or temporary irrigation water source to the greatest extent possible. The purpose of these strategies is to develop drought tolerant landscapes and to reduce the demand on the potable water system.

(4) Irrigation Standards:

Irrigation systems shall be provided for all landscaped areas. Landscape irrigation plans shall integrate water harvesting and stormwater management with the highest industry standards for efficient irrigation use. The development of alternative sources of irrigation water is recommended, including harvested water from cistern collection and gray water . Potable water irrigation may be used as a supplemental or temporary system. Irrigation designers and installers are encouraged to use the City Landscape Irrigation Systems Standards as a guide to minimum specifications for irrigation systems. All new irrigation systems and major renovation of existing systems shall comply with the following standards:

> (b) an automatic, digital multi-programmable controller is required for all irrigation systems with an irrigated landscaped area larger than one thousand (1,000) square feet installed in commercial, industrial and multiple- family residential development .

(F) Plant Material Standards:

[1] Santa Fe Code of Ordinances, Chapter 14- Land Development 14-8.5(J)(2).

Plant material selection shall emphasize drought tolerant plant species and shall limit the use of high water use plant species. All required plant material shall be cold hardy to USDA Classification Zone 5 , which is minus fifteen degrees Fahrenheit, or colder.

(a) all required deciduous trees shall be two (2) inch caliper minimum.
(b) all required shrubs shall be five gallon minimum except as noted on the City of Santa Fe Recommended Plant List.
(c) all required evergreen trees shall be a minimum of six (6) feet in height.
(d) When more than ten trees are required by this Section 14-8.4, more than one species shall be provided unless otherwise approved by the land use director.
(e) stormwater detention ponds and retention ponds shall be planted with appropriate trees, shrubs and grasses, with a minimum of one tree and three shrubs per five hundred (500) square feet of required ponding area. Plants located in the bottom third of the detention pond or retention pond must be adaptable to periods of submersion and may require replacement during periodic maintenance to remove silt.

(G) Street Tree Standards:

(2) Required street trees do not substitute for required landscape material in parking lots , except as provided in Subsection 14-8.4(I)(2) (Parking Lots - Perimeter Screening). Street trees shall be located as follows:

(a) on major and secondary arterials, one tree an average of every thirty (30) to forty (40) feet.

(c) where street trees or planting strips are required but not practical, the equivalent area in square feet and amount of plant material may be provided elsewhere on the site, with approval of the land use director and based on existing conditions or design intent.

(3) Location of Street Trees:

(b) on major and secondary arterials, trees shall be planted in a minimum ten (10) foot wide parkway that includes the width of the sidewalk or other pedestrian way. If existing development precludes provision of the ten (10) foot wide parkway , trees shall be planted in a space no smaller than five (5) feet by thirteen (13) feet and preferably multiple trees in longer planting strips.

(c) street trees should be planted to the greatest extent possible in swales or basins that collect run-off and precipitation.

(d) street trees shall be located at least fifteen (15) feet from light standards, so as not to impede outdoor illumination.

(e) street trees shall be located at least fifteen (15) feet from fire hydrants so as not to interfere with hydrant operation.

(f) street trees located under utility lines shall be a species that maintains a minimum of five (5) feet of clearance from overhead utility lines at maturity.

(H) Open Space Planting Requirements

(1) Required open space shall be planted with a minimum of one tree and two shrubs every five hundred (500) square feet, exclusive of areas developed with patios, game courts, swimming pools or similar hardscape recreational features.

(2) n addition to required trees and shrubs, open space areas shall be landscaped with groundcover plants or decorative mulch or naturally occurring groundcover plants shall be maintained.

(4) At least twenty-five percent of required trees and shrubs shall be evergreen. Existing trees and shrubs shall be accepted for required landscaping if they otherwise meet the requirements of this Section 14-8.4.

5. Land Use Development

Analysis of Tract 6A, designated as Planned Residential Community (PRC), involves a comprehensive examination of zoning regulations and design guidelines. The Master Plan guiding this area is the Las Estrellas Master Plan, with supplementary adherence to Santa Fe Land Development Code Standards.

Specifically, Tract 6A is subject to a maximum buildable height limitation of eighteen feet (18'). Additionally, the City of Santa Fe imposes regulations on natural slopes, mandating that slopes of thirty percent or greater must remain undisturbed, except for specific cases such as arroyo crossings and limited isolated occurrences of sloped areas. Each individual disturbance in these cases should not exceed one thousand (1,000) square feet, subject to approval by the city engineer.

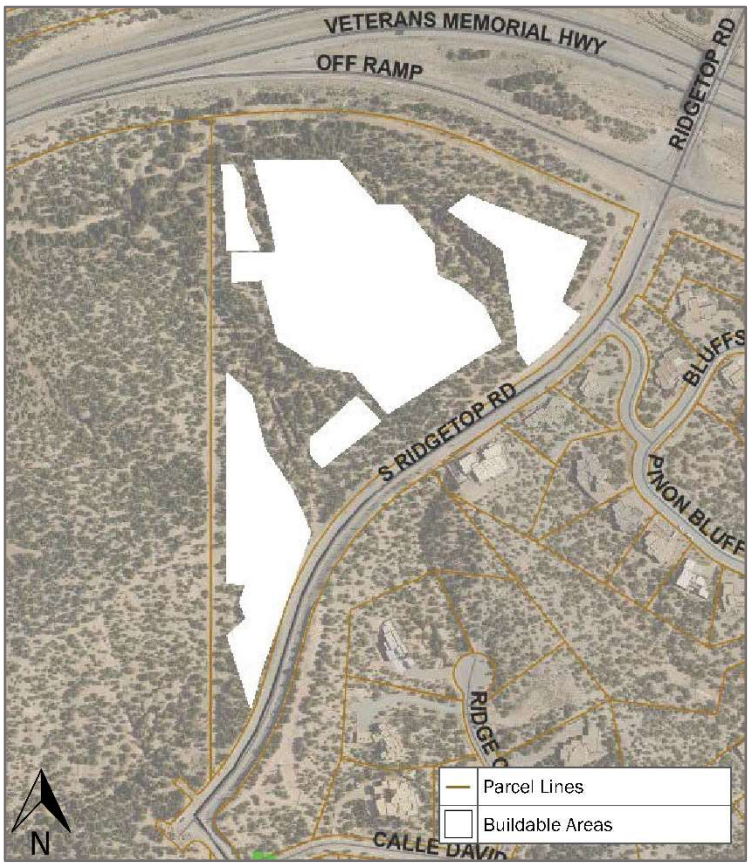

Figure 10: Buildable Area

To visualize the impact on buildable areas, a slope map was generated, illustrating the cumulative acreage available for development. The analysis revealed that 5.07 acres are designated as non-buildable, and an additional 0.69 acres are allocated to drainage basins. Deducting these from the total buildable acreage, which includes slopes ranging from 0-30 percent, results in a net buildable area of 12.33 acres.

Further extrapolation based on the Las Estrellas Master Plan's units per acre metric yields a total of 86.18 units for development in Tract 6A. This analysis provides a detailed understanding of the

constraints and opportunities within the specified zoning and regulatory framework, facilitating informed decision-making for land use planning in the area.

Table 4: Slopes Tables

Number	Minimum Slope	Maximum Slope	Area (sf)	Area (Ac)	Color
1	0.00%	20.00%	707,391.27	16.24	
2	20.10%	30.00%	80,536.60	1.85	
3	30.10%	132.05%	66,111.67	1.52	
Total			854,039.54	19.61	

	Area (sf)	Area (Ac)
Non-Buildable area	220,846.79	5.07
Drainage Basin	29,898.82	0.69

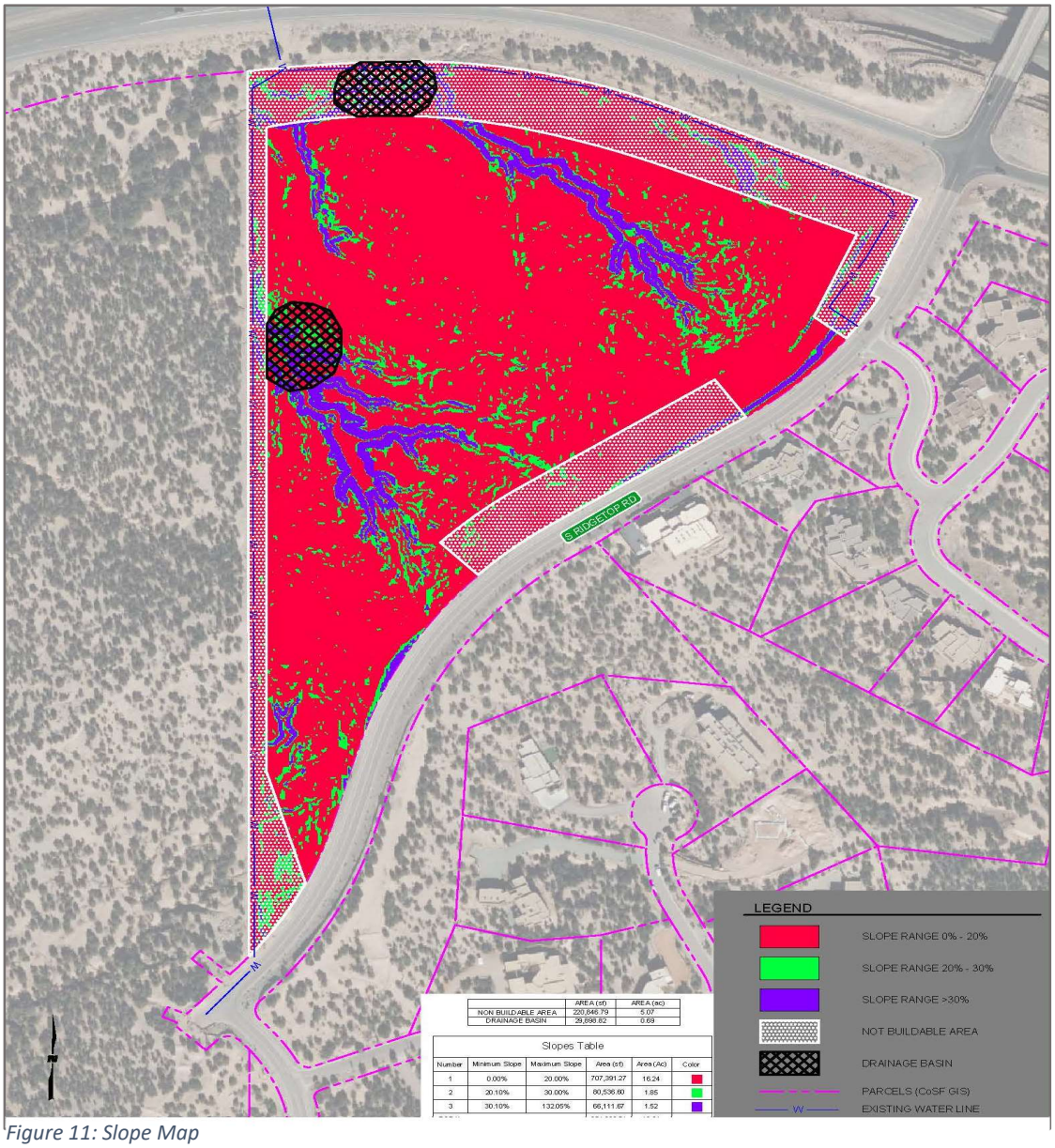

Figure 11: Slope Map

Architectural Design Guidelines

Las Estrellas has design guidelines that apply to each property in a certain subdivision. An Architectural Control Committee (ACC) controls the assessment and approval of a project's conformity with the project's design criteria. The ACC is easily accessible and highly encourages a pre-application meeting to help design experts or builders determine which criteria apply to their project. In the case of a design standard disagreement, the most restrictive standards supersede.

6. Conclusion

By looking at factors like maximum buildable height, drainage areas, easements, open space and natural slopes regulations, the available area for development is approximately 12.33 acres after removing non-buildable areas. Considering the number of units allowed per acre according to the Las Estrellas Master Plan, the Tract 6A parcel could potentially develop a total of 86 dwelling units and would be an ideal site for multi-family residential. The examination of Tract 6A for feasibility of development, follows the regulations of the Las Estrellas Master Plan and Santa Fe Land Development Code Standards, zoning regulations, and design guidelines.

Prepared by



4401 Masthead St. NE Suite 150
Albuquerque, NM 87109

CITY OF SANTA FE

The Purchasing Memo

Date: August 11, 2025

To: Governing Body, Finance Committee, and Public Works & Utilities Committee

From: P. Fred Heerbrandt, P.E., Engineer Supervisor P. Fred Heerbrandt, P.E.

Via: Michael Dozier, Wastewater Management Division Director

Via: Jesse Roach, Interim Public Utilities Director

Subject: On-Call Collection System Construction Contract

Vendor Name: AnchorBuilt, Inc.

Munis Vendor Number: 9672

ITEM AND ISSUE:

The Public Utilities Department respectfully requests your review and approval of a On-Call construction contract in the amount of $1,081,875.00 per year for a total of $4,327,500.00 including NMGRT for Construction Services over a four-year term with AnchorBuilt, Inc.

Request for Approval of a Budget Adjustment Resolution (BAR) in the amount of $1,081,875.00 for Fiscal year 2026.

CONTRACT NUMBER:

The FY26 Munis contract number is 3260110

BACKGROUND AND SUMMARY:

The City of Santa Fe, Public Utilities Department, Wastewater Management Division (Division) wishes to establish a Price Agreement for On-Call Repair, Replacement, Extension, and Rehabilitation of Sewer Collection System Construction services work by New Mexico licensed contractors to provide miscellaneous repairs, upgrades, improvements, replacements, new construction services and material for facilities throughout the Paseo Real Wastewater Reclamation Facility, the Sanitary Sewer Collection System, and other remote locations.

PRIOR APPROVALS AND SUPPORTING INFORMATION:

FUNDING SOURCE:

Fund Name/Number: Enterprise Fund/Fund 500

Munis Org Name/Number: Wastewater Capital Projects/5000375

Munis Object Name/Number: WIP Construction/572970

Budget Officer / Designee: Andy Hopkins **Date:** 08/19/2025

Budget Officer Comment/Exceptions: _____

PROCUREMENT METHOD:

The procurement method used was NMSA 1978, Section 13-1-102, ITB

ITB 25119 – On-Call Collection System Construction Services – 3 Awards

Chief Procurement Officer (CPO)/Designee: _____ **Date:** 08/22/2025

CPO Comment/Exceptions: _____

ASSOCIATED APPROVALS:

IT Components included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Treasury/Point of Sale Components included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Vehicles included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Construction to City Facilities, Furniture, and/or Fixtures included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this an externally funded purchase? ☐ Yes | ☒ No

If yes, what is the issuing agency: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this a Capital Asset or Project? ☐ Yes | ☒ No

Project Ledger Number: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

ATTACHMENTS:

CPO Service Determination Email
On call Construction Contract-rate sheet
Certificate of Liability Insurance (COI)

Item #: _____
Munis Contract #: 3260110
ITB #: 25119

CITY OF SANTA FE

CONSTRUCTION PRICE AGREEMENT

ON-CALL COLLECTION SYSTEM CONSTRUCTION SERVICES

THIS PRICE AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **AnchorBuilt, Inc.,** hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

RECITALS

WHEREAS, the City, through its Governing Body, is authorized to enter into a construction Price Agreement for the project; and

WHEREAS, the City has procured this Price Agreement according to the established State and Local Purchasing procedures for Price Agreements of the type and amount; and

The City and the Contractor hereby agree as follows:

1. Scope of Work

A. The Contractor shall perform the following work:

The City of Santa Fe, Public Utilities Department, Wastewater Management Division (Division) wishes to establish a Price Agreement for On-Call Repair, Replacement, Extension, and Rehabilitation of Sewer Collection System Construction services work by New Mexico licensed contractors to provide miscellaneous repairs, upgrades, improvements, replacements, new construction services and material for facilities throughout the Paseo Real Wastewater Reclamation Facility, the Sanitary Sewer Collection System, and other remote locations.

The Division shall provide, at a minimum, a detailed scope of work and/or drawings, generally defining the construction work required for the project. The Contractor shall be responsible for verifications of all existing conditions, measurements, and dimensions for bidding.
The award of this Price Agreement is without assurance of quantity or dollar amount of work to be performed.

Contractors shall have the technical staff to perform diagnostic services and provide professionally prepared, stamped drawings, if needed, to obtain installation or construction permits. The Contractor is responsible for obtaining all required licenses, fees and permits required to perform the work. Contractor shall be responsible for any applicable Local, County, State and Federal requirements and permits including, but not limited to, the City of Santa Fe's Stormwater Pollution Prevention Program and Stormwater BMPs.

The City of Santa Fe Wastewater Management Division shall be able to utilize this On-Call Price Agreement as needed and as funding is available.

Wage Rates:

All work covered by this Price Agreement shall be in accordance with applicable City and State laws and is subject to the minimum wage rate determination issued by the Department of Workforce Solutions (DWS), if applicable.

A wage rate decision is required by the Public Works minimum Wage Act for construction, demolition or renovation purposes on projects costing sixty thousand dollars ($60,000) or more. The Contractor agrees to comply with the current prevailing wage rate schedule when applicable. For current wage rates or for additional information, visit: http://www.dws.state.nm.us . The Division will request a wage rate determination from the DWS for each project that is $60,000 or more.

When submitting a quote for a specific project valued at more than sixty thousand dollars ($60,000) for any portion of a public works project that is subject to the New Mexico Public Works Act, the Contractor is required to be registered with the Labor and Industrial Division of the Department of Workforce Solutions prior to submitting its quote. The Division may reject any quote that fails to provide a Public Works registration number for the prime Contractor and all other listed Contractors or subcontractors.

Other:

All work shall be in accordance with applicable City and state laws, the International Building Code (IBC) and the New Mexico building codes. The Contractor shall be responsible for all permits associated with this work as required by the governmental Authority Having Jurisdiction (AHJ). All work shall be in strict compliance with the national and state building mechanical, plumbing and electrical codes including SMACNA, and ASHRAE standards.

Contractors shall be capable of providing all coordination, supervision and services required for comprehensive general construction, facilities replacement, upgrade and improvement projects and to provide new construction services including incidental design. It can include site and utility work, mechanical work, pavement restoration, facilities repair, renovation, backfill services, digging, ditching, rock stabilization, concrete, and pour in place and form place finish. The utility work shall include pumping systems, gravity sewers, manholes, force mains, and related facilities. It may also include demolition and abatement projects.

All material shall be new and of the highest quality available for the type of work being performed. The purchase of major equipment or material must be preceded by submission of submittal data on the proposed equipment or material and shall be reviewed and approved by the Division.

The requesting entity reserves the right to purchase materials or specialty services directly from existing Statewide Price Agreements and other sources, and to provide these materials to the Contractor. The Contractor shall provide an itemized, quantifiable list of materials required for the project. Specialty services provided from Statewide Price Agreements and other sources shall be coordinated by the Contractor.

If the Contractor is requesting reimbursement for materials used on the work, copies of the invoices for the materials must be included when submitting invoices/pay applications. The Contractor may NOT add markups for the materials purchased.

The Division reserves the right to obtain quotes from multiple vendors covered under this Price Agreement and award a project to a contractor based on the quotes.

The Division reserves the right to provide an escort and/or full-time supervision of the Contractor and its employees during any or all phases of a project, should the Division feel it is in its best interest to provide these extraordinary security services.

The Division reserves the right to escort any or all employees of the Contractor off its property, for any inappropriate conduct or actions that jeopardize the safety, security, or wellbeing of the facility or any individual. Inappropriate behavior by the Contractor, its employees or subcontractors may be grounds for immediate removal from this Price Agreement. Any employee of the Contractor found in violation of any law, while on City property, will be prosecuted.

Contractor:

No person shall act as a Contractor without a license issued by the Construction Industries Division (CID), classified to cover the type of work to be performed. No bid on a Price Agreement shall be submitted unless the Contractor has a valid Contractor's license issued by the CID to bid and to perform the type of work to be undertaken, as set forth in §60-13-12, NMSA 1978.

Safety shall be of main concern and enforced by the Contractor on site. The Contractor shall comply with all local, state and federal laws governing safety, health and sanitation. The on-site superintendent shall always have a minimum OSHA 10 and preferably OSHA 30 card with them when on the jobsite. The Division shall not in any way be responsible for any fines set forth for such violations of codes, OSHA standards or any other governing agency having jurisdiction at the work site. The Contractor shall provide all needed safeguards, safety devices, protective equipment and take any actions necessary to protect the life and health of employees on the job; the safety of the public and to protect the property of the Division in connection with the performance of the work covered by this price Agreement.
All personnel working on the project and providing these services shall be experienced and certified in all areas related to this work and required by this Price Agreement. Journeymen level personnel shall have the ability and necessary skills to diagnose problems and to make the appropriate decisions needed to provide these services.

The Contractor shall follow the Occupational Safety and Health Act (OSHA) 29 CFR 1910.147 Standard pertaining to "Lockout/Tagout" procedures for hazardous energy.

The Contractor shall agree to provide required labor within 24 hours for emergency situations.

Contractor's price shall include labor costs, permits, overhead, profit, insurance, equipment, tools and any other fees required to successfully complete the work requested. The Contractor shall be capable of providing a work force with supervision, adequate to perform work for a forty (40) hour work week during normal working hours with the option of working non normal or overtime hours if

required. The Contractor shall be responsible for all permits, fees, and State and/or City inspections associated with their work.
Subcontracting of work is allowed and shall have prior approval by the Division. Subcontractors shall have the appropriate current valid Contractor's licenses for their work. Proof of licenses shall be furnished upon request.

There will be NO markups allowed for adding subcontractor costs or to cover general conditions (administrative costs and other related expenses) allowed on any of the quotes issued pursuant to this Price Agreement. If a subcontractor is hired for the project the reimbursement must be at actual cost of the subcontractor's cost. The cost of the subcontractor will be added at time of invoicing as a separate item to be paid by the Department.
Furnishing of submittal data for any/all new equipment and materials as well as O&M' s is required. Training of site personnel for the proper operation of newly installed equipment/systems and its related controls will be required for completion. This training will be acceptable to the person in charge of the facility and/or the City's Project manager in charge of the project.

The Contractor shall provide all protective coverings necessary to protect existing, adjacent finishes while performing its work. If any damage is encountered during the contractor's work, the contractor will be held responsible for repairing any damage done by his employees, subcontractors, and vendors. The Contractor shall restore any damage to existing and/or adjacent finishes damaged while performing work and to make new work inconspicuous with the existing adjacent finishes.

The Contractor and its employees agree to cooperate with and to abide by the rules and requirements of the Division to not interfere with the daily operations of the Division or to jeopardize the health, safety or welfare of the employees or general public conducting business with the Division.

Clean Up and Storage:

A. The Contractor will provide off-site legal disposal of all waste products, trash, and debris. The Division's trash receptacles will not be used by the Contractor. Sanitary facilities will "not" be available at the job site. Contractor shall be responsible for the provision and maintenance of portable toilets.
B. The Contractor, on a daily basis, shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Agreement. At completion of the Work, the Contractor shall remove the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials and shall then thoroughly clean the premises and the site to the Division's satisfaction.
C. Materials or equipment shall be delivered to the project in the manufacturer's original sealed, labeled containers and shall be adequately protected against moisture, dust, tampering or damage from improper handling or storage. Materials shall not be delivered to the site before they are needed.
D. Storage of materials and construction equipment shall be coordinated with the Division.

Task Order:

The Contractor shall be required to provide On-Call Construction Services for any number of the activities listed under Scope of Work upon the request of the Division. When a service is identified, the Division shall provide, at a minimum, a detailed scope of work and/or drawings defining work

required. Each project will be individually described in a "Task Order". The Task Order will describe the scope of work, the duration of the project with the date of Substantial Completion and if there are liquidated damages for not meeting the date of substantial completion. The date of Substantial Completion is the date when the space can be occupied or the Work used/operated and is turned over to the User Agency. Final completion is the date when the project is totally complete, the punch list work complete and the Contractor's final pay application/invoice is approved. The terms and conditions of the Contractor's Price Agreement will apply to all Task Orders.

Upon receiving the City's Task Order, the Contractor shall promptly visit the site and compare the Division's scope of work and/or drawings to the existing conditions and provide all services called for in addition to the requirements set forth in this Price Agreement. The Contractor will be required to provide a written quote (based upon the rates submitted in the Bid Form) sub-contractors list (including subcontractor's CID licenses) and cost summary to include the work to be performed, sub-contractors cost and the amount of time required for the completion of the project and submit to the Division at no cost to the Division. Project schedules, negotiated price, and completion dates shall be determined on a project-by-project basis and dependent upon the urgency of that task.

If any equipment or system cannot be economically repaired or has reached the end of its life cycle, the Contractor shall justify with costs and other information they need for replacement. If replacement is recommended, the Contractor will provide written justification for system and/or the model, size, and type of unit recommended along with any applicable efficiency data. The Division's standards will be discussed and taken into consideration when proposing replacement units or systems. Any replacement unit shall be reviewed and approved by the requesting entity.

Change Orders:

Any change orders to the project scope will require an additional Task Order with backup materials and labor costs and shall be substantiated that there was no way of knowing the additional services were needed when the original quote was provided. Change orders shall be managed closely by the Division. Preventative measures shall be taken by both the contractor and the Division prior to issuing the Notice to Proceed. Such measures may include soil tests (soil boring); clarification of ambiguity in the project plan, the scope of work, the Task Order, the drawings, etc.; the project scope should be completely defined and agreed upon before any work begins.

Other Construction Related Terms and Conditions:

Mediation:

Any controversy or claim arising between the parties shall be settled by mediation if the parties cannot reach a mutually agreeable solution. The parties shall endeavor to resolve their disagreement by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the procedures of the New Mexico Public Works Mediation Act (NMSA §13-4C-1 et seq.) except that before any party may select a mediator it must confer in good faith with the other party concerning the selection of a mutually acceptable mediator. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of notice of mediation session, unless stayed for a longer period by agreement of the parties or court order.

Inspection of Work:

If a Purchase Order is issued for the purchase of services, the following terms shall apply when applicable:

A. Services include services performed, workmanship, and material furnished or utilized in the performance of services.
B. The Contractor shall provide and maintain an inspection system acceptable to the Division covering the services under the Purchase Order. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Division during the term of performance of the Work and for as long thereafter as required.
C. The Division has the right to inspect and test all services contemplated to the extent practicable at all times and places during the term of the Project. The Division shall perform inspections and tests in a manner that will not unduly delay or interfere with the Contractor's performance.
D. If the Division performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in Purchase Order price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.
E. If any part of the services does not conform with the requirements, the Division may require the Contractor to re-perform the services in conformity with the requirements at no increase in Purchase Order amount. When the defects in services cannot be corrected by re-performance, the Division may:
   (1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements; and
   (2) reduce the Purchase Order price to reflect the reduced value of the services performed.
F. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements, the Division may:
   (1) by Agreement or otherwise, perform the services and charge to the Contractor any cost incurred by the Division that is directly related to the performance of such service; or
   (2) cancel the Purchase Order for default.

Suspension, Delay or Interruption of Work:

The Division may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the Work in whole or in part for such period as the Division may determine. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized.

If at any time there is a delay in the critical path of the Work due to postponement, due to the Contractor's efforts to justify an extension of the time or an increase in the Agreement Price beyond the deadlines or due to the Contractor's refusal to proceed with any of the approved Work, such delay and any Contractor costs resulting from it shall not serve as the basis for the extension of the Time for Completion or Agreement Completion Date or for an increase in the Price Agreement Price.

Permits and Fees:

A. IF APPLICABLE- The Contractor shall secure and pay for the Building Permit and other permits and governmental fees, licenses and inspections and Certificate of Occupancy necessary for

proper execution and completion of the Work. Changes or modifications to the Work shall include all requirements of this paragraph.

B. The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to performance of the Work.
C. IF APPLICABLE- Certificates of Inspection, use and occupancy will be delivered to the Division upon completion of the Work in sufficient time for occupation of the facility in accordance with the approved schedule for the Work. Contractor shall deliver a photocopy of the Building Permit to the Design Professional and requesting entity as soon as it is obtained.

Schedule, Progress Meetings and Reports:

A. The Contractor, promptly after being awarded a Project and before the first payment application, shall prepare and submit for the Division's information a Critical Path Construction Schedule for the Work that indicates the intended start and completion of the various construction activities, which shall be implemented and adhered to by the Contractor, Subcontractors, material suppliers and equipment suppliers. At a minimum, the schedule shall be a GANTT type schedule and shall not exceed time limits allowed by the Task Order or Notice to Proceed with no fewer work breakdown events than line items of the Schedule of Values.
B. The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the Division.
C. Progress meetings shall be scheduled on a regular basis. The purpose will be to review the upcoming activities, any open issues and current progress. The Contractor shall keep any meeting minutes as needed. Progress schedules shall be updated regularly. A three-week look-ahead schedule should be presented at every project meeting. A new schedule shall be presented with any change orders.
D. The Contractor shall prepare a daily report each day the Contractor, subcontractors or any other entity are on the project. The daily reports shall be maintained at the site and be well organized. The Division may request copies at any time. The reports may include:
    1. report date and who prepared the report;
    2. weather conditions - low temp, visibility, humidity, wind, wind direction, cloud conditions, precipitation amount, other notes;
    3. companies present by name and their number of workers, work location, total man hours that day for each company;
    4. equipment-type, source, units of work done, location of work, hour meter reading;
    5. material brought to site-description, units, quantity, quality, location, time;
    6. visitors to site -name, company, time;
    7. safety concerns-company, contact, noticed by, work activity, safety issue, requirement, outcome: and
    8. quality assurance and control -company, description of issue, specification section, issued by.

Close-out Requirements:

The Contractor shall submit to the Division a separate and detailed Closeout Schedule indicating the date of Final Completion and all work to be completed before Final Completion including Close-Out requirements. The punch list of incomplete or inadequate work shall also be submitted when the work is substantially complete. Failure to include any item on the punch list does not alter the responsibility of the Contractor to complete all work in accordance with the Price Agreement Documents.

Before final completion can be achieved, all Work must be complete and accepted including the following as applicable:

a. Work associated with Punch List(s);
b. testing, balance or performance operations complete and in agreement that associated work is in compliance with the Price Agreement Documents;
c. one hard copy and one electronic copy in .pdf format of final approved test, balance or performance report(s) complete with directory of contents submitted to the Division;
d. as-Built drawings delivered in AutoCAD or electronic format;
e. written certification signed by the Division of delivery and stocking of extra material, equipment or components required by the Purchase Order at a location established by the Division;
f. delivery of all warranties required by the Work;
g. all keys, passes, codes, software or other methods or components of control or security which have been correctly and adequately accounted for and closed-out;
i. Start-up of any new equipment and training of staff on all new equipment;
l. Operations and Maintenance Manuals;
m. a certified statement of Release of Liens (AlA Document G706A or approved form) and Consent of Surety.

Warranty:

The Contractor shall warrant its work (non-roofing and equipment), for materials and for workmanship furnished and performed under this Price Agreement for a period of one (1) year minimum from the date of acceptance or Substantial Completion. The Contractor shall warrant its work for repairs or restoration of existing systems and work for ninety (90) days from the date of acceptance or Substantial Completion. It is understood that some equipment is far beyond its normal life and a warranty cannot be extended/supplied. Contractor must pass on to the Division warranties of replaced roofs and equipment offered by the manufacturer.

Bid information:

Hourly rates are requested for the three (3) levels of personnel.

Superintendent: a person with supervisory experience who maintains control of the work and work site. This person may or may not actually perform work on the project.

Journeyman or Experienced Worker: a person licensed by the State for work required and being performed or a person with many years of experience with a high rate of pay.

Laborer: a person with minimal experience, performing minor forms of labor.

Materials and Parts:

Contractor shall submit billings, based on actual Contractor costs for materials, less any applicable percentage for discounts. If there is no discount to be offered, enter zero. Contractor shall provide verification that materials purchased were used for the project. Any unused, billed for materials shall be turned over to the Division for which the work was provided.

The City of Santa Fe requires that all materials shall be new and of the highest quality and at the

best attainable price available for the type of work being performed.

No used materials shall be used on the project. Recycled materials specifically prepared for reuse to meet "LEED" certification may be permitted with the requesting entity's approval.

The City of Santa Fe reserves the right to award this Price Agreement to multiple vendors. Bidders must include pricing for all items starting from item 001 through item 008 in order to allow for accurate comparisons. If a Bidder fails to include one or more of those items his Bid may be rejected.

2. **Compensation**

A. The total amount payable to the Contractor under this Price Agreement, including gross receipts tax and expenses, shall not exceed one million dollars eighty one thousand eight hundred seventy five dollars ($1,081,875.00) per fiscal year, for a total of four million three hundred twenty seven thousand five hundred dollars ($4,327,500.00) including gross receipts tax for the four (4) year term of this Contract. The applicable gross receipts tax shall be shown as a separate amount on each billing or request for payment made under the contract, consistent with NMSA 1978, Section 13-1-108. Wage rates will be paid as set forth in Exhibit A.

B. Payment in future fiscal years is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE received by the City no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within twenty-one days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked.

D. If the City fails to pay the contractor within twenty-one days after receipt of an undisputed request for payment, the City shall pay interest to the contractor beginning on the twenty-second day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until the payment is issued. If the City receives an improperly completed invoice, the City shall notify the sender of the invoice within seven days of receipt in what way the invoice is improperly completed, and the owner has no further duty to pay on the improperly completed invoice until it is resubmitted as complete.

E. **Notice of Extended Payment Provision for Grant Funded Price Agreements**. This price agreement allows the City to make payment within 45 days after submission of an undisputed request for payment for price agreements funded by grant money consistent with NMSA 1978, sec. 57-28-5(B).

A. **Term**

THIS PRICE AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This price agreement shall terminate **four (4) years from the date of final signature**.

B. Termination

A. Grounds. The City may terminate this price agreement for convenience or cause. For price agreements within their authority, the City Manager or their designee is authorized to provide the notice of termination, otherwise such notice of termination shall be provided by the Mayor or their designee as authorized by the Governing Body. The Contractor may only terminate this Price Agreement based upon the City's uncured, material breach of this Price Agreement.

B. Notice; City Opportunity to Cure.

1) Except as otherwise provided in Paragraphs 7.A and 17, the City shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2) Contractor shall give City written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the City's material breaches of this Price Agreement upon which the termination is based and (ii) state what the City must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the City does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the City does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3) Notwithstanding the foregoing, this Price Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the City; (ii) if, during the term of this Price Agreement, the Contractor is suspended or debarred by the City; or (iii) the Price Agreement is terminated pursuant to Paragraph 5, "Appropriations," of this Price Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Price Agreement, the City's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Price Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS PRICE AGREEMENT.*

C. **Appropriations**

The terms of this Price Agreement are contingent upon sufficient appropriations and authorization being made by the Governing Body for the performance of this Price Agreement. If sufficient appropriations and authorization are not made by the Governing Body, this Price Agreement shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Price Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Price Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

D. **Status of Contractor**

The Contractor and its agents and employees are independent contractors performing construction services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue

leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Price Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

E. Construction Price Agreement **Performance and Payment Bond**

A. When a construction Task Order is approved in excess of twenty-five thousand dollars ($25,000), the following bonds or security shall be delivered to the City and shall become binding on the parties upon the approval of the Task Order. If the Contractor fails to deliver the required performance and payment bonds, the Contractor's bid shall be rejected, its bid security shall be enforced to the extent of actual damages. Approval of a task order shall be made pursuant to the Procurement Code in the following manner:

(1) a performance bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the Task Order; and

(2) a payment bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the Task Order, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the Task Order.

B. A subcontractor shall provide a performance and payment bond on a public works building project if the subcontractor's contract for work to be performed on a project is one hundred twenty-five thousand dollars ($125,000) or more.

F. **Assignment**

The Contractor shall not assign or transfer any interest in this Price Agreement or assign any claims for money due or to become due under this Price Agreement without the prior written approval of the City.

G. **Subcontracting**

The Contractor shall not subcontract any portion of the services to be performed under this Price Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Price Agreement, nor shall any subcontract obligate direct payment from the City.

H. **Release**

Final payment of the amounts due under this Price Agreement shall operate as a release of the City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Price Agreement.

I. **Confidentiality**

Any confidential information provided to or developed by the Contractor in the performance of this Price Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

J. **Product of Service -- Copyright**

All materials developed or acquired by the Contractor under this Price Agreement shall become the property of the City and shall be delivered to the City no later than the termination date of this Price Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Price Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

K. **Conflict of Interest; Governmental Conduct Act**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Price Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Price Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Price Agreement, will continue to comply with, and that this Price Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the City relied when this Price Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Price Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Price Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Price Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Price Agreement to the contrary, the City may immediately terminate the Price Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

L. **Amendment**

A. This Price Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Price Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Price Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

M. **Change Orders**

A. Changes. The Contractor may only make changes or revisions within the Task Order as defined by Article 1 and/or Exhibit 1 after receipt of written approval by the Project Manager, or his/her designee. Such change may only be made to Tasks or Sub-Task as defined in the Scope of Work. Under no circumstance shall such change affect the:

1) Deliverable requirements, as outlined in the Task Order;
2) Due date of any Deliverable, as outlined in the Task Order;
3) Compensation of any Deliverable, as outlined in the Task Order;
4) Price Agreement compensation, as outlined in Article 2; or
5) Price Agreement termination, as outlined in Article 4.

B. Change Request Process. In the event that circumstances warrant a change to accomplish the Task Order as described above, a Change Request shall be submitted that meets the following criteria:

1) The Contractor shall draft a written Change Request for review and approval by the Project Manager to include:
(a) the name of the person requesting the change;
(b) a summary of the required change;
(c) the start date for the change;
(d) the reason and necessity for change;
(e) the elements to be altered; and
(f) the impact of the change.

2. The Project Manager shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the Project Manager are final. Change Requests, once approved, become a part of the Task Order, and become binding as a part of the original Task Order.

N. **Merger**

This Price Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Price Agreement.

All terms and conditions of the **ITB #25119 – On-Call Collection System Construction Services,** and the Contractor's response to such document(s) are incorporated herein by reference and is included in the order of precedence.

No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Price Agreement.

O. Penalties for violation of law

NMSA 1978, sections 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

P. **Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Price Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Price Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

Q. Applicable Law

The laws of the State of New Mexico shall govern this Price Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, section 38-3-2. By execution of this Price Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Price Agreement.

R. Workers Compensation

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Price Agreement may be terminated by the City.

S. Other Insurance

If the services contemplated under this Price Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Price Agreement, the following insurance coverage(s), naming the City as additional insured.

A. **Commercial General Liability** insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

B. **Broader Coverage and Limits**. The insurance requirements under this Price Agreement shall be the greater of (1) the minimum coverage and limits specified in this Price Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Price Agreement are sufficient to cover the obligations of Contractor hereunder.

C. Contractor shall maintain the above insurance for the term of this Price Agreement and name the City as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

T. Records and Financial Audit

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Price Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Price Agreement. The records shall be subject to inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Price Agreement shall not foreclose the right of the City to recover excessive or illegal payments

U. Indemnification

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims,

demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Price Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Price Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Price Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City.

V. New Mexico Tort Claims Act

Any liability incurred by the City of Santa Fe in connection with this Price Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Price Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

W. Invalid Term or Condition

If any term or condition of this Price Agreement shall be held invalid or unenforceable, the remainder of this Price Agreement shall not be affected and shall be valid and enforceable.

X. Enforcement of Price Agreement

A party's failure to require strict performance of any provision of this Price Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Price Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

Y. Notices

Any notice required to be given to either party by this Price Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City: Gilbert Rodriguez
73 Paseo Real
Santa Fe, NM 87507

To the Contractor: Raymond Zamora
P. O. Box 27688
Albuquerque, NM 87125-7688

Z. Authority

If Contractor is other than a natural person, the individual(s) signing this Price Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding Price Agreement.

AA. Progress Payments

Based upon Application for Payment submitted to the City by the Contractor and Certificates for Payment issued by the City, the City shall make progress payments on account of the Price Agreement sum to the Contractor as provided in the Price Agreement documents for the period ending the last day of the month as follows:

Not later than twenty-one (21) days following the end of the period covered by the Application for Payment, one hundred percent (100%) of the portion of the Price Agreement Sum properly allocable to labor, materials, and equipment incorporated in the work and one hundred percent (100%) of the portion of the Price Agreement sum properly allocable to materials and equipment suitably stored at the site or some other location agreed upon in writing for the period covered by the Application for Payment, less the aggregate of previous payments made by the City; and upon substantial completion of the entire work, a sum sufficient to increase the total payments to one hundred percent (100%) of the Price Agreement sum, less such amounts as the City shall determine for all incomplete work and unsettled claims as provided in the Price Agreement documents.

BB. Final Payment

Final payment, constituting the entire unpaid balance of the Price Agreement sum, unless it is a disputed payment, shall be paid by the City to the Contractor within twenty-one (21) calendar days, after all deficiencies to the Price Agreement document that were noted during the Substantial Completion Inspection and listed on the attachment to the Certificate of Substantial Completion have been corrected, and provided the Price Agreement has been fully performed and a final Certificate for Payment has been issued by the City. In addition, the Contractor shall provide to the City a certified statement of Release of Lien (AIA Document G706A or approved form), Consent of Surety, Warranty from Prime Contractor, Warranties from Suppliers and Manufacturers, training sessions, equipment/operating manuals, and as-built drawings.

CC. General and Special Provisions

A. Terms used in this Price Agreement which are defined in the Conditions of the Price Agreement shall have the meanings designated in those Conditions.

B. An enumeration of the Contractor's General Comprehensive Liability Insurance requirements appears in the General Conditions of the Price Agreement for construction. Insurance requirements are also described in the Instructions to the Bidder section of the Project Manual. Contractor shall maintain adequate insurance in at least the maximum amounts, which the City could be liable under the New Mexico Tort Claims Act and shall provide proof of such insurance coverage to the City. It is the sole responsibility of the Contractor to comply with the law.

C. This Price Agreement shall not become effective until: (1) approved by the Governing Body; and (2) signed by all parties required to sign this Price Agreement.

D. The Contractor shall maintain detailed time records which indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration and the State Auditor. The City shall have the right to audit billings both before and after payment. Payment under this Price Agreement shall not foreclose the right of the City to recover excessive illegal payments.

E. The Contractor warrants that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Price Agreement.

F. The Contractor hereby warrants that the Contractor complies with the Americans with Disabilities Act, 29 CFR 1630.

G. Gender, Singular/Plural. Words of any gender used in this Price Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

H. Captions and Section Headings. The captions and section headings contained in this Price Agreement are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this Price Agreement.

I. Certificates and Documents Incorporated. All certificates and documentation required by the provisions of the Price Agreement shall be attached to this Price Agreement at the time of execution and are hereby incorporated by reference as though set forth in full in this Price Agreement to the extent they are consistent with its conditions and terms.

J. Separability. If any clause or provision of this Price Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Price Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Price Agreement shall not be affected thereby.

K. Words and Phrases. Words, phrases, and abbreviations, which have well-known technical or trade meanings used in the Price Agreement documents shall be used according to such recognized meaning. In the event of a conflict, the more stringent meaning shall govern.

L. Relationship of Price Agreement Documents. The Price Agreement Documents are complementary, and any
requirement of one Price Agreement Document shall be as binding as if required by all.

M. Pursuant to NMSA 1978, section 13-1-191, reference is hereby made to the Criminal Laws of New Mexico (including NMSA 1978, sections 30-14-1, 30-24-2, and 30-41-1 through 30-41-3) which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code (NMSA 1978, sections 13-1-28 through 13-1-199) imposes civil and criminal penalties for its violation.

N. Pursuant to NMSA 1978, section 13-4-11. Reference is hereby made to the Minimum Wage on Public Works; weekly payments; posting wage scale; withholding funds.

IN WITNESS WHEREOF, the Parties have executed this Price Agreement as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

_____
ALAN WEBBER, MAYOR

DATE: _____

CONTRACTOR:

Raymond Zamora
_____
Raymond Zamora, President

DATE: Aug 11, 2025

NMBTIN#: 02-387068-00-0

ATTEST:

_____
ANDRÉA SALAZAR, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Aug 11, 2025 14:46:27 MDT)
_____
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster
_____
EMILY OSTER, FINANCE DIRECTOR

Bidder Instructions: *(Replace Department Instructions, prior to ITB release. Be sure to check row height to ensure the entire instructions are displayed.)*
Items - Bidders do not have the ability to add or delete items.
Approx. Qty. - Quantities provides are estimates, only, and do not establish a definite quantity contract. Actual quantities purchased under a resulting agreement may vary. Bidders may not change the Approx. Qty.
UOM (Unit of Measure) - Bidders do not have the ability to change the UOM. Any variation from the UOM identified may be provided in the Comments.
Article and Description - Bidder cannot change Article and Description. Any clarification, explanation, brand name identification, etc. must be provided in the
Unit Price - Bidders must provide pricing that conforms with the identified Unit Price.
Comments - Bidders may only provide comments to explain or clarify an item, identify a brand name, or provide information as specifically stated in the corresponding ITB document. Changes and additions to the items, including variations in pricing for an item, are not permitted. Any comments that do not conform to the requirements in the ITB or on this form will be disregarded, and will not be included in the resulting award, if bidder is awarded.

Item	Approx. Qty.	UOM	Article and Description	Unit Price	Comments
			Wage Rates for Projects Under $60,000.00		
1	1	Hourly	Superintendent – Regular Hourly Rate	$ 90.00	
2	1	Hourly	Superintendent – Overtime Hourly Rate	$ 90.00	
3	1	Hourly	Journeyman or experienced worker – Regular Hourly	$ 75.00	
4	1	Hourly	Journeyman or experienced worker – Overtime	$ 112.50	
5	1	Hourly	Laborer – Regular Hourly Rate	$ 45.00	
6	1	Hourly	Laborer – Overtime Hourly Rate	$ 67.50	
			Wage Rates for Projects Over $60,000.00		
7	1	Hourly	Superintendent – Regular Hourly Rate	$ 90.00	
8	1	Hourly	Superintendent – Overtime Hourly Rate	$ 90.00	
9	1	Hourly	Journeyman or experienced worker – Regular Hourly	$ 80.00	
10	1	Hourly	Journeyman or experienced worker – Overtime	$ 120.00	
11	1	Hourly	Laborer – Regular Hourly Rate	$ 50.00	
12	1	Hourly	Laborer – Overtime Hourly Rate	$ 75.00	
			Wage Rates for Emergency Response		
13	1	Hourly	Superintendent – Regular Hourly Rate	$ 90.00	
14	1	Hourly	Superintendent – Overtime Hourly Rate	$ 90.00	
15	1	Hourly	Journeyman or experienced worker – Regular Hourly	$ 80.00	
16	1	Hourly	Journeyman or experienced worker – Overtime	$ 120.00	
17	1	Hourly	Laborer – Regular Hourly Rate	$ 50.00	
18	1	Hourly	Laborer – Overtime Hourly Rate	$ 75.00	
			Other Rates		
19	1	Daily	Sanitary/toilet facilities, rental rates	$6.75	$200/Month
20	1	Rate/Mile	Travel Rate from the Contractors facility to the work site, pursuant to the New Mexico Per Diem and Mileage Act.	$1.25	

Item	Approx. Qty.	UOM	Article and Description	Unit Price	Comments
21	1	Disc	Discount off parts	0%	

Outlook

RE: Collection System On Call Construction

From DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>
Date Thu 1/23/2025 11:52 AM
To HEERBRANDT, PAUL F. <pfheerbrandt@santafenm.gov>; Purchasing DET <purchasing_det@santafenm.gov>
Cc MACALLISTER, LINDA M. <lmmacallister@santafenm.gov>

Greetings,

The scope of work as written would be Construction. This determination relates only to that question and is no comment on whether the scope of work or procurement method meet all legal standards. I reserve the right to change this determination if the scope of work differs from the scope of work submitted for the original determination. This procurement must be conducted using the processes and procedures set forth by the City of Santa Fe, Central Purchasing, the Procurement Manual, and state statutes.

Please note:

- Save this email as a PDF and upload it into the corresponding Munis records.
- Check with WorkQuest dba Horizons of New Mexico (vendor # 8673) (mloehman@horizonsofnewmexico.org) if this service appears on their approved list.
- If your request includes anything that needs to be reviewed and preapproved by another City Department/Division, please send the same SOW to the corresponding email address and include their response in your packet/Munis.
  -IT components (anything IT) - ereview@santafenm.gov
  -Vehicles – dmjaramillo@santafenm.gov
  -Grants - grants@santafenm.gov
  - Construction, Facilities, Furniture, Fixtures, Equipment, etc. - jsburnett@santafenm.gov
  -Emergency Related Purchases - bgwilliams@santafenm.gov
  -Asset over $5k - jxbolden@santafenm.gov
- Ensure that the appropriate templates and forms are used https://intranet.santafenm.gov/finance_1 and documented procedures/laws/rules are followed.
- > $20k per year, when processing this procurement, please ensure the procurement number issued by Munis and the procurement name are used in the appropriate documents and the subject of emails.
- If you are processing a procurement where the forecasted amount is =/> $60k, per NMSA 1978, Section 13-1-102, the procurement method must be ITB (if you choose not to use a cooperative or an existing contract). If you feel you need to process an RFP, you must get an Authorization and Plan approved before you process.
- < $20k per year, one quote is acceptable.
- From $20k to $60k per year, if you aren't using a cooperative or existing contract, you'll need to provide 3 quotes in your req. Must use the Munis Bid Module after 12/21/2023.
- Please keep this as part of the procurement file for future reference.
- Figure out your funding source and **inform Purchasing**. To ensure that the proper documents and language are used, it is important to identify the funding source for the subsequent contract. For instance, if federal funds are involved, the procurement request and subsequent contract must

include the necessary federal language. Therefore, it is crucial to determine the funding source beforehand.

- Please review the pages linked below to determine whether any of the existing contracts/price agreements or cooperative agreements are applicable to this request. You might be able to use an existing price agreement to save time and money.
  - https://www.generalservices.state.nm.us/state-purchasing/statewide-price-agreements/ (if you choose to use a Statewide, you do not need to ask Horizons if they can do the work. State Purchasing must offer the SOW to Horizons prior to placing the award on their website.)
  - https://naspovaluepoint.org/categories/
  - https://www.omniapartners.com/publicsector/contracts
  - https://www.buyboard.com/home.aspx
  - https://www.h-gac.com/Home
  - https://www.gsaelibrary.gsa.gov/
  - https://www.sourcewell-mn.gov/contract-search

- Submit or send your request to the appropriate MS Teams channel or email address:
  - RFPs requests to https://teams.microsoft.com/l/channel/19%3ad63b9c8b586d424fa5eed34177146ac5%40thread.tacv2/RFP%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
  - ITBs requests to https://teams.microsoft.com/l/channel/19%3a48e1e4588c0440a09cfbd9b907ed42d4%40thread.tacv2/ITB%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
  - Determination requests to purchasing_det@santafenm.gov
  - And all other requests to purchasing@santafenm.gov

Thank you for submitting this scope of work for my review.

Regards,

Travis Dutton-Leyda
Chief Procurement Officer
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501
505-629-8351
tkduttonleyda@santafenm.gov

https://santafenm.gov/finance-2/purchasing-1

Vendor Registration and Current Procurement Opportunities:
https://cityofsantafenmvendors.munisselfservice.com/Vendors/VBids/SearchResults.aspx

Internal Link: https://intranet.santafenm.gov/finance_1

CITY OF SANTA FE
FINANCE

"The future belongs to those who believe in the beauty of their dreams." — Eleanor Roosevelt

From: HEERBRANDT, PAUL F. <pfheerbrandt@santafenm.gov>
Sent: Thursday, January 23, 2025 10:52 AM
To: Purchasing DET <purchasing_det@santafenm.gov>
Cc: MACALLISTER, LINDA M. <lmmacallister@santafenm.gov>
Subject: Collection System On Call Construction

Requesting the determination of the contract type and procurement method for the following scope of work. Thanks

Collection System On Call Construction

The City of Santa Fe, Public Utilities Department, Wastewater Management Division (Division) wishes to establish a Price Agreement for On-Call Repair, Replacement, Extension, and Rehabilitation of Sewer Collection System Construction services work by New Mexico licensed contractors to provide miscellaneous repairs, upgrades, improvements, replacements, new construction services and material for facilities throughout the Paseo Real Wastewater Reclamation Facility, the Sanitary Sewer Collection System, and other remote locations.

The Division shall provide, at a minimum, a detailed scope of work and/or drawings, generally defining the construction work required for the project. The Contractor shall be responsible for verifications of all existing conditions, measurements, and dimensions for bidding.

The award of this Price Agreement is without assurance of quantity or dollar amount of work to be performed.

Contractors shall have the technical staff to perform diagnostic services and provide professionally prepared, stamped drawings, if needed, to obtain installation or construction permits. The Contractor is responsible for obtaining all required licenses, fees and permits required to perform the work. Contractor shall be responsible for any applicable Local, County, State and Federal requirements and permits including, but not limited to, the City of Santa Fe's Stormwater Pollution Prevention Program and Stormwater BMPs.

The City of Santa Fe Wastewater Management Division shall be able to utilize this On-Call Contract as needed and as funding is available.

Wage Rates:

All work covered by this Price Agreement shall be in accordance with applicable City and State laws and is subject to the minimum wage rate determination issued by the Department of Workforce Solutions (DWS), if applicable.

A wage rate decision is required by the Public Works minimum Wage Act for construction, demolition or renovation purposes on projects costing sixty thousand dollars ($60,000) or more. The Contractor agrees to comply with the current prevailing wage rate schedule when applicable. For current wage rates or for additional information, visit: http://www.dws.state.nm.us . The Division will request a wage rate determination from the DWS for each project that is $60,000 or more.

When submitting a quote for a specific project valued at more than sixty thousand dollars ($60,000) for any portion of a public works project that is subject to the New Mexico Public Works Act, the Contractor is required to be registered with the Labor and Industrial Division of the Department of Workforce Solutions prior to submitting its quote. The Division may reject any quote that fails to provide a Public Works registration number for the prime Contractor and all other listed Contractors or subcontractors.

Other:

All work shall be in accordance with applicable City and state laws, the International Building Code (IBC) and the New Mexico building codes. The Contractor shall be responsible for all permits associated with this work as required by the governmental Authority Having Jurisdiction (AHJ).

All work shall be in strict compliance with the national and state building mechanical, plumbing and electrical codes including SMACNA, and ASHRAE standards.

Contractors shall be capable of providing all coordination, supervision and services required for comprehensive general construction, facilities replacement, upgrade and improvement projects and to provide new construction services including incidental design. It can include site and utility work, mechanical work, pavement restoration, facilities repair, renovation, backfill services, digging, ditching, rock stabilization, concrete, and pour in place and form place finish. The utility work shall include pumping systems, gravity sewers, manholes, force mains, and related facilities. It may also include demolition and abatement projects.

All material shall be new and of the highest quality available for the type of work being performed. The purchase of major equipment or material must be preceded by submission of submittal data on the proposed equipment or material and shall be reviewed and approved by the Division.

The requesting entity reserves the right to purchase materials or specialty services directly from existing Statewide Price Agreements and other sources, and to provide these materials to the Contractor. The Contractor shall provide an itemized, quantifiable list of materials required for the project. Specialty services provided from Statewide Price Agreements and other sources shall be coordinated by the Contractor.

If the Contractor is requesting reimbursement for materials used on the work, copies of the invoices for the materials must be included when submitting invoices/pay applications. The Contractor may NOT add markups for the materials purchased.

The Division reserves the right to obtain quotes from multiple vendors covered under this Price Agreement and award a project to a contractor based on the quotes.

The Division reserves the right to provide an escort and/or full-time supervision of the Contractor and its employees during any or all phases of a project, should the Division feel it is in its best interest to provide these extraordinary security services.

The Division reserves the right to escort any or all employees of the Contractor off its property, for any inappropriate conduct or actions that jeopardize the safety, security, or wellbeing of the facility or any individual. Inappropriate behavior by the Contractor, its employees or subcontractors may be grounds for immediate removal from this Price Agreement. Any employee of the Contractor found in violation of any law, while on City property, will be prosecuted.

Contractor:

No person shall act as a Contractor without a license issued by the Construction Industries Division (CID), classified to cover the type of work to be performed. No bid on a contract shall be submitted unless the Contractor has a valid Contractor's license issued by the CID to bid and to perform the type of work to be undertaken, as set forth in §60-13-12, NMSA 1978.

Safety shall be of main concern and enforced by the Contractor on site. The Contractor shall comply with all local, state and federal laws governing safety, health and sanitation. The on-site superintendent shall always have a minimum OSHA 10 and preferably OSHA 30 card with them when on the jobsite. The Division shall not in any way be responsible for any fines set forth for such violations of codes, OSHA standards or any other governing agency having jurisdiction at the work site. The Contractor shall provide all needed safeguards, safety devices, protective equipment and take any actions necessary to protect the life and health of employees on the job; the safety of the public and to protect the property of the Division in connection with the performance of the work covered by this price Agreement.

All personnel working on the project and providing these services shall be experienced and certified in all areas related to this work and required by this Price Agreement. Journeymen level personnel shall have the ability and necessary skills to diagnose problems and to make the appropriate decisions needed to provide these services.

The Contractor shall follow the Occupational Safety and Health Act (OSHA) 29 CFR 1910.147 Standard pertaining to "Lockout/Tagout" procedures for hazardous energy.

The Contractor shall agree to provide required labor within 24 hours for emergency situations.

Contractor's price shall include labor costs, permits, overhead, profit, insurance, equipment, tools and any other fees required to successfully complete the work requested. The Contractor shall be capable of providing a work force with supervision, adequate to perform work for a forty (40) hour work week during normal working hours with the option of working non normal or overtime hours if required. The Contractor shall be responsible for all permits, fees, and State and/or City inspections associated with their work.

Subcontracting of work is allowed and shall have prior approval by the Division. Subcontractors shall have the appropriate current valid Contractor's licenses for their work. Proof of licenses shall be furnished upon request.

There will be NO markups allowed for adding subcontractor costs or to cover general conditions (administrative costs and other related expenses) allowed on any of the quotes issued pursuant to this Price Agreement. If a subcontractor is hired for the project the reimbursement must be at actual cost of the subcontractor's cost. The cost of the subcontractor will be added at time of invoicing as a separate item to be paid by the Department.

Furnishing of submittal data for any/all new equipment and materials as well as O&M' s is required. Training of site personnel for the proper operation of newly installed equipment/systems and its related controls will be required for completion. This training will be acceptable to the person in charge of the facility and/or the City's Project manager in charge of the project.

The Contractor shall provide all protective coverings necessary to protect existing, adjacent finishes while performing its work. If any damage is encountered during the contractor's work, the contractor will be held responsible for repairing any damage done by his employees, subcontractors, and vendors. The Contractor shall restore any damage to existing and/or adjacent finishes damaged while performing work and to make new work inconspicuous with the existing adjacent finishes.

The Contractor and its employees agree to cooperate with and to abide by the rules and requirements of the Division to not interfere with the daily operations of the Division or to jeopardize the health, safety or welfare of the employees or general public conducting business with the Division.

Clean Up and Storage:

A. The Contractor will provide off-site legal disposal of all waste products, trash, and debris. The Division's trash receptacles will not be used by the Contractor. Sanitary facilities will "not" be available at the job site. Contractor shall be responsible for the provision and maintenance of portable toilets.

B. The Contractor, on a daily basis, shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Agreement. At completion of the Work, the Contractor shall remove the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials and shall then thoroughly clean the premises and the site to the Division's satisfaction.

C. Materials or equipment shall be delivered to the project in the manufacturer's original sealed, labeled containers and shall be adequately protected against moisture, dust, tampering or damage from improper handling or storage. Materials shall not be delivered to the site before they are needed.

D. Storage of materials and construction equipment shall be coordinated with the Division.

Task Order:

The Contractor shall be required to provide On-Call Construction Services for any number of the activities listed under Scope of Work upon the request of the Division. When a service is identified, the Division shall provide, at a minimum, a detailed scope of work and/or drawings defining work required. Each project will be individually described in a "Task Order". The Task Order will describe the scope of work, the duration of the project with the date of Substantial Completion and if there are liquidated damages for not meeting the date of substantial completion. The date of Substantial Completion is the date when the space can be occupied or the Work used/operated and is turned over to the User Agency. Final completion is the date when the project is totally complete, the punch list work complete and the Contractor's final pay application/invoice is approved. The terms and conditions of the Contractor's Price Agreement will apply to all Task Orders.

Upon receiving the City's Task Order, the Contractor shall promptly visit the site and compare the Division's scope of work and/or drawings to the existing conditions and provide all services called for in addition to the requirements set forth in this Price Agreement. The Contractor will be required to provide a written quote (based upon the rates submitted in the Bid Form) sub-contractors list (including subcontractor's CID licenses) and cost summary to include the work to be performed, sub-contractors cost and the amount of time required for the completion of the project and submit to the Division at no cost to the Division. Project schedules, negotiated price, and completion dates shall be determined on a project-by-project basis and dependent upon the urgency of that task.

If any equipment or system cannot be economically repaired or has reached the end of its life cycle, the Contractor shall justify with costs and other information they need for replacement. If replacement is recommended, the Contractor will provide written justification for system and/or the model, size, and type of unit recommended along with any applicable efficiency data. The Division's standards will be discussed and taken into consideration when proposing replacement units or systems. Any replacement unit shall be reviewed and approved by the requesting entity.

Change Orders:

Any change orders to the project scope will require an additional Task Order with backup materials and labor costs and shall be substantiated that there was no way of knowing the additional services were needed when the original quote was provided. Change orders shall be managed closely by the Division. Preventative measures shall be taken by both the contractor and the Division prior to issuing the Notice to Proceed. Such measures may include soil tests (soil boring); clarification of ambiguity in the project plan, the scope of work, the Task Order, the drawings, etc.; the project scope should be completely defined and agreed upon before any work begins.

Other Construction Related Terms and Conditions:

Mediation:

Any controversy or claim arising between the parties shall be settled by mediation if the parties cannot reach a mutually agreeable solution. The parties shall endeavor to resolve their disagreement by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the procedures of the New Mexico Public Works Mediation Act (NMSA §13-4C-1 et seq.) except that before any party may select a mediator it must confer in good faith with the other party concerning the selection of a mutually acceptable mediator. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of notice of mediation session, unless stayed for a longer period by agreement of the parties or court order.

Inspection of Work:

If a Purchase Order is issued for the purchase of services, the following terms shall apply when applicable:

A. Services include services performed, workmanship, and material furnished or utilized in the performance of services.

B. The Contractor shall provide and maintain an inspection system acceptable to the Division covering the services under the Purchase Order. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Division during the term of performance of the Work and for as long thereafter as required.

C. The Division has the right to inspect and test all services contemplated to the extent practicable at all times and places during the term of the Project. The Division shall perform inspections and tests in a manner that will not unduly delay or interfere with the Contractor's performance.

D. If the Division performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in Purchase Order price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.

E. If any part of the services does not conform with the requirements, the Division may require the Contractor to re-perform the services in conformity with the requirements at no increase in Purchase Order amount. When the defects in services cannot be corrected by re-performance, the Division may:

(1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements; and
(2) reduce the Purchase Order price to reflect the reduced value of the services performed.

F. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements, the Division may:

(1) by Agreement or otherwise, perform the services and charge to the Contractor any cost incurred by the Division that is directly related to the performance of such service; or
(2) cancel the Purchase Order for default.

THE PROVISIONS OF THIS ARTICLE ARE NOT EXCLUSIVE AND DO NOT WAIVE THE REQUESTING ENTITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THE PURCHASE ORDER/PRICE AGREEMENT.

Suspension, Delay or Interruption of Work:

The Division may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the Work in whole or in part for such period as the Division may determine. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized.

If at any time there is a delay in the critical path of the Work due to postponement, due to the Contractor's efforts to justify an extension of the time or an increase in the Agreement Price beyond the deadlines or due to the Contractor's refusal to proceed with any of the approved Work, such delay and any Contractor costs resulting from it shall not serve as the basis for the extension of the Time for Completion or Agreement Completion Date or for an increase in the Contract Price.

Permits and Fees:

A. IF APPLICABLE- The Contractor shall secure and pay for the Building Permit and other permits and governmental fees, licenses and inspections and Certificate of Occupancy necessary for proper execution and completion of the Work. Changes or modifications to the Work shall include all requirements of this paragraph.

B. The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to performance of the Work.

C. IF APPLICABLE- Certificates of Inspection, use and occupancy will be delivered to the Division upon completion of the Work in sufficient time for occupation of the facility in accordance with the approved schedule for the Work. Contractor shall deliver a photocopy of the Building Permit to the Design Professional and requesting entity as soon as it is obtained.

Schedule, Progress Meetings and Reports:

A. The Contractor, promptly after being awarded a Project and before the first payment application, shall prepare and submit for the Division's information a Critical Path Construction Schedule for the Work that indicates the intended start and completion of the various construction activities, which shall be implemented and adhered to by the Contractor, Subcontractors, material suppliers and equipment suppliers. At a minimum, the schedule shall be a GANTT type schedule and shall not exceed time limits allowed by the Task Order or Notice to Proceed with no fewer work breakdown events than line items of the Schedule of Values.

B. The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the Division.

C. Progress meetings shall be scheduled on a regular basis. The purpose will be to review the upcoming activities, any open issues and current progress. The Contractor shall keep any meeting minutes as needed. Progress schedules shall be updated regularly. A three-week look-ahead schedule should be presented at every project meeting. A new schedule shall be presented with any change orders.

D. The Contractor shall prepare a daily report each day the Contractor, subcontractors or any other entity are on the project. The daily reports shall be maintained at the site and be well organized. The Division may request copies at any time. The reports may include:

1. report date and who prepared the report;
2. weather conditions - low temp, visibility, humidity, wind, wind direction, cloud conditions, precipitation amount, other notes;
3. companies present by name and their number of workers, work location, total man hours that day for each company;
4. equipment-type, source, units of work done, location of work, hour meter reading;
5. material brought to site-description, units, quantity, quality, location, time;
6. visitors to site -name, company, time;
7. safety concerns-company, contact, noticed by, work activity, safety issue, requirement, outcome: and
8. quality assurance and control -company, description of issue, specification section, issued by.

Close-out Requirements:

The Contractor shall submit to the Division a separate and detailed Closeout Schedule indicating the date of Final Completion and all work to be completed before Final Completion including Close-Out requirements. The punch list of incomplete or inadequate work shall also be submitted when the work is substantially complete. Failure to include any item on the punch list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents.

Before final completion can be achieved, all Work must be complete and accepted including the following as applicable:

a. Work associated with Punch List(s);
b. testing, balance or performance operations complete and in agreement that associated work is in compliance with the Contract Documents;
c. one hard copy and one electronic copy in .pdf format of final approved test, balance or performance report(s) complete with directory of contents submitted to the Division;

d. as-Built drawings delivered in AutoCAD or electronic format;
e. written certification signed by the Division of delivery and stocking of extra material, equipment or components required by the Purchase Order at a location established by the Division;
f. delivery of all warranties required by the Work;
g. all keys, passes, codes, software or other methods or components of control or security which have been correctly and adequately accounted for and closed-out;
i. Start-up of any new equipment and training of staff on all new equipment;
l. Operations and Maintenance Manuals;
m. a certified statement of Release of Liens (AIA Document G706A or approved form) and Consent of Surety.

Warranty:

The Contractor shall warrant its work (non-roofing and equipment), for materials and for workmanship furnished and performed under this Price Agreement for a period of one (1) year minimum from the date of acceptance or Substantial Completion. The Contractor shall warrant its work for repairs or restoration of existing systems and work for ninety (90) days from the date of acceptance or Substantial Completion. It is understood that some equipment is far beyond its normal life and a warranty cannot be extended/supplied. Contractor must pass on to the Division warranties of replaced roofs and equipment offered by the manufacturer.

Bid information:

Hourly rates are requested for the three (3) levels of personnel.

Superintendent: a person with supervisory experience who maintains control of the work and work site. This person may or may not actually perform work on the project.

Journeyman or Experienced Worker: a person licensed by the State for work required and being performed or a person with many years of experience with a high rate of pay.

Laborer: a person with minimal experience, performing minor forms of labor.

Materials and Parts:

Contractor shall submit billings, based on actual Contractor costs for materials, less any applicable percentage for discounts. If there is no discount to be offered, enter zero. Contractor shall provide verification that materials purchased were used for the project. Any unused, billed for materials shall be turned over to the Division for which the work was provided.

The City of Santa Fe requires that all materials shall be new and of the highest quality and at the best attainable price available for the type of work being performed.

No used materials shall be used on the project. Recycled materials specifically prepared for reuse to meet "LEED" certification may be permitted with the requesting entity's approval.

The City of Santa Fe reserves the right to award this Price Agreement to multiple vendors. Bidders must include pricing for all items starting from item 001 through item 016 in order to allow for accurate comparisons. If a Bidder fails to include one or more of those items his Bid may be rejected.

P. Fred Heerbrandt, P.E.

Engineer Supervisor Wastewater

City of Santa Fe

505-955-4623

pfheerbrandt@santafenm.gov



Log # *{Finance use only}*:	
Journal # *{Finance use only}*:	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
Public Utilities/Wastewater	8/5/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WW Capital Projects/WIP Construction	5000375	572970	n/a	$ 1,081,875	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 1,081,875	$ -

JUSTIFICATION: *(use additional page if needed)*
--Attach supporting documentation/memo
To increase account 572970 for Anchorbuilt. Plese see memo for detail and please add **Anchorbuilt COLLECTION** for posting of BAR

ON-CALL NO PL#

{Complete section below if BAR results in a net change to ANY Fund}

Fund(s) Affected	Fund Balance Increase/(Decrease)
500	(1,081,875)
TOTAL:	**(1,081,875)**

Linda MacAllister 8/5/2025
Prepared By *{print name}* Date

Division Director Signature *{optional}* Date

Department Director Signature Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins 08/19/2025
Budget Officer Date

Finance Director *{≤ $5,000}* Date

City Manager *{≤ $60,000}* Date

Client#: 1144006 ANCHOINC1

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 6/24/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Bridget Brakeall
USI Insurance Services, LLC 4100 Osuna Road NE Suite 2-203 Albuquerque, NM 87109	PHONE (A/C, No, Ext): 602.374.1331 FAX (A/C, No): E-MAIL ADDRESS: bridget.brakeall@usi.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Continental Casualty Company	20443
INSURER B : Builders Trust of New Mexico	99999
INSURER C : Valley Forge Insurance Company	20508
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
AnchorBuilt, Inc.
P.O. Box 27688
Albuquerque, NM 87125-7688

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY	X	X	6080684959	03/10/2025	03/10/2026	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$100,000
							MED EXP (Any one person)	$15,000
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:							$
C	AUTOMOBILE LIABILITY	X	X	6080684962	03/10/2025	03/10/2026	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR			6080684976	03/10/2025	03/10/2026	EACH OCCURRENCE	$5,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$5,000,000
	DED X RETENTION $10,000							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N		X	WC1000003908	03/10/2025	03/10/2026	X PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y	N / A					E.L. EACH ACCIDENT	$2,000,000
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$2,000,000
							E.L. DISEASE - POLICY LIMIT	$2,000,000
A	Stored Material			6080684959	03/10/2025	03/10/2026	*See Desc Of Ops	
C	HAPD			6080684962	03/10/2025	03/10/2026	*See Desc Of Ops	
A	Leased/Rented Eq			6080684959	03/10/2025	03/10/2026	*See Desc Of Ops	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Insurer A - Stored Material - Limit $750,000; Deductible $2,5000 - Temp Storage - Limit $300,000
Insurer C- HAPD - Limit $75,000 - Compensation Deductible $500; Collison Deductible $1,000
Insurer A - Leased and Rented Equipment - Limit $500,000; Deductible $1,0000

The General Liability and Automobile Liability policies include an automatic Additional Insured endorsement (See Attached Descriptions)

CERTIFICATE HOLDER

City of Santa Fe
2651 Siringo Road, Building E
Santa Fe, NM 87505-0000

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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DESCRIPTIONS (Continued from Page 1)

that provides Additional Insured status to the Certificate Holder, only when there is a written contract or written agreement between the named insured and the certificate holder and with regard to work performed by or on behalf of the named insured. The General Liability and Automobile Liability policies contain a special endorsement with "Primary and Noncontributory" wording, when required by written contract. The General Liability, Automobile Liability, and Workers' Compensation policies provide a Blanket Waiver of Subrogation in favor of the same, when required by written contract. Aggregate limits apply per project. The General Liability, Automobile Liability, and Workers Compensation are in the underlying schedule of the Umbrella policy.

1. ADDITIONAL INSUREDS

a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **H.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury** or **property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **H.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

A. Controlling Interest

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or

2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

B. Co-owner of Insured Premises

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

C. Lessor of Equipment

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

D. Lessor of Land

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The

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coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

E. Lessor of Premises

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury** or **property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

F. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

G. State or Governmental Agency or Subdivision or Political Subdivisions – Permits

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:

a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or

b. the construction, erection, or removal of elevators; or

c. the ownership, maintenance or use of any elevators covered by this insurance; or

2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

a. **Bodily injury**, **property damage** or **personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or

b. **Bodily injury** or **property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

H. Trade Show Event Lessor

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** caused by:

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a. the **Named Insured's** acts or omissions; or

b. the acts or omissions of those acting on the **Named Insured's** behalf,

in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.

2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard**.

2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE

The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision **2.**, the additional insured's own insurance means insurance on which the additional insured is a named insured. Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

3. BODILY INJURY – EXPANDED DEFINITION

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

Bodily injury means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** is amended to add the following provisions:

A. BROAD KNOWLEDGE OF OCCURRENCE

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or an **employee** designated by any of the above to give such notice.

B. NOTICE OF OCCURRENCE

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

5. BROAD NAMED INSURED

WHO IS AN INSURED is amended to delete its Paragraph **3.** in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph **4.** below, any organization in which a **Named Insured** has management control:

a. on the effective date of this **Coverage Part**; or

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b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

(a) any partnership, limited liability company or joint venture; or

(b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or

B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.

4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph **3.** above, this insurance does not apply to:

a. bodily injury or **property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor

b. personal or advertising injury caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.

5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

6. BROADENED LIABILITY COVERAGE FOR DAMAGE TO YOUR PRODUCT AND YOUR WORK

A. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusions **k.** and **l.** and replace them with the following:

This insurance does not apply to:

k. Damage to Your Product

Property damage to **your product** arising out of it, or any part of it except when caused by or resulting from:

(1) fire;

(2) smoke;

(3) collapse; or

(4) explosion.

l. Damage to Your Work

Property damage to **your work** arising out of it, or any part of it and included in the **products-completed operations hazard**.

This exclusion does not apply:

(1) If the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor; or

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(2) If the cause of loss to the damaged work arises as a result of:

(a) fire;

(b) smoke;

(c) collapse; or

(d) explosion.

B. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, $100,000 is the most the Insurer will pay under **Coverage A** for the sum of **damages** arising out of any one **occurrence** because of **property damage** to **your product** and **your work** that is caused by fire, smoke, collapse or explosion and is included within the **product-completed operations hazard**. This sublimit does not apply to **property damage** to **your work** if the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor.

C. This **Broadened Liability Coverage For Damage To Your Product And Your Work** Provision does not apply if an endorsement of the same name is attached to this policy.

7. CONTRACTUAL LIABILITY – RAILROADS

With respect to operations performed within 50 feet of railroad property, the definition of **insured contract** is replaced by the following:

Insured Contract means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner is not an **insured contract**;

b. A sidetrack agreement;

c. Any easement or license agreement;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement;

f. That part of any other contract or agreement pertaining to the **Named Insured's** business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Named Insured** assumes the tort liability of another party to pay for **bodily injury** or **property damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

(1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;

(2) Under which the **Insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(1)** above and supervisory, inspection, architectural or engineering activities.

8. ELECTRONIC DATA LIABILITY

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A. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion **p. Electronic Data** and replace it with the following:

This insurance does not apply to:

p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

(1) any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or

(2) the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate **electronic data** that does not result from physical injury to tangible property.

However, unless Paragraph **(1)** above applies, this exclusion does not apply to **damages** because of **bodily injury**.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relation expenses or any other loss, cost or expense incurred by the **Named Insured** or others arising out of that which is described in Paragraph **(1)** or **(2)** above.

B. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, $100,000 is the most the Insurer will pay under **Coverage A** for all **damages** arising out of any one **occurrence** because of **property damage** that results from physical injury to tangible property and arises out of **electronic data**.

C. The following definition is added to **DEFINITIONS**:

Electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

D. For the purpose of the coverage provided by this **ELECTRONIC DATA LIABILITY** Provision, the definition of **property damage** in **DEFINITIONS** is replaced by the following:

Property damage means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it;

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the **occurrence** that caused it; or

c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate **electronic data**, resulting from physical injury to tangible property. All such loss of **electronic data** shall be deemed to occur at the time of the **occurrence** that caused it.

For the purposes of this insurance, **electronic data** is not tangible property.

E. If Electronic Data Liability is provided at a higher limit by another endorsement attached to this policy, then the $100,000 limit provided by this **ELECTRONIC DATA LIABILITY** Provision is part of, and not in addition to, that higher limit.

9. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES

The estates, heirs, legal representatives and **spouses** of any natural person **Insured** shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, and **spouses** only for

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claims arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided however that the **spouse** of a natural person **Named Insured** and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

10. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

Expected or Intended Injury

Bodily injury or **property damage** expected or intended from the standpoint of the **Insured**. This exclusion does not apply to **bodily injury** or **property damage** resulting from the use of reasonable force to protect persons or property.

11. GENERAL AGGREGATE LIMITS OF INSURANCE - PER PROJECT

A. For each construction project away from premises the **Named Insured** owns or rents, a separate Construction Project General Aggregate Limit, equal to the amount of the General Aggregate Limit shown in the Declarations, is the most the Insurer will pay for the sum of:

1. All **damages** under **Coverage A**, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and

2. All medical expenses under **Coverage C**,

that arise from **occurrences** or accidents which can be attributed solely to ongoing operations at that construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations, nor the Construction Project General Aggregate Limit of any other construction project.

B. All:

1. **Damages** under **Coverage B**, regardless of the number of locations or construction projects involved;

2. **Damages** under **Coverage A**, caused by **occurrences** which cannot be attributed solely to ongoing operations at a single construction project, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and

3. Medical expenses under **Coverage C** caused by accidents which cannot be attributed solely to ongoing operations at a single construction project,

will reduce the General Aggregate Limit shown in the Declarations.

C. The limits shown in the Declarations for Each Occurrence, for Damage To Premises Rented To You and for Medical Expense continue to apply, but will be subject to either the Construction Project General Aggregate Limit or the General Aggregate Limit shown in the Declarations, depending on whether the **occurrence** can be attributed solely to ongoing operations at a particular construction project.

D. When coverage for liability arising out of the **products-completed operations hazard** is provided, any payments for **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard** will reduce the Products-Completed Operations Aggregate Limit shown in the Declarations, regardless of the number of projects involved.

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E. If a single construction project away from premises owned by or rented to the **Insured** has been abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.

F. The provisions of **LIMITS OF INSURANCE** not otherwise modified by this endorsement shall continue to apply as stipulated.

12. IN REM ACTIONS

A quasi in rem action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were in personam against the **Named Insured**.

13. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE

Solely with respect to **bodily injury** that arises out of a **health care incident**:

A. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Insuring Agreement** is amended to replace Paragraphs **1.b.(1)** and **1.b.(2)** with the following:

b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:

(1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.

(2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and

B. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to:

i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

ii. delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

Contractual Liability

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

iii. add the following additional exclusions:

This insurance does not apply to:

Discrimination

any actual or alleged discrimination, humiliation or harassment, including but not limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

Dishonesty or Crime

Any actual or alleged dishonest, criminal or malicious act, error or omission.

Medicare/Medicaid Fraud

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any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

Services Excluded by Endorsement

Any **health care incident** for which coverage is excluded by endorsement.

C. DEFINITIONS is amended to:

i. add the following definitions:

Health care incident means an act, error or omission by the **Named Insured's employees** or **volunteer workers** in the rendering of:

a. **professional health care services** on behalf of the **Named Insured** or

b. Good Samaritan services rendered in an emergency and for which no payment is demanded or received.

Professional health care services means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

a. Physician;

b. Nurse;

c. Nurse practitioner;

d. Emergency medical technician;

e. Paramedic;

f. Dentist;

g. Physical therapist;

h. Psychologist;

i. Speech therapist;

j. Other allied health professional; or

Professional health care services does not include any services rendered in connection with human clinical trials or product testing.

ii. delete the definition of **occurrence** and replace it with the following:

Occurrence means a **health care incident**. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence**;

iii. amend the definition of **Insured** to:

a. add the following:

the **Named Insured's employees** are **Insureds** with respect to:

(1) **bodily injury** to a co-**employee** while in the course of the co-**employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and

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(2) **bodily injury** to a **volunteer worker** while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

the **Named Insured's volunteer workers** are **Insureds** with respect to:

(1) **bodily injury** to a co-**volunteer worker** while performing duties related to the conduct of the **Named Insured's** business; and

(2) **bodily injury** to an **employee** while in the course of the **employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

b. delete Subparagraphs **(a)**, **(b)**, **(c) and (d)** of Paragraph **2.a.(1)** of **WHO IS AN INSURED**.

D. The **Other Insurance** condition is amended to delete Paragraph **b.(1)** in its entirety and replace it with the following:

Other Insurance

b. Excess Insurance

(1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the **Named Insured** to be excess of this coverage.

14. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES

WHO IS AN INSURED is amended to delete its last paragraph and replace it with the following:

No person or organization is an **Insured** with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a **Named Insured** in the Declarations, except that if the **Named Insured** was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense first occurred after such termination date;

b. the **bodily injury** or **property damage** first occurred after such termination date; and

c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company; and

If the joint venture, partnership or limited liability company is or was insured under a **consolidated (wrap-up) insurance program**, then such insurance will always be considered valid and collectible for the purpose of paragraph **c.** above. But this provision will not serve to exclude **bodily injury**, **property damage** or **personal and advertising injury** that would otherwise be covered under the **Contractors General Liability Extension Endorsement** provision entitled **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**. Please see that provision for the definition of **consolidated (wrap-up) insurance program**.

15. LEGAL LIABILITY – DAMAGE TO PREMISES / ALIENATED PREMISES / PROPERTY IN THE NAMED INSURED'S CARE, CUSTODY OR CONTROL

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion **j. Damage to Property** in its entirety and replace it with the following:

This insurance does not apply to:

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j. Damage to Property

Property damage to:

(1) Property the **Named Insured** owns, rents, or occupies, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

(2) Premises the **Named Insured** sells, gives away or abandons, if the **property damage** arises out of any part of those premises;

(3) Property loaned to the **Named Insured**;

(4) Personal property in the care, custody or control of the **Insured**;

(5) That particular part of real property on which the **Named Insured** or any contractors or subcontractors working directly or indirectly on the **Named Insured's** behalf are performing operations, if the **property damage** arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

Paragraphs **(1), (3)** and **(4)** of this exclusion do not apply to **property damage** (other than damage by fire) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

Paragraph **(2)** of this exclusion does not apply if the premises are **your work**.

Paragraphs (**3), (4), (5)** and **(6)** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph **(6)** of this exclusion does not apply to **property damage** included in the **products-completed operations hazard**.

Paragraphs **(3)** and **(4)** of this exclusion do not apply to **property damage** to:

i. tools, or equipment the **Named Insured** borrows from others, nor

ii. other personal property of others in the **Named Insured's** care, custody or control while being used in the **Named Insured's** operations away from any **Named Insured's** premises.

However, the coverage granted by this exception to Paragraphs **(3)** and **(4)** does not apply to:

a. property at a job site awaiting or during such property's installation, fabrication, or erection;

b. property that is **mobile equipment** leased by an **Insured**;

c. property that is an **auto**, aircraft or watercraft;

d. property in transit; or

e. any portion of **property damage** for which the **Insured** has available other valid and collectible insurance, or would have such insurance but for exhaustion of its limits, or but for application of one of its exclusions.

A separate limit of insurance and deductible apply to such property of others. See **LIMITS OF INSURANCE** as amended below.

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B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in **LIMITS OF INSURANCE**.

C. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, $25,000 is the most the Insurer will pay under **Coverage A** for **damages** arising out of any one **occurrence** because of the sum of all **property damage** to borrowed tools or equipment, and to other personal property of others in the **Named Insured's** care, custody or control, while being used in the **Named Insured's** operations away from any **Named Insured's** premises. The Insurer's obligation to pay such **property damage** does not apply until the amount of such **property damage** exceeds $1,000. The Insurer has the right but not the duty to pay any portion of this $1,000 in order to effect settlement. If the Insurer exercises that right, the **Named Insured** will promptly reimburse the Insurer for any such amount.

D. Paragraph **6.**, Damage To Premises Rented To You Limit, of **LIMITS OF INSURANCE** is deleted and replaced by the following:

6. Subject to Paragraph **5.** above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under **Coverage A** for **damages** because of **property damage** to any one premises while rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, including contents of such premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. The Damage To Premises Rented To You Limit is the greater of:

a. $500,000; or

b. The Damage To Premises Rented To You Limit shown in the Declarations.

E. Paragraph **4.b.(1)(a)(ii)** of the **Other Insurance** Condition is deleted and replaced by the following:

(ii) That is property insurance for premises rented to the **Named Insured**, for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;

16. LIQUOR LIABILITY

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Liquor Liability**.

This **LIQUOR LIABILITY** provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

17. MEDICAL PAYMENTS

A. LIMITS OF INSURANCE is amended to delete Paragraph **7.** (the Medical Expense Limit) and replace it with the following:

7. Subject to Paragraph **5.** above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under **Coverage C – Medical Payments** for all medical expenses because of **bodily injury** sustained by any one person. The Medical Expense Limit is the greater of:

(1) $15,000 unless a different amount is shown here: $N,NNN,NNN,NNN; or

(2) the amount shown in the Declarations for Medical Expense Limit.

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B. Under **COVERAGES**, the **Insuring Agreement** of **Coverage C** – **Medical Payments** is amended to replace Paragraph **1.a.(3)(b)** with the following:

(b) The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

18. NON-OWNED AIRCRAFT

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended as follows:

The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured**, provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;

2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and

3. the aircraft is not being used to carry persons or property for a charge.

19. NON-OWNED WATERCRAFT

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraph **(2)** of the exclusion entitled **Aircraft, Auto or Watercraft**, and replace it with the following.

This exclusion does not apply to:

(2) a watercraft that is not owned by any **Named Insured**, provided the watercraft is:

(a) less than 75 feet long; and

(b) not being used to carry persons or property for a charge.

20. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION

A. Under **DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:

Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

B. Under **COVERAGES**, **Coverage B – Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to:

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:

This insurance does not apply to:

Knowing Violation of Rights of Another

Personal and advertising injury caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

(a) the **Named Insured**; or

(b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.

2. add the following exclusions:

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This insurance does not apply to:

Employment Related Discrimination

Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any **Insured**.

Premises Related Discrimination

discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any **Insured**.

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from

Provision **1. ADDITIONAL INSURED** of this endorsement; or

attachment of an additional insured endorsement to this **Coverage Part**.

This **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

21. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY

A. Under **COVERAGES**, **Coverage B –Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Contractual Liability**.

B. Solely for the purpose of the coverage provided by this **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** provision, the following changes are made to the section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B:**

1. Paragraph **2.d.** is replaced by the following:

d. The allegations in the **suit** and the information the Insurer knows about the offense alleged in such **suit** are such that no conflict appears to exist between the interests of the **Insured** and the interests of the indemnitee;

2. The first unnumbered paragraph beneath Paragraph **2.f.(2)(b)** is deleted and replaced by the following:

So long as the above conditions are met, attorneys fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as **defense costs**. Such payments will not be deemed to be **damages** for **personal and advertising injury** and will not reduce the limits of insurance.

C. This **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** Provision does not apply if **Coverage B –Personal and Advertising Injury Liability** is excluded by another endorsement attached to this **Coverage Part**.

This **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

22. PROPERTY DAMAGE – ELEVATORS

A. Under **COVERAGES**, **Coverage A** – **Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended such that the **Damage to Your Product** Exclusion and subparagraphs **(3)**, **(4)** and **(6)** of the **Damage to Property** Exclusion do not apply to **property damage** that results from the use of elevators.

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B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

23. SUPPLEMENTARY PAYMENTS

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

A. Paragraph **1.b.** is amended to delete the $250 limit shown for the cost of bail bonds and replace it with a $5,000. limit; and

B. Paragraph **1.d.** is amended to delete the limit of $250 shown for daily loss of earnings and replace it with a $1,000. limit.

24. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

25. WAIVER OF SUBROGATION - BLANKET

Under **CONDITIONS**, the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or

2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

1. is in effect or becomes effective during the term of this **Coverage Part**; and

2. was executed prior to the **bodily injury**, **property damage** or **personal and advertising injury** giving rise to the **claim**.

26. WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS

Note: The following provision does not apply to any public construction project in the state of Oklahoma, nor to any construction project in the state of Alaska, that is not permitted to be insured under a **consolidated (wrap-up) insurance program** by applicable state statute or regulation.

If the endorsement **EXCLUSION – CONSTRUCTION WRAP-UP** is attached to this policy, or another exclusionary endorsement pertaining to Owner Controlled Insurance Programs (O.C.I.P.) or Contractor Controlled Insurance Programs (C.C.I.P.) is attached, then the following changes apply:

A. The following wording is added to the above-referenced endorsement:

With respect to a **consolidated (wrap-up) insurance program** project in which the **Named Insured** is or was involved, this exclusion does not apply to those sums the **Named Insured** become legally obligated to pay as **damages** because of:

1. **Bodily injury**, **property damage**, or **personal or advertising injury** that occurs during the **Named Insured's** ongoing operations at the project, or during such operations of anyone acting on the **Named Insured's** behalf; nor

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CNA PARAMOUNT

Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed as follows:

I. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:

A. In the performance of your ongoing operations subject to such **written contract**; or

B. In the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury** or **property damage** included in the **products-completed operations hazard**, and only if:

1. The **written contract** requires you to provide the additional insured such coverage; and

2. This **Coverage Part** provides such coverage; and

C. Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

1. Coverage broader than what you are required to provide by the **written contract**; or

2. A higher limit of insurance than what you are required to provide by the **written contract**.

Any coverage granted by this Paragraph **I.** shall apply solely to the extent permissible by law.

II. If the written contract requires additional insured coverage under the 07-04 edition of CG2010 or CG2037, then paragraph **I.** above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:

A. In the performance of your ongoing operations subject to such **written contract**; or

B. In the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury** or **property damage** included in the **products-completed operations hazard**, and only if:

1. The **written contract** requires you to provide the additional insured such coverage; and

2. This **Coverage Part** provides such coverage.

III. But if the **written contract** requires:

A. Additional insured coverage under the 11-85 edition, 10-93 edition, or 10-01 edition of CG2010, or under the 10-01 edition of CG2037; or

B. Additional insured coverage with “arising out of” language;

then paragraph **I.** above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of **your work** that is subject to such **written contract**.

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IV. But if the **written contract** requires additional insured coverage to the greatest extent permissible by law, then paragraph **I.** above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of **your work** that is subject to such **written contract**.

V. The insurance granted by this endorsement to the additional insured does not apply to **bodily injury**, **property damage**, or **personal and advertising injury** arising out of:

A. The rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:

1. The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and

2. Supervisory, inspection, architectural or engineering activities; or

B. Any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **Coverage Part**.

VI. Under **COMMERCIAL GENERAL LIABILITY CONDITIONS,** the Condition entitled **Other Insurance** is amended to add the following, which supersedes any provision to the contrary in this Condition or elsewhere in this **Coverage Part**:

Primary and Noncontributory Insurance

With respect to other insurance available to the additional insured under which the additional insured is a named insured, this insurance is primary to and will not seek contribution from such other insurance, provided that a **written contract** requires the insurance provided by this policy to be:

1. Primary and non-contributing with other insurance available to the additional insured; or

2. Primary and to not seek contribution from any other insurance available to the additional insured.

But except as specified above, this insurance will be excess of all other insurance available to the additional insured.

VII. Solely with respect to the insurance granted by this endorsement, the section entitled **COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

1. Give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;

2. Send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and

3. Make available any other insurance, and endeavor to tender the defense and indemnity of any **claim** to any other insurer or self-insurer, whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph **3.** does not apply to other insurance under which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.

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Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement

VIII. Solely with respect to the insurance granted by this endorsement, the section entitled **DEFINITIONS** is amended to add the following definition:

Written contract means a written contract or written agreement that requires you to make a person or organization an additional insured on this **Coverage Part**, provided the contract or agreement:

A. Was executed prior to:

1. The **bodily injury** or **property damage**; or

2. The offense that caused the **personal and advertising injury**;

for which the additional insured seeks coverage; and

B. Is still in effect at the time of the **bodily injury** or **property damage occurrence** or **personal and advertising injury** offense.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

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CONTRACTORS EXTENDED COVERAGE ENDORSEMENT - BUSINESS AUTO PLUS

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

I. LIABILITY COVERAGE

A. Who Is An Insured

The following is added to **Section II, Paragraph A.1., Who Is An Insured**:

1. **a.** Any incorporated entity of which the Named Insured owns a majority of the voting stock on the date of inception of this Coverage Form; provided that,

   b. The insurance afforded by this provision **A.1.** does not apply to any such entity that is an **insured** under any other liability "policy" providing **auto** coverage.

2. Any organization you newly acquire or form, other than a limited liability company, partnership or joint venture, and over which you maintain majority ownership interest.

   The insurance afforded by this provision **A.2.**:

   a. Is effective on the acquisition or formation date, and is afforded only until the end of the policy period of this Coverage Form, or the next anniversary of its inception date, whichever is earlier.

   b. Does not apply to:

   (1) **Bodily injury** or **property damage** caused by an **accident** that occurred before you acquired or formed the organization; or

   (2) Any such organization that is an **insured** under any other liability "policy" providing **auto** coverage.

3. Any person or organization that you are required by a written contract to name as an additional insured is an **insured** but only with respect to their legal liability for acts or omissions of a person, who qualifies as an **insured** under **SECTION II – WHO IS AN INSURED** and for whom Liability Coverage is afforded under this policy. If required by written contract, this insurance will be primary and non-contributory to insurance on which the additional insured is a Named Insured.

4. An **employee** of yours is an **insured** while operating an **auto** hired or rented under a contract or agreement in that **employee's** name, with your permission, while performing duties related to the conduct of your business.

"Policy", as used in this provision **A. Who Is An Insured,** includes those policies that were in force on the inception date of this Coverage Form but:

1. Which are no longer in force; or

2. Whose limits have been exhausted.

B. Bail Bonds and Loss of Earnings

Section II, Paragraphs A.2. (2) and A.2. (4) are revised as follows:

1. In **a.(2),** the limit for the cost of bail bonds is changed from $2,000 to $5,000; and

2. In **a.(4),** the limit for the loss of earnings is changed from $250 to $500 a day.

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(4) Your **employees** may know of an **accident** or **loss**. This will not mean that you have such knowledge, unless such **accident** or **loss** is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

The following is added to **Section IV, Paragraph A.2.b.**:

(6) Your **employees** may know of documents received concerning a claim or **suit**. This will not mean that you have such knowledge, unless receipt of such documents is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

B. Transfer Of Rights Of Recovery Against Others To Us

The following is added to **Section IV, Paragraph A.5. Transfer Of Rights Of Recovery Against Others To Us**:

We waive any right of recovery we may have, because of payments we make for injury or damage, against any person or organization for whom or which you are required by written contract or agreement to obtain this waiver from us.

This injury or damage must arise out of your activities under a contract with that person or organization.

You must agree to that requirement prior to an **accident** or **loss**.

C. Concealment, Misrepresentation or Fraud

The following is added to **Section IV, Paragraph B.2.**:

Your failure to disclose all hazards existing on the date of inception of this Coverage Form shall not prejudice you with respect to the coverage afforded provided such failure or omission is not intentional.

D. Other Insurance

The following is added to **Section IV, Paragraph B.5.**:

Regardless of the provisions of Paragraphs **5.a.** and **5.d.** above, the coverage provided by this policy shall be on a primary non-contributory basis. This provision is applicable only when required by a written contract.

That written contract must have been entered into prior to **Accident** or **Loss**.

E. Policy Period, Coverage Territory

Section IV, Paragraph B. 7.(5).(a). is revised to provide:

a. 45 days of coverage in lieu of 30 days.

V. DEFINITIONS

Section V. paragraph C. is deleted and replaced by the following:

Bodily injury means bodily injury, sickness or disease sustained by a person, including mental anguish, mental injury or death resulting from any of these.

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BUILDERS TRUST®
OF NEW MEXICO

WAIVER OF SUBROGATION

Insured Name: ANCHORBUILT INC
Insured Policy Number: WC100-0003908-2025A

Builders Trust of New Mexico waives any right of recovery of subrogation against the certificate holder named on this certificate of insurance, but only to the extent that the employers to whom we provide coverage performs work under a written contract with the certificate holder that requires this waiver.

Name of Person	Name of Organization
	Blanket Waiver of Subrogation

Date: 12/11/2024 Countersigned by Randy L. Akin

Agency Number: 2 – 4
Agency Name: USI Insurance Services LLC

(505) 345-3477 ■ 1-800-640-3369 ■ FAX (505) 344-7245
5931 OFFICE BOULEVARD, NE SUITE 3 ALBUQUERQUE, NM 87109 ■ P.O. BOX 91330 ALBUQUERQUE, NM 87199-1330
www.builderstrust.com

CITY OF SANTA FE

The Purchasing Memo

Date: August 6, 2025

To: Governing Body, Finance Committee, and Quality of Life Committee

From: Margaret M. Neill, Library Division Director

Via: Maria Sanchez-Tucker, Community Services Director

Marcella Apodaca, Business Operations Manager

Subject: Amendment to Digital Media Agreement

Vendor Name: Midwest Tape, LLC

Munis Vendor Number: 2551

ITEM AND ISSUE:

Request for Approval of Amendment No. 2 to Digital Media Agreement #24-0690 with Midwest Tape, LLC to Increase the Compensation by $149,087.68 for a New Total Amount of $319,997.68 to Expire on December 12, 2026. (Margaret M. Neill, Library Division Director; mmneill@santafenm.gov)

CONTRACT NUMBER:

The FY25 Munis contract number is 3250282.

BACKGROUND AND SUMMARY:

The original agreement was approved on December 13, 2024 and assigned item # 24-0690. The agreement was amended on June 02, 2025 to expend all remaining funds at the end of FY25. This agreement is for the purchase of digital library materials.

PRIOR APPROVALS AND SUPPORTING INFORMATION:

FUNDING SOURCE:

Fund Name/Number: General Fund/100, Library/251

Munis Org Name/Number: Library Admin/100101, Southside Library Ops/2510104

Munis Object Name/Number: Books/Subs/Periodicals/ 530700, Book Acquisition/530750

Budget Officer / Designee: Andy Hopkins **Date:** 08/20/2025

Budget Officer Comment/Exceptions: _____

PROCUREMENT METHOD:

The procurement method used was NMSA 1978, Section 13-1-98, Exempt

The existing agreement expires on December 12, 2026

Chief Procurement Officer (CPO)/Designee: _____ **Date:** 08/22/2025

CPO Comment/Exceptions: _____

ASSOCIATED APPROVALS:

IT Components included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Treasury/Point of Sale Components included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Vehicles included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Construction to City Facilities, Furniture, and/or Fixtures included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this an externally funded purchase? ☐ Yes | ☒ No

If yes, what is the issuing agency: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this a Capital Asset or Project? ☐ Yes | ☒ No

Project Ledger Number: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

ATTACHMENTS:

Procurement document: Exemption Determination/Email

Vendor’s Quote
Certificate of Liability Insurance (COI)
Original contract packet (with previous contract amendments)

Item #: _____
Munis Contract #:3250282
Original Contract Item #: 24-0690

CITY OF SANTA FE, COMMUNITY SERVICES/LIBRARY DIVISION
AMENDMENT No. 2 TO
Contract # 25-0222

DIGITAL MEDIA AGREEMENT

This AMENDMENT No. 2 (the "Amendment") amends the CITY OF SANTA FE DIGITAL MEDIA AGREEMENT, dated December 13, 2024 (the "Contract"), between the City of Santa Fe (the "City") and Midwest Tape (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

RECITALS:

A. Under the terms of the Contract, Contractor has agreed to provide digital library materials.

B. Pursuant to Article 6.6 of the Contract, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

COMPENSATION.

The Contract is amended to increase the amount of compensation (described in FY26 Appendix 1 as the "quote") by a total of $149, 087.68, so that the not-to-exceed compensation to be paid to the vendor is $319,997.68 for a term to expire on December 12, 2026.

CONTRACT IN FULL FORCE.

Except as specifically provided in this Amendment, the Contract remains and shall remain in full force and effect, in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 to the Contract as of the dates set forth below.

CITY OF SANTA FE:

_____
Alan Webber, Mayor

DATE:_____

CONTRACTOR: Midwest Tape, LLC

Sue Bascuk (Aug 5, 2025 15:40:00 EDT)
Susan Bascuk, Vice President

DATE: Aug 5, 2025

ATTEST:

_____
CITY CLERK

CITY ATTORNEY'S OFFICE:

_____
ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster
_____
FINANCE DIRECTOR

From: DUTTON-LEYDA, TRAVIS K.
To: NEILL, MARGARET M.
Subject: RE: Blanket purchase exemption
Date: Wednesday, July 16, 2025 11:09:33 AM
Attachments: image002.png
image004.png

Greetings,

These are exempt pursuant to NMSA Section, 13-1-98 (E).

E. purchases of books, periodicals, instructional materials and training materials in printed, digital or electronic format from the publishers, designated public-education-department-approved instructional material depositories or copyright holders thereof and purchases of print, digital or electronic format library materials by public, school and state libraries for access by the public;

Thank you.

Regards,

Travis Dutton-Leyda
Chief Procurement Officer
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501
505-629-8351
tkduttonleyda@santafenm.gov

Book time to meet with me

https://santafenm.gov/finance-2/purchasing-1

Vendor Registration Sites and Current Procurement Opportunities:

[Current] https://santafenm.munisselfservice.com/vss/

[Transitioning] https://procurement.opengov.com/portal/santafenm

[Current] https://www.withpavilion.com/

Internal Link: https://intranet.santafenm.gov/central_purchasing_division_cpd

CITY OF SANTA FE
FINANCE

"A journey of a thousand miles begins with a single step" ~ Lao Tzu

From: NEILL, MARGARET M.
Sent: Monday, June 30, 2025 10:01 AM
To: DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>
Subject: Blanket purchase exemption

Good morning, Travis.

We are working on all our agreements for FY26. Instead of requesting an exemption for each, I am requesting that you issue a blanket exemption determination for the following vendors:

Baker and Taylor
Barnes and Noble
Collected Works
Ingram
Midwest Tape
Midwest Tape/Hoopla
Overdrive
Overdrive/Kanopy

All the vendors above will be providing physical and digital materials for the library's collections, in accordance with NM 13-1-98 E.

Please let me know if this is okay. Thank you!

Margaret M. Neill *(she/her/hers)*
Library Division Director
City of Santa Fe
Office: (505) 955-6788 / Cell: (505) 479-1646
145 Washington Ave. Santa Fe, NM 87501
mmneill@santafenm.gov

Santa Fe Public Library
Community Services Department, City of Santa Fe, New Mexico

P.O. Box 820 Holland, OH 43528
800-875-2785

Quote

Santa Fe Public Library (NM)
Digital Account
145 WASHINGTON AVE
SANTA FE NM 87501

Document Number	**507461559**
Document Date	**07/16/2025**
Customer	**2000014695**
Customer PO	
Payment Terms	**Due Upon Receipt**

Description	Quantity	Amount	Extended Amount
Advance Digital Payment	1	149,087.68	149,087.68
Total due in USD			149,087.68

To view and/or download transactional data for the above charges, please login to your account at https://midwesttape.com

Remit ACH/wire payments to:
Beneficiary Bank: Key Bank
Beneficiary Bank Routing Number: 021052053
Beneficiary Account Name: Midwest Tape LLC
Beneficiary Account #: 14628438

Remit check payments to:
Midwest Tape, LLC
P.O. Box 715733
Cincinnati, OH 45271-5733

Federal ID# 37-1499686

For questions on your invoice, please email us at accountsreceivable@hoopladigital.com

Client#: 1400052 MIDWETAP1

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/06/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Jennifer Lake, CISR	
USI Insurance Services, LLC CL 200 N. Saint Clair Street Suite 1400 Toledo, OH 43604	PHONE (A/C, No, Ext): 567-803-4414	FAX (A/C, No):
	E-MAIL ADDRESS: Jennifer.Lake@usi.com	

INSURED	INSURER(S) AFFORDING COVERAGE	NAIC #
Midwest Tape, LLC P.O. Box 820 Holland, OH 43528-0820	INSURER A : Transportation Insurance Company	20494
	INSURER B : Continental Insurance Company	35289
	INSURER C : Continental Casualty Company	20443
	INSURER D : Midwest Employers Casualty Company	23612
	INSURER E : Westchester Surplus Lines Insurance Co.	10172
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY	X	X	6071847392	05/09/2025	05/09/2026	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$500,000
	OH Stop Gap						MED EXP (Any one person)	$15,000
	$1mi/$1mi/$1mi						PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY	X	X	6071847408	05/09/2025	05/09/2026	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
B	UMBRELLA LIAB OCCUR	X	X	6071847425	05/09/2025	05/09/2026	EACH OCCURRENCE	$15,000,000
	X EXCESS LIAB X CLAIMS-MADE						AGGREGATE	$15,000,000
	DED X RETENTION $0							$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		X	WC671847411	05/09/2025	05/09/2026	X PER STATUTE / OTH-ER	
D	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: N	N / A	X	EWC009148	05/09/2025	05/09/2026	E.L. EACH ACCIDENT	$1,000,000
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$1,000,000
							E.L. DISEASE - POLICY LIMIT	$1,000,000
E	Tech E&O/Cyber	X	X	F15620304005	05/09/2025	11/09/2025	$5,000,000/$100K ret	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

For Operations of Named Insured.

CERTIFICATE HOLDER

City of Santa Fe
PO Box 909
Santa Fe, NM 87504

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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CITY OF SANTA FE

Date: May 22, 2025

To: Mark Scott, City Manager

From: Margaret M. Neill, Library Division Director

Via: Maria Sanchez-Tucker, Community Services Director

Marcella Apodaca, Business Operations Manager

Subject: Request for Approval of Contract Amendment for Digital Materials

Vendor Name: Midwest Tape

Munis Vendor Number: 2551

ITEM AND ISSUE:

Community Services/Library respectfully requests your review and approval of Amendment #1 to 3250282 with Midwest Tape for the purchase of digital library content, such as e-books, e-audiobooks, streaming music and movies. Amendment #1 increases the amount of compensation by $10,100.00 for a total compensation of $170,910.00 for a term to expire on December 12, 2026.

CONTRACT NUMBER:

The FY25 Munis contract number is 3250282

BACKGROUND AND SUMMARY:

The Library Division is requesting a contract amendment to expend all funding for digital materials. The original contract was approved in December of 2024. The original item number assigned by the City Clerk was 24-0690. The contract with Midwest Tape will expire on December 12, 2026.

PRIOR APPROVALS AND SUPPORTING INFORMATION:

FUNDING SOURCE:

Fund Name/Number: General Fund/100

Munis Org Name/Number: Library Admin/1000101

Munis Object Name/Number: Software Subscriptions/530710

Budget Officer / Designee: Andy Hopkins **Date:** 05/28/2025

Budget Officer Comment/Exceptions: _____

PROCUREMENT METHOD:

The procurement method used was NMSA 1978, Section 13-1-98, Exempt

Chief Procurement Officer (CPO)/Designee: JoAnn Lovato Montaño **Date:** 05/28/2025

CPO Comment/Exceptions: Approved exemption on file

ASSOCIATED APPROVALS:

IT Components included? ☐ **Yes |** ☒ **No**

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Treasury/Point of Sale Components included? ☐ **Yes |** ☒ **No**

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Vehicles included? ☐ **Yes |** ☒ **No**

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Construction to City Facilities, Furniture, and/or Fixtures included? ☐ **Yes |** ☐ **No**

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this an externally funded purchase? ☐ **Yes |** ☒ **No**

If yes, what is the issuing agency: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this a Capital Asset or Project? ☐ **Yes |** ☒ **No**

Project Ledger Number: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

ATTACHMENTS:

Horizons declination
CPO Service Determination Email
Department approval email from ITT, Fleet, or Facilities [pick one or more or delete]
Procurement document: Exemption Determination/Email
Vendor's Quote
Certificate of Liability Insurance (COI)

General Services Contract

Item# 25-0222
Munis Contract# 3250282
Original Contract Item# 24-0690

CITY OF SANTA FE
AMENDMENT No. 1 TO
Digital Media Agreement
ITEM# 24-0690

This AMENDMENT No. 01 (the "Amendment") amends the CITY OF SANTA FE DIGITAL MEDIA AGREEMENT, dated December 13, 2024 (the "Contract"), between the City of Santa Fe (the "City") and Midwest Tape, LLC (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

RECITALS:

A. Under the terms of the Contract, Contractor has agreed to provide digital library materials.

B. Pursuant to Article 6.6 of the Contract and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. APPENDIX 1

The Contract is amended to identify and amend Appendix 1 to the Contract (attached hereto) to increase the amount of compensation (described in Appendix 1 as the “quote”) by a total of $10,100.00, so that the total not-to-exceed compensation to be paid to the vendor is $170,910.00.

2. CONTRACT IN FULL FORCE.

Except as specifically provided in this Amendment, the Contract remains and shall remain in full force and effect, in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the Contract as of the dates set forth below.

CITY OF SANTA FE:

Mark Scott (Jun 2, 2025 12:59 MDT)

MARK SCOTT, CITY MANAGER

DATE: 06/02/2025

CONTRACTOR:
Midwest Tape, LLC

Susan Bascuk (May 20, 2025 12:27 EDT)

SUSAN BASCUK, VICE PRESIDENT

DATE: 05/20/2025

CRS#

ATTEST:

ANDREA SALAZAR (Jun 2, 2025 16:48 MDT)

CITY CLERK

CITY ATTORNEY'S OFFICE:

ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster

FINANCE DIRECTOR

P.O. Box 820 Holland, OH 43528
800-875-2785

Quote

Santa Fe Public Library (NM)
Digital Account
145 WASHINGTON AVE
SANTA FE NM 87501

Document Number	**506265383**
Document Date	**10/31/2024**
Customer	**2000014695**
Customer PO	
Payment Terms	

Description	Quantity	Amount	Extended Amount
Advance Digital Payment	1	160,810.00	160,810.00
Total due in USD			160,810.00

To view and/or download transactional data for the above charges, please login to your account at https://midwesttape.com

Remit ACH/wire payments to:
Beneficiary Bank: Key Bank
Beneficiary Bank Routing Number: 021052053
Beneficiary Account Name: Midwest Tape LLC
Beneficiary Account #: 14628438

Federal ID# 37-1499686

Remit check payments to:
Midwest Tape, LLC
P.O. Box 715733
Cincinnati, OH 45271-5733

For questions on your invoice, please email us at accountsreceivable@hoopladigital.com

P.O. Box 820 Holland, OH 43528
800-875-2785

Remittance Advice

Santa Fe Public Library (NM)
Digital Account
145 WASHINGTON AVE
SANTA FE NM 87501

Document Number	**507102620**
Document Date	**04/29/2025**
Customer	**2000014695**
Customer PO	
Payment Terms	**Due Upon Receipt**

Description	Quantity	Amount	Extended Amount
Advance Digital Payment	1	10,100.00	10,100.00
Total due in USD			10,100.00

To view and/or download transactional data for the above charges, please login to your account at https://midwesttape.com

Remit ACH/wire payments to:
Beneficiary Bank: Key Bank
Beneficiary Bank Routing Number: 021052053
Beneficiary Account Name: Midwest Tape LLC
Beneficiary Account #: 14628438

Remit check payments to:
Midwest Tape, LLC
P.O. Box 715733
Cincinnati, OH 45271-5733

Federal ID# 37-1499686

For questions on your invoice, please email us at accountsreceivable@hoopladigital.com

Approved

These services have been approved by the New Mexico Council for Purchasing from Persons with Disabilities and are available through Horizons of New Mexico.

Please note that the Council is in the process of reviewing and adding services that are suitable for State Use and services may be added or removed from this list in the future.

- ADA Accessibility Consulting Services
- Auctioneering Services
- Bulk Mailing and Sorting
- Botanical Services
- Call Center Services
- Car Washing
- Clerical Data Entry
- Computer Refurbishing
- Courier Services
- Debris Removal
- Decontamination, Sanitation and Sterilization Services
- Dishwashing Services
- Document Imaging
- Document Shredding
- Envelope Stuffing
- Event Planning
- General Labor
- Greeting Services
- Hard Drive Destruction
- Janitorial and Housekeeping Services - Including COVID-19 Disinfecting and other Disinfecting Services
- Kit Assembling
- Landscape Irrigation
- Landscaping

- Lobby Attendant
- Mailing Services
- Management of an Assistive Technology Reuse and Recycling Program
- Medical Waste Disposal
- Meeting Minute Preparation Services
- Moving Services
- Pest Control and Extermination Services
- Plant Rental Services
- Printing Services
- Receptionist, Filing and Clerical Services
- Recycling Services
- Rest Area Maintenance
- Screen Printing
- Shelf Stocking and Restocking
- Snow Removal
- Transcription Services
- Transportation
- Wildlife Services Management
- Yard, Grounds, and Lawn Maintenance

From: DUTTON-LEYDA, TRAVIS K.
To: NEILL, MARGARET M.
Subject: RE: Purchasing Exemption Request-Midwest Tape LLC
Date: Tuesday, July 9, 2024 11:34:45 AM
Attachments: image003.png

Margaret, this is exempt per NMSA 1978, Section 13-1-98 (E).

Thank you.

Regards,

Travis Dutton-Leyda
Chief Procurement Officer
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501
505-629-8351
tkduttonleyda@santafenm.gov

https://santafenm.gov/finance-2/purchasing-1

Internal Link: https://intranet.santafenm.gov/finance_1

CITY OF SANTA FE
FINANCE

From: NEILL, MARGARET M. <mmneill@santafenm.gov>
Sent: Tuesday, July 9, 2024 10:49 AM
To: DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>
Subject: Purchasing Exemption Request-Midwest Tape LLC

Good morning, Travis.

I am requesting a purchasing exemption for Hoopla, dba Midwest Tape LLC. Midwest Tape is one of two primary vendors we use to purchase access to digital materials. We have not yet allocated funds for FY25, but the estimate for Hoopla is $180,000.00, using a mix of state funding and general fund money.

I am requesting to use NM Stat § 13-1-98 -E (2023): purchases of books, periodicals, instructional materials and training materials in printed, digital or electronic format from the publishers, designated public-education-department-approved instructional material depositories or copyright holders thereof and purchases of print, digital or electronic format library materials by public, school and state libraries for access by the public;

Thank you for your time and attention to this request.

Margaret M. Neill *(she/her/hers)*
Library Division Director
City of Santa Fe
Office: (505) 955-6788 / Cell: (505) 479-1646
145 Washington Ave. Santa Fe, NM 87501
mmneill@santafenm.gov



P.O. Box 820 Holland, OH 43528
800-875-2785

Remittance Advice

Santa Fe Public Library (NM)
Digital Account
145 WASHINGTON AVE
SANTA FE NM 87501

Document Number	**507102620**
Document Date	**04/29/2025**
Customer	**2000014695**
Customer PO	
Payment Terms	**Due Upon Receipt**

Description	Quantity	Amount	Extended Amount
Advance Digital Payment	1	10,100.00	10,100.00
Total due in USD			10,100.00

To view and/or download transactional data for the above charges, please login to your account at https://midwesttape.com

Remit ACH/wire payments to:
Beneficiary Bank: Key Bank
Beneficiary Bank Routing Number: 021052053
Beneficiary Account Name: Midwest Tape LLC
Beneficiary Account #: 14628438

Remit check payments to:
Midwest Tape, LLC
P.O. Box 715733
Cincinnati, OH 45271-5733

Federal ID# 37-1499686

For questions on your invoice, please email us at accountsreceivable@hoopladigital.com

Client#: 1400052 MIDWETAP1

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/06/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Jennifer Lake, CISR	
USI Insurance Services, LLC CL 200 N. Saint Clair Street Suite 1400 Toledo, OH 43604	PHONE (A/C, No, Ext): 567-803-4414	FAX (A/C, No):
	E-MAIL ADDRESS: Jennifer.Lake@usi.com	

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Transportation Insurance Company	20494
INSURER B : Continental Insurance Company	35289
INSURER C : Continental Casualty Company	20443
INSURER D : Midwest Employers Casualty Company	23612
INSURER E : Westchester Surplus Lines Insurance Co.	10172
INSURER F :	

INSURED
Midwest Tape, LLC
P.O. Box 820
Holland, OH 43528-0820

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY	X	X	6071847392	05/09/2025	05/09/2026	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$500,000
	OH Stop Gap						MED EXP (Any one person)	$15,000
	$1mi/$1mi/$1mi						PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY	X	X	6071847408	05/09/2025	05/09/2026	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
B	UMBRELLA LIAB OCCUR	X	X	6071847425	05/09/2025	05/09/2026	EACH OCCURRENCE	$15,000,000
	X EXCESS LIAB X CLAIMS-MADE						AGGREGATE	$15,000,000
	DED X RETENTION $0							$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		X	WC671847411	05/09/2025	05/09/2026	X PER STATUTE / OTH-ER	
D	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: N	N / A	X	EWC009148	05/09/2025	05/09/2026	E.L. EACH ACCIDENT	$1,000,000
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$1,000,000
							E.L. DISEASE - POLICY LIMIT	$1,000,000
E	Tech E&O/Cyber	X	X	F15620304005	05/09/2025	11/09/2025	$5,000,000/$100K ret	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

For Operations of Named Insured.

CERTIFICATE HOLDER

City of Santa Fe
PO Box 909
Santa Fe, NM 87504

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

CITY OF SANTA FE

Date: October 28, 2024

To: John Blair, City Manager John Blair (Nov 1, 2024 16:01 MDT)

From: Margaret M. Neill, Library Division Director Margaret Neill (Oct 31, 2024 15:29 MDT)

Via: Maria Sanchez Tucker, Community Services Director Maria Tucker

Subject: Request for Approval of Contract for Purchase of Digital Content

Vendor Name: Midwest Tape

Munis Vendor Number: 2551

ITEM AND ISSUE:

Community Services/Library Division respectfully requests your review and approval of a contract in the total amount of $160,810.00for the purchase of digital content such e-books, e-audiobooks and digital magazines for library use. Purchase of library materials in either digital or print form is exempt per NMSA 13-1-98-E (2013).

2510101.530700 (GO Bond): $21,200.00
2510104.530700 (Southside Books/Subs): $17,000.00
2510104.530750 (QOL Book Acq): $100,00.00
2550101.530750 (Southside Book Acq): $22,610.00

CONTRACT NUMBER:

3250282

BACKGROUND AND SUMMARY:

Santa Fe Public Library provides access to a variety of informational and entertainment materials in multiple formats as part of its mission to provide access to information.Hoopla offers digital e-book, e-audio & e-magazine downloads to personal devices like smart phones and tablets and is one of the largest and most established digital material companies for libraries.

Prior Approvals and Supporting Information:

PROCUREMENT METHOD:

The procurement method used was NMSA 1978, Section 13-1-98, Exempt

Per NMSA 1978, Section 13-1-98 (E) purchases of physical or digital library books and materials are exempt.

Chief Procurement Officer (CPO) / Designee: _____ **Date:** Nov 1, 2024
CPO Comment/Exceptions: approved exemption on file

FUNDING SOURCE:

Fund Name/Number: Library Fund/251; Quality of Life Fund/255

Munis Org Name/Number: Library Programs/2510101; SSLibrary Ops/2510104; QOL-Library/2550101

Munis Object Name/Number: Books/Subscrpts/Periodicals/530700; Book Aquisition/530750

Budget Officer / Designee: Andy Hopkins **Date:** Nov 1, 2024
Budget Officer Comment/Exceptions: _____

ASSOCIATED APPROVALS:

Does this purchase require any of the following associated approvals: ☐ Yes | ☒ No
(ITT, Vehicles/Fleet, Facilities, Asset, Grant Review)

IT Components included? ☐ Yes | ☒ No
Approval: _____ **Title:** _____ **Date:** _____
Comment/Exceptions: _____

Vehicles included? ☐ Yes | ☒ No
Approval: _____ **Title:** _____ **Date:** _____
Comment/Exceptions: _____

Construction, Facilities, Furniture, Fixtures, Equipment included? ☐ Yes | ◉ No
Approval: _____ **Title:** _____ **Date:** _____
Comment/Exceptions: _____

Capital Asset* or Project ☐ Yes | ☐ No**
Project Ledger #: _____
(*will this procurement result in a tangible item that costs more than $5,000?)
(**Capital Projects are new and improvement projects that are going to cost $10,000 or more)
Approval: _____ **Title:** _____ **Date:** _____
Comment/Exceptions: _____

Is this a Grant Funded Purchase? ☐ Yes | ◉ No
Approval: _____ **Title:** _____ **Date:** _____
Comment/Exceptions: _____

ATTACHMENTS:

Procurement Document: Exemption Determination/Email

Vendor's Quote

Software Contract

Professional/General Service Contract
Vendor Quote
Certificate of Liability
Horizons declination
CPO Service Determination Email
GO Bond Bar Packet

Approved

These services have been approved by the New Mexico Council for Purchasing from Persons with Disabilities and are available through Horizons of New Mexico.

Please note that the Council is in the process of reviewing and adding services that are suitable for State Use and services may be added or removed from this list in the future.

- ADA Accessibility Consulting Services
- Auctioneering Services
- Bulk Mailing and Sorting
- Botanical Services
- Call Center Services
- Car Washing
- Clerical Data Entry
- Computer Refurbishing
- Courier Services
- Debris Removal
- Decontamination, Sanitation and Sterilization Services
- Dishwashing Services
- Document Imaging
- Document Shredding
- Envelope Stuffing
- Event Planning
- General Labor
- Greeting Services
- Hard Drive Destruction
- Janitorial and Housekeeping Services - Including COVID-19 Disinfecting and other Disinfecting Services
- Kit Assembling
- Landscape Irrigation
- Landscaping

- Lobby Attendant
- Mailing Services
- Management of an Assistive Technology Reuse and Recycling Program
- Medical Waste Disposal
- Meeting Minute Preparation Services
- Moving Services
- Pest Control and Extermination Services
- Plant Rental Services
- Printing Services
- Receptionist, Filing and Clerical Services
- Recycling Services
- Rest Area Maintenance
- Screen Printing
- Shelf Stocking and Restocking
- Snow Removal
- Transcription Services
- Transportation
- Wildlife Services Management
- Yard, Grounds, and Lawn Maintenance

From: DUTTON-LEYDA, TRAVIS K.
To: NEILL, MARGARET M.
Subject: RE: Purchasing Exemption Request-Midwest Tape LLC
Date: Tuesday, July 9, 2024 11:34:45 AM
Attachments: image003.png

Margaret, this is exempt per NMSA 1978, Section 13-1-98 (E).

Thank you.

Regards,

Travis Dutton-Leyda
Chief Procurement Officer
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501
505-629-8351
tkduttonleyda@santafenm.gov

https://santafenm.gov/finance-2/purchasing-1

Internal Link: https://intranet.santafenm.gov/finance_1

CITY OF SANTA FE
FINANCE

From: NEILL, MARGARET M. <mmneill@santafenm.gov>
Sent: Tuesday, July 9, 2024 10:49 AM
To: DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>
Subject: Purchasing Exemption Request-Midwest Tape LLC

Good morning, Travis.

I am requesting a purchasing exemption for Hoopla, dba Midwest Tape LLC. Midwest Tape is one of two primary vendors we use to purchase access to digital materials. We have not yet allocated funds for FY25, but the estimate for Hoopla is $180,000.00, using a mix of state funding and general fund money.

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Thank you for your time and attention to this request.

Margaret M. Neill *(she/her/hers)*
Library Division Director
City of Santa Fe
Office: (505) 955-6788 / Cell: (505) 479-1646
145 Washington Ave. Santa Fe, NM 87501
mmneill@santafenm.gov



HOUSE BILL 430

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Linda M. Trujillo

AN ACT

RELATING TO PROCUREMENT; PROVIDING EXEMPTIONS FROM THE PROCUREMENT CODE FOR CERTAIN LIBRARY, PUBLISHING AND DISTRIBUTION PURCHASES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended) is amended to read:

"13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The provisions of the Procurement Code shall not apply to:

A. procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;

B. procurement of tangible personal property or

underscored material = new
[bracketed material] = delete

services for the governor's mansion and grounds;

C. printing and duplicating contracts involving materials that are required to be filed in connection with proceedings before administrative agencies or state or federal courts;

D. purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;

E. purchases of books, periodicals and training materials in printed or electronic format from the publishers or copyright holders thereof and purchases of print, digital or electronic format library materials by public, school and state libraries for access by the public;

F. travel or shipping by common carrier or by private conveyance or to meals and lodging;

G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;

H. contracts with businesses for public school transportation services;

I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the corrections industries division of the corrections department pursuant to rules adopted by the corrections industries commission, which shall be reviewed by the

underscored material = new
[bracketed material] = delete

P.O. Box 820 Holland, OH 43528
800-875-2785

Quote

Santa Fe Public Library (NM)
Digital Account
145 WASHINGTON AVE
SANTA FE NM 87501

Document Number	**506265383**
Document Date	**10/31/2024**
Customer	**2000014695**
Customer PO	
Payment Terms	

Description	Quantity	Amount	Extended Amount
Advance Digital Payment	1	160,810.00	160,810.00
Total due in USD			160,810.00

To view and/or download transactional data for the above charges, please login to your account at https://midwesttape.com

Remit ACH/wire payments to:
Beneficiary Bank: Key Bank
Beneficiary Bank Routing Number: 021052053
Beneficiary Account Name: Midwest Tape LLC
Beneficiary Account #: 14628438

Federal ID# 37-1499686

Remit check payments to:
Midwest Tape, LLC
P.O. Box 715733
Cincinnati, OH 45271-5733

For questions on your invoice, please email us at accountsreceivable@hoopladigital.com

hoopla® Digital Media Agreement

This hoopla Digital Media Agreement ("Agreement") is made as of this ___ day of _____, 20___ ("Effective Date") by and between the City of Santa Fe (the "Library"), and Midwest Tape, LLC.

WHEREAS, Midwest Tape's hoopla Digital Media Platform ("hoopla," the "Platform," or the "hoopla Platform") allows participating libraries to provide their users with access to digital media content using smart phones, tablets, computers, streaming devices, and web browsers; and

WHEREAS, the Platform is designed to be accessible 24/7 and offers various licenses to media content in multiple formats, including, without limitation, movies, television programs, music, audiobooks, eBooks, and comics, subject to circulation limits (if any) and other settings established by the user's library system; and

WHEREAS, the Library wishes to make hoopla available to its authorized users ("Patrons");

NOW THEREFORE, in consideration of the promises and mutual covenants contained in this Agreement, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Library and Midwest Tape (each a "Party" and collectively the "Parties") agree as follows:

1. **DEFINITIONS**. The following definitions apply wherever these terms appear in this Agreement, including the Appendices:

   1.1 "Digital Media Platform" means one or more computer programs or applications owned, maintained, and/or used by Midwest Tape to provide access to Digital Titles and/or to allow the Library to manage its offering and Patron use of Digital Titles, including the hoopla Application, hoopla Website, and Library Administration Website.

   1.2 "Digital Titles" means any and all digital media content that Midwest Tape makes available to the Library and its Patrons via the Digital Media Platform during the Term of this Agreement.

   1.3 "Flex Borrow" or **"Flex Circulation"** means a one-copy/one-user ("OCOU") Circulation, as defined in Appendix 2 to this Agreement. As set forth in the attached Appendix 2, a Flex Borrow occurs when a Patron uses the hoopla Application or hoopla Website to borrow a Digital Title that is at that time available to that user in the form of a "OCOU" license owned or controlled by the Library.

   1.4 "Flex License" means a one-copy/one user license ("OCOU License"), as set forth in the attached Appendix 2.

   1.5 "hoopla Application" means one or more computer applications maintained, owned, and/or used by Midwest Tape to provide access for limited periods to Digital Titles (including the ability to browse, borrow, stream, download, and/or return such titles) using certain streaming devices, smart phones, tablets, and/or other mobile devices.

   1.6 "hoopla Website" means a Midwest Tape website (currently www.hoopladigital.com) that may be used to access, browse, borrow, stream, and/or return Digital Titles.

1.7 **"Instant Borrow"** or **"Instant Circulation"** means a pay-per-use ("PPU") Circulation, as defined in Appendix 2 to this Agreement. As set forth in the attached Appendix 2, an Instant Borrow occurs when a Patron uses the hoopla Application or hoopla Website to borrow a Digital Title (or to obtain access to a "Binge Pass") pursuant to a PPU license that is paid for by the Library.

1.8 **"Instant License"** means a pay-per-use license ("PPU License"), as set forth in the attached Appendix 2.

1.9 **"Intellectual Property Rights"** means all rights in and to patents, trademarks, service marks, trade names, copyrights, trade secrets, technology, software, designs, algorithms, know-how, as well as moral rights and all other intellectual and proprietary rights of any type under any applicable laws.

1.10 **"Library Administration Website"** means one or more Midwest Tape website(s) (currently available at www.midwesttapes.com) that may be accessed and utilized by the Library to obtain OCOU Licenses, manage content available to Patrons in the Platform, and administer Library policies in regard to Patron use of the Platform.

1.11 **"Library Online Catalog"** means the website(s) owned, maintained, and/or used by or for the Library for the purpose of providing information to Patrons and/or the general public about the Library and its various content offerings, policies, objectives, initiatives, and procedures.

1.12 **"Marks"** means any trademarks, service marks, trade names, logos, designs, icons, characters, cover art, styles, trade dress, or other indicators of source associated with any Digital Titles, including without limitation all translations or transliterations of the foregoing in any language, or any colorable imitations or modified versions thereof.

1.13 **"Midwest Tape"** means Midwest Tape, LLC and any of its parents, subsidiaries, or affiliated entities that are engaged in the business of selling and distributing media content in digital form to libraries and library users via the Platform.

1.14 **"Pre-Owned Content"** has the meaning set forth in Appendix 2.

1.15 **"Service Partners"** means any third parties that provide digital storage, webhosting, IT services, data analysis and processing, or distribution or other services to Midwest Tape in connection with the Platform.

1.16 **"Title Summary and Promotional Data"** means, with respect to each Digital Title, the following information and data that is made available to Library pursuant to this Agreement: (i) title; (ii) author(s), publisher, illustrator(s), narrator(s), actor(s), director(s), producer(s), studio(s), and similar descriptive information; (iii) if commercially used, the digital object identifier; (iv) narrative description or summary of the work; (v) cover art and image, graphics, and other images; (vi) copyright notice; and (vii) any other identifying information.

1.17 **"Vendor"** means any supplier to Midwest Tape of (i) Digital Title(s); (ii) Title Summary and Promotional Data; and/or (iii) technology or services necessary for Midwest Tape to provide the Platform to the Library.

2. Library Rights & Obligations.

2.1 Rights. During the Term, and subject to all the terms and limitations set forth in this Agreement, Midwest Tape grants to the Library the non-exclusive and non-transferrable right to display and access the Platform and Title Summary and Promotional Data for the limited purpose of: (a) allowing Patrons to access, view, and borrow Digital Titles through the Platform and pursuant to this Agreement; (b) promoting awareness and authorized use of the Platform, including via postings on the Library Online Catalog; and (c) establishing and implementing Library-specific policies in regard to use of the Platform by the Library and Patrons, consistent with this Agreement and the requirements of the Platform.

2.2 Limitations. Except for the limited, non-exclusive, non-transferrable rights expressly granted to Library under this Agreement, Library shall have no right in or to, or ownership of, the Platform, Digital Titles, hoopla Application, hoopla Website, Library Administration Website, Marks, Title Summary and Promotional Data, or any other artwork or materials delivered by or on behalf of Midwest Tape. The Library shall have no right to access, use, modify, or reproduce any portion of any source code relating to the Platform, or to make, sell, or distribute any variations or derivative works of the Platform. The Library agrees to the support and protection of Intellectual Property Rights (including but not limited to copyright and trademark protections), to discourage copyright or trademark infringement, to use its best efforts to prohibit Patrons or others from engaging in such infringement (including by immediately notifying Midwest Tape of any known or suspected violations of Intellectual Property Rights relating to use of the Platform or the Digital Titles), and to refrain from facilitating such activity. In addition, the Library will comply with all other requirements communicated by or on behalf of Midwest Tape with respect to any Intellectual Property Rights and the Marks.

2.3 No Public Performance Rights. The Library shall have no public performance rights in the Digital Titles under the terms of this Agreement. Accordingly, the Library may not offer any Digital Titles as a performance to Patrons or the general public, sponsored by the Library or otherwise.

2.4 General Obligations. To facilitate the successful introduction of the Platform to Patrons, and the use of the Platform by Patrons, the Library shall: (a) regularly communicate to staff, Patrons, and the general public served that the Platform is available to Patrons; (b) provide suitable training opportunities to appropriate Library staff members, so that they understand the Platform and can assist in the promotion and the use of the Platform by Patrons; (c) regularly feature prominent links and references to popular Digital Titles and the hoopla Website on the Library Online Catalog's homepage; (d) incorporate MARC record data regarding Digital Titles in the Library's catalog to enhance the discoverability of key content available in the Platform; (e) manage all funds designated or appropriated for use of the Platform; (f) participate in the implementation of the Platform, including without limitation by providing Midwest Tape with sufficient and accurate information to identify Patrons of the Library who are authorized to utilize the Platform; (g) provide Primary Support, as defined below; (h) perform requested linkage between the Platform and the Library Online Catalog, as well as reasonable technical services to support and maintain the Platform during the Term; and (i); notify Midwest Tape at least three (3) business days before any change in any RSS links, ILS configuration, URL updates, or other equipment or technology that could adversely impact the Platform and/or the use of the Platform, including any changes that could impact the process of Patron authentication.

2.5 Network Connectivity. The Library is responsible for providing a suitable network and Internet system for integration of the Platform into the Library Online Catalog or other systems.

2.6 Use of the Library Administration Website. The Library agrees that it is solely responsible for managing its use of the Library Administration Website and using that website as designed and in accordance with the Terms and Conditions posted on that website, including by establishing, verifying, and maintaining any settings and controls regarding use of the Platform by Patrons (*e.g.*, limitations on circulations, content restrictions, reporting preferences, etc.).

2.7 Library Online Catalog. The Library is solely responsible for all aspects of catalog integration, operation, training, support, and/or maintenance necessary for the operation of the Library Online Catalog. This may include obtaining a SIP2 or similar protocol software license(s) from a third-party vendor in order to support direct integration of the Platform with the Library's own Library Online Catalog or other systems, as well as the cost for customized MARC records it may obtain from a third-party supplier such as OCLC. The Library shall keep its hoopla account information current with Midwest Tape and promptly alert Midwest Tape to any significant changes relating to the Library Online Catalog, including but not limited to changes of personnel that could impact the support, functionality, and/or performance of the Platform.

2.8 Primary Support. The Library is responsible for providing its Patrons with "Primary Support," which includes assisting Patrons with the use of the Platform, responding to Patron questions regarding the functionality and technical requirements of the hoopla Website and the hoopla Application, and helping Patrons with the process of communicating with Midwest Tape where necessary and appropriate to obtain additional support and technical assistance.

2.9 No Warranties or Representations to Others. The Library represents and agrees that, except for the representations, warranties, and promises made to Midwest Tape in this Agreement or under the Terms and Conditions applicable to the Library Administration Website, neither the Library nor any of its employees, agents, or others acting under its direction has made or will make any representations or warranties, express or implied, to anyone concerning the Platform, Digital Titles, hoopla Application, hoopla Website, and/or Library Administration Website.

2.10 Compliance with Applicable Laws and Regulations. The Library will comply with all applicable laws, ordinances, rules, regulations, and other legal requirements in connection with its performance under this Agreement.

2.11 Costs and Expenses. The Library is responsible for all of its own expenses and costs related to its performance under this Agreement. Midwest Tape has no obligation to reimburse the Library for any expenses or costs incurred by the Library related to this Agreement or to the performance of the Library's obligations, including but not limited to any expenses and costs incurred in the preparation, systems integration, or use of the Digital Media Platform, Library Administration Website, hoopla Website, and hoopla Application.

3. FEES, PAYMENTS & REPORTING.

3.1 Invoicing and Payment. Except for purchases of Flex Licenses (which will be invoiced to the Library by Midwest Tape after each purchase), Midwest Tape will invoice the Library by Invoice Period. "Invoice Period" means a calendar monthly period in which transactional activity occurs. Payment of each invoice will be due within thirty (30) days from the date of the invoice. During any period in which Midwest Tape is holding an Advance from the Library, Midwest Tape will apply the Advance funds toward payment of the invoice upon issuance.

3.2 **Reporting.** Through the Library Administration Website, the Library will have access to certain reports summarizing Patron usage, circulation data, and purchase activity for the Digital Titles.

3.3 **Taxes.** The Library is required to provide a sales tax exemption certificate, if applicable, to Midwest Tape as part of the on-boarding process. If the Library is not exempt or does not do so, Midwest Tape will add (and collect) sales taxes to any purchases made pursuant to this Agreement.

4. TERM AND TERMINATION.

4.1 **Term.** The term of this Agreement (the "Term") begins on the Effective Date and continues for a period of 24 months thereafter.

4.2 **Termination.** This Agreement may be terminated in either of the following ways:

By Notice. Either Party may terminate this Agreement, with or without cause, at the end of the Term by providing the other Party with sixty (60) days' advance written notice prior to the end of the Term.

Due to Breach. Either Party may suspend its performance or, at that Party's sole option, terminate this Agreement by providing the other Party with written notice of such action in the event of (i) the other Party's material breach of this Agreement, which breach continues uncured for a period of thirty (30) days after written notice of such breach; or (ii) the Library's failure to perform its payment obligations under this Agreement for a period of at least thirty (30) days. If any period of such suspension exceeds 30 days, the non-breaching Party may terminate this Agreement by providing the other Party with written notice of such action.

Upon termination of this Agreement, the Library shall immediately (i) cease distribution and use of the Platform, hoopla Application, hoopla Website, Digital Titles, Marks, Title Summaries and Promotional Data; and (ii) pay all amounts due to Midwest Tape. Once the Library satisfies these obligations, any unapplied portion of an Advance payment will be refunded within thirty (30) days.

5. MIDWEST TAPE RIGHTS & OBLIGATIONS.

5.1 **The hoopla Platform.** During the Term, Midwest Tape and/or its Service Partners will provide for the following: (a) hosting of and support for the Platform as provided in this Agreement; (b) designation of an implementation specialist ("hoopla Coordinator") to be available for customer support to the Library in connection with the launch and implementation of the Platform; and (c) Library access to the Library Administration Website, which offers tools to enable the Library to manage use of the Platform, including in regard to its inventory, Patron borrowing limits, lending policies, title blocking, ratings and user-advisory settings, usage dashboard, and reporting.

5.2 **Ownership of Vendors' Intellectual Property.** Subject to the provisions of this Agreement, hoopla Vendors retain all of their Intellectual Property Rights in and to their Digital Titles, Metadata, Marks, and Promotional Postings, artwork, and other property that may be utilized or accessed in connection with the Platform.

5.3 Ownership of Midwest Tape's Intellectual Property. As between the Parties, Midwest Tape owns and retains all Intellectual Property Rights in and to the Digital Media Platform, hoopla Application, hoopla Website, Library Administration Website, Midwest Tape and hoopla and hoopla digital trademarks, and all other Midwest Tape intellectual property, including but not limited to all modifications, updates, or improvements made thereto. The Library acknowledges Midwest Tape's ownership of such Intellectual Property Rights.

5.4 Modifications to Digital Media Platform. The Platform, hoopla Application, hoopla Website, Library Administration Website, and other aspects and features of hoopla may be modified at any time by Midwest Tape in its sole discretion, including, without limitation, in order to develop, modify, or improve operations, performance, or functionality.

5.5 Addition, Removal, and Modifications of Digital Titles. Midwest Tape has the right to take any or all of the following actions with respect to any Digital Title(s) at any time and in its sole discretion: (a) add or remove Digital Titles to or from the Platform; (b) set or adjust the applicable fees and charges, including, without limitation, PPU Circulation Fee(s), OCOU License Fees, and/or other charges relating to the Platform and/or the media content available on the Platform; (c) replace content files, Metadata, and/or Promotional Postings; and (d) edit or modify editorial content or designs. The Library will be notified by email, the Library Administration Website, or other means of major modifications to the functionality of the Platform.

5.6 Promotion of the Platform. Midwest Tape may, at its own expense and in its own discretion, publicize the Platform and communicate with the general public and Patrons regarding the availability, features, and use of the Digital Titles, Digital Media Platform, hoopla Application, and hoopla Website.

5.7 Support. To support the Platform, Midwest Tape will (a) maintain help files, information, and other appropriate documentation and training materials; (b) undertake reasonable efforts to help the Library perform its obligation to provide Primary Support to Patrons, including by offering periodic training opportunities to Library staff, updating the Library regarding system changes, and providing the Library with answers to "frequently asked questions" related to the Platform; (c) supply activation support, including assisting with the implementation of any software, and reasonable levels of continuing support to assist the Library in its use of the Platform; and (d) make technical support personnel available for feedback, problem solving, and/or general questions. Technical support services to the Library include: (i) reasonable efforts to identify, correct, and/or circumvent errors in the Platform, hoopla Application, hoopla Website, and Library Administration Website; and (ii) supplying updates, enhancements, and new versions of the Platform as they become available (the "Secondary Support"). It is acknowledged and agreed that Midwest Tape has no obligation to provide Primary Support to Patrons and any support provided to Patrons will be in its sole discretion.

During the Term, Midwest Tape will use reasonable efforts to provide continuous service. Permissible down time includes periodic unavailability due to matters such as: maintenance of the server(s); installation or testing of software, public or private telecommunications services, or internet nodes or facilities; and failure of equipment or services outside its control. Scheduled down time will occur periodically and at times designed, in Midwest Tape's sole discretion, to minimize inconvenience to hoopla users.

6. MISCELLANEOUS.

6.1 DISCLAIMER OF WARRANTIES. MIDWEST TAPE MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE.

6.2 LIMITATION OF LIABILITY. EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOST BUSINESS OPPORTUNITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IF SUCH DAMAGES ARE FORESEEABLE AND REGARDLESS OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. WITHOUT RESTRICTION OF THE FOREGOING, MIDWEST TAPE'S TOTAL LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE TOTAL FEES PAID BY LIBRARY TO MIDWEST TAPE DURING THE TWELVE MONTHS PRIOR TO THE DATE THAT ANY CLAIM ALLEGEDLY AROSE.

6.3 Confidential Information. "Confidential Information" means any non-public information of either Party that is disclosed to the other Party in connection with this Agreement either directly or indirectly, in writing, orally, electronically, or by inspection of tangible objects, and that is either: (a) designated in writing as "Confidential" at the time of disclosure or within five (5) days thereafter; or (b) confidential by its very nature or that the receiving Party reasonably should know to be confidential. Confidential Information includes, without limitation, the terms of this Agreement, any and all non-public business plans, customer information, pricing, contract terms, available content and sales, marketing and/or finances of the disclosing Party. Each Party agrees to hold the Confidential Information of the other Party in confidence and to refrain from disclosing such Confidential Information to any third party, except: (i) to the extent required to be disclosed pursuant to governmental or judicial process, provided that notice of such process is promptly provided to the disclosing Party in order that it may have every opportunity to intercede in such process to contest such disclosure or seek an appropriate protective order; or (ii) to the receiving Party's professional advisors and contractors on a need to know basis, provided that such advisors and contractors are under an obligation to maintain the confidentiality of the Confidential Information. Confidential Information is the property of the disclosing Party, and the receiving Party will not be deemed by virtue of its access to Confidential Information to have acquired and right or interest in or to any such Confidential Information. This Section 6.5 shall not affect either Party's right to use or disclose information that is not Confidential Information, including information that is in the public domain or that the receiving Party can show was known to it without any confidentiality obligation prior to the disclosure by the disclosing Party.

6.4 Assignment. Except as provided herein, neither Party may, by operation of law or otherwise, assign, sublicense, or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other Party, which may not be unreasonably withheld or delayed. Either Party may assign, transfer, or otherwise delegate any or all of its rights and obligations under this Agreement to any parent or subsidiary entity, any successor carrying on that part of the business to which this Agreement relates, or any purchaser of all or substantially all of the assets or stock of such Party. Each Party may appoint contractors to perform part of its obligations hereunder, provided that the Party remains fully responsible for such contractor's performance. This Agreement binds, benefits, and is enforceable by and against both Parties and their respective successors and permitted assigns.

6.5 Notices. Notices required by this Agreement must be sent by United States mail, as well as by electronic mail (or by facsimile), directed as follows:

To Midwest Tape:	*To Santa Fe Public Library*
Midwest Tape, LLC:	Margaret Neill, Library Division Director
1417 Timberwolf Dr.	145 Washington Ave.
Holland, Ohio 43528	Santa Fe, NM 87501
info@midwesttapes.com	mmneill@santafenm.gov
1 (800) 875-2785	(505) 955-6788

6.6 Amendment. No amendment, modification, addendum, or revision to this Agreement is valid unless it is in writing and signed by all Parties to this Agreement.

6.7 Arms-Length Negotiations. This Agreement was negotiated at arm's length with each Party receiving advice from independent legal counsel and has been executed and delivered in good faith. It is the intent of the Parties that no part of this Agreement should be construed against any Party because of the identity of the drafter.

6.8 Counterparts. This Agreement may be executed in counterparts, each of which taken together constitutes one single Agreement between the Parties.

6.9 Entire Agreement/Non-Reliance. This Agreement constitutes the sole and entire agreement between the Parties and supersedes and merges all prior agreements, proposals, negotiations, discussions, and understandings between the Parties relating to the subject matter of this Agreement. No Party has relied or can rely on any statement or representation that is not expressly contained in this Agreement as an inducement to enter into this Agreement.

6.10 Force Majeure. No Party may be considered in default or to have incurred any liability hereunder due to any failure to perform this Agreement should such failure arise out of causes beyond its reasonable control, including, without limitation, work stoppages, fires, riots, accidents, floods, storms, unavailability of utilities or fuel, Internet or other communication failures, or other similar failures or occurrences. The time for performance will be extended for a period equal to the duration of such conditions.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date first written above.

ACCEPTED AND AGREED

The CITY OF SANTA FE

By: Randy Randall (Dec 13, 2024 14:22 MST)

Print Name: Randy Randall

Print Title: Interim City Manager

Date Signed:

ACCEPTED AND AGREED

MIDWEST TAPE, LLC

By:

Print Name: SUSAN BASCH

Print Title: Vice Pres.

Date Signed: 9/9/24

Attest:

Andrea Salazar (Dec 13, 2024 14:25 MST)

CITY CLERK XIV

City Attorney's Office:

Oct 1, 2024

ASSISTANT CITY ATTORNEY

Finance:

Emily K. Oster

EMILY OSTER,
FINANCE DIRECTOR

Appendix 2

hoopla® Licenses and Distribution Models

The chart below describes the distribution models included in Midwest Tape's hoopla offering as of the Effective Date, including the digital media licenses that are available via the Digital Media Platform.

	Instant Borrows	Flex Borrows
License type	PPU (Pay-Per Use)	OCOU (One-Copy/One-User)
Circulations / Borrows	An **Instant Title** is a work that is available for simultaneous access by multiple users. Instant Titles may be accessed via **PPU Circulations**, otherwise referred to as **Instant Borrows**, each of which allows a user to stream, download, and/or access the chosen Instant Title, or collection of Titles (*e.g.*, a "Binge Pass", described below), for a limited time that terminates upon the expiration of a fixed period or earlier "return" by the user. Instant Borrows are available regardless of whether another user has borrowed the same title for use at the same time. For each Instant Borrow, the Library purchases one **Instant License** to authorize that particular borrow. A "**Binge Pass**" is an Instant Borrow that provides the borrower access to a collection of titles, either directly through hoopla or through a third-party website or application.	A **Flex Title** is only available to one user at a time, via a digital **OCOU Circulation**, otherwise referred to as a **Flex Borrow**. If the Library has an available **Flex License** to a Flex Title, a Patron may activate a Flex Borrow and that license is digitally checked out and considered "in use." Other users cannot access that title during that borrow unless (i) the Library has purchased additional Flex Licenses to the same title, one of which is available at that time, or (ii) the same title also is available as an Instant Title. A Flex Borrow allows a user to stream, download, and/or access the title for a limited time that terminates upon the expiration of a fixed period or earlier "return" by the user.
Available formats	All formats (audiobooks, eBooks, comics, movies, television, music, and magazines). Binge Passes are available only for select titles and may not be available for all formats.	Currently available only for audiobooks and eBooks.
Payment obligations	A **PPU-Circulation Fee** is charged for each Instant Borrow. The fees, which are listed on the Library Administration Website, vary by title and format, and are subject to change from time to time. The fee is charged regardless of whether	Where available, Flex Licenses may be ordered via the hoopla Digital Library Administration Website. The costs of these licenses vary by title and format. Fees for Flex Licenses are invoiced after each purchase (typically daily).

	Instant Borrows	Flex Borrows
(continued)	the borrowed content is actually accessed, viewed, streamed, or downloaded by the user. Fees for Instant Borrows are invoiced monthly.	
Borrow priority	To optimize Libraries' media purchases, Flex Borrows are prioritized over Instant Borrows of Instant Titles when possible. Therefore, if a user requests an Instant Title, and at that time a Flex License to that title is available, the borrow will be fulfilled as a Flex Borrow and no PPU-Circulation Fee will apply. (Note that this priority does not apply to Instant Borrows of Binge Passes. Users may borrow Binge Passes regardless of whether select titles within the Binge Pass may be available as Flex Licenses.)	Same. To optimize Libraries' purchases, Flex Borrows are prioritized over Instant Borrows of Instant Titles when possible.
Metering restrictions	N/A	A Flex License may be either perpetual, or "metered." Some publishers do not offer perpetual licenses, but instead offer metered licenses. Metered licenses are limited by time period and/or number of permitted borrows, as described in the Library Administration Website.
Pre-Owned Content	N/A	If the Library has acquired OCOU Licenses from another source (**Pre-Owned Content**), Midwest Tape may be able to include them as Flex Licenses on hoopla for the Library's use hereunder. The Library is responsible for (1) providing an accurate list of Pre-Owned Content for Midwest Tape's review (consistent with Appendix 3), and (2) notifying the owner and/or licensor of such Pre-Owned Content when the Pre-Owned Content is to be removed. The format to be used for listing the Library's Pre-Owned Content, including the required certification, is set forth on Schedule 1 to Appendix 3.

Appendix 3

Procedure for Pre-Owned Content ("POC")

1. Library to provide inventory of POC.

Promptly on or after the Effective Date, Library shall provide to Midwest Tape a written inventory of Pre-Owned Content (if any) that the Library has obtained prior to the Effective Date or otherwise outside the scope of this Agreement.

2. Format of inventory and additional information regarding POC.

The written inventory shall be provided in table format as set forth in Part 1 of Schedule 1, or in another mutually agreeable format, and shall include the following information, for each license comprising Library's Pre-Owned Content:

(1) the title, format (eBook or Audiobook), author(s), street date, publisher, ISBN number;

(2) the date of purchase of the license, and the license type (*e.g.*, Perpetual license, Limited Borrows license, Limited Time Period license, Limited Borrows & Time Period license);

(3) the rights that Library has to that copy of the work, including the term and expiration date (if any) of the license and any other metering or other limitations on the term of the license (*e.g.*, borrow limit), including the amount of time and/or number of borrows already used, as well as number of borrows remaining available, for the license as of the date of transfer; and

(4) the name and contact information of the company or other entity from which Library obtained the license (or, if the Library owns the copyright in a work, a statement identifying Library's ownership of such work).

Library agrees to work in good faith to effectuate the assignment and transfer of Library's rights in such Pre-Owned Content to Midwest Tape, including, but not limited to notifying the owner and/or licensor of such Pre-Owned Content when the content is transferred. Upon request, Library also shall provide Midwest Tape with copies of any licenses, purchase orders, agreements, or any other documents reflecting Library's purchase or license of any Pre-Owned Content.

Warranty by Library regarding POC Rights: Library represents and warrants that it owns the rights and licenses in and to the Pre-Owned Content set forth in Schedule 1 to Appendix 3, and that unless specifically stated in the Schedule, Library is authorized to assign or otherwise transfer such Pre-Owned Content to Midwest Tape as provided for under the terms of this Agreement.

3. Assignment by Library of Rights in POC

As set forth on Schedule 1 to this Appendix 3, to the extent that Library has licensed any Pre-Owned Content, Library assigns and transfers its rights in or to such Pre-Owned Content to Midwest Tape for the purpose of allowing Midwest Tape to store, display, reproduce, grant rights of access to, convert, encode, distribute or otherwise administer and make such Pre-Owned Content available to Patrons via the hoopla Platform. Similarly, if and to the extent that Library owns the copyright to any content that may be made available to Patrons via the Digital Media Platform, Library hereby grants Midwest Tape a fully paid, royalty-free license to include such content in the Digital Media Platform and to make such content available via the Digital Media Platform without charge, and Library represents and warrants that such content does not infringe the copyright, trademark, or other rights of any third party. To the extent that Library cannot assign or otherwise transfer its rights in or to any Pre-Owned Content to Midwest Tape, Library grants Midwest Tape the exclusive right to negotiate with the owner and/or licensor of such Pre-Owned Content on Library's behalf, to obtain an assignment, transfer, license or any other rights necessary to allow Midwest Tape to store, display, reproduce, grant rights of access to, convert, encode, distribute or otherwise administer and make such Pre-Owned Content available to Patrons via the Digital Media Platform.

4. Efforts to include POC on the hoopla Platform to the extent possible.

Upon receipt of the Library's inventory of Pre-Owned Content, Midwest Tape will work to assess the extent to which it can include some or all of the Pre-Owned Content via the Platform. Library acknowledges and agrees that: (i) Midwest Tape's ability to offer Pre-Owned Content on the Platform depends upon factors outside of Midwest Tape's control, including without limitation the scope and assignability of the Pre-Owned Content; and (ii) Midwest Tape does not represent or warrant that any or all Pre-Owned Content can or will be made available through the Platform. If Midwest Tape determines, in its sole discretion, that any Pre-Owned Content may be made available to Library's Patrons on the Platform, Midwest Tape will arrange to provide such Pre-Owned Content subject to the terms and conditions set forth in Library's existing licenses for such Pre-Owned Content or on such other terms and conditions that Midwest Tape may obtain from the owner of such Pre-Owned Content.

Schedule 1 to Appendix 3 of hoopla® Digital Media Agreement

Certified List of Pre-Owned Content to be Transferred to Midwest Tape

Part 1 – List Format: ***Library to provide a table, in Excel or CSV format, listing each OCOU License to be transferred to Midwest Tape as Pre-Owned Content. The table shall include the fields shown below:***

Field
Library Name
Book Title
Format (eBook, Audiobook)
Edition
Series Name (if applicable)
Author/Creator 1
Author/Creator 2 (if applicable)
Street Date
Publisher
Vendor
Vendor Content ID
ISBN
Bib ID
License Number
Date Purchased
License Type: (Perpetual; Limited Borrows; Limited Time Period; Limited Borrows & Time Period)
License Period Start date (if applicable)
License Period Expiration Date (if applicable)
Borrows Permitted (if applicable)
Borrows Used (if applicable)
Borrows Remaining (if applicable)

Part 2 – Delivery of List: ***Library to complete the table below prior to email delivery of list to Midwest Tape:***

Filename:	*exact filename, including file extension (.xlsx, .csv)*
Sent From:	*sender's name & email*
To:	**[designate email address for receipt of POC Lists]**
Date & Time:	*use format: February 22, 2022 at approximately 2:22 PM*

Part 3 – Certification: ***To be completed and signed by an authorized representative of Library. Attach a copy of this completed and signed Schedule 1 to the email noted in Part 2, above:***

The list provided as set forth above is, as of the date set forth below, a complete and accurate account of the Library's Pre-Owned Content as defined herein. With respect to Pre-Owned Content provided here or subsequently added by mutual written consent of the Parties, the Library hereby assigns and transfers to Midwest Tape any and all rights, title, and interests in the licenses necessary in order to enable Midwest Tape to make the Pre-Owned Content available to the Library's Patrons via the hoopla Platform, including as set forth in Section 2 and/or Appendix 3 of the Agreement. The undersigned certifies that they are a representative of the Library and duly authorized to make the foregoing representations on its behalf.

Signature: _____ Title: _____

Print Name: _____ Date: _____

Library Name: _____

City of Santa Fe ADDENDUM

This agreement incorporates the additional terms and conditions in the addendum between Midwest Tape, LLC (Contractor) and the CITY OF SANTA FE (City).

TERMINATION

This Agreement may be terminated by City upon 30 days written notice to the CONTRACTOR.

INDEMNIFICATION

CONTRACTOR shall indemnify, hold harmless and defend CITY from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from CONTRACTOR's performance under this Agreement as well as the performance of CONTRACTOR's employees, agents, representatives and subcontractor.

NEW MEXICO TORT CLAIMS ACT

Any liability incurred by CITY in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. CITY and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

APPLICABLE LAW; CHOICE OF LAW; VENUE

CONTRACTOR shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of CITY of Santa Fe. In any action, suit or legal dispute arising from this Agreement, CONTRACTOR agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

RELEASE

CONTRACTOR, upon acceptance of final payment of the amount due under this Agreement, releases the CITY, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. CONTRACTOR agrees not to purport to bind CITY to any obligation not assumed herein by CITY unless CONTRACTOR has

express written authority to do so, and then only within the strict limits of that authority.

INSURANCE

CONTRACTOR shall maintain general liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. CONTRACTOR shall furnish CITY with proof of insurance of CONTRACTOR's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

THIRD PARTY BENEFICIARIES

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than CITY and CONTRACTOR. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third-party beneficiary of this Agreement.

SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

Signature Lines required:

City of Santa Fe:

John Blair
John Blair (Nov 1, 2024 16:01 MDT)

John Blair, City Manager

Date: Nov 1, 2024

CONTRACTOR:
Midwest Tape, LLC

Name: Susan Bascom

Title: Vice Pres.

Date: 9/9/24

Attest:

Andrea Salazar (Dec 18, 2024 14:25 MST)

City Clerk XIV

City Attorney's Office:

Assistant City Attorney

Approved for Finances:

Emily K. Oster

Emily Oster, Finance Director

hoopla Agreement Signed

Final Audit Report 2024-10-01

Created:	2024-10-01
By:	Amy Cawthon (amcawthon@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAADIhOYatMOrl3kCszWulJS61GChuYYMya

"hoopla Agreement Signed" History

Document created by Amy Cawthon (amcawthon@santafenm.gov)
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2024-10-01 - 10:45:46 PM GMT

Email viewed by Rebecca Mnuk-Herrmann (ramnukherrmann@santafenm.gov)
2024-10-01 - 10:46:49 PM GMT- IP address: 104.47.65.254

Document e-signed by Rebecca Mnuk-Herrmann (ramnukherrmann@santafenm.gov)
Signature Date: 2024-10-01 - 10:47:17 PM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.
2024-10-01 - 10:47:17 PM GMT

Powered by Adobe Acrobat Sign

hoopla Agreement Signed

Final Audit Report 2024-10-03

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By:	Amy Cawthon (amcawthon@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAQ00AF4BceH4rLqdo8rNnuDC_zYdzB638

"hoopla Agreement Signed" History

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2024-10-03 - 5:44:38 PM GMT

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2024-10-03 - 5:45:18 PM GMT- IP address: 104.47.64.254

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Signature Date: 2024-10-03 - 5:45:37 PM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.
2024-10-03 - 5:45:37 PM GMT

Powered by Adobe Acrobat Sign

Client#: 1400052 MIDWETAP1

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 4/29/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Jennifer Lake, CISR	
USI Insurance Services, LLC CL 200 N. Saint Clair Street Suite 1400 Toledo, OH 43604	PHONE (A/C, No, Ext): 567-803-4414	FAX (A/C, No):
	E-MAIL ADDRESS: Jennifer.Lake@usi.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Transportation Insurance Company	20494
INSURED Midwest Tape, LLC P.O. Box 820 Holland, OH 43528-0820	INSURER B : Continental Insurance Company	35289
	INSURER C : Continental Casualty Company	20443
	INSURER D : Midwest Employers Casualty Company	23612
	INSURER E : Westchester Surplus Lines Insurance Co.	10172
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY	X	X	6071847392	05/09/2024	05/09/2025	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$500,000
	OH Stop Gap						MED EXP (Any one person)	$15,000
	$1mi/$1mi/$1mi						PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY	X	X	6071847408	05/09/2024	05/09/2025	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
B	X UMBRELLA LIAB X OCCUR	X	X	6071847425	05/09/2024	05/09/2025	EACH OCCURRENCE	$15,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$15,000,000
	DED X RETENTION $0							$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		X	WC671847411	05/09/2024	05/09/2025	X PER STATUTE / OTH-ER	
D	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: N (Mandatory in NH)	N/A	X	EWC009148	05/09/2024	05/09/2025	E.L. EACH ACCIDENT	$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$1,000,000
							E.L. DISEASE - POLICY LIMIT	$1,000,000
E	Tech E&O/Cyber	X	X	F15620304004	05/09/2024	05/09/2025	$5,000,000/$100k ret	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

For Operations of Named Insured.

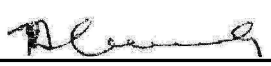
CERTIFICATE HOLDER

City of Santa Fe
PO Box 909
Santa Fe, NM 87504

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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State of New Mexico
Purchase Order

PO Number to be on all Invoices and Correspondence

Department of Cultural Affairs

407 Galisteo St. Bataan Memorial Bld.
Suite 264
Santa Fe NM 87501
United States

Dispatched — **Dispatch Via Print**

Purchase Order	Date	Revision
50500-0000052307	08-06-2024	
Payment Terms	**Freight Terms**	**Ship Via**
Pay Now	FOB Destination	Best Way
Buyer	**Phone**	**Currency**
Emmanuel Castillo		USD

Supplier: 0000054360
CITY OF SANTA FE
PO BOX 909
SANTA FE NM 87504-0000
United States

Ship To: 1209 Camino Carlos Rey
Garey Carruthers
Santa Fe NM 87507
United States

Bill To: 1209 Camino Carlos Rey
Garey Carruthers
Santa Fe NM 87507
United States

Origin: EXE **Exc\Excl#:** 13-1-98-A

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date
1 - 1	2022 GO Bonds Allocation	1.00	EA	$345,185.71	$345,185.71	08/06/2024
	AID for Santa Fe Public Library					
	50500-89200-A22G5372-547400- - - - -92436-G5372					

Attention: LAUREN CONLEY

Schedule Total $345,185.71

Item Total $345,185.71

Total PO Amount $345,185.71

Agency Approval - I certify that the proposed purchase represented by this document is authorized by and is made in accordance with all State (and if applicable Federal) legislation rules and regulation. I further certify that adequate unencumbered cash and budget expenditure authority exists for this proposed purchase and all other outstanding purchase commitments and accounts payable.

Authorized Signature

STATE OF NEW MEXICO SPD-101A (04/19)
GENERAL SERVICES DEPARTMENT- PURCHASING DIVISION
TERMS AND CONDITIONS UNLESS OTHERWISE SPECIFIED

1. GENERAL: When the State Purchasing Agent issues a purchase document in response to the Vendors bid, a binding contract is created.
2. VARIATION IN QUANTITY: No variation in the quantity of any item called for by this order will be accepted unless such variation has been caused by conditions of loading, shipping, packing or allowances in manufacturing process, and then only to the extent, if any, specified elsewhere in this order.
3. ASSIGNMENT:
   A: Neither the order, nor any interest therein, nor claim thereunder, shall be assigned or transferred by the Vendor, except as set forth in subparagraph 3B below or as expressly authorized in writing by the STATE PURCHASING AGENTS OFFICE. No such assignment or transfer shall relieve the Vendor from the obligations and liabilities under this order.
   B: Vendor agrees that any and all claims for overcharge resulting from antitrust violations which are borne by the State as to goods, services, and materials purchased in connection with this bid are hereby assigned to the State.
4. STATE FURNISHED PROPERTY: State furnished property shall be returned to the state upon request in the same condition as received except for ordinary wear, tear, and modifications ordered hereunder.
5. DISCOUNTS: Prompt payment discounts will not be considered in computing the low bid. Discounts for payment within 20 days will be considered after the award of the contract. Discounted time will be computed from the date of receipt of the merchandise or invoice, whichever is later.
6. INSPECTION: Final inspection and acceptance will be made at the destination. Supplies rejected at the destination for non-conformance with specifications shall be removed, at the Vendors risk and expense, promptly after notice of rejection.
7. INSPECTION OF PLANT: The State Purchasing Agent may inspect, at any reasonable time, the part of the contractors, or any subcontractor's plant or place of business, which is related to the performance of this contract.
8. COMMERCIAL WARRANTY: The Vendor agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Vendor gives to any customer for such supplies or services, and that the rights and remedies provided herein shall extend to the State and are in addition to and do not limit any rights afforded to the State by any other cause of this order. Vendor agrees not to disclaim warranties of fitness for a particular purpose or merchantability.
9. TAXES: The unit price shall exclude all State taxes.
10. PACKING, SHIPPING AND INVOICING:
   A: The States purchase document number and the Vendors name, users name and location shall be shown on each packing and delivery ticket, package, bill of lading and other correspondence in connection with the shipment. The users count will be accepted by the Vendor as final and conclusive on all shipments not accompanied by a packing ticket.
   B: The Vendors invoice shall be submitted in triplicate, duly certified and shall contain the following information: order number, description of supplies or services, quantities, unit prices and extended totals. Separate invoices shall be rendered for each and every complete shipment.
   C: Invoices must be submitted to the using agency and NOT THE STATE PURCHASING AGENT.
11. DEFAULT: The State reserves the right to cancel all or any part of this order without cost to the State, if the Vendor fails to meet the provisions of this order and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the State due to the Vendors default. The Vendor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Vendor, such causes include, but are not restricted to, acts of God or of the public enemy, acts of the State or of the Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargos, unusually severe weather and defaults of subcontractors due to any of the above, unless the State shall determine that the supplies or services to be furnished by the subcontractor where obtainable from other sources in sufficient time to permit the Vendor to meet the required delivery scheduled. The rights and remedies of the State provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this order.
12. NON-COLLUSION: In signing this bid, the Vendor certifies he/she has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this proposal submitted to the State Purchasing Agent.
13. NON-DISCRIMINATION: Vendors doing business with the State of New Mexico must be in compliance with the Federal Civil Rights Act of 1964 and Title VII of that Act, Rev., 1979.
14. THE PROCUREMENT CODE: Sections 13-1-28 through 13-1-199 NMSA 1978 imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.
15. All bid items are to be NEW and most current production, unless otherwise specified.
16. PAYMENT FOR PURCHASES: Except as otherwise agreed to: late payment charges may be assessed against the user state agency in the amount and under the conditions set forth in section 13-1-158 NMSA 1978.
17. WORKERS COMPENSATION: The Contractor agrees to comply with state laws and rules pertaining to workers compensation benefits for its employees. If the Contractor fails to comply with Workers Compensation Act and applicable rules when required to do so, this (Agreement) may be terminated by the contracting agency.
18. GENERAL SERVICES STATEWIDE PRICE AGREEMENT: Any purchase order entered into pursuant to a Statewide Price Agreement incorporates by this language all the terms and conditions of that Statewide Price Agreement and by accepting payment under this purchase order the Contractor agrees to and accepts all the terms and conditions of the Statewide Price Agreement.

Log # {Finance use only}:	BA002752
Journal # {Finance use only}:	pd 11 JE 1197

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
Community Health and Safety / Library	3/27/2024

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				{enter as positive #}	{enter as negative #}
Books, Subscriptions Periodicals	2510101	530700	LIB2425103	245,000	
Software Subscriptions	2510101	530710	LIB2425103	5,000	
Furniture Fixtures InvExempt	2510101	572000	LIB2425103	23,000	
Data Processing Equp InvExempt	2510101	572800	LIB2425103	72,186	
REVENUES				{enter as negative #}	{enter as positive #}
Revenue 2022 GO Bond for Libraries	2510101	490230		(345,186)	
				$ 0	$ -

JUSTIFICATION: *(use additional page if needed)*
--Attach supporting documentation/memo

This BAR is to budget the 2022 GO Bond. The 2022 General Obligation Bond was passed by NM citizens to benefit NM libraries. The purpose of this award is to supplement local funding for library materials, equipment and supplies that provide or enhance access to information for library patrons. This BAR breaks down amounts into accounts as the library is allowed according to the terms and conditions of this award.

{Complete section below if BAR results in a net change to ANY Fund}

Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	0

Marcella Apodaca MA — 04/23/24
Prepared By *{print name}* — Date

Margaret Neill
Margaret Neill (Apr 24, 2024 10:13 MDT) — Apr 24, 2024
Division Director Signature *{optional}* — Date

Maria Tucker — Apr 24, 2024
Department Director Signature — Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date: 05/08/24

Agenda Item #: #9-e

Andy Hopkins — Apr 25, 2024
Budget Officer — Date

Finance Director *{≤ $5,000}* — Date

City Manager *{≤ $60,000}* — Date

Midwest Tape-Hoopla Contract Packet

Final Audit Report 2024-10-31

Created:	2024-10-31
By:	BEVERLY CRESPIN (bjcrespin@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAJk1hpUGUICBYZTit6k8k_dnGT8d8mz6J

"Midwest Tape-Hoopla Contract Packet" History

Document created by BEVERLY CRESPIN (bjcrespin@santafenm.gov)
2024-10-31 - 7:45:51 PM GMT- IP address: 63.232.20.2

Document emailed to Margaret Neill (mmneill@santafenm.gov) for signature
2024-10-31 - 7:51:07 PM GMT

Email viewed by Margaret Neill (mmneill@santafenm.gov)
2024-10-31 - 9:28:48 PM GMT- IP address: 63.232.20.2

Document e-signed by Margaret Neill (mmneill@santafenm.gov)
Signature Date: 2024-10-31 - 9:29:25 PM GMT - Time Source: server- IP address: 63.232.20.2

Document emailed to Maria Tucker (metucker@ci.santa-fe.nm.us) for signature
2024-10-31 - 9:29:32 PM GMT

Email viewed by Maria Tucker (metucker@ci.santa-fe.nm.us)
2024-10-31 - 9:45:40 PM GMT- IP address: 172.59.1.184

Document e-signed by Maria Tucker (metucker@ci.santa-fe.nm.us)
Signature Date: 2024-10-31 - 9:46:12 PM GMT - Time Source: server- IP address: 172.59.1.184

Agreement completed.
2024-10-31 - 9:46:12 PM GMT

City of Santa Fe
Powered by Adobe Acrobat Sign

Log # *(Finance use only)*:	
Journal # *(Finance use only)*:	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
Airport	8/25/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*(enter as positive #)*	*(enter as negative #)*
WIP Design	5450407	572960	AIR2554520	90,193	
REVENUES				*(enter as negative #)*	*(enter as positive #)*
NMDOT	5450407	490550	AIR2554520	(90,193)	
				$ -	$ -

JUSTIFICATION: *(use additional page if needed)*
--Attach supporting documentation/memo

U S Department of Transportation Federal Aviation Administration Grant 3-35-0037-066-2025 in the amount of $90,193 for funding the rehabilitation of Taxiway F- Design

g p y p

(Complete section below if BAR results in a net change to ANY Fund)

Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	0

Paulette Ortiz — Prepared By *(print name)* — 8/25/2025 Date

Division Director Signature *(optional)* — 8/26/25 Date

Department Director Signature — Date

(Use this form for Finance Committee/ City Council agenda items ONLY)

CITY COUNCIL APPROVAL

City Council Approval Date:

Agenda Item #:

Andy Hopkins
Budget Officer — Date

Emily K. Oster
Finance Director *(≤ $5,000)* — Date

City Manager *(≤ $60,000)* — Date

City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Alma G. Castro, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Lee Garcia, District 3
Pilar F.H. Faulkner, District 3
Jamie Cassutt, District 4
Amanda Chavez, District 4

DATE: **August 25, 2025**

TO: **Finance Committee, Public Works and Utilities, and Governing Body**

FROM: **Jimmy Gunn, Interim Airport Director** JG

VIA: **Paulette Ortiz, Grant Administrator** PO
Erika Lujan 8/26/25

ITEM AND ISSUE:

Request For Approval of U.S. Department of Transportation Federal Aviation Administration Grant # 3-35-0037-066-2025 in the Amount of $90,193 for Funding the Rehabilitation of Taxiway F- Design.

1. Request For Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $90,193 to Increase WIP Design using U.S. Department of Transportation Federal Aviation Administration Funding for the Rehabilitation of Taxiway F- Design.

(Jimmy Gunn, Interim Airport Director, jdgunn@santafenm.gov
Paulette Ortiz, Grant Administrator, pkortiz@santafenm.gov)

BACKGROUND AND SUMMARY:

The Santa Fe Regional Airport was awarded a U.S. Department of Transportation Federal Aviation Administration Grant # 3-35-0037-066-2025 in the Amount of $90,193 for the purpose Rehabilitation of Taxiway F- Design. The U.S. Department of Transportation Federal Aviation Administration is funding 95% of the project costs.

The New Mexico Department of Transportation Aviation Division is funding 4% of the project with Grant SAF-25-04. The remaining 1% of costs will be funded by the City of Santa Fe. The state and city portion of funding was submitted on a separate BAR due to the timing of receiving the grants from each entity.

.

ACTION:

Approval to accept the U.S. Department of Transportation Federal Aviation Administration Grant #3-35-0037-066-2025 in the Amount of $90,193 for Funding the Rehabilitation for Taxiway F- Design.

1. Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $90,193 to Increase WIP Design using U.S. Department of Transportation Federal Aviation Administration Funding for the Rehabilitation for Taxiway F- Design.

COMMITTEE REVIEW:

Public Works & Utilities: 09/02/2025
Finance Committee: 09/08/2025
Governing Body: 09/10/2025

U.S. Department of Transportation
Federal Aviation Administration

Airports Division
Southwest Region
New Mexico

Louisiana/New Mexico
Airports District Office
10101 Hillwood Pkwy
Fort Worth, TX 76177-1524

Honorable Alan Webber
City of Santa Fe
200 Lincoln Ave.
Santa Fe, NM 87504

Dear Alan Webber:

The Grant Offer for Infrastructure Investment and Jobs Act (IIJA) Airport Infrastructure Grant (AIG) Project No. **3-35-0037-066-2025** at Santa Fe Regional Airport is attached for execution. This letter outlines the steps you must take to properly enter into this agreement and provides other useful information. Please read the conditions, special conditions, and assurances that comprise the grant offer carefully.

You may not make any modification to the text, terms or conditions of the grant offer.

Steps You Must Take to Enter Into Agreement.

To properly enter into this agreement, you must do the following:

1. The governing body must give authority to execute the grant to the individual(s) signing the grant, i.e., the person signing the document must be the sponsor's authorized representative(s) (hereinafter "authorized representative").
2. The authorized representative must execute the grant by adding their electronic signature to the appropriate certificate at the end of the agreement.
3. Once the authorized representative has electronically signed the grant, the sponsor's attorney(s) will automatically receive an email notification.
4. On the **same day or after** the authorized representative has signed the grant, the sponsor's attorney(s) will add their electronic signature to the appropriate certificate at the end of the agreement.
5. If there are co-sponsors, the authorized representative(s) and sponsor's attorney(s) must follow the above procedures to fully execute the grant and finalize the process. Signatures must be obtained and finalized no later than **September 05, 2025**.
6. The fully executed grant will then be automatically sent to all parties as an email attachment.

Payment. Subject to the requirements in 2 CFR § 200.305 (Federal Payment), each payment request for reimbursement under this grant must be made electronically via the Delphi eInvoicing System. Please see the attached Grant Agreement for more information regarding the use of this System.

Project Timing. The terms and conditions of this agreement require you to complete the project without undue delay and no later than the Period of Performance end date (1,460 days from the grant execution date). We will be monitoring your progress to ensure proper stewardship of these Federal funds. We

Signature: 

Email: jdgunn@santafenm.gov

expect you to submit payment requests for reimbursement of allowable incurred project expenses consistent with project progress. Your grant may be placed in "inactive" status if you do not make draws on a regular basis, which will affect your ability to receive future grant offers. Costs incurred after the Period of Performance ends are generally not allowable and will be rejected unless authorized by the FAA in advance.

Reporting. Until the grant is completed and closed, you are responsible for submitting formal reports as follows:

- For all grants, you must submit by December 31st of each year this grant is open:
  1. A signed/dated SF-270 (Request for Advance or Reimbursement for non-construction projects) or SF-271 or equivalent (Outlay Report and Request for Reimbursement for Construction Programs), and
  2. An SF-425 (Federal Financial Report).
- For non-construction projects, you must submit FAA Form 5100-140, Performance Report within 30 days of the end of the Federal fiscal year.
- For construction projects, you must submit FAA Form 5370-1, Construction Progress and Inspection Report, within 30 days of the end of each Federal fiscal quarter.

Audit Requirements. As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR Part 200. Subpart F requires non-Federal entities that expend $1,000,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to ensure your organization will comply with applicable audit requirements and standards.

Closeout. Once the project(s) is completed and all costs are determined, we ask that you work with your FAA contact indicated below to close the project without delay and submit the necessary final closeout documentation as required by your Region/Airports District Office.

FAA Contact Information. James Fuller, (817) 222-4332, james.a.fuller@faa.gov is the assigned program manager for this grant and is readily available to assist you and your designated representative with the requirements stated herein.

We sincerely value your cooperation in these efforts and look forward to working with you to complete this important project.

Sincerely,

Justin Barker
Manager

U.S. Department
of Transportation
Federal Aviation
Administration

FY 2025 AIRPORT INFRASTRUCTURE GRANT
GRANT AGREEMENT
Part I - Offer

Federal Award Offer Date

Airport/Planning Area **Santa Fe Regional Airport**

Airport Infrastructure Grant Number **3-35-0037-066-2025**

Unique Entity Identifier **QLN2YKMMJ8X6**

TO: **City of Santa Fe**
(herein called the "Sponsor") (For Co-Sponsors, list all Co-Sponsor names. The word "Sponsor" in this Grant Agreement also applies to a Co-Sponsor.)

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated February 14, 2025, for a grant of Federal funds for a project at or associated with the Santa Fe Regional Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Santa Fe Regional Airport (herein called the "Project") consisting of the following:

Rehabilitate Taxiway F – Design (Phase 1)

which is more fully described in the Project Application.

NOW THEREFORE, Pursuant to and for the purpose of carrying out the Infrastructure Investment and Jobs Act(IIJA) (Public Law (P.L.) 117-58) of 2021; FAA Reauthorization Act of 2024 (P.L. 118-63); and the representations contained in the Project Application; and in consideration of (a) the Sponsor's adoption and ratification of the attached Grant Assurances dated April 2025, interpreted and applied consistent with the FAA Reauthorization Act of 2024; (b) the Sponsor's acceptance of this Offer; and (c) the

benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurance and conditions as herein provided;

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay (95) % of the allowable costs incurred accomplishing the Project as the United States share of the Project.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is **$90,193**.

   The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

   $90,193 for airport development or noise program implementation

2. **Grant Performance.** This Grant Agreement is subject to the following Federal award requirements:

   a. Period of Performance:

      1. Shall start on the date the Sponsor formally accepts this Agreement and is the date signed by the last Sponsor signatory to the Agreement. The end date of the Period of Performance is 4 years (1,460 calendar days) from the date of acceptance. The Period of Performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant Agreement.

      2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods (2 Code of Federal Regulations (CFR) § 200.1) except as noted in 49 U.S.C § 47142(b).

   b. Budget Period:

      1. For this Grant is 4 years (1,460 calendar days) and follows the same start and end date as the Period of Performance provided in paragraph 2(a)(1). Pursuant to 2 CFR § 200.403(h), the Sponsor may charge to the Grant only allowable costs incurred during the Budget Period and as stated in 49 U.S.C § 47142(b). Eligible project-related costs incurred on or after November 15, 2021 that comply with all Federal funding procurement requirements and FAA standards are allowable costs.

      2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which Sponsors are authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to 2 CFR § 200.308.

   c. Close Out and Termination

      Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later

than 120 calendar days after the end date of the Period of Performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the grant within one year of the Period of Performance end date with the information available at the end of 120 days (2 CFR § 200.344). The FAA may terminate this agreement and all of its obligations under this agreement if any of the following occurs:

(a) (1) The Sponsor fails to obtain or provide any Sponsor grant contribution as required by the agreement;

(2) A completion date for the Project or a component of the Project is listed in the agreement and the Recipient fails to meet that milestone by six months after the date listed in the agreement;

(3) The Sponsor fails to comply with the terms and conditions of this agreement, including a material failure to comply with the Project Schedule even if it is beyond the reasonable control of the Sponsor;

(4) Circumstances cause changes to the Project that the FAA determines are inconsistent with the FAA's basis for selecting the Project to receive a grant; or

(5) The FAA determines that termination of this agreement is in the public interest.

(b) In terminating this agreement under this section, the FAA may elect to consider only the interests of the FAA.

(c) The Sponsor may request that the FAA terminate the agreement under this section.

3. **Ineligible or Unallowable Costs.** In accordance with P.L. 117-58, Division J, Title VIII, and 49 U.S.C. § 47110, the Sponsor is prohibited from including any costs in the grant funded portions of the project that the FAA has determined to be ineligible or unallowable, including costs incurred to carry out airport development implementing policies and initiatives repealed by Executive Order 14148, provided such costs are not otherwise permitted by statute.

4. **Indirect Costs - Sponsor.** The Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages.

5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with 49 U.S.C. § 47109, the regulations, policies, and procedures of the Secretary of Transportation ("Secretary"), and any superseding legislation. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.

6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this Agreement, IIJA (P.L. 117-58), and the regulations, policies, and procedures of the Secretary. Per 2 CFR § 200.308, the Sponsor agrees to report and request prior FAA approval for any disengagement from performing the project that exceeds three months or a 25 percent reduction in time devoted to the

project. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the grant assurances, which are part of this Agreement.

7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.

8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before **September 05, 2025**, or such subsequent date as may be prescribed in writing by the FAA.

9. **Improper Use of Federal Funds and Mandatory Disclosure.**

   a. The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this Grant Agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

   b. The Sponsor, a recipient, and a subrecipient under this Federal grant must promptly comply with the mandatory disclosure requirements as established under 2 CFR § 200.113, including reporting requirements related to recipient integrity and performance in accordance with Appendix XII to 2 CFR Part 200.

10. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this Grant Agreement.

11. **System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).**

   a. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR § 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this Grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at http://www.sam.gov).

   b. Unique entity identifier (UEI) means a 12-character alpha-numeric value used to identify a specific commercial, nonprofit or governmental entity. A UEI may be obtained from SAM.gov at https://sam.gov/content/entity-registration.

12. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this Agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

13. **Informal Letter Amendment of IIJA Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by $25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

    The FAA can, subject to the availability of Federal funds, also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of Condition No. 1, Maximum Obligation.

    The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

    An informal letter amendment has the same force and effect as a formal grant amendment.

14. **Environmental Standards.** The Sponsor is required to comply with all applicable environmental standards, as further defined in the Grant Assurances, for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Grant Agreement.

15. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.

16. **Buy American.** Unless otherwise approved in advance by the FAA, in accordance with 49 U.S.C. § 50101, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured goods produced outside the United States to be used for any project for which funds are provided under this Grant. The Sponsor will include a provision implementing Buy American in every contract and subcontract awarded under this Grant.

17. **Build America, Buy American.** The Sponsor must comply with the requirements under the Build America, Buy America Act (P.L. 117-58).

18. **Maximum Obligation Increase.** In accordance with 49 U.S.C. § 47108(b)(3), as amended, the maximum obligation of the United States, as stated in Condition No. 1, Maximum Obligation, of this Grant:

    a. May not be increased for a planning project;

    b. May be increased by not more than 15 percent for development projects, if funds are available;

    c. May be increased by not more than the greater of the following for a land project, if funds are available:

        1. 15 percent; or

        2. 25 percent of the total increase in allowable project costs attributable to acquiring an interest in the land.

    If the Sponsor requests an increase, any eligible increase in funding will be subject to the United States Government share as provided in IIJA (P.L. 117-58), or other superseding legislation if applicable, for the fiscal year appropriation with which the increase is funded. The FAA is not responsible for the same Federal share provided herein for any amount increased over the initial

grant amount. The FAA may adjust the Federal share as applicable through an informal letter of amendment.

19. **Audits for Sponsors.**

PUBLIC SPONSORS. The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at http://harvester.census.gov/facweb/. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA. Sponsors that expend less than $1,000,000 in Federal awards and are exempt from Federal audit requirements must make records available for review or audit by the appropriate Federal agency officials, State, and Government Accountability Office. The FAA and other appropriate Federal agencies may request additional information to meet all Federal audit requirements.

20. **Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:

    a. Verify the non-Federal entity is eligible to participate in this Federal program by:

        1. Checking the System for Award Management (SAM.gov) exclusions to determine if the non-Federal entity is excluded or disqualified; or

        2. Collecting a certification statement from the non-Federal entity attesting they are not excluded or disqualified from participating; or

        3. Adding a clause or condition to covered transactions attesting the individual or firm are not excluded or disqualified from participating.

    b. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions with their contractors and sub-contractors.

    c. Immediately disclose in writing to the FAA whenever (1) the Sponsor learns it has entered into a covered transaction with an ineligible entity or (2) the Public Sponsor suspends or debars a contractor, person, or entity.

21. **Ban on Texting While Driving.**

    a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:

        1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.

        2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:

            i. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

            ii. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

    b. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts, and subcontracts funded with this Grant.

22. **Trafficking in Persons.**

1. *Posting of contact information.*

a. The Sponsor must post the contact information of the national human trafficking hotline (including options to reach out to the hotline such as through phone, text, or TTY) in all public airport restrooms.

2. *Provisions applicable to a recipient that is a private entity.*

a. Under this Grant, the recipient, its employees, subrecipients under this Grant, and subrecipients employees must not engage in:

i. Severe forms of trafficking in persons;

ii. The procurement of commercial sex act during the period of time that the grant or cooperative agreement is in effect;

iii. The use of forced labor in the performance of this grant; or any subaward; or

iv. Acts that directly support or advance trafficking in person, including the following acts;

a) Destroying, concealing, removing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents;

b) Failing to provide return transportation of pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless:

1. Exempted from the requirement to provide or pay for such return transportation by the federal department or agency providing or entering into the grant; or

2. The employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or witness in a human trafficking enforcement action;

c) Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment;

d) Charging recruited employees a placement or recruitment fee; or

e) Providing or arranging housing that fails to meet the host country's housing and safety standards.

b. The FAA, may unilaterally terminate this Grant, or take any remedial actions authorized by 22 U.S.C 7104b(c), without penalty, if any private entity under this Grant;

i. Is determined to have violated a prohibition in paragraph (2)(a) of this Grant;

ii. Has an employee that is determined to have violated a prohibition in paragraph (2)(a) of this Grant through conduct that is either:

a) Associated with performance under this Grant; or

b) Imputed to the recipient or subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR

Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 2 CFR Part 1200.

3. *Provision applicable to a recipient other than a private entity.*

   a. The FAA may unilaterally terminate this award or take any remedial actions authorized by 22 U.S.C 7104b(c), without penalty, if subrecipient than is a private entity under this award;

      i. Is determined to have violated a prohibition in paragraph (2)(a) of this Grant or

      ii. Has an employee that is determined to have violated a prohibition in paragraph (2)(a) of this Grant through conduct that is either:

         a) Associated with performance under this Grant; or

         b) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR Part 1200.

4. *Provisions applicable to any recipient.*

   a. The recipient must inform the FAA and the DOT Inspector General, immediately of any information you receive from any source alleging a violation of a prohibition in paragraph (2)(a) of this Grant.

   b. The FAA's right to unilaterally terminate this Grant as described in paragraph (2)(b) or (3)(a) of this Grant, implements the requirements of 22 U.S.C. chapter 78 and is addition to all other remedies for noncompliance that are available to the FAA under this Grant:

   c. The recipient must include the requirements of paragraph (2)(a) of this Grant award term in any subaward it makes to a private entity.

   d. If applicable, the recipient must also comply with the compliance plan and certification requirements in 2 CFR 175.105(b).

5. *Definitions.* For purposes of this Grant award, term:

   a. "Employee" means either:

      i. An individual employed by the recipient or a subrecipient who is engaged in the performance of the project or program under this Grant; or

      ii. Another person engaged in the performance of the project or program under this Grant and not compensated by the recipient including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or requirements.

   b. "Private entity" means:

      i. Any entity, including for profit organizations, nonprofit organizations, institutions of higher education, and hospitals. The term does not include foreign public entities, Indian Tribes, local governments, or states as defined in 2 CFR 200.1.

      ii. The terms "severe forms of trafficking in persons," "commercial sex act," "sex trafficking," "Abuse or threatened abuse of law or legal process," "coercion," "debt

bondage," and "involuntary servitude" have the meaning given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

23. **IIJA Funded Work Included in a PFC Application.** Within 120 days of acceptance of this Grant Agreement, the Sponsor must submit to the FAA an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this Grant Agreement as described in the project application. The airport sponsor may not make any expenditure under this Grant Agreement until project work addressed under this Grant Agreement is removed from an approved PFC application by amendment.

24. **Exhibit "A" Property Map.** The Exhibit "A" Property Map dated **November 20, 2018**, is incorporated herein by reference or is submitted with the project application and made part of this Grant Agreement.

25. **Employee Protection from Reprisal.** In accordance with 2 CFR § 200.217 and 41 U.S.C. § 4701, an employee of a grantee, subgrantee contractor, recipient or subrecipient must not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (a)(2) of 41 U.S.C. 4712 information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant. The grantee, subgrantee, contractor, recipient, or subrecipient must inform their employees in writing of employee whistleblower rights and protections under 41 U.S.C. § 4712. See statutory requirements for whistleblower protections at 10 U.S.C. § 4701, 41 U.S.C. § 4712, 41 U.S.C. § 4304, and 10 U.S.C. § 4310.

26. **Prohibited Telecommunications and Video Surveillance Services and Equipment.** The Sponsor agrees to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [P.L. 115-232 § 889(f)] and 2 CFR § 200.216.

27. **Critical Infrastructure Security and Resilience.** The Sponsor acknowledges that it has considered and addressed physical and cybersecurity and resilience in its project planning, design, and oversight, as determined by the DOT and the Department of Homeland Security (DHS). For airports that do not have specific DOT or DHS cybersecurity requirements, the FAA encourages the voluntary adoption of the cybersecurity requirements from the Transportation Security Administration and Federal Security Director identified for security risk Category X airports.

28. **Title VI of the Civil Rights Act.** As a condition of a grant award, the Sponsor shall demonstrate that it complies with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq) and implementing regulations (49 CFR part 21), the Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, et seq.), U.S. Department of Transportation and Federal Aviation Administration (FAA) Assurances, and other relevant civil rights statutes, regulations, or authorities, including any amendments or updates thereto. This may include, as applicable, providing a current Title VI Program Plan to the FAA for approval, in the format and according to the timeline required by the FAA, and other information about the communities that will be benefited and impacted by the project. A completed FAA Title VI Pre-Grant Award Checklist is required for every grant application, unless excused by the FAA. The Sponsor shall affirmatively ensure that when carrying out any project supported by this grant that it complies with all federal nondiscrimination and civil rights

laws based on race, color, national origin, sex, creed, age, disability, genetic information, in consideration for federal financial assistance. The Department's and FAA's Office of Civil Rights may provide resources and technical assistance to recipients to ensure full and sustainable compliance with Federal civil rights requirements. Failure to comply with civil rights requirements will be considered a violation of the agreement or contract and be subject to any enforcement action as authorized by law.

29. **FAA Reauthorization Act of 2024**. This grant agreement is subject to the terms and conditions contained herein including the terms known as the Grant Assurances as they were published in the Federal Register April 2025. On May 16, 2024, the FAA Reauthorization Act of 2024 made certain amendments to 49 U.S.C. chapter 471. The Reauthorization Act will require the FAA to make certain amendments to the assurances in order to best achieve consistency with the statute. Federal law requires that the FAA publish any amendments to the assurances in the Federal Register along with an opportunity to comment. In order not to delay the offer of this grant, the existing assurances are attached herein; however, the FAA shall interpret and apply these assurances consistent with the Reauthorization Act. To the extent there is a conflict between the assurances and Federal statutes, the statutes shall apply. The full text of the FAA Reauthorization Act of 2024 is at

    https://www.congress.gov/bill/118th-congress/house-bill/3935/text

30. **Applicable Federal Anti-Discrimination Laws.** Pursuant to Section (3)(b)(iv), Executive Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, the sponsor:

    a. Agrees that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government's payment decisions for purposes of 31 U.S.C. 3729(b)(4); and
    b. certifies that it does not operate any programs promoting diversity, equity, and inclusion (DEI) initiatives that violate any applicable Federal anti-discrimination laws.

31. **Federal Law and Public Policy Requirements.** The Sponsor shall ensure that Federal funding is expended in full accordance with the United States Constitution, Federal law, and statutory and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination; and the Sponsor will cooperate with Federal officials in the enforcement of Federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in and the enforcement of Federal immigration law.

32. **National Airspace System Requirements**
    a. The Sponsor shall cooperate with FAA activities installing, maintaining, replacing, improving, or operating equipment and facilities in or supporting the National Airspace System, including waiving permitting requirements and other restrictions affecting those activities to the maximum extent possible, and assisting the FAA in securing waivers of permitting or other restrictions from other authorities. The Sponsor shall not take actions that frustrate or prevent the FAA from installing, maintaining, replacing, improving, or operating equipment and facilities in or supporting the National Airspace System.
    b. If the FAA determines that the Sponsor has violated subsection (a), the FAA may impose a remedy, including:

(1) additional conditions on the award;
(2) consistent with 49 U.S.C chapter 471, any remedy permitted under 2 C.F.R. 200.339–200.340, including withholding of payments; disallowance of previously reimbursed costs, requiring refunds from the Recipient to the USDOT; suspension or termination of the award; or suspension and debarment under 2 CFR part 180; or
(3) any other remedy legally available.

c. In imposing a remedy under this condition, the FAA may elect to consider the interests of only the FAA.
d. The Sponsor acknowledges that amounts that the FAA requires the Sponsor to refund to the FAA due to a remedy under this condition constitute a debt to the Federal Government that the FAA may collect under 2 CFR 200.346 and the Federal Claims Collection Standards (31 CFR parts 900–904).

33. **Signage Costs for Construction Projects.** The airport grant recipient hereby agrees that it will require the prime contractor of a Federally- assisted airport improvement project to post signs consistent with a DOT/FAA-prescribed format, as may be requested by the DOT/FAA, and further agrees to remove any signs posted in response to requests received prior to February 1, 2025.

34. **Title 8 - U.S.C., Chapter 12, Subchapter II - Immigration.** The sponsor will follow applicable federal laws pertaining to Subchapter 12, and be subject to the penalties set forth in 8 U.S.C. § 1324, Bringing in and harboring certain aliens, and 8 U.S.C. § 1327, Aiding or assisting certain aliens to enter.

SPECIAL CONDITIONS

35. **Pavement Maintenance Management Program.** The Sponsor agrees that it will implement an effective airport pavement maintenance management program as required by Airport Sponsor Grant Assurance 11, Pavement Preventive Maintenance-Management, which is codified at 49 U.S.C. § 47105(e). The Sponsor agrees that it will use the program for the useful life of any pavement constructed, reconstructed, rehabilitated, or repaired with Federal financial assistance at the airport. The Sponsor further agrees that the program will:

    a. Follow the current version of FAA Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," for specific guidelines and procedures for maintaining airport pavements, establishing an effective maintenance program, specific types of distress and its probable cause, inspection guidelines, and recommended methods of repair;

    b. Detail the procedures to be followed to assure that proper pavement maintenance, both preventive and repair, is performed;

    c. Include a Pavement Inventory, Inspection Schedule, Record Keeping, Information Retrieval, and Reference, meeting the following requirements:

        1. Pavement Inventory. The following must be depicted in an appropriate form and level of detail:

            i. Location of all runways, taxiways, and aprons;

            ii. Dimensions;

            iii. Type of pavement; and,

            iv. Year of construction or most recent major reconstruction, rehabilitation, or repair.

        2. Inspection Schedule.

            i. Detailed Inspection. A detailed inspection must be performed at least once a year. If a history of recorded pavement deterioration is available, i.e., Pavement Condition Index (PCI) survey as set forth in the current version of Advisory Circular 150/5380-6, the frequency of inspections may be extended to three years.

            ii. Drive-By Inspection. A drive-by inspection must be performed a minimum of once per month to detect unexpected changes in the pavement condition. For drive-by inspections, the date of inspection and any maintenance performed must be recorded.

        3. Record Keeping. Complete information on the findings of all detailed inspections and on the maintenance performed must be recorded and kept on file for a minimum of five years. The type of distress, location, and remedial action, scheduled or performed, must be documented. The minimum information is:

            i. Inspection date;

            ii. Location;

            iii. Distress types; and

            iv. Maintenance scheduled or performed.

4. Information Retrieval System. The Sponsor must be able to retrieve the information and records produced by the pavement survey to provide a report to the FAA as may be required.

36. **Plans and Specifications Prior to Bidding.** The Sponsor agrees that it will submit plans and specifications for FAA review prior to advertising for bids.

37. **Design Grant.** This Grant Agreement is being issued in order to complete the design of the project. The Sponsor understands and agrees that within two (2) years after the design is completed that the Sponsor will accept, subject to the availability of the amount of Federal funding identified in the Airport Capital Improvement Plan (ACIP), a grant to complete the construction of the project in order to provide a useful and usable unit of work. The Sponsor also understands that if the FAA has provided Federal funding to complete the design for the project, and the Sponsor has not completed the design within four (4) years from the execution of this Grant Agreement, the FAA may suspend or terminate grants related to the design.

38. **Buy American Executive Orders.** The Sponsor agrees to abide by applicable Executive Orders in effect at the time this Grant Agreement is executed, including Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers.

39. **Duffy Plaintiff Special Term**. Pursuant to the court's preliminary injunction order in State of California v. Duffy, 1:25-cv-00208-JJM-PAS (D.R.I.) (June 19, 2025), DOT will not impose or enforce the challenged immigration enforcement condition* or any materially similar terms and conditions, to any grant funds awarded, directly or indirectly, to Plaintiff States or local government entities within those States (collectively referred to as "Plaintiff State Entities"), or otherwise rescind, withhold, terminate, or take other adverse action, absent specific statutory authority, based on the challenged immigration enforcement condition while DOT is subject to an injunction. DOT will not require Plaintiff State Entities to make any certification or other representation related to compliance with the challenged immigration enforcement condition nor will DOT construe acceptance of funding from DOT as certification as to the challenged immigration enforcement condition.

    *The challenged immigration enforcement condition:

    "[T]he Recipient will cooperate with Federal officials in the enforcement of Federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in the enforcement of Federal immigration law."

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the Grant Assurances, terms, and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.[1]

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

_____
(Signature)

_____
(Typed Name)

_____
(Title of FAA Official)

[1] Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the Grant Assurances, terms, and conditions in this Offer and in the Project Application.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.[2]

Dated _____

City of Santa Fe
(Name of Sponsor)

_____
(Signature of Sponsor's Authorized Official)

By: _____
(Typed Name of Sponsor's Authorized Official)

Title: _____
(Title of Sponsor's Authorized Official)

[2] Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

IN WITNESS WHEREOF, the City of Santa Fe has executed this Agreement as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

_____
ALAN WEBBER, MAYOR

DATE:_____

ATTEST:

_____
ANDRÉA SALAZAR, CITY CLERK

CITY ATTORNEY'S OFFICE:

Kevin L. Nault
Kevin L. Nault (Aug 22, 2025 16:53:21 MDT)
ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K Oster
_____
EMILY OSTER, FINANCE DIRECTOR

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of New Mexico. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative, who has been duly authorized to execute this Grant Agreement, which is in all respects due and proper and in accordance with the laws of the said State; the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58) of 2021; FAA Reauthorization Act of 2024 (P.L. 118-63); and the representations contained in the Project Application. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.[3]

Dated at _____

By: _____
(Signature of Sponsor's Attorney)

[3] Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

ASSURANCES

AIRPORT SPONSORS

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

B. Duration and Applicability.

1. **Airport Development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

   The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

   The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.**

   Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, 37, and 40 in Section C apply to planning projects. The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements

The Sponsor will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant. Performance under this agreement shall be governed by and in compliance with the following requirements, as applicable, to the type of organization of the Sponsor and any applicable sub-recipients. The applicable provisions to this agreement include, but are not limited to, the following:

FEDERAL LEGISLATION

a. 49 U.S.C. subtitle VII, as amended.

b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.[1]

c. Federal Fair Labor Standards Act – 29 U.S.C. § 201, et seq.

d. Hatch Act – 5 U.S.C. § 1501, et seq.[2]

e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601, et seq.[1, 2]

f. National Historic Preservation Act of 1966 – Section 106 – 54 U.S.C. § 306108.[1]

g. Archeological and Historic Preservation Act of 1974 – 54 U.S.C. § 312501, et seq.[1]

h. Native Americans Grave Repatriation Act – 25 U.S.C. § 3001, et seq.

i. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. § 7401, et seq.

j. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. § 1451, et seq.

k. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. § 4012a.[1]

l. 49 U.S.C. § 303, (formerly known as Section 4(f)).

m. Rehabilitation Act of 1973 – 29 U.S.C. § 794.

n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) (prohibits discrimination on the basis of race, color, national origin).

o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).

p. Age Discrimination Act of 1975 – 42 U.S.C. § 6101, et seq.

q. American Indian Religious Freedom Act, P.L. 95-341, as amended.

r. Architectural Barriers Act of 1968, as amended – 42 U.S.C. § 4151, et seq.[1]

s. Powerplant and Industrial Fuel Use Act of 1978 – Section 403 – 42 U.S.C. § 8373.[1]

t. Contract Work Hours and Safety Standards Act – 40 U.S.C. § 3701, et seq.[1]

u. Copeland Anti-kickback Act – 18 U.S.C. § 874.[1]

v. National Environmental Policy Act of 1969 – 42 U.S.C. § 4321, et seq.[1]

w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.

x. Single Audit Act of 1984 – 31 U.S.C. § 7501, et seq.[2]

y. Drug-Free Workplace Act of 1988 – 41 U.S.C. §§ 8101 through 8105.

z. The Federal Funding Accountability and Transparency Act of 2006, as amended (P.L. 109-282, as amended by section 6202 of P.L. 110-252).

aa. Civil Rights Restoration Act of 1987, P.L. 100-259.

bb. Infrastructure Investment and Jobs Act, P.L. 117-58, Title VIII.

cc. Build America, Buy America Act, P.L. 117-58, Title IX.

dd. Endangered Species Act – 16 U.S.C. 1531, et seq.

ee. Title IX of the Education Amendments of 1972, as amended – 20 U.S.C. 1681–1683 and 1685–1687.

ff. Drug Abuse Office and Treatment Act of 1972, as amended – 21 U.S.C. 1101, et seq.

gg. Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended – 42 U.S.C. § 4541, et seq.

hh. Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. § 1352.

EXECUTIVE ORDERS

a. Executive Order 11990 – Protection of Wetlands

b. Executive Order 11988 – Floodplain Management

c. Executive Order 12372 – Intergovernmental Review of Federal Programs

d. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction[1]

e. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America's Workers

f. Executive Order 14149 – Restoring Freedom of Speech and Ending Federal Censorship

g. Executive Order 14151 – Ending Radical and Wasteful Government DEI Programs and Preferencing

h. Executive Order 14154 – Unleashing American Energy

i. Executive Order 14168 – Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government

j. Executive Order 14173 – Ending Illegal Discrimination and Restoring Merit-Based Opportunity

FEDERAL REGULATIONS

a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).

b. 2 CFR Part 200 and 1201 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [3, 4, 5]

c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.

d. 14 CFR Part 13 – Investigative and Enforcement Procedures.

e. 14 CFR Part 16 – Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.

f. 14 CFR Part 150 – Airport Noise Compatibility Planning.

g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.

h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.

i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.[1]

j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.[1]

k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).[1]

l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).[1]

m. 49 CFR Part 20 – New Restrictions on Lobbying.

n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.

o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.

p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.[1, 2]

q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.[1]

s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.

t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.

u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).

v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).

w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.

x. 49 CFR Part 41 – Seismic Safety.

FOOTNOTES TO ASSURANCE (C)(1)

[1] These laws do not apply to airport planning sponsors.

[2] These laws do not apply to private sponsors.

[3] 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

[4] Cost principles established in 2 CFR Part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.

[5] Audit requirements established in 2 CFR Part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Grant Agreement.

1. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

2. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

3. Good Title.

a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

4. Preserving Rights and Powers.

a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere

with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

b. Subject to 49 U.S.C. 47107(a)(16) and (x), it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.

c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.

g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

5. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

6. **Consideration of Local Interest.**

   It has given fair consideration to the interest of communities in or near where the project may be located.

7. **Consultation with Users.**

   In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

8. **Public Hearings.**

   In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

9. **Metropolitan Planning Organization.**

   In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

10. **Pavement Preventive Maintenance-Management.**

    With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program, and it assures that it will use such program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

11. **Terminal Development Prerequisites.**

    For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under 49 U.S.C. 44706, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

12. **Accounting System, Audit, and Record Keeping Requirements.**

    a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

13. Minimum Wage Rates.

It shall include, in all contracts in excess of $2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. §§ 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

14. Veteran's Preference.

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

15. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary and incorporated into this Grant Agreement.

16. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

17. Planning Projects.

In carrying out planning projects:

a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.

b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.

c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

d. It will make such material available for examination by the public and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.

e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.

g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.

h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

18. Operation and Maintenance.

a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state, and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:

   1. Operating the airport's aeronautical facilities whenever required;
   2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
   3. Promptly notifying pilots of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

19. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

20. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

21. Economic Nondiscrimination.

a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:

   1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and

   2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.

d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.

e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.

g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

22. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and

b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

23. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

24. Airport Revenues.

a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:

   1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

   2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.

   3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95.

b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of 49 U.S.C. 47107.

25. Reports and Inspections.

It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and

other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;

c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:

   1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

   2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

26. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or

b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

27. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

28. Airport Layout Plan.

a. The airport owner or operator will maintain a current airport layout plan of the airport showing:

   1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;

2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.

b. Subject to subsection 49 U.S.C. 47107(x), the Secretary will review and approve or disapprove the plan and any revision or modification of the plan before the plan, revision, or modification takes effect.

c. The owner or operator will not make or allow any alteration in the airport or any of its facilities unless the alteration—

1. is outside the scope of the Secretary's review and approval authority as set forth in subsection (x); or

2. complies with the portions of the plan approved by the Secretary.

d. When the airport owner or operator makes a change or alteration in the airport or the facilities which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:

1. eliminate such adverse effect in a manner approved by the Secretary; or
2. bear all costs of relocating such property or its replacement to a site acceptable to the Secretary and of restoring the property or its replacement to the level of safety, utility, efficiency, and cost of operation that existed before the alteration was made, except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

29. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d to 2000d-4); creed and sex per 49 U.S.C. 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.

a. Using the definitions of activity, facility, and program as found and defined in 49 CFR 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.

b. Applicability

1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
2. So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

"The (**City of Santa Fe**), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, all businesses will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex , age, or disability in consideration for an award."

e. Required Contract Provisions.

1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex, age, or

disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:

a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and

b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.

g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

30. Disposal of Land.

a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:

1. Reinvestment in an approved noise compatibility project;
2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. 47117(e);
3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. 47114, 47115, or 47117;
4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:

1. Reinvestment in an approved noise compatibility project;
2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. 47117(e);
3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. 47114, 47115, or 47117;
4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

31. Engineering and Design Services.

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

32. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

33. Policies, Standards, and Specifications.

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars (https://www.faa.gov/sites/faa.gov/files/aip-pfc-checklist_0.pdf) for AIP projects as of February 14, 2025.

34. Relocation and Real Property Acquisition.

a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.

b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.

c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

35. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

36. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin, or sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

37. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

38. Competitive Access.

a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:

1. Describes the requests;
2. Provides an explanation as to why the requests could not be accommodated; and
3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.

b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six-month period prior to the applicable due date.

39. **Access to Leaded Aviation Gasoline**

a. If 100-octane low lead aviation gasoline (100LL) was made available at an airport, at any time during calendar year 2022, an airport owner or operator may not restrict or prohibit the sale of, or self-fueling with 100-octane low lead aviation gasoline.

b. This requirement remains until the earlier of December 31, 2030, or the date on which the airport or any retail fuel seller at the airport makes available an unleaded aviation gasoline that has been authorized for use by the FAA as a replacement for 100-octane low lead aviation gasoline for use in nearly all piston-engine aircraft and engine models; and meets either an industry consensus standard or other standard that facilitates the safe use, production, and distribution of such unleaded aviation gasoline, as determined appropriate by the FAA.

c. An airport owner or operator understands and agrees, that any violation of this grant assurance is subject to civil penalties as provided for in 49 U.S.C. § 46301(a)(8).

City of Santa Fe
Governing Body
Findings of Fact and Conclusions of Law

Appeal # 2025-9702-APPL
Appellant's Name – Francesca M. Banci
Agent's Name – (no agent)
Address – 1030½ W. Houghton St.

THIS MATTER came before the City of Santa Fe (City) Governing Body (Governing Body) for a public hearing on August 27, 2025, to consider the appeal of Francesca M. Banci (Applicant or Appellant) from the written decision of the City's Historic Districts Review Board (Board) in Case # 2024-9370-HDRB. In the Board's decision, the Board designated the historic status of two structures at 1030½ W. Houghton St., Santa Fe (the "Property"). The Board designated a Residence (the "Residence") as "contributing" and designated the historic status of an Accessory Unit (the "AU") as "contributing". The Appellant asked the Governing Body to downgrade the designations of the two structures to "non-contributing," a lower historic status.

I. RECORD ON APPEAL

The record on appeal (Record) included the following documents:

1. Memorandum dated August 20, 2025, for the August 27, 2025, Meeting of the Governing Body to the Members of the Governing Body, from Frank Ruybalid, Assistant City Attorney (Memorandum);
2. Exhibit A, Verified Appeal Petition filed December 6, 2024;
3. Exhibit B, Board Findings of Fact and Conclusions of Law for Case # 2024-9370-HDRB, approved February 25, 2025;
4. Exhibit C, relevant excerpt from Minutes of the November 26, 2024, Board meeting;
5. Exhibit D, Historic Preservation Staff Report and Exhibits for Case # 2024-9370-HDRB from the November 26, 2024, Board meeting, with exhibits:
    (1) 1995 Historic Building Inventory
    (2) 2024 Historic Cultural Properties Inventory
    (3) Photos of the Property in its existing condition
    (4) Site diagram and elevation drawings
6. Exhibit E, Transcript of 11/26/24 HDRB Hearing
7. Exhibit F, Screenshot of Buildings Historic Status map

II. FINDINGS OF FACT

After conducting a public hearing, the Governing Body hereby FINDS, as follows:

A. Proceedings before the Governing Body Appeal

1. The Historic Preservation (HP) staff reviewed the application and related materials and information submitted by the Applicant for conformity with applicable SFCC

requirements and provided the Board a written report of its findings (Staff Report), which evaluated the factors relevant to the application.

2. The HP staff recommended to the Board that the Residence be maintained as non-contributing, and that the AU be designated non-contributing, in accordance with SFCC Section 14-5.2(C), Regulation of Significant and Contributing Structures in the Historic Districts.
3. At a public hearing held November 26, 2024, the Board heard presentations by the Historic Preservation staff and sworn testimony from the Applicant, her agent Jeffrey J. Seres, AIA, and interested members of the public.
4. At the Board meeting, the Board members and the public discussed the Property's history, the condition of the structures and repairs needed, the restrictions the Historic Districts Code places on alterations to contributing structures, and the recommendation of the structures' historic status by the author of the Historic Cultural Properties Inventory.
5. At the conclusion of the hearing the Board voted to:
    a. Upgrade the status of the Residence to contributing, by a vote of 5 to 0; and
    b. Designate the status of the AU as contributing, by a vote of 5 to 0.
6. On February 25, 2025, the Board adopted written Findings of Fact and Conclusions of Law reflecting its decisions regarding the statuses of the two structures.
7. As reflected in the Findings of Fact and Conclusions of Law adopted by the Board, the Board's decision about the statuses of the structures was based on the following findings:
    a. The main residential structure meets the definition of a "contributing structure," due to the structure being built of adobe, it is in its original footprint, and the historic look of the building has been maintained. Its contributing status is supported by its association with the original family, the metal work on the portal, and by the way the structure fits into the neighborhood as an accessory structure behind the main residence owned by the parents; and
    b. The accessory unit meets the definition of "contributing," being associated with the original family, having a vernacular development, with a brick front and varied roof line, and fitting into a minimal space in a densely developed neighborhood.
8. The Board's decision was based on the following provisions of the Historic Districts Ordinance:
    (a) SFCC Section 14-5.2(C)(2)(b)(i), which reads that the Historic Districts Review Board is authorized to change the status of a structure or to designate a status for a structure with no status designated.
    (b) SFCC Section 14-5.2(C)(2)(b)(ii), which reads that change in status or the designation of a status shall be based upon an evaluation of data provided through survey or other relevant sources of information and the definitions of "significant," "contributing" or "non-contributing."
    (c) The definitions, found in SFCC Section 14-12, read as follows:
        i. "Contributing structure," which is, "[A] structure, located in a Historic District, approximately 50 years old or older that helps to establish and maintain the character of that Historic District. Although a contributing structure is not unique in itself, it adds to the historic associations or historic architectural design qualities that are significant for a district. The contributing structure may have had minor alterations, but its integrity

remains."

ii. "Non-contributing structure," which is, "[A] structure, located in a Historic District, that is less than 50 years old or that does not exhibit sufficient historic integrity to establish and maintain the character of the Historic District."

B. Appeal to Governing Body

9. Under SFCC Section 14-3.17(A)(1)(b), final actions of a Land Use Board include a written decision made after a public hearing.
10. On January 8, 2025, Appellant timely filed a Verified Appeal Petition, asking the Governing Body to review the decision of the Board and downgrade the historic statuses of the structures on the Property.
11. In the Verified Appeal Petition, the Appellant argued that:
    a. The reasons the HDRB gave to upgrade the status of the structures from non-contributing to contributing were capricious, without merit, and the decision lacked substantial evidence to support it;
    b. The Residence has structural problems that require extensive renovation and repair, which will be hindered or prohibited by the structures' contributing status and designation of primary façades. Among these are:
        i. The roof is below the building standard of 6'4";
        ii. The roof and ceiling vigas leak and are rotted; and
        iii. The floor rests on the ground without floor joists;
    c. The Accessory Unit abuts the north property line and touches an accessory unit on the south property line at 1028½ W. Houghton St., which creates a fire hazard;
    d. The architectural elements the HDRB found to be distinctive are not original to the structures, do not contribute to the historic nature of the buildings or the neighborhood, and are not visible from the street;
    e. The "nostalgic ideals" of a working-class neighborhood populated by extended families living in close proximity no longer exist, and the property owner should not be required to maintain substandard construction based on this sentiment; and
    f. In concluding that the structures were historically "contributing," the HDRB ignored the recommendations of the Historic Preservation Staff and the authors of the historic inventories, who found the structures to be "non-contributing."
12. SFCC 1987, Section 14-3.17(A)(2) sets forth the grounds for an appeal of a Board decision and provides that an appeal may be filed for one or more of the following reasons only: (1) the Board's final action does not comply with SFCC Chapter 14 or the Zoning Enabling Act, NMSA 1978, Sections 3-21-1 to -14; (2) the Board misapplied SFCC Chapter 14; or (3) the Board's decision is not supported by substantial evidence.
13. As required by SFCC Section 14-3.17(D)(6), the City Land Use Director reviewed the Verified Appeal Petition for conformity with the requirements of SFCC Section 14-3.17 and determined that the Appeal conformed to the requirements.
14. The Appellant provided notice of the Governing Body hearing by mailing notices to the owners of record of all neighboring properties within 300 feet of 1030½ W. Houghton St. 15 days in advance of the hearing.

C. Governing Body Public Hearing August 27, 2025

15. Regardless that the structures will be designated non-contributing, the Historic Districts Code will still require alterations to them to comply with Don Gaspar Area Historic District design standards.
16. Under SFCC Section 14-2.2(F), the Governing Body conducts a *de novo* hearing on an appeal of a final action of a Land Use Board.
17. The Appellant appeared in person at the hearing.
18. During the hearing, Assistant City Attorney and Appellant Francesca Banci presented the case to the Governing Body, and Historic Cultural Properties Inventory author John W. Murphey and Marie Romero Cash, who is a niece of Willie Romero, provided sworn testimony.
19. Two members of the public also provided sworn testimony.
20. Structures on the Property consist of a Residence and an Accessory Unit.
21. The Property is within the City's Don Gaspar Area Historic District.
22. The Accessory Unit has been used for storage and has not been used as a dwelling unit.
23. The West Houghton Street neighborhood was historically part of the 1782 Mesita de Juana Lopez Land Grant, never formally platted, and was developed by Spanish families who settled along the nearby acequia.
24. 1030½ W. Houghton St., with no street frontage, is a rear lot to 1030 W. Houghton St.
25. Alberto and Anastacia Romero bought the street-front property at 1030 W. Houghton St. in 1917, and their son Willie Romero bought the rear property from successor owners in 1947 after Romero served in World War II, and lived there until his death in 2007.
26. The Applicant submitted an application for a status review to the Board on February 20, 2024, seeking a status review of the Property by the Board.
27. At the time the Applicant submitted her application, the historic status of the Residence had been designated "non-contributing," and the status of the AU had not been designated, according to the official Historic Buildings Status map kept by the City in accordance with Santa Fe City Code (SFCC) Section 14-5.2, Parts (A)(3) and (C)(2)(a).
28. The 1995 Historic Building Survey and the 2024 Historic Cultural Properties Inventory had inconsistent information what date the residence was built, who built it and who added various architectural details.
29. During the hearing, City Councilors asked questions of the Appellant, City Land Use Senior Planner Lani McCulley, and Assistant City Attorney Frank Ruybalid, who provided the following additional information:
    a. The Historic Districts Review Board does not prohibit the owner of an uninhabitable structure from restoring the structure to a habitable condition;
    b. The Appellant previously received approval from the HDRB to make alterations to her residence on the street front of West Houghton Street, which has a contributing status;
    c. The HDRB regularly approves alterations to contributing structures as long as the modifications are consistent with the design standards for that Historic District;
    d. The public visibility of a structure is not an element of a structure's status under the definition of "contributing" in the Historic Districts Code; and
    e. A Historic Preservation senior planner assigned to this application prior to Lani McCulley had recommended these structures be designated non-contributing.

30. The author of the 2024 Historic Cultural Properties Inventory recommended that these structures be designated non-contributing because they do not particularly contribute to the primary home's setting or to the West Houghton streetscape, and the AU is of rough construction, with only its west portion pre-dating 1958.
31. The dates the structures were built is unclear due to inconsistent historic reports.
32. It is unclear when the wrought iron porch supports and steel casement windows were added to the home.

IV. CONCLUSIONS OF LAW

Under the circumstances and based upon the record and the evidence and testimony submitted at the hearing, the Governing Body CONCLUDES as follows:

1. The Governing Body has the power and authority to hear and decide the matter that is the subject of the Appeal.
2. The Board's written decision adopted February 25, 2025, was a final action subject to appeal.
3. Because the Residence is a single-story structure, likely built in the 1940s, with all parts being at least 50 years old, it is subject to the authority of the Historic Districts Review Board.
4. The Appellant timely appealed the Board's decision to the Governing Body and complied with the procedural requirements set forth in the SFCC.
5. This Appeal should be granted because the historic status of the Residence and the historic status of the Accessory Unit are non-contributing because the Governing Body agrees with
    a. The City Historic Preservation Staff's recommendation that the Residence and Accessory Unit be designated non-contributing; and
    b. The 2024 Historic Cultural Properties Inventory author's factual findings described above and his recommendation that these structures be designated non-contributing.

V. VOTE AT THE HEARING

1. With respect to the Residence and the AU, the Governing Body voted on a single motion to grant the appeal and to reverse the Board's final actions, with a vote of six (6) in the affirmative and one (1) vote, Mayor Alan Webber, in the negative.

WHEREFORE, IT IS ORDERED ON THE 24TH OF SEPTEMBER, 2025, BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Considering the foregoing findings and conclusions, the Governing Body:

GRANTS the appeal with respect to the Residence and Accessory Unit at 1030½ W. Houghton St., reverses the Board's decision, and designates both structures non-contributing.

Alan M. Webber, Mayor
Mayor

Date

FILED WITH THE CITY CLERK:

Andréa Salazar, City Clerk

Date

APPROVED AS TO FORM:

Frank E. Ruybalid
Assistant City Attorney

Sep 22, 2025

Date

Gov Body Appeal FoF CoL - 1030.5 W Houghton St (clean copy)

Final Audit Report 2025-09-22

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CITY OF SANTA FE

Memorandum

Date: August 7, 2025

To: Governing Body, Public Works and Utilities Committee, Quality of Life Committee, and Finance Committee

From: Marci A. Eannarino, Legislation and Policy Innovation Manager
Palmer C. Anderson, Policy Analyst
Christine M. Spiers, Legislative Assistant CS

Via: Erin K. McSherry, City Attorney EM

RE: Charter Review Commission Establishment and Identifying Certain Topics for the Commission's review.

EXECUTIVE SUMMARY:

The proposed Resolution would establish a Charter Review Commission and identifies mayor's and city councilors as the topic for consideration. Section 10.01 of the City of Santa Fe's Municipal Charter calls for a charter review commission to be appointed "as needed, but not less frequently than every ten years". As proposed in the Resolution, the Governing Body members would appoint the members of the Commission no later than April of 2026, and the Commission would recommend proposed amendments to the Charter to the Governing Body no later than April of 2027. Per Section 10.01 of the City of Santa Fe's Charter, the Governing Body would then vote on whether to include the Commission's recommendations on the ballot for approval by the voters in the November 2027 regular local election.

ATTACHMENTS:

Resolution
Fiscal Impact Report

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2025-__

INTRODUCED BY:

Councilor Jamie Cassutt

Councilor Pilar Faulkner

Councilor Alma Castro

A RESOLUTION

CONVENING A CHARTER REVIEW COMMISSION NO LATER THAN APRIL OF 2026 TO CONSIDER MAYOR AND CITY COUNCILOR POWERS.

WHEREAS, the voters of the city of Santa Fe adopted the City of Santa Fe's Municipal Charter ("Chater"), at a special municipal election held on December 9, 1997; and

WHEREAS, the Charter states that it may be "amended or repealed as provided by law" and NMSA 1978, Section 3-15-16, provides that the governing body of a home rule municipality may amend its Charter by submitting a proposal to the qualified electors; and

WHEREAS, the voters of the City of Santa Fe ("City") amended the Charter in elections in 2008, 2014, 2018, and 2023; and

WHEREAS, Section 10.01 of the Charter calls for the Governing Body to appoint a charter review commission ("Commission") "as needed, but not less frequently than every ten years"; and

WHEREAS, a Commission may review and recommend to the Governing Body the adoption of ballot questions regarding proposed Charter amendments for the electorate of the city of Santa Fe to consider; and

WHEREAS, it is important that members of the Commission be residents of the city of

Santa Fe; that, to the extent possible, they have either an interest, knowledge, or training in local government or law or a personal knowledge of the government of the City of Santa Fe; and that they represent a variety of backgrounds and perspectives; and

WHEREAS, the 2023 Charter Commission Report included a recommendation to "provide for a separation of powers between the executive and the legislative branches of City government" and to "[c]reate a new Article V to replace current Articles V-VIII, entitled GOVERNANCE with these sections: The Legislative Branch, [and] The Executive Branch", and the Governing Body wishes to renew the conversation on the topic; and

WHEREAS, the 2023 Charter Commission Report states that there was a "short period of time" to make recommendations; and

WHEREAS, a resolution about the commission's recommendation to "provide for a separation of powers" was item 9g at the Special Governing Body meeting on Tuesday, August 22, 2023, and the Resolution that described the recommendation noted that the Charter Commission's recommendation presented changes that required "additional time for review and consideration"; and

WHEREAS, the Governing Body wishes to dedicate additional time to the topic of separation of powers, and to consider a balance of powers, by convening a Commission to review the separation and balance of powers between the mayor and city councilors.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that a Charter Review Commission shall be convened consistent with Section 10.1 of the City's Charter, including the following parameters:

Section 1. NAME: The commission shall be called the Charter Review Commission ("Commission").

Section 2. PURPOSE: The purpose of the Commission is to review the City's Charter and determine whether to recommend changes to Charter modify the Mayor's and the City

Councilors' powers and duties.

Section 3. DUTIES AND RESPONSIBILITIES: The Commission shall review the Mayor's and Councilors' duties and powers established in the Charter any amendments proposed by members of the Governing Body and the public on those topics, focusing on separation of powers and balance of powers between the mayor and city councilors. The Commission shall complete its review and prepare a report of the Commission's recommendations regarding proposed Charter amendments no later than April 1, 2027, such that the Governing Body may consider and adopt the recommendations for consideration during the November 2027 election. After receiving the report, the Governing Body shall consider the proposals and vote on resolutions regarding placing the proposed amendments on the ballot for vote by its electorate. The Commission recommendations shall include, but not be limited to, the powers and duties of the mayor and city councilors, including the following:

A. Whether there should be separation of powers or balance of powers as between the mayor and city councilors;

B. Whether the City's mayor should have a purely executive role, rather than both a legislative and executive role and, if so, what new powers and limitations should be adopted along with such a separation of powers;

C. Whether the mayor, city manager, or the city councilors should propose the City budget and what should be required in the budget's development;

D. Whether the City should adopt a strategic plan, and, if so, who should put it forward for review, and how often should it be updated;

E. Whether a city councilor who is running for mayor should be required to give up their city council seat; How to fill vacant council seats; and

F. Who has the power to appoint, dismiss, and supervise the city manager, city attorney, and city clerk.

Section 4. MEMBERSHIP; OFFICERS; TERM:

MEMBERSHIP: As is consistent with Section 10.01 of the Charter, the Commission "shall consist of nine members, one selected by each member of the governing body." The appointees shall be residents of the city of Santa Fe, and, to the extent possible, either have an interest, knowledge, or training in local government or law or have personal knowledge of the City government.

OFFICERS: The commissioners shall elect one member to be their chair and one member to be vice-chair.

TERM: The members of the Governing Body shall appoint commissioners no later than April 1, 2026, and the commissioners shall conclude their term by April 1, 2027.

Section 5. ABSENCES: Failure to attend three consecutive regular meetings or thirty-three percent (33%) or more of the Commission's regular meetings shall constitute an automatic tender of resignation by such member, which the Governing Body may accept or reject at its discretion.

Section 6. VACANCIES: Vacancies on the Commission shall be filled by the member of the Governing Body who appointed the commissioner who held the vacated position.

Section 7. MEETINGS; DURATION; QUORUM: The Commission shall meet at least once per month, in accordance with the Open Meetings Act and any other applicable City policies and procedures and "hall hold no less than two meetings in each of the city's council districts, for the purpose of taking input from the public.

Section 8. STAFF LIAISON: The City Manager shall identify no fewer than two employees to work alongside the City Attorney or City Attorney's designee to assist the Commission to perform research and drafting functions for the commission.

BE IT FURTHER RESOLVED that the City shall advertise the creation of the Commission and its functions on a dedicated page of the City's web site, and the page shall allow

for the public to submit proposed amendments.

BE IT FURTHER RESOLVED that as is consistent with Section 10.01 of the Charter, the "governing body shall consider and vote upon proposing the commission's recommended ballot questions."

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:

Erin McSherry

Erin McSherry (Aug 22, 2025 15:39:44 MDT)

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Resolutions/ Call for Charter Review Committee to Review Mayor and City Councilor Powers

FIR No. 10709.1

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** _____ **Resolution:** X

Short Title(s): Charter Commission Establishment

Sponsor(s): Councilors Jamie Cassutt, Pilar Faulkner, and Alma Castro

Reviewing Department(s): City Attorney's Office

Staff Completing FIR: Marci Eannarino, Legislation and Policy Innovation Manager; Palmer Anderson, Policy Analyst; Christine Spiers, Legislative Assistant **Date:** 8/22/2025
Phone: (505) 955-6518 (505) 955-6563; (505) 955-6692

Reviewed by City Attorney: Erin McSherry Erin McSherry (Aug 22, 2025 15:39:44 MDT) **Date:** 08/22/2025

Reviewed by Finance Director: Emily K. Oster **Date:** 08/22/2025

Summary:
The proposed Resolution would establish a Charter Review Commission to consider separation of powers and balance of powers, as between the mayor and city councilors. Section 10.01 of the City of Santa Fe's Municipal Charter calls for a charter review commission to be appointed "as needed, but not less frequently than every ten years". The Governing Body members would appoint the Commission no later than April of 2026, and the Commission would recommend proposed amendments to the Charter to the Governing Body no later than April of 2027. Per Section 10.01 of the City of Santa Fe's Charter, the Governing Body would then vote on whether to include the Commission's recommendations on the ballot for approval by the voters in the November 2027 regular local election.

Departments Affected:
Governing Body, City Attorney's Office, City Clerk's Office, City Manager's Office

Consequences of Not Enacting Legislation:
If this legislation is not adopted, then the City would not establish a Charter Review Commission to recommend whether the City's Charter should be amended in relation the separation of powers and balance of powers as between the mayor and the city councilors.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
None at this time.

Performance and Administrative Implications:
The designated staff liaisons to the Commission and representatives from the City Attorney's Office would be required to attend at least eight additional meetings. If the COmmission recommends changes that the Governign Body choses to place on the ballot, then the City Clerk would need to submit the questions to the County Clerk for inclusion on the ballot.

Fiscal Implications:

**Section 10.01 of the City's Charter states that "the governing body shall fund a budget adequate for the commission to perform its functions and the city attorney or the city attorney's designee, and no fewer than two additional employees identified by the City Manager, shall assist the commission to perform research and drafting functions for the commission". Meeting this requirement would be budget neutral if the employee support described can be accomplished using current city employees. If existing resources and personnel are assigned, other City functions will be de-prioritized. In addition, if additional costs are required to convening of the Commission, the City would need to fund a budget adequate to support the Charter's functions.

Fiscal Impact

____X____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 2025	FYE 2026	FYE 2027	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

Expenditure Narrative:

Revenue

Revenue Type	FYE 2025	FYE 2026	FYE 2027	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

Signature: CHRISTINE SPIERS

Email: cmspiers@santafenm.gov

Signature:

Email: maeannarino@santafenm.gov

Signature:

Email: pcanderson@santafenm.gov

CITY OF SANTA FE

Memorandum

Date: August 7, 2025

To: Governing Body, Public Works and Utilities Committee, Quality of Life Committee, and Finance Committee

From: Marci A. Eannarino, Legislation and Policy Innovation Manager
Palmer C. Anderson, Policy Analyst
Christine M. Spiers, Legislative Assistant CS

Via: Erin K. McSherry, City Attorney EM

RE: Charter Review Commission Establishment and Identifying Certain Topics for the Commission's review.

EXECUTIVE SUMMARY:

The proposed Resolution would establish a Charter Review Commission and identifies mayor's and city councilors as the topic for consideration. Section 10.01 of the City of Santa Fe's Municipal Charter calls for a charter review commission to be appointed "as needed, but not less frequently than every ten years". As proposed in the Resolution, the Governing Body members would appoint the members of the Commission no later than April of 2026, and the Commission would recommend proposed amendments to the Charter to the Governing Body no later than April of 2027. Per Section 10.01 of the City of Santa Fe's Charter, the Governing Body would then vote on whether to include the Commission's recommendations on the ballot for approval by the voters in the November 2027 regular local election.

ATTACHMENTS:

Resolution
Fiscal Impact Report

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2025-__

INTRODUCED BY:

Councilor Jamie Cassutt

Councilor Pilar Faulkner

Councilor Alma Castro

A RESOLUTION

CONVENING A CHARTER REVIEW COMMISSION NO LATER THAN APRIL OF 2026 TO CONSIDER MAYOR AND CITY COUNCILOR POWERS.

WHEREAS, the voters of the city of Santa Fe adopted the City of Santa Fe's Municipal Charter ("Chater"), at a special municipal election held on December 9, 1997; and

WHEREAS, the Charter states that it may be "amended or repealed as provided by law" and NMSA 1978, Section 3-15-16, provides that the governing body of a home rule municipality may amend its Charter by submitting a proposal to the qualified electors; and

WHEREAS, the voters of the City of Santa Fe ("City") amended the Charter in elections in 2008, 2014, 2018, and 2023; and

WHEREAS, Section 10.01 of the Charter calls for the Governing Body to appoint a charter review commission ("Commission") "as needed, but not less frequently than every ten years"; and

WHEREAS, a Commission may review and recommend to the Governing Body the adoption of ballot questions regarding proposed Charter amendments for the electorate of the city of Santa Fe to consider; and

WHEREAS, it is important that members of the Commission be residents of the city of

Santa Fe; that, to the extent possible, they have either an interest, knowledge, or training in local government or law or a personal knowledge of the government of the City of Santa Fe; and that they represent a variety of backgrounds and perspectives; and

WHEREAS, the 2023 Charter Commission Report included a recommendation to "provide for a separation of powers between the executive and the legislative branches of City government" and to "[c]reate a new Article V to replace current Articles V-VIII, entitled GOVERNANCE with these sections: The Legislative Branch, [and] The Executive Branch", and the Governing Body wishes to renew the conversation on the topic; and

WHEREAS, the 2023 Charter Commission Report states that there was a "short period of time" to make recommendations; and

WHEREAS, a resolution about the commission's recommendation to "provide for a separation of powers" was item 9g at the Special Governing Body meeting on Tuesday, August 22, 2023, and the Resolution that described the recommendation noted that the Charter Commission's recommendation presented changes that required "additional time for review and consideration"; and

WHEREAS, the Governing Body wishes to dedicate additional time to the topic of separation of powers, and to consider a balance of powers, by convening a Commission to review the separation and balance of powers between the mayor and city councilors.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that a Charter Review Commission shall be convened consistent with Section 10.1 of the City's Charter, including the following parameters:

Section 1. NAME: The commission shall be called the Charter Review Commission ("Commission").

Section 2. PURPOSE: The purpose of the Commission is to review the City's Charter and determine whether to recommend changes to Charter modify the Mayor's and the City

Councilors' powers and duties.

Section 3. DUTIES AND RESPONSIBILITIES: The Commission shall review the Mayor's and Councilors' duties and powers established in the Charter any amendments proposed by members of the Governing Body and the public on those topics, focusing on separation of powers and balance of powers between the mayor and city councilors. The Commission shall complete its review and prepare a report of the Commission's recommendations regarding proposed Charter amendments no later than April 1, 2027, such that the Governing Body may consider and adopt the recommendations for consideration during the November 2027 election. After receiving the report, the Governing Body shall consider the proposals and vote on resolutions regarding placing the proposed amendments on the ballot for vote by its electorate. The Commission recommendations shall include, but not be limited to, the powers and duties of the mayor and city councilors, including the following:

A. Whether there should be separation of powers or balance of powers as between the mayor and city councilors;

B. Whether the City's mayor should have a purely executive role, rather than both a legislative and executive role and, if so, what new powers and limitations should be adopted along with such a separation of powers;

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D. Whether the City should adopt a strategic plan, and, if so, who should put it forward for review, and how often should it be updated;

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F. Who has the power to appoint, dismiss, and supervise the city manager, city attorney, and city clerk.

Section 4. MEMBERSHIP; OFFICERS; TERM:

MEMBERSHIP: As is consistent with Section 10.01 of the Charter, the Commission "shall consist of nine members, one selected by each member of the governing body." The appointees shall be residents of the city of Santa Fe, and, to the extent possible, either have an interest, knowledge, or training in local government or law or have personal knowledge of the City government.

OFFICERS: The commissioners shall elect one member to be their chair and one member to be vice-chair.

TERM: The members of the Governing Body shall appoint commissioners no later than April 1, 2026, and the commissioners shall conclude their term by April 1, 2027.

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for the public to submit proposed amendments.

BE IT FURTHER RESOLVED that as is consistent with Section 10.01 of the Charter, the "governing body shall consider and vote upon proposing the commission's recommended ballot questions."

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:

Erin McSherry

Erin McSherry (Aug 22, 2025 15:39:44 MDT)

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Resolutions/ Call for Charter Review Committee to Review Mayor and City Councilor Powers

FIR No. 10709.1

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** _____ **Resolution:** X

Short Title(s): Charter Commission Establishment

Sponsor(s): Councilors Jamie Cassutt, Pilar Faulkner, and Alma Castro

Reviewing Department(s): City Attorney's Office

Staff Completing FIR: Marci Eannarino, Legislation and Policy Innovation Manager; Palmer Anderson, Policy Analyst; Christine Spiers, Legislative Assistant **Date:** 8/22/2025
Phone: (505) 955-6518 (505) 955-6563; (505) 955-6692

Reviewed by City Attorney: Erin McSherry Erin McSherry (Aug 22, 2025 15:39:44 MDT) **Date:** 08/22/2025

Reviewed by Finance Director: Emily K. Oster **Date:** 08/22/2025

Summary:
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Fiscal Impact

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Total:	$	$	$				$

Expenditure Narrative:

Revenue

Revenue Type	FYE 2025	FYE 2026	FYE 2027	Recurring (R) or Non-recurring (NR)	Fund
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Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

Signature: CHRISTINE SPIERS

Email: cmspiers@santafenm.gov

Signature:

Email: maeannarino@santafenm.gov

Signature:

Email: pcanderson@santafenm.gov

CITY OF SANTA FE

Memorandum

Date: September 11, 2025

To: Governing Body
Finance Committee

From: Henri Hammond-Paul, Community Health and Safety Director

RE: Intergovernmental Agreement (IGA) with Department of Workforce Solutions

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ITEM AND ISSUE:
Request for Approval of Intergovernmental Agreement No. 26-631-1111-00008 with the New Mexico Department of Workforce Solutions in the Amount of $1,642,023 to Support Shelter Operations, Street Outreach, Site Improvements, and Neighborhood Cleanliness Activities Related to the City's Homelessness Response.

1. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate Grant Proceeds to Community Health and Safety for Implementation of the IGA.

BACKGROUND AND SUMMARY:
The City was selected by DWS to administer state funds to stabilize shelter operations and expand proactive outreach. The IGA provides up to $1,642,023 (comprising $1,200,000 – 2024 GRO Appropriation (ZI9D016) and $442,023 – FY26 Grants to Support Housing/Encampments (ZJ5037)).

Funds are reimbursable upon submittal of required deliverables and invoices and are intended to: (1) operate and secure the City shelter currently at 2801 Cerrillos Rd; (2) conduct twice-daily street trash pick-up within the defined impact area; (3) deliver targeted street outreach to reduce encampments near the shelter and maintain a designated downtown coverage area; (4) complete physical alterations to the shelter; and (5) develop and implement a plan to relocate shelter operations and list the current facility for non-homelessness uses.

No City General Fund match is required. Approval enables the City to draw state funds to maintain essential services, improve neighborhood conditions, and achieve measurable outcomes (e.g., nightly bed utilization, case management engagement, transitions to stable alternatives, and reduced emergency calls).

ACTION REQUESTED:
The Community Health and Safety Department respectfully requests your review and approval.

ATTACHMENTS:
STATE OF NEW MEXICO INTERGOVERNMENTAL AGREEMENT No. 26-631-1111-00008
BAR

ERIKA LUJAN
ERIKA LUJAN (Sep 19, 2025 14:57:13 MDT)

Log # *{Finance use only}*:	
Journal # *{Finance use only}*:	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
Community Health and Safety Department	9/18/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Grants and Services	2401001	510400	CAD2624001	1,642,023.00	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
Department of Workforce Solutions Grant - Other Misc. Grant	2401001	491320	CAD2624001	(1,642,023)	
				$ -	$ -

JUSTIFICATION: *(use additional page if needed)*
--Attach supporting documentation/memo
To fund street outreach and improvements and operations of the shelter for people experiencing homelessness located at 2801 Cerrillos Road.

{Complete section below if BAR results in a net change to ANY Fund}	
Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	**0**

Marcella Apodaca — 9/18/2025
Prepared By *{print name}* — Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins — Sep 19, 2025
Budget Officer — Date

Division Director Signature *{optional}* — Date

Finance Director *{≤ $5,000}* — Date

Sep 19, 2025
Department Director Signature — Date

City Manager *{≤ $60,000}* — Date

City of Santa Fe New Mexico

Finance Department

Project Ledger Request Form

Date of Request: 9/18/25

Project Title: STREET OUTREACH-SHELTER OPERATION

Project Type: ☐ CIP ☑ Grant ☑ Internal Tracking

Project ID: CAD2624001

Grant ID: S2617

Approved By: MB 9/19/25 (Sep 19, 2025 14:09:34 MDT)

Entered By: CMT (Finance Use Only)

Department: COM SERVICES Project Manager: H.HAMMOND Ext: _____

Project Date Range: 9/18/2025 to 6/30/2026 ☐ Create Fixed Asset

---

☐ Multi-Funding (complete all funding sources, should equal 100%)

Funding Source: STATE IGA WORKFORCE SOLUTIONS % of Funding: 100

MUNIS ORG: 2401001 MUNIS OBJ: 491320 Awarded Amount: 1,642,023.00

Funding Source: _____ % of Funding: _____

MUNIS ORG: _____ MUNIS OBJ: _____ Awarded Amount: _____

Expense String Phase:

A project must have at least one phase identified, this can be used as an additional level of tracking, for example, CIP - Design, Construction, etc. For Grants can be used as reimbursable types, such as transportation, salaries.

(You can create more than one phase and you can default MUNIS ORGs and OBJs, optional)

Phase: GRANTS/SERVICES MUNIS ORG: 2401001 MUNIS OBJ: 510400

Phase: _____ MUNIS ORG: _____ MUNIS OBJ: _____

Phase: _____ MUNIS ORG: _____ MUNIS OBJ: _____

Contract number: _____ Comments/Other: COM SRVC ADMN/OTHR MSC GRNT

GRANTS ONLY:

Grantor Name: NM WORKFORCE SOLUTION IGA 26.631.1111.600008 Awarded Amount: 1,642023.00

AR Charge Code: 2401001.491320 ☐ Grant funds multiple projects (Complete a form for each project)

Grantor Id: OTHER MISC GRANT Federal CFDA (if applicable): N/A

(If grants please provide all grant award documents with form) ☐ Attached Grant Documentation

Docusign Envelope ID: B44EB491-2AF6-4233-8ACB-391007E7031E

STATE OF NEW MEXICO
INTERGOVERNMENTAL AGREEMENT
AGREEMENT No. 26-631-1111-00008

THIS INTERGOVERNMENTAL AGREEMENT ("**Agreement**") is effective on the date executed by the Department of Workforce Solutions ("**Effective Date**") and is made and entered into by and between the State of New Mexico, Department of Workforce Solutions ("**Department**") and the City of Santa Fe ("**Contractor**") (individually "**Party**" and collectively "**Parties**").

WITNESSETH

WHEREAS, the Department is an agency of the State of New Mexico, created under § 9-26-1 et seq., NMSA 1978; and

WHEREAS, Contractor is a public body politic and corporate, separate and apart from the State, created under § 3-1-5 (G), NMSA 1978, § 13-1-67 NMSA 1978 and §13-18-1 NMSA 1978; and

WHEREAS, Contractor holds the technical expertise and capacity to perform services necessary to administer an appropriation assigned to the Department; and

WHEREAS, Department is retaining the Contractor to provide its skill and expertise in housing and homelessness services;

NOW, **THEREFORE**, in consideration of the mutual covenants and obligations contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree to the following terms:

1. **Scope of Work.**

The Contractor shall perform the Scope of Work attached as "**Exhibit A**." The Parties agree that the Department, in accordance with the total annual budget stated herein, and after consultation and acceptance by the Contractor, requires the Contractor to fund specific activities and/or programs identified in Exhibit A at levels deemed appropriate by the Department. The Parties agree that **Exhibit A** may be updated and amended from time to time to incorporate any exercise of the Department's discretion identified above without the need for formal amendment of this Agreement.

2. **Compensation.**

a. Department shall fund a portion of Contractor's homeless services programs. Department shall pay Contractor the specific costs tied to services satisfactorily completed pursuant to **Exhibit A.** The total budget amount payable under this Agreement shall not exceed One Million Six Hundred Forty-Two Thousand Twenty-Three Dollars and No Cents ($1,642,023). This amount is a maximum and not a guarantee that work assigned to be performed under this Agreement shall equal the amount stated herein.

b. The Parties do not intend for Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is

Docusign Envelope ID: B44EB491-2AF6-4233-8ACB-391007E7031E

responsible for notifying Department when the services provided under this Agreement reach the total compensation amount. In no event shall Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

c. Payment beyond Fiscal Year 2026 is subject to the availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Exhibit A, Scope of Work. All invoices MUST BE received by Department no later than fifteen (15) days preceding the termination of the state Fiscal Year in which the services were delivered. Invoices received after such date **SHALL NOT BE PAID.**

d. Contractor shall submit a detailed statement accounting for all services performed and expenses incurred. If the Department finds that the Contractor's services are unacceptable or contractor's statements accounting for services are not acceptable, within thirty (30) days after the date of receipt of written notice from the Contractor that payment is requested, the Department shall provide the Contractor a letter of exception explaining the defect or objection to the services and outlining steps the Contractor may take to provide remedial action. Upon certification by the Department that the services have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the Department shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. **Term**.

This Agreement shall be effective upon complete execution of the Parties and continue, unless otherwise terminated hereunder, through June 30, 2026, with the option to extend this Agreement for three (3) additional one-year terms, as determined by Department and subject to the mutual agreement of the Parties. In accordance with NMSA 1978, § 13-1-150, no contract term for a professional services contract, including extensions and renewals, shall exceed four (4) years, except as set forth in NMSA 1978, § 13-1-150. Upon termination of this Agreement, or after the services provided for herein have been rendered, surplus money, if any, shall be returned by the Contractor to the Department.

4. **Termination.**

a. Grounds. The Department may terminate this Agreement for convenience or cause.

b. Contractor may terminate this Agreement based upon the Department's uncured, material breach of this Agreement or with ninety (90) days' written notice to the Department

c. Notice to Agency Regarding Opportunity to Cure.

Docusign Envelope ID: B44EB491-2AF6-4233-8ACB-391007E7031E

i. Except as otherwise provided in Paragraph (4)(c)(3), the Department shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

ii. Contractor shall give Department written notice of termination at least thirty (30) days prior to the intended date of termination for uncured material breaches, which notice shall (i) identify all the Department's material breaches of this Agreement upon which the termination is based and (ii) state what Department needs to do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if Department does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Department does not, within the thirty (30) day notice period, notify Contractor of its intent to cure and begin with due diligence to cure the material breach.

iii. In all other instances, Contractor shall give Department written notice of termination at least ninety (90) days prior to the intended date of termination.

iv. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to Contractor(i) if Contractor becomes unable to perform the services contracted for, as determined by Department; or (ii) the Agreement is terminated pursuant to Paragraph 5, "Appropriations," of this Agreement.

d. Liability. Except as otherwise expressly allowed or provided under this Agreement, Department's sole liability upon termination shall be to pay for acceptable work performed prior to Contractor's receipt or issuance of a notice of termination, provided, however, that a notice of termination shall not nullify or otherwise affect either Party's liability for pre-termination defaults under or breaches of this Agreement. Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. **THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE DEPARTMENT'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.**

e. Termination Management. Immediately upon receipt by either of the Parties of notice of termination of this Agreement, Contractor shall:

i. not incur any further obligations for salaries, services, or any other expenditure of funds under this Agreement without the written approval of Department;

ii. comply with all directives issued by Department in the notice of termination as to the performance of work under this Agreement; and

iii. take such action as Department shall direct for the protection, preservation, retention, or transfer of all property titled to Department and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by Contractor with contract funds shall become the property of Department upon termination and shall be submitted to the agency as soon as practicable.

5. **Appropriations.**

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The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If the Legislature does not make sufficient appropriations and authorization, this Agreement shall terminate immediately upon written notice being given by Department. Contractor shall accept Department's decision as to whether sufficient appropriations are available and shall be final. If Department proposes an amendment to the Agreement to reduce funding unilaterally, Contractor shall have the option to terminate the Agreement or to agree to the reduced funding within thirty (30) days of receipt of the proposed amendment.

6. **Assignment.**

Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of Department.

7. **Subcontracting.**

Contractor may subcontract any portion of the services to be performed under this Agreement without the Department's prior written approval. No such subcontract shall relieve Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from Department. Contractor shall ensure that all subcontracts are awarded and issued in accordance with applicable procurement laws, regulations, and policies.

8. **Release.**

Final payment of the amounts due under this Agreement shall operate as a release of Department, its officers and employees, and the State of New Mexico from all liabilities, claims, and obligations whatsoever arising from or under this Agreement.

9. **Confidentiality.**

Any confidential information provided to or developed by Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by Contractor without the prior written approval of Department, except as required by Contractor's Requests to Inspect Documents Policy or to NMSA 1978, Chapter 14, Article 2, Inspection of Public Records Act.

10. **Product of Service -- Copyright.**

All materials developed or acquired by Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to Department no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of Contractor.

11. **Conflict of Interest; Governmental Conduct Act.**

a. Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any direct or indirect interest that would

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conflict in any manner or degree with the performance or services required under the Agreement.

b. Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, shall continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in any way limiting the generality of the foregoing,

c. Contractor specifically represents and warrants that:

   i. in accordance with NMSA 1978, § 10-16-4.3, Contractor does not employ, has not employed, and shall not employ during the term of this Agreement any Department employee while such employee was or is employed by Department and participating directly or indirectly in Department's contracting process;

   ii. this Agreement complies with NMSA 1978, § 10-16-7(A) because (i) Contractor is not a public officer or employee of the State; (ii) Contractor is not a member of the family of a public officer or employee of the State; (iii) Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if Contractor is a public officer or employee of the State, a member of the family of a public officer or employee of the State, or a business in which a public officer or employee of the State or the family of a public officer or employee of the State has a substantial interest, public notice was given as required by NMSA 1978, § 10-16-7(A).

   iii. in accordance with NMSA 1978, § 10-16-8(A), (i) Contractor is not, and has not been represented by, a person who has been a public officer or employee of the State within the preceding year and whose official act directly resulted in this Agreement and (ii) Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the State whose official act, while in State employment, directly resulted in the Department's making this Agreement;

   iv. this Agreement complies with NMSA 1978, § 10-16-9(A) because (i) Contractor is not a legislator; (ii) Contractor is not a member of a legislator's family; (iii) Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by NMSA 1978, § 10-16-7(A), this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;

   v. in accordance with NMSA 1978, § 10-16-13, Contractor has not directly participated in the preparation of specifications, qualifications, or evaluation criteria for this Agreement or any procurement related to this Agreement; and

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vi. in accordance with NMSA 1978, § 10-16-3 and § 10-16-13.3, Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of Department.

d. Contractor's representations and warranties in Paragraphs A and B of this Article 11 are material representations of fact upon which Department has relied as the Parties enter into this Agreement. Contractor shall provide immediate written notice to Department if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 11 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 11 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to Department and notwithstanding anything in the Agreement to the contrary, Department may immediately terminate the Agreement.

e. All terms defined in the Governmental Conduct Act have the same meaning in Article 11(B).

12. Required Federal Provisions.

To the extent any funding provided to Contractor is received from the Federal Government, contractor agrees to comply with the following requirements:

a. Lobbying. Contractor shall not use funds from this agreement to conduct lobbying activities or hire lobbyists at any government level, as defined by the Lobbyist Regulation Act, NMSA 1978, § 2-11-1, et. seq., and applicable federal law. No federally appropriated funds shall be paid to influence any officer or employee of any department or member of Congress concerning federal agreements, grants, loans, or cooperative agreements. If any funds other than federal appropriated funds are used to influence any officer or employee in relation to applicable federal agreements, the Contractor shall submit Standard Form LLL, "Disclosure Form to Report Lobbying," as instructed.

b. Suspension and Debarment. For agreements that involve the expenditure of federal funds, each party represents that neither it nor any of its management, employees, or independent contractors who will be involved in the services or products supplied under this agreement have been excluded from participation in any government healthcare program, debarred from, or under any other federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. Section 1320a-7. Furthermore, each party represents that it, its employees, and independent contractors are not otherwise ineligible for participation in federal healthcare or education programs. Additionally, each party represents that it is not aware of any such pending action(s) (including criminal actions) against it or its employees or independent contractors. Each party shall notify the other party immediately upon becoming aware of any pending or final action in any of these areas.

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c. Fiscal and Administrative Standards. Contractor shall adhere to all local, state and federal regulations as applicable to their operations. Contractors shall adhere to the following fiscal and administrative standards in accordance with:

   i. Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) [Federal Awards Only];

   ii. State of New Mexico Manual of Model Accounting Practices (MAPs);

   iii. The State of New Mexico State Auditor, State Audit Rule;

   iv. Title 2 CFR, Chapter 1, Part 170, Reporting Sub-award and Executive Compensation Information [Federal Awards Only];

   v. U.S. General Accounting Office, Government Auditing Standards;

d. Political Activity. No funds hereunder shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

e. Grantor and Contractor Information. If applicable, funding under this agreement is from the Catalog of Federal Domestic Assistance (CFDA) Program:

   i. CFDA Number – N/A
   Program Title – N/A
   AGENCY/OFFICE – N/A
   GRANT NUMBER – N/A
   CONTRACTOR'S Dun and Bradstreet Data Universal Numbering System Number (DUNS Number) - N/A

f. Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Sept. 2013).

g. This agreement and employees working on this agreement shall be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L.112-239) and FAR 3.908.

h. Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

i. The Contractor shall insert the substance of this clause, including this paragraph (3), in all subcontracts over the simplified acquisition threshold.

j. For agreements and subgrants that involve the expenditure of federal funds for amounts in excess of $150,000, requires the Contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water.

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k. Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

l. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) — For agreements that involve the expenditure of federal funds, Contractors that apply or bid for an agreement exceeding $100,000 shall file the required certification. Each tier certifies to the tier above that it shall not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

m. For agreements that involve the expenditure of federal funds, Contractor shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

13. **Amendment.**

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the Parties hereto and all other required signatories. If the Department proposes an amendment to the Agreement to reduce funding due to budget or other considerations unilaterally, Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

14. **Merger.**

This Agreement incorporates all the agreements, covenants, and understandings between the Parties hereto concerning the subject matter hereof, and all such covenants, Agreements, and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

15. **Penalties for Violation of Law**.

The Procurement Code, NMSA 1978 §§ 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, New Mexico's criminal statutes impose felony penalties for illegal bribes, gratuities, and kickbacks.

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16. **Equal Opportunity Compliance.**

Contractor agrees to abide by all federal and state laws, rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or severe medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to comply with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. **Applicable Law**.

The laws of the State of New Mexico shall govern this Agreement without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-1 (G). By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any lawsuits arising under or out of any term of this Agreement.

18. **Workers' Compensation**.

Contractor agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, Department may terminate this Agreement.

19. **Records and Financial Audit.**

The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature, and cost of services rendered during the Agreement's term and effect and retain them for three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by Department, its Divisions, and the State Auditor. The Department shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Department to recover excessive or illegal payments.

20. **Invalid Term or Condition.**

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

21. **Enforcement of Agreement.**

A Party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that Party's right thereafter to demand strict compliance with that or any other provision. No waiver by a Party of any of its rights under this Agreement shall be effective unless

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express and in writing, and no effective waiver by a Party of any of its rights shall be effective to waive any other rights.

22. **Notices**.

Any notice required to be given to either Party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To Department:

Sarita Nair, Cabinet Secretary
Department of Workforce Solutions, 401 Broadway NE, Albuquerque, New Mexico 87102
Sarita.Nair@dws.nm.gov

With a copy to: General Counsel, Department of Workforce Solutions, 401 Broadway NE, Albuquerque, New Mexico 87102

To Contractor:

Henri Hammond-Paul, Director, Community Health and Safety
Community Health and Safety, 119 E Marcy Street, Santa Fe, NM 87501
hmhammondpaul@santafenm.gov

23. **Authority**.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represent and warrant that he or she has the power and authority to bind Contractor and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

[SIGNATURE PAGE AND EXHIBITS FOLLOW]

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IN WITNESS WHEREOF, the Agency and the Contractor have caused this Agreement to be executed, said Agreement to become effective as of the date set forth below upon which it is executed by the Department Secretary or Designee.

Contractor – City of Santa Fe

_____ Date: _____
Alan Webber, Mayor

ATTEST:

_____
Andrea Salazar, City Clerk Date: _____

CITY ATTORNEY'S OFFICE:

Signed by:
_____
F3B0BCB4779B4E8...
Rebecca Mnuk-Hermann, Assistant City Attorney Date: 9/10/2025 | 12:48 PM MDT

APPROVED FOR FINANCES:

Signed by:
Emily k. Oster
_____
94186A0F0CFB48D...
Emily Oster, Finance Director Date: 9/18/2025 | 12:14 PM MDT

Department - Department of Workforce Solutions

_____ Date: _____
Sarita Nair, Cabinet Secretary

_____ Date: _____
Maria Garcia-Cunningham

Approved as to legal form and sufficiency.

_____ Date: _____
Gregory Lauer, Office of General Counsel

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Exhibit A – Scope of Work
CITY OF SANTA FE

Purpose:

To fund street outreach and improvements and operations of the shelter for people experiencing homelessness located, as of the date of this Agreement, at 2801 Cerillos Rd, Santa Fe, NM 87507 (the "Shelter").

Performance Measures:

- Number of people spending the night at the Shelter (nightly)
- Number of people engaged in case management (weekly)
- Number of people transitioning from the Shelter into stable alternatives (weekly)
- Number of calls for emergency services to the Shelter, or other critical incidents occurring at the Shelter, such as overdoses or deaths (weekly)
- Number of calls for emergency services placed in connection with encampments or people experiencing homelessness in an area to be agreed upon by the Contractor and the Department, including all of General Franklin E. Miles Park (weekly)
- Number of people contacted by specialized street outreach team
- Number of people contacted by specialized street outreach team who are transported to services or shelter
- Number of people contacted by specialized street outreach team who decline services and shelter

Activities:

1. The Contractor shall provide 24-hour security at the Shelter. Contractor may use service providers or subcontractors, for whom the Department shall have no liability.
2. The Contractor shall provide street trash pick-up twice daily in the area defined on the attached map.
3. The Contractor shall make necessary physical alterations to the Shelter, based on mutually agreed-upon plan.
4. The Contractor shall operate the Shelter, using one or more service providers. Service provider selection and monitoring is the responsibility of the Contractor solely.
5. The Contractor shall conduct street outreach with the goal of eliminating encampments near the Shelter, using one or more contractors. The Contractor shall provide for one specialized street outreach team, for which there will be a designated point of contact for Office of Housing and Office of the Governor concerns, to (a) respond to such concerns, regardless of location within the City of Santa Fe, and (b) provide continuous outreach in the downtown Santa Fe area, to include the area encircled by Paseo de Peralta to the north, east and south, and Saint Francis on the west. Service provider selection and monitoring is the responsibility of the Contractor solely.
6. The Contractor shall develop a plan for moving the physical location of the Shelter and shall take all steps reasonably necessary to effectuate the move, including, but not limited to, listing the current location for sale or lease for uses that do not include homeless services.
7. The Contractor shall work in good faith with its first responder departments to prioritize calls for service to and near the Shelter, in accordance with all applicable laws and City of Santa Fe ordinances and policies.

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8. The Contractor shall meet regularly with a designated contact person representing the Department, to discuss progress and challenges related to the Shelter.
9. The Contractor shall designate a point of contact for receiving constituent and other concerns from the Department and shall report back on the resolution of such concerns within two business days.
10. The Contractor shall certify that all funds distributed to the Funded Program are used for purposes in alignment with the appropriation language set forth above.
11. The Contractor shall designate a representative to a group of Department funding recipients who shall meet periodically to discuss progress and challenges, who may be a representative of a subcontractor or service provider for the Funded Program.
12. The Contractor and any subcontractor or service provider for the Funded Program shall share all press releases and similar public communication regarding the State of New Mexico's role in funding the projects, no less than 48 hours prior to issuance
13. The Contractor and any subcontractor or service provider for the Funded Program shall recognize the State of New Mexico's funding contributions using language mutually agreeable to the Parties.
14. The Contractor and any subcontractor or service provider for the Funded Program shall grant access to and data from the Funded Program for purposes of any survey or evaluation that the Department conducts or commissions.
15. The Contractor recognizes that the Department is assembling data, photographs, and narratives regarding each Funded Program, and Contractor shall deliver such materials regarding each project to the Department upon request.
16. The Contractor and any subcontractor or service provider for the Funded Program shall share all press releases and similar public communication regarding the State of New Mexico's role in funding the program, no less than 48 hours prior to issuance.
17. The Contractor is solely responsible for compliance with all applicable federal, state, and local laws, including but not limited to procurement rules, the Anti-Donation Clause of the New Mexico Constitution, and the Affordable Housing Act and Rules (if applicable).

Deliverables (including due dates):

Deadline	Deliverable
Weekly on Tuesdays beginning two weeks after Effective Date	Submit required data as set forth above, with a weekly (Sunday to Saturday) reporting period
Monthly, no later than 10 days after the end of each calendar month	Submit Request for Payment Form, in the form attached as Exhibit B and an invoice for services provided, at a rate not to exceed $182,447 per month for nine months, with the total not to exceed One Million Six Hundred Forty-Two Thousand Twenty-Three Dollars and No Cents ($1,642,023)
September 30, 2025	Submit plans for physical alterations to the Shelter
October 31, 2025	Submit written plan for moving Shelter operations to a new location
November 30, 2025	Complete physical alterations to the Shelter

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March 31, 2026	List current Shelter facility for sale or lease to new occupant for purposes other than homelessness services
May 31, 2026	Submit Final Request for Payment, in the form attached as Exhibit C and a final invoice

The total amount payable to the Contractor under this Agreement shall not exceed One Million Six Hundred Forty-Two Thousand Twenty-Three Dollars and No Cents ($1,642,023) including expenses and applicable gross receipts tax.

The Department shall pay to the Contractor in full payment for services satisfactorily performed at pursuant to the Scope of Work the rate of One Eighty-Two Thousand Four Hundred Forty-Seven Dollars and No Cents ($182,447.00) per month based on receipt of deliverables, such compensation not to exceed the amount stated herein.

The source of funds will be:

ZI9D016 (2024 GRO Appropriation)	$1,200,000.00
ZJ5037 (FY 26 Grants to support housing encampments)	$ 442,023.00

Reimbursable expenses, if any, shall be limited to the below listed items, and reimbursed at actual cost: None

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Exhibit B
HB2 or GRO Housing Appropriation
Request for Payment Form

I. Contractor Information (Make sure information is complete & accurate)		II. Payment Computation	
A. Contractor:	City of Santa Fe	A. Payment Request No.	
B. Address:	200 Lincoln Ave, Santa Fe NM 87501	B. Grant Amount:	
C. Contact Name and Phone:	Henri Hammond-Paul, Director of Community Health and Safety Department	C. AIPP Amount	N/A
D. Grant No.		D. Funds Requested to Date	
E. Project Title:		E. Amount Requested in This Payment	
F. Grant Expiration Date:		F. Reversion Amount	N/A
		G. Grant Balance	
		H. ☒ GF ☐ GOB ☐ STB	
		I. ☐ Final Request for Funding	

III. Fiscal Year: 2026 (July 1, 2025 – June 30, 2026)

IV. Compliance Certification: Under penalty of law, I hereby certify to the best of my knowledge and belief: the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; that the Contractor has complied with the Intergovernmental Agreement in all respects since the date of the last Request for Payment; and that the grant activity is in full compliance with Article IX. Sec 14 of the New Mexico Constitution known as the "anti-donation" clause.

Contractor Fiscal Officer or Fiscal Agent (if applicable)	Contractor Representative
Printed Name	Printed Name
Date: _____	Date: _____

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ Loc. No.: _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

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Exhibit C
STATE OF NEW MEXICO
HB2 or GRO Housing Final Report Form

Appropriation Recipient:

Appropriation Number:

Use of Appropriation Funds	Amount
Capital Expenses	
Other	
Total Amount of Appropriation Funds Expended	

Narrative
Describe the outcomes, results, benefit and/or uses of the appropriation funds.

Certificate Of Completion

Envelope Id: B44EB491-2AF6-4233-8ACB-391007E7031E
Status: Sent
Subject: Complete with Docusign: Intergovernmental-Agreement-Santa Fe Petes Place (FINAL).docx
Source Envelope:
Document Pages: 16
Signatures: 2
Envelope Originator:
Certificate Pages: 5
Initials: 0
Evan Sanchez
AutoNav: Enabled
401 Broadway Blvd NE
EnvelopeId Stamping: Enabled
Albuquerque, NM 87102
Time Zone: (UTC-07:00) Mountain Time (US & Canada)
evan.sanchez@dws.nm.gov
IP Address: 98.60.255.180

Record Tracking

Status: Original
Holder: Evan Sanchez
Location: DocuSign
9/3/2025 6:44:26 PM
evan.sanchez@dws.nm.gov
Security Appliance Status: Connected
Pool: StateLocal
Storage Appliance Status: Connected
Pool: Department of Workforce Solutions
Location: Docusign

Signer Events	Signature	Timestamp
Rebecca Mnuk-Hermann ramnukherrmann@santafenm.gov Security Level: Email, Account Authentication (None)	Signed by:  E3B0BCB4779B4E8... Signature Adoption: Uploaded Signature Image Using IP Address: 2601:8c3:8581:a250:29a9:68f7:93d9:a237	Sent: 9/3/2025 6:51:02 PM Resent: 9/9/2025 12:31:41 PM Resent: 9/10/2025 9:15:38 AM Viewed: 9/10/2025 12:47:55 PM Signed: 9/10/2025 12:48:38 PM
Electronic Record and Signature Disclosure: Accepted: 9/4/2025 11:37:52 AM ID: 0de0991e-b7d5-47bc-9a63-6591732afc80		
Emily K. Oster ekoster@santafenm.gov Security Level: Email, Account Authentication (None)	Signed by:  94186A0F0CFB48D... Signature Adoption: Pre-selected Style Using IP Address: 63.232.20.2	Sent: 9/10/2025 12:48:40 PM Resent: 9/12/2025 4:10:38 PM Resent: 9/16/2025 9:18:41 AM Viewed: 9/18/2025 12:12:01 PM Signed: 9/18/2025 12:14:50 PM
Electronic Record and Signature Disclosure: Accepted: 9/18/2025 12:12:01 PM ID: e20ab777-656f-490c-8bec-5abc1b9bb04c		
Andrea Salazar asalazar@santafenm.gov Security Level: Email, Account Authentication (None)		Sent: 9/18/2025 12:14:53 PM Viewed: 9/18/2025 2:30:56 PM
Electronic Record and Signature Disclosure: Accepted: 9/18/2025 2:30:56 PM ID: cb2d4312-3d0d-4a05-aa2b-2714e0df50d0		
Alan Webber amwebber@santafenm.gov Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Gregory Lauer Gregory.Lauer@dws.nm.gov Security Level: Email, Account Authentication (None)		

Signer Events	Signature	Timestamp
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Maria GCunningham maria.gcunningham@dws.nm.gov Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 3/7/2025 4:57:49 PM ID: 0ff5d532-1e74-4082-85ab-bb5a8d0c8669		
Sarita Nair Sarita.Nair@dws.nm.gov Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 9/9/2022 11:02:44 AM ID: d11ae625-6e0d-4f9c-b938-83c5c8d29171		

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Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Henri Hammond-Paul hmhammondpaul@santafenm.gov Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via Docusign		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	9/3/2025 6:51:02 PM
Envelope Updated	Security Checked	9/10/2025 9:15:38 AM
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To contact us by email send messages to: ESign.NMDWS@state.nm.us

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To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at ESign.NMDWS@state.nm.us and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

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Counsel to the Debtors
and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	**Chapter 11**
PURDUE PHARMA L.P., *et al.*,	**Case No. 19-23649 (SHL)**
Debtors.[1]	**(Jointly Administered)**

NOTICE OF FILING OF SOLICITATION VERSIONS OF UPDATED THIRTEENTH AMENDED PLAN AND AMENDED DISCLOSURE STATEMENT

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*

[1] 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.

Thirteenth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and Its Affiliated Debtors [D.I. 7307] (the "**Disclosure Statement for Thirteenth Amended 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 an updated *Thirteenth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and Its Affiliated Debtors* [D.I. 7508] (the "**June 5 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. 7509] (the "**Disclosure Statement for June 5 Thirteenth Amended Plan**").

PLEASE TAKE FURTHER NOTICE that on June 17, 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. 7588] (the "**June 17 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. 7589] (the "**Disclosure Statement for June 17 Thirteenth Amended Plan**").

PLEASE TAKE FURTHER NOTICE that, on June 20, 2025, the Debtors filed an updated *Thirteen Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and Its Affiliated Debtors* [D.I. 7608] (the "**June 20 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. 7609] (the "**Disclosure Statement for June 20 Thirteenth Amended Plan**").

PLEASE TAKE FURTHER NOTICE that, at the hearings held on June 18, 2025 and June 20, 2025 (collectively, the "**Disclosure Statement Hearing**") before the Honorable Sean H. Lane, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601 (the "**Bankruptcy Court**") to consider the relief requested by the Debtors' *Motion to Approve (I) the Adequacy of Information in the Disclosure Statement, (II) Solicitation and Voting Procedures, (III) Forms of Ballots, Notices and Notice Procedures in Connection Therewith, and (IV) Certain Dates With Respect Thereto* [D.I. 7439] (the "**Disclosure Statement Motion**"), the Debtors informed the Bankruptcy Court that negotiations regarding Section 5.9 of the Plan remained ongoing.

PLEASE TAKE FURTHER NOTICE that the Bankruptcy Court held that the Disclosure Statement (as defined below) contained adequate information for purposes of section 1125 of the Bankruptcy Code, subject to the anticipated resolution of Section 5.9 of the Plan, and entered the *Order Approving (I) Disclosure Statement for Thirteenth Amended Chapter 11 Plan, (II) Solicitation and Voting Procedures, (III) Forms of Ballots, Notices and Notice Procedures in Connection Therewith, and (IV) Certain Dates with Respect Thereto* [D.I. 7615] (the "**Disclosure Statement Order**").

PLEASE TAKE FURTHER NOTICE that, because negotiations regarding Section 5.9 of the Plan are now completed, the Debtors, contemporaneously herewith, are filing a *Thirteenth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and Its Affiliated Debtors* [D.I. 7636] (the "**Updated Thirteenth Amended Plan**" and, together with the Thirteenth

Amended Plan, the May 16 Thirteenth Amended Plan, the June 5 Thirteenth Amended Plan, the June 17 Thirteenth Amended Plan, and the June 20 Thirteen Amended Plan, the "**Plan**") and a *Disclosure Statement for Thirteenth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and Its Affiliated Debtors* [D.I. 7637] (the "**Disclosure Statement for Updated Thirteenth Amended Plan**" and, together with the Disclosure Statement for Thirteenth Amended Plan, the Disclosure Statement for May 16 Thirteenth Amended Plan, the Disclosure Statement for June 5 Thirteenth Amended Plan, the Disclosure Statement for June 17 Thirteenth Amended Plan, and the Disclosure Statement for June 20 Thirteen Amended Plan, the "**Disclosure Statement**").

PLEASE TAKE FURTHER NOTICE that attached hereto as **Exhibit A** is a blackline of the Updated Thirteenth Amended Plan reflecting changes from the June 20 Thirteenth Amended Plan.

PLEASE TAKE FURTHER NOTICE that attached hereto as **Exhibit B** is a blackline of the Disclosure Statement for Updated Thirteenth Amended Plan reflecting changes from the Disclosure Statement for June 20 Thirteenth Amended Plan.

PLEASE TAKE FURTHER NOTICE that copies of the Plan and Disclosure Statement 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: July 1, 2025
New York, New York

DAVIS POLK & WARDWELL LLP

By: */s/ Eli J. Vonnegut*

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New York, New York 10017
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Joshua Y. Sturm
Abraham Bane

Counsel to the Debtors
and Debtors in Possession

Exhibit A

**Blackline of Updated Thirteenth Amended Plan Against
June 20 Thirteenth Amended Plan**

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	***Chapter 11***
PURDUE PHARMA L.P., et al.,	***Case No. 19-23649 (SHL)***
Debtors.[1]	***(Jointly Administered)***

THIRTEENTH AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION OF PURDUE PHARMA L.P. AND ITS AFFILIATED DEBTORS

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Joshua Y. Sturm
Abraham Bane

Counsel to the Debtors
and Debtors in Possession

Dated: ~~June 19~~July 1, 2025
New York, New York

[1] 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.

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Each of 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, Purdue Products L.P. (f/k/a 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***" and, collectively, the "***Debtors***" or "***Purdue***") proposes the following thirteenth amended joint chapter 11 plan of reorganization pursuant to section 1121(a) of the Bankruptcy Code. Capitalized terms used herein shall have the meanings set forth in Section 1.1 below.

ARTICLE I DEFINITIONS AND INTERPRETATION.

1.1 ***Definitions***.

The following terms shall have the respective meanings specified below:

"***Access Materials***" has the meaning set forth in Section 5.13(f)(i) of the Plan.

"***Act***" has the meaning set forth in Section 5.2(f)(i)(D) of the Plan.

"***Ad Hoc Committee***" means the ad hoc committee of governmental and other contingent litigation claimants identified in the *Verified Statement Pursuant to Bankruptcy Rule 2019* [D.I. 279], as may be amended from time to time.

"***Ad Hoc Group of Hospitals***" means the Ad Hoc Group of Hospitals identified in the *Second Amended Verified Statement of the Ad Hoc Group of Hospitals Pursuant to Bankruptcy Rule 2019* [D.I. 1536].

"***Ad Hoc Group of Individual Victims***" means the Ad Hoc Group of Individual Victims of Purdue Pharma L.P. identified in the *Second Amended Verified Statement of the Ad Hoc Group of Individual Victims of Purdue Pharma L.P., et al., Pursuant to Bankruptcy Rule 2019* [D.I. 3939], as may be amended from time to time.

"***Adlon General Unsecured Claim***" means any Claim against Adlon Therapeutics L.P. that is not an Administrative Claim, a Priority Claim, a Secured Claim, a Federal Government Unsecured Claim, a Channeled Claim, a Co-Defendant Claim, an Other Subordinated Claim, an Intercompany Claim or a Shareholder Claim.

"***Administrative Claim***" means any Claim against any Debtor for costs and expenses of administration of the Chapter 11 Cases pursuant to section 327, 328, 330, 365, 503(b), 507(a)(2) or 507(b) of the Bankruptcy Code, including (i) the actual and necessary costs and expenses incurred on or after the Petition Date and through the Effective Date of preserving the Estates and operating the Debtors' business, (ii) any Professional Fee Claim, (iii) any fee or charge assessed against the Estates pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, (iv) any Allowed Claim that is to be treated as an Administrative Claim pursuant to a Final Order of the Bankruptcy Court under section 546(c)(2) of the Bankruptcy Code, (v) once Allowed in accordance with Section 2.3(a) of the Plan, the DOJ Forfeiture Judgment Claim and (vi) any Allowed Cure Claim.

"***Aggregate LG Cost Cap***" has the meaning set forth in Section 5.9(a)(i) of the Plan.

"***Aggregate State Expenses Cap***" has the meaning set forth in Section 5.9(~~e~~b) of the Plan.

"***AHC Reimbursement Agreement Assumption 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* [D.I. 553], as amended or supplemented by the Bankruptcy Court pursuant to D.I. 1617 and D.I. 2190.

"***Allowed***" means (i) any Claim held by a Settling Creditor or a Non-Hospital Healthcare Provider Claim (in each case, whose distribution, if any, shall be subject to and determined in accordance with the Plan and any applicable Creditor Trust Documents), (ii) with respect to any Claim held by a Non-Settling Creditor, such Claim that has been allowed in accordance with the Plan or a Final Order (whose distribution, if any, shall be subject to and determined in accordance with the Plan and any applicable Creditor Trust Documents), (iii) with respect to any Adlon General Unsecured Claim or Avrio General Unsecured Claim, such Claim that is Scheduled as not disputed, contingent or unliquidated, and for which no Proof of Claim or Interest, as applicable, has been timely filed, and (iv) with respect to any Claim (other than a Channeled Claim) against a Debtor, such Claim (A) that is allowed pursuant to the Plan or a Final Order, (B) as to which no objection has been timely filed and that is evidenced by a Proof of Claim timely filed by the applicable Bar Date or that is not required to be evidenced by a filed Proof of Claim under the Plan, the Bankruptcy Code or a Final Order or (C) the amount of which has been agreed, compromised, settled or otherwise resolved pursuant to the authority of the Debtors or the Plan Administration Trustee, as applicable. Except as otherwise specified in the Plan or any Final Order, the amount of an Allowed Claim shall not include interest or other charges on such Claim on and after the Petition Date. No Claim of any Person subject to section 502(d) of the Bankruptcy Code shall be deemed Allowed unless and until such Person pays in full the amount for which it is liable to the applicable Debtor or the Plan Administration Trustee as provided in section 502(d). Correlative terms such as "Allow" and "Allowance" have correlative meanings. For the avoidance of doubt, any Channeled Claim that is Allowed under the Plan shall still be subject to, and shall only receive a distribution pursuant to, the applicable Creditor Trust Documents.

"***Asset***" means, with respect to a Person, all of the right, title and interest of such Person in and to property of whatever type or nature, including real, personal, mixed, intellectual, tangible and intangible property, which, for avoidance of doubt, includes insurance policies and any rights, claims or potential claims with respect thereto.

"***Assumed Liabilities***" means the liabilities of the Debtors assumed by NewCo as expressly set forth in the NewCo Transfer Agreement.

"***Assumption Notice***" means a notice of the assumption or assumption and assignment and any proposed Cure Amount provided to counterparties to executory contracts and unexpired leases pursuant to the Solicitation Procedures Order.

"***Avrio General Unsecured Claim***" means any Claim against Purdue Products L.P. (f/k/a Avrio Health L.P.) that is not an Administrative Claim, a Priority Claim, a Secured Claim, a Federal Government Unsecured Claim, a Channeled Claim, a Co-Defendant Claim, an Other Subordinated Claim, an Intercompany Claim or a Shareholder Claim. "***Bankruptcy Code***" means title 11 of the United States Code, as applicable to the Chapter 11 Cases.

"***Bankruptcy Court***" means the United States Bankruptcy Court for the Southern District of New York having jurisdiction over the Chapter 11 Cases and, to the extent any reference made under section 157 of title 28 of the United States Code is withdrawn or the Bankruptcy Court is determined not

to have authority to enter a Final Order on an issue, the United States District Court for the Southern District of New York.

"***Bankruptcy Rules***" means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, as amended from time to time, as applicable to the Chapter 11 Cases, and any local rules of the Bankruptcy Court.

"***Bar Date***" means, as applicable, the General Bar Date or any other date established by the Bankruptcy Court as the deadline by which Proofs of Claim or requests for payment of Administrative Claims must be filed.

"***Bar Date Order***" means, collectively, (i) the *Order Establishing (I) Deadlines for Filing Proofs of Claims and Procedures Relating Thereto, (II) Approving the Proof of Claim Forms, and (III) Approving the Form and Manner of Notice Thereof* [D.I. 800] and (ii) the *Order (I) Extending the General Bar Date for a Limited Period and (II) Approving the Form and Manner of Notice Thereof* [D.I. 1221].

"***Benefit Plan***" means any "employee benefit plan" as defined in section 3(3) of ERISA, compensation, employment, consulting, severance, retention or similar plan, agreement, arrangement, program or policy, or other plan, agreement, arrangement, program or policy providing for compensation, bonuses or other forms of incentive compensation, including the Key Employee Plans, vacation benefits, insurance, medical, dental, vision, prescription or fringe benefits, life insurance, perquisites, disability or sick leave benefits or employee assistance program, in each case, that is sponsored, maintained or administered or entered into by the Debtors for the benefit of their respective employees or non-employee directors.

"***Breaching Shareholder Family Group***" means a Shareholder Family Group that is in Specified Breach (as defined in the Master Shareholder Settlement Agreement).

"***Business Day***" means any day other than a Saturday, a Sunday or any other day which is a federal holiday.

"***Canadian Patient Claim Settlement Stipulation***" means the *Amended and Restated Stipulation and Order Permitting the Filing of a Class Proof of Claim Solely for Administrative Convenience in Order to Effectuate a Potential Settlement in Respect of Certain Canadian Patient Litigation* [D.I. 1515].

"***Canadian Patient Settlement Agreement***" means the "Patient Settlement Agreement" as defined in the Canadian Patient Claim Settlement Stipulation.

"***Canadian Patient Settlement Trust***" means the "Settlement Trust" as defined in the Canadian Patient Claim Settlement Stipulation.

"***Case Stipulation***" means the *Amended and Restated Case Stipulation Among the Debtors, the Official Committee of Unsecured Creditors and Certain Related Parties* [D.I. 518], including any predecessors thereto.

"***Cash***" means all legal tender of the United States of America.

"***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.

"***Channeled Claims***" means, collectively, all Non-Federal Domestic Governmental Channeled Claims, Tribe Channeled Claims, Public School Channeled Claims, Healthcare Provider Channeled Claims, Third-Party Payor Channeled Claims, ER Physician Channeled Claims, and PI Channeled Claims.

"***Channeling Injunction***" means the channeling injunction issued pursuant to Section 10.8 of the Plan.

"***Chapter 11 Cases***" means the cases under chapter 11 of the Bankruptcy Code commenced by the Debtors on or after the Petition Date (and not otherwise dismissed), currently pending in the Bankruptcy Court that are jointly administered in the case styled *In re Purdue Pharma L.P.*, Case No. 19-23649 (SHL).

"***Civil Settlement Agreement***" means that certain civil settlement agreement attached as Exhibit C to the DOJ 9019 Motion, as approved and modified by the DOJ 9019 Order, by and among Purdue Pharma L.P. and the United States, acting through the United States Department of Justice, Civil Division, Commercial Litigation Branch, the United States Attorney's Office for the District of New Jersey, the United States Attorney's Office for the District of Vermont, and on behalf of the Office of Inspector General of the United States Department of Health and Human Services, the Defense Health Agency, acting on behalf of the TRICARE Program, 10 U.S.C. §§ 1071-1110b, and the Office of Personnel Management.

"***Claim***" has the meaning set forth in section 101(5) of the Bankruptcy Code. For the avoidance of doubt, unless otherwise indicated herein, "Claim" shall not be limited to Claims against the Debtors or to Claims for which a Proof of Claim was submitted.

"***Claim-Over***" means a Cause of Action asserted by a Non-Released Party against a Shareholder Released Party or a 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 Releasing Party.

"***Claims Reserves***" means, collectively, (i) PAT Disputed Claims Reserves, and (ii) Creditor Trust Non-Participating Claims Reserves.

"***Class***" means any group of Claims or Interests classified under this Plan pursuant to section 1122(a) of the Bankruptcy Code.

"***Class 4 Non-Participating Claims Reserves***" means the Creditor Trust Non-Participating Claims Reserves established in respect of Non-Participating Non-Federal Domestic Governmental Channeled Claims.

"***Class 4 Released Claims Reserve***" means the Released Claims Reserve established in respect of Non-Participating Non-Federal Domestic Governmental Channeled Claims.

"***Class 4 Non-PRA Non-Participating Claims Reserve***" means the Creditor Trust Non-PRA Non-Participating Claims Reserve held and administered by the Governmental Remediation Trust.

"***Class 4 PRA Non-Participating Claims Reserve***" means the Creditor Trust PRA Non-Participating Claims Reserve held and administered by the Governmental Remediation Trust.

"***Class 5 Non-Participating Claims Reserves***" means the Creditor Trust Non-Participating Claims Reserves established in respect of Non-Participating Tribe Claims.

"***Class 5 Released Claims Reserve***" means the Released Claims Reserve established in respect of Non-Participating Tribe Claims.

"***Class 6 Non-Participating Claims Reserve***" means the Creditor Trust Non-Participating Claims Reserve established in respect of Non-Participating Public School Claims.

"***Class 6 Released Claims Reserve***" means the Released Claims Reserve established in respect of Non-Participating Public School Claims.

"***Class 7 Non-Participating Claims Reserve***" means the Creditor Trust Non-Participating Claims Reserve established in respect of Non-Participating Healthcare Provider Claims.

"***Class 7 Released Claims Reserve***" means the Released Claims Reserve established in respect of Non-Participating Healthcare Provider Claims.

"***Class 8 Non-Participating Claims Reserve***" means the Creditor Trust Non-Participating Claims Reserve established in respect of Non-Participating Third-Party Payor Claims.

"***Class 8 Released Claims Reserve***" means the Released Claims Reserve established in respect of Non-Participating Third-Party Payor Claims.

"***Class 9 Non-Participating Claims Reserve***" means the Creditor Trust Non-Participating Claims Reserve established in respect of Non-Participating ER Physician Claims.

"***Class 9 Released Claims Reserve***" means the Released Claims Reserve established in respect of Non-Participating ER Physician Claims.

"***Class 10(a) Non-Participating Claims Reserve***" means the Creditor Trust Non-Participating Claims Reserve established in respect of Non-Participating NAS PI Claims.

"***Class 10(a) Released Claims Reserve***" means the Released Claims Reserve established in respect of Non-Participating NAS PI Claims.

"***Class 10(b) Non-Participating Claims Reserves***" means the Creditor Trust Non-Participating Claims Reserves established in respect of Non-Participating Non-NAS PI Claims.

"***Class 10(b) Released Claims Reserve***" means the Released Claims Reserve established in respect of Non-Participating Non-NAS PI Claims.

"***Class Action Escrow Accounts***" has the meaning set forth in Section 5.2(e)(i) of the Plan.

"***Co-Defendant***" means any co-defendant in a Pending Opioid Action commenced as of the Effective Date, in each case, other than (x) the Debtors and their current and former officers, directors, authorized agents and employees and (y) the Shareholder Released Parties.

"***Co-Defendant Action***" means any Pending Opioid Action and any previous, pending, or future litigation or dispute that alleges substantially similar facts or causes of action as those alleged in the Pending Opioid Actions and that concerns conduct occurring before the Effective Date.

"***Co-Defendant Claim***" means any Claim, other than a Claim held by an Insurance Company, that (i) either (A) is or could be asserted against any Debtor, including without limitation any Claim that would otherwise be a Cure Claim or (B) seeks to recover from any property of any Debtor or its Estate, including any MDT Insurance Policy, (ii) is for or based upon or arises from contribution, indemnification, reimbursement, setoff or recoupment or any other similar claim or Cause of Action, and (iii) seeks to recover, directly or indirectly, any costs, losses, damages, fees, expenses or any other amounts whatsoever, actually or potentially imposed upon the Holder of such Claim, in each case relating to or arising from any actual or potential litigation or dispute, whether accrued or unaccrued, asserted or unasserted, existing or hereinafter arising, based on or relating to, or in any manner arising from, in whole or in part, Opioid-Related Activities or otherwise relating to opioids (including, without limitation, any such Claims asserted by any manufacturer, distributor, pharmacy, pharmacy-benefit manager, group purchasing organization or physician or other contract counterparty or business partner of any Debtor), in each case that is not a Shareholder Claim or a Claim held by any current or former director, officer, employee or agent of the Debtors. For the avoidance of doubt, a Co-Defendant Claim shall not include any Co-Defendant Surviving Pre-Effective Date Claim. Notwithstanding anything to the contrary outside of this definition in the Plan, any Claim that satisfies the definition of a Co-Defendant Claim shall be a Co-Defendant Claim notwithstanding that such Claim would otherwise satisfy the definition of another type of Claim. For the avoidance of doubt, Co-Defendant Claim includes a Claim that is held by an insurance company in its capacity as subrogee of a Holder of a Co-Defendant Claim.

"***Co-Defendant Defensive Rights***" means any and all direct, or indirect, protections, immunities, objections, assertions, Causes of Action and, in each case, of any kind, character or nature, whether legal, equitable or contractual, contingent or non-contingent, liquidated or unliquidated, disputed or undisputed, including, without limitation, all rights, remedies, defenses, assertions and Claims against liability, rights to setoff, offset, recoupment, counter-claims, cross-claims, rights to allocation or apportionment of fault and judgment reduction, apportionment of damages, any other defenses,

affirmative defenses or judgment reduction mechanisms or rights similar to the foregoing, and any steps necessary to assert the foregoing, in each case, solely to reduce the liability, judgment, obligation or fault of the applicable Holder of a Co-Defendant Claim to any Person that asserts any Cause of Action against such Holder of any Co-Defendant Claim based in whole or in part on Opioid-Related Activities. Co-Defendant Defensive Rights (i) may be used to offset, set-off, recoup, allocate or apportion fault, liability or damages, or seek judgment reduction or otherwise defend against any Cause of Action brought by any Person against the Holder of any Co-Defendant Claim based in whole or in part on Opioid-Related Activities and (ii) shall in no case be used to seek or obtain any affirmative monetary recovery from any Protected Party or any Asset of any Protected Party (including from any Purdue Insurance Policy or any other insurance policy of a Protected Party) on account of any Released Claim or Shareholder Released Claim.

"***Co-Defendant Surviving Pre-Effective Date Claim***" means any Cause of Action held by a Co-Defendant that (i) arose in the ordinary course of business, (ii) is not related to a Co-Defendant Action, and (iii) concerns conduct occurring before the Effective Date.

"***Common Benefit Fund***" ~~means a common benefit fund established by order of, and administered by, the MDL Court.~~

has the meaning set forth in Section 5.9(d) of the Plan.

"***Confirmation Date***" means the date on which the Bankruptcy Court enters the Confirmation Order.

"***Confirmation Hearing***" means the hearing to be held by the Bankruptcy Court regarding confirmation of the Plan, as such hearing may be adjourned or continued from time to time.

"***Confirmation Order***" means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code and approving the Plan Settlement, which shall be in form and substance acceptable to the Debtors, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties.

"***Contract Dispute***" means an unresolved objection regarding assumption or assumption and assignment, Cure Amount, "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) or other issues related to assumption or assumption and assignment of an executory contract or unexpired lease.

"***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 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.

"***Creditor Trust***" means (i) with respect to Non-Federal Domestic Governmental Channeled Claims, the Governmental Remediation Trust, (ii) with respect to Tribe Channeled Claims, the Tribe Trust, (iii) with respect to Healthcare Provider Channeled Claims, the Healthcare Provider Trust, (iv) with respect to ER Physician Channeled Claims, the ERP Trust, (v) with respect to Public School Channeled Claims, the Public School Trust, (vi) with respect to Third-Party Payor Channeled Claims, the TPP Trust, and (vii) with respect to PI Channeled Claims, the PI Trust.

"***Creditor Trust Advance Amount***" means, with respect to each Creditor Trust, a reduction in Distributions equal to amounts advanced to such Creditor Trust prior to the Effective Date pursuant to the Creditor Trust Establishment Order.

"***Creditor Trust Establishment Order***" means the *Order (I) Authorizing the Debtors to Fund Establishment of the Creditor Trusts, the Master Disbursement Trust and Topco, (II) Directing Prime Clerk LLC to Release Certain Protected Information, and (III) Granting Other Related Relief* [D.I. 3773].

"***Creditor Trust Non-Participating Claims Reserves***" means the (i) Creditor Trust Non-PRA Non-Participating Claims Reserves, (ii) Creditor Trust PRA Non-Participating Claims Reserves and (iii) Select Private Creditor Trust Non-Participating Claims Reserves. "***Creditor Trust Non-PRA Non-Participating Claims Reserves***" means segregated accounts established pursuant to Section 7.2 of this Plan for each of Classes 4, 5 and 10(b), in each case held and administered on and after the Effective Date by the applicable Creditor Trust of such Class. Each Creditor Trust Non-PRA Non-Participating Claims Reserve shall be funded with Non-PRA Estate Distributions in accordance with Sections 7.2(c) and (d) of this Plan, as applicable.

"***Creditor Trust PRA Non-Participating Claims Reserves***" means segregated accounts established pursuant to Section 7.2 of this Plan for each of Classes 4, 5 and 10(b), in each case held and administered on and after the Effective Date by the applicable Creditor Trust of such Class. Each Creditor Trust PRA Non-Participating Claims Reserve shall be funded with PRA Estate Distributions in accordance with Sections 7.2(c) and (d) of this Plan, as applicable.

"***Creditor Trust Documents***" means, collectively, the Governmental Remediation Trust Documents, the Tribe Trust Documents, the Public School Trust Documents, the Healthcare Provider Trust Documents, the ERP Trust Documents, the TPP Trust Documents and the PI Trust Documents.

"***Creditor Trust Operating Expenses***" means, with respect to each Creditor Trust, any and all costs, expenses, fees, taxes, disbursements, debts or obligations incurred from the operation and administration of such Creditor Trust, including in connection with the reconciliation and administration of the Channeled Claims channeled to such Creditor Trust, working capital and all compensation, costs and fees of the Creditor Trustees of such Creditor Trust and any professionals retained by such Creditor Trustees.

"***Creditor Trust Operating Reserves***" means the reserves to be established to pay the Creditor Trust Operating Expenses of the respective Creditor Trusts, as and to the extent set forth in the Creditor Trust Documents. The Creditor Trust Operating Reserves shall be (i) funded with Cash and cash equivalents held by the respective Creditor Trusts in accordance with the respective Creditor Trust Documents and (ii) held by the respective Creditor Trusts in a segregated account and administered by the respective Creditor Trustees.

"***Creditor Trust Overseer(s)***" means, with respect to each Creditor Trust, the Person(s) responsible for the administration of such Creditor Trust or advisory or oversight committee member(s), as applicable, for such Creditor Trust, in each case, appointed in accordance with Section 5.8(c) of the Plan and the Creditor Trust Documents for such Creditor Trust.

"***Creditor Trust TDPs***" means, collectively or as applicable, the Governmental Remediation Trust Documents, the Tribe TDP, the Healthcare Provider TDP, the Public School TDP, the ERP TDP, the TPP TDP, and the PI TDP.

"***Creditor Trustee(s)***" means each trustee of a Creditor Trust or, collectively, the trustees of the Creditor Trusts, in each case, appointed in accordance with Section 5.8(c) of the Plan, including the Governmental Remediation Trust Trustees.

"***Creditors' Committee***" means the statutory committee of unsecured creditors appointed by the U.S. Trustee on September 27, 2019 pursuant to section 1102(a)(1) of the Bankruptcy Code.

"***Cure Amount***" means the payment of Cash or the distribution of other property (as the parties may agree or the Bankruptcy Court may order) as necessary to (i) cure a monetary default by the Debtors in accordance with the terms of an executory contract or unexpired lease of the Debtors, and (ii) permit the Debtors to assume such executory contract or unexpired lease under section 365(a) of the Bankruptcy Code.

"***Cure Claim***" means a Claim for a Cure Amount in connection with the assumption or assumption and assignment of an executory contract or unexpired lease under section 365(a) of the Bankruptcy Code.

"***Cutoff Date***" has the meaning set forth in Section 5.13(i)(i) of the Plan.

"***D&O Insurance Policies***" means all directors and officers/executive liability insurance policies (including extension of coverage of any policy beyond the end of the policy period) issued to or providing insurance coverage at any time to any of the Debtors' directors, officers, managers or authorized agents, in their respective capacities as such, for alleged Wrongful Acts (as defined in such policies) or similar triggering acts, and all agreements, documents or instruments relating thereto.

"***Debtor(s)***" has the meaning set forth in the introductory paragraph of the Plan.

"***Debtor Party***" means any Debtor, Estate, transferee of any Cause of Action held at any time by any Debtor or Estate, or any Person prosecuting any such Cause of Action on behalf of any Debtor or Estate.

"***Defense Counsel***" has the meaning set forth in Section 5.13(s)(v) of the Plan.

"***Definitive Documents***" has the meaning set forth in the Master Shareholder Settlement Agreement.

"***Designated Shareholder Released Parties***" has the meaning set forth in the Master Shareholder Settlement Agreement.

"***Direct Claims Shareholder Settlements***" means the Governmental Entity Shareholder Direct Settlement, the Tribal Shareholder Direct Settlement, the Public School District Shareholder Direct Settlement, the Third-Party Payor Shareholder Direct Settlement, the ER Physician Shareholder Direct Settlement, the Hospital Shareholder Direct Settlement, the PI Shareholder Direct Settlements and

any other settlements that contemplate releases similar to the foregoing that are entered into by and among the Shareholder Payment Parties and Holders of Claims, if applicable.

"***Direct Claims Shareholder Settlement Agreements***" means, collectively, the (i) Governmental Entity Shareholder Direct Settlement Agreement, (ii) Tribal Shareholder Direct Settlement Agreement, (iii) ER Physician Shareholder Direct Settlement Agreement, (iv) Hospital Shareholder Direct Settlement Agreement, and (v) Public School District Shareholder Direct Settlement Agreement.

"***Direct Claim Settlement Retained Payment Amounts***" shall mean:

(a) with respect to each Direct Claims Shareholder Settlement other than the Third-Party Payor Shareholder Direct Settlement and the PI Shareholder Direct Settlements and at the relevant time, (i) the maximum amounts payable pursuant to the applicable Direct Claims Shareholder Settlement Agreement *less* (ii) amounts actually paid pursuant to the applicable Direct Claims Shareholder Settlement Agreement, in each case as set forth in the applicable Direct Claims Shareholder Settlement Agreement;

(b) with respect to the Third-Party Payor Shareholder Direct Settlement, the TPP Direct Claim Settlement Retained Payment Amount; and

(c) with respect to the PI Shareholder Direct Settlements, the NAS PI Direct Claim Settlement Retained Payment Amount and Non-NAS PI Direct Claim Settlement Retained Payment Amount.

"***Direct Settlement Eligible NAS PI Claims***" means NAS PI Claims held by Holders that timely filed Proofs of Claim that either (i) satisfy the requirements of the NAS PI TDP, including by such Holders having (a) submitted their NAS PI Trust Claim Form (as defined in the PI and TPP Claims Procedures Order) by the deadline set forth in the PI and TPP Claims Procedures Order, and (b) in the determination of the PI Claims Administrator (as defined in the PI and TPP Claims Procedures Order), provided sufficient information substantiating their asserted NAS PI Claims, or (ii) are Allowed pursuant to a Final Order on or prior to the Effective Date.

"***Direct Settlement Eligible Non-NAS PI Claims***" means Non-NAS PI Claims held by Holders that timely filed Proofs of Claim that either (i) satisfy the requirements of the Non-NAS PI TDP, including by such Holders having (a) submitted their Non-NAS PI Trust Claim Form (as defined in the PI and TPP Claims Procedures Order) by the deadline set forth in the PI and TPP Claims Procedures Order, and (b) in the determination of the PI Claims Administrator (as defined in the PI and TPP Claims Procedures Order), provided sufficient information substantiating their asserted Non-NAS PI Claims, or (ii) are Allowed pursuant to a Final Order on or prior to the Effective Date.

"***Direct Settlement Eligible TPP Claims***" means Third-Party Payor Claims held by Holders that timely filed or were included in timely filed Proofs of Claim, and any amendments thereto. "***Disallowed***" means (i) with respect to a Channeled Claim, or any portion thereof, such Channeled Claim that has been disallowed by a Final Order or pursuant to a settlement, and (ii) with respect to any Claim against a Debtor (other than a Channeled Claim), such Claim, or any portion thereof, that (A) has been disallowed under this Plan, by a Final Order or pursuant to a settlement, (B) is Scheduled at zero dollars ($0) or as contingent, disputed or unliquidated and as to which a Bar Date has been established but no Proof of Claim has been timely filed or deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order of the Bankruptcy Court, including the Bar Date Order, or otherwise deemed timely filed under applicable law, or (C) is not Scheduled and as to which a Bar Date has been established but no Proof of Claim has been timely filed or deemed timely filed with the

Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order of the Bankruptcy Court or otherwise deemed timely filed under applicable law. Correlative terms such as "Disallow", and "Disallowance" have correlative meanings.

"***Disallowed Claim Distribution***" shall have the meaning set forth in Section 7.8 of this Plan.

"***Disbursing Agent***" means any Person in its capacity as disbursing agent under Article VI of the Plan, including the Plan Administration Trustee acting in such a capacity to make Distributions in respect of Allowed Claims, other than Channeled Claims, pursuant to the Plan.

"***Disclosure Program Budget***" has the meaning set forth in Section 5.13(e) of the Plan.

"***Disclosure Statement***" means the disclosure statement for this Plan, as may be amended or supplemented from time to time, prepared and distributed in accordance with sections 1125, 1126(b) and 1145 of the Bankruptcy Code, Bankruptcy Rules 3016 and 3018 and other applicable law, and all exhibits, appendices, schedules, supplements, modifications, amendments, annexes and attachments to such disclosure statement.

"***Disposition Event***" has the meaning set forth in Section 5.4(d)(ii) of the Plan.

"***Disputed***" means, with respect to a Claim against a Debtor, a Claim that is not yet Allowed or Disallowed, regardless of whether such Claim is the subject of an objection.

"***Disputed Cure Claim***" means the amount that a counterparty to a Contract Dispute alleges must be paid in order for an executory contract or unexpired lease to be assumed or assumed and assigned as provided under the Plan.

"***Disputed Cure Claims Reserve***" means a reserve established to pay the aggregate amount of Disputed Cure Claims or such lower amount as ordered by the Bankruptcy Court or agreed to by the parties to the applicable executory contract or unexpired lease. The Disputed Cure Claims Reserve shall be (i) funded on the Effective Date with Effective Date Cash in an amount determined by the Debtors, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties and (ii) held by the Plan Administration Trust in a segregated account and administered by the Plan Administration Trustee on and after the Effective Date in a manner consistent with the Master Shareholder Settlement Agreement.

"***Distribution***" means any initial or periodic payment or transfer of consideration in respect of Allowed Claims or Channeled Claims made under this Plan (including any amounts funded under any Direct Shareholder Settlement Agreement); *provided* that all Distributions to Holders in respect of Channeled Claims shall be exclusively from the applicable Creditor Trust or Sub-Qualified Settlement Fund in accordance with the applicable Creditor Trust Documents.

"***Distribution Record Date***" means the record date for purposes of making Distributions under the Plan on account of Allowed Claims, which date shall be the Effective Date.

"***DOB***" means the volunteer disclosure oversight board created in accordance with Section 5.13(c) of the Plan.

"***DOJ***" means the United States Department of Justice.

"***DOJ 9019 Motion***" means the *Motion of Debtors Pursuant to 11 U.S.C. § 105 and Fed. R. Bankr. P. 9019 Authorizing and Approving Settlements Between the Debtor and the United States* [D.I. 1828].

"***DOJ 9019 Order***" means the *Order Pursuant to 11 U.S.C. § 105 and Fed. R. Bankr. P. 9019 Authorizing and Approving Settlements Between the Debtors and the United States* [D.I. 2004].

"***DOJ Civil Claim***" means the "Civil Claim" as defined in the DOJ 9019 Order in the amount of $2.8 billion.

"***DOJ Conviction Judgment Date***" means the date on which the United States District Court for the District of New Jersey enters a judgment of conviction pursuant to the Plea Agreement and the DOJ 9019 Order.

"***DOJ Criminal Fine Claim***" means the "Criminal Fine Claim" as defined in the DOJ 9019 Order in the amount of $3.544 billion.

"***DOJ Forfeiture Judgment Claim***" means the "Forfeiture Judgment" as defined in the DOJ 9019 Order in the amount of $2 billion.

"***DOJ Forfeiture Judgment Credit***" means the amount of value distributed or otherwise conferred by the Debtors in respect of Non-Federal Domestic Governmental Claims and Tribe Claims, which shall be credited against the DOJ Forfeiture Judgment Claim pursuant to the Plan and the Plea Agreement, it being understood and agreed that (i) the amount so credited shall not exceed $1.775 billion, and (ii) the Confirmation Order shall include a finding that the amount of value distributed or otherwise conferred by the Debtors in respect of Non-Federal Domestic Governmental Claims and Tribe Claims exceeds $1.775 billion.

"***DOJ Forfeiture Payment***" means a payment of $225 million in Cash by PPLP to the United States Marshals in accordance with the Plan, the Plea Agreement and the DOJ 9019 Order.

"***DOJ Repository Obligation***" has the meaning set forth in Section 5.13(b) of the Plan.

"***DOJ Resolution***" means the Plea Agreement and the Civil Settlement Agreement, including the settlements contemplated therein and the other terms and conditions thereof.

"***DOJ Unsecured Claims***" means the DOJ Civil Claim and the DOJ Criminal Fine Claim.

"***Domestic Governmental Entity***" means the United States or any State, county, municipality, Tribe, or other Governmental Unit within the United States, or an officer of any of the foregoing in his or her official capacity. For the avoidance of doubt, Domestic Governmental Entity shall include the organizations listed on Exhibit ~~[~~B~~]~~ of the Plan but shall not include (a) any Non-Federal Acute Care Hospitals, (b) any elementary, middle, or secondary public school district in the United States, (c) California health districts acting as Third-Party Payors that filed Third-Party Payor Proofs of Claim in such capacity by the Bar Date established by the Bar Date Order, or (d) any hospitals listed on Exhibit ~~[~~A~~]~~ of the Plan.

"***Effective Date***" means the date selected by the Debtors for the consummation of the Plan, or as soon thereafter as reasonably practicable.

"***Effective Date Cash***" means, collectively all Cash and cash equivalents of the Debtors (including all amounts paid on the Effective Date directly to, or pursuant to direction from, the MDT

under the Shareholder Settlement Agreements) on the Effective Date prior to the making of any payments by the Debtors or the MDT, as applicable, in accordance with the Restructuring Transactions, excluding any Cash and cash equivalents (i) in the form of security deposits, (ii) that collateralize any obligations of the Debtors or (iii) that are otherwise subject to any legal, contractual or other restriction on the ability to freely transfer such Cash or cash equivalents.

"***EMTALA***" means the Emergency Medical Treatment & Labor Act, 42 U.S.C. § 1395dd.

"***Entity***" has the meaning set forth in section 101(15) of the Bankruptcy Code.

"***ER Physician***" means an emergency room physician, in its capacity as such.

"***ER Physician Channeled Claim***" means (i) any ER Physician Claim or (ii) any Claim held by an ER Physician that is released pursuant to the ER Physician Shareholder Direct Settlement Agreement. ER Physician Channeled Claims shall be channeled to the ERP Trust in accordance with the Plan and Master TDP.

"***ER Physician Claims***" means any Claim against any Debtor that is held by an ER Physician, provided that such Claim arose when such ER Physician's billing and revenue collection were entirely separate from the billing and revenue collection practices of the medical facility at which such ER Physician practiced, and such ER Physician was not employed by such medical facility.

"***ER Physician Shareholder Direct Settlement***" means the settlement set forth in the ER Physician Shareholder Direct Settlement Agreement.

"***ER Physician Shareholder Direct Settlement Agreement***" means the settlement agreement which shall be filed by the Debtors with the Plan Supplement.

"***ERISA***" means the Employee Retirement Income Security Act of 1974, as amended. 29 U.S.C. §§ 1301-1461.

"***ERP TDP***" means the trust distribution procedures to be implemented by the ERP Trust setting forth the procedures for Distributions from the ERP Trust, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors and the ERP Trustee, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

"***ERP Trust***" means the trust to be established in accordance with Section 5.8 of the Plan to (i) assume all liability for the ER Physician Channeled Claims, (ii) collect the Initial ERP Trust Distribution and additional payments due under the MDT ERP Claim in accordance with the Private Entity Settlements and the ERP Trust Documents, (iii) administer ER Physician Channeled Claims, (iv) hold and administer the Class 9 Non-Participating Claims Reserve on and after the Effective Date, (v) hold the Class 9 Released Claims Reserve on and after the Effective Date and (vi) make Distributions in accordance with the ERP TDP.

"***ERP Trust Agreement***" means the trust agreement establishing and delineating the terms and conditions for the creation and operation of the ERP Trust, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors and the ERP Trustee, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

"***ERP Trust Documents***" means the ERP Trust Agreement and the ERP TDP.

"***ERP Trustee***" means Dr. Michael Masiowski, or such successor(s) as may be appointed pursuant to the terms of the ERP Trust Documents.

"***Estate(s)***" means, individually or collectively, the estate or estates of the Debtors created under section 541 of the Bankruptcy Code.

"***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***" means, with respect to the Distributions to each Class, all Distributions other than such Class's Shareholder Direct Settlement Portion. For the avoidance of doubt, any amounts received by the Governmental Remediation Trust or the Tribe Trust from the IAC Sale Bonus Payment shall constitute Estate Distributions.

"***Estate Releases***" means the releases provided for in Section 10.6 of the Plan.

"***Estate Surviving Pre-Effective Date Claim***" means any Estate Cause of Action against a Co-Defendant that (i) arose in the ordinary course of business, (ii) is not related to a Co-Defendant Action, and (iii) concerns conduct occurring before the Effective Date.

"***Excluded Assets***" means (i) all Effective Date Cash other than the Initial NewCo Cash and (ii) any other Assets of the Debtors excluded from the transfer to NewCo pursuant to the NewCo Transfer Agreement, including without limitation all MDT Transferred Assets and all PAT Assets.

"***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 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 by any federal, state or local authority with respect to taxes (other than tax laws targeting Covered Conduct) imposed on such non-Debtor Person; (iii) any Estate Cause of Action or any Cause of Action held by a Releasing Party against an Excluded Party; (iv) any Cause of Action against any Person to the extent based on the actual conduct of such Person after the Effective Date; (v) any Cause of Action against persons or entities who are not Released Parties or Shareholder Released Parties; or (vi) any claim arising under the Plan for enforcement of the Plan.

"***Excluded Insurance Policies***" means (i) the Isosceles Insurance Ltd. policy number PPLP-01/2019, (ii) the Purdue Insurance Policies agreed by the Debtors, the Creditors' Committee and the Governmental Consent Parties, which shall be identified in the MDT Agreement, and (iii) any rights or obligations under any Purdue Insurance Policy to the extent, but only to the extent, that such rights or obligations pertain solely to coverage for workers' compensation liability. For the avoidance of doubt, clause (i) of this definition does not negate or limit the scope of the definition of MDT Insurance Collateral. For the avoidance of further doubt, if a Purdue Insurance Policy both (x) does or may afford the Debtors rights, benefits, indemnity, insurance coverage or defense costs with respect to any Cause of Action against the Debtors arising out of, on account of, or in connection with Opioid-Related Activities or for which the Debtors have insurance rights arising out of or in connection with Opioid-Related Activities and (y) is subject to clause (ii) or (iii) of this definition, such Purdue Insurance Policy is only an Excluded Insurance Policy to the extent it is subject to clause (ii) or (iii) of this definition, and all provisions herein concerning the MDT Insurance Policies apply to that Purdue Insurance Policy.

"***Excluded Party***" means (i) each Person identified on the Schedule of Excluded Parties and (ii) each Co-Defendant; *provided* that no Settling Co-Defendant and none of their respective Related Parties (except to the extent any such Related Party is identified by name on the Schedule of Excluded Parties filed on August 23, 2021) shall be an Excluded Party.

"***Excluded Privileged Materials***" means the Privileged documents, books and records prepared in connection with or related to any Purdue Legal Matter.

"***Exculpated Parties***" means, collectively, (i) the Debtors, (ii) the Creditors' Committee and its members, solely in their capacities as such, (iii) the Plan Administration Trustee, (iv) the MDT Trustees and the MDT Advisory Council Representatives, (v) the Creditor Trustees, (vi) the Supporting Claimants, each solely in their capacities as such, (vii) the DOB members, and (viii) with respect to each of the Persons in the foregoing clauses (i) through (vii), each of their Related Parties; *provided*, *however*, that no Excluded Party or Shareholder Released Party (other than current and former directors, officers and employees of the Debtors that are not Excluded Parties or Sackler Family Members) shall be an Exculpated Party in any capacity or respect.

"***FDA***" means the United States Food and Drug Administration.

"***Federal Government Unsecured Claims***" means the DOJ Unsecured Claims and the Other Federal Agency Claims.

"***Final Order***" means an order or judgment of the Bankruptcy Court, as entered on the docket in any Chapter 11 Case, or of any other court of competent jurisdiction (i) that has not been reversed, stayed, modified or amended, and (ii) (A) as to which the time to appeal, seek certiorari or move for a new trial, re-argument or rehearing has expired according to applicable law and no appeal or petition for certiorari or other proceedings for a new trial, re-argument or rehearing has been timely taken

or (B) as to which any appeal that has been taken or any petition for certiorari that has been or may be timely filed has been withdrawn or resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought or the new trial, re-argument or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice.

"***First Reversion Date***" shall have the meaning ascribed to such term in the Master Shareholder Settlement Agreement.

"***Foundation***" means a newly formed New York corporation to be created in accordance with Section 5.5 of the Plan to receive and hold the NewCo Interest and collect the Foundation Distributable Cash in accordance with the Plan and the Foundation Bylaws and that is intended to be an exempt organization under IRC section 501(c)(4) for U.S. federal income tax purposes.

"***Foundation Distributable Cash***" means an amount of NewCo Distributable Cash to be distributed from NewCo directly to the Foundation in respect of the NewCo Interest in any year equal to the lesser of (x) 5% of NewCo Distributable Cash and (y) $5 million.

"***Foundation Bylaws***" means the agreement establishing and delineating the terms and conditions for the creation and operation of the Foundation, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the DOJ and the Governmental Consent Parties and reasonably acceptable to the Debtors, and which shall be filed by the Debtors with the Plan Supplement.

"***Foundation Trustees***" means the trustees of the Foundation appointed in accordance with Section 5.5(b) of the Plan."***General Bar Date***" means July 30, 2020.

"***Governmental Consent Parties***" means (i) the States AG Negotiating Group, (ii) the Ad Hoc Committee, and (iii) the MSGE Group.

"***Governmental Entity Shareholder Direct Settlement***" means the settlement set forth in the Governmental Entity Shareholder Direct Settlement Agreement.

"***Governmental Entity Shareholder Direct Settlement Agreement***" means the settlement agreement substantially in the form attached as Exhibit A to the *Notice of Filing of Governmental Entity Shareholder Direct Settlement Agreement* [D.I. 7592].

"***Governmental NewCo Distributable Cash***" means all NewCo Distributable Cash other than Foundation Distributable Cash.

"***Governmental Remediation Trust***" means the Delaware trust to be established in accordance with Section 5.8 of the Plan and the Governmental Remediation Trust Documents and administered by the Governmental Remediation Trust Administrator, which shall receive and distribute all distributions on account of the Allowed Non-Federal Domestic Governmental Channeled Claims pursuant to the Governmental Remediation Trust Documents.

"***Governmental Remediation Trust Administrator***" means the Person appointed pursuant to the Governmental Entity Shareholder Direct Settlement Agreement to serve as the "Directing Administrator."

"***Governmental Remediation Trust Agreement***" means the trust agreement establishing and delineating the terms and conditions for the creation and operation of the Governmental Remediation Trust, the terms of which shall be consistent with the Plan and acceptable to the Governmental Consent

Parties, in consultation with the Debtors and the Creditors' Committee, and which shall be filed by the Debtors with the Plan Supplement. "***Governmental Remediation Trust Delaware Trustee***" means the Person appointed pursuant to the Governmental Remediation Trust Agreement to serve as the "Delaware Trustee."

"***Governmental Remediation Trust Directed Trustee***" means the Person appointed pursuant to the Governmental Entity Shareholder Direct Settlement Agreement to serve as the "Directed Trustee."

"***Governmental Remediation Trust Documents***" means the Governmental Entity Shareholder Direct Settlement Agreement and the Governmental Remediation Trust Agreement.

"***Governmental Remediation Trust Trustees***" means the Governmental Remediation Trust Administrator, the Governmental Remediation Trust Delaware Trustee, and the Governmental Remediation Trust Directed Trustee.

"***Governmental Unit***" has the meaning set forth in section 101(27) of the Bankruptcy Code.

~~"***Healthcare Provider Attorney Fee Fund***" means the fund to be established as set forth in Section 5.9(e) of the Plan.~~

"***Healthcare Provider Channeled Claim***" means (i) any Healthcare Provider Claim or (ii) any Claim held by a Hospital that is released pursuant to the Hospital Shareholder Direct Settlement Agreement. Healthcare Provider Channeled Claims shall be channeled to the Healthcare Provider Trust in accordance with the Plan and Master TDP.

"***Healthcare Provider Claim***" means any Claim against any Debtor that is held by (a) a Hospital or (b) a non-Hospital provider of healthcare treatment services or any social services, in its capacity as such, in each case, other than as set forth below. For the avoidance of doubt, (i) Proofs of Claim filed by ER Physicians or Domestic Governmental Entities shall not be Healthcare Provider Claims, and (ii) Healthcare Provider Claims shall include the Proofs of Claim listed on Exhibits A and C of the Plan, but not, for the avoidance of doubt, the Proofs of Claim listed on Exhibit B of the Plan.[2]

"***Healthcare Provider TDP***" means the trust distribution procedures to be implemented by the Healthcare Provider Trust setting forth the procedures for Distributions from the Healthcare Provider Trust, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors and the Ad Hoc Group of Hospitals, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

"***Healthcare Provider Trust***" means a trust to be established in accordance with Section 5.8 of the Plan to (i) assume all liability for the Healthcare Provider Channeled Claims, (ii) hold the MDT Healthcare Provider Claim and collect the Initial Healthcare Provider Trust Distribution and additional payments due under the MDT Healthcare Provider Claim in accordance with the Private Entity Settlements and the Healthcare Provider Trust Documents, (iii) administer Healthcare Provider

[2] For the avoidance of doubt, only Hospitals shall be eligible to receive distributions from the Hospital Shareholder Direct Settlement, and the Hospital Shareholder Direct Settlement will include trust distribution procedures that will govern the distribution to Hospitals of proceeds from the Hospital Shareholder Direct Settlement. All members of Class 7 shall be eligible to receive Estate Distributions (Class 7's share of the Estate Settlement and any other Estate proceeds distributed to Class 7) allocable to Class 7, and the Hospital Trust TDP shall govern distribution of such Estate Distributions.

Channeled Claims, (iv) hold and administer the Class 7 Non-Participating Claims Reserve on and after the Effective Date, (v) hold the Class 7 Released Claims Reserve on and after the Effective Date and (vi) make Distributions in accordance with the Healthcare Provider TDP.

"***Healthcare Provider Trust Agreement***" means the trust agreement establishing and delineating the terms and conditions for the creation and operation of the Healthcare Provider Trust, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors and the Ad Hoc Group of Hospitals, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

"***Healthcare Provider Trust Documents***" means the Healthcare Provider Trust Agreement and the Healthcare Provider TDP.

"***Hospital Shareholder Direct Settlement***" means the settlement set forth in the Hospital Shareholder Direct Settlement Agreement.

"***Hospital Shareholder Direct Settlement Agreement***" means the settlement agreement which shall be filed by the Debtors with the Plan Supplement.

"***Holder***" means a Person holding a Claim, a Channeled Claim, a Cause of Action or an Interest, as applicable. For the avoidance of doubt, "Holder" shall not be limited to Persons Holding Claims against the Debtors or Persons that submitted timely Proofs of Claim.

"***Hospital***" means any acute care hospital subject to EMTALA which hospital is not a Domestic Governmental Entity or a Physician. For the avoidance of doubt, none of the organizations listed on Exhibit B of the Plan shall be Hospitals.

"***Hospital Attorney Fee Fund***" means the fund to be established as set forth in Section 5.9(e) of the Plan.

"***Hospital Districts***" shall correspond to Special Districts categorized by the U.S. Census Bureau under the function name "Hospital."

"***Host Institutions***" has the meaning set forth in Section 5.13(b) of the Plan.

"***IAC Sale Bonus Payment***" has the set forth in the Master Shareholder Settlement Agreement.

"***Impaired***" means, with respect to any Claim, Interest or Class of Claims or Interests, "impaired" within the meaning of such term in section 1124 of the Bankruptcy Code.

"***Initial ERP Trust Distribution***" means the payment of $5,811,015 of Effective Date Cash to the ERP Trust, *less* (i) the SOR Holdback in the amount of $141,015 and (ii) any applicable Direct Claim Settlement Retained Payment Amount.

"***Initial Federal Government Distribution***" means the payment of $25 million of Effective Date Cash to the United States on the Effective Date on account of the Federal Government Unsecured Claims.

"***Initial Healthcare Provider Trust Distribution***" means the payment of $263,498,910 of Effective Date Cash to the Healthcare Provider Trust, *less* (i) the SOR Holdback in the amount of

$2,688,910, (ii) any applicable Direct Claim Settlement Retained Payment Amount, and (iii) any applicable Creditor Trust Advance Amount.

"***Initial Governmental Remediation Trust Distribution***" means the payment to the Governmental Remediation Trust on the Effective Date of (i) 96.7% of the Maximum Governmental Direct Settlement Amount, as may be adjusted in accordance with the Governmental Entity Shareholder Direct Settlement Agreement, payable on the Effective Date, and (ii) 96.7% of all Effective Date Cash remaining after the satisfaction of all amounts described in Section 5.14(a) of the Plan.

"***Initial LG Costs Funding Date***" has the meaning set forth in Section 5.9(a)(i) of the Plan.

"***Initial NAS PI Distribution***" means the payment of Effective Date Cash to the PI Trust on the Effective Date equal to the sum of (a) $48,213,070[3] and (b) $65,848,195, *less* (i) the SOR Holdback in the amount of $1,809,265 (ii) any NAS PI Direct Claim Settlement Retained Payment Amount, (iii) any amounts advanced to the NAS Monitoring Trust (as defined in the Creditor Trust Establishment Order) pursuant to the Creditor Trust Establishment Order, and (iv) 13.98% of (A) any amounts paid by the Debtors to the PI Claims Administrator (as defined in the PI and TPP Claims Procedures Order) as of the Effective Date, and (B) any applicable Creditor Trust Advance Amount with respect to the PI Trust.

"***Initial Non-NAS PI Distribution***" means the payment of Effective Date Cash to the PI Trust on the Effective Date in the amount of $701,756,930 *less* (i) the SOR Holdback in the amount of $9,328,930, (ii) any Non-NAS PI Direct Claim Settlement Retained Payment Amount, and (iii) 86.02% of (A) any amounts paid by the Debtors to the PI Claims Administrator (as defined in the PI and TPP Claims Procedures Order) as of the Effective Date, and (B) any applicable Creditor Trust Advance Amount with respect to the PI Trust.

"***Initial NewCo Cash***" means $135 million of Effective Date Cash to be transferred to NewCo on the Effective Date.

"***Initial PI Trust Distribution***" means the Initial NAS PI Distribution and the Initial Non-NAS PI Distribution.

"***Initial PI Trust Distribution Amount***" means $749,970,000.

"***Initial Private Creditor Trust Distributions***" means, collectively, the Initial Healthcare Provider Trust Distribution, the Initial TPP Trust Distribution, the Initial ERP Trust Distribution and the Initial PI Trust Distribution.

"***Initial Public Creditor Trust Distributions***" means, collectively, the Initial Governmental Remediation Trust Distribution and the Initial Tribe Trust Distribution.

"***Initial Public Schools Distribution***" means a payment of Effective Date Cash to benefit the Public School Trust (a) in the amount of $25,560,000 million, *less* (i) the applicable Direct Claim Settlement Retained Payment Amount, and (ii) the SOR Holdback in the amount of $60,000 which amount will be used (i) to fund educational supports to abate the effects of the opioid crisis and (ii) for

[3] $48,213,070 is the sum of (i) 6.43% of $700,000,000 of the Initial PI Trust Distribution Amount, up to an aggregate $45 million in accordance with the definition of "NAS PI Portion" in the Twelfth Amended Plan, and (ii) 6.43% of the $49,970,000 remaining Initial PI Trust Distribution Amount

the required payments to the Common Benefit Fund and in respect of attorneys' fees and expenses of the Public School District Claimants in accordance with Section 5.9(d) and (i) of the Plan, and (b) for reimbursement of costs and expenses incurred in connection with the Public Schools' Opt-Out Class Action Settlement notices in an additional amount not to exceed $75,000.

"***Initial TPP Trust Distribution***" means the payment of $394,911,880 of Effective Date Cash to the TPP Trust on the Effective Date *less* (i) any amounts paid by the Debtors to the TPP Claims Administrator (as defined in the PI and TPP Claims Procedures Order) as of the Effective Date, (ii) the SOR Holdback in the amount of $5,971,880, (iii) the TPP Direct Claim Settlement Retained Payment Amount, if any, and (iv) any applicable Creditor Trust Advance Amount.

"***Initial Tribe Trust Distribution***" means the payment on the Effective Date of (i) 3.3% of the Maximum Governmental Direct Settlement Amount payable on the Effective Date, and (ii) 3.3% of all Effective Date Cash remaining after the satisfaction of all amounts described in Section 5.14(a) of the Plan.

"***Insurance Companies***" means, collectively, all Persons that issued any Purdue Insurance Policy, any third-party administrator, claims handling agent or any parent, Subsidiary, affiliate, successor, predecessor or assign of any of the foregoing, solely in such Insurance Company's capacity with respect to a Purdue Insurance Policy.

"***Intercompany Claim***" means any Claim against any Debtor that is held by another Debtor or an affiliate of a Debtor.

"***Intercompany Interest***" means any Interest in any Debtor that is held by another Debtor.

"***Interest***" means any equity security (as defined in section 101(16) of the Bankruptcy Code) in a Person, including any shares, common stock or units, preferred stock or units, or other instrument evidencing any fixed or contingent equity or ownership interest in a Person, including any option, warrant or other right, contractual or otherwise, to acquire any such interest in such Person, whether or not transferable and whether fully vested or vesting in the future.

"***Interim Compensation Order***" means the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Retained Professionals* [D.I. 529].

"***IRC***" means the Internal Revenue Code of 1986, as amended (including any successor statute).

"***IRS***" means the Internal Revenue Service.

"***Key Employee Plans***" means, collectively, the Key Employee Retention Plans and Key Employee Incentive Plans approved by the Bankruptcy Court pursuant to the *Order Authorizing the Debtors to Implement a Key Employee Retention Plan* [D.I. 1762], the *Order Authorizing the Debtors to Implement a Key Employee Incentive Plan* [D.I. 1861], the *Supplemental Order Authorizing the Debtors to Implement a Key Employee Incentive Plan* [D.I. 2002], the *Order Authorizing the Debtors to Implement 2021 Key Employee Retention Plan* [D.I. 3571], the *Order Authorizing the Debtors to Implement 2021 Key Employee Incentive Plan* [D.I. 3770], the *Order Authorizing the Debtors to Implement 2022 Key Employee Retention Plan and 2022 Key Employee Incentive Plan* [D.I. 4862], the *Supplemental Order Authorizing the Debtors to Implement 2022 Key Employee Incentive Plan* [D.I. 4924], the *Order Authorizing the Debtors to Implement 2023 Key Employee Incentive Plan and 2023 Key Employee Retention Plan* [D.I. 5646], the *Order Authorizing the Debtors to Implement 2024 Key*

Employee Incentive Plan and 2024 Key Employee Retention Plan [D.I. 6322], and any similar compensation programs approved by other order of the Bankruptcy Court, in each case, as may be supplemented from time to time by further order of the Bankruptcy Court.

"***Kroll***" means Kroll Restructuring Administration LLC

"***Lien***" has the meaning set forth in section 101(37) of the Bankruptcy Code.

"***Liquidating Debtors***" means, collectively, all Debtors that are not Transferred Debtors, on and after the Effective Date.

"***Local Government ~~Costs and Expenses~~Fee Fund***" means the fund to be established as set forth in Section 5.9(a) of the Plan.

"***LRP Agreement***" means the agreement establishing lien resolution procedures with respect to certain claims held by LRP Participating TPPs against Holders of PI Claims and Distributions payable to Holders of PI Claims, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors, the Ad Hoc Group of Individual Victims and the Third-Party Payor Group, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement (it being understood and agreed that the form of LRP Agreement filed on May 26, 2021 is acceptable to such parties).

"***LRP Participating TPP***" means any Holder of a Third-Party Payor Claim that becomes a party to the LRP Agreement in accordance with the terms thereof.

"***Master Disbursement Trust***" means the trust established in accordance with Section 5.6 of the Plan to, among other things, (i) hold and administer the MDT Transferred Assets and the Special Operating Reserve, (ii) serve as administrative agent with respect to Released Claims Reserves, (iii) make payments in satisfaction of the MDT Claims in accordance with the Plan, the Private Entity Settlements and, with respect to the MDT Public School Districts Claim, the Public Entity Settlements and (iv) make Public Creditor Trust Distributions in respect of the MDT Interests from MDT Distributable Value in accordance with the Plan and the Public Entity Settlements.

"***Master Shareholder Settlement Agreement***" means the settlement agreement substantially in the form attached as Exhibit A to the *Notice of Filing of Plan Supplement Pursuant to the Thirteenth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and its Affiliated Debtors* [D.I. 7591], including all exhibits, schedules, annexes and supplements and appendices thereto.

"***Master TDP***" means the master trust distribution procedures to be implemented by the Master Disbursement Trust setting forth the procedures for the administration of Channeled Claims by the Master Disbursement Trust, which shall be filed by the Debtors with the Plan Supplement, and the terms of which shall be consistent with Articles I through XII of the Plan and otherwise reasonably acceptable to (i) the Debtors, (ii) the Creditors' Committee, (iii) the Governmental Consent Parties and (iv) solely with respect to any provisions regarding the channeling of Channeled Claims to (A) the Tribe Trust, the Native American Tribe Group, (B) the Healthcare Provider Trust, the Ad Hoc Group of Hospitals, (C), the ERP Trust, the ERP Trustee, (D) TPP Trust, the Third-Party Payor Group, (E) the Public School Trust, the Public School District Claimants, and (F) the PI Trust, the Ad Hoc Group of Individual Victims and the NAS Committee.

"***Material Litigation***" shall have the meaning ascribed to such term in the Master Shareholder Settlement Agreement.

"***Maximum Governmental Direct Settlement Amount***" means, for any given SSA Payment Date, the sum of the amounts of such SSA Payment Date in clause (a) and (b) of the definition of Shareholder Direct Settlement Portion, subject to any Shareholder Prepayments, but not subject to any Direct Claim Settlement Retained Payment Amounts.

"***Maximum NAS PI Shareholder Direct Settlement Amount***" has the meaning set forth in the definition "Shareholder Direct Settlement Portion" and shall be payable by the Shareholder Payment Parties in full (without retaining any NAS PI Direct Claim Settlement Retained Payment Amount) in the event that all Holders of Direct Settlement Eligible NAS PI Claims are Settling Creditors.

"***Maximum Non-NAS PI Shareholder Direct Settlement Amount***" has the meaning set forth in the definition "Shareholder Direct Settlement Portion" and shall be payable by the Shareholder Payment Parties in full (without retaining any Non-NAS PI Direct Claim Settlement Retained Payment Amount) in the event that all Holders of Direct Settlement Eligible Non-NAS PI Claims are Settling Creditors.

"***Maximum TPP Shareholder Direct Settlement Amount***" has the meaning set forth in the definition "Shareholder Direct Settlement Portion" and shall be payable by the Shareholder Payment Parties in full (without retaining any TPP Direct Claim Settlement Retained Payment Amount) in the event that all Holders of Direct Settlement Eligible TPP Claims are Settling Creditors.

"***MDL Court***" means the United States District Court for the Northern District of Ohio, Eastern Division, presiding over the MDL Proceeding.

"***MDL Plaintiffs' Executive Committee***" means the sixteen-member committee appointed by the MDL Court in the MDL Proceeding.

"***MDL Proceeding***" means *In re National Prescription Opiate Litigation*, Case No. 17-md-02804, MDL No. 2804.

"***MDT Advisory Council***" means the advisory council established in accordance with Section 5.6(e) of the Plan and the MDT Agreement, to which the Master Disbursement Trust shall regularly report with respect to the operations and activities of the Master Disbursement Trust and the handling of all payments and Distributions made from the Master Disbursement Trust, all as provided for in greater detail in the MDT Agreement.

"***MDT Advisory Council Representative***" has the meaning set forth in Section 5.6(e) of the Plan.

"***MDT Agreement***" means the trust agreement establishing and delineating the terms and conditions for the creation and operation of the Master Disbursement Trust, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise reasonably acceptable to the Debtors, the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

"***MDT Beneficiaries***" means, subject to Section 5.6(f)(iv), each of (i) the Public Creditor Trusts, (ii) the Healthcare Provider Trust, (iii) the ERP Trust, (iv) the Public School Trust, (v) the PI Trust, (vi) the TPP Trust, and (vii) the United States.

"***MDT Causes of Action***" means any and all Retained Causes of Action (i) against Excluded Parties (other than Co-Defendants) or relating to and necessary to enforce Retained Causes of Action against Excluded Parties (other than Co-Defendants), (ii) relating to and necessary to enforce the

MDT Insurance Rights, (iii) relating to and necessary to enforce the MDT Shareholder Rights, including without limitation, but subject to the terms of, the Master Shareholder Settlement Agreement or (iv) against any other Person that is not a Co-Defendant or an ongoing commercial counterparty of NewCo or any of its Subsidiaries, to the extent such Retained Causes of Action are not otherwise transferred to the Plan Administration Trust or the Creditor Trusts. For the avoidance of doubt, "MDT Causes of Action" shall include all entitlements, proceeds, payments and benefits of the Debtors to any of the foregoing.

"***MDT Claims***" means, collectively, the MDT Private Claims, the MDT Public School Districts Claim and the MDT Federal Government Claim.

"***MDT Distributable Value***" means all Cash and cash equivalents held by the Master Disbursement Trust, as of the relevant date of determination, after application of Cash to satisfy the amounts contemplated by Section 5.2(g)(i), (ii), (iii), and (iv) of the Plan in the MDT Priority Waterfall.

"***MDT Distribution Date***" means (i) each Scheduled MDT Distribution Date, (ii) a date determined by the MDT Trustees that is promptly after the receipt by the Master Disbursement Trust of (x) any Shareholder Prepayment, (y) any reversion amounts pursuant to Section 5.7 of the Plan, and (z) any IAC Sale Bonus Payments under Section 2.06 of the Master Shareholder Settlement Agreement, which such date shall be no later than thirty (30) days after the receipt by the Master Disbursement Trust of the applicable funds, and (iii) each other date on which the MDT Trustees seek to make a distribution to the Public School Trust or Public Creditor Trust Distribution, acting in accordance with their fiduciary duties to the Creditor Trusts as beneficiaries of the Master Disbursement Trust, solely in accordance with Section 5.6(f) of the Plan.

"***MDT Documents***" means the MDT Agreement and the Master TDP.

"***MDT ERP Claim***" means the beneficial interest in the Master Disbursement Trust granted to the ERP Trust pursuant to the Private Entity Settlements, which interest shall entitle the ERP Trust to the reversion rights from the Special Operating Reserve set forth in the Plan, the Master Shareholder Settlement Agreement, and the ER Physician Shareholder Direct Settlement Agreement, as applicable.

"***MDT Federal Government Claim***" means the beneficial interest in the Master Disbursement Trust granted to the United States pursuant to Section 4.3(b) of the Plan.

"***MDT Governmental Remediation Trust Interest***" means the beneficial interest in the Master Disbursement Trust granted to the Governmental Remediation Trust pursuant to the Public Entity Settlements and the Plan, which interest shall entitle the Governmental Remediation Trust to (i) its share of distributions of MDT Distributable Value in accordance with Section 5.2(f)(i)(A) of the Plan and the MDT Priority Waterfall and (ii) the reversion rights from the Special Operating Reserve set forth in the Plan, the Master Shareholder Settlement Agreement, and the Governmental Entity Shareholder Direct Settlement Agreement, as applicable.

"***MDT Healthcare Provider Claim***" means the beneficial interest in the Master Disbursement Trust granted to the Healthcare Provider Trust pursuant to the Private Entity Settlements, which interest shall entitle the Healthcare Provider Trust to the reversion rights from the Special Operating Reserve set forth in the Plan, the Master Shareholder Settlement Agreement, and the Hospital Shareholder Direct Settlement Agreement, as applicable.

"***MDT Insurance Collateral***" means (i) the Purdue Insurance Collateral in respect of the Purdue Insurance Policies agreed by the Debtors, the Creditors' Committee and the Governmental

Consent Parties, which shall be identified in the MDT Agreement, and (ii) the Purdue Insurance Collateral in respect of the Isosceles Insurance Ltd. policy number PPLP-01/2019.

"***MDT Insurance Policies***" means all Purdue Insurance Policies that do or may afford the Debtors rights, benefits, indemnity, insurance coverage or defense costs with respect to any Cause of Action against the Debtors arising out of, on account of, or in connection with Opioid-Related Activities or for which the Debtors have or may have insurance rights arising out of or in connection with Opioid-Related Activities, including, but not limited to (i) all Purdue Insurance Policies listed in Exhibit A to the *Complaint for Declaratory Relief*, Adv. Pro. No. 21-07005 (RDD) [D.I. 1], (ii) all D&O Insurance Policies and (iii) any additional Purdue Insurance Policies agreed by the Debtors and the Governmental Consent Parties, which shall be identified in the MDT Agreement, but excluding in each case the Excluded Insurance Policies.

"***MDT Insurance Proceeds***" means the Cash proceeds obtained through the pursuit of the MDT Insurance Rights, including but not limited to the Cash proceeds in respect of any MDT Insurance Settlement, whether received before, on or after the Effective Date.

"***MDT Insurance Rights***" means the Purdue Insurance Rights in respect of the MDT Insurance Policies and the MDT Insurance Collateral, which Purdue Insurance Rights shall be transferred by the Debtors to the Master Disbursement Trust on the Effective Date. Notwithstanding anything to the contrary herein, (i) the MDT Insurance Rights with respect to the MDT Insurance Collateral for Isosceles Insurance Ltd. policy number PPLP-01/2019 shall be limited to the right to receive any such MDT Insurance Collateral remaining after the expiration of the policy period and any extension of the reporting period under such policy, (ii) the MDT Insurance Rights shall not include any right to interfere in any manner with the rights of the insureds under Isosceles Insurance Ltd. policy number PPLP-01/2019 prior to the expiration of the policy period and any extension of coverage under such policy and the resolution of all claims asserted thereunder and (iii) any persons who have unresolved claims under the Isosceles Insurance Ltd. policy number PPLP-01/2019 at the expiration of the policy period, including any extension, shall cooperate with and provide consent to the Master Disbursement Trust to resolve those claims in connection with the MDT Insurance Collateral after the expiration of the policy period, including any extension.

"***MDT Insurance Settlement***" means each settlement agreement concerning the MDT Insurance Rights that (i) the Debtors and an MDT Insurer have entered into pursuant to the Purdue Insurance Stipulation on or before the Effective Date or (ii) the Master Disbursement Trust and an MDT Insurer have entered into after the Effective Date; *provided* that, in the case of both clauses (i) and (ii), the settlement agreement is approved by the Bankruptcy Court.

"***MDT Insurer***" means an Insurance Company that has issued, is responsible for, or has liability to pay under any MDT Insurance Policy or MDT Insurance Collateral, and each of its affiliates, predecessors in interest, and agents, solely in its capacity as such and solely with respect to such MDT Insurance Policy or MDT Insurance Collateral.

"***MDT Insurer Injunction***" means the injunction issued pursuant to Section 10.10 of the Plan.

"***MDT Interests***" means, collectively, the MDT Governmental Remediation Trust Interest and the MDT Tribe Interest.

"***MDT Operating Expenses***" means any and all costs, expenses, fees, taxes, disbursements, debts or obligations incurred from the operation and administration of the Master Disbursement Trust, including in connection with the prosecution or settlement of MDT Causes of

Action, working capital, all compensation, costs and fees of the MDT Trustees and the MDT Advisory Council Representatives and any professionals retained by the Master Disbursement Trust, but excluding any amounts to be paid in respect of the MDT Claims or the MDT Interests.

"***MDT Operating Reserve***" means a reserve to be established to pay any and all MDT Operating Expenses. The MDT Operating Reserve shall be (i) funded on the Effective Date with Effective Date Cash in an amount determined by the Debtors and the Governmental Consent Parties with the consent (not to be unreasonably withheld, delayed or conditioned) of the Creditors' Committee, and thereafter with Cash held or received by the Master Disbursement Trust in accordance with the MDT Agreement as determined by the MDT Trustees; *provided*, *however*, that, except to the extent expressly set forth in Exhibit M to the Governmental Entity Shareholder Direct Settlement Agreement, payments received by the Master Disbursement Trust: (a) on account of the Governmental Entity Shareholder Direct Settlement shall be immediately transferred to the Governmental Remediation Trust and (b) on account of the Tribal Shareholder Direct Settlement Agreement shall be immediately transferred to the Tribe Trust, and the amounts in (A) and (B) shall not be used to fund a Replenishment Transfer, to fund the MDT Operating Reserve, or to pay the MDT Claims, and (ii) held by the Master Disbursement Trust in a segregated account and administered by the MDT Trustees on and after the Effective Date.

"***MDT PI Claim***" means the beneficial interest in the Master Disbursement Trust granted to the PI Trust pursuant to the Private Entity Settlements, which interest shall entitle the PI Trust to (i) the payments of the amounts set forth in Section 5.2(e)(iii) of the Plan which, for the avoidance of doubt, shall be allocated only to the Non-NAS PI Portion, and (ii) the reversion rights from the Special Operating Reserve set forth in the Plan and the Master Shareholder Settlement Agreement.

"***MDT Priority Waterfall***" means the priority waterfall applicable to the Master Disbursement Trust set forth in Section 5.2(g) of the Plan.

"***MDT Private Claims***" means, collectively, the MDT Healthcare Provider Claim, the MDT ERP Claim, the MDT TPP Claim and the MDT PI Claim.

"***MDT Public School Districts Claim"*** means the beneficial interest in the Master Disbursement Trust granted to the Public School Trust, which interest shall entitle the Public School Trust to (i) the reversion rights from the Special Operating Reserve set forth in the Plan and the Master Shareholder Settlement Agreement, and (ii) payments to its benefit in the amounts set forth in the second sentence of Section 5.2(f)(ii).

"***MDT Shareholder Insurance Rights***" means any and all rights, titles, privileges, interests, claims, demands or entitlements of the Shareholder Released Parties to any proceeds, payments, benefits, Causes of Action, choses in action, defense or indemnity arising under, or attributable to, any and all MDT Insurance Policies and MDT Insurance Collateral, now existing or hereafter arising, accrued or unaccrued, liquidated or unliquidated, matured or unmatured, disputed or undisputed, fixed or contingent. For the avoidance of doubt and without in any way limiting the foregoing, "MDT Shareholder Insurance Rights" include (i) any rights of the Shareholder Released Parties to proceeds of MDT Insurance Policies, and MDT Insurance Collateral and (ii) the right to enforce any Insurance Company's obligation to the Shareholder Released Parties under any MDT Insurance Policies and MDT Insurance Collateral. Solely in connection with the term MDT Shareholder Insurance Rights, the MDT Insurance Collateral excludes the Purdue Insurance Collateral in respect of the Isosceles Insurance Ltd. policy number PPLP-01/2019 (for all other purposes the MDT Insurance Collateral includes such Purdue Insurance Collateral).

"***MDT Shareholder Rights***" means, subject in all respects to the Shareholder Settlements (including the Shareholder Releases and the Channeling Injunction) (i) any and all rights, titles,

privileges, interests, claims, demands and entitlements of the Debtors arising under, or attributable to, any Causes of Action or choses in action against, or proceeds, payments, benefits or indemnities from, Shareholder Release Snapback Parties, including without limitation to the extent arising under, or attributable to, the Master Shareholder Settlement Agreement and any related security agreements, documents, agreements or instruments, in each case whether now existing or hereafter arising, accrued or unaccrued, liquidated or unliquidated, matured or unmatured, disputed or undisputed, fixed or contingent and (ii) the MDT Shareholder Insurance Rights.

"***MDT TPP Claim***" means the beneficial interest in the Master Disbursement Trust granted to the TPP Trust pursuant to the Private Entity Settlements, which interest shall entitle the TPP Trust to the reversion rights from the Special Operating Reserve set forth in the Plan and the Master Shareholder Settlement Agreement.

"***MDT Transferred Assets***" means all right, title and interest of the Debtors (or, solely with respect to the MDT Shareholder Insurance Rights, of the Shareholder Released Parties) arising under, or attributable to, (i) the MDT Operating Reserve, (ii) the MDT Causes of Action, (iii) the MDT Insurance Rights, (iv) the MDT Shareholder Rights, (v) any other Excluded Assets identified in the MDT Agreement and (vi) any Surplus Reserve Cash to be distributed to the Master Disbursement Trust, upon the identification thereof by the Plan Administration Trustee or the dissolution of the Plan Administration Trust, in accordance with Section 5.14(b) of the Plan. For the avoidance of doubt, "MDT Transferred Assets" shall not include any Causes of Action against any Released Party.

"***MDT Tribe Interest***" means the beneficial interest in the Master Disbursement Trust granted to the Tribe Trust under the Plan pursuant to the Public Entity Settlements, which interest shall entitle the Tribe Trust to its share of distributions of MDT Distributable Value in accordance with Section 5.2(f)(i)(A) of the Plan and the MDT Priority Waterfall and the reversion rights from the Special Operating Reserve set forth in the Plan, the Master Shareholder Settlement Agreement, and the Tribal Shareholder Direct Settlement Agreement, as applicable.

"***MDT Trustees***" means the trustees of the Master Disbursement Trust appointed in accordance with Section 5.6(d) of the Plan.

"***Mediation***" means the mediation authorized by the Bankruptcy Court and described in the Mediation Orders.

"***Mediation Orders***" means the following orders of the Bankruptcy Court: *Order Appointing Mediators* [D.I. 895]; *Order Expanding Scope of Mediation* [D.I. 1756]; *Order Establishing the Terms and Conditions of Mediation Before the Honorable Shelley C. Chapman* [D.I. 2879]; *Order Establishing the Terms and Conditions of Mediation Before the Honorable Shelley C. Chapman* [D.I. 4261]*; Order Extending Termination Date Under the Terms and Conditions of Mediation Before the Honorable Shelley C. Chapman* [D.I. 4286]; *Order Further Extending Termination Date Under the Terms and Conditions of Mediation Before the Honorable Shelley C. Chapman* [D.I. 4319]; *Third Order Extending Termination Date Under the Terms and Conditions of Mediation Before the Honorable Shelley C. Chapman* [D.I. 4339]; *Third [SIC] Order Extending Termination Date Under the Terms and Conditions of Mediation Before the Honorable Shelley C. Chapman* [D.I. 4370]; *Order Expanding the Scope of Mediation Before the Honorable Shelley C. Chapman* [D.I. 4609]; *Order Appointing the Honorable Shelley C. Chapman (Ret.) and Eric D. Green as Co-Mediators and Establishing Terms and Conditions Of Mediation* [D.I. 6537]; *Amended Order Appointing the Honorable Shelley C. Chapman (Ret.) and Eric D. Green as Co-Mediators and Establishing Terms and Conditions Of Mediation* [D.I. 6682]; *Second Amended Order Appointing the Honorable Shelley C. Chapman (Ret.) and Eric D. Green as Co-Mediators and Establishing Terms and Conditions Of Mediation* [D.I. 6749]; *Third Amended Order Appointing the Honorable Shelley C. Chapman (Ret.) and Eric D. Green as Co-Mediators and*

Establishing Terms and Conditions Of Mediation [D.I. 6906]; *Fourth Amended Order Appointing the Honorable Shelley C. Chapman (Ret.) and Eric D. Green as Co-Mediators and Establishing Terms and Conditions Of Mediation* [D.I. 6980]; *and Fifth Amended Order Appointing the Honorable Shelley C. Chapman (Ret.) and Eric D. Green as Co-Mediators and Establishing Terms and Conditions Of Mediation* [D.I. 7058].

"***Medicaid Program***" has the meaning set forth in Section 10.20(d) of the Plan.

"***Minimum Required Settlement Payment***" means, with respect to an SSA Payment Date, the minimum amount payable by the Shareholder Payment Parties under the Shareholder Settlement Agreements on such SSA Payment Date.

"***MSGE Fee Allocation Agreement***" means the agreement entered into on October 9, 2020, by and between the MSGE Group and the MDL Plaintiffs' Executive Committee, which is attached hereto as Exhibit D of the Plan.

"***MSGE Group***" means the Multi-State Governmental Entities Group identified in the *Second Amended Verified Statement of the Multi-State Governmental Entities Group Pursuant to Rule 2019 of the Federal Rules of Bankruptcy Procedure* [D.I. 1794], as amended from time to time; *provided*, *however*, that, notwithstanding anything herein to the contrary, the MSGE Group shall be a "Governmental Consent Party" and shall have the same consent rights, appointment or selection rights, and any other rights or obligations afforded to the Ad Hoc Committee, such rights not to be reduced or modified without the written consent of the MSGE Group. The foregoing shall not give the MSGE Group any independent or individual rights to make any unilateral decisions, including to appoint or select any trustees, managers, directors, or officers under the Plan. Notwithstanding anything herein to the contrary, the sole remedy of the MSGE Group in respect of its rights hereunder shall be the termination of the Term Sheet (as defined in the MSGE Group Reimbursement Motion) by written notice and withdrawal of the MSGE Group's support of the Plan.

"***MSGE Group Reimbursement Motion***" means the *Debtors' Motion to Enter into Term Sheet with and Pay Certain Fees and Expenses of the Multi-State Governmental Entities Group* [D.I. 2580].

"***MSGE Group Reimbursement Order***" means the *Order Authorizing the Debtors to Enter into Term Sheet with and Pay Certain Fees and Expenses of the Multi-State Governmental Entities Group* [D.I. 2695].

"***NAS Child***" means a natural person who has been diagnosed by a licensed medical provider with a medical, physical, cognitive or emotional condition resulting from such natural person's intrauterine exposure to opioids or opioid replacement or treatment medication, including but not limited to the condition known as neonatal abstinence syndrome.

"***NAS Committee***" means the Ad Hoc Committee of NAS Children identified in the *First Amended Verified Statement of the Ad Hoc Committee of NAS Children Pursuant to Bankruptcy Rule 2019* [D.I. 1582].

"***NAS Medical Expense Claim Settlement Reserve Amount***" means $835,900 from amounts received by the PI Trust from the Initial NAS PI Distribution.

"***NAS PI Channeled Claim***" means (i) any NAS PI Claim or (ii) any Released Claim or Shareholder Released Claim that is held by a Holder of an NAS PI Claim for alleged opioid-related personal injury to an NAS Child or that is a similar opioid-related Cause of Action asserted by or on

behalf of an NAS Child, in each case, that arose prior to the Petition Date (in the case of Third-Party Released Claims, solely to the extent that such Holder of an NAS PI Claim is a Settling Creditor), that is not a Third-Party Payor Channeled Claim or a Healthcare Provider Channeled Claim, or held by a Domestic Governmental Entity. NAS PI Channeled Claims shall be channeled to the PI Trust in accordance with the Plan and Master TDP.

"***NAS PI Claim***" means any Claim against any Debtor that is for alleged opioid-related personal injury to an NAS Child or similar opioid-related Cause of Action against any Debtor asserted by or on behalf of an NAS Child, including, for the avoidance of doubt, Claims held on account of an NAS Child and that relate to medical monitoring support, educational support, vocational support, familial support or similar related relief, in each case, that arose prior to the Petition Date, and that is not a Third-Party Payor Claim or a Healthcare Provider Claim, or held by a Domestic Governmental Entity.

"***NAS PI Direct Claim Settlement Retained Payment Amount***" means the portion of the Maximum NAS PI Shareholder Direct Settlement Amount allocable to Holders of Direct Settlement Eligible NAS PI Claims that are Non-Settling Creditors (if any) that would have otherwise been distributed to such Holders pursuant to the NAS PI TDP had they been Settling Creditors, and which amount shall be retained by the Shareholder Payment Parties.

"***NAS PI Portion***"means (i) the Initial NAS PI Distribution, and (ii) 16.2438% of amounts distributed to the PI Trust on account of the MDT PI Claim other than the PI Trust Obligation.

"***NAS PI TDP***" means the trust distribution procedures to be implemented by the PI Trust with respect to NAS PI Channeled Claims, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors and the NAS Committee, and reasonably acceptable to the Ad Hoc Group of Individual Victims, the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

"***Native American Tribe Group***" means the group consisting of the Muscogee (Creek) Nation, a member of the Ad Hoc Committee, the Cheyenne & Arapaho Tribes, an ex officio member of the Creditors' Committee, and other Tribes represented by various counsel from the Tribal Leadership Committee and the MDL Plaintiffs' Executive Committee.

"***NewCo***" means a newly formed Delaware limited liability company to be created in accordance with Section 5.4 of the Plan to directly or indirectly receive the NewCo Transferred Assets and operate such NewCo Transferred Assets in accordance with the NewCo Operating Agreement, the NewCo Governance Covenants and the NewCo Operating Injunction.

"***NewCo Distributable Cash***" means, as of the end of any calendar year, all unrestricted Cash and cash equivalents held by NewCo and NewCo's Subsidiaries (as reflected, or as would be reflected on a consolidated balance sheet of NewCo and NewCo's Subsidiaries as of such date in accordance with GAAP) in excess of the amount determined by the NewCo Managers in their discretion to be appropriate to reserve to pay NewCo's incurred and forecasted costs, expenses, fees, taxes, disbursements, debts or obligations, including without limitation operating expenses, research and development expenses, and Public Health Initiative expenditures.

"***NewCo Governance Covenants***" means the provisions contained in the Confirmation Order that will bind NewCo, and any successor owner of NewCo's opioid business, to covenants to ensure that NewCo (i) provides all of its products, including all opioid products, in a safe manner that limits the risk of diversion, (ii) complies with its obligations under the Public Entity Settlements and the Private Entity Settlements, (iii) pursues and implements Public Health Initiatives, and (iv) otherwise operates in accordance with NewCo's purpose and takes into account long-term public health interests

relating to the opioid crisis and responsible and transparent practices in management of a pharmaceutical business, which covenants shall be acceptable to the DOJ and the Governmental Consent Parties and reasonably acceptable to the Debtors; *provided* that the covenants in respect of the foregoing clause (ii) shall be acceptable to the DOJ and reasonably acceptable to the Debtors, the Creditors' Committee and the Governmental Consent Parties.

"***NewCo Interest***" means the sole limited liability company interest in NewCo, which shall be held by the Foundation as of the Effective Date pursuant to the Public Entity Settlements, representing 100% of the voting Interests in NewCo.

"***NewCo Managers***" means the members of the board of managers of NewCo appointed in accordance with Section 5.4(d) of the Plan.

"***NewCo Monitor***" means the monitor appointed in accordance with Section 5.4(h) of the Plan to review NewCo's compliance with the NewCo Operating Injunction.

"***NewCo Operating Agreement***" means the limited liability company agreement of NewCo, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the DOJ and the Governmental Consent Parties and reasonably acceptable to the Debtors, and which shall be filed by the Debtors with the Plan Supplement.

"***NewCo Operating Injunction***" means a voluntary injunction to be contained in the Confirmation Order that will bind NewCo, and any successor owner of NewCo's opioid business, to injunctive relief substantially similar to the voluntary injunction set forth in Appendix I to the Preliminary Injunction, with any such changes to such voluntary injunction as may be agreed by the Debtors and the Governmental Consent Parties based upon good-faith discussions and in furtherance of NewCo's purpose as set forth in Section 5.4(b) of the Plan.

"***NewCo Transfer Agreement***" means one or more agreements transferring the NewCo Transferred Assets, and all documents and information of the Debtors related thereto, from the Debtors to NewCo or one of its Subsidiaries (or the transfer of the Transferred Debtors to NewCo or one of its Subsidiaries and the re-vesting of the NewCo Transferred Assets held by such Transferred Debtors in such Transferred Debtors), the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors, the DOJ and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

"***NewCo Transferred Assets***" means (i) the Initial NewCo Cash and (ii) all non-Cash Assets of the Debtors on the Effective Date (prior to giving effect to the Restructuring Transactions) other than the Excluded Assets. For the avoidance of doubt, all Retained Causes of Action against Co-Defendants and ongoing commercial counterparties of NewCo and any Estate Surviving Pre-Effective Date Claims shall be NewCo Transferred Assets.

"***Non-Federal Acute Care Hospital***" means and includes (i) all non-federal acute care hospitals as defined by the Centers for Medicare & Medicaid Services, and (ii) all non-federal hospitals and hospital districts that are required by law to provide inpatient acute care and/or fund the provision of inpatient acute care.

"***Non-Federal Domestic Governmental Channeled Claim***" means (i) any Non-Federal Domestic Governmental Claim or (ii) any Claim held by a Domestic Governmental Entity that is released pursuant to the Governmental Entity Shareholder Direct Settlement, other than the United States or a

Tribe. Non-Federal Domestic Governmental Channeled Claims shall be channeled to the Governmental Remediation Trust in accordance with the Plan and Governmental Remediation Trust Documents.

"***Non-Federal Domestic Governmental Claim***" means any Claim against any Debtor that is held by a Domestic Governmental Entity other than the United States or a Tribe (including any Claim based on the subrogation rights of the Holder thereof that is not an Other Subordinated Claim), and that is not a Priority Tax Claim.

"***Non-Hospital Healthcare Provider Claim***" means any Healthcare Provider Claim, for which a Proof of Claim was timely filed by the applicable Bar Date, that is held by a non-Hospital provider of healthcare treatment services or any social services, in its capacity as such.

"***Non-NAS PI Channeled Claim***" means (i) any Non-NAS PI Claim or (ii) any Released Claim or Shareholder Released Claim that is held by a Holder of a Non-NAS PI Claim that is for alleged opioid-related personal injury or that is a similar opioid-related Cause of Action, in each case, that arose prior to the Petition Date (in the case of Third-Party Released Claims, solely to the extent that such Holder of a Non-NAS PI Claim is a Settling Creditor), that is not an NAS PI Channeled Claim, a Third-Party Payor Channeled Claim, or a Healthcare Provider Channeled Claim, or held by a Domestic Governmental Entity. Non-NAS PI Channeled Claims shall be channeled to the PI Trust in accordance with the Plan and Master TDP.

"***Non-NAS PI Claim***" means any Claim against any Debtor that is for alleged opioid-related personal injury or other similar opioid-related Cause of Action against any Debtor, in each case, that arose prior to the Petition Date, and that is not an NAS PI Claim, a Third-Party Payor Claim, or a Healthcare Provider Claim, or held by a Domestic Governmental Entity.

"***Non-NAS PI Direct Claim Settlement Retained Payment Amount***" means the portion of the Maximum Non-NAS PI Shareholder Direct Settlement Amount allocable to Holders of Direct Settlement Eligible Non-NAS PI Claims that are Non-Settling Creditors (if any) that would have otherwise been distributed to such Holders pursuant to the Non-NAS PI TDP had they been Settling Creditors, and which amount shall be retained by the Shareholder Payment Parties.

"***Non-NAS PI Portion***" means (i) the Initial Non-NAS PI Distribution, (ii) 83.7562% of amounts distributed to the PI Trust on account of the MDT PI Claim other than the PI Trust Obligation, and (iii) the PI Trust Obligation distributed to the PI Trust on account of the MDT Claim.

"***Non-NAS PI TDP***" means the trust distribution procedures to be implemented by the PI Trust with respect to Non-NAS PI Channeled Claims, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors and the Ad Hoc Group of Individual Victims, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

"***Non-Opioid Excluded Claim***" means a Cause of Action by a Person that is not a Debtor, an Estate, the Master Disbursement Trust, a Creditor Trust, the Plan Administration Trust or any successor of any of the foregoing against a Shareholder Released Party to the extent such Cause of Action (i) does not arise from or relate to Opioid-Related Activities, Pending Opioid Actions or opioid use or misuse or the consequences thereof; (ii) is not based upon and does not arise from the same allegations, facts or evidence as any Pending Opioid Action; (iii) does not allege (expressly or impliedly) any liability of such Shareholder Released Party that is derivative of any liability of any Debtor or any of their Estates, including, but not limited to, by making allegations (expressly or impliedly) that such Shareholder Released Party is directly or indirectly liable for the conduct of or a Cause of Action against a Debtor by reason of such Shareholder Released Party's (A) direct or indirect ownership of an Interest

in a Debtor, a past or present affiliate of a Debtor, or a predecessor in interest of a Debtor; (B) involvement in the management of a Debtor or a predecessor in interest of a Debtor, or service as an officer, director or employee of a Debtor or a related party; or (C) involvement in a transaction changing the corporate structure, or in a loan or other financial transaction affecting the financial condition, of the Debtor or a related party, including but not limited to involvement in providing financing (debt or equity), or advice to an entity involved in such a transaction, or acquiring or selling a financial interest in an entity as part of such a transaction; and (iv) has been authorized to proceed by the Bankruptcy Court in accordance with Section 11.1(f) of the Plan. As used in this definition of Non-Opioid Excluded Claim, the term "related party" has the same meaning as in 11 U.S.C. § 524(g)(4)(A)(iii).

"***Non-Participating***" with respect to Channeled Claim(s) means any Channeled Claim(s) held by a Non-Settling Creditor.

"***Non-Participating Channeled Claims***" means any Channeled Claim held by a Non-Settling Creditor as of the Effective Date, in each case, until such Channeled Claim is either: (i) Allowed in accordance with Sections 7.6 or 7.9 of the Plan, or (ii) Disallowed by Final Order.

"***Non-Party Covered Conduct Claim***" means a Cause of Action against any Non-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 Releasing Party that settles any Non-Party Covered Conduct Claim and includes a release of any Non-Released Party.

"***Non-PRA Estate Distributions***" means all Estate Distributions that are not PRA Estate Distributions.

"***Non-Released Party***" means any Person or Entity that is not a Released Party or Shareholder Released Party.

*"**Non-Settling Creditor***" means any Holder of a Claim (other than any Holder of a Claim in Classes 11(a), 11(b) and 11(c) that is not an Other GUC Litigation Claim) that is (i) evidenced by a Proof of Claim timely filed by the applicable Bar Date, or (ii) not required to be evidenced by a filed Proof of Claim under the Plan, the Bankruptcy Code or a Final Order, in each case, that does not consent to the Shareholder Direct Claims Releases pursuant to the Shareholder Release Consent Mechanism applicable to the applicable Class of such Claims. For avoidance of doubt, and notwithstanding the foregoing, Non-Settling Creditors will include (i) Non-Settling States, (ii) Non-Settling Subdivisions, and (iii) Subdivisions that are not Participating Subdivisions.

"***Non-Settling States***" means States that are Non-Settling Creditors.

"***Non-Settling States Holdback Distributions***" means both the (i) the PRA Estate Distributions and (ii) Non-PRA Estate Distributions that would have otherwise been distributed to any Non-Settling States as Estate Distributions had they been Settling States, in accordance with the Governmental Remediation Trust Agreement."***Non-Settling Subdivisions***" means Subdivisions that have timely filed a Proof of Claim against the Debtors and that are not Participating Subdivisions.

"***Non-Settling Subdivisions Holdback Distributions***" means both the (i) the PRA Estate Distributions and (ii) Non-PRA Estate Distributions that would have been distributed to such Non-Settling Subdivisions as Estate Distributions had they been Participating Subdivisions in accordance with the Governmental Remediation Trust Agreement.

"***Notice of Shareholder Release Snapback***" means a notice filed with the Bankruptcy Court by the Master Disbursement Trust pursuant to the Master Shareholder Settlement Agreements providing notice that a Shareholder Family Group is in Specified Breach (as defined in the Shareholder Settlement Agreements) and the Master Disbursement Trust has elected to enforce the Shareholder Release Remedy pursuant to the terms of the Master Shareholder Settlement Agreement and identifying the Breaching Shareholder Family Group and the Designated Shareholder Released Parties subject to such Shareholder Release Remedy.

"***Oklahoma Litigating Political Subdivisions***" means subdivisions located in Oklahoma that are listed in Exhibit ~~[~~E~~]~~ the Plan.

"***Omnibus Claims Objection Order***" has the meaning set forth in Section 7.3(f) of the Plan.

"***Opioid-Related Activities***" means the development, production, manufacture, licensing, labeling, marketing, advertising, promotion, distribution or sale of opioid Products or the use or receipt of any proceeds therefrom, or the use or misuse of opioids, including opioids that are not Products, or any act or failure to act in connection with laws or regulations related to any opioid.

"***Opt-In Settling Creditor***" means any Holder of Claims that consents to the Third-Party Releases through electing to opt-in to the Third-Party Releases on its applicable ballot.

"***Opt-Out Class Action Settlements***" means the (i) Public School District Shareholder Direct Settlement, (ii) Hospital Shareholder Direct Settlement, and (iii) ER Physician Shareholder Direct Settlement.

"***Other Federal Agency Claim***" means any Claim filed by the United States Department of Health and Human Services, the United States Department of Veterans Affairs, the Indian Health Service and the Centers for Medicare & Medicaid Services, set forth in Proof of Claim Nos. 138509, 137406, 137782 and 138522, respectively.

"***Other General Unsecured Claim***" means any Claim against any Debtor that is not an Administrative Claim, a Priority Claim, a Secured Claim, a Federal Government Unsecured Claim, a Channeled Claim, a Co-Defendant Claim, an Other Subordinated Claim, an Avrio General Unsecured Claim, an Adlon General Unsecured Claim, an Intercompany Claim or a Shareholder Claim.

"***Other General Unsecured Claim Cash***" means $15 million of Effective Date Cash to be used to make Distributions to Holders of Allowed Other General Unsecured Claims.

"***Other GUC Litigation Claims***" means Disputed Other General Unsecured Claims arising from or related to Covered Conduct.

"***Other Priority Claim***" means any Claim against any Debtor that is entitled to priority of payment as specified in section 507(a) of the Bankruptcy Code and is not an Administrative Claim or a Priority Tax Claim.

"***Other Subordinated Claim***" means any Claim against any Debtor that is subject to subordination under section 509(c) or 510 of the Bankruptcy Code or other applicable law, and that is not a Co-Defendant Claim or a Shareholder Claim. Notwithstanding anything to the contrary outside of this definition in the Plan, any Claim that satisfies the definition of an Other Subordinated Claim shall be an

Other Subordinated Claim notwithstanding that such Claim would otherwise satisfy the definition of another type of Claim.

"***Participating Subdivision***" means any Subdivision located in a Settling State, in Oklahoma, or any Subdivision located in a Non-Settling State that subsequently becomes a Settling State, in each case where the Subdivision has executed a joinder to the Governmental Entity Shareholder Direct Settlement and thereby provided the Shareholder Direct Claims Releases.

"***PAT Agreement***" means the trust agreement establishing and delineating the terms and conditions for the creation and operation of the Plan Administration Trust, as it may be amended from time to time, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors and the Governmental Consent Parties, and reasonably acceptable to the Creditors' Committee, and which shall be filed by the Debtors with the Plan Supplement.

"***PAT Assets***" means (i) the PAT Reserves, (ii) the PAT Distribution Accounts, (iii) the Retained Causes of Action relating solely to, and only to the extent necessary for, the administration of Claims against the Debtors (other than Channeled Claims), the enforcement of the Plan Administration Trust's rights and the other responsibilities of the Plan Administration Trust, *provided* that no Retained Causes of Action against Excluded Parties shall constitute PAT Assets, except as necessary to object to and resolve any Disputed Claims held by an Excluded Party, (iv) the Excluded Privileged Materials and (v) any other Excluded Assets that are not MDT Transferred Assets.

"***PAT Disputed Claims Reserves***" means the reserves to be established on account of Disputed Avrio General Unsecured Claims, Disputed Adlon General Unsecured Claims and Disputed Other General Unsecured Claims (which may be a single or collective reserve for one or more Classes of Claims). The PAT Disputed Claims Reserves shall be (i) funded on the Effective Date with Effective Date Cash in an amount determined by the Debtors, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties; and (ii) held by the Plan Administration Trust and administered by the Plan Administration Trustee on and after the Effective Date.

"***PAT Distribution Account***" means one or more accounts to be established to make Distributions in respect of Allowed Avrio General Unsecured Claims, Allowed Adlon General Unsecured Claims and Allowed Other General Unsecured Claims (which may be a single or collective account for one or more Classes of Claims). The PAT Distribution Account shall be (i) funded on the Effective Date in accordance with Section 5.14(a) of the Plan in an amount necessary to make Distributions in respect of such Claims to the extent Allowed as of the Effective Date and periodically funded thereafter in accordance with Section 7.7 of the Plan and (ii) held by the Plan Administration Trust and administered by the Plan Administration Trustee.

"***PAT Distribution Date***" means any date upon which a Distribution is made by the Plan Administration Trustee.

"***PAT Reserves***" means, collectively, the Wind-Up Reserve, the PAT Disputed Claims Reserves, the Disputed Cure Claims Reserve and the Priority Claims Reserve.

"***Patient Settlement Payment***" has the meaning set forth in Section 4.10(d) of the Plan.

"***Payment Remedy***" has the meaning set forth in Section 5.6(f)(i) of the Plan.

"***PBGC***" means the Pension Benefit Guaranty Corporation, a wholly owned United States government corporation, and an agency of the United States created by ERISA.

"***Pending Opioid Actions***" means the judicial, administrative or other actions or proceedings or Causes of Actions that were or could have been commenced before the commencement of the Chapter 11 Cases and that are identified in the charts annexed as Appendix II and Appendix III to the Preliminary Injunction, as well as any other pending actions against any of the Debtors, Released Parties or Shareholder Released Parties alleging substantially similar facts or Causes of Action as those alleged in the actions identified in those appendices.

"***Person***" means an individual (including, without limitation, in his or her capacity as a trustee, protector or executor), corporation, partnership, joint venture, association, joint stock company, limited liability company, limited liability partnership, trust or trustee, protector, executor, estate, unincorporated organization, Governmental Unit, Tribe or other Entity.

"***Petition Date***" means September 15, 2019.

"***Petitioner***" has the meaning set forth in Section 5.13(s)(vi) of the Plan.

"***Physician***" means a physician or physician practice group, which shall include, without limitation, ER Physicians.

"***PI and TPP Claims Procedures Order***" means the *Order (I) Appointing PI and TPP Claims Administrators; (II) Authorizing the Establishment of Claims Deadlines and Claims Objection Procedures; and (III) Granting Related Relief* [D.I. 7382].

"***PI Channeled Claim***" means any NAS PI Channeled Claim or Non-NAS PI Channeled Claim.

"***PI Claim***" means any NAS PI Claim or Non-NAS PI Claim.

"***PI Shareholder Direct Settlements***" means the agreements by the Holders of PI Claims to provide, pursuant to the applicable Shareholder Release Consent Mechanism, the Third-Party Releases and be subject to the injunctions set forth in Sections 10.6(b) and 10.7(b) of the Plan in exchange for the consideration contemplated in the Plan and the Master Shareholder Settlement Agreement.

"***PI TDP***" means, collectively or as applicable, (i) with respect to NAS PI Channeled Claims, the NAS PI TDP and (ii) with respect to Non-NAS PI Channeled Claims, the Non-NAS PI TDP.

"***PI Trust***" means the trust to be established in accordance with Section 5.8 of the Plan to (i) assume all liability for the PI Channeled Claims, (ii) hold the MDT PI Claim, collect the Initial PI Trust Distribution and any payments due under the MDT PI Claim in accordance with the Plan, the Private Entity Settlements and the PI Trust Documents, (iii) administer PI Channeled Claims, (iv) make Distributions on account of Allowed PI Channeled Claims in accordance with the PI Trust Documents, (v) hold and administer the Class 10(a) Non-Participating Claims Reserve and the Class 10(b) Non-Participating Claims Reserves on and after the Effective Date, (vi) fund the TPP LRP Escrow Account and make payments therefrom to LRP Participating TPPs, in each case, in accordance with and subject to the terms of the LRP Agreement and (vii) carry out such other matters as are set forth in the PI Trust Documents.

"***PI Trust Agreement***" means the trust agreement establishing and delineating the terms and conditions for the creation and operation of the PI Trust, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors and the Ad Hoc Group of

Individual Victims, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

"***PI Trust Deductions and Holdbacks***" means, collectively or as applicable, the following deductions and holdbacks from Distributions from the PI Trust as required under and subject to the terms of the PI Trust Documents: (i) the deduction of Creditor Trust Operating Expenses of the PI Trust, as required under and subject to the terms of the PI TDP and the PI Trust Agreement, (ii) the holdback of amounts in the TPP LRP Escrow Account and payments therefrom to LRP Participating TPPs, in each case, as required under and subject to the terms of the LRP Agreement, (iii) the deduction of amounts prepaid to the United States under the United States-PI Claimant Medical Expense Claim Settlement, (iv) the deduction of amounts on account of compensation, costs and fees of professionals that represented or advised (a) the Ad Hoc Group of Individual Victims in the event a Final Order is not entered granting a request for the allowance of reasonable and documented fees and expenses incurred by the Ad Hoc Group of Individual Victims under section 503(b) of the Bankruptcy Code; provided that, if a Final Order is entered granting such request in an amount less than the amount requested, then the deduction of the difference between the amount approved by such Final Order and the amount requested and (b) the NAS Committee in connection with the Chapter 11 Cases, in each case as and to the extent provided in the PI TDP and the PI Trust Agreement and subject to Section 5.9(h) of the Plan, and (v) the common benefit assessment required under Section 5.9(d) of the Plan and, where applicable, the fees and costs of a Holder's individual attorney(s), which deduction shall be made by such attorney(s) and reduced by the common benefit assessment in accordance with Section 5.9(d), as and to the extent provided in the PI TDP.

"***PI Trust Documents***"means the PI Trust Agreement, the PI TDP and the LRP Agreement, including all exhibits thereto."***PI Trust NAS Fund***" means a fund established by the PI Trust to make Distributions on account of Allowed NAS PI Channeled Claims and funded with the NAS PI Portion.

"***PI Trust Non-NAS Fund***" means a fund established by the PI Trust to make Distributions on account of Allowed Non-NAS PI Channeled Claims and funded with the Non-NAS PI Portion.

"***PI Trust Obligation***" has the meaning set forth in Section 5.2(e)(iii) of the Plan.

"***PI Trustee***" means the Creditor Trustee of the PI Trust.

"***Plan***" means this joint chapter 11 plan of reorganization for the Debtors, including all appendices, exhibits, schedules and supplements hereto (including the Plan Supplement), as it may be altered, amended or modified from time to time in accordance with the Bankruptcy Code, the Bankruptcy Rules and the terms hereof.

"***Plan Administration Trust***" means the trust to be created in accordance with Section 5.3 of the Plan to administer and make Distributions in respect of Claims against the Debtors (other than Channeled Claims and Federal Government Unsecured Claims) and administer the Plan.

"***Plan Administration Trustee***" means the trustee of the Plan Administration Trust appointed in accordance with Section 5.3(c) of the Plan.

"***Plan Documents***" means, collectively, the Plan and all documents to be executed, delivered, assumed or performed in connection with the Restructuring Transaction and the occurrence of the Effective Date, including the documents to be included in the Plan Supplement.

"***Plan Injunction***" means the injunctions issued pursuant to Section 10.5 of the Plan.

"***Plan Settlement***" means the settlement of certain Claims and controversies described in Section 5.2 of the Plan, and as further described and explained in the Disclosure Statement.

"***Plan Supplement***" means the supplement or supplements to the Plan containing certain documents relevant to the implementation of the Plan, which shall include the MDT Documents, the NewCo Transfer Agreement, the NewCo Operating Agreement, the Foundation Bylaws, the Governmental Remediation Trust Documents, the PAT Agreement, the PI Trust Documents (including the LRP Agreement), the Healthcare Provider Trust Documents, the ERP Trust Documents, the TPP Trust Documents, Public School Trust Documents, the Tribe Trust Documents, the identity of the MDT Trustees, the identity of the MDT Advisory Council Representatives, the identity of the NewCo Managers, the identity of the Foundation Trustees, the identity of the Plan Administration Trustee and PPLP Liquidator, the identity of the Creditor Trustees, identity of the Governmental Remediation Trust Trustees, the Schedule of Rejected Contracts, the Schedule of Retained Causes of Action, the Schedule of Excluded Parties, the Master Shareholder Settlement Agreement, and the Restructuring Steps Memorandum.

"***Plea Agreement***" means that certain proposed plea agreement attached as Exhibit B to the DOJ 9019 Motion, as approved by the DOJ 9019 Order, by and among (i) Purdue Pharma L.P. and (ii) the United States, acting through the United States Attorney's Office for the District of New Jersey, the United States Attorney's Office for the District of Vermont, and the United States Department of Justice, Civil Division, Consumer Protection Branch.

"***PPI Interest***" means any Interest in Purdue Pharma Inc., whether held directly or indirectly, that existed immediately before the Effective Date.

"***PPLP***" means Purdue Pharma L.P.

"***PPLP Dissolution Date***" means the date on which the PPLP Liquidator dissolves PPLP in accordance with Section 5.15(d) of the Plan.

"***PPLP Interest***" means any Interest in PPLP, whether held directly or indirectly, that existed immediately before the Effective Date.

"***PPLP Liquidator***" means the person appointed in accordance with Section 5.15(c) of the Plan, who will be the same individual appointed as the Plan Administration Trustee.

"***PRA L.P.***" means Pharmaceutical Research Associates L.P.

"***PRA Estate Distributions***" means the portion of the Estate Distributions for each Class that is attributable to amounts received from PRA L.P. and/or from Effective Date Cash.

"***Preliminary Injunction***" means the *Seventeenth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction*, Adv. Pro. No. 19-08289 (RDD) [D.I. 254], as amended from time to time.

"***Prepayment Date***" shall have the meaning ascribed to such term in the Master Shareholder Settlement Agreement.

"***Prepetition Oklahoma Settlement***" has the meaning set forth in Section 5.2(f)(i)(D) of the Plan.

"***Priority Claim***" means any Priority Tax Claim or Other Priority Claim.

"***Priority Claims Reserve***" means a reserve to be established to pay Allowed Administrative Claims (other than Professional Fee Claims, which shall be paid from the Professional Fee Escrow Account in accordance with Section 2.1(b) of the Plan, and the DOJ Forfeiture Judgment Claim, which shall be paid in accordance with Section 2.3 of the Plan), Allowed Secured Claims and Allowed Priority Claims. The Priority Claims Reserve shall be (i) funded on the Effective Date with Cash and cash equivalents of the Debtors in an amount determined by the Debtors and reasonably acceptable to the Governmental Consent Parties, in consultation with the Creditors' Committee, and (ii) held by the Plan Administration Trust in a segregated account and administered by the Plan Administration Trustee on and after the Effective Date.

"***Priority Tax Claim***" means any Claim against any Debtor that is held by a Governmental Unit and of the kind entitled to priority in payment under sections 502(i) and 507(a)(8) of the Bankruptcy Code.

"***Private Claimants' Priority Reversion***" means, on any date of determination, an amount equal to $19.8 million *less* the total Litigation Costs (as defined in the Master Shareholder Settlement Agreement) paid from the Special Operating Reserve for claims pursued by any Non-Settling Creditors in their respective Class as of such date.

"***Private Creditor Trusts***" means the Healthcare Provider Trust, the ERP Trust, the TPP Trust, and the PI Trust.

"***Private Entity Settlements***" means the settlement of Healthcare Provider Channeled Claims, Third-Party Payor Channeled Claims, the ER Physician Channeled Claims and PI Channeled Claims provided for under the Plan, as set forth in Section 5.2(e) of the Plan.

"***Privilege***" means any attorney-client privilege, work-product protection, joint defense or common interest privilege or other privilege or protection of immunity (i) held by any or all of the Debtors or their Estates, (ii) held by the board of directors (or similar body) or any special committee of the board of directors (or similar body) of any of the Debtors or (iii) attaching to any documents, communications, or thing (whether written or oral), including, but not limited to, electronic information relating to any Purdue Insurance Rights or Estate Causes of Action. Correlative terms such as "Privileged" have correlative meanings. Documents or information that are or have been subject to a clawback request by Debtors in the Purdue Legal Matters are Privileged.

"***Pro Rata Share***" means, with respect to an Allowed Other General Unsecured Claim, the proportion that such Allowed Claim bears to the aggregate amount of Allowed Other General Unsecured Claims and Disputed Other General Unsecured Claims.

"***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, triozolam, temazepam, midazolam, carisoprodol, gabapentin, or any variant of these substances or any similar substance.

"***Professional Fee Claim***" means a Claim for services or costs incurred in connection with such services, on or after the Petition Date and on or prior to the Effective Date, in each case by Professional Persons that remains unpaid as of the Effective Date, less any existing amounts held as a fee advance, retainer, or as security by a Professional Person that such Professional Person is authorized to use to satisfy Allowed Professional Fee Claims pursuant to the Interim Compensation Order or an order of the Bankruptcy Court authorizing the retention of such Professional Person (other than a reasonable retainer to cover post-Effective Date work); *provided* that, notwithstanding the foregoing, (i) the Professional Fee Claims of the Professional Persons retained by the Ad Hoc Committee shall be subject to the terms of the AHC Reimbursement Agreement Assumption Order and shall also include fees and expenses incurred prior to the Petition Date as and to the extent set forth in the AHC Reimbursement Agreement Assumption Order, and (ii) the Professional Fees Claims of the Professional Persons retained by the MSGE Group shall be subject to the terms of the MSGE Group Reimbursement Order.

"***Professional Fee Escrow Account***" means an account funded by the Debtors in Cash on or before the Effective Date to satisfy Allowed Professional Fee Claims in accordance with Section 2.1(b) of the Plan.

"***Professional Person***" means (i) any Person retained by order of the Bankruptcy Court in connection with these Chapter 11 Cases pursuant to section 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code, excluding any ordinary course professional retained pursuant to an order of the Bankruptcy Court, (ii) each of the professionals for the Ad Hoc Committee, as and to the extent authorized by the AHC Reimbursement Agreement Assumption Order, and (iii) each of the professionals for the MSGE Group, as and to the extent authorized by the MSGE Group Reimbursement Order.

"***Proof of Claim***" means a proof of Claim against any of the Debtors filed in the Chapter 11 Cases in accordance with section 501 of the Bankruptcy Code.

"***Protected Information***" has the meaning set forth in Section 5.13(o)(i) of the Plan.

"***Protected Parties***" means, collectively, (i) the Debtors, (ii) each of the Debtors' Related Parties, (iii) NewCo, (iv) the Foundation, (v) the Plan Administration Trust, (vi) the Master Disbursement Trust, except, solely to the extent provided in the Master TDP and the Governmental Remediation Trust Documents, with respect to the Channeled Claims channeled to the Master Disbursement Trust, (vii) each Creditor Trust, except, solely to the extent provided in the applicable Creditor Trust TDP, with respect to the Channeled Claims channeled to such Creditor Trust and (viii) the Shareholder Released Parties, subject to Section 10.8(c) of the Plan with respect to the Shareholder Release Snapback Parties.

"***Protective Order***" means the *Third Amended Protective Order*, 19-23649 (RDD) [D.I. 1935], as amended.

"***Public Creditor Trust Distributions***" means any and all payments, transfers and distributions from or on behalf of the Debtors or the Master Disbursement Trust to either of the Public Creditor Trusts, including without limitation the Initial Public Creditor Trust Distributions and all distributions of MDT Distributable Value received by a Public Creditor Trust.

"***Public Creditor Trusts***" means Governmental Remediation Trust and the Tribe Trust.

"***Public Document Repository***" means the public document repository to be established as set forth in Section 5.13 of the Plan.

"***Public Entity Allocation***" means the allocations of Public Creditor Trust Distributions between Governmental Remediation Trust and the Tribe Trust as set forth in Section 5.2(f)(i)(B) of the Plan.

"***Public Entity Settlements***" means the settlement of Non-Federal Domestic Governmental Channeled Claims, Tribe Channeled Claims and Public School Channeled Claims provided for under the Plan, as set forth in Section 5.2(f) of the Plan.

"***Public Health Initiatives***" means the development and distribution of medicines to treat opioid addiction and reverse opioid overdoses.

"***Public School Channeled Claim***" means (i) any Public School Claim or (ii) any Claim held by a Public School District that is released pursuant to the Public School District Shareholder Direct Settlement Agreement. Public School Channeled Claims shall be channeled to the Public School Trust in accordance with the Plan and Master TDP.

"***Public School Claims***" means any Claim against any Debtor that is held by a Public School District, in its capacity as such.

"***Public School District***" means an elementary, middle, or secondary public school district in the United States, in its capacity as such, that (i) has filed one or more Proofs of Claim; (ii) has a student population greater than 5,000 students; or (iii) has filed cases against the opioid industry in MDL 2804 McKinsey or other courts.

"***Public School District Claimants***" means the public school districts identified in the (i) *Verified Statement of Binder & Schwartz LLP Under Federal Rule of Bankruptcy Procedure 2019* [D.I. 2707] and (ii) *Verified Statement of Hughes Socol Piers Resnick & Dym, Ltd. and Cocounsel under Federal Rule of Bankruptcy Procedure 2019* [D.I. 2304], each as may be amended from time to time.

"***Public School District Shareholder Direct Settlement***" means the settlement set forth in the Public School District Shareholder Direct Settlement Agreement.

"***Public School District Shareholder Direct Settlement Agreement***" means the settlement agreement which shall be filed by the Debtors with the Plan Supplement.

"***Public School TDP***" means the trust distribution procedures to be implemented by the Public School Trust setting forth the procedures for distributions from the Public School Trust, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors and the Public School District Claimants, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

"***Public School Trust***" means a trust called the Public Schools' Special Education Initiative Trust which shall, on the terms described in the Public School Trust Agreement and in accordance with Section 5.8 of the Plan (i) assume all liability for the Public School Channeled Claims, (ii) hold the MDT Public School District Claim and collect the Initial Public Schools Distribution and additional payments due under the MDT Public School District Claim in accordance with the Public Entity Settlements and the Public School Trust Documents (after deduction of any required payments to the Common Benefit Fund and/or in respect of attorneys' fees and expenses of the Public School District

Claimants in accordance with Section 5.9(d) and (i) of the Plan), (iii) administer Public School Channeled Claims, (iv) hold and administer the Class 6 Non-Participating Claims Reserve on and after the Effective Date, (v) hold the Class 6 Released Claims Reserve on and after the Effective Date and (vi) make Distributions in accordance with the Public School TDP.

"***Public School Trust Agreement***" means the trust agreement establishing and delineating the terms and conditions for the creation and operation of the Public School Trust, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors and the Public School District Claimants, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

"***Public School Trust Documents***" means the Public School Trust Agreement and the Public School TDP.

"***Purdue***" has the meaning set forth in the introductory paragraph of this Plan.

"***Purdue Insurance Collateral***" means any collateral the Debtors have provided or set aside to secure obligations under any Purdue Insurance Policy.

"***Purdue Insurance Policies***" means any primary, umbrella, excess, fronting or other insurance policy, whether known or unknown, issued to or that provides or may provide coverage or benefits at any time to any of the Debtors or under which any of the Debtors have sought or may seek coverage or benefits, including, without limitation, any such policy for directors' and officers' liability, general liability, product liability, property, workers' compensation or fiduciary liability, or any other coverage, and all agreements, documents or instruments relating thereto including, without limitation, any agreement with a third-party administrator for claims handling, risk control or related services, that (i) were issued prior to the Effective Date and (ii) cover periods that are, in whole or in part, prior to the Effective Date. For the avoidance of doubt, Purdue Insurance Policies shall not include any insurance policy that was issued exclusively to and that exclusively benefits and exclusively provides coverage to Persons who are neither Debtors nor predecessors of a Debtor nor current or former officers, directors or shareholders of any of the Debtors.

"***Purdue Insurance Rights***" means any and all rights, titles, privileges, interests, claims, demands or entitlements of the Debtors to any proceeds, payments, benefits, Causes of Action, choses in action, defense or indemnity arising under, or attributable to, any and all Purdue Insurance Policies or Purdue Insurance Collateral, now existing or hereafter arising, accrued or unaccrued, liquidated or unliquidated, matured or unmatured, disputed or undisputed, fixed or contingent. For the avoidance of doubt, "Purdue Insurance Rights" include any rights of the Debtors to proceeds of Purdue Insurance Policies and Purdue Insurance Collateral.

"***Purdue Insurance Stipulation***" means the *Stipulation and Agreed Order Granting Joint Standing to Prosecute Claims and Causes of Action Related to the Debtors' Insurance Coverage to (1) the Official Committee of Unsecured Creditors and (2) the Ad Hoc Committee of Government and Other Contingent Litigation Claimants* [D.I. 2305].

"***Purdue Legal Matter***" means (i) these Chapter 11 Cases, the Plan or the Restructuring Transactions, (ii) the Pending Opioid Actions, (iii) any other ongoing or completed action or proceeding, whether commenced by a Governmental Unit or any other Person, or government investigation, in each case, relating generally to the same or similar subject matter of the actions and proceedings subject to the Preliminary Injunction, (iv) any ongoing or completed action or investigation by the DOJ, including any

cooperation obligation arising out of any such action or investigation or (v) any mediation or settlement related to the same or similar subject matter of any of the foregoing.

"***Purdue Monitor***" means the monitor retained pursuant to the voluntary injunction set forth in Appendix I to the Preliminary Injunction.

"***Purdue Oklahoma Subdivision Fund***" means the fund designated for the Oklahoma subdivisions in the State of Oklahoma's pre-petition settlement with the Debtors and certain of the Sackler Parties and/or their Related Parties.

"***Purdue Pension Plan***" means the Purdue Pharma L.P. Pension Plan, a single-employer defined benefit pension plan covered by Title IV of ERISA.

"***Ratepayer Mediation Participants***" means the proposed representatives of classes of privately insured parties who are plaintiffs and proposed class representatives identified in the Amended Verified Statement of Stevens & Lee, P.C. Pursuant to Bankruptcy Rule 2019 [D.I. 333].

"***Ratepayer Mediation Participants Stipulation***" means a stipulation to be entered into among the Debtors, the Ratepayer Mediation Participants and the Sackler Parties pursuant to which (i) the Ratepayer Mediation Participants will agree to (a) withdraw all proofs of claim filed by the Ratepayer Mediation Participants and (b) not to prosecute further litigation on grounds similar to those represented by such proofs of claim against the Shareholder Released Parties; (ii) the Ratepayer Mediation Participants agree to support this Plan; and (iii) the Ratepayer Mediation Participants will receive $1.4 million in professional fees for services rendered in connection with the Chapter 11 Cases.

"***Reciprocal Releasee***" means each of the following: (i) the Debtors and their Estates and (ii) each Party granting the Third-Party Releases pursuant to the applicable Shareholder Release Consent Mechanism.

"***Reinstated***" means, with respect to any Claim against or Interest in a Debtor, that such Claim or Interest shall be rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code.

"***Related Parties***" means, with respect to a Person, (i) such Person's predecessors, successors, assigns, Subsidiaries, affiliates, managed accounts or funds, past, present and future officers, board members, directors, principals, agents, servants, independent contractors, co-promoters, third-party sales representatives, medical liaisons, members, partners (general or limited), managers, employees, subcontractors, agents, advisory board members, financial advisors, attorneys and legal representatives, accountants, investment bankers, consultants, representatives, management companies, fund advisors and other professionals and advisors, trusts (including trusts established for the benefit of such Person), trustees, protectors, beneficiaries, direct or indirect owners and/or equityholders, parents, transferees, heirs, executors, estates, nominees, administrators, and legatees, in each case in their respective capacities as such; (ii) the Related Parties of each of the foregoing, in each case in their respective capacities as such; and (iii) solely with respect to the Settling Co-Defendants, any insurer of any Settling Co-Defendant solely in its capacity as such (and specifically excluding certain insurers of the Debtors that have issued, are responsible for, or have liability on account of insurance rights arising out of or in connection with Opioid-Related Activities, solely in such insurers capacities as such). For the avoidance of doubt, the citizens and residents of a State shall not be deemed to be Related Parties of such State solely as a result of being citizens or residents of such State; provided, however, that notwithstanding the foregoing, in no event shall an Excluded Party be a Related Party.

"***Relativity Database***" has the meaning set forth in Section 5.13(g) of the Plan.

"***Released Claims***" means any Causes of Action released pursuant to Section 10.6(a) and (b) of the Plan.

*"**Released Claims Reserves***" means separate interest-bearing escrow accounts established on the Effective Date by each Creditor Trust, with the Master Disbursement Trust serving as administrative agent in relation thereto, to hold amounts released from the Creditor Trust PRA Non-Participating Claims Reserves pursuant to Section 7.8 of this Plan upon the disallowance of Non-Participating Channeled Claims.

"***Released Parties***" means, collectively, (i) the Debtors, (ii) each of the Debtors' Related Parties, solely in their respective capacities as such, and (iii) solely for purposes of the releases by the Debtors in Section 10.6(a) of the Plan, (A) the Supporting Claimants, the Creditors' Committee and the Creditors' Committee's members and each of their respective professionals, in each case solely in their respective capacities as such and (B) the Settling Co-Defendants and each of their Related Parties, in each case solely in their respective capacities as such; *provided*, *however*, that, notwithstanding the foregoing or anything herein to the contrary, no Excluded Party or Shareholder Release Snapback Party 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.

"***Releases***" means the releases provided for in Sections 10.6 and 10.7 of the Plan.

"***Releasing Parties***" means, collectively, (i) the Supporting Claimants, solely in their respective capacities as such, (ii) the Opt-In Settling Creditors, (iii) the Settling Co-Defendants and (iv) with respect to each of the Persons in the foregoing clauses (i) through (iii), each of their Related Parties, to the extent the applicable Releasing Party has the authority under applicable law to grant such release on their behalf, in each case, other than any Shareholder Released Party.

"***Replenishment Transfer***" means a transfer by the Master Disbursement Trust to the Special Operating Reserve pursuant to the terms of the Master Shareholder Settlement Agreement.

"***Reserved MDT Insurance Policies***" means (i) policy number B0509FINMR 1600558 and policy number B0509FINMR 1600559 and (ii) any MDT Insurance Policy that is not listed by policy number in Schedule 2 to the MDT Agreement.

"***Restructuring Steps Memorandum***" means the summary of transaction steps to complete the Restructuring Transactions, which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties, and which shall be included in the Plan Supplement.

"***Restructuring Transactions***" means one or more transactions to occur on or before the Effective Date or as soon as reasonably practicable thereafter, that may be necessary or appropriate to effect any transaction described in, approved by, contemplated by or necessary to effectuate this Plan, including (i) the creation of NewCo and the direct or indirect transfer thereto and vesting therein (or in a Subsidiary of NewCo) of the NewCo Transferred Assets free and clear of Claims, Interests and liabilities in accordance with the NewCo Transfer Agreement, (ii) the creation of the Foundation and the issuance of the NewCo Interest to the Foundation, (iii) the creation of the Master Disbursement Trust and the transfer thereto and vesting therein of the MDT Transferred Assets, (iv) the creation of the Plan

Administration Trust and the vesting therein of the PAT Assets, (v) the creation of Governmental Remediation Trust and the Tribe Trust and the consummation of the Public Entity Settlements, consisting of the payment of the Initial Public Creditor Trust Distributions and the issuance of the MDT Interests, (vi) the consummation of the Public School District Shareholder Direct Settlement, consisting of the payment of the Initial Public Schools Distribution and the issuance of the MDT Public School District Claims, (vii) the creation of the Private Creditor Trusts and the consummation of the Private Entity Settlements, consisting of the payment of the Initial Private Creditor Trust Distributions and the issuance of the MDT Private Claims, (viii) the creation and funding of the Priority Claims Reserve and the PAT Distribution Account to make Distributions in respect of Allowed Claims (other than Channeled Claims), (ix) entry into the Shareholder Settlements in exchange for, among other things, the contribution of funds to the Master Disbursement Trust and/or the Governmental Remediation Trust, as applicable, pursuant to the Shareholder Settlement Agreement, (x) the Releases, injunctions and exculpations set forth herein and in the Confirmation Order and (xi) the transactions set forth in the Restructuring Steps Memorandum.

"***Retained Causes of Action***" means all Estate Causes of Action that are not expressly settled or released under the Plan on or prior to the Effective Date, and which shall include all Causes of Action against Excluded Parties and the Causes of Action set forth on the Schedule of Retained Causes of Action. Any and all Estate Causes of Action against any Settling Co-Defendant (other than any Estate Causes of Action against any Settling Co-Defendant expressly preserved against such Settling Co-Defendants in Section 10.6 of the Plan) are not Retained Causes of Action and are released under the Plan.

"***Retained Shareholder Insurance Claim***" has the meaning set forth in Section 5.6(j) of the Plan.

"***Sackler Family Members***" means (i) Raymond R. Sackler and Mortimer D. Sackler, (ii) all Persons who are descendants of either Raymond R. Sackler or Mortimer D. Sackler, (iii) all current and former spouses of any individual identified in the foregoing clause (i) or (ii), and (iv) the estate of any individual identified in the foregoing clause (i), (ii) or (iii).

"***Sackler Parties' Representative***" has the meaning set forth in the Master Shareholder Settlement Agreement.

"***Sackler Party***" has the meaning set forth in the Master Shareholder Settlement Agreement.

"***Schedule of Excluded Parties***" means the schedule of Excluded Parties filed by the Debtors with the Plan Supplement, which shall include only Persons agreed to by the Debtors and the Governmental Consent Parties, in consultation with the Creditors' Committee.

"***Schedule of Rejected Contracts***" means the schedule of all executory contracts and unexpired leases to be rejected by the Debtors, if any, filed by the Debtors with the Plan Supplement, which shall be in form and substance acceptable to the Debtors and reasonably acceptable to the Governmental Consent Parties, in consultation with the Creditors' Committee.

"***Schedule of Retained Causes of Action***" means the schedule of Retained Causes of Action filed by the Debtors with the Plan Supplement, which shall be in form and substance acceptable to the Debtors and the Governmental Consent Parties, and reasonably acceptable to the Creditors' Committee.

"***Scheduled***" means, with respect to any Claim against the Debtors, the status, priority, and amount, if any, of such Claim as set forth in the Schedules.

"***Scheduled MDT Distribution Date***" means (i) the Effective Date and (ii) other than the SSA Payment Date occurring on the Effective Date, the date that is thirty (30) calendar days after each SSA Payment Date.

"***Schedules***" means the schedules of assets and liabilities, statements of financial affairs, lists of Holders of Claims and Interests and all amendments or supplements thereto filed by the Debtors with the Bankruptcy Court to the extent such filing is not waived pursuant to an order of the Bankruptcy Court.

"***Second Public Schools Distribution***" has the meaning set forth in Section 5.2(f)(ii) of the Plan.

"***Secured Claim***" means any Claim against any Debtor to the extent such Claim is (i) secured by a valid, perfected and non-avoidable Lien on property of a Debtor's Estate, the amount of which is equal to or less than the value of such property (A) as set forth in this Plan, (B) as agreed to by the Holder of such Claim and the Debtors, or (C) as determined by a Final Order in accordance with section 506(a) of the Bankruptcy Code or (ii) subject to any setoff right of the Holder of such Claim under section 553 of the Bankruptcy Code. "Secured Claim" does not include any Claim that meets the definition of "Priority Tax Claim."

"***Securities Act***" means the Securities Act of 1933, as amended.

"Select Private Creditor Trust Non-Participating Claims Reserves" means segregated accounts established pursuant to Section 7.2 of this Plan for each of Classes 6 through 10(a), in each case held and administered on and after the Effective Date by the applicable Creditor Trust of such Class. Each Select Private Creditor Trust Non-Participating Claims Reserve shall be funded with Distributions in accordance with Sections 7.2(c) and (d) of this Plan.

"***Separation Agreement***" means the agreements entered into in accordance with the Master Shareholder Settlement Agreement to govern continuing business relationships and claims among the Debtors, NewCo and any entities owned directly or indirectly by the Shareholder Payment Parties, Sackler Family Members or trusts established by or for the benefit of the Sackler Family Members, which shall be on terms reasonably acceptable to the Governmental Consent Parties and the Creditors' Committee.

"***Sequestered Materials***" has the meaning set forth in Section 5.13(i) of the Plan.

"***Sequestration Date***" has the meaning set forth in Section 5.13(k) of the Plan.

"***Settled Canadian Patient Claims***" means the "Settled Patient Claims" as defined in the Canadian Patient Claim Settlement Stipulation.

"***Settling Co-Defendant***" means (i) any Person that is a signatory to the *Joint Objection of Certain Distributors, Manufacturers, and Pharmacies to the Sixth Amended Joint Chapter 11 Plan of Purdue Pharma L.P. and Its Affiliated Debtors* [D.I. 3306] and/or (ii) any Co-Defendant that objected, formally or informally, or reserved rights with respect to the assumption and assignment of any contract pursuant to the Plan.

"***Settling Creditor***" means any Holder of a Channeled Claim that consents to the Third-Party Releases or otherwise provides a release under a Shareholder Settlement Agreement pursuant to the applicable Shareholder Release Consent Mechanism.

"***Settling MDT Insurer***" means an Insurance Company that has entered into an MDT Insurance Settlement, solely in its capacity as such and solely with respect to any MDT Insurance Policy released in such MDT Insurance Settlement.

"***Settling MDT Insurer Injunction***" means the injunction issued pursuant to Section 10.11 of the Plan.

"***Settling States***" means States that are Settling Creditors.

"***Settling States MDT Trustees***" has the meaning set forth in Section 5.6(d) of the Plan.

"***Shareholder Claim***" means any Claim against any Debtor or that seeks to recover from any property of any Debtor or its Estate, including from any MDT Insurance Policy, in each case, that is held by a Shareholder Released Party (other than any current or former director, officer or employee of the Debtors that is not a Sackler Family Member). Notwithstanding anything to the contrary outside of this definition in the Plan, any Claim that satisfies the definition of a Shareholder Claim shall be a Shareholder Claim notwithstanding that such Claim would otherwise satisfy the definition of another type of Claim.

"***Shareholder Direct Claims Releases***" means (i) the releases provided for in Section 10.7(b) of the Plan, or (ii) any and all releases, waivers, or disclaimers of liability, standstill agreements, or other similar terms contained in the Direct Claims Shareholder Settlement Agreements.

"***Shareholder Direct Settlement Portion***" means the portion of the aggregate Distribution to each Class of Channeled Claim funded with amounts received from the Shareholder Payment Parties on account of the Direct Claims Shareholder Settlements, which, subject to any Direct Claim Settlement Retained Payment Amounts (to the extent applicable):

(a) with respect to Non-Federal Domestic Governmental Channeled Claims, shall be an aggregate amount of $3,485,264,791.64, consisting of $450,819,227.34 of the Initial Governmental Remediation Trust Distribution, and the following amounts received by the Governmental Remediation Trust on each of the following Scheduled MDT Distribution Dates from amounts paid by the Shareholder Payment Parties to the Master Disbursement Trust on the SSA Payment Date corresponding to such Scheduled MDT Distribution Date: (i) $276,239,448.81 on the second Scheduled MDT Distribution Date, (ii) $324,589,448.81 on the third Scheduled MDT Distribution Date, (iii) $268,342,500.00 on the fourth Scheduled MDT Distribution Date, (iv) $166,465,020.83 on the fifth Scheduled MDT Distribution Date, (v) $116,664,520.83 on the sixth Scheduled MDT Distribution Date, (vi) $122,627,687.50 on the seventh Scheduled MDT Distribution Date, (vii) $122,627,687.50 on the eighth Scheduled MDT Distribution Date, (viii) $122,627,687.50 on the ninth Scheduled MDT Distribution Date, (ix) $152,604,687.50 on the tenth Scheduled MDT Distribution Date, (x) $152,604,687.50 on the eleventh Scheduled MDT Distribution Date, (xi) $152,604,687.50 on the twelfth Scheduled MDT Distribution Date, (xii) $152,604,687.50 on the thirteenth Scheduled MDT Distribution Date, (xiii) $301,280,937.50 on the fourteenth Scheduled MDT Distribution Date, (xiv) $301,280,937.50 on the fifteenth Scheduled MDT Distribution Date, and (xv) $301,280,937.50 on the sixteenth Scheduled MDT Distribution Date;

(b) with respect to Tribe Channeled Claims, shall be an aggregate amount of $118,938,715.74, consisting of $15,384,730.61 of the Initial Tribe Trust Distribution, and the following

amounts received by the Tribe Trust on each of the following Scheduled MDT Distribution Dates from amounts paid by the Shareholder Payment Parties to the Master Disbursement Trust on the SSA Payment Date corresponding to such Scheduled MDT Distribution Date: (i) $9,426,992.57 on the second Scheduled MDT Distribution Date, (ii) $11,076,992.57 on the third Scheduled MDT Distribution Date, (iii) $9,157,500.00 on the fourth Scheduled MDT Distribution Date, (iv) $5,680,812.50 on the fifth Scheduled MDT Distribution Date, (v) $3,981,312.50 on the sixth Scheduled MDT Distribution Date, (vi) $4,184,812.50 on the seventh Scheduled MDT Distribution Date, (vii) $4,184,812.50 on the eighth Scheduled MDT Distribution Date, (viii) $4,184,812.50 on the ninth Scheduled MDT Distribution Date, (ix) $5,207,812.50 on the tenth Scheduled MDT Distribution Date, (x) $5,207,812.50 on the eleventh Scheduled MDT Distribution Date, (xi) $5,207,812.50 on the twelfth Scheduled MDT Distribution Date, (xii) $5,207,812.50 on the thirteenth Scheduled MDT Distribution Date, (xiii) $10,281,562.50 on the fourteenth Scheduled MDT Distribution Date, (xiv) $10,281,562.50 on the fifteenth Scheduled MDT Distribution Date, and (xv) $10,281,562.50 on the sixteenth Scheduled MDT Distribution Date;

(c) with respect to Healthcare Provider Channeled Claims, shall be $174,215,320.82, which amount, for the avoidance of doubt, will only be available to Hospitals that are Holders of Healthcare Provider Claims and that are granting the Third Party Releases pursuant to the Hospital Shareholder Direct Settlement.

(d) with respect to Public School Channeled Claims, shall be an aggregate amount of $26,776,216.55, consisting of (i) $16,859,099.31 of the Initial Public Schools Distribution, (ii) $4,958,558.62 of the Second Public Schools Distribution, and (iii) $4,958,558.62 of the Third Public Schools Distribution;

(e) with respect to Third-Party Payor Channeled Claims, shall be $261,104,374.91 (such amount, the "**Maximum TPP Shareholder Direct Settlement Amount**");

(f) with respect to ER Physician Channeled Claims, shall be $3,842,182.12; and

(g) with respect to NAS PI Channeled Claims, shall be $25,138,065.25 (such amount, the "**Maximum NAS PI Shareholder Direct Settlement Amount**").

(h) with respect to Non-NAS PI Channeled Claims, shall be $153,178,666.30 (such amount, the "**Maximum Non-NAS PI Shareholder Direct Settlement Amount**").

In the event of any Shareholder Prepayment, the Shareholder Direct Settlement Portion otherwise applicable to Distributions to the Governmental Remediation Trust and Tribe Trust on the Scheduled MDT Distribution Date corresponding to the Target Payment Date of such prepayment shall be applied to Distributions made to the Governmental Remediation Trust and Tribe Trust on the MDT Distribution Date corresponding to such Prepayment Date with amounts received from the Shareholder Payment Parties on account of such prepayment, and such Shareholder Direct Settlement Portion shall be reduced using the discount rate calculation applicable to such Shareholder Prepayment pursuant to the terms of the Master Shareholder Settlement Agreement. In the event of any that any Shareholder Payment Group fails to pay when due any portion of the Payment Date Obligation owed by such Shareholder Payment Group pursuant to the terms of the Master Shareholder Settlement Agreement, the Shareholder Direct Settlement Portion for the Scheduled MDT Distribution Date corresponding to such Payment Date Obligations shall be reduced pro rata based on the amount of such non-payment.

"***Shareholder Estate Claim Releases***" means releases provided for in Section 10.7(a) of the Plan.

"***Shareholder Estate Settlement Distribution***" means Estate Distributions to Holders of Channeled Claims solely on account of funds provided by the Sackler Parties on account of the Sackler Parties' settlement with the Estates as set forth in the Master Shareholder Settlement Agreement.

"***Shareholder Family Group***" has the meaning ascribed to the term "Family Group" in the Master Shareholder Settlement Agreement.

"***Shareholder Payment Group***" has the meaning ascribed to the term "Payment Group" in the Master Shareholder Settlement Agreement.

"***Shareholder Payment Party***" means, as applicable, the Shareholder Released Parties that are parties to the Master Shareholder Settlement Agreement or the applicable Direct Claims Shareholder Settlement Agreement.

"***Shareholder Prepayment***" means any payment of all or any portion of a Minimum Required Settlement Payment to the Master Disbursement Trust prior to the scheduled SSA Payment Date for such Minimum Required Settlement Payment as set forth in the Master Shareholder Settlement Agreement.

"***Shareholder Release Consent Mechanism***" means the applicable mechanism for each Holder of a Claim to consent to the Third-Party Releases or otherwise be bound by a release under a Shareholder Settlement Agreement which are exclusively: (i) with respect to Holders of Non-Federal Domestic Governmental Claims, executing a joinder to the Governmental Entity Shareholder Direct Settlement Agreement or otherwise participating in the Governmental Entity Shareholder Direct Settlement Agreement in accordance with the terms thereof, (ii) with respect to Holders of Public School Claims, participating in the Public School District Shareholder Direct Settlement, (iii) with respect to Holders of Tribe Claims, executing a joinder to the Tribal Shareholder Direct Settlement Agreement, (iv) with respect to Hospitals that are Holders of Healthcare Provider Claims, participating in the Hospital Shareholder Direct Settlement, (v) with respect to Holders of Third-Party Payor Claims, through electing to opt-in to the Third-Party Releases on its applicable ballot, (vi) with respect to Holders of ER Physician Claims, participating in the ER Physician Shareholder Direct Settlement; and (vii) with respect to Holders of PI Claims, through electing to opt-in to the Third-Party Releases on its applicable ballot.

"***Shareholder Release Remedy***" has the meaning ascribed to the term "Release Remedy" in the Master Shareholder Settlement Agreement.

"***Shareholder Release Snapback Parties***" means, collectively, the Designated Shareholder Released Parties and all members of any Shareholder Family Group.

"***Shareholder Released Claims***" means any Causes of Action released pursuant to Section 10.7(a) and (b) of the Plan, as applicable.

"***Shareholder Released Direct Claims***" means any Causes of Action released pursuant to Section 10.7(b) of the Plan.

"***Shareholder Released Estate Claims***" means any Causes of Action released pursuant to Section 10.7(a) of the Plan.

"***Shareholder Released Parties***" means, collectively, (i) the Shareholder Payment Parties; (ii) the Designated Shareholder Released Parties and the Persons identified on Exhibit X to the Master Shareholder Settlement Agreement; (iii) all Persons directly or indirectly owning an equity interest in any Debtor on the date on which such Debtor commenced its Chapter 11 Case; (iv) Sackler Family Members; (v) all trusts for the benefit of any of the Persons identified in the foregoing clause (iv) and the past, present and future trustees (including, without limitation, officers, directors and employees of any such trustees that are corporate or limited liability company trustees and members and managers of trustees that are limited liability company trustees), protectors and beneficiaries thereof, solely in their respective capacities as such; (vi) all Persons (other than the Debtors) to which property or funds of the Persons identified in any of the foregoing clauses (i) through (v) have been or are directly or indirectly transferred (including for charitable or philanthropic purposes), solely in such Persons' capacities as transferees and solely to the extent of any property or funds transferred to them; and (vii) with respect to each Person in the foregoing clauses (i) through (v), such Person's (A) predecessors, successors, permitted assigns, subsidiaries (other than the Debtors), controlled affiliates, spouses, heirs, executors, estates and nominees, in each case solely in their respective capacities as such, (B) current and former officers and directors, principals, members and employees, in each case, solely in their respective capacities as such, (C) financial advisors, attorneys (including, without limitation, attorneys retained by any director, in his or her capacity as such), accountants, investment bankers (including, without limitation, investment bankers retained by any director, in his or her capacity as such), consultants, experts and other professionals, in each case, solely in their respective capacities as such, and (D) property possessed or owned at any time or the proceeds therefrom; *provided* that notwithstanding anything to the contrary herein, the Debtors and the Excluded Parties identified on the Schedule of Excluded Parties shall not be Shareholder Released Parties. For purposes of this definition of "Shareholder 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 Shareholder 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 Shareholder Released Party, such claim would be released if asserted against such other Shareholder Released Party. For the avoidance of doubt, any Person that fits within multiple categories above shall be a Shareholder Released Party in all such categories and failure to include any Person that fits within any category above on Exhibit X to the Master Shareholder Settlement Agreement shall not mean that such Person is not a Shareholder Released Party.

"***Shareholder Releases***" means the releases provided for in Section 10.7 of the Plan.

"***Shareholder Settlement Agreements***" means, collectively, the Master Shareholder Settlement Agreement and all Direct Claims Shareholder Settlement Agreements.

"***Shareholder Settlement Amount***" means the aggregate amount of up to $7 billion provided for in settlement of all Shareholder Settlement Released Claims in the Shareholder Settlement Agreements, collectively, which shall be paid by the Shareholder Payment Parties on the dates and pursuant to the terms set forth in the Shareholder Settlement Agreements.

"***Shareholder Settlement Released Claims***" means the Shareholder Released Estate Claims, the Third-Party Released Claims, and the Causes of Action released under the applicable Direct Claims Shareholder Settlement Agreements.

"***Shareholder Settlement Releases***" means the Shareholder Estate Claim Releases, the Third-Party Releases, and any and all releases, waivers, or disclaimers of liability, standstill agreements,

or other similar terms contained in the applicable Direct Claims Shareholder Settlement Agreements or pursuant to the Direct Claims Shareholder Settlements.

"***Shareholder Settlements***" means the settlements, including the Direct Claims Shareholder Settlements, reflected in the Plan, the Plan Supplement, the Confirmation Order, the Master Shareholder Settlement Agreement, and the Direct Claims Shareholder Settlement Agreements providing for, among other things, the Shareholder Settlement Releases and the Channeling Injunction in exchange for, among other things, the payments to be made by the Shareholder Payment Parties to the Master Disbursement Trust for the benefit of the Debtors, their Estates, and the Settling Creditors.

"***Solicitation Procedures Order***" means the order entered by the Bankruptcy Court approving (i) the adequacy of information in the Disclosure Statement, (ii) solicitation and voting procedures, (iii) forms of ballots, notices and notice procedures in connection therewith and (iv) certain dates with respect thereto [D.I. 2988].

"***SOR Holdback***" has the meaning set forth in Section 5.7(a)(i) of the Plan.

"***Special Master***" means the Disclosure Oversight Special Master appointed in accordance with Section 5.13(s) of the Plan.

"***Special Operating Reserve***" means a separate interest-bearing escrow account established by the Master Disbursement Trust on or before the Effective Date, subject to the terms set forth in the Master Shareholder Settlement Agreement.

"***SSA Payment Date***" means each "Payment Date" as defined in, and as subject to adjustment pursuant to the terms of, the Master Shareholder Settlement Agreement.

"***State***" means except for Oklahoma, all 50 states of the United States of America and the District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and U.S. Virgin Islands.

"***State Expenses Fund***" means the fund to be established as set forth in Section 5.9(~~e~~b) of the Plan.

"***States AG Negotiating Group***" means the negotiating committee of State Attorneys General formed pursuant to the *Amended Order Appointing the Honorable Shelley C. Chapman (Ret.) and Eric D. Green as Co-Mediators and Establishing Terms and Conditions Of Mediation* [D.I. 6682].

"***Subdivision***" has the meaning set forth in the Master Shareholder Settlement Agreement.

"***Subdivision Allocation***" means, with respect to a Subdivision, the allocation applicable to such Subdivision as calculated based on the Subdivision Allocation Percentage.

"***Subdivision Allocation Percentage***" shall have the meaning ascribed to such term in the Governmental Entity Shareholder Direct Settlement.

"***Subdivisions in Non-Settling States***" has the meaning set forth in Section 5.2(f)(i)(C) of the Plan.

"***Subject MDT Assets***" has the meaning set forth in Section 5.2(e)(iii) of the Plan.

"***Subsidiary***" has the meaning set forth in Section 10.9(a) of the Plan.

"***Subsidiaries***" means, with respect to a Person, all direct and indirect subsidiaries of such Person.

"***Sub-Qualified Settlement Fund***" means any fund, account or trust intended to be treated as a "qualified settlement fund" (within the meaning of Treasury Regulations section 1.468B-1 for U.S. federal income tax purposes) and expressly established as a Sub-Qualified Settlement Fund (i) by the Bankruptcy Court in the Confirmation Order or (ii) in a separate order by the Bankruptcy Court after the Confirmation Date, but, in each case, only if such fund is authorized to receive payments solely from the PI Trust pursuant to such order.

"***Supporting Claimants***" means (i) the Ad Hoc Committee, (ii) the MSGE Group, (iii) the Native American Tribes Group, (iv) the Ad Hoc Group of Individual Victims, (v) the Ad Hoc Group of Hospitals, (vi) the Third-Party Payor Group, (vii) the NAS Committee, (viii) the Public School District Claimants, and (ix) with respect to each of the foregoing clauses (i) through (viii), the respective members thereof, solely in their respective capacities as such.

"***Surplus Reserve Cash***" means any surplus Cash or cash equivalents in any of the PAT Reserves in excess of what is estimated to be necessary to satisfy the obligations for which such amounts were reserved, in each case, as determined by the Plan Administration Trustee in accordance with Section 5.14(b) of the Plan.

"***Suspension Event***" shall have the meaning ascribed to such term in the Master Shareholder Settlement Agreement.

"***Target Payment Date***" shall have the meaning ascribed to such term in the Master Shareholder Settlement Agreement.

"***Third-Party Payor***" means a private health insurer, an employer-sponsored health plan, a union health and welfare fund or any other provider of healthcare benefits, including any third-party administrator or agent on behalf thereof, in each case in its capacity as such, that is not a Domestic Governmental Entity; *provided*, *however*, that California health districts acting as third-party payors that filed Third-Party Payor Proofs of Claim in such capacity by the Bar Date established by the Bar Date Order shall be included in this definition of "Third-Party Payor."

"***Third-Party Payor Channeled Claim"*** means any (i) Third-Party Payor Claim or (ii) Released Claim or Shareholder Released Claim that is held by a Third-Party Payor (in the case of Third Party Released Claims, solely to the extent that such Third-Party Payor is a Settling Creditor) that is not a Domestic Governmental Entity. Third-Party Payor Channeled Claims shall be channeled to the TPP Trust in accordance with the Plan and the Master TDP.

"***Third-Party Payor Claim***" means any Claim against any Debtor that is held by a Third-Party Payor (including any Claim based on the subrogation rights of the Holder thereof that is not an Other Subordinated Claim) that is not a Domestic Governmental Entity; *provided* that Claims in respect of self-funded government plans that were and are asserted through private Third-Party Payors shall be included in this definition of "Third-Party Payor Claims." For the avoidance of doubt, (i) Federal Government Unsecured Claims are not Third-Party Payor Claims, and (ii) claims of Third-Party Payors against Holders of PI Claims or Distributions payable to Holders of PI Claims are not claims against any Debtor and therefore are not included in this definition of "Third-Party Payor Claims."

"***Third-Party Payor Group***" means the group of certain Holders of Third-Party Payor Claims consisting of (i) the Holders of Third-Party Payor Claims represented by the Third-Party Payer participants in the Mediation listed in Exhibit A of the *Mediators' Report* [D.I. 1716] and (ii) one representative from United Healthcare for its Medicare, Medicaid, and fully insured commercial plans and one representative from the Ad Hoc Group of Self-Funded Plans identified in the *Verified Statement of the Ad Hoc Group of Self-Funded Health Plans Pursuant to Rule 2019 of the Federal Rules of Bankruptcy Procedure* [D.I. 1243].

"***Third-Party Payor Shareholder Direct Settlement***" means the settlement among the Shareholder Payment Parties and Holders of Third-Party Payor Claims that agree to provide the Third-Party Releases and be subject to the injunctions set forth in Sections 10.6(b) and 10.7(b) of the Plan in exchange for the consideration contemplated in the Plan and Master Shareholder Settlement Agreement.

"***Third-Party Released Claims***" means any Causes of Action released pursuant to Sections 10.6(b) and 10.7(b) of the Plan, as applicable.

"***Third-Party Releases***" means the releases provided for in Sections 10.6(b) and 10.7(b) of the Plan.

"***Third Public Schools Distribution***" has the meaning set forth in Section 5.2(f)(ii) of the Plan.

"***Total Direct Settlement Amount***" has the meaning set forth in the Governmental Entity Shareholder Direct Settlement Agreement.

"***TPP Direct Claim Settlement Retained Payment Amount***" means the portion of the Maximum TPP Shareholder Direct Settlement Amount allocable to Holders of Direct Settlement Eligible TPP Claims that are Non-Settling Creditors (if any) pursuant to the TPP TDP, and which amount shall be retained by the Shareholder Payment Parties.

"***TPP LRP Escrow Account***" means an escrow account to be established, maintained and administered by the Creditor Trustee for the PI Trust and into which the Creditor Trustee for the PI Trust shall deposit a portion of the funds received by the PI Trust pursuant to the Plan, in accordance with and subject to the terms of the LRP Agreement.

"***TPP TDP***" means the trust distribution procedures to be implemented by the TPP Trust setting forth the procedures for Distributions from the TPP Trust, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors and the Third-Party Payor Group, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

"***TPP Trust***" means a trust to be established in accordance with Section 5.8 of the Plan to (i) assume all liability for the Third-Party Payor Channeled Claims, (ii) hold the MDT TPP Claim and collect the Initial TPP Trust Distribution and additional payments due under the MDT TPP Claim in accordance with the Private Entity Settlements and the TPP Trust Documents, (iii) administer Third-Party Payor Channeled Claims, (iv) hold and administer the Class 8 Non-Participating Claims Reserve on and after the Effective Date, (v) hold the Class 8 Released Claims Reserve on and after the Effective Date, (vi) make Distributions in accordance with the TPP Trust Documents, and (vii) carry out such other matters as are set forth in the TPP TDP.

"***TPP Trust Agreement***" means the trust agreement establishing and delineating the terms and conditions for the creation and operation of the TPP Trust, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors and the Third-Party Payor Group, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

"***TPP Trust Documents***" means the TPP Trust Agreement and the TPP TDP.

"***Transferred Debtor***" means a Debtor that is acquired directly or indirectly by NewCo pursuant to the NewCo Transfer Agreement. For the avoidance of doubt, PPLP shall not be a Transferred Debtor.

"***Treasury Regulations***" means the regulations promulgated from time to time under the IRC.

"***Tribal Shareholder Direct Settlement***" means the settlement set forth in the Tribal Shareholder Direct Settlement Agreement.

"***Tribal Shareholder Direct Settlement Agreement***" means the settlement agreement which shall be filed by the Debtors with the Plan Supplement.

"***Tribe***" means any American Indian or Alaska Native Tribe, band, nation, pueblo, village or community, that the U.S. Secretary of the Interior acknowledges as an Indian Tribe, as provided in the Federally Recognized Tribe List Act of 1994, 25 U.S.C. § 5130, and as periodically listed by the U.S. Secretary of the Interior in the Federal Register pursuant to 25 U.S.C. § 5131; and any "Tribal Organization" as provided in the Indian Self-Determination and Education Assistance Act of 1975, as amended, 25 U.S.C. § 5304(l).

"***Tribe Attorney Fee Fund***" means the fund to be established as set forth in Section 5.9(c) of the Plan.

"***Tribe Channeled Claim***" means (i) any Tribe Claim or (ii) any Claim held by a Tribe that is released pursuant to the Tribal Shareholder Direct Settlement Agreement. Tribe Channeled Claims shall be channeled to the Tribe Trust in accordance with the Plan and Master TDP.

"***Tribe Claim***" means any Claim against any Debtor that is held by a Tribe (including any Claim based on the subrogation rights of a Tribe that is not an Other Subordinated Claim), in its capacity as such. For the avoidance of doubt, claims of Tribes against Holders of PI Claims or Distributions payable to Holders of PI Claims, to the extent such claims exist, are not claims against any Debtor and therefore are not included in this definition of "Tribe Claims."

"***Tribe TDP***" means the trust distribution procedures to be implemented by the Tribe Trust setting forth the procedures for Distributions from the Tribe Trust, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors and the Native American Tribe Group, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

"***Tribe Trust***" means one or more trusts, limited liability companies or other Persons to be established in accordance with Section 5.8 of the Plan to (i) assume all liability for the Tribe Channeled Claims, (ii) hold the MDT Tribe Interest and collect the Initial Tribe Trust Distribution and the other Public Creditor Trust Distributions received in accordance with the Public Entity Settlements, (iii) administer Tribe Channeled Claims, (iv) hold and administer the Class 5 Non-Participating Claims

Reserves on and after the Effective Date, (v) hold the Class 5 Released Claims Reserve on and after the Effective Date and (vi) make Distributions in accordance with the Tribe TDP.

"***Tribe Trust Agreement***" means the trust agreement and any limited liability company agreement or similar governing document establishing and delineating the terms and conditions for the creation and operation of the Tribe Trust, the terms of which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors and the Native American Tribe Group, and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

"***Tribe Trust Documents***" means the Tribe Trust Agreement and the Tribe TDP.

"***Twelfth Amended Plan***" means the *Twelfth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and Its Affiliated Debtors* [D.I. 3726].

"***U.S. Trustee***" means the United States Trustee for Region 2.

"***Unimpaired***" means, with respect to any Claim, Interest, or Class of Claims or Interests, not "impaired" within the meaning of such term in section 1124 of the Bankruptcy Code.

"***United States***" means the United States of America, its agencies, departments or agents.

"***United States-PI Claimant Medical Expense Claim***" means any healthcare-related claim, Cause of Action or Lien (including a subrogation claim or reimbursement claim), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereinafter arising, choate or inchoate, (i) against a Holder of a PI Claim or the recoveries of a Holder of a PI Claim pursuant to the PI TDP or under the Plan, (ii) held by any of the following federal governmental agencies or federal health insurance programs: the United States Department of Health and Human Services, on its own behalf and on behalf of its component agencies, which are the Centers for Medicare & Medicaid Services and the Indian Health Service on behalf of its federally-operated programs; the TRICARE Program; and the United States Department of Veterans Affairs, and (iii) on account of opioid injury-related conditional payments made by such programs or agencies to, on behalf of, or in respect of, such Holders of PI Claims. The United States-PI Claimant Medical Expense Claim Settlement does not apply to any claims brought by programs operated by tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act, 25 U.S.C. §§ 5301–5423, or programs operated by urban Indian organizations that have a grant or contract with the Indian Health Service under the Indian Health Care Improvement Act, 25 U.S.C. §§ 1601–1685.

"***United States-PI Claimant Medical Expense Claim Releases***" means the releases provided for in Section 5.2(i)(ii) of the Plan.

"***United States-PI Claimant Medical Expense Claim Settlement***" means the settlement provided for in Section 5.2(i) of the Plan.

"***Voting Deadline***" means the last day for Holders of Claims and Interests entitled to vote on the Plan to cast their votes to accept or reject the Plan as may be set by the Bankruptcy Court.

"***Voting Representative***" means a Firm representing Holders of Claims in any of the Master Ballot Classes who has returned a properly completed Solicitation Directive (as such terms are defined in the Solicitation Procedures Order).

"***Wind-Up Reserve***" means a reserve to be established to pay any and all costs, expenses, fees, taxes, debts, or obligations incurred from the operation and administration of the Debtors' Estates after the Effective Date (including professional fees and expenses). The Wind-Up Reserve shall be (i) funded with Effective Date Cash in an amount determined by the Debtors but not to exceed $10 million, or such greater amount subject to the consent (not to be unreasonably withheld) of the NewCo Managers and the MDT Trustees; *provided* further that if the NewCo Managers or the MDT Trustees withhold such consent, the Plan Administration Trustee shall have the right to seek relief from the Bankruptcy Court, which shall be granted upon the Bankruptcy Court's determination that such budgeted expenditures are appropriate and otherwise within the scope for which the Wind-Up Reserve was established pursuant to the Plan; and (ii) held by the Plan Administration Trust in a segregated account and administered by the Plan Administration Trustee on and after the Effective Date.

1.2 ***Interpretation; Application of Definitions; Rules of Construction***.

Unless otherwise specified, all section or exhibit references in the Plan are to the respective section in, or exhibit to, this Plan, as the same may be amended, waived, or modified from time to time in accordance with the terms hereof. The words "herein," "hereof," or "hereunder," and other words of similar import refer to this Plan as a whole and not to any particular section, subsection, or clause contained therein and have the same meaning as "in the Plan," "of the Plan," and "under the Plan," respectively. The words "includes" and "including" are not limiting. The headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. For purposes herein: (a) in the appropriate context, each term, whether stated in the singular or plural, shall include both the singular and plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the reference document shall be substantially in that form or substantially on those terms and conditions; (c) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (d) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

1.3 ***Reference to Monetary Figures.***

All references in this Plan to monetary figures shall refer to the legal tender of the United States of America unless otherwise expressly provided.

1.4 ***Controlling Document.***

(a) **Plan Supplements**. In the event of an inconsistency between Articles I through XII of the Plan and the Plan Supplement, the terms of Articles I through XII of the Plan shall control, except that in the event of an inconsistency between Articles I through XII of the Plan and the Master Shareholder Settlement Agreement (or any agreements ancillary to the Master Shareholder Settlement Agreement (other than any Direct Claims Shareholder Settlement Agreement)), the Master Shareholder Settlement Agreement (or such ancillary agreement) shall control.

(b) **Direct Claims Shareholder Settlement Agreements**. In the event of an inconsistency between Articles I through XII of the Plan and any Direct Claims Shareholder Settlement Agreement (or any agreement ancillary to such Direct Claims Shareholder Settlement Agreement (other than the Master Shareholder Settlement Agreement)), (i) the terms of Articles I through XII of the Plan shall control with respect to any matter affecting, or a dispute involving, a party that is not a Party to or otherwise bound by the applicable Direct Claims Shareholder Settlement Agreement, and (ii) such Direct Claims Shareholder Settlement Agreement (or such ancillary agreement) shall control with respect to all

other matters. No Direct Claims Shareholder Settlement Agreement may be enforced against any Person not party to or otherwise bound by such Direct Claims Shareholder Settlement Agreement; *provided*, that in no event will any Direct Claims Shareholder Settlement Agreement (or any agreement ancillary to such Direct Claims Shareholder Settlement Agreement) release or otherwise impact any Released Claim or Shareholder Released Claim of a type contemplated under the Plan pursuant to the applicable Shareholder Release Consent Mechanism to be governed by any other Direct Claims Shareholder Settlement Agreement or the Plan.

(c) **Other Documents**. Subject to Section 1.4(a) and 1.4(b), in the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control.

(d) **Plan and Confirmation Order**. The provisions of this Plan and of the Confirmation Order shall be construed in a manner consistent with each other so as to effectuate the purposes of each; *provided*, *however*, that, if there is determined to be any inconsistency between any provision of this Plan and any provision of the Confirmation Order that cannot be reconciled, then, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan solely to the extent of such inconsistency.

(e) **Determinations**. The determination of whether there is any inconsistency between any of the documents referred to in the foregoing Sections 1.4(a)-(d) will be made by the Bankruptcy Court in all instances.

1.5 Consent Rights.

For the avoidance of doubt and notwithstanding anything herein to the contrary, nothing in this Plan shall in any way eliminate, impair, or limit any consent or similar rights provided in favor of the Sackler Parties' Representative or any Shareholder Released Party in the Master Shareholder Settlement Agreement or any Shareholder Direct Settlement Agreement, including any such rights in respect of Definitive Documents (notwithstanding whether any such rights are provided in favor of the Sackler Parties' Representative or any Shareholder Released Party in this Plan).

ARTICLE II ADMINISTRATIVE CLAIMS, PROFESSIONAL FEE CLAIMS, PRIORITY TAX CLAIMS AND DOJ FORFEITURE JUDGMENT CLAIM.

2.1 *Administrative Claims.*

(a) **Generally**. Except as provided for herein or in any order of the Bankruptcy Court, and subject to section 503(b)(1)(D) of the Bankruptcy Code, Holders of Administrative Claims (other than Professional Fee Claims and the DOJ Forfeiture Judgment Claim) must file and serve on the Debtors requests for the payment of such Administrative Claims not already Allowed by a Final Order. Any Holder of an Administrative Claim that is required to, but does not, file and serve a request for payment of such Administrative Claim pursuant to the procedures specified in the Confirmation Order shall be forever barred, estopped and enjoined from asserting such Claims against the Debtors, the Liquidating Debtors, the Transferred Debtors, the Plan Administration Trust or their respective Assets or properties, and such Claims shall be deemed discharged as of the Effective Date. An Administrative Claim, with respect to which a request for payment has been properly and timely filed pursuant to this Section 2.1(a), shall become an Allowed Administrative Claim if no objection to such request is filed by the Debtors or the Plan Administration Trustee with the Bankruptcy Court on or before the date that is one hundred twenty (120) days after the Effective Date, or such later date as may be fixed by the Bankruptcy Court. If an objection is timely filed, such Administrative Claim shall become an Allowed Administrative Claim only to the extent Allowed by Final Order or such Claim is settled,

compromised or otherwise resolved pursuant to Section 7.6 of the Plan. Except to the extent a Holder of an Allowed Administrative Claim and the Debtor against which such Claim is asserted agree to different treatment, each Holder of an Allowed Administrative Claim (other than a Professional Fee Claim or the DOJ Forfeiture Judgment Claim) shall receive, on account of such Allowed Claim, Cash in an amount equal to the Allowed amount of such Claim from the Priority Claims Reserve within thirty (30) days following the later to occur of (i) the Effective Date and (ii) the date on which such Administrative Claim shall become an Allowed Claim; *provided* that any Administrative Claim that is an Assumed Liability shall be paid by NewCo in the ordinary course of business.

(b) **Professional Fee Claims**. All Professional Persons seeking awards by the Bankruptcy Court for compensation for services rendered or reimbursement of expenses incurred through and including the Effective Date under (x) section 327, 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4), 503(b)(5) or 1103 of the Bankruptcy Code, (y) with respect to the Ad Hoc Committee, the AHC Reimbursement Agreement Assumption Order, or (z) with respect to the MSGE Group, the MSGE Group Reimbursement Order, shall (i) file, on or before the date that is forty-five (45) days after the Effective Date, or as soon as reasonably practicable thereafter, their respective applications for final allowances of compensation for services rendered and reimbursement of expenses incurred and (ii) be paid in full in Cash, (A) *first*, from any existing amounts held by a Professional Person as a fee advance, retainer, or security that such Professional Person is authorized to use to satisfy Allowed Professional Fee Claims pursuant to the Interim Compensation Order or the order of the Bankruptcy Court authorizing the retention of such Professional Person (other than a reasonable retainer to cover post-Effective Date work), and (B) *second*, from the Professional Fee Escrow Account, in such aggregate amounts as are Allowed by the Bankruptcy Court or authorized to be paid in accordance with the order(s) relating to or allowing any such Professional Fee Claim. On or prior to the Effective Date, the Debtors shall establish the Professional Fee Escrow Account and, on the Effective Date, fund the Professional Fee Escrow Account with Cash such that the total amount held in the Professional Fee Escrow Account is equal to the sum of each Professional Person's good-faith estimates of its Professional Fee Claims. The procedures for filing objections to Professional Persons' applications for final allowance of compensation for services rendered and expenses incurred shall be set forth in the Confirmation Order.

2.2 ***Priority Tax Claims.***

Except to the extent a Holder of an Allowed Priority Tax Claim and the Debtor against which such Claim is asserted agree to different treatment, on the Effective Date or as soon as reasonably practicable thereafter, each Holder of an Allowed Priority Tax Claim shall receive, on account of such Allowed Priority Tax Claim, either Cash in an amount equal to the Allowed amount of such Claim from the Priority Claims Reserve or such other treatment as may satisfy section 1129(a)(9) of the Bankruptcy Code.

2.3 ***DOJ Forfeiture Judgment Claim.***

(a) Allowance: Pursuant to the Plea Agreement and the DOJ 9019 Order, the DOJ Forfeiture Judgment Claim shall be Allowed in the amount of $2.0 billion on the later of (i) the DOJ Conviction Judgment Date and (ii) the entry by the Bankruptcy Court of the Confirmation Order.

(b) Treatment: In full and final satisfaction, settlement, release and discharge of the DOJ Forfeiture Judgment Claim, the Debtors shall make the DOJ Forfeiture Payment within three (3) Business Days following the DOJ Conviction Judgment Date, which DOJ Forfeiture Payment, in combination with the DOJ Forfeiture Judgment Credit, shall satisfy and discharge the DOJ Forfeiture Judgment Claim in full.

ARTICLE III CLASSIFICATION OF CLAIMS AND INTERESTS.

3.1 *Classification in General.*

A Claim or Interest is placed in a particular Class for all purposes, including voting, confirmation and Distributions under this Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Interest is classified in a particular Class for the purpose of receiving Distributions pursuant to this Plan only to the extent such Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent any portion of the Claim or Interest qualifies within the description of such other Classes; *provided* that, to the extent any Claim satisfies the definition of a Shareholder Claim, a Co-Defendant Claim or an Other Subordinated Claim, such Claim shall be classified as such, notwithstanding that such Claim may satisfy the definition of another type of Claim. A Claim or Interest is also classified in a particular Class for the purpose of receiving Distributions hereunder only to the extent such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been satisfied, released or otherwise settled prior to the Effective Date. In no event shall any Holder of an Allowed Claim be entitled to receive payments under this Plan that, in the aggregate, exceed the Allowed amount of such Holder's Claim.

3.2 *Summary of Classification of Claims and Interests.*

The following table designates the Classes of Claims against and Interests in the Debtors and specifies which Classes are (a) Impaired or Unimpaired under this Plan, ii) entitled to vote to accept or reject this Plan in accordance with section 1126 of the Bankruptcy Code or presumed to accept or deemed to reject this Plan:

Class	Type of Claim or Interest	Impairment	Entitled to Vote
Class 1	Secured Claims	Unimpaired	No (Presumed to Accept)
Class 2	Other Priority Claims	Unimpaired	No (Presumed to Accept)
Class 3	Federal Government Unsecured Claims	Impaired	Yes
Class 4	Non-Federal Domestic Governmental Claims	Impaired	Yes
Class 5	Tribe Claims	Impaired	Yes
Class 6	Public School Claims	Impaired	Yes
Class 7	Healthcare Provider Claims	Impaired	Yes
Class 8	Third-Party Payor Claims	Impaired	Yes
Class 9	ER Physician Claims	Impaired	Yes
Class 10(a)	NAS PI Claims	Impaired	Yes
Class 10(b)	Non-NAS PI Claims	Impaired	Yes
Class 11(a)	Avrio General Unsecured Claims	Unimpaired	No (Presumed to Accept)
Class 11(b)	Adlon General Unsecured Claims	Unimpaired	No (Presumed to Accept)

Class 11(c)	Other General Unsecured Claims	Impaired	Yes
Class 12	Intercompany Claims	Unimpaired or Impaired	No (Presumed to Accept or Deemed to Reject)
Class 13	Shareholder Claims	Impaired	No (Deemed to Reject)
Class 14	Co-Defendant Claims	Impaired	No (Deemed to Reject)
Class 15	Other Subordinated Claims	Impaired	No (Deemed to Reject)
Class 16	PPLP Interests	Impaired	No (Deemed to Reject)
Class 17	PPI Interests	Impaired	No (Deemed to Reject)
Class 18	Intercompany Interests	Unimpaired or Impaired	No (Presumed to Accept or Deemed to Reject)

3.3 ***Voting Classes; Presumed Acceptance by Non-Voting Classes.***

With respect to each Debtor, if a Class contains Claims eligible to vote and no Holder of Claims eligible to vote in such Class votes to accept or reject this Plan by the Voting Deadline, this Plan shall be presumed accepted by the Holders of Claims in such Class.

3.4 ***Voting; Presumptions; Solicitation.***

(a) **Acceptance by Certain Impaired Classes**. Only Holders of Claims in Classes 3, 4, 5, 6, 7, 8, 9, 10(a), 10(b) and 11(c) are entitled to vote to accept or reject this Plan. An Impaired Class of Claims shall have accepted this Plan if (i) the Holders, including Holders acting through a Voting Representative, of at least two-thirds (2/3) in amount of Claims actually voting in such Class have voted to accept this Plan and (ii) the Holders, including Holders acting through a Voting Representative, of more than one-half (1/2) in number of Claims actually voting in such Class have voted to accept this Plan. Holders of Claims in Classes 3, 4, 5, 6, 7, 8, 9, 10(a), 10(b) and 11(c) (or, if applicable, the Voting Representatives of such Holders) shall receive ballots containing detailed voting instructions. For the avoidance of doubt, pursuant to and except as otherwise provided in the Solicitation Procedures Order, each Claim in Classes 4, 5, 6, 7, 8, 9, 10(a) and 10(b) shall be accorded one (1) vote and valued at one dollar ($1.00) for voting purposes only, and not for purposes of Allowance or distribution, such that each of Classes 4, 5, 6, 7, 8, 9, 10(a) and 10(b) shall be deemed to have accepted this Plan if the Holders, including Holders acting through a Voting Representative, of at least two-third (2/3) in number of Claims actually voting in such Class have voted to accept the Plan.

(b) **Deemed Acceptance by Unimpaired Classes**. Holders of Claims in Classes 1, 2, 11(a) and 11(b) are conclusively presumed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Accordingly, such Holders are not entitled to vote to accept or reject this Plan.

(c) **Deemed Rejection by Certain Impaired Classes**. Holders of Claims and Interests in Classes 13, 14, 15, 16, and 17 are deemed to have rejected this Plan pursuant to section 1126(g) of the Bankruptcy Code. Accordingly, such Holders are not entitled to vote to accept or reject this Plan.

(d) **Deemed Acceptance or Rejection by Certain Classes**. Holders of Interests in Classes 12 and 18 are either conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code or are deemed to have rejected the Plan pursuant to

section 1126(g) of the Bankruptcy Code. Accordingly, such Holders are not entitled to vote to accept or reject the Plan.

(e) **Individual Creditor Voting Rights**. Notwithstanding anything to the contrary in this Plan, the voting rights of Holders of Claims in any Class shall be governed in all respects by the Solicitation Procedures Order, including without limitation with respect to the amount of such Claims for voting purposes.

3.5 ***Cramdown.***

If any Class of Claims is deemed to reject this Plan or is entitled to vote on this Plan and does not vote to accept this Plan, the Debtors may (a) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code and/or (b) amend or modify this Plan in accordance with the terms hereof and the Bankruptcy Code. If a controversy arises as to whether any Claim or Interest, or any Class of Claims or Interests, is Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

3.6 ***No Waiver.***

Nothing contained in this Plan shall be construed to waive a Debtor's or other Person's right to object on any basis to any Claim.

ARTICLE IV TREATMENT OF CLAIMS AND INTERESTS.

4.1 ***Secured Claims (Class 1).***

(a) Treatment: Except to the extent a Holder of an Allowed Secured Claim and the Debtor against which such Claim is asserted agree to different treatment, on the Effective Date, or as soon as reasonably practicable thereafter, each Holder of an Allowed Secured Claim shall receive, on account of such Allowed Claim, (i) payment in full in Cash from the Priority Claims Reserve in accordance with section 506(a) of the Bankruptcy Code, (ii) Reinstatement of such Allowed Claim pursuant to section 1124 of the Bankruptcy Code or (iii) such other treatment as may be necessary to render such Claim Unimpaired.

(b) Impairment and Voting: Secured Claims are Unimpaired. Holders of Secured Claims are conclusively presumed to accept this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Secured Claims are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such Secured Claims.

4.2 ***Other Priority Claims (Class 2).***

(a) Treatment: Except to the extent a Holder of an Allowed Other Priority Claim and the Debtor against which such Claim is asserted agree to different treatment, on the Effective Date, or as soon as reasonably practicable thereafter, each Holder of an Allowed Other Priority Claim shall receive, on account of such Allowed Claim, (i) payment in full in Cash from the Priority Claims Reserve or (ii) such other treatment consistent with the provisions of section 1129(a)(9) of the Bankruptcy Code.

(b) Impairment and Voting: Other Priority Claims are Unimpaired. Holders of Other Priority Claims are conclusively presumed to accept this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Other Priority Claims are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such Other Priority Claims.

4.3 ***Federal Government Unsecured Claims (Class 3).***

(a) Allowance of the DOJ Civil Claim and DOJ Criminal Fine Claim: Pursuant to the DOJ 9019 Order, the DOJ Civil Claim is Allowed in the amount of $2.8 billion. The DOJ Criminal Fine Claim shall be Allowed in the amount of $3.544 billion on the later of (i) the DOJ Conviction Judgment Date and (ii) the entry by the Bankruptcy Court of the Confirmation Order.

(b) Treatment: On the Effective Date, in full and final satisfaction, settlement and release of the Allowed Federal Government Unsecured Claims, the United States shall receive (i) the Initial Federal Government Distribution and (ii) the MDT Federal Government Claim. The MDT Federal Government Claim shall be payable by the Master Disbursement Trust in the following installments: (x) $10 million on the second Scheduled MDT Distribution Date, (y) $10 million on the third Scheduled MDT Distribution Date and (z) $5 million on the fourth Scheduled MDT Distribution Date. The Initial Federal Government Distribution and the amounts paid to the United States on account of the MDT Federal Government Claim shall be deemed applied 60% to the DOJ Unsecured Claims and 40% to the Other Federal Agency Claims.

(c) Impairment and Voting: The Federal Government Unsecured Claims are Impaired. Holders of Federal Government Unsecured Claims are entitled to vote to accept or reject the Plan.

4.4 ***Non-Federal Domestic Governmental Claims (Class 4).***

(a) Treatment: On the Effective Date, in full and final satisfaction, settlement and release of the Debtors' obligations in respect of Non-Federal Domestic Governmental Claims, the Governmental Remediation Trust shall receive (i) the Initial Governmental Remediation Trust Distribution, (ii) the MDT Governmental Remediation Trust Interest and (iii) the right to receive 96.7% of the Governmental NewCo Distributable Cash pursuant to Section 5.4(e) of the Plan.

(b) Channeling: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all Non-Federal Domestic Governmental Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the Governmental Remediation Trust and shall be exclusively satisfied by payments from the Governmental Remediation Trust. Each Non-Federal Domestic Governmental Channeled Claim shall be asserted exclusively against the Governmental Remediation Trust and resolved solely in accordance with the terms, provisions and procedures of the Governmental Remediation Trust Agreement. The sole recourse of any Person on account of any Non-Federal Domestic Governmental Channeled Claim, whether or not the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the Governmental Remediation Trust as and to the extent provided in the Governmental Remediation Trust Agreement. Subject to Section 10.8(c), Holders of Non-Federal Domestic Governmental Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any Channeled Claim, and may not proceed in any manner against any Debtor or other Protected Party on account of any Channeled Claim in any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and are required to pursue Non-Federal Domestic Governmental Channeled Claims exclusively against the Governmental Remediation Trust.

(c) Impairment and Voting: Non-Federal Domestic Governmental Claims are Impaired. Holders of Non-Federal Domestic Governmental Claims are entitled to vote to accept or reject the Plan.

4.5 ***Tribe Claims (Class 5).***

(a) Treatment: On the Effective Date, in full and final satisfaction, settlement and release of the Debtors' obligations in respect of Tribe Claims, the Tribe Trust shall receive (i) the Initial Tribe Trust Distribution, (ii) the MDT Tribe Interest and (iii) the right to receive 3.3% of the Governmental NewCo Distributable Cash pursuant to Section 5.4(e) of the Plan.

(b) Channeling: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all Tribe Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the Tribe Trust and shall be exclusively satisfied by payments from the Tribe Trust. Each Tribe Channeled Claim shall be asserted exclusively against the Tribe Trust and resolved solely in accordance with the terms, provisions and procedures of the Tribe TDP. The sole recourse of any Person on account of any Tribe Channeled Claim, whether or not the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the Tribe Trust as and to the extent provided in the Tribe TDP. Subject to Section 10.8(c), Holders of Tribe Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any Channeled Claim, and may not proceed in any manner against any Debtor or other Protected Party on account of any Channeled Claim in any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and are required to pursue Tribe Channeled Claims exclusively against the Tribe Trust, solely as and to the extent provided in the Tribe TDP.

(c) Impairment and Voting: Tribe Claims are Impaired. Holders of Tribe Claims are entitled to vote to accept or reject the Plan.

4.6 ***Public School Claims (Class 6).***

(a) Treatment: On the Effective Date, in full and final satisfaction, settlement and release of the Debtors' obligations in respect of Public School Claims, the Public School Trust shall receive (i) the Initial Public Schools Distribution (less any required payments to the Common Benefit Fund and/or in respect of attorneys' fees and expenses of the Public School District Claimants in accordance with Section 5.9(d) and (i) of the Plan) and (ii) the MDT Public School Districts Claim; *provided* that if, as of the Effective Date, the Public School District Shareholder Direct Settlement has not been consummated, the Shareholder Direct Settlement Portion of the Initial Public Schools Distribution will be deposited into a third-party interest bearing escrow in accordance with the Master Shareholder Settlement Agreement on the Effective Date and distributed in accordance with Section 5.2(e)(i) of the Plan.

(b) Channeling: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all Public School Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the Public School Trust and shall be exclusively satisfied by payments from the Public School Trust. Each Public School Channeled Claim shall be asserted exclusively against the Public School Trust and resolved solely in accordance with the terms, provisions and procedures of the Public School TDP. The sole recourse of any Person on account of any Public School Channeled Claim, whether or not the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the Public School Trust as and to the extent provided in the Public School TDP. Subject to Section 10.8(c), Holders of Public School Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any Channeled Claim, and may not proceed in any manner against any Debtor or other Protected Party on account of any Channeled Claim in any forum whatsoever, including any state, federal or non-U.S. court or

administrative or arbitral forum, and are required to pursue Public School Channeled Claims exclusively against the Public School Trust, solely as and to the extent provided in the Public School TDP.

(c) Impairment and Voting: Public School Claims are Impaired. Holders of Public School Claims are entitled to vote to accept or reject the Plan.

4.7 *Healthcare Provider Claims (Class 7).*

(a) Treatment: On the Effective Date, in full and final satisfaction, settlement and release of the Debtors' obligations in respect of Healthcare Provider Claims, the Healthcare Provider Trust shall receive (i) the Initial Healthcare Provider Trust Distribution and (ii) the MDT Healthcare Provider Claim; *provided* that if, as of the Effective Date, the Hospital Shareholder Direct Settlement has not been consummated, the Shareholder Direct Settlement Portion of the Initial Healthcare Provider Trust Distribution will be deposited into a third-party interest bearing escrow in accordance with the Master Shareholder Settlement Agreement on the Effective Date and distributed in accordance with Section 5.2(e)(i) of the Plan.

(b) Channeling: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all Healthcare Provider Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the Healthcare Provider Trust and shall be exclusively satisfied by payments from the Healthcare Provider Trust. Each Healthcare Provider Channeled Claim shall be asserted exclusively against the Healthcare Provider Trust and resolved solely in accordance with the terms, provisions and procedures of the Healthcare Provider TDP. The sole recourse of any Person on account of any Healthcare Provider Channeled Claim, whether or not the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the Healthcare Provider Trust as and to the extent provided in the Healthcare Provider TDP. Subject to Section 10.8(c), Holders of Healthcare Provider Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any Channeled Claim, and may not proceed in any manner against any Debtor or other Protected Party on account of any Channeled Claim in any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and are required to pursue Healthcare Provider Channeled Claims exclusively against the Healthcare Provider Trust, solely as and to the extent provided in the Healthcare Provider TDP.

(c) Impairment and Voting: Healthcare Provider Claims are Impaired. Healthcare Provider of Healthcare Provider Claims are entitled to vote to accept or reject the Plan.

4.8 *Third-Party Payor Claims (Class 8).*

(a) Treatment: On the Effective Date, in full and final satisfaction, settlement and release of the Debtors' obligations in respect of Third-Party Payor Claims, the TPP Trust shall receive (i) the Initial TPP Trust Distribution and (ii) the MDT TPP Claim. For the avoidance of doubt, any payments from the TPP LRP Escrow Account to which LRP Participating TPPs may be entitled under the LRP Agreement shall not be subject to this Section 4.8.

(b) Channeling: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all Third-Party Payor Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the TPP Trust and shall be exclusively satisfied by payments from the TPP Trust. Each Third-Party Payor Channeled Claim shall be asserted exclusively against the TPP Trust and resolved solely in accordance with the terms, provisions and procedures of the TPP TDP. The sole recourse of any Person on account of any Third-Party Payor Channeled Claim, whether or not

the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the TPP Trust as and to the extent provided in the TPP TDP. Subject to Section 10.8(c), Holders of Third-Party Payor Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any Channeled Claim, and may not proceed in any manner against any Debtor or other Protected Party on account of any Channeled Claim in any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and are required to pursue Third-Party Payor Channeled Claims exclusively against the TPP Trust, solely as and to the extent provided in the TPP TDP.

(c) Impairment and Voting: Third-Party Payor Claims are Impaired. Holders of Third-Party Payor Claims are entitled to vote to accept or reject the Plan.

4.9 ***ER Physician Claims (Class 9).***

(a) Treatment: On the Effective Date, in full and final satisfaction, settlement and release of the Debtors' obligations in respect of ER Physician Claims, the ERP Trust shall receive (i) the Initial ERP Trust Distribution and (ii) the MDT ERP Claim; *provided* that if, as of the Effective Date, the ER Physician Shareholder Direct Settlement has not been consummated, the Initial ERP Trust Distribution will be deposited into a third-party interest bearing escrow in accordance with the Master Shareholder Settlement Agreement on the Effective Date and distributed in accordance with Section 5.2(e)(i) of the Plan.

(b) Channeling: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all ER Physician Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the ERP Trust and shall be exclusively satisfied by payments from the ERP Trust. Each ER Physician Channeled Claim shall be asserted exclusively against the ERP Trust and resolved solely in accordance with the terms, provisions and procedures of the ERP TDP. The sole recourse of any Person on account of any ER Physician Channeled Claim, whether or not the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the ERP Trust as and to the extent provided in the ERP TDP. Subject to Section 10.8(c), Holders of ER Physician Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any ER Physician Channeled Claim, and may not proceed in any manner against any Debtor or other Protected Party on account of any ER Physician Channeled Claim in any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and are required to pursue ER Physician Channeled Claims exclusively against the ERP Trust, solely as and to the extent provided in the ERP TDP.

(c) Impairment and Voting: ER Physician Claims are Impaired. Holders of ER Physician Claims are entitled to vote to accept or reject the Plan.

4.10 ***PI Claims (Classes 10(a) and 10(b)).***

(a) PI Trust: On the Effective Date, in full and final satisfaction, settlement and release of the Debtors' obligations in respect of PI Claims, the PI Trust shall receive, subject to Section 5.2(i) of the Plan, (i) the Initial PI Trust Distribution and (ii) the MDT PI Claim.

(b) NAS PI Claims (Class 10(a)):

(i) Treatment: The PI Trust shall deposit the NAS PI Portion into the PI Trust NAS Fund in periodic installments as funds are received by the PI Trust. Distributions in respect of NAS PI

Channeled Claims shall be exclusively in the form of Distributions from the PI Trust NAS Fund or a Sub-Qualified Settlement Fund to Holders of Allowed NAS PI Channeled Claims, in accordance with the NAS PI TDP, and shall be subject to the PI Trust Deductions and Holdbacks.

(ii) Channeling: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all NAS PI Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the PI Trust and shall be exclusively satisfied by payments from the PI Trust. Each NAS PI Channeled Claim shall be asserted exclusively against the PI Trust and resolved solely in accordance with the terms, provisions and procedures of the NAS PI TDP. The sole recourse of any Person on account of any NAS PI Channeled Claim, whether or not the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the PI Trust NAS Fund as and to the extent provided in the NAS PI TDP. Subject to Section 10.8(c), Holders of NAS PI Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any Channeled Claim, and may not proceed in any manner against any Debtor or other Protected Party on account of any Channeled Claim in any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and are required to pursue NAS PI Channeled Claims exclusively against the PI Trust, solely as and to the extent provided in the NAS PI TDP.

(iii) Impairment and Voting: NAS PI Claims are Impaired. Holders of NAS PI Claims are entitled to vote to accept or reject the Plan.

(c) Non-NAS PI Claims (Class 10(b)).Treatment: The PI Trust shall deposit the Non-NAS PI Portion into the PI Trust Non-NAS Fund in periodic installments as funds are received by the PI Trust. Distributions in respect of Non-NAS PI Channeled Claims shall be exclusively in the form of Distributions from the PI Trust Non-NAS Fund or Sub-Qualified Settlement Fund to Holders of Allowed Non-NAS PI Channeled Claims, in accordance with the Non-NAS PI TDP, and shall be subject to the PI Trust Deductions and Holdbacks.

(ii) Channeling: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all Non-NAS PI Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the PI Trust and shall be exclusively satisfied by payments from the PI Trust. Each Non-NAS PI Channeled Claim shall be asserted exclusively against the PI Trust and resolved solely in accordance with the terms, provisions and procedures of the Non-NAS PI TDP. The sole recourse of any Person on account

of any Non-NAS PI Channeled Claim, whether or not the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the PI Trust Non-NAS Fund as and to the extent provided in the Non-NAS PI TDP. Subject to Section 10.8(c) of the Plan, Holders of Non-NAS PI Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any Channeled Claim, and may not proceed in any manner against any Debtor or other Protected Party on account of any Channeled Claim in any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and are required to pursue Non-NAS PI Channeled Claims exclusively against the PI Trust, solely as and to the extent provided in the Non-NAS PI TDP.

(iii) Impairment and Voting: Non-NAS PI Claims are Impaired. Holders of Non-NAS PI Claims are entitled to vote to accept or reject the Plan.

(d) Canadian Patient Settlement. Pursuant to the Canadian Patient Claim Settlement Stipulation, (i) no Holder of a Settled Canadian Patient Claim that filed a Proof of Claim shall receive a recovery in respect of such Settled Canadian Patient Claim from any source other than the Patient Settlement Payment (as defined in the Canadian Patient Claim Settlement Stipulation) made from the Canadian Patient Settlement Trust and (ii) in order to receive a recovery in respect of any other Claim for which a Proof of Claim was filed by a Holder of a Settled Canadian Patient Claim, such Holder shall have the burden of proving that such Proof of Claim is not in respect of a Settled Canadian Patient Claim that was released and discharged pursuant to the Canadian Patient Claim Settlement Stipulation and such Holder has not received any recovery from the Canadian Patient Settlement Trust on account of such Claim. No Distributions shall be made on account of any Claims that may constitute Settled Canadian Patient Claims unless and until (x) the Saskatchewan Court of Queen's Bench approves the Canadian Patient Settlement Agreement and all funds in the Canadian Patient Settlement Trust have been distributed to Holders of Settled Canadian Patient Claims in accordance with the Canadian Patient Settlement Agreement or (y) the Saskatchewan Court of Queen's Bench denies the Canadian Patient Settlement Agreement. For the avoidance of doubt, nothing in Article X of the Plan shall affect the validity or enforceability of the Canadian Patient Settlement Agreement.

4.11 ***Avrio General Unsecured Claims (Class 11(a))***.

(a) Treatment: Except to the extent a Holder of an Allowed Avrio General Unsecured Claim and Avrio Health L.P. agree to different treatment, on the Effective Date, or as soon as reasonably practicable thereafter, each Holder of an Allowed Avrio General Unsecured Claim shall receive, on account of such Allowed Claim, including interest, payment in full in Cash.

(b) Impairment and Voting: Avrio General Unsecured Claims are Unimpaired. Holders of Avrio General Unsecured Claims are conclusively presumed to accept this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Avrio General Unsecured Claims are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited.

4.12 ***Adlon General Unsecured Claims (Class 11(b)).***

(a) Treatment: Except to the extent a Holder of an Allowed Adlon General Unsecured Claim and Adlon Therapeutics L.P. agree to different treatment, on the Effective Date, or as soon as reasonably practicable thereafter, each Holder of an Allowed Adlon General Unsecured Claim shall receive, on account of such Allowed Claim, including interest, payment in full in Cash.

(b) Impairment and Voting: Adlon General Unsecured Claims are Unimpaired. Holders of Adlon General Unsecured Claims are conclusively presumed to accept this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Adlon General Unsecured Claims are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited.

4.13 ***Other General Unsecured Claims (Class 11(c)).***

(a) Treatment: All Other General Unsecured Claims are Disputed. Except to the extent a Holder of an Allowed Other General Unsecured Claim and the Debtor against which such Claim is asserted agree to different treatment, after the Effective Date upon the Allowance of such Claim in accordance with Article VII of the Plan, each Holder of an Allowed Other General Unsecured Claim shall receive, on account of such Allowed Claim, such Holder's Pro Rata Share of the Other General Unsecured Claim Cash, up to payment in full of such Allowed Claim.

(b) Impairment and Voting: Other General Unsecured Claims are Impaired. Holders of Other General Unsecured Claims are entitled to vote to accept or reject the Plan.

4.14 ***Intercompany Claims (Class 12).***

(a) Treatment: Except as otherwise provided in the NewCo Transfer Agreement or the Restructuring Steps Memorandum, on or after the Effective Date, Intercompany Claims shall be (x) in the case of Intercompany Claims held by a Liquidating Debtor against another Liquidating Debtor, at the discretion of the Debtors (or the Plan Administration Trustee, as applicable), (y) in the case of Intercompany Claims held by a Transferred Debtor against another Transferred Debtor, at the discretion of NewCo and (z) otherwise, at the discretion of the Debtors (or the Plan Administration Trustee, as applicable) with the consent (not to be unreasonably withheld, conditioned or delayed) of the Governmental Consent Parties:

(i) Reinstated; or

(ii) Compromised and settled or canceled and extinguished with no distribution on account thereof.

(b) Impairment and Voting: Intercompany Claims are either Unimpaired or Impaired with no distribution on account thereof. Holders of Intercompany Claims are either conclusively presumed to accept this Plan pursuant to section 1126(f) of the Bankruptcy Code or deemed to reject this Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Intercompany Claims are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such Intercompany Claims.

4.15 ***Shareholder Claims (Class 13).***

(a) Treatment: Holders of Shareholder Claims shall not receive or retain any property on account of such Claims. As of the Effective Date, in accordance with the terms of and except

as otherwise expressly provided in the Shareholder Settlements, all Shareholder Claims shall automatically, and without further act, deed or court order, be deemed to have been released without any distribution on account thereof, and such Claims shall be of no further force or effect.

(b) Impairment and Voting: Shareholder Claims are Impaired. Holders of Shareholder Claims are deemed to reject this Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Shareholder Claims are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such Shareholder Claims.[4]

4.16 ***Co-Defendant Claims (Class 14).***

(a) Treatment: In full and final satisfaction and release of each Co-Defendant Claim, the Holder thereof shall (i) not receive or retain any property on account of such Co-Defendant Claim and not have any recourse to any Debtor or any Assets of any Debtor, or any Estate or any Assets of any Estate and (ii) retain its Co-Defendant Defensive Rights, which may be exercised solely in accordance with Section 10.18. As of the Effective Date, Co-Defendant Claims shall be deemed expunged, released and extinguished without further action by or order of the Bankruptcy Court, and shall be of no further force or effect. Notwithstanding the release, satisfaction, expungement and extinguishment of Co-Defendant Claims, a Co-Defendant retains its Co-Defendant Defensive Rights.

(b) Impairment and Voting: Co-Defendant Claims are Impaired. Holders of Co-Defendant Claims are deemed to reject this Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Co-Defendant Claims are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such Co-Defendant Claims.

4.17 ***Other Subordinated Claims (Class 15).***

(a) Treatment: Other Subordinated Claims are subordinated pursuant to the Plan and section 509(c) and/or 510 of the Bankruptcy Code and/or other applicable law. Holders of Other Subordinated Claims shall not receive or retain any property under this Plan on account of such Claims. As of the Effective Date, Other Subordinated Claims shall be deemed expunged, released and extinguished without further action by or order of the Bankruptcy Court, and shall be of no further force or effect.

(b) Impairment and Voting: Other Subordinated Claims are Impaired. Holders of Other Subordinated Claims are deemed to reject this Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Other Subordinated Claims are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such Other Subordinated Claims.

4.18 ***PPLP Interests (Class 16).***

(a) Treatment: In accordance with the terms of the Shareholder Settlement Agreements, Holders of PPLP Interests shall relinquish such Interests and shall not receive or retain any property under the Plan on account of such Interests. As of the PPLP Dissolution Date, all PPLP Interests

[4] Although Holders of Shareholder Claims are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code, the Shareholder Payment Parties, in all capacities (including as Holders of Claims), have agreed to support the Plan pursuant to the Master Shareholder Settlement Agreement.

shall be deemed surrendered, canceled and/or redeemed without further action by or order of the Bankruptcy Court, and shall be of no further force or effect.

(b) Impairment and Voting: PPLP Interests are Impaired. Holders of PPLP Interests are deemed to reject this Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of PPLP Interests are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such PPLP Interests.

4.19 ***PPI Interests (Class 17).***

(a) Treatment: In accordance with the terms of the Shareholder Settlement Agreements, Holders of PPI Interests shall relinquish such Interests and shall not receive or retain any property under this Plan on account of such Interests. As of the Effective Date, PPI Interests shall be deemed surrendered, canceled and/or redeemed without further action by or order of the Bankruptcy Court, and shall be of no further force or effect.

(b) Impairment and Voting: PPI Interests are Impaired. Holders of PPI Interests are deemed to reject this Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of PPI Interests are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such PPI Interests.

4.20 ***Intercompany Interests (Class 18).***

(a) Treatment: Except as otherwise provided in the NewCo Transfer Agreement or the Restructuring Steps Memorandum, on the Effective Date, Intercompany Interests shall be:

(i) with respect to Intercompany Interests in any Transferred Debtor held by PPLP, Reinstated and transferred to NewCo (or one of its Subsidiaries) in accordance with the NewCo Transfer Agreement;

(ii) with respect to Intercompany Interests in any Transferred Debtor held by another Transferred Debtor, Reinstated or otherwise treated in accordance with the NewCo Transfer Agreement; and

(iii) with respect to Intercompany Interests in any Debtor that is not a Transferred Debtor, Reinstated solely for administrative convenience until canceled when such Debtor is dissolved or merged out of existence by the Plan Administration Trustee.

(b) Impairment and Voting: Intercompany Interests are either Unimpaired or Impaired with no distribution on account thereof. Holders of Intercompany Interests are either conclusively presumed to accept this Plan pursuant to section 1126(f) of the Bankruptcy Code or deemed to reject this Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Intercompany Interests are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such Intercompany Interests.

4.21 ***Debtors' Rights with Respect to Unimpaired Claims.***

Except as otherwise provided in this Plan, nothing under the Plan shall affect the rights of the Debtors with respect to an Unimpaired Claim, including all rights with respect to legal and equitable defenses to, or setoffs or recoupments against, any such Unimpaired Claims.

ARTICLE V MEANS FOR IMPLEMENTATION.

5.1 ***Restructuring Transactions***.

On or before the Effective Date or as soon as reasonably practicable thereafter, the Debtors may take all actions consistent with this Plan as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by or necessary to effectuate the Restructuring Transactions under and in connection with this Plan, including (a) the execution and delivery of all appropriate agreements or other documents of merger, consolidation, sale, restructuring, conversion, disposition, transfer, dissolution or liquidation containing terms that are consistent with the Plan; (b) the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any Asset, property, interest, right, liability, debt or obligation on terms consistent with the Plan; (c) the filing of appropriate certificates or articles of organization, limited partnership, incorporation, reincorporation, merger, consolidation, conversion or dissolution pursuant to applicable law; (d) the execution, delivery, filing, recordation and issuance of any other documents, instruments or agreements in connection with the Restructuring Transactions; and (e) any transactions described in the Restructuring Steps Memorandum.

5.2 ***Plan Settlements***.

(a) As further described in the Disclosure Statement, the provisions of this Plan (including the provisions contained in Section 5.9 of the Plan and the release and injunctive provisions contained in Article X of the Plan), the Shareholder Settlements and the other Plan Documents constitute a good faith compromise and settlement of Claims and controversies among the Debtors, the Supporting Claimants, the Settling Creditors, the Shareholder Payment Parties, certain other participants in the Mediation and other parties in interest reached in connection with the Mediation and otherwise, which such compromise and settlement is necessary and integral to the Plan and the Plan Documents and the success of these Chapter 11 Cases. The Debtors, the Supporting Claimants, the Settling Creditors and the Shareholder Payment Parties believe the treatment provided in respect of Claims against and Interests in the Debtors and the treatment of competing Classes of Claims is fair and appropriate only when combined with the distribution scheme, including without limitation all Distributions to be made under the Plan, and the release, injunction and all other provisions contained in the Plan, all of which are material aspects of the Plan and the terms of the Shareholder Settlements. More than 614,000 Proofs of Claim alleging liability arising out of or in connection with Opioid-Related Activities were filed against the Debtors by the General Bar Date. Approximately 10% of the submitted Proofs of Claim allege a specific amount of liability. The aggregate alleged liability associated with these Proofs of Claim is more than $40 trillion (exclusive of one personal injury claim that asserted $100 trillion in alleged liability). Approximately 90% of Claims alleging liability arising out of or in connection with Opioid-Related Activities do not allege a specific amount of liability. The Debtors believe that any reasonable estimate, projection or valuation of their total liability and obligation to pay for Claims asserted against them, if they had the ability to pay those Claims outside of these Chapter 11 Cases, exceeds by many multiples the total value of all assets of their Estates, including but not limited to contributions from third parties and the full face value of all of Purdue's insurance. The Debtors have structured the Plan on the basis of this understanding, and the Confirmation Order shall include a finding consistent with this understanding.

(b) The Plan, including the explanation set forth in the Disclosure Statement, and the Plan Documents shall be deemed a motion to approve the Plan Settlements, including the Shareholder Settlements, and the good faith full and final comprehensive compromise and settlement of all of the Claims, Interests and controversies described in the foregoing Section 5.2(a) pursuant to Bankruptcy Rule 9019, and entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Plan Settlements under section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, as well as a finding by the Bankruptcy Court that the Plan Settlements are fair, equitable, reasonable and in the best interests of the Debtors and their Estates.

(c) The Plan, the Plan Settlement, the Plan Documents (including the Creditor Trust Documents), the Shareholder Settlements and the Confirmation Order constitute a good faith full and final comprehensive compromise and settlement of all Claims, Interests and controversies described in the Plan based upon the unique circumstances of these Chapter 11 Cases (such as the total distributable value available, the unique facts and circumstances relating to these Debtors and the need for an accelerated resolution without additional avoidable litigation) such that (i) none of the foregoing documents (including the provisions contained in Section 5.9 of the Plan), nor any materials used in furtherance of Plan confirmation (including, but not limited to, the Disclosure Statement, and any notes related to, and drafts of, such documents and materials), may be offered into evidence, deemed an admission, used as precedent or used by any party or Person in any context whatsoever beyond the purposes of this Plan, in any other litigation or proceeding, except as necessary, and as admissible in such context, to enforce their terms and to evidence the terms of the Plan and the Plan Documents before the Bankruptcy Court or any other court of competent jurisdiction and (ii) any obligation by any party, in furtherance of such compromise and settlement, to not exercise rights that might be otherwise available to such party shall be understood to be an obligation solely in connection with this specific compromise and settlement and to be inapplicable in the absence of such compromise and settlement. The Plan, the Plan Settlement, the Plan Documents and the Confirmation Order will be binding as to the matters and issues described therein, but will not be binding with respect to similar matters or issues that might arise in any other litigation or proceeding in which none of the Debtors or any other Protected Party is a party; *provided* that such litigation or proceeding is not to enforce or evidence the terms of the Plan, the Plan Settlement, the Plan Documents, the Shareholder Settlements or the Confirmation Order. Any Person's support of, or position or action taken in connection with, this Plan, the Plan Settlement, the Plan Documents, the Shareholder Settlements and the Confirmation Order may differ from such Person's position or testimony in any other litigation or proceeding not in connection with these Chapter 11 Cases. Further, and, as all parties to the Mediation agreed, this Plan Settlement is not intended to serve as an example for, or represent the parties' respective positions or views concerning, any other chapter 11 cases relating to opioids, nor shall it be used as precedent by any Person or party in any other such chapter 11 cases or in any other proceeding, situation or litigation.

(d) The "allocation" of dollars between the Shareholder Direct Settlement Portion of any Distribution and the Estate Distributions is part of an overall compromise and settlement under Bankruptcy Rule 9019 between the Mediation Parties, including the Debtors, the Creditors' Committee, the Shareholder Payment Parties, and all creditors and creditor groups that are Mediation Parties, and upon confirmation of this Plan will be deemed to be a settlement between the Debtors, the Creditors' Committee, the Supporting Claimants and the Shareholder Payment Parties in which, among other things, the Shareholder Payment Parties are providing up to $6.5 billion in consideration over 15 years.[5] The "allocation" is intended by the Shareholder Payment Parties and the other Mediation Parties

[5] In accordance with Section 2.01(g) of the Master Shareholder Settlement Agreement (and as more fully described therein), A-Side Payment Group 8's $345 million payment obligation shall be prepaid in an amount equal to $225,677,259.42, unless pre-paid on the Effective Date in the amount of $218 million, representing the agreed-upon present value on the Effective Date. If A-Side Payment Group 8 elects to defer payment of up to $35 million on the Effective Date, A-Side Payment Group 8 shall

to, among other things, facilitate the distribution of proceeds for opioid abatement, victim compensation, and other permitted uses under the Plan, and otherwise. All such parties, including but not limited to the Shareholder Payment Parties, Sackler Parties, the Debtors, the Ad Hoc Committee and the States AG Negotiating Group, including each member of such groups, has agreed that neither the settlement amount nor the "allocation" (including any allocation between the Shareholder Payment Party of payment responsibility) reflects any concession or agreement by any party as to the strength, validity, merits, collectability, amount, or otherwise of the Shareholder Released Estate Claims or of the Shareholder Released Direct Claims or any defenses to the Shareholder Released Estate Claims or the Shareholder Released Direct Claims, and if for whatever reason the agreement in principle is not consummated, neither the settlement amount nor the "allocation" shall be cited or used by the Debtors, the Creditors' Committee, the Supporting Claimants or the Shareholder Payment Parties (or the Released Parties) – or any party to the Shareholder Settlements or any other Mediation Party – for any purpose whatsoever in any pleading or proceeding wherever or whenever. Further, no party to the compromise and settlement will be bound by this Plan or the agreement set forth in this provision (other than as set forth in this Section 5.2(d)) with regard to what it may state in a pleading, court hearing, proceeding, or otherwise about the strength, validity, merits, collectability, amount, or otherwise of the Shareholder Released Estate Claims or of the Shareholder Released Direct Claims, or any defenses thereto, including, without limitation, in any pleading filed in connection with the Shareholder Settlements and this Plan. This paragraph shall be binding forever upon all parties from the earlier of (i) the time that this agreement in principle is reached and (ii) the time that this Section 5.2(d) is made publicly available (on the Bankruptcy Court docket or otherwise), regardless of whether a settlement including that represented in the Plan is consummated, and shall be specifically enforceable by the Bankruptcy Court (with no cap on damages that may be awarded).[6] This Section 5.2(d) is non-severable from the overall compromise and settlement, and is an integral part of the Plan. This Section 5.2(d) is specifically subject to Federal Rule of Evidence 408 and analogous state provisions barring the use of settlement offers and communications to prove the validity or amount of disputed claim.[7]

(e) **Private Entity Settlements**.

(i) On the Effective Date, the Private Creditor Trusts shall receive their respective Initial Private Creditor Trust Distributions and their respective MDT Private Claims; *provided* that with respect to Private Creditor Trusts that are the subject of Opt-Out Class Action Settlements, if, as of the Effective Date, the applicable Opt-Out Class Action Settlement has not been consummated, the Shareholder Direct Settlement Portion of the Initial Private Creditor Trust Distribution (exclusive of amounts that would constitute Direct Claim Settlement Retained Payment Amounts under the applicable Opt-Out Class Action Settlement, to the extent known) for such Private Creditor Trust shall be placed by the Shareholder Payment Parties into a third-party interest bearing escrow in accordance with the Master Shareholder

pay the MDT up to $17.5 million due on each of the fifth and sixth payment dates plus 4.5% interest (i.e. which would aggregate to $225,677,259.42), and the other A-Side Payment Groups' shall pay up to $35 million on the Effective Date and their payment obligations on the fifth and sixth payment dates shall be reciprocally reduced.

[6] This sentence shall not apply to the States.

[7] While all parties understand that the Plan is not enforceable until confirmation, all Mediation Parties have agreed to be bound by this provision as of March 18, 2025.

Settlement Agreement (the "**Class Action Escrow Accounts**"). If any such Opt-Out Class Action Settlement is consummated on or prior to tenth (10th) Business Day immediately preceding the second (2nd) SSA Payment Date, then all amounts due to the members of the relevant Class under such Opt-Out Class Action Settlement, amounts held in the applicable Class Action Escrow Account shall be distributed to the corresponding Private Creditor Trust, other than the applicable Direct Claim Settlement Retained Payment Amounts, if any, which shall be released to, or at the direction of, the Shareholder Payment Parties. If any Opt-Out Class Action Settlement is not consummated by the tenth (10th) Business Day immediately preceding the second (2nd) SSA Payment Date, amounts held in the applicable Class Action Escrow Account shall be promptly released to, or at the direction of, the Shareholder Payment Parties. If such Opt-Out Class Action Settlement is consummated after such release from the Class Action Escrow Account to, or at the direction of, the Shareholder Payment Parties, each Shareholder Payment Party shall pay to the applicable Private Creditor Trust such amounts due and payable by it within ten (10) Business Days of delivery to the Sackler Parties' Representative of notice of such Opt-Out Class Action Settlement having been consummated, pending final payment from the Shareholder Released Parties.

(ii) **U.S. Federal Income Tax Matters Relating to the Class Action Escrow Accounts.** Each of the Class Action Escrow Accounts are intended to be treated and shall be reported as a separate qualified settlement fund within the meaning of Treasury Regulations section 1.468B-1 for U.S. federal income tax purposes and shall be treated consistently for state and local tax purposes. The Master Shareholder Settlement Agreement provides that the applicable Shareholder Payment Party shall timely elect pursuant to Treasury Regulations Section 1.468B-1(k) (and any applicable state and local income tax purposes), to treat each of the Class Action Escrow Accounts as a "grantor trust," all of which is owned, for federal and applicable state and local income tax purposes only, by such Shareholder Payment Party, and that such Shareholder Payment Party shall maintain such election and shall not revoke such election without the prior written consent of the Master Disbursement Trust.

The following assumes that the Class Action Escrow Accounts are treated as grantor trusts. All parties (including the Shareholder Payment Parties, the Debtors, the Plan Administration Trustee, each applicable Creditor Trustee, the MDT Trustees and Holders of Non-Participating Claims) shall be required to report for tax purposes in a manner consistent with the foregoing. Such person as is designated in the Confirmation Order or the escrow agreement governing each of

the Class Action Escrow Accounts shall be the "administrator" of each of the Class Action Escrow Accounts. The Master Shareholder Settlement Agreement provides that the applicable Shareholder Payment Party shall take into account all items of income, gain, loss, deduction and credit (including capital gains and losses) recognized by or otherwise attributable to each Class Action Escrow Account for U.S. federal (and any applicable state or local) income tax purposes on its tax returns. The applicable administrator may request an expedited determination of taxes of any of the Class Action Escrow Accounts under section 505(b) of the Bankruptcy Code for all returns, if any, filed for, or on behalf of, the Class Action Escrow Accounts for all taxable periods through the dissolution of the Class Action Escrow Accounts. Nothing in this Section 5.2(e) (ii) shall be deemed to determine, expand or contract the jurisdiction of the Bankruptcy Court under section 505 of the Bankruptcy Code.

(iii) Notwithstanding anything to the contrary in the Master Shareholder Settlement Agreement or the Governmental Entity Shareholder Direct Settlement Agreement, the Master Disbursement Trust shall have an obligation under this Plan to distribute to the PI Trust, on account of the MDT PI Claim, (A) on a first priority basis, the first $50 million of proceeds, payments, and benefits (including, but not limited to, the MDT Insurance Proceeds) of (I) any MDT Causes of Action (other than those Retained Causes of Action relating to or necessary to enforce the MDT Shareholder Rights) and (II) the MDT Insurance Rights (assets described in clauses (I) and (II), collectively, the "**Subject MDT Assets**"), and (B) in the absence of payment in full of such $50 million prior to the second anniversary of the Effective Date from proceeds, payments, and benefits of the Subject MDT Assets, the remaining unpaid amount thereof (which may be the entire amount) in full in cash on the first Scheduled MDT Distribution Date following such second anniversary of the Effective Date from MDT Transferred Assets or the proceeds thereof other than the Subject MDT Assets on a priority basis in accordance with Section 5.2(g) hereof (the payment obligations described in clauses (A) and (B), the "**PI Trust Obligation**").[8]

(iv) Until such time as the PI Trust Obligation has been satisfied in full in accordance with Section 5.2 of the Plan:

(A) the Master Disbursement Trust shall not (I) permit a Lien or other encumbrance to attach to the Subject MDT Assets or (II) incur any Claim (including any Channeled Claim) or otherwise grant any right of payment in respect of the Subject MDT Assets, in each case, senior to the PI Trust Obligation;

(B) the Master Disbursement Trust shall afford the PI Trustee (or its designated representative) with periodic

[8] For the avoidance of doubt, to the extent the PI Trust Obligation has not been paid in full by the second anniversary of the Effective Date in accordance with this Section 5.2(e) of the Plan, the priority of the PI Trust Obligation shall only be second to the funding of the Replenishment Transfer with Cash and cash equivalents that are Shareholder Estate Settlement Distributions, but not, for the avoidance of doubt, second with respect to application of the Total Direct Settlement Amount under the Governmental Entity Shareholder Direct Settlement Agreement.

reporting as contemplated by Section 5.6(f)(v) of the Plan and subject to Section 5.6(f)(iv);

(C) none of the protections with respect to the PI Trust Obligation in this Section 5.2(e) of the Plan nor the priority afforded to the PI Trust Obligation in Section 5.2(g) of the Plan shall be modified or eliminated from the MDT Agreement, the Master Shareholder Settlement Agreement, or the Governmental Entity Shareholder Direct Settlement Agreement, solely to the extent applicable, without the written consent of the PI Trustee; and

(D) the PI Trustee reserves all legal and equitable rights under the Plan, the Confirmation Order, and federal and common law with respect to the PI Trust Obligation.

(v) Solely to the extent the PI Trust Obligation has not been paid in full by the second anniversary of the Effective Date in accordance with Section 5.2(e)(iii) of the Plan, the Master Disbursement Trust shall thereafter reserve amounts from the Total Direct Settlement Amount under the Governmental Entity Shareholder Direct Settlement Agreement, as needed, to satisfy the PI Trust Obligation.

(vi) In the event the PI Trust Obligation is not satisfied in full by the first Scheduled MDT Distribution Date following the second anniversary of the Effective Date in accordance with Section 5.2 of the Plan, the PI Trustee shall be entitled to seek enforcement of the PI Trust Obligation by motion to enforce the Plan filed with the Bankruptcy Court, which shall be heard on an expedited basis subject to the Bankruptcy Court's availability, and the PI Trustee may seek legal and/or equitable remedies available under applicable law, including, but not limited to, specific performance, disgorgement, and/or damages against any successor of the Debtors or their Estates, including the Master Disbursement Trust.

(f) **Non-Federal Public Entity Settlements**.[9]

(i) On the Effective Date, the Governmental Remediation Trust and the Tribe Trust shall receive their respective Initial Public Creditor Trust Distributions, and the Governmental Remediation Trust and the Tribe Trust shall receive their respective MDT Interests. The MDT Interests shall entitle the Governmental Remediation Trust and the Tribe Trust to the payments from the Master Disbursement Trust and other benefits set forth below.

(A) Subject to Section 5.2(g), on each MDT Distribution Date, the Master Disbursement Trust shall make Public Creditor Trust Distributions from all MDT Distributable Value in accordance with Section 5.2(f)(i)(B) of the Plan.

(B) All Public Creditor Trust Distributions to the Governmental Remediation Trust and/or the Tribe Trust shall be allocated between the Governmental Remediation Trust and the Tribe Trust as follows, in

[9] Any characterization of the Public School Claims in this Plan as a "Private" claimant or "Public" claimant is for administrative convenience only, and is not intended to, nor may it be construed as, having any significance for any other purpose.

each case, as calculated before accounting for any amounts payable pursuant to Section 5.9 of this Plan: (I) with respect to the Estate Distributions, (X) 96.7% to the Governmental Remediation Trust and (Y) 3.3% to the Tribe Trust; and (II) with respect to the Shareholder Direct Settlement Portion, (X) 96.7% of the Maximum Governmental Direct Settlement Amount on the payment dates indicated therein to the Governmental Remediation Trust, subject to, and payable in accordance with, the terms of the Governmental Entity Shareholder Direct Settlement Agreement, and (Y) 3.3% of the Maximum Governmental Direct Settlement Amount on the payment dates indicated therein to the Tribe Trust, subject to, and payable in accordance with, the terms of the Tribe Trust Agreement.

(C) All Public Creditor Trust Distributions to the Governmental Remediation Trust shall be further allocated between States and Subdivisions in accordance with the Governmental Remediation Trust Documents. The allocation of the applicable Shareholder Direct Settlement Portion to Subdivisions who become Initial Participating Subdivisions may be higher than Later Joining Subdivisions (each as defined in and as more fully described in the Governmental Entity Shareholder Direct Settlement Agreement). Subdivisions located in Oklahoma shall be entitled to participate in the Governmental Entity Shareholder Direct Settlement as though Oklahoma was a Settling State. Subdivisions in Non-Settling States and Subdivisions which previously litigated and resolved their claims against the Debtors and/or Shareholder Released Parties shall not be eligible to be Participating Subdivisions unless and until, in the case of the Subdivisions located in Non-Settling States, a Subdivision's corresponding State becomes a Settling State. For the avoidance of doubt, each Non-Settling Subdivision shall be entitled to receive Estate Distributions pursuant to Section 7.7 of the Plan upon Allowance of its Claim in accordance with Sections 7.6 or 7.9 of the Plan.

(D) Oklahoma Litigating Political Subdivisions will receive Oklahoma's allocation, which allocation amount has already been reduced by $12.5 million that the State of Oklahoma set aside in accordance with the Oklahoma Political Subdivisions Opioid Abatement Grants Act (the "Act") for distribution to Oklahoma subdivisions pursuant to Oklahoma's settlement with the Shareholder Released Parties and the Debtors (the "**Prepetition Oklahoma Settlement**"). The Oklahoma subdivision allocation is set forth in Exhibit F of the Plan and will be

administered as agreed between the State of Oklahoma and the Oklahoma Litigating Political Subdivisions. Any release requirements contained in the Prepetition Oklahoma Settlement that are a condition for a Subdivision to participate in the Purdue Oklahoma Subdivision Fund shall be waived by the Debtors and Shareholder Payment Parties such that the Oklahoma Litigating Political Subdivisions may participate in both the Purdue Oklahoma Subdivision Fund and receive distributions from the Governmental Remediation Trust. The Debtors and Shareholder Payment Parties also waive any requirement in the Prepetition Oklahoma Settlement that funds not distributed by the Purdue Oklahoma Subdivision Fund within a certain amount of time will revert to the Foundation or the National Center for Addiction Studies and Treatment established pursuant to the Prepetition Oklahoma Settlement, and acknowledge that the entire Purdue Oklahoma Subdivision Fund shall be distributed to Oklahoma subdivisions. Oklahoma's allocation shall be paid from the Governmental Remediation Trust to a settlement fund established for the benefit of the Oklahoma Litigating Political Subdivisions. Distributions from such settlement fund to the Oklahoma Litigating Political Subdivisions shall be made in accordance with the ratios set forth in Exhibit F of the Plan. The Oklahoma Litigating Political Subdivisions shall either hire an administrator for the funds from the Remediation Trust Account or receive the funds directly from the Governmental Remediation Trust. The administrator may be reasonably compensated by the Governmental Remediation Trust to perform its administrative function, but not to exceed 5% of the money distributed to Oklahoma Litigating Political Subdivisions by the Governmental Remediation Trust.

(ii) On the Effective Date, the Public School Trust shall receive the Initial Public Schools Distribution (less any required payments to the Common Benefit Fund and/or in respect of attorneys' fees and expenses of the Public School District Claimants in accordance with Section 5.9(d) and (i) of the Plan) and the MDT Public School Districts Claim. On account of the MDT Public School Districts Claim, the Master Disbursement Trust shall pay to benefit the Public School Trust: (i) $7.5 million on the first anniversary of the Effective Date *less* the applicable Direct Claim Settlement Retained Payment Amount (the "***Second Public Schools Distribution***"), and (ii) $7.5 million on the second anniversary of the Effective Date *less* the applicable Direct Claim Settlement Retained Payment Amount (the "***Third Public Schools Distribution***").

(g) **MDT Priority Waterfall**. On each MDT Distribution Date, all Cash and cash equivalents of the Master Disbursement Trust shall be applied as follows: (i) *first*, to fund any Replenishment Transfer solely to the extent such Cash and cash equivalents are Shareholder Estate Settlement Distributions; (ii) *second*, to fund the PI Trust Obligation in accordance with Section 5.2.(e)(iii) of the Plan; (iii) *third*, to fund the MDT Operating Reserve in an amount determined by the

MDT Trustees; (iv) *fourth*, to the extent there are outstanding amounts then due on account of the MDT Claims, to pay the MDT Claims; (v) *fifth*, to reimburse the applicable Public Creditor Trust for any Shareholder Direct Settlement Portion previously applied in respect of adjustments implemented in accordance with Section 5.2(e)(v); and (vi) *sixth*, as Public Creditor Trust Distributions in respect of the MDT Interests; *provided*, *however*, that, except to the extent expressly set forth in Exhibit M to the Governmental Entity Shareholder Direct Settlement Agreement, payments received by the Master Disbursement Trust: (A) on account of the Governmental Entity Shareholder Direct Settlement shall be immediately transferred to the Governmental Remediation Trust and (B) on account of the Tribal Shareholder Direct Settlement Agreement shall be immediately transferred to the Tribe Trust, and the amounts in (A) and (B) shall not be used to fund a Replenishment Transfer to fund the MDT Operating Reserve or pay the MDT Claims.

(h) **Shareholder Settlements**. On or before the Effective Date, the Debtors, the Shareholder Payment Parties and the Settling Creditors shall enter into the Shareholder Settlement Agreements. Pursuant to the Public Entity Settlements, the Private Entity Settlements, the Shareholder Settlement Agreements and the Plan, in exchange for among other things, the Shareholder Settlement Releases and the Channeling Injunction, as set forth in Sections 10.6, 10.7 and 10.8 of the Plan, and the other agreements set forth in the Shareholder Settlement Agreements, (i) the Shareholder Payment Parties shall pay the applicable Shareholder Settlement Amount on the dates and pursuant to the terms set forth in the applicable Shareholder Settlement Agreements, (ii) the Shareholder Claims shall be deemed released on the Effective Date pursuant to Section 4.15 of the Plan, (iii) the MDT Shareholder Insurance Rights shall be transferred to the Master Disbursement Trust in accordance with Section 5.6(j) of the Plan, (iv) the Shareholder Payment Parties have agreed to support the Plan and (v) the Shareholder Payment Parties have provided the other agreements and consideration set forth in the applicable Shareholder Settlement Agreement, in each case, as more fully set forth in, and subject to the terms and conditions of, the Shareholder Settlement Agreement. The Master Disbursement Trust shall distribute all proceeds of the MDT Shareholder Rights, including each applicable Shareholder Settlement Amount, in accordance with the Plan, including Section 5.2(e)–(g) of the Plan.

(i) **United States-PI Claimant Medical Expense Claim Settlement**. The United States-PI Claimant Medical Expense Claim Settlement is as follows:

(i) On the Effective Date of the Plan, the PI Trust shall be deemed, without further action of the Bankruptcy Court or the PI Trust, to have irrevocably assigned to the United States the PI Trust's right to receive $26 million from the Master Disbursement Trust, which amount shall be paid by the Debtors, the Master Disbursement Trust, or the PI Trust, as applicable, to the United States in the following installments: (x) $13 million to be paid on the Effective Date, consisting of (A) $12,164,100 otherwise distributable to the PI Trust from the Initial Non-NAS PI Distribution and (B) $835,900 otherwise distributable to the PI Trust from the Initial NAS PI Distribution, and (y) $13 million (the "Second Medical Expense Claim Settlement Payment"), consisting of (I) 93.57% of the first $13 million otherwise distributable to the PI Trust pursuant to Section 5.2(e)(iii) of the Plan, and (II) the NAS Medical Expense Claim Settlement Reserve Amount, which Second Medical Expense Claim Settlement Payment shall be paid to the United States on a proportionate basis from the amounts described in clauses (I) and (II), as and when amounts are payable to the PI Trust pursuant to Section 5.2(e)(iii) of the Plan. For the avoidance of doubt, in no event shall (A) the stated amount of the Initial PI Trust Distribution or amounts payable pursuant to Section 5.2(e)(iii) of the Plan be altered in a manner that would reduce the aggregate amount to be paid to the United States pursuant to this Section 5.2(i)(i) of the Plan, (B) the aggregate amount paid to the United States pursuant to this Section 5.2(i)(i) of the Plan exceed $26 million, or (C) the United States' claim against the Master Disbursement Trust arising from the assignment described in this Section 5.2(i)(i) of the Plan be released until the United States has received payments thereof aggregating to $26 million. The United States shall have the right to enforce the obligations set

forth in this Section 5.2(i)(i) of the Plan notwithstanding the United States-PI Claimant Medical Expense Claim Releases.

(ii) Notwithstanding Section 10.19 of the Plan, as of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, the PI Trust, each Holder of a PI Claim and, in respect of each of the PI Trust and each Holder of a PI Claim, its respective agents, representatives, heirs, successors and assigns, in their respective capacities as such, shall, without any further action by the Bankruptcy Court, be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released by each Holder of a United States-PI Claimant Medical Expense Claim of all United States-PI Claimant Medical Expense Claims and all Causes of Action based on or relating to, or in any manner arising from, in whole or in part, the United States-PI Claimant Medical Expense Claim Settlement (other than a Cause of Action to enforce the United States-PI Claimant Medical Expense Claim Settlement, including, but not limited to, the release set forth in Section 5.2 (i)(iii) of the Plan) that each Holder of a United States-PI Claimant Medical Expense Claim has asserted or could assert on its own behalf or on behalf of another Person or party, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), against the PI Trust, a Holder of a PI Claim, Distributions to Holders of PI Claims pursuant to the PI TDP or under the Plan and, in respect of each of the PI Trust and each Holder of a PI Claim, its respective agents, representatives, heirs, successors and assigns, in their respective capacities as such; *provided*, *however*, that, if a Holder of a PI Claim commences a legal action against a Holder of a United States-PI Claimant Medical Expense Claim challenging all or any portion of the United States-PI Claimant Medical Expense Claim Settlement, then, from and after the commencement of such legal action, the United States-PI Claimant Medical Expense Claim Release shall be *void ab initio* solely with respect to such Holder of a PI Claim, and the heirs, successors and assigns of such Holder of a PI Claim, in their capacities as such, and not with respect to any other Person or party, including, but not limited to, the PI Trust, counsel to such Holder of a PI Claim and, in respect of each of the PI Trust and such counsel, its respective agents, representatives, heirs, successors and assigns, in their respective capacities as such; *provided further* that no such legal action against a Holder of a United States-PI Claimant Medical Expense Claim shall impair or reduce the amount that the United States shall receive pursuant to Section 5.2(i)(i). Nothing in this Section 5.2(i)(ii) creates any rights of a Holder of a PI Claim to sue the United States or any of its agencies, including a Holder of a United States-PI Claimant Medical Expense Claim, and the United States and its agencies reserve all rights and defenses in that regard; and nothing in this paragraph is or shall be deemed a waiver of any applicable sovereign immunity with respect to any legal action against the United States or any of its agencies challenging all or any portion of the United States-PI Claimant Medical Expense Claim Settlement brought by a Holder of a PI Claim or the heirs, successors or assigns of such Holder of a PI Claim, in their capacities as such.

(iii) As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, each Holder of a United States-PI Claimant Medical Expense Claim shall, without any further action by the Bankruptcy Court, be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released by the PI Trust and its agents, representatives, successors and assigns, in their respective capacities as such, of all Causes of Action based on or relating to, or in any manner arising from, in whole or in part, the United States-PI Claimant Medical Expense Claim Settlement (other than a Cause of Action to enforce the United States-PI Claimant Medical Expense Claim Settlement, including, but not limited to, any United States-PI Claimant Medical Expense Claim Release) that the PI Trust has asserted or could assert on its own behalf or on behalf of another Person or party, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), against a Holder of a United States-PI Claimant Medical Expense Claim and, in respect of each Holder of a United States-PI

Claimant Medical Expense Claim, its respective agents, representatives, successors and assigns, in their respective capacities as such.

(iv) The payments made to the United States pursuant to Section 5.2(i)(i) of the Plan are a prepayment by the PI Trust of amounts that would otherwise be payable by certain Holders of PI Claims to Holders of United States-PI Claimant Medical Expense Claims upon receipt by such Holders of PI Claims of Distributions pursuant to the PI TDP and under the Plan. Such prepayment shall be borne equitably by such Holders of PI Claims in the form of a reduction in the Distributions otherwise payable to such Holders of PI Claims pursuant to the PI TDP.

(v) The United States Department of Defense, Defense Health Agency (in respect of the TRICARE Program) submits to the jurisdiction of the Bankruptcy Court for purposes of the United States-PI Claimant Medical Expense Claim Settlement, including, but not limited to, the United States-PI Claimant Medical Expense Claim Releases.

(vi) The United States Department of Health and Human Services, on its own behalf and on behalf of its component agencies, which are the Centers for Medicare & Medicaid Services and the Indian Health Service on behalf of its federally-operated programs; the United States Department of Defense, Defense Health Agency (in respect of the TRICARE Program); and the United States Department of Veterans Affairs submit to the exclusive jurisdiction of the Bankruptcy Court for purposes of any proceeding in respect of the interpretation or enforcement of the United States-PI Claimant Medical Expense Claim Settlement, including, but not limited to, the United States-PI Claimant Medical Expense Claim Releases.

(j) **Individual Settlement Agreements**: Each of the Settling States, Participating Subdivisions, the Master Disbursement Trust, and the Debtors shall not enter into any side letter or separate agreement with any Sackler Family Member that grants more favorable terms or benefits, when taken as a whole, to such Sackler Family Member's Shareholder Family Group than those set forth in the Plan and the Shareholder Settlement Agreements.

5.3 ***The Plan Administration Trust***.

(a) **Establishment and Purpose of Plan Administration Trust**. On or before the Effective Date, the Debtors shall take all necessary steps to form the Plan Administration Trust in accordance with the Plan and the PAT Agreement. The Plan Administration Trust shall be established for the purposes described in this Plan and any others more fully described in the PAT Agreement, shall have no objective to continue or engage in the conduct of trade or business and shall be subject to the jurisdiction of the Bankruptcy Court. The Plan Administration Trust shall, in each case in accordance with the Plan and the PAT Agreement:

(i) hold, manage, sell and invest the PAT Assets for the benefit of Holders of Allowed Claims (other than Channeled Claims and Federal Government Unsecured Claims);

(ii) administer, process, resolve and liquidate Claims (other than Channeled Claims and Federal Government Unsecured Claims), including through the prosecution and resolution of objections to Disputed Avrio General Unsecured Claims, Disputed Adlon General Unsecured Claims or Disputed Other General Unsecured Claims;

(iii) hold and maintain the PAT Reserves and the PAT Distribution Account and maintain the Professional Fee Escrow Account and the account described in Section 5.3(e) of the Plan; and

(iv) make Distributions to Holders of Allowed Claims (other than Channeled Claims and Federal Government Unsecured Claims) and other payments from the Plan Administration Trust, the Professional Fee Escrow Account and the account described in Section 5.3(e) of the Plan.

(b) **Vesting of the PAT Assets in the Plan Administration Trust**. The Plan Administration Trust shall consist of the PAT Assets. On the Effective Date, the PAT Assets shall vest in the Plan Administration Trust, free and clear of all Claims, Interests, Liens, other encumbrances and liabilities of any kind.

(c) **Appointment and Role of the Plan Administration Trustee**. The Plan Administration Trustee shall be an existing employee of the Debtors selected by the Debtors in their sole discretion or another individual selected by the Debtors with the consent of the Creditors' Committee and the Governmental Consent Parties (which consent shall not be unreasonably withheld, conditioned or delayed). The identity and compensation of the Plan Administration Trustee shall be disclosed in the Plan Supplement. The appointment of the Plan Administration Trustee shall be approved in the Confirmation Order, and such appointment shall be effective as of the Effective Date. In accordance with the PAT Agreement, the Plan Administration Trustee shall serve in such capacity through the earlier of (x) the date that the Plan Administration Trust is dissolved in accordance with the PAT Agreement and (y) the date the Plan Administration Trustee resigns, is terminated or is otherwise unable to serve for any reason. In furtherance of and consistent with the purpose of the Plan Administration Trust and the Plan, the Plan Administration Trustee shall:

(i) have the power and authority to perform all functions on behalf of the Plan Administration Trust;

(ii) undertake all administrative responsibilities as are provided in the Plan and the PAT Agreement, including filing the final monthly operating report (for the month in which the Effective Date occurs) and all subsequent quarterly operating reports and administering the closure of the Chapter 11 Cases, which reports shall be delivered to the Master Disbursement Trust;

(iii) be responsible for all decisions and duties with respect to the Plan Administration Trust and the PAT Assets; and

(iv) take such other actions as the Plan Administration Trust determines to be necessary or desirable to carry out the purposes of the Plan, *provided* that such authority shall be subject to Section 5.4 and Section 5.6 of this Plan, and nothing herein or in any Plan Supplement document shall grant the Plan Administration Trust any rights with respect to NewCo or its operations or the Master Disbursement Trust or its operations.

(d) **Funding of the Wind-Up Reserve; Costs and Expenses of the Plan Administration Trust**. On the Effective Date, the Debtors shall establish and fund the Wind-Up Reserve, which shall vest in the Plan Administration Trust and be held and maintained by the Plan Administration Trustee. In the event of any shortfall of funding in the Wind-Up Reserve, NewCo shall be obligated to satisfy any such deficiency, subject to the consent (not to be unreasonably withheld) of the NewCo Managers and the MDT Trustees (which obligation shall be assumed by NewCo and any successor to NewCo's business). The costs and expenses of the Plan Administration Trust, including the compensation, fees and expenses of the Plan Administration Trustee and its retained professionals, shall be paid out of the Wind-Up Reserve. The Plan Administration Trustee shall be entitled to reasonable compensation, in an amount to be determined by the Debtors, subject to the consent (not to be unreasonably withheld, conditioned or delayed) of the Creditors' Committee and the Governmental Consent Parties, and to retain and reasonably compensate counsel and other professionals, including any professional who represented parties in interest, including the Debtors, in the Chapter 11 Cases, to assist

in its duties as Plan Administration Trustee on such terms as the Plan Administration Trustee deems appropriate without Bankruptcy Court approval, subject to the provisions of the PAT Agreement.

(e) **Attorneys' Fees and Expenses of Directors, Officers, Employees and Agents**.

(i) The Plan Administration Trust will promptly pay, as and when incurred after the Effective Date and before its sixth (6th) anniversary, the reasonable actual attorneys' fees and related out-of-pocket expenses incurred (A) by (x) any current or former director or officer, in each case entitled to indemnification, advancement and/or reimbursement by the Debtors in such capacity or (y) any current or former employee of the Debtors, in the case of both (x) and (y) other than any (i) Sackler Family Member, (ii) Excluded Party, or (iii) Shareholder Released Party that (a) is entitled to access the SOR or any other reserves established under the Plan or the Settlement or (b) actually has the applicable fees paid from the SOR or any other reserves established under the Plan or the Settlement, and (B) in connection with such individual's cooperation with, or in connection with the defense of such individual with respect to, any investigation, prosecution and/or litigation involving conduct relating to the Debtors or the Debtors' business or property or any defense of this Plan, including its Releases and Channeling Injunction, *provided* that the scope of this section with respect to any individual shall not apply to fees and expenses incurred in connection with any criminal investigation of which such individual is the target or any criminal prosecution of such individual.

(ii) On or before the Effective Date, the Debtors will establish and fund a segregated account in the amount of $5 million, which shall be held and maintained by the Plan Administration Trustee to fund the foregoing payment obligations. If, at any time, the balance in such segregated account falls below $2 million, NewCo (or, at any time after a sale of all or substantially all Assets of or Interests in NewCo or if NewCo is otherwise unable to do so, the Master Disbursement Trust) shall replenish such account so that amounts in the account are not less than $5 million, provided that (x) the aggregate amount deposited into such account (including the initial deposit) shall not exceed $25 million, and (y) on the sixth (6th) anniversary of the Effective Date, any funds remaining in such account shall be released to the Master Disbursement Trust, and NewCo's (and the Master Disbursement Trust's contingent) funding obligations with respect to such account will terminate.

(iii) Notwithstanding the foregoing, the Plan Administration Trust will not pay (A) any amounts that are reimbursed from any applicable insurance policies, or (B) any otherwise reimbursable amounts incurred by any individual who (i) is found by a court of competent jurisdiction to have engaged in gross negligence, willful misconduct, any criminal act, or actual or intentional fraud, in each case relating to the Debtors or the Debtors' business or property, (ii) does not provide an appropriate undertaking consistent with the undertakings required for indemnification during the pendency of the Chapter 11 Cases, (iii) has at any time prior to the Effective Date refused or does at any time after the Effective Date refuse to testify based on a claim of privilege against self-incrimination in any proceeding relating to the Debtors or the Debtors' business or property, (iv) does not cooperate with reasonable requests by the MDT in connection with the pursuit of any MDT Causes of Action or (v) is at any time indicted for a felony relating to the Debtors or the Debtors' business or property (provided, however, that if such individual is found to be not guilty of such felony, such indictment is dismissed or such individual is otherwise exonerated, then such expenses shall be promptly paid).

(iv) In addition to the foregoing, (i) on the Effective Date, any MDT Insurance Collateral in excess of the face amount of Mangrove Risk Solutions Bermuda Ltd (formerly known as Isosceles Insurance Ltd.) policy number PPLP-01/2019 and all interest accrued as of the Effective Date on the MDT Insurance Collateral associated with each of Mangrove Risk Solutions Bermuda Ltd (formerly known as Isosceles Insurance Ltd.) policy number PPLP-02/2019 and the Columbia Casualty Product Liabilities Insurance Policies shall be released to the Master Disbursement Trust, (ii) following the Effective Date, interest accrued on MDT Insurance Collateral associated with each of the Mangrove Risk Solutions Bermuda Ltd (formerly known as Isosceles Insurance Ltd.) policy number PPLP-01/2019 and the Columbia Casualty Product Liabilities Insurance Policies shall be swept quarterly and distributed to the Master Disbursement Trust, (iii) no later than the expiration of the policy or the sixth (6th) anniversary of the Effective Date, all MDT Insurance Collateral associated with the Mangrove Risk Solutions Bermuda Ltd (formerly known as Isosceles Insurance Ltd.) policy number PPLP-01/2019 will be released to the Master Disbursement Trust, subject to the terms of such policy and (iv) following the Effective Date, any MDT Insurance Collateral associated with any other insurance policies of NewCo will be released to the Master Disbursement Trust promptly upon such MDT Insurance Collateral being released by the applicable insurer, provided it is not necessary to support renewed policies of NewCo of similar scope. The Plan Administration Trust shall, on a quarterly basis, provide NewCo and the Master Disbursement Trust with a report of any amounts paid or billed pursuant to this section during the prior quarter. All parties covered by this Section 5.3(e) shall be deemed to release any claim against any MDT Insurance Policy.

(f) **Institution and Maintenance of Legal and Other Proceedings**. As of the date upon which the Plan Administration Trust is established, the Plan Administration Trust shall be empowered to initiate, prosecute, defend and resolve all legal actions and other proceedings related to any Asset, liability or responsibility of the Plan Administration Trust. Such legal actions and other proceedings shall be limited solely to those required for the purposes of reconciling, administering and defending against Claims (other than Channeled Claims) and the other responsibilities of the Plan Administration Trust. The Plan Administration Trust shall be empowered to initiate, prosecute, defend and resolve all such actions in the name of the Debtors or their Estates, in each case if deemed necessary or appropriate by the Plan Administration Trustee. The Plan Administration Trust shall be responsible for the payment of all damages, awards, judgments, settlements, expenses, costs, fees and other charges incurred subsequent to the date upon which the Plan Administration Trust is established arising from, or associated with, any legal action or other proceeding brought pursuant to the foregoing. For the avoidance of doubt, the Plan Administration Trust, pursuant to section 1123(b)(3)(B) of the Bankruptcy Code and applicable state corporate law, is appointed as the successor-in-interest to, and representative of, the Debtors and their Estates for the retention, enforcement, settlement or adjustment of Claims against the Debtors (other than the Channeled Claims). For the further avoidance of doubt, neither the Plan Administration Trust nor the Plan Administration Trustee shall be vested with the rights to pursue any MDT Insurance Rights or MDT Insurance Collateral.

(g) **U.S. Federal Income Tax Matters Relating to Plan Administration Trust**. The Plan Administration Trust is intended to be treated as a trust described in IRC sections 661 through 664 and the regulations promulgated thereunder (a "complex trust"). The PAT Disputed Claims Reserves are intended to be treated as part of the Plan Administration Trust and not as separate taxable entities. All parties (including the Shareholder Payment Parties, the Debtors, the Plan Administration Trustee, each applicable Creditor Trustee, the MDT Trustees and Holders of Non-Participating Claims and other Disputed Claims) shall be required to report for tax purposes in a manner consistent with the foregoing. The Plan Administration Trustee shall file (or cause to be filed) such statements, returns, or

disclosures relating to the Plan Administration Trust as are required by any Governmental Unit, including IRS Form 1041, IRS Form 1041-ES, and IRS Schedule K-1. The Plan Administration Trustee shall be responsible for payment, out of the PAT Assets, of any taxes imposed on the Plan Administration Trust or the PAT Assets, including, without limitation, estimated and annual U.S. federal income taxes. The Plan Administration Trustee shall be responsible for payment, out of the assets of each of the PAT Disputed Claims Reserves, of any taxes imposed on the applicable PAT Disputed Claims Reserve or its assets. The Plan Administration Trustee may request an expedited determination of taxes of the Plan Administration Trust under section 505(b) of the Bankruptcy Code for all returns filed for, or on behalf of, the Plan Administration Trust for all taxable periods through the dissolution of the Plan Administration Trust. Nothing in this Section 5.3(g) shall be deemed to determine, expand or contract the jurisdiction of the Bankruptcy Court under section 505 of the Bankruptcy Code.

(h) **Dissolution, Release of Reserves and Residual Value**. The Plan Administration Trust shall be dissolved and the Plan Administration Trustee shall be discharged from its duties with respect to the Plan Administration Trust upon completion of its duties as set forth in the Plan and satisfaction of the purposes of the Plan Administration Trust as set forth in the Plan and the PAT Agreement, which, for the avoidance of doubt, shall be no earlier than the later of (i) the PPLP Dissolution Date and (ii) the date on which (A) all Disputed Claims (other than Non-Participating Channeled Claims) have been resolved, (B) all PAT Assets have been liquidated and (C) all Distributions and other payments required to be made by the Plan Administration Trustee under the Plan and the PAT Agreement have been made, unless dissolution on an earlier date is authorized pursuant to a Final Order of the Bankruptcy Court. Any Cash or cash equivalents in the Plan Administration Trust remaining upon dissolution of the Plan Administration Trust, including any Surplus Reserve Cash remaining in the PAT Reserves, shall be distributed in accordance with Section 5.14(b) of the Plan.

(i) **Exculpation and Indemnification of the Plan Administration Trustee**. To the maximum extent permitted by applicable law, the Plan Administration Trustee shall not have or incur any liability for actions taken or omitted in its capacity as the Plan Administration Trustee, or on behalf of the Plan Administration Trust, except those acts found by Final Order to be arising out of its willful misconduct, bad faith, gross negligence or fraud, and shall be entitled to indemnification, advancement and reimbursement for reasonable fees and expenses in defending any and all of its actions or inactions in its capacity as the Plan Administration Trustee, or on behalf of the Plan Administration Trust, and for any other liabilities, losses, damages, claims, costs and expenses arising out of or due to the implementation or administration of the Plan or the PAT Agreement, in each case, except for any actions or inactions found by Final Order to be arising out of its willful misconduct, bad faith, gross negligence or fraud. Any valid indemnification claim of the Plan Administration Trustee shall be satisfied from the Wind-Up Reserve.

5.4 ***NewCo***.

(a) **Establishment and Ownership of NewCo**. On or before the Effective Date, NewCo and any Subsidiaries of NewCo shall be formed in accordance with the Plan and the NewCo Operating Agreement. Upon completion of the Restructuring Transactions, the Foundation shall hold the NewCo Interest, representing 100% of the voting and economic Interests in NewCo.

(b) **Purpose of NewCo**. From and after the Effective Date, NewCo shall operate the NewCo Transferred Assets in accordance with the terms of the NewCo Operating Agreement, and subject to the NewCo Operating Injunction and the NewCo Governance Covenants set forth in the Confirmation Order. NewCo shall be operated in a responsible and sustainable manner, balancing (i) the interests of its stakeholders to fund and provide abatement of the opioid crisis, (ii) effective deployment of its assets to address the opioid crisis and (iii) the interests of those materially affected by its conduct. In connection with any action of NewCo, all elements of NewCo's purpose as set forth in this Section

5.4(b) shall be taken into account, and NewCo shall not be required (and the NewCo Managers shall not be required to cause NewCo) to maximize NewCo's or NewCo's subsidiaries' sales or profits.

(c) **Vesting of the NewCo Transferred Assets in NewCo**. On or prior to the Effective Date, pursuant to the Plan and in accordance with the NewCo Transfer Agreement, the NewCo Transferred Assets, including the Initial NewCo Cash, shall be transferred to and vest in NewCo or one or more Subsidiaries of NewCo, in each case free and clear of all Claims, Interests, Liens, other encumbrances and liabilities of any kind; *provided* that NewCo shall comply with its obligations under the Plan, including NewCo's obligation to distribute directly to the Governmental Remediation Trust, the Tribe Trust and the Foundation the NewCo Distributable Cash in accordance with the Plan and to satisfy any deficiency of funding in the Wind-Up Reserve subject to the consent (not to be unreasonably withheld) of the NewCo Managers and the MDT Trustees (which obligation shall be assumed by NewCo and any successor to NewCo's business) and NewCo shall assume the Assumed Liabilities. Except as described in the foregoing sentence, NewCo shall have no liability for, and the NewCo Transferred Assets shall vest in NewCo free and clear of, any prepetition and postpetition Causes of Action of any kind, in each case that have been or could have been asserted against the Debtors, their Estates or their property (including, but not limited to, Claims based on successor liability) based on any acts or omissions prior to the Effective Date.

(d) **NewCo Managers**.

(i) Appointment. The board of managers of NewCo will consist of five (5) NewCo Managers, each with experience in one or more of the following areas: pharmaceuticals, public policy (including public health policy), law enforcement, ethics and compliance, finance, audit, general business and/or corporate governance issues. The initial NewCo Managers shall be disinterested and independent, and shall be selected by the Settling States with the consent (not to be unreasonably withheld) of the Ad Hoc Committee and in consultation with the Debtors and the Creditors' Committee, and pursuant to a selection process that is reasonably acceptable to the Debtors; *provided* that the DOJ shall have the right, in its discretion, to observe such selection process. The identity of the initial NewCo Managers shall be included in the Plan Supplement. The appointment of the initial NewCo Managers shall be approved in the Confirmation Order, and such appointment shall be effective as of the Effective Date.

(ii) Responsibilities. The NewCo Managers shall, among other things, (A) determine appropriate expenditure levels for commercial operations and the Public Health Initiatives of NewCo, and (B) make all decisions with respect to NewCo operations (including, for the avoidance of doubt, to effectuate a Disposition Event (as defined in the NewCo Operating Agreement)), taking into account the public interest and NewCo's purpose; *provided*, in each of clauses (A) and (B) above, any such actions of the NewCo Managers shall be subject to oversight by the Foundation.

(e) **NewCo Distributable Cash**. On an annual basis following the Effective Date, NewCo shall pay (i) 96.7% of the Governmental NewCo Distributable Cash directly to the Governmental Remediation Trust, (ii) 3.3% of the Governmental NewCo Distributable Cash directly to the Tribe Trust and (iii) the Foundation Distributable Cash directly to the Foundation. The obligation to pay the Governmental NewCo Distributable Cash in accordance with this Section 5.4(e) shall be otherwise documented in an agreement to be negotiated between NewCo, the Governmental Remediation Trust and the Tribe Trust.

(f) **NewCo Insurance**. On or prior to the Effective Date, the Debtors shall fund an upfront premium payment from Effective Date Cash to purchase insurance required and appropriate for the business needs of NewCo, including liability and other insurance for NewCo, including, without limitation, product liability insurance and directors' and officers' liability insurance

for the NewCo Managers, officers and other authorized agents, in an amount and on terms acceptable to the Debtors and the Governmental Consent Parties.

(g) **NewCo Operating Injunction and NewCo Governance Covenants**. The Confirmation Order will provide for the issuance of the NewCo Operating Injunction and the NewCo Governance Covenants. Any purchaser of NewCo's opioid business shall remain subject to the NewCo Operating Injunction and the NewCo Governance Covenants.

(h) **NewCo Monitor**. The Confirmation Order will provide for the appointment of the NewCo Monitor. The initial NewCo Monitor shall be the Purdue Monitor in place as of the Effective Date or otherwise selected by the Governmental Consent Parties with the consent of the Debtors, and in consultation with the Creditors' Committee. The identity of the NewCo Monitor shall be disclosed in the Plan Supplement. The NewCo Monitor shall be responsible for reviewing NewCo's compliance with the NewCo Operating Injunction. NewCo and its professionals and representatives, including the NewCo Managers, shall cooperate and reasonably respond to requests by the NewCo Monitor in the performance of its responsibilities, including reasonable requests for access to relevant books and records of NewCo. In furtherance of the responsibilities of the NewCo Monitor, the NewCo Monitor shall be authorized to seek relief from the Bankruptcy Court to the extent necessary to carry out its obligations hereunder. The NewCo Monitor shall prepare and publish quarterly reports regarding the matters for which the NewCo Monitor is responsible, including NewCo's compliance with the NewCo Operating Injunction. All compensation, costs and fees of the NewCo Monitor and any professionals retained by the NewCo Monitor shall be paid by NewCo.

(i) **U.S. Federal Income Tax Matters Relating to NewCo**. The NewCo Managers shall cause NewCo to make a timely election to be treated as a corporation for U.S. federal income tax purposes effective as of the date immediately succeeding the Effective Date by the deadline for making such election. NewCo shall be responsible for filing all tax returns of NewCo and the payment, out of the Assets of NewCo, of any taxes due by or imposed on NewCo or NewCo Transferred Assets, including, without limitation, estimated and annual U.S. federal income taxes.

(j) **Exculpation and Indemnification of the NewCo Managers**. To the maximum extent permitted by applicable law, no NewCo Manager shall have or incur any liability for actions taken or omitted in his or her capacity as a NewCo Manager, or on behalf of NewCo, except those acts found by Final Order to be arising out of his or her willful misconduct, bad faith or fraud, and shall be entitled to indemnification, advancement and reimbursement for reasonable fees and expenses in defending any and all actions or inactions in his or her capacity as a NewCo Manager, or on behalf of NewCo, except for any actions or inactions found by Final Order to be arising out of his or her willful misconduct, bad faith or fraud. Any valid indemnification claim of any NewCo Manager shall be satisfied by NewCo.

5.5 ***Foundation***.

(a) **Establishment and Ownership of the Foundation**. On or before the Effective Date, the Foundation shall be formed in accordance with the terms of the Plan and the Foundation Bylaws.

(b) **Appointment of the Foundation Trustees**. The board of trustees of the Foundation will consist of three (3) Foundation Trustees, each of whom shall be disinterested and independent, provided that one (but no more than one) Creditor Trustee of the Master Disbursement Trust may serve as a Foundation Trustee; *provided* further that any action taken by such individual in his or her capacity as Foundation Trustee shall not be subject to the fiduciary duties of such individual in his or her capacity as a Creditor Trustee of the Master Disbursement Trust. The initial Foundation Trustees

shall be selected by the Settling States with the consent (not to be unreasonably withheld) of the Ad Hoc Committee and in consultation with the Debtors and the Creditors' Committee, and pursuant to a selection process that is reasonably acceptable to the Debtors; *provided* that the DOJ shall have the right, in its discretion, to observe such selection process. The identity of the initial Foundation Trustees shall be included in the Plan Supplement. The appointment of the initial Foundation Trustees shall be approved in the Confirmation Order, and such appointment shall be effective as of the Effective Date.

(c) **Foundation D&O Insurance and Indemnification**. On or prior to the Effective Date, the Debtors shall fund an upfront premium payment from Effective Date Cash to purchase directors' and officers' liability insurance for the Foundation Trustees in an amount and on terms acceptable to the Debtors and the Governmental Consent Parties.

(d) **U.S. Federal Income Tax Matters Relating to the Foundation**. The Foundation Trustees shall cause the Foundation to (A) be formed as a corporation and (B) be organized as a corporation that is intended to be treated as an exempt organization under IRC section 501(c)(4) for U.S. federal and applicable state and local income tax purposes.

(e) **Exculpation and Indemnification of the Foundation Trustees**. To the maximum extent permitted by applicable law, no Foundation Trustee shall have or incur any liability for actions taken or omitted in his or her capacity as a Foundation Trustee, or on behalf of NewCo, except those acts found by Final Order to be arising out of his or her willful misconduct, bad faith or fraud, and shall be entitled to indemnification, advancement and reimbursement for reasonable fees and expenses in defending any and all actions or inactions in his or her capacity as a Foundation Trustee, or on behalf of NewCo, except for any actions or inactions found by Final Order to be arising out of his or her willful misconduct, bad faith or fraud. Any valid indemnification claim of any Foundation Trustee shall be satisfied by the Foundation.

5.6 ***Master Disbursement Trust***.

(a) **Establishment and Purpose of the Master Disbursement Trust**. On or before the Effective Date, the Debtors shall take all necessary steps to establish the Master Disbursement Trust in accordance with the Plan and the MDT Agreement. The Master Disbursement Trust shall be established for the purposes described in this Plan and any other purposes more fully described in the MDT Agreement and shall be subject to the jurisdiction of the Bankruptcy Court. The Master Disbursement Trust shall, in each case in accordance with the Plan and the MDT Agreement:

(i) hold, manage, sell, invest and distribute the MDT Transferred Assets for the benefit of the MDT Beneficiaries in accordance with the Private Entity Settlements and the Public Entity Settlements;

(ii) enforce, pursue, prosecute, compromise and/or settle the MDT Causes of Action, the MDT Insurance Rights and the MDT Shareholder Rights, including monitoring and enforcing the Shareholder Settlement Agreements;

(iii) make payments in satisfaction of the MDT Claims;

(iv) make Public Creditor Trust Distributions from MDT Distributable Value;

(v) hold and administer the Special Operating Reserve; and

(vi) serve as administrative agent with respect to the Released Claims Reserves.

(b) **Vesting of the MDT Transferred Assets in the Master Disbursement Trust**. The corpus of the Master Disbursement Trust shall consist of the MDT Transferred Assets. On the Effective Date, pursuant to the Plan and in accordance with the MDT Agreement, the MDT Transferred Assets shall be irrevocably transferred to and vest in the Master Disbursement Trust free and clear of all Claims, Interests, Liens, other encumbrances and liabilities of any kind; *provided* that, to the extent certain Assets comprising the MDT Transferred Assets are not known or identified as of the Effective Date, such Assets shall automatically, and without further act or deed, be transferred to and vest in the Master Disbursement Trust upon the discovery or identification thereof, including, with respect to the Surplus Reserve Cash, in accordance with Section 5.14(b) of the Plan. The Master Disbursement Trust shall have no liability for any prepetition or postpetition Causes of Action of any kind, in each case that have been or could have been asserted against the Debtors, their Estates or their property (including, but not limited to, Claims based on successor liability) based on any acts or omissions prior to the Effective Date, except as expressly set forth in the Plan and the MDT Agreement; *provided* that the Master Disbursement Trust will assume the Channeled Claims solely for the purpose of effectuating the Master TDP in accordance with Section 5.6(g) of the Plan and issue the MDT Claims and MDT Interests in accordance with the Public Entity Settlements and the Private Entity Settlements. From and after the Effective Date, all proceeds of the MDT Transferred Assets, including, without limitation, amounts paid by Insurance Companies under the MDT Insurance Policies and amounts paid under the Master Shareholder Settlement Agreement, shall be paid to the Master Disbursement Trust to be applied in accordance with the MDT Priority Waterfall and the MDT Agreement.

(c) **Funding of the Master Disbursement Trust**. The Master Disbursement Trust shall be funded with the proceeds of the MDT Transferred Assets.

(d) **Appointment and Role of the MDT Trustees**. The board of trustees of the Master Disbursement Trust will consist of three (3) MDT Trustees with relevant experience. The MDT Trustees shall be disinterested and independent; *provided*, *however*, that such requirements shall not preclude any professional who represented parties in interest from serving as MDT Trustee nor any firm in which an MDT Trustee holds a financial interest from serving as a professional for the Master Disbursement Trust based solely on such previous representations. At least one (1) initial MDT Trustee shall be selected by the Settling States that have attorneys general from the Democratic Party, and at least one (1) initial MDT Trustee shall be selected by the Settling States that have attorneys general from the Republican Party, and such MDT Trustees shall select the third MDT Trustee (the "**Settling States MDT Trustees**"); *provided* that notwithstanding the above, in each case, each MDT Trustee shall be appointed with the consent of the Ad Hoc Committee in consultation with the MSGE Group and the Debtors, and the DOJ shall have the right, in its discretion, to observe such selection process. The identity of the initial MDT Trustees shall be disclosed in the Plan Supplement. The appointment of the initial MDT Trustees shall be approved in the Confirmation Order, and such appointment shall be effective as of the Effective Date. Each Settling States MDT Trustee may be removed and replaced at any time by the unanimous vote of the MDT Advisory Council Representatives from the same political party as such Settling States that selected such Settling States MDT Trustee. In furtherance of and consistent with the purpose of the Master Disbursement Trust and the Plan, the MDT Trustees shall:

(i) have the power and authority to perform all functions on behalf of the Master Disbursement Trust;

(ii) have the power and authority to perform all functions necessary to operate the Master Disbursement Trust, including, but not limited to, hiring employees or financial, tax, legal, or other necessary professionals to achieve the Master Disbursement Trust's objectives;

(iii) be responsible for all decisions and duties with respect to the Master Disbursement Trust and the MDT Transferred Assets; and

(iv) in all circumstances and at all times, act in a fiduciary capacity for the benefit and in the best interests of the MDT Beneficiaries, in furtherance of the purpose of the Master Disbursement Trust, and in accordance with the Plan, including Section 5.6(f) of the Plan, and the MDT Agreement.

(e) **Appointment and Role of the MDT Advisory Council**. There shall be an MDT Advisory Council established under the MDT Agreement that will consist of a total of seven (7) representatives (the "***MDT Advisory Council Representatives***," and each an "***MDT Advisory Council Representative***"), selected in the following manner: (i) two (2) representatives shall be selected by the representatives of Settling States that have a state attorney general from the Democratic Party; (ii) two (2) representatives shall be selected by the representatives of Settling States that have a state attorney general from the Republican Party, and (iii) these four (4) MDT Advisory Council Representatives shall select the fifth MDT Advisory Council Representative. In addition, one (1) MDT Advisory Council Representative shall be selected by the MDL Plaintiffs' Executive Committee and one (1) MDT Advisory Council Representative shall be selected by the MSGE Group. Notwithstanding anything in the foregoing to the contrary, in each case, each MDT Advisory Council Representative shall be appointed with the consent of the Ad Hoc Committee. The Master Disbursement Trust shall regularly report to the MDT Advisory Council with respect to the operations and activities of the Master Disbursement Trust and the handling of all payments and Distributions made from the Master Disbursement Trust to the extent set forth in the MDT Agreement.

(f) **Obligations of the MDT Trustees**. The MDT Trustees shall take into account the interests of, and owe fiduciary duties to, each of the MDT Beneficiaries in making all decisions on behalf of the Master Disbursement Trust. In furtherance thereof:

(i) in the event of a Specified Breach (as defined in the Master Shareholder Settlement Agreement), the MDT Trustees will take into account the remaining rights of the Holders of MDT Claims as well as the interests of the Holders of MDT Interests in formulating and exercising appropriate remedies as they relate to the Shareholder Payment Parties and the Shareholder Release Snapback Parties, but shall in all events, to the extent there are obligations remaining to the Private Creditor Trusts upon such default, seek to utilize all other available sources of assets (including by first utilizing commercially reasonable efforts to pursue a Payment Remedy (as defined in the Master Shareholder Settlement Agreement) before electing to pursue a Shareholder Release Remedy) to pay all outstanding amounts owed to the Holders of MDT Claims then-due or to be paid in the future from amounts due from such Breaching Shareholder Family Group until such outstanding amounts have been paid in full;

(ii) the Master Disbursement Trust shall provide no less than ten (10) Business Days' advance written notice (unless urgent circumstances require less notice) to each MDT Beneficiary of any material action proposed to be taken in respect of the MDT Shareholder Rights, including any exercise of remedies under the Shareholder Settlement Agreements or the commencement or settlement of any litigation against any Shareholder Payment Party or Shareholder Release Snapback Party;

(iii) to the extent there are any disputes raised by any MDT Beneficiary regarding the operation of the Master Disbursement Trust or the actions of the MDT Trustees (including, without limitation, any action related to the MDT Shareholder Rights), (A) any MDT Beneficiary shall have the right to seek resolution by the Bankruptcy Court of such a dispute, including seeking to enjoin any disputed action by the Master Disbursement Trust, and all MDT Trustees and MDT Beneficiaries shall have the right to be heard with regard to any such dispute, including by filing objections, declarations, statements in support or other pleadings (including with supporting evidence) or providing witness testimony at any hearing and (B) the Bankruptcy Court shall have exclusive jurisdiction to hear and resolve any such disputes, and shall be

authorized to order appropriate relief (subject to the provisions of this Section 5.6(f)) and make a determination in an expedited manner, and in all events, shall make such a decision within thirty (30) days from the request for relief;

(iv) upon the payment in full in Cash of any MDT Claim, the holder of such MDT Claim shall immediately cease to be an MDT Beneficiary for all purposes under the MDT Agreement, and the MDT Trustees shall have no further fiduciary duties to such holder, and such holder shall have no further rights to commence or participate in any action relating to the operations of the Master Disbursement Trust or the actions of the MDT Trustees;

(v) the Master Disbursement Trust shall (A) provide reasonable reporting to each of the other Creditor Trusts that hold MDT Claims regarding the MDT Trustees' activities at least every four (4) months (both cumulatively and in the period just ended), including with regard to the MDT Shareholder Rights (or any reporting received), any insurance proceedings, assets (including the value thereof), expenditures, distributions and forward-looking projections (subject to appropriate limitations to be agreed by the Debtors, the Governmental Consent Parties and the Creditors' Committee), (B) make themselves reasonably available in addition to holding at least one (1) call every four (4) months for the other Creditor Trustees to answer questions of such other Creditor Trustees relating to the Master Disbursement Trust's activities, (C) provide each Private Creditor Trust and the Public School Trust with quarterly reporting regarding Litigation Costs (as defined in the Master Shareholder Settlement Agreement) and other items relating to litigation claims pertaining to such Creditor Trusts' applicable Creditor category as well as all other Creditor categories, and (D) provide the PI Trust with the information, consultation rights and notice as required pursuant to Section 5.2(e) of the Plan. Notwithstanding anything in the foregoing to the contrary, the Master Disbursement Trust shall not be required to provide any reporting to any Creditor Trust to which the Master Disbursement Trust's duties cease pursuant to Section 5.6(f)(iv).

(vi) the MDT Trustees shall be obligated to comply with the terms of the Plan, including this Section 5.6(f), and the MDT Agreement; and

(vii) in the event of any inconsistency between the terms of this Section 5.6(f) and any other provision of this Plan or the MDT Agreement, the terms of this Section 5.6(f) shall govern unless the MDT Trustees and the Creditor Trustees for each of the Creditor Trusts mutually agree.

(g) **Assumption of Channeled Claims and Master TDP**. As of the Effective Date, any and all liability of the Debtors and the other Protected Parties for any and all Channeled Claims shall automatically, and without further act, deed or court order, be channeled to and assumed by the Master Disbursement Trust solely for the purpose of effectuating the Master TDP, pursuant to which each Channeled Claim shall either be automatically channeled to and assumed exclusively by a Creditor Trust or otherwise Disallowed and released in full. All Channeled Claims channeled to a Creditor Trust in accordance with the Master TDP shall be administered and resolved solely pursuant to, and solely to the extent provided in, the applicable Creditor Trust TDP for such Creditor Trust. Distributions, in accordance with the applicable Creditor Trust TDP, from the Creditor Trust to which a Channeled Claim is channeled, in accordance with the Master TDP, shall be the sole source of recovery, if any, in respect of such Channeled Claim, and the Holder of such Channeled Claim shall have no other or further recourse to the Protected Parties, including the Master Disbursement Trust. All Channeled Claims that are Disallowed and released and not channeled to a Creditor Trust in accordance with the Master TDP shall have no recourse to any Protected Party, including the Master Disbursement Trust. For the avoidance of doubt, in no event shall any Channeled Claim have any recourse to the Assets of the Master Disbursement Trust. In furtherance of the foregoing, the Master Disbursement Trust, subject to and only to the extent provided in the MDT Documents, shall have all defenses, cross-claims, offsets and recoupments regarding the Channeled Claims that the Debtors, the

Released Parties and the Shareholder Released Parties, as applicable, have, or would have had, under applicable law, but solely to the extent consistent with the MDT Documents and the Plan; *provided* that, subject to Section 10.8(c), no such Claims, defenses or rights may be asserted against any Protected Party; and *provided*, *further*, that all such defenses, cross-claims, offsets and recoupments regarding any Channeled Claim that is channeled to a Creditor Trust in accordance with the Master TDP shall be transferred to such Creditor Trust with such Channeled Claim, at which point, the Master Disbursement Trust shall no longer have such defenses, cross-claims, offsets and recoupments regarding such Channeled Claim. For the avoidance of doubt, nothing in this Section 5.6(g) shall limit or affect the transfer of the MDT Insurance Rights.

(h) **MDT Operating Expenses**. On the Effective Date, the Debtors shall establish and fund the MDT Operating Reserve, which shall vest in the Master Disbursement Trust in accordance with Section 5.6(b) of the Plan and be held and maintained by the MDT Trustees. Periodically, until the dissolution of the Master Disbursement Trust, the MDT Trustees will replenish the MDT Operating Reserve from Cash held or received by the Master Disbursement Trust to the extent deemed necessary by the MDT Trustees to satisfy and pay estimated future MDT Operating Expenses; *provided*, *however*, that subject only to Section 5.2(g) of this Plan, payments received by the Master Disbursement Trust on account of the Governmental Entity Shareholder Direct Settlement shall be immediately transferred to the Governmental Remediation Trust and shall not be used to fund a Replenishment Transfer or the MDT Operating Reserve, and shall not be used to pay the MDT Claims. The MDT Trustees shall create and maintain an annual budget of MDT Operating Expenses, which shall be reviewed by, and reasonably acceptable to, the MDT Advisory Council. All MDT Operating Expenses shall be satisfied and paid from the MDT Operating Reserve. The MDT Trustees shall be entitled to reasonable compensation and to retain and reasonably compensate counsel and other professionals, including any professional who represented parties in interest in the Chapter 11 Cases, to assist in the duties of the Master Disbursement Trust on such terms as the MDT Trustees deem appropriate without Bankruptcy Court approval, subject to the provisions of the MDT Agreement. The initial compensation of the MDT Trustees shall be reasonably acceptable to the Debtors and the Governmental Consent Parties, and thereafter shall be subject to the annual budgets prepared by the MDT Trustees.

(i) **Transfer of the MDT Insurance Rights**. In furtherance of the transfer of the MDT Transferred Assets to the Master Disbursement Trust and in accordance with the MDT Agreement, on the Effective Date, the Debtors shall irrevocably transfer, grant and assign to the Master Disbursement Trust, and the Master Disbursement Trust shall receive and accept, any and all of the MDT Causes of Action and MDT Insurance Rights. To the extent any Insurance Company would be obligated in respect of any MDT Insurance Policy to pay any Channeled Claim on behalf of one or more of the Debtors, the Debtors shall transfer and assign to the Master Disbursement Trust the right to enforce such Insurance Company's obligation. The foregoing transfer shall be (i) free and clear of all encumbrances and Causes of Action of any nature whatsoever, (ii) made to the maximum extent possible under applicable law, (iii) absolute and without requirement of any further action by the Debtors, the Liquidating Debtors, the Plan Administration Trust, the Master Disbursement Trust, the Bankruptcy Court or any other Person, and (iv) governed by, and construed in accordance with, the Bankruptcy Code and the other applicable laws governing the applicable MDT Insurance Policies. Notwithstanding the foregoing, the Master Disbursement Trust shall become and remain liable in full for and shall satisfy, to the extent required under applicable law, any prospective premiums, deductibles, self-insured retentions and any other amounts or obligations arising in any way out of the receipt of payment from an Insurance Company in respect of the MDT Insurance Rights; *provided* that, for the avoidance of doubt, the Master Disbursement Trust will not be required to pay premiums or any other amounts for Purdue Insurance Policies that are not MDT Insurance Policies. The transfer of the MDT Insurance Rights contemplated in this Section 5.6(i) is not an assignment of any insurance policy itself. The Confirmation Order shall

contain findings reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties related to or necessary to preserve all MDT Insurance Rights.

(j) **Transfer of MDT Shareholder Insurance Rights**. On the Effective Date, in consideration of the Shareholder Releases, the Shareholder Released Parties shall irrevocably transfer, grant, and assign to the Master Disbursement Trust, and the Master Disbursement Trust shall receive and accept, any and all MDT Shareholder Insurance Rights. Each Shareholder Released Party shall be deemed to have irrevocably transferred, granted, and assigned to the Master Disbursement Trust any and all MDT Shareholder Insurance Rights without further action and without further consideration to such Shareholder Released Party. Pursuant to the Plan, the foregoing transfer shall be (i) free and clear of all encumbrances and Causes of Action of any nature whatsoever, (ii) made to the maximum extent possible under applicable law, (iii) absolute and without requirement of any further action by the Shareholder Released Parties, the Debtors, the Liquidating Debtors, the Plan Administration Trust, the Master Disbursement Trust, the Bankruptcy Court or any other Person, and (iv) governed by, and construed in accordance with, the Bankruptcy Code and the other applicable laws governing the MDT Shareholder Insurance Rights. The transfer of the MDT Shareholder Insurance Rights is not an assignment of any insurance policy itself. For the avoidance of doubt, the transfer of the MDT Shareholder Insurance Rights is in addition to the other obligations of the Shareholder Released Parties set forth herein. The Shareholder Released Parties will make best efforts to provide the Master Disbursement Trust access to information and copies of documents that are reasonably necessary to preserve, secure, or obtain the benefit of the MDT Shareholder Insurance Rights, and will comply in all respects with the Plan to preserve, secure, or obtain the benefit of the MDT Shareholder Insurance Rights, including but not limited to the obligations set forth in Section 8.8(b). The Confirmation Order shall contain findings reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties related to or necessary to preserve all MDT Shareholder Insurance Rights. Notwithstanding the foregoing in this paragraph, to the extent that (y) a Shareholder Released Party has, prior to the Effective Date, provided notice of a Claim under a Reserved MDT Insurance Policy under which a Shareholder Released Party is covered and (z) such Claim is not one for which such Shareholder Released Party receives the benefit of the Shareholder Releases (a "***Retained Shareholder Insurance Claim***"), such Shareholder Released Party shall not be deemed to have irrevocably transferred, granted, and assigned to the Master Disbursement Trust the Retained Shareholder Insurance Claim, and such Shareholder Released Party shall be entitled to pursue any such Retained Shareholder Insurance Claim prior to and after the Effective Date; *provided* that, notwithstanding the foregoing, with respect to the Retained Shareholder Insurance Claims, each Shareholder Released Party, in consideration of the Shareholder Releases, (A) will confer and fully cooperate with the Master Disbursement Trust in connection with the settlement of all claims or rights under such MDT Insurance Policy, including the Retained Shareholder Insurance Claims, and including but not limited to as set forth in Section 8.8(b)(i) of the Plan, and (B) in the event the Master Disbursement Trust has obtained settlement terms that it deems acceptable in its sole discretion, and such settlement terms include a settlement of any Retained Shareholder Insurance Claim, each Shareholder Released Party with rights under such Retained Shareholder Insurance Claim shall be deemed to consent to the release of any claims or rights held by such Shareholder Released Party against and under such MDT Insurance Policy, with the same effect as if such Shareholder Released Party had executed such settlement agreement, and without further consideration to such Shareholder Released Party from the insurance settlement proceeds or otherwise in respect of such settlement. After the Effective Date, no Shareholder Released Party shall be entitled to submit a claim under any MDT Insurance Policy (with the exception of a current or former director, officer, manager, authorized agent or employee that is not a Sackler Family Member, but solely to the extent such individual has a right to submit a claim after the Effective Date pursuant to Section 8.8(b)(ii) of the Plan).

(k) **Shareholder Insurance Release**. On the Effective Date, in consideration of the Shareholder Releases, all Sackler Family Members shall irrevocably, fully and

forever release and discharge any obligation to indemnify and/or to defend the Sackler Family Members under the Isosceles Insurance Ltd. policy number PPLP-01/2019 for any Claim or loss of any type or nature whatsoever, whether known or unknown. The Sackler Family Members hereby surrender all rights, interest in and Claim to any benefit under the Isosceles Insurance Ltd. policy number PPLP-01/2019, and acknowledge that (i) all rights, interest in and Claim to any benefit they may have under the Isosceles Insurance Ltd. policy number PPLP-01/2019 are fully terminated on the Effective Date; and (ii) after the Effective Date, the Sackler Family Members will not receive and cannot claim any further benefits under the Isosceles Insurance Ltd. policy number PPLP-01/2019 for any time period and shall have no rights whatsoever under or relating to the Isosceles Insurance Ltd. policy number PPLP-01/2019.

(l) **Institution and Maintenance of Legal and Other Proceedings**. As of the date upon which the Master Disbursement Trust is established, the Master Disbursement Trust shall be empowered to initiate, prosecute, defend and resolve all legal actions and other proceedings related to any Asset, liability or responsibility of the Master Disbursement Trust, including in respect of the MDT Causes of Action, the MDT Insurance Rights and the MDT Shareholder Rights. Such legal actions and other proceedings shall be limited solely to those required for the purposes of satisfying the responsibilities of the Master Disbursement Trust, including in respect of the MDT Causes of Action, the MDT Insurance Rights and the MDT Shareholder Rights. The Master Disbursement Trust shall be empowered to initiate, prosecute, defend and resolve all such actions in the name of the Debtors or their Estates, in each case if deemed necessary or appropriate by the MDT Trustees. The Master Disbursement Trust shall be responsible for the payment of all damages, awards, judgments, settlements, expenses, costs, fees and other charges incurred subsequent to the date upon which the Master Disbursement Trust is established arising from, or associated with, any legal action or other proceeding brought pursuant to the foregoing.

(m) **U.S. Federal Income Tax Matters Relating to the Master Disbursement Trust**. The Master Disbursement Trust is intended to be treated, and shall be reported, as a "qualified settlement fund," and the receipt of (i) any MDT Transferred Assets (and any other amounts received by the Master Disbursement Trust pursuant to the Plan) that are treated as amounts transferred to the Master Disbursement Trust for purposes of Treasury Regulations section 1.468B-2(b)(1) and (ii) the proceeds received in respect of any MDT Transferred Assets (and any other amounts received by the Master Disbursement Trust pursuant to the Plan) that are not described in clause (i) above (including, without limitation, proceeds received in respect of the MDT Shareholder Rights) by the Master Disbursement Trust are intended to be treated as amounts transferred by, or on behalf of, a "transferor" to a "qualified settlement fund," within the meaning of Treasury Regulations section 1.468B-1 for U.S. federal income tax purposes and shall be treated consistently for state and local tax purposes, to the extent applicable. All parties (including, without limitation, the Shareholder Payment Parties, Holders of Claims against or Interests in the Debtors, the Related Parties of such Holders, the Debtors, the Creditor Trusts, the Creditor Trustees, the MDT Trustees and the Master Disbursement Trust) shall report consistently with the foregoing for all applicable tax reporting purposes. An MDT Trustee shall be the "administrator," within the meaning of Treasury Regulations section 1.468B-2(k)(3), of the Master Disbursement Trust. The administrator of the Master Disbursement Trust shall be responsible for filing all tax returns required to be filed by or on behalf of the Master Disbursement Trust and the payment, out of the Assets of the Master Disbursement Trust, of any taxes due by or imposed on the Master Disbursement Trust. The MDT Trustees may request an expedited determination under section 505(b) of the Bankruptcy Code for all tax returns filed by or on behalf of the Master Disbursement Trust for all taxable periods through the dissolution of the Master Disbursement Trust. Nothing in this Section 5.6(m) shall be deemed to determine, expand or contract the jurisdiction of the Bankruptcy Court under section 505 of the Bankruptcy Code.

(n) **Distributions from the Master Disbursement Trust Free and Clear**. All Distributions made by the Master Disbursement Trust to the MDT Beneficiaries shall be made in accordance with the notice provisions of the Shareholder Settlement Agreements, as applicable, and in the absence of applicable notice provisions therein to the applicable Creditor Trust, as directed in writing by the corresponding trustees, on no less than ten (10) Business Days' notice to all MDT Beneficiaries; *provided* that such advance notice requirements shall not be required for the Initial Private Creditor Trust Distributions, Initial Public Creditor Trust Distributions or the Initial Public Schools Distribution. Such Distributions thereafter shall become the property of such MDT Beneficiary, free and clear of all Claims, Liens or other recourse or encumbrances, and shall not be subject to attachment, disgorgement or recoupment by any Person. Such distributions to each Creditor Trust shall become the property of such Creditor Trust, and shall be used for the administration (including the payment of Creditor Trust Operating Expenses) of such Creditor Trust, to make Distributions on account of Channeled Claims channeled to such Creditor Trust in accordance with the applicable Creditor Trust TDP and for such other purposes as may be specifically set forth in the applicable Creditor Trust Documents.

(o) **Dissolution, Release of Reserves and Residual Value**. The Master Disbursement Trust shall be dissolved and the MDT Trustees shall be discharged from their respective duties with respect to the Master Disbursement Trust upon completion of their duties as set forth in this Plan and the MDT Agreement, which, for the avoidance of doubt, shall be no earlier than the date on which (i) all Assets held by the Master Disbursement Trust, including the MDT Transferred Assets, have been liquidated and (ii) all payments and other distributions required to be made from the Master Disbursement Trust under the Plan and the MDT Agreement have been made, including payment in full in Cash of all MDT Claims, unless dissolution on an earlier date is authorized pursuant to a Final Order of the Bankruptcy Court. Upon dissolution of the Master Disbursement Trust, any Cash remaining in the MDT Operating Reserve or otherwise held by the Master Disbursement Trust shall be distributed in accordance with the MDT Priority Waterfall and the MDT Agreement; *provided* that, in the event the Master Disbursement Trust is dissolved prior to the payment in full in Cash of all MDT Claims, all outstanding amounts under such MDT Claims shall be deemed due and payable for purposes of the distribution of such remaining Cash pursuant to the MDT Priority Waterfall. Subject to the foregoing sentences, the Master Disbursement Trust shall be dissolved at such time as the MDT Trustees determine that the administration of any remaining assets of the Master Disbursement Trust is not likely to yield sufficient additional proceeds to justify further pursuit.

(p) **Exculpation and Indemnification of the MDT Trustee and the MDT Advisory Council Representatives**. To the maximum extent permitted by applicable law, each of the MDT Trustees and MDT Advisory Council Representatives shall not have or incur any liability for actions taken or omitted in his or her capacity as an MDT Trustee or MDT Advisory Council Representative, or on behalf of the Master Disbursement Trust, except those acts found by Final Order to be arising out of his or her willful misconduct, bad faith, gross negligence or fraud, and shall be entitled to indemnification, advancement and reimbursement for reasonable fees and expenses in defending any and all of his or her actions or inactions in his or her capacity as an MDT Trustee or MDT Advisory Council Representative, or on behalf of the Master Disbursement Trust, and for any other liabilities, losses, damages, claims, costs and expenses arising out of or due to the implementation or administration of the Plan or the MDT Agreement, in each case, except for any actions or inactions found by Final Order to be arising out of his or her willful misconduct, bad faith, gross negligence or fraud. Any valid indemnification claim of the MDT Trustees or the MDT Advisory Council Representatives shall be satisfied from the MDT Operating Reserve.

5.7 ***Special Operating Reserve; Released Claims Reserves***.

(a) **Establishment of Special Operating Reserve and Released Claims Reserves**.

(i) On or before the Effective Date, the Debtors shall establish the Special Operating Reserve which shall vest in the Master Disbursement Trust in accordance with Section 5.6(b) of the Plan and be held and maintained by the Master Disbursement Trust. The Special Operating Reserve shall be funded initially in the aggregate amount of $200 million by withholding, in each case from Shareholder Estate Settlement Distributions, (a) $20 million from the Initial Private Creditor Trust Distributions and the Initial Public Schools Distribution and (b) $180 million from the Initial Public Creditor Trust Distributions (the "***SOR Holdback***"). The Master Disbursement Trust, as administrative agent, shall facilitate the releases from the Special Operating Reserve in accordance with terms and consent procedures set forth in Exhibit N to the Master Shareholder Settlement Agreement.

(ii) On the Effective Date, each Creditor Trust shall establish the Released Claims Reserves and, once amounts are funded from the corresponding Creditor Trust PRA Non-Participating Claims Reserves in accordance with Section 7.8(b) or Section 7.8(c), as applicable, be otherwise held and maintained by such Creditor Trust with the Master Disbursement Trust serving as administrative agent with respect thereto. The Master Disbursement Trust, as administrative agent, shall facilitate the releases from the Released Claims Reserves in accordance with terms and consent procedures set forth in Exhibit N to the Master Shareholder Settlement Agreement.

(b) **Reversion of Special Operating Reserve and Released Claims Reserves**. Subject in all respects to the Master Shareholder Settlement Agreement, on the First Reversion Date, (A) one third (1/3) of the balance of each of the Special Operating Reserve and each Released Claims Reserves will be released to the Master Disbursement Trust or the applicable Creditor Trust, respectively, after completion of all requirements set forth in the Master Shareholder Settlement Agreement and (B) Replenishment Transfers shall cease.

(i) Unless and until Material Litigation is commenced or continued prior to any of the times set forth below against any Shareholder Released Party after the First Reversion Date, then:

(A) Upon the first anniversary of the First Reversion Date, if and only if no Material Litigation is or has been pending for the prior thirty (30) days, fifty percent (50%) of each of the remaining balance of the Released Claims Reserves and Special Operating Reserves will be released to the applicable Creditor Trust or the Master Disbursement Trust, respectively;

(B) Upon the second anniversary of the First Reversion Date, if and only if no Material Litigation is or has been pending for the prior thirty (30) days, fifty percent (50%) of each of the remaining balance of the Released Claims Reserves and Special Operating Reserve will be released to the applicable Creditor Trust or the Master Disbursement Trust, respectively; and

(C) Thereafter, upon the date when no litigation is or has been pending for the prior thirty (30) days, the remaining balance of each of the Released Claims

Reserves and Special Operating Reserve will be released to the applicable Creditor Trust or the Master Disbursement Trust, respectively.

(ii) Upon a Suspension Event:

(A) All releases from the Released Claims Reserves and Special Operating Reserve described in Section 5.7(b)(i) of the Plan shall cease; and

(B) If the Material Litigation is of the type referenced in clause (1)(a) of the definition of "Material Litigation" in the Master Shareholder Settlement Agreement (i.e., any litigation by a Material Litigant against Shareholder Released Parties regarding Covered Conduct) or clause (2) thereof (500 or more separate lawsuits (i.e., not aggregated and not in a class) pending against Shareholder Released Parties concerning Covered Conduct being pursued by non-Material Litigants), the Master Disbursement Trust shall resume Replenishment Transfers pursuant to Section 5.7(b)(i) of the Plan.

(C) Following a Suspension Event, a new First Reversion Date shall occur on the next date when no Material Litigation is or has been pending for thirty (30) days. The Sackler Parties' Representative shall report the occurrence of a new First Reversion Date to the Master Disbursement Trust in accordance with Section 7(b)(v)(B) of Exhibit N the Master Shareholder Settlement Agreement. On such new First Reversion Date or as soon as reasonably practicable thereafter, Replenishment Transfers shall cease and one third (1/3) of the balance of each of the Special Operating Reserve and Released Claims Reserves will be released to the Master Disbursement Trust and/or the applicable Creditor Trust, respectively, in accordance with Section 5.7(b)(iii) of the Plan, after completion of all requirements set forth in Exhibit N to the Master Shareholder Settlement Agreement.

Thereafter:

(D) Upon the first anniversary of the First Reversion Date, if and only if no Material Litigation is or has been pending for the prior thirty (30) days, one half (1/2) of the remaining balance of each of the Special Operating Reserve will be released to the Master Disbursement Trust and Released Claims Reserves will be released to the applicable Creditor Trust; and

(E) Upon the second anniversary of the First Reversion Date, if and only if no Material Litigation is or has been pending for the prior thirty (30) days, one half (1/2) of the remaining balance of each of the Special Operating Reserve will be released to the Master Disbursement Trust and Released Claims Reserves will be released to the applicable Creditor Trust;

(F) Thereafter, upon the date when no litigation against any of the Shareholder Released Parties with respect to Covered Conduct is or has been pending for the prior thirty (30) days, the remaining balance of each of the Special Operating Reserve will be released to the Master Disbursement Trust and Released Claims Reserves will be released to the applicable Creditor Trust;

provided, that if money remains in the Released Claims Reserves or the Special Operating Reserve after the twelfth (12th) SSA Payment Date, then:

(G) All remaining funds in the Released Claims Reserves will be released to the applicable Creditor Trust no later than thirty (30) days after the first date that no Material Litigation against any of the Shareholder Released Parties with respect to Covered Conduct is pending.

(H) All but $25 million of the remaining funds in the Special Operating Reserve will be released to the Master Disbursement Trust for the benefit of the applicable Creditor Trust(s) no later than six (6) months after the first date that no Material Litigation against any of the Shareholder Released Parties with respect to Covered Conduct is pending; and all funds remaining in the Special Operating Reserve from the $25 million described in clause (H) of this proviso will be released to the Master Disbursement Trust for distribution to the Creditor Trusts pursuant to Section 5.7(b)(iii) no later than six (6) months after the first date that no litigation against any of the Shareholder Released Parties with respect to Covered Conduct is pending.

(iii) Master Disbursement Trust shall first allocate all reversion funds received from the Special Operating Reserve to the Private Creditor Trusts in proportion to their respective SOR Holdback until they have received a cumulative amount of such reversion funds equal to the Private Claimants' Priority Reversion.

(iv) If by the ninth (9th) SSA Payment Date the Master Disbursement Trust has not made allocations to the Private Creditor Trusts pursuant to Section 5.7(b)(iii) of the Plan in an amount equal to the Private Claimants' Priority Reversion, then the Special Operating Reserve shall release funds to the Master Disbursement Trust for distribution to the Private Creditor Trusts on the ninth (9th) SSA Payment Date in an amount equal to the shortfall. Upon a release from the Special Operating Reserve to the Master Disbursement Trust pursuant to Sections 5.7(b)(i)(C), 5.7(b)(ii)(C) of the Plan, the Master Disbursement Trust will allocate $200,000 immediately prior to such release to the Private Creditor Trusts.

(c) **U.S. Federal Income Tax Matters Relating to the Special Operating Reserve and Released Claims Reserves.** The Special Operating Reserve and each of the Released Claims Reserves are intended to be treated and shall be reported as separate qualified settlement funds within the meaning of Treasury Regulations section 1.468B-1 for U.S. federal income tax purposes and shall be treated consistently for state and local tax purposes. The Master Shareholder Settlement Agreement provides that PRA L.P. shall timely elect pursuant to Treasury Regulations Section 1.468B-1(k) (and any applicable state and local income tax purposes), to treat the Special Operating Reserve and each of the Released Claims Reserves as a "grantor trust," all of which is owned, for federal and applicable state and local income tax purposes only, by PRA L.P., and that PRA L.P. shall maintain such election and shall not revoke such election without the prior written consent of the Master Disbursement Trust and/or the applicable Creditor Trusts, and this Section 5.7(c) assumes that is the case. All parties (including the Shareholder Payment Parties, the Debtors, the Plan Administration Trustee, each applicable Creditor Trustee, the MDT Trustees and Holders of Non-Participating Claims) shall be required to report for tax purposes in a manner consistent with the foregoing. An MDT Trustee shall be the "administrator" of the Special Operating Reserve. The Creditor Trustee corresponding to the Creditor Trust that holds each Released Claims Reserve shall be the "administrator" of each such Released Claims Reserve. The Master Shareholder Settlement Agreement provides that PRA L.P. shall

take into account all items of income, gain, loss, deduction and credit (including capital gains and losses) recognized by or otherwise attributable to the Special Operating Reserve and each Released Claims Reserve for U.S. federal (and any applicable state or local) income tax purposes on its tax returns. An MDT Trustee or a Creditor Trustee, as applicable, may request an expedited determination of taxes of the Special Operating Reserve or any of the Released Claims Reserves, as applicable, under section 505(b) of the Bankruptcy Code for all returns, if any, filed for, or on behalf of, the Special Operating Reserve or Released Claims Reserves for all taxable periods through the dissolution of the Special Operating Reserve or Released Claims Reserve, as applicable. Nothing in this Section 5.7(c) shall be deemed to determine, expand or contract the jurisdiction of the Bankruptcy Court under section 505 of the Bankruptcy Code.

5.8 ***Creditor Trusts***.

(a) **Establishment and Purpose of the Creditor Trusts**. The Confirmation Order shall endorse and direct, to the extent not already established, the establishment of the Creditor Trusts on or prior to the Effective Date in accordance with the terms of the respective Creditor Trust Documents. The Creditor Trusts shall be independent from the Holders of Claims against the Debtors and shall be subject to the exclusive jurisdiction of the Bankruptcy Court (other than as specifically set forth in the Creditor Trust Documents). The Creditor Trusts shall be established for the purposes described in this Plan and any other purposes more fully described in the Creditor Trust Documents. Each Creditor Trust shall, in each case, in accordance with the Plan, the Confirmation Order and the applicable Creditor Trust Documents:

(i) hold, manage and invest all funds and other Assets received by such Creditor Trust from the Debtors and the Master Disbursement Trust, as applicable (including, with respect to the Public Creditor Trusts, the MDT Interests), in each case, for the benefit of the beneficiaries of such Creditor Trust;

(ii) hold and maintain the Creditor Trust Operating Reserve of such Creditor Trust;

(iii) administer, process, resolve and liquidate Channeled Claims, including Non-Participating Channeled Claims, applicable to such Creditor Trust, in each case as provided in the applicable Creditor Trust Documents;

(iv) establish and administer the applicable Creditor Trust Non-Participating Claims Reserves;

(v) establish and administer the applicable Released Claims Reserves; and

(vi) exercise rights over any proposed use of funds in the applicable Released Claims Reserve held in such Creditor Trust to the extent set forth in Exhibit N and Exhibit Z to the Master Shareholder Settlement Agreement.

(b) **Role of the Creditor Trustees**. In furtherance of and consistent with the purposes of the Creditor Trusts and the Plan, the Creditor Trustees shall have the power and authority to perform all functions on behalf of the respective Creditor Trusts, subject to the Creditor Trust Documents for such Creditor Trusts. The Creditor Trustees shall undertake all administrative responsibilities as are provided in the Plan and the applicable Creditor Trust Documents. The Creditor Trustees shall be responsible for all decisions and duties with respect to the respective Creditor Trusts, subject to the Creditor Trust Documents for such Creditor Trusts. In all circumstances, each Creditor Trustee shall be independent and disinterested and, in its capacity as a Creditor Trustee, shall act in the best interests of the beneficiaries of such Creditor Trust, in furtherance of the purpose of such Creditor Trust and in accordance with this Plan and the applicable Creditor Trust Documents. In accordance with the Creditor Trust Documents, each Creditor Trustee shall serve in such capacity through the earlier of (x) the date

that the applicable Creditor Trust is dissolved in accordance with the applicable Creditor Trust Documents and (y) the date such Creditor Trustee resigns, is terminated or is otherwise unable to serve for any reason.

(c) **Appointment of the Creditor Trustees and Creditor Trust Overseers**. In furtherance of and consistent with the purposes of the Creditor Trusts and the Plan, the Creditor Trust Documents for each of the Creditor Trusts shall provide for the appointment of the Creditor Trustees and, if applicable, Creditor Trust Overseers for each of the Creditor Trusts. The identity of the initial Creditor Trustees and the initial Creditor Trust Overseers shall be as disclosed in the Plan Supplement as of the date hereof, or shall otherwise be:

(i) with respect to the Governmental Remediation Trust, selected in accordance with the terms of the Governmental Remediation Trust Documents;

(ii) with respect to the Tribe Trust, selected by the Native American Tribe Group with the consent of the Debtors (which consent shall not be unreasonably withheld, delayed or denied);

(iii) with respect to each of the following Private Creditor Trusts, selected as follows: (A) with respect to the TPP Trust, by the Third-Party Payor Group, (B) with respect to the Healthcare Provider Trust, by the Ad Hoc Group of Hospitals, (C) with respect to the ERP Trust, by the ERP Trustee (and, for the avoidance of doubt, the Creditor Trustee and/or Creditor Trust Overseer for the ERP Trust may be the ERP Trustee) and (D) with respect to the PI Trust, by the Ad Hoc Group of Individual Victims; and

(iv) with respect to the Public School Trust, by the Public School District Claimants.

(d) **PI Trust Distributions**.

(i) The PI Trust shall, in accordance with the Plan, the Confirmation Order and the PI Trust Documents, make Distributions on account of Allowed PI Channeled Claims to Holders of such Allowed PI Channeled Claims, subject to the PI Trust Deductions and Holdbacks, which Distributions may be made directly (i) to the Holder of the PI Claim (if pro se), or (ii) to counsel for the Holder of the PI Claim by (A) payment to the respective counsel's client trust account or by sending a check to the respective counsel's address that is payable jointly to such counsel and the Holder of the PI Claim, or (B) payment to the Sub-Qualified Settlement Fund for such counsel. The PI Trust shall establish the PI Trust NAS Fund and the PI Trust Non-NAS Fund, and shall deposit (i) the NAS PI Portion into the PI Trust NAS Fund and (ii) the Non-NAS PI Portion into the PI Trust Non-NAS Fund, in each case, periodically as funds are received by the PI Trust. The PI Trust shall make Distributions on account of Allowed NAS PI Channeled Claims solely from the PI Trust NAS Fund in accordance with the NAS PI TDP, and shall make Distributions on account of Allowed Non-NAS PI Channeled Claims solely from the PI Trust Non-NAS Fund in accordance with the Non-NAS PI TDP, in each case, subject to the PI Trust Deductions and Holdbacks. The PI Trust shall reserve the NAS Medical Expense Claim Settlement Reserve Amount, which shall be paid to the United States in accordance with Section 5.2(i)(i) of the Plan.

(ii) Subject to the terms of the PI Trust Documents, checks or digital payments issued by the PI Trust directly to Holders of PI Claims shall be null and void if not negotiated or claimed, respectively, within 180 calendar days from and after the date of issuance thereof, unless, in each case, the PI Claims Administrator determines, in its sole discretion, there was good cause for any Holder's failure to do so. After such 180-calendar-day period, the relevant PI Claim (and any Claim for reissuance of the original check or digital payment) shall be automatically discharged and forever barred and all title to and all beneficial interests in the cash represented by any such non-negotiated check or unclaimed digital

payment shall revert to the PI Trust and may be redistributed by the PI Trust in accordance with the terms of the Plan and the PI Trust Documents.

(iii) Except as otherwise set forth in Section 5.8(d)(iv) of the Plan, (A) the PI Trust shall have no obligation to reserve or set aside any funds for PI Claims that may be transmitted by Kroll to the PI Trust more than fourteen (14) days after the Effective Date, and (B) the PI Trust shall be fully released and discharged from any liability or responsibility with respect to any PI Claims not affirmatively identified and delivered to the PI Trust by Kroll within fourteen (14) days following the Effective Date.

(iv) To the extent that there are any proofs of claim filed by Holders of PI Claims on or before the Effective Date that are not provided to the PI Trust within fourteen (14) days of the Effective Date, Kroll shall indemnify the PI Trust solely for any amounts owing to such Holder (not to exceed $15,000 per Holder) to the extent that at the time such Holder of a PI Claim seeks payment from the PI Trust, the PI Trust does not have funds and does not reasonably expect to receive funds to pay such Holder (and, for the avoidance of doubt, the PI Trust shall not be required to reserve any amounts for such payments, except as otherwise described in the Plan). For purposes of this provision, and consistent with the PI Trust Agreement and the PI TDP, the PI Trust shall be permitted to use uncashed checks or unclaimed digital payments available pursuant to Section 5.8(d)(ii) to satisfy the amount (if any) owing to such Holder of a PI Claim and the PI Trust shall be required to exhaust such uncashed checks or unclaimed digital payments and any other available funds prior to seeking indemnification from Kroll. Further, and for the avoidance of doubt, if the claim of any Holder of a PI Claim that filed a proof of claim as of the Bar Date is wrongly placed in a different Class under the Plan, and is later moved to Class 10(a) or Class 10(b) after the Effective Date and such Holder is entitled to any Distribution under the PI Trust, Kroll shall not be responsible for any indemnification of such Claim, and the PI Trust shall reserve $1,000,000 for distribution to such Holders. For the avoidance of doubt, except as otherwise expressly set forth in this Section 5.8(d)(iv), nothing in Section 5.8(d) shall limit or otherwise modify the scope of the exculpation and releases granted to Kroll under this Plan, including pursuant to Sections 10.6(a), 10.6(b) and 10.12 of the Plan.

(e) **Rights of the Creditor Trustee for the TPP Trust under the LRP Agreement**. Pursuant to and in accordance with the LRP Agreement, the Creditor Trustee for the TPP Trust shall have the right (i) to inquire periodically with the Creditor Trustee for the PI Trust, the claims administrator appointed in respect of the PI Trust and the escrow agent for the TPP LRP Escrow Account as to whether the TPP LRP Escrow Account has been properly funded and payments therefrom are being made to the LRP Participating TPPs as required under the LRP Agreement, and to request evidence of the same, and (ii) to seek entry of an order by the Bankruptcy Court enforcing the LRP Agreement, including the obligations to provide such information and evidence, in the event the Creditor Trustee for the TPP Trust reasonably believes that the TPP LRP Escrow Account has not been properly funded as required by the LRP Agreement, payments have not been made to LRP Participating TPPs as required by the LRP Agreement, and/or any of the Creditor Trustee for the PI Trust, the claims administrator appointed in respect of the PI Trust and the escrow agent for the TPP LRP Escrow Account is not responding to reasonable requests by the Creditor Trustee for the TPP Trust for such information and evidence.

(f) **Assumption of Obligations and Liabilities**. In furtherance of the purposes of the Plan and the Creditor Trusts, pursuant to the Master TDP and subject to the applicable Creditor Trust Documents, each Creditor Trust shall (i) expressly assume sole and exclusive responsibility and liability for (A) the Channeled Claims channeled to such Creditor Trust in accordance with the Master TDP and (B) all Creditor Trust Operating Expenses of such Creditor Trust and (ii) have (A) the rights provided to such Creditor Trust in accordance with the Private Entity Settlements and Public Entity Settlements and (B) all defenses, cross-claims, offsets and recoupments regarding such

Channeled Claims that the Debtors, the Released Parties and the Shareholder Released Parties, as applicable, have, or would have had, under applicable law, but solely to the extent consistent with the applicable Creditor Trust Documents and this Plan; *provided* that no such Claims, defenses or rights may be asserted against any Protected Party.

(g) **Administration of Channeled Claims and Creditor Trust TDPs**. Pursuant to the Master TDP, (i) all Non-Federal Domestic Governmental Channeled Claims will be administered by the Governmental Remediation Trust and resolved in accordance with, and to the extent provided in, the Governmental Remediation Trust Documents, (ii) all Tribe Channeled Claims will be administered by the Tribe Trust and resolved in accordance with, and to the extent provided in, the Tribe TDP, (iii) all Third-Party Payor Channeled Claims will be administered by the TPP Trust and resolved in accordance with, and to the extent provided in, the TPP TDP, (iv) all Healthcare Provider Channeled Claims will be administered by the Healthcare Provider Trust and resolved in accordance with, and to the extent provided in, the Healthcare Provider TDP, (v) all Public School Channeled Claims will be administered by the Public School Trust and resolved in accordance with, and to the extent provided in, the Public School TDP, (vi) all ER Physician Channeled Claims will be administered by the ERP Trust and resolved in accordance with, and to the extent provided in, the ERP TDP, and (vii) all PI Channeled Claims will be administered by the PI Trust and resolved in accordance with, and to the extent provided in, the PI TDP. Each of the Creditor Trusts shall be funded in accordance with the Public Entity Settlements and the Private Entity Settlements, as applicable. The Creditor Trust shall, in accordance with, and to the extent provided in, the applicable Creditor Trust Documents and/or the Creditor Trust TDPs, (y) determine the eligibility, amount and Allowance (if applicable) of such Channeled Claims; and (z) make all determinations with respect to Distributions to be made by the respective Creditor Trusts. The foregoing determinations by the Creditor Trusts shall be final and binding, and shall not be subject to any challenge or review of any kind, by any court or other Person, except as set forth in the Creditor Trust TDPs. Distributions by the Creditor Trusts shall be the sole source of recovery, if any, in respect of Channeled Claims, and Holders of Channeled Claims shall have no other or further recourse to the Protected Parties; *provided* that the foregoing shall not diminish, or otherwise alter, the rights of LRP Participating TPPs under the LRP Agreement or the rights of non-LRP Participating TPPs at law.

(h) **Trust Reporting Obligations**. Each of the Creditor Trusts shall be required to provide (i) any periodic forwarding, not more frequently than every three months, of applicable bank statements with respect to the Released Claims Reserves and Claims Reserves, or, (ii) solely at the applicable trustee's election, such other reporting as provides the Master Disbursement Trust with substantially similar relevant information as appears in such bank statements, in each case, which the applicable trustee may redact (or cause to be redacted) to exclude information that it considers not reasonably necessary for the Master Disbursement Trust to provide information with respect to the Released Claims Reserves and Claims Reserves.

(i) **Institution and Maintenance of Legal and Other Proceedings**. As of the date upon which each Creditor Trust is established, such Creditor Trust shall be empowered to initiate, prosecute, defend and resolve all legal actions and other proceedings related to any Asset, liability or responsibility of such Creditor Trust. Such legal actions and other proceedings shall be limited solely to those required for purposes of reconciling, administering or defending against the Channeled Claims channeled to such Creditor Trust and for enforcing the rights of such Creditor Trust under the Plan and the Plan Documents (including the rights of the Creditor Trustee for the TPP Trust specifically enumerated in the LRP Agreement). Each Creditor Trust shall be empowered to initiate, prosecute, defend and resolve all such actions in the name of the Debtors or their Estates, in each case if deemed necessary by the applicable Creditor Trustee to fulfill the purposes for which such Creditor Trust was created. Each Creditor Trust shall be responsible for the payment of all damages, awards, judgments, settlements, expenses, costs, fees and other charges incurred subsequent to the date upon which such

Creditor Trust is established arising from, or associated with, any legal action or other proceeding brought pursuant to the foregoing. For the avoidance of doubt, each Creditor Trust, pursuant to section 1123(b)(3)(B) of the Bankruptcy Code and applicable state corporate law, is appointed as the successor-in-interest to, and representative of, the Debtors and their Estates for the retention, enforcement, settlement or adjustment of the applicable Channeled Claims channeled to such Creditor Trust.

(j) **Creditor Trust Operating Expenses**. The Creditor Trustees shall be entitled to reasonable compensation and to retain and reasonably compensate counsel and other professionals to assist in their duties without Bankruptcy Court approval, subject to the provisions of the applicable Creditor Trust Documents. Creditor Trust Operating Expenses of each Creditor Trust shall be satisfied and paid from such Creditor Trust's Creditor Trust Operating Reserve in accordance with the applicable Creditor Trust Documents. Periodically, until the dissolution of a Creditor Trust, the applicable Creditor Trustee will replenish the Creditor Trust Operating Reserve from Cash held or received by such Creditor Trust to the extent deemed necessary by such Creditor Trustee to satisfy and pay estimated future Creditor Trust Operating Expenses in accordance with the Creditor Trust Documents.

(k) **U.S. Federal Income Tax Matters Relating to the Creditor Trusts and Sub-Qualified Settlement Funds**. Each Creditor Trust (other than any Tribe Trust entity that is formed as a legal entity other than a trust) and each Sub-Qualified Settlement Fund is intended to be treated, and shall be reported, as a "qualified settlement fund," and the Initial Private Creditor Trust Distributions, distributions on account of the MDT Private Claims, Public Creditor Trust Distributions, Initial Public Schools Distribution, distributions on account of the MDT Public School Districts Claim, the right to receive Governmental NewCo Distributable Cash, distributions from the PI Trust to a Sub-Qualified Settlement Fund and any other amounts received pursuant to the Plan, as applicable, made to the applicable Creditor Trust or Sub-Qualified Settlement Fund are intended to be treated as amounts transferred by, or on behalf of, a "transferor" to a "qualified settlement fund," within the meaning of Treasury Regulations section 1.468B-1 for U.S. federal income tax purposes and shall be treated consistently for state and local tax purposes to the extent applicable. All parties (including, without limitation, the Shareholder Payment Parties, Holders of Claims against or Interests in the Debtors, the Related Parties of such Holders, the Debtors, the Creditor Trusts, the Creditor Trustees, the MDT Trustees and the Master Disbursement Trust) will be required to report consistently with the foregoing for all applicable tax reporting purposes. A Creditor Trustee from each relevant Creditor Trust shall be the "administrator" within the meaning of Treasury Regulations section 1.468B-2(k)(3) of the applicable Creditor Trust, and the order establishing each Sub-Qualified Settlement Fund shall identify the administrator for each such Sub-Qualified Settlement Fund. The administrator of each such Creditor Trust or Sub-Qualified Settlement Fund shall be responsible for filing all tax returns required to be filed by or on behalf of the applicable Creditor Trust or Sub-Qualified Settlement Fund and the payment, out of the assets of such Creditor Trust or Sub-Qualified Settlement Fund, of any taxes due by or imposed on such Creditor Trust or Sub-Qualified Settlement Fund. Each Creditor Trustee and any administrator of a Sub-Qualified Settlement Fund may request an expedited determination of taxes under section 505(b) of the Bankruptcy Code for all tax returns filed by or on behalf of the applicable Creditor Trust or Sub-Qualified Settlement Fund for all taxable periods through the dissolution of such Creditor Trust or Sub-Qualified Settlement Fund. Nothing in this Section 5.8(k) shall be deemed to determine, expand or contract the jurisdiction of the Bankruptcy Court under section 505 of the Bankruptcy Code.

(l) **Exculpation and Indemnification of the Creditor Trustees and the Creditor Trust Overseers**. To the maximum extent permitted by applicable law, each of the Creditor Trustees and Creditor Trust Overseers shall not have or incur any liability for actions taken or omitted in his or her capacity as a Creditor Trustee or Creditor Trust Overseer, or on behalf of the applicable

Creditor Trust, except those acts found by Final Order to be arising out of his or her willful misconduct, bad faith, gross negligence or fraud, and shall be entitled to indemnification, advancement and reimbursement for reasonable fees and expenses in defending any and all of his or her actions or inactions in his or her capacity as a Creditor Trustee or Creditor Trust Overseer, or on behalf of the applicable Creditor Trusts, and for any other liabilities, losses, damages, claims, costs and expenses arising out of or due to the implementation or administration of the Plan or the applicable Creditor Trust Documents, in each case, except for any actions or inactions found by Final Order to be arising out of his or her willful misconduct, bad faith, gross negligence or fraud. Any valid indemnification claim of any of the Creditor Trustees or Creditor Trust Overseers shall be satisfied from the respective Creditor Trusts.

(m) **Dissolution of the Creditor Trusts**. Each Creditor Trust shall be dissolved and the applicable Creditor Trustee shall be discharged from its duties with respect to such Creditor Trust upon completion of its duties and the satisfaction of the purposes of the Creditor Trust as set forth in this Plan and the applicable Creditor Trust Documents.

5.9 ***Attorneys' Fees and Costs***.[10]

(a) **Local Government ~~Costs and Expenses~~Fees**. On the Effective Date, the Local Government ~~Costs and Expenses~~Fee Fund shall be established for the payment of ~~certain~~costs and expenses (including attorneys' fees ~~and costs~~) of Holders of Non-Federal Domestic Governmental Channeled Claims (other than States) subject to the terms set forth herein, other than amounts paid pursuant to the AHC Reimbursement Agreement Assumption Order~~,~~ or the MSGE Group Reimbursement Order ~~or any other Order of the Bankruptcy Court~~.

(i) The Local Government ~~Costs and Expenses~~Fees Fund shall be funded beginning on the second MDT Distribution Date (the "**Initial LG ~~Costs~~Fund Funding Date**") and continuing on each Scheduled MDT Distribution Date thereafter, from periodic distributions in an amount equal to ~~[~~8.5~~]~~% of ~~the~~all Distributions made on account of Non-Federal Domestic Governmental Channeled Claims, excluding (A) any Distributions relating to MDT Insurance Proceeds and proceeds of MDT Causes of Action, which will be subject to subsection (ii) below, and (B) any amounts distributed on account of such Non-Federal Domestic Governmental Channeled Claims on the Effective Date, but including, for the avoidance of doubt, any Distributions on account of amounts payable under the Governmental Entity Shareholder Direct Settlement ~~(other than such Distributions~~beginning on the ~~Effective~~second MDT Distribution Date~~)~~; *provided* that the amount to be distributed to the Local Government ~~Costs and Expenses~~Fee Fund pursuant to this subsection shall not exceed $~~[~~370~~]~~ million in the aggregate (the "**Aggregate LG ~~Cost~~Fund Cap**"); *provided, further* that amounts funded pursuant to this ~~section~~Section 5.9(a) shall be allocated and applied ~~solely~~ in accordance with Exhibit R to the Governmental ~~Entity Shareholder Direct Settlement for the benefit of counsel to Subdivisions constituting Prior Litigating Subdivisions (as defined in the Governmental Entity Shareholder Direct~~Entities Settlement Agreement~~) as of the Petition Date~~, in each case, as follows:

(A) ~~(i)~~ $4 million annually for a maximum of five (5) years (plus ~~[~~4.25%~~]~~ of any Distribution constituting a Settlement Prepayment (as defined under the Master Shareholder Settlement Agreement)), to the "Cost Fund~~,~~" ~~as defined in Exhibit R,~~ established in the MDL Proceeding, not to exceed $20 million in the aggregate~~, and~~ ;

(B) ~~(ii)~~ for any additional amounts (~~A~~I) ~~[~~40%~~]~~ to the "Contingency Fee Fund~~,~~" ~~as defined in Exhibit R,~~ established in the MDL Proceeding (which fund is to be managed by the fee panel appointed in

[10] ~~[**NTD**: Section 5.9 under discussion by relevant parties]~~

connection with the MDL Proceeding), not to exceed $140 million on account of Distributions to Non-Federal Domestic Governmental Channeled Claims other than as set forth in (ii) hereof, and (~~iii~~II) ~~[~~60%~~]~~ to the "Common Benefit [Fee] Fund~~,~~" ~~as defined in Exhibit R,~~ established in the MDL Proceeding, not to exceed $210 million in the aggregate~~; provided further,~~ on account of Distributions to Non-Federal Domestic Governmental Channeled Claims other than as set forth in (ii) hereof; and

(C) as consideration for the settlement between holders of certain public and private Claims regarding Special Operating Reserves, timing of payment and allocation matters, the Local Government ~~Costs and Expenses~~Fee Fund shall also be funded ~~with, and allocated solely in accordance with Exhibit R,~~, on or after the Initial LG Fund Funding Date, from Distributions made on account of Non-Federal Domestic Governmental Channeled Claims (as qualified in this Section 5.9(a)(i) above) (i) in an amount equal to ~~[8.5]% of (i) the incremental $80 million of Initial Private Creditor Trust Distributions (provided that funding of the Local Government Costs and Expenses Fund with respect to such distributions shall not be made until the Initial LG Costs Funding Date); and (ii) up to $20 million of amounts payable in respect of (A) the Private Claimants' Priority Reversion and (B) the other amounts contemplated to be paid under [Section 5.05(e)] of the Master Shareholder Settlement Agreement, in each case, that become payable to the Private Creditor Trusts in accordance with the Master Shareholder Settlement Agreement,~~ $6.8 million[10] and (ii) up to $1.7 million,[11] which amounts shall be subject in each case to the Aggregate LG ~~Cost~~Fund Cap;

(ii) In addition to the amounts described in subsection (i) above, the Local Government ~~Costs and Expenses~~Fee Fund shall be funded~~, and allocated solely in accordance with Exhibit R,~~ on or after the Initial LG ~~Costs~~Fund Funding Date with ~~an~~ additional ~~amount~~amounts equal to (I) 12.4% of the MDT Insurance Proceeds which amounts, if any, shall be deposited into an account designated by the MDL Plaintiffs' Executive Committee for the benefit of the "Common Benefit [Fee] Fund" established in the MDL Proceeding~~, and as described in Exhibit R, and~~ (MDL Dkt. No. 4428, May 9, 2022) to be paid as directed by the MDL PEC Co-Leads in accordance with direction from the MDL Fee Panel and the MDL Court, and (II) 12.4% of the proceeds of any MDT Causes of Action[12] which amounts, if any, shall be allocated and applied in accordance with Exhibit R to the Governmental Entities Settlement Agreement, (A) 40% to the "Contingency Fee Fund" established in the MDL Proceeding, and (B) 60% to the "Common Benefit [Fee] Fund" established in the MDL Proceeding; and all such amounts shall be incremental to, and not otherwise count against, the Aggregate LG ~~Cost~~Fund Cap; *provided*, for the avoidance of doubt, such funded amounts shall not be considered "Distributions" for the purpose of subsection (i) above; *provided, further*, such amounts in this Section 5.9(a)(i) and (ii) shall be subject~~,~~ to ~~the prior payment in full of the MDT PI Claim pursuant to and in accordance with Section~~Sections 5.2(e)(iii) and 5.2(g) of this Plan, as applicable.

(iii) Payments from the Local Government ~~Costs and Expenses~~Fee Fund shall be ~~[~~administered in accordance with Exhibit R to the Governmental ~~Entity Shareholder Direct~~Entities Settlement Agreement

[10] Such amount is equal to 8.5% of $80 million.

[11] To be calculated as 8.5% of amounts up to $20 million received by the Private Creditor Trusts in accordance with the Master Shareholder Settlement Agreement (and due when such amounts are received by the Private Creditor Trusts) in respect of (A) the Private Claimants' Priority Reversion and (B) the other amounts contemplated to be paid under Section 4(e) of Exhibit N to the Master Shareholder Settlement Agreement. For the avoidance of doubt, all of the consideration that is to be paid as part of this Section 5.9(a)(i)(C) shall be paid from Distributions made on account of Non-Federal Domestic Governmental Channeled Claims, and not from Distributions made to Private Creditor Trusts or the Public School Trust.

[12] For the avoidance of doubt, to the extent any Cause of Action that would have otherwise become an MDT Cause of Action is settled and paid pre-Effective Date, the provisions of this section shall apply to the settlement amounts for any such Cause of Action.

and be[11] the exclusive means of payment from the Public Creditor Trusts for costs and expenses (including attorneys' fees) of any Holder of a Non-Federal Domestic Governmental Channeled Claim (other than a State) or any attorney therefor, other than (i) amounts paid or to be paid from the Public Creditor Trusts in accordance with existing agreements, contracts or statutes setting forth the allocation and uses of abatement funds or backstop fee arrangements between States and their Subdivisions; and (ii) amounts paid in accordance with the order of the MDL Court establishing the Common Benefit Fund; *provided*, *however*, nothing in this sectionSection 5.9(a)(iii) [or Exhibit R to the Governmental Entity Shareholder Direct Settlement] Agreement shall override the payment obligations contemplated by Section 5.9(a)(i).

(iv) [Except as otherwise agreed in writing by the MSGE Group and the MDL Plaintiffs' Executive Committee, the MSGE Fee Allocation Agreement shall be and remain fully enforceable and shall apply to the Local Government Costs and ExpensesFee Fund]; *provided* that the costs associated with the arbitration process contemplated under the MSGE Fee Allocation Agreement shall not be paid by the Debtors, their Estates or any Creditor Trust.

(b) **State Costs and Expenses**. On the Effective Date, the State Expenses Fund shall be established for the payment of expenses (including attorneys' fees) of the States (including any ad hoc group thereof), other than amounts already paid, or any amounts paid or payable under the AHC Reimbursement Agreement Assumption Order, the MSGE Group Reimbursement Order, or any other Order of the Bankruptcy Court; *provided* that the State Expenses Fund shall be funded beginning on the second MDT Distribution Date and continuing on each Scheduled MDT Distribution Date thereafter. The State Expenses Fund shall be funded from periodic distributions in an amount equal to 4.5% of the Distributions made on account of Non-Federal Domestic Governmental Channeled Claims, excluding any amounts distributed on account of such Non-Federal Domestic Governmental Channeled Claims on the Effective Date, but including (a) any Distributions on account of amounts payable under the Governmental Entity Shareholder Direct Settlement beginning on the second MDT Distribution Date, and (b) any Distributions relating to MDT Insurance Proceeds and proceeds of MDT Causes of Action; *provided* that such amount shall not exceed $200 million in the aggregate (the "**Aggregate State Expenses Cap**"); *provided* that such amounts in this Section 5.9(b) shall be subject to Sections 5.2(e)(iii) and 5.2(g) of this Plan, as applicable. Amounts funded pursuant to this Section 5.9(b) shall be allocated and applied in accordance with Exhibit S to the Governmental Entities Settlement Agreement.

(c) (b) **Tribe Costs and Expenses**. On the Effective Date, the [Tribe Attorney Fee Fund] shall be established for the payment of certain attorneys' fees and costs of tribal attorneys for Holders of Tribe Channeled Claims, subject to the terms set forth herein. The Tribe Attorney Fee Fund shall be funded from periodic distributions in an amount equal to 8.5% of the Distributions made on account of the Tribe Channeled Claims including (i) any amounts distributed on account of such Tribe Channeled Claims on the Effective Date and (ii) any Distributions on account of amounts payable to Tribes by the Estate or pursuant to the Tribe Direct Shareholder Settlement, except that in the case of periodic distributions made on account of Tribe Channeled Claims relating to MDT Insurance Proceeds or MDT Causes of Action (including third-party claims) recovered by the Estate, the Tribe Attorney Fee Fund shall be funded in an amount equal to 12.4% of such Distributions,[12][13] provided that from all such amounts, (i) $100,000 shall be set aside for reimbursement of costs of such tribal

[11] [**NTD:** Exhibit R remains under negotiation among the parties, and all parties rights with respect to the terms of Exhibit R and any related plan terms are expressly reserved.]

[12][13] For the avoidance of doubt, to the extent any Cause of Action that would have otherwise become an MDT Cause of Action is settled and paid pre-Effective Date, the provisions of this subsection shall apply to the settlement amounts for any such Cause of Action.

attorneys and (ii) for any additional amounts in excess of the amount set aside for costs (A) 40% shall be paid to the "Tribal Contingency Fee Fund" established in the MDL Proceeding for the payment of contingency fees and costs for tribal attorneys, and (B) 60% shall be paid to the "Common Benefit Fee Fund" established in the MDL Proceeding. The Tribe Attorney Fee Fund shall be administered ~~by the Tribe Trust. Amounts funded pursuant to this section 5.9(d) shall be allocated and applied~~ in accordance with ~~Exhibit R to the Governmental Entity Shareholder~~the Tribal Direct Settlement Agreement.

~~(c) **State Costs and Expenses**. On the Effective Date, the State Expenses Fund shall be established for the payment of expenses (including attorneys' fees) of the States (including any ad hoc group thereof), other than amounts already paid, or any amounts paid or payable under the AHC Reimbursement Agreement Assumption Order, the MSGE Group Reimbursement Order or any other Order of the Bankruptcy Court; provided that the State Expenses Fund shall be funded beginning on the second MDT Distribution Date and continuing on each Scheduled MDT Distribution Date thereafter. The State Expenses Fund shall be funded from periodic distributions in an amount equal to [4.5]% of the Distributions made on account of Non-Federal Domestic Governmental Channeled Claims, excluding any amounts distributed on account of such Non-Federal Domestic Governmental Channeled Claims on the Effective Date, but including (a) any Distributions on account of amounts payable under the Governmental Entity Shareholder Direct Settlement (other than such Distributions on the Effective Date), and (b) any Distributions relating to MDT Insurance Proceeds; *provided* that such amount shall not exceed $[200][13] million in the aggregate (the "**Aggregate State Expenses Cap**").~~

For the avoidance of doubt, in no event shall (i) any of the provisions of Section 5.9(a) ~~or~~ (c), ~~[~~ of this Plan, other than the recognition of the priority of Section 5.2(e)(iii) of this Plan in such provisions, or (ii) any of the provisions of Exhibit R to the Governmental Entity Shareholder Direct Settlement~~] [or any order of the MDL Court (including the order establishing the Common Benefit Fund)]~~ Agreement, have any effect on the ~~Distributions made to~~ Holders (including any Distributions to such Holders) of Claims in Classes ~~[____]~~6-10 (or the rights of any of their attorneys to receive payment~~) other than the recognition of the priority of section 5.2(e)(ii) in such provisions~~ in full pursuant to their fee contracts, or the rights of any attorneys to any ad hoc group to receive payment pursuant to the rest of this Section 5.9, or the rights of any attorneys to any opt-out class actions to receive payment in accordance with any of their class action documents), except to the extent expressly set forth in Section 5.9(d) hereof.[14]

(d) **Common Benefit Fund Assessments**. On the Effective Date, the following assessments shall be made to the ~~account directed in Exhibit [●], which is the~~ Common Benefit Fund established by the MDL Court (the "**Common Benefit Fund**") (MDL Dkt. No. 4428, May 9, 2022): (i) 5% of ~~each Distribution~~the gross distributions made ~~by~~to the Private Creditor Trusts~~, and (i) 5% of the Initial Public Schools' Distribution. Assessments from the~~ (after accounting for any Reserves) on account of Estate Distributions, to be distributed to the Common Benefit Fund when claimants receive distributions from such Private Creditor Trusts, (ii) 5% of the gross distributions made to the Private Creditor Trusts ~~shall be paid [on periodic schedules for each~~(after accounting for any Retained Payments or Reserves) on account of the Direct Claims Shareholder Settlements, including for the avoidance of

~~[13] [**NTD**: Amount subject to ongoing review]~~

[14] ~~For the avoidance of doubt, no order of~~Further, the MDL Court ~~establishing the Common Benefit Fund will have any effect on any Private Claimant or its counsel, nor will the MDL Court~~shall not have jurisdiction to interpret, decide, hear disputes, or enforce any provision of or regarding this Plan ~~or~~, the Confirmation Order ~~[[or~~, or any of the Opt-Out Class Actions of any of the Private Claimants related to this Plan, nor any of the agreements or documents related thereto~~]~~, nor will this Plan or Exhibit R to the Governmental Entity Settlement Agreement be construed to grant the MDL Court jurisdiction over such claimants, their counsel, or counsel to any ad hoc group of such claimants, in each case in their capacity as such, that the MDL Court does not otherwise have.

doubt amounts paid to Private Creditor ~~Trust acceptable to the Governmental Consent Parties, the Ad Hoc Group of Hospitals, the Third-Party Payor Group, the NAS Committee and the Ad Hoc Group of Individual Victims,~~] ~~as applicable~~Trusts pursuant to the Opt-Out Class Action Settlements, and (iii) 5% of the gross distributions to the Public Schools Trust (after accounting for any Retained Payments or Reserves, as applicable), *provided* that, for the avoidance of doubt, to the extent any amounts are distributed from the Reserves to the Private Creditor Trusts or the Public Schools Trust or their beneficiaries, the assessments set forth in this Section 5.9(d) shall be applied to the gross amounts of such distributions. The assessments payable by the Public School Trust shall be deducted from and paid at the time of the fee award described in Section 5.9(i)(ii). All assessments ~~of 5% of each Distribution~~ made by the Private Creditor Trusts shall be transferred to and distributed in accordance with the order of the MDL Court establishing the Common Benefit Fund. To the extent a Holder of a ~~Healthcare Provider~~Hospital Channeled Claim, a Third-Party Payor Channeled Claim, an NAS PI Channeled Claim~~or~~, a Non-NAS PI Channeled Claim, or an ERP Channeled Claim (or any ad hoc group consisting of Holders of any of the foregoing) has retained counsel through a contingency fee arrangement, any contingency fees owed to such contingency counsel payable from Distributions under the Plan shall be reduced by the full amount payable under this Section 5.9(d).[15] However, the applicable Holder and its counsel, in their sole discretion, may agree that an amount up to but not exceeding ~~40%~~2/5 of the amount payable under this Section 5.9(~~a~~d) (i.e., the 5% referenced in (i) and (ii) above) may be applied to the reimbursement of actual costs and expenses incurred by such Holder's counsel, in which case such agreed cost-reimbursement amount shall not reduce the contingency fee amounts payable to such counsel. For the avoidance of doubt, notwithstanding anything herein or in Exhibit R to the Governmental Entities Settlement Agreement to the contrary, the assessments set forth in this subparagraph, including for the avoidance of doubt the assessment on distributions made to Private Creditor Trusts and the Public Schools Trust pursuant to each of the Opt-Out Class Action Settlements, shall not be subject to modification or increase by the Bankruptcy Court or the MDL Court. For the avoidance of doubt, none of the Debtors, the Ad Hoc Committee, the MSGE Group, or the MDL Plaintiffs Executive Committee shall be permitted to agree to any reduced or less restrictive terms concerning the 5% Common Benefit Fund assessment (or its implementation) provided under any portion of this Section 5.9(d) (or any portion of Section 5.9) for any of the Ad Hoc Group of Hospitals, the ERP Trustee, the Third-Party Payor Group, the NAS Committee, the Ad Hoc Group of Individual Victims, or the Public School Districts, absent (with regard to the Debtors, the Ad Hoc Committee, or the MSGE Group) the express written consent of the MDL Plaintiffs Executive Committee; *provided* that if any such agreement is made, then such modification shall apply to each of such groups, *mutatis mutandis*.

(e) **Healthcare Provider Costs and Expenses**. On the Effective Date, the ~~Healthcare Provider~~Hospital Attorney Fee Fund shall be established for the payment of attorneys' fees and costs of the Ad Hoc Group of Hospitals with respect to Healthcare Provider Channeled Claims. The ~~Healthcare Provider~~Hospital Attorney Fee Fund shall be funded with (i) 20% of each Estate Distribution[16] made by the Healthcare Provider Trust to Holders of Healthcare Provider Channeled Claims that have not retained (or are not part of an ad hoc group that has retained), on or before the General Bar Date as reflected in a timely filed Proof of Claim or representation to the Healthcare Provider Trust in accordance with the Healthcare Provider TDP, separate counsel through an individual

[15] For the avoidance of doubt, any amount payable to counsel to the Ad Hoc Group of Individual Victims or the Ad Hoc Group of NAS Children on an hourly basis (including incremental amounts in consideration of deferring payment of hourly fees) shall not constitute a "contingency fee," and the agreement in respect thereof shall not constitute a "contingency fee arrangement," in each case for purposes of Section 5.9 of the Plan.

[16] For clarity, all legal fees in respect of settlement proceeds from the Hospital Shareholder Direct Settlement Portion shall be determined by the U.S. District Court for the District of New Mexico; counsel for the Ad Hoc Group of Hospitals will seek allowance and payment of a contingent fee (which is presently anticipated to be one-third of such proceeds, plus expenses), *provided*, that nothing herein shall impact the assessments being made to the Common Benefit Fund pursuant to section 5.9(d).

contingency fee arrangement *less* (ii) the amount of such Distributions payable to the Common Benefit Fund under Section 5.9(d). The ~~Healthcare Provider~~Hospital Attorney Fee Fund shall be administered by the Healthcare Provider Trust on terms acceptable to the Ad Hoc Group of Hospitals.

(f) **Ratepayer Costs and Expenses**. In the event that the Ratepayer Mediation Participants Stipulation has been entered into on or prior to the Effective Date, on the Effective Date or as soon as reasonably practicable thereafter, the attorneys' fees of the Ratepayer Mediation Participants shall be paid from Effective Date Cash in an amount ~~not~~equal to ~~exceed~~ $1.4 million.

(g) **ERP Costs and Expenses**. The ERP Trust shall pay or reimburse, as applicable, the compensation, costs and expenses of professionals that represented or advised the ERP Trustee in connection with the Chapter 11 Cases, to the extent provided for in the ERP Trust Documents.

(h) ~~**Holder of the** **PI** ~~Claims~~Claimant **Costs and Expenses**.

(i) Debtors shall pay the reasonable and documented fees and expenses of the Ad Hoc Group of Individual Victims subject to the entry of a Final Order granting the Ad Hoc Group of Individual Victims' request for allowance of such fees and expenses under section 503(b) of the Bankruptcy Code, which request shall be supported by the Debtors and the Creditors' Committee and considered at the Confirmation Hearing. In the event such a Final Order is (i) not entered or (ii) entered allowing fees and expenses in an amount less than reasonable and documented fees and expenses requested, then (A) the PI Trustee shall pay or reimburse, as applicable, the reasonable and documented fees and expenses of professionals that represented or advised the Ad Hoc Group of Individual Victims in connection with the Chapter 11 Cases, as and to the extent provided in the PI Trust Agreement and subject to Bankruptcy Court approval of such fees and expenses as provided in the Confirmation Order and (B) such fees and expenses paid or reimbursed, as applicable, by the PI Trust shall be deducted from Distributions from the PI Trust Non-NAS Fund to Holders of Allowed Non-NAS PI Channeled Claims pursuant to the PI Trust Documents.

(ii) The PI Trustee shall pay or reimburse, as applicable, the reasonable and documented fees and expenses of professionals that represented or advised the NAS Committee in connection with the Chapter 11 Cases, as and to the extent provided in the PI Trust Agreement and subject to Bankruptcy Court approval of such fees and expenses as provided in the Confirmation Order. Such compensation, costs and fees paid or reimbursed, as applicable, by the PI Trust shall be deducted from Distributions from the PI Trust NAS Fund to Holders of Allowed NAS PI Channeled Claims and pursuant to the PI Trust Documents. Nothing in this Section 5.9 shall impair or otherwise affect any fee contract that is not a contingency fee contract between the Ad Hoc Group of Individual Victims and its professionals, or between the NAS Committee and its professionals. For the avoidance of doubt, the reasonable costs and expense of the NAS Committee's professionals shall be paid in accordance with the applicable contingency fee agreements.

(i) **Public ~~Schools~~School Districts' Costs and Expenses**. ~~From~~ Notwithstanding any other provision in this document, the Public School District Claimants' putative class counsel and other professionals that represented or advised the Public School District Claimants shall be paid or reimbursed, as applicable, reasonable fees and costs as follows, provided that the aggregate amount of such payments and/or reimbursements, when added to the amount payable by the Public School Trust to the Common Benefit Fund under Section 5.9(d) and this Section 5.9(i), shall not exceed 25% of the sum of the Initial Public Schools Distribution, the Second Public ~~School Trust shall~~Schools Distribution and the Third Public Schools Distribution:

(i) ~~dedicate an~~From the distributions made to benefit the Public School Trust on account of the Estate Distributions, the amount of $500,000 shall be reserved for payment or reimbursement, as applicable, of the out-of-pocket litigation expenses~~, such as for special bankruptcy counsel and~~ (including expert fees and expenses~~, of~~) of special bankruptcy counsel and/or other professionals that represented or advised the Public School District Claimants to be computed based upon reasonable hourly rates and costs incurred, and not to include any premium to reasonable hourly rates, ~~and~~ subject to Bankruptcy Court approval of such litigation expenses as provided in the Confirmation Order;~~ and~~

(ii) ~~pay or reimburse, as applicable, the reasonable attorneys' fees and litigation costs of~~From the remaining distributions made to benefit the Public School Trust on account of the Estate Distributions, the Public School District Claimants' putative class counsel shall be paid or reimbursed, as applicable, reasonable attorneys' fees and litigation costs in an amount to be determined by mediator Ken Feinberg ~~(which amount is not to exceed such class counsel's contractual contingency fee of 25% of the Initial Public Schools Distribution)~~ subject to Bankruptcy Court approval of such litigation expenses as provided in the Confirmation Order, less ~~the~~an amount ~~payable~~equal to 5% of the gross distributions made to benefit the Public School Trust on account of Estate Distributions (after accounting for any Reserves) which shall be contributed as assessments to the Common Benefit Fund ~~under Section 5.9(d).~~; and

(iii) From the Shareholder Direct Settlement Portion with respect to the Public School Channeled Claims, the Public School District Claimants' putative class counsel shall be paid or reimbursed, as applicable, reasonable attorneys' fees and litigation costs in an amount to be determined by the U.S. District Court Judge of the District Court where the proposed public schools class action settlement is filed, less an amount equal to 5% of the gross distributions made to benefit the Public School Trust on account of the Public School District Shareholder Direct Settlement (after accounting for any Retained Payments or Reserves),which shall be contributed as assessments to the Common Benefit Fund.

(j) **No Impairment of Contingency Fee Contracts; No Further Assessment**. Except as expressly set forth in this Section 5.9, nothing in the Plan shall impair or otherwise affect any contingency fee contract between any Holder of a Claim (or any ad hoc group of Holders of Claims) and such Holder's (or ad hoc group's) counsel, nor shall it impair or otherwise affect any fees awarded as part of any class action settlement (except as otherwise provided herein, including as set forth below). In this regard, the payment of the assessments described in this Section 5.9 shall be the only payment that such Holders (or their counsel) who receive Distributions under and in accordance with the applicable Private Creditor Trust or the Public Schools Trust shall ever have to make to the Common Benefit Fund solely with respect to amounts distributed under this Plan, and amounts distributed pursuant to the Plan to such Holders or payments to such Holders' attorneys in respect thereof shall not be subject to any further or other common benefit or similar assessments. For the avoidance of doubt, the parties agree that a common benefit fund assessment of the same type and amount (and subject to the same restrictions) as set forth herein will be applied to the Class Action Settlements, and that such assessment will be the only assessment applied to such Class Action Settlements, and no other provision of this Plan, any Direct Claims Settlement agreement, or any other document will have any force or effect on such Class Action Settlement (nor will the MDL Court have any jurisdiction over any such settlements).

5.10 ***Transferability of Distribution Rights***.

Any right to receive a Distribution or other payment from the Plan Administration Trust (including any PAT Distribution Account or PAT Reserve), a Creditor Trust or the Master Disbursement Trust shall not be evidenced by any certificate, security, receipt or in any other form or manner whatsoever, except on the books and records of the Plan Administration Trust (as maintained by the Plan Administration Trustee), the applicable Creditor Trust (as maintained by the

applicable Creditor Trustees) or the Master Disbursement Trust (as maintained by the MDT Trustees), as applicable. Further, any right to receive a Distribution or other payment from the Plan Administration Trust (including any PAT Distribution Account or PAT Reserve), a Creditor Trust or the Master Disbursement Trust shall be nontransferable and nonassignable except by will, intestate, succession or operation of law or as otherwise provided in the Plan, the applicable Creditor Trust Documents, Governmental Entity Shareholder Direct Settlement Agreement or the MDT Agreement. Any rights to receive a Distribution or other payment from the Plan Administration Trust (including any PAT Distribution Account or PAT Reserve), a Creditor Trust or the Master Disbursement Trust shall not constitute "securities" and shall not be registered pursuant to the Securities Act. If it is determined that such rights constitute "securities," the exemption provisions of section 1145(a)(1) of the Bankruptcy Code would be satisfied and such securities would be exempt from registration.

5.11 ***Insurance Neutrality***.

Nothing in the Plan, the Plan Documents or the Confirmation Order shall alter, supplement, change, decrease or modify the terms (including conditions, limitations and/or exclusions) of the Purdue Insurance Policies, including the MDT Insurance Policies; *provided* that, notwithstanding anything in the foregoing to the contrary, the enforceability and applicability of the terms (including conditions, limitations and/or exclusions) of the Purdue Insurance Policies, including the MDT Insurance Policies, and thus the rights or obligations of any of the Insurance Companies, the Debtors and the applicable post-Effective Date Entities, including the Master Disbursement Trust, arising out of or under any Purdue Insurance Policy, including any MDT Insurance Policy, whether before or after the Effective Date, are subject to the Bankruptcy Code and applicable law (including any actions or obligations of the Debtors thereunder), the terms of the Plan and the Plan Documents, the Confirmation Order (including the findings contained therein or issued in conjunction therewith, including but not limited to any findings pursuant to Sections 5.2 and 5.6(i) of the Plan) and, to the extent the Insurance Companies have or had adequate notice from any source, any other ruling made or order entered by the Bankruptcy Court whether prior to or after the Confirmation Date. For the avoidance of doubt, nothing contained in the Plan, the Plan Documents or the Confirmation Order shall operate to require any Insurance Company to pay under any Purdue Insurance Policy the liability of any Person that was not an insured prior to the Petition Date.

5.12 ***Transfer of Books and Records; Cooperation; Privilege***.

(a) **Transfer of Books and Records to NewCo and the Plan Administration Trust**. Except with respect to Excluded Assets, all documents, books and records of the Debtors shall be transferred and assigned to NewCo on or prior to the Effective Date pursuant to the NewCo Transfer Agreement; *provided* that, from and after the date of such transfer, the Plan Administration Trustee shall have the right to retain copies of all transferred documents, books and records and NewCo shall permit the Plan Administration Trustee and its counsel and representatives to have full access to such transferred documents, books and records. All documents, books and records of the Debtors that are Excluded Assets shall be transferred and assigned to the Plan Administration Trust; *provided* that, except for the Excluded Privileged Materials, NewCo shall receive copies of all documents, books and records of the Debtors that are Excluded Assets. Any documents transferred under this Section 5.12(a) that are documents that were produced to the Debtors by Shareholder Released Parties in connection with Purdue Legal Matters shall continue to remain subject to the terms of the Protective Order and any order of the Bankruptcy Court or provision of this Plan affording confidentiality protections to such documents, unless such documents are included in the Public Document Repository in accordance with the Plan and the Master Shareholder Settlement Agreement.

(b) **Cooperation with the Master Disbursement Trust and the Creditor Trusts**. On the Effective Date or as soon as reasonably practicable thereafter, the Debtors shall transfer

and assign, or cause to be transferred and assigned, (i) to the MDT Trustees, (A) copies of all MDT Insurance Policies, (B) information and copies of documents, including books and records of the Debtors that reasonably relate to (I) any Claims previously noticed, tendered or submitted or paid by any Insurance Company under the MDT Insurance Policies and (II) any MDT Causes of Action, and (C) other information and copies of all other documents, including books and records of the Debtors that are reasonably necessary to preserve, secure or obtain the benefit of the MDT Insurance Rights, pursue the MDT Causes of Action or liquidate any other MDT Transferred Assets and (ii) to each Creditor Trust, a copy of the Proofs of Claims for Channeled Claims channeled to such Creditor Trust. Subject to Section 5.12(c) of the Plan, the materials to be provided pursuant to this Section 5.12(b) include those in the possession of the Debtors' current and former insurance coverage counsel. On and after the Effective Date, the Plan Administration Trustee and NewCo may maintain their respective documents, books and records in accordance with their respective document retention policies set forth in the PAT Agreement and the NewCo Operating Agreement, respectively. Prior to the Effective Date, the Debtors shall use reasonable best efforts to provide the Creditors' Committee and the Governmental Consent Parties reasonable access to current employees and professionals of the Debtors (including insurance brokers) with knowledge concerning the information and documents to be provided to the Master Disbursement Trust under this Section 5.12(b), and, after the Effective Date, NewCo shall use best efforts to provide the Master Disbursement Trust reasonable access to employees and professionals of NewCo with knowledge concerning such information and documents and to facilitate access to former employees and professionals of the Debtors (including insurance brokers). The Plan Administration Trustee and NewCo shall respond to reasonable requests of (x) the MDT Trustees for information and documents related to the MDT Insurance Rights, the MDT Causes of Action or otherwise, in each case to the extent reasonably necessary for the administration of the Master Disbursement Trust, and (y) each Creditor Trustee for information and documents relating to the applicable Channeled Claims or otherwise, in each case to the extent reasonably necessary for the administration of the applicable Creditor Trust. In the event of any dispute between the MDT Trustees and NewCo regarding the delivery of information or documents requested pursuant to clause (x) of the foregoing sentence, the MDT Trustees shall have the right to request intervention by the Foundation Trustees to resolve any such dispute.

(c) **Privilege**. The transfer or assignment of information and copies of documents, including books and records, in accordance with this Section 5.12, shall not result in the destruction or waiver of any applicable Privileges. On the Effective Date, all Privileges in connection with the information or documents transferred in accordance with this Section 5.12 shall be transferred to, and vest exclusively in, NewCo, the MDT Trustees, the Plan Administration Trustee and the Creditor Trustees in accordance herewith. Further, with respect to the transfer of Privileges to the MDT Trustees and the Creditor Trustees, such Privileges shall (i) be transferred to such MDT Trustees and Creditor Trustees for the purpose of enabling such Persons to perform their respective duties as set forth in the Plan or in the MDT Agreement or the applicable Creditor Trust Documents and for no other reason, (ii) vest solely in the MDT Trustees and the Creditor Trustees and not in the Master Disbursement Trust or the Creditor Trusts, or any other committee or subcomponent of the Master Disbursement Trust or the Creditor Trusts, or any other Person (including counsel and other professionals) who is (or has been engaged by, represents or has represented) any Holder of a Claim against or Interest in the Debtors or any Person that alleges or may allege a Claim, directly or indirectly, relating to or arising out of the Debtors' Products or operations and (iii) be preserved and not waived as a result of such transfer. For the avoidance of doubt, any such transfer shall have no effect on any right, Claim or Privilege of any Person other than the Debtors. No information subject to a Privilege shall be disclosed or communicated by the MDT Trustees or the Creditor Trustees (x) to any Person not entitled to receive such information, including for the avoidance of doubt any Person (including counsel and other professionals) who is (or has been engaged by, represents or has represented) any Holder of a Claim against or Interest in the Debtors or any Person that alleges or may allege a Claim, directly or indirectly, relating to or arising out of the Debtors' Products or operations or (y) for any reason or in any manner other than as necessary for

such Persons to perform their respective duties as set forth in the Plan or in the MDT Documents or the applicable Creditor Trust Documents. Notwithstanding the foregoing, nothing herein shall preclude the MDT Trustees from providing information or documents received pursuant to this Section 5.12 to any Insurance Company as necessary to preserve, secure or obtain the benefit of the MDT Insurance Rights.

5.13 ***Public Document Repository***.

(a) **Summary**. The document disclosure program provided in this Plan will lead to the public disclosure of the most significant documents about Purdue, the Sackler family and the opioid crisis, including video depositions and millions of documents that Purdue produced in investigations and litigation over the past two decades. In addition, it will lead to the public disclosure of millions of documents not previously available to the public, including documents not previously produced in any investigation or litigation and certain privileged documents from the years when Purdue developed and promoted OxyContin, as identified below. The document disclosure program and Public Document Repository will be conducted in a way to maximize public confidence and public access and will set a new standard for transparency.

(b) **DOJ Repository Obligation**. The Debtors bear sole responsibility for complying with the DOJ document repository obligation set forth in the Plea Agreement ("***DOJ Repository Obligation***"), and the DOJ Repository Obligation is not modified by this Plan. Similarly, the Debtors' satisfaction of the DOJ Repository Obligation shall not diminish the additional commitment to disclosure provided by this Plan. Instead, the public shall receive the full benefit of both, and the Public Document Repository shall contain the full set of documents that the Debtors have agreed to host under the DOJ Repository Obligation.

(c) **Disclosure Oversight Board**. As described further below, the disclosure program provided in this Plan shall be overseen by the DOB created on the Confirmation Date, consisting of up to four (4) representatives appointed by each of the Ad Hoc Committee, the Creditors' Committee, the States AG Negotiating Group and the MSGE Group and one (1) representative appointed by the Native American Tribe Group. No current or former director, officer, employee or attorney of the Debtors shall serve on the DOB or oversee the disclosure program.

(d) **Purdue Legal Matters**. As described further below, important material for the disclosure program is contained in documents that the Debtors preserved, collected, logged and produced in connection with investigations and litigation about Purdue's opioid business. Many non-privileged documents were produced in those matters, and many privileged documents were identified and logged. This Section 5.13 provides for the disclosure of many documents from the Purdue Legal Matters, which is a broad set of investigations and litigation defined in the Plan.

(e) **Disclosure Program Budget**. As described further below, the disclosure program is designed to avoid unnecessary expense, including by employing an unpaid volunteer oversight board and by using negotiated agreements to avoid the need for litigation. The disclosure program shall be funded in an aggregate amount of $39 million, which shall be paid in the following installments: (i) $2 million on the Effective Date, (ii) $10 million on the second Scheduled MDT Distribution Date, (iii) $10 million on the third Scheduled MDT Distribution Date, (iv) $8.5 million on the fourth Scheduled MDT Distribution Date and (v) $8.5 million on the fifth Scheduled MDT Distribution Date (collectively, the "***Disclosure Program Budget***"). The Disclosure Program Budget shall be spent at the direction of the DOB. In addition, as provided in the Plan, Domestic Governmental Entities may elect (but are not required) to direct portions of their distributions to the Public Document Repository under terms provided in the Plan. Moreover, the DOB shall be permitted, but not required, to coordinate its work on this disclosure program with the work of state Attorneys General on related disclosures in the opioid industry, in a manner that reduces the costs and increases the benefits of this

disclosure program. Finally, to make efficient use of the knowledge and expertise of the Debtors and their professionals, the Plan provides for significant materials to be collected by the Effective Date, or as soon as reasonably practicable thereafter, as described further below. For the avoidance of doubt, the Public Document Repository shall not be owned, held, administered or operated by the DOB, the Master Disbursement Trust or any Creditor Trust; the role of the DOB is to develop and oversee a temporary program to set up the appropriate Public Document Repository and achieve the goals of the disclosure program.

(f) **Access Materials**.

(i) Subject to the Protected Information review, as described in Section 5.13(o) of the Plan, the Debtors, the Plan Administration Trust, or any entity or law firm designated by the Debtors or the Plan Administration Trust to assist in that review, shall provide the DOB access to a set of non-privileged materials for the purpose of accomplishing the Public Document Repository (collectively, the "***Access Materials***") on a rolling basis following the Effective Date. These Access Materials shall include:

(A) all transcripts and audio or video recordings of depositions taken in the Purdue Legal Matters, together with the exhibits to those depositions;

(B) all documents produced by the Debtors in the Purdue Legal Matters (which comprise more than thirteen million documents and more than one hundred million pages);

(C) the non-privileged documents from the Relativity Database (as defined below) (which are estimated to comprise more than twenty million additional documents beyond those produced in the Purdue Legal Matters);

(D) all privilege logs regarding documents withheld by the Debtors in the Purdue Legal Matters; and

(E) documents obtained during the Chapter 11 Cases by the NAS Committee regarding clinical and pre-clinical studies conducted by the Debtors or other companies associated with the Sackler Family Members.

(ii) The Debtors, the Plan Administration Trust, or any entity or law firm designated by the Debtors or the Plan Administration Trust, will use their best efforts to complete the review of Protected Information and production of the Access Materials no later than 12 months after the Effective Date. Following entry of the Confirmation Order, the Debtors shall pay Wiggin and Dana LLP $5 million as a retainer on account of Wiggin and Dana LLP's fees and expenses in connection with the review of Protected Information as contemplated pursuant to Section 5.13(o) of the Plan. Upon its completion of such review, Wiggin and Dana LLP shall refund any unused portion of the $5 million to the Master Disbursement Trust concurrent with the final release of Access Materials to the DOB.

(iii) All documents containing information that is redacted as described in Section 5.13(o) of the Plan, and not included in the Access Materials provided to the DOB, will be provided to the Plan Administration Trust. The Plan Administration Trust will retain these materials for the period described in Section 5.13(aa).

(g) **Debtors' Relativity Database**. In the course of the Purdue Legal Matters, the Debtors collected a significant set of documents that are stored in a Relativity database (the "***Relativity Database***"). This collection includes files from more than two hundred custodians who played important roles at Purdue, including every Sackler Family Member who sat on the board or worked at the company. It also includes non-custodial documents, such as collections from electronic drives and paper archives. The custodial and non-custodial documents collected for the Relativity

Database are from files that Purdue has preserved pursuant to broad document preservation policies in place for over twenty years, including from an email archive containing emails dating to the 1990s. Pursuant to the terms provided in this Section 5.13, materials from the Relativity Database created before February 2018 will be available for the disclosure program as described in this Section 5.13.

(h) **Additional Collections**. On or before the Effective Date, the DOB will identify to the Debtors the additional custodians whose documents should be collected, to the extent possible, from the email archive and other preserved files, and the Debtors will load those files into the Relativity Database for inclusion as Access Materials or Sequestered Materials, as applicable.

(i) **Sequestered Materials**. On the Effective Date, or as soon as reasonably practicable thereafter, the Debtors shall provide the Plan Administration Trust with certain Privileged documents, described below, collected by the Debtors during the course of the Purdue Legal Matters and stored in the Relativity Database ("***Sequestered Materials***"), to be preserved for access by the DOB. The provision of the Sequestered Materials to the Plan Administration Trust shall not constitute a waiver of any applicable privileges, and, for clarity, no waiver of any applicable Privilege shall occur prior to the Sequestration Date (as defined below). The Sequestered Materials are estimated to include hundreds of thousands of documents. To leverage efficiencies, the Debtors' current document review teams with experience reviewing Purdue's documents for privilege will screen and review, as necessary, all documents currently in the Relativity Database for Privilege, attorney work product, confidentiality, the Health Insurance Portability and Accountability Act or similar state or federal statute and critical business information before turning over documents as Access Materials or as Sequestered Materials. The DOB will aid the Debtors' document review team in setting parameters and search terms to effectuate accurate screening and review. The DOB may, confidentially and subject to privilege, request and be provided with information, and, as necessary, an appropriate, expert-aided statistically valid sampling of the relevant documents or other methodologies to aid in the foregoing review under an appropriate protective order and non-waiver agreement.

(i) Subject to the Sequestration Date, the Debtors agree to waive attorney client and work product privilege over documents created before May 1, 2014 ("***Cutoff Date***") that fall within the following categories:

(A) Marketing materials, promotional materials and sales strategies. This will include, for example, legal advice on: marketing and promotional materials as part of the medical, regulatory, legal review process and other reviews of statements in promotional and marketing materials to ensure consistency with a product's labeling and legal requirements; sales training materials (such as how to instruct the sales team on what they can and cannot say about the products); review of all call notes and whether statements on sales calls were appropriate; call planning; and sales bulletins. For the avoidance of doubt, "sales strategies" in this paragraph includes documents related to (I) medical liaisons, (II) continuing medical education, (III) the evolve to excellence program, (IV) Purdue's interactions with medical advocacy groups, and (V) legal advice regarding the performance, selection, retention, management and compensation of personnel in sales and marketing;

(B) Materials reflecting legal advice on submissions to the FDA and compliance with FDA regulations. This will include, for example, advice on the decision to reformulate OxyContin, advice on interactions and communications with FDA and advice on FDA requirements;

(C) Legal advice regarding distributions to or for the benefit of the Sackler Family Members;

(D) Legal advice regarding the organization or function of the board of directors;

(E) Legal advice regarding grants, gifts and other payments with respect to naming rights of Purdue and its shareholders;

(F) Legal advice regarding the performance, selection, retention, management and compensation of the CEO of Purdue Pharma;

(G) Legal advice regarding Purdue's interactions with state licensing boards and the federation of state medical boards;

(H) Legal advice regarding Purdue's interactions with key opinion leaders, advisory boards and treatment guidance;

(I) Legal advice regarding advocacy before the United States Congress or a state legislative branch with respect to (i) any opioid product sold by Purdue, including OxyContin, or (ii) any public policies regarding the availability and accessibility of opioid products;

(J) Employment records and files created before the Cutoff Date pertaining to employment terminations or disciplinary actions related to opioid sales and marketing, including documents created before the Cutoff Date pertaining to internal investigations of personnel related to marketing of opioids, in all cases subject to applicable federal and state privacy and similar laws with respect to employees and with any redactions necessary to comply therewith; and

(K) To the extent provided during the time period while the corporate integrity agreement was in effect, legal advice regarding compliance with the corporate integrity agreement entered into between Purdue and the DOJ Office of the Inspector General of the U.S. Department of Health and Human Services;

(L) Legal advice regarding compliance with the consent judgments entered into between Purdue, the Debtors and the State Attorneys General and other state representatives in 2007;

(M) Legal advice to Purdue's public relations department regarding the promotion, sales, or distribution of Purdue's opioid products, including but not limited to their safety, efficacy, addictive properties, or availability of opioid products; and

(N) Legal advice to Purdue's compliance department regarding the organizational structure of the compliance department, including its processes for implementing order monitoring systems, suspicious order monitoring programs, and abuse deterrence and detection programs.

(ii) Subject to the Sequestration Date, below, the Debtors agree to waive attorney client and work product privilege over the following categories of documents:

(A) Documents reflecting law department reviews of, and decisions regarding, health care providers and pharmacies pursuant to Purdue's abuse and diversion detection, order monitoring system and suspicious order monitoring programs, which will have been or will be provided to the DOJ under a June 2019 non-waiver agreement;

(B) Documents created before February 2018 reflecting legal review, analysis and advice with respect to advice received from McKinsey & Company, Publicis Groupe S.A., Publicis Health, LLC, Razorfish Health, Publicis Health Media, LLC, Publicis Touchpoint Solutions, Inc., or Verilogue, Inc. related to the sale and marketing of opioids; and

(C) Documents created before June 30, 2017 reflecting legal review, analysis and advice with respect to Practice Fusion.

(iii) To the extent documents subject to any of the foregoing waivers were previously logged on a privilege log in a Purdue Legal Matter, the Debtors shall provide the DOB with amended privilege logs that indicate the entries being produced pursuant to these waivers. For the avoidance of doubt, Privileged communications (during the applicable time periods set forth in Section 5.13(i)(i) and (ii)) about interactions with the media with respect to subject matters that are otherwise waived herein are included in such waivers.

(iv) Nothing herein shall waive any third-party privilege or other rights, whether arising from a joint defense agreement, common interest privilege or otherwise, to which any document described in Section 5.13(i)(i) and (ii) is subject and which the Debtors do not have authority to waive. The Debtors will provide the DOB with privilege logs reflecting documents subject to such third-party privileges and rights that are identified in the course of identifying and compiling the Sequestered Materials. No documents subject to such third-party privileges and rights shall be included in the Public Document Repository, absent appropriate resolution of such third parties' rights and privileges. Further, no waiver of Privilege described herein shall be construed as subject matter waiver. Subject to the foregoing, the Debtors, and the Creditors' Committee, and the Governmental Consent Parties shall work together in good faith to ensure that all documents consistent with the Sequestered Material categories shall be available to the DOB for potential inclusion in the Public Document Repository in accordance with this Section 5.13.

(j) **Protection of the Privilege**. For the avoidance of doubt, the Debtors do not waive any Privilege and do not agree to provide as Sequestered Materials for the Public Document Repository any Privileged documents or communications not otherwise identified in Section 5.13(i)(i) and (ii). Such Privileged documents and communications not otherwise identified in Section 5.13(i)(i) and (ii) shall be removed from the Relativity Database and separately preserved, and shall not be eligible for the Public Document Repository at any time. All Privileged documents removed from the Relativity Database, and not included in the Sequestered Materials described above, will be provided to the Plan Administration Trust, separately from the Sequestered Materials. The Plan Administration Trust will retain these materials for the period described in Section 5.13(aa). For clarity, except for the Sequestered Materials identified in Section 5.13(i)(i) and (ii), the Debtors shall not intentionally provide the Master Disbursement Trust or the DOB with access to any documents or content of documents that are Privileged. In the event that the Debtors inadvertently provide the Master Disbursement Trust or the DOB with access to Privileged documents except for those documents identified in Section 5.13(i)(i) and (ii), that inadvertent provision shall not operate as a waiver of the Privilege, and, upon discovery, the DOB and/or the Master Disbursement Trust, as applicable, must promptly take steps to return the documents to the Plan Administration Trust or destroy such documents.

(k) **Sequestration Date**. On the date that is the earlier of (i) six years after the Effective Date and (ii) the date no Material Litigation is or has been pending for the prior six months, including the pendency of any appeals, the Plan Administration Trust shall deliver the Sequestered Materials to the Host Institution (the "***Sequestration Date***"). Those materials shall be made available for assessment by the DOB and disclosure in the Public Document Repository, subject to the other provisions of this Section 5.13.

(l) **Responsibilities of the DOB**. The DOB shall be responsible for:

(i) accomplishing prompt, broad, permanent, public disclosure of millions of the Debtors' documents via the Public Document Repository in accordance with this Section 5.13 to allow the public to examine the Debtors' role in the opioid crisis;

(ii) engaging with survivors, advocates, journalists, scholars, policymakers and others to ensure that the disclosure program serves the public;

(iii) directing the use of the Disclosure Program Budget;

(iv) maintaining protections for Protected Information, as described below;

(v) establishing procedures for resolution of challenges to the redaction or disclosure of information, as described below;

(vi) overseeing the Host Institution's implementation of the disclosure program;

(vii) coordinating, as appropriate, the disclosure of documents from other producing parties or non-parties in opioid cases whose confidential information is included in the Access Materials, including by discussing inclusion of Access Materials containing such third-party confidential information;

(viii) ensuring the long-term sustainability and success of the disclosure program; and

(ix) retaining and overseeing staff, counsel, or such other resources as are necessary and appropriate to accomplish the DOB's responsibilities under this Section 5.13.

(m) **Host Institutions**. The host institution(s) shall be selected by the Governmental Consent Parties and the Creditors' Committee (the "***Host Institutions***"). The Host Institution will be responsible for hosting and maintaining the Public Document Repository in perpetuity, including but not limited to: maintaining control and security over documents in the Public Document Repository; providing an accessible user interface; and providing clear and transparent explanations of its procedures to the public. Subject to restrictions and oversight imposed by the DOB, the Host Institution may employ appropriate resources to accomplish its responsibilities, including but not limited to the use of permanent university employees, temporary employees, contractors and vendor services. Commensurate with the large responsibilities assigned to the Host Institution, and subject to the decisions and oversight of the DOB and the requirements of this Plan, much of the Disclosure Program Budget may be directed to the Host Institution to fund the accomplishment of its responsibilities. As soon as practicable, the Debtors shall meet with the Host Institutions to agree upon the processes to be used by the Debtors to prepare the documents for delivery to DOB, including, for example, protocols, methodologies and technical specifications.

(n) **Prompt Disclosure**. In keeping with the importance of the matter, the DOB shall dedicate its best efforts to ensure prompt disclosure and shall seek to ensure that the public receives substantial disclosure at least every calendar quarter. The DOB shall prioritize prompt disclosure of the transcripts and audio and video recordings of depositions taken in the Purdue Legal Matters, together with the exhibits to those depositions. The Debtors will prioritize prompt production of the documents that Debtors have agreed to host pursuant to the DOJ Repository Obligation for immediate inclusion in the Public Document Repository for the sake of efficiency and cost savings.

(o) **Redaction of Protected Information**.

(i) The Debtors, the Plan Administration Trust, a successor entity to the Plan Administration Trust, or any entity or law firm designated by the Debtors or the Plan Administration Trust, shall implement

appropriate procedures to protect the following information ("***Protected Information***") by redacting Protected Information in documents before they are provided to the DOB or disclosed to the public in the Public Document Repository and by promptly catching and correcting errors if Protected Information is disclosed. Protected Information is (i) any information protected from disclosure by the Health Insurance Portability and Accountability Act or similar state or federal statute; (ii) Social Security or tax identification numbers; (iii) personal financial account numbers; (iv) passport numbers and drivers' license numbers; (v) home addresses, personal email addresses, residential addresses, and personal phone numbers, including mobile phone numbers; (vi) information subject to confidentiality or trade secret rights of third parties that Debtors are without authority to abrogate; (vii) information subject to current Trade Secrets protection; (viii) information regarding individuals that is of a purely personal nature and does not pertain to the Debtors' opioid business or related practices; and (ix) other personally identifiable information otherwise protected by law. For the avoidance of doubt, Protected Information that should be redacted in a written document shall also be redacted in audio or video, such as deposition recordings.

(ii) The Plan Administration Trust must provide to the DOB a redaction log identifying the basis for the redaction with sufficient detail to allow assessment of the redaction's merits. The States AG Negotiating Group and Debtors will discuss and agree upon a robust audit process sufficient for the DOB to verify the Debtors' redactions are consistent with the final Plan, and the DOB's designee(s) and/or any auditors designated by the DOB will be given access to unredacted documents for this purpose subject to confidential safeguards to be agreed upon.

(iii) The Debtors and the Plan Administration Trust will prioritize the review of certain documents and custodians at the DOB's request.

(iv) **Trade Secret**. A 'trade secret' is information, including a formula, pattern, compilation, program, device, method, technique or process, that (i) derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure and use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Information reflecting opioid sales or promotional strategies, tactics, targeting, or data, or internal communications regarding sales or promotion of opioids will not be considered subject to trade secret protection unless the information is or contains specifically enumerated categories of Debtors' Information subject to trade secret protection set forth in Section 5.13(o)(v) of the Plan, and then only such information will be redacted.

(v) **Debtors' Information Subject to Current Trade Secrets Protection**. The following Debtor documents will be subject to trade secret protection: (i) documents that contain Debtors' trade secrets regarding (a) ANDA/NDA information that is not publicly available or is redacted in FDA filings, including development reports, batch records, and inspections, provided the redacted information contains trade secrets, and (b) Debtors' proprietary models, including the Rebate Return Model and the License & Supply Analysis Model; and (ii) documents dated less than ten (10) years before the disclosure that contain Debtors' trade secrets regarding: (a) Internal Cost of Goods Sold (COGS), including elements and calculations used to calculate COGS such as raw material sourcing, pricing, internal overhead, and capacity allocations, (b) Return on Rebate Model Data Output, and (c) License & Supply Analysis Model Data Output, including COGS, demand data, and gross-to-net information. Only the information subject to trade secrets protection will be redacted. Information reflecting opioid sales or promotional strategies, tactics, targeting, or data, or internal communications related to sales or promotion of opioids will not be considered subject to trade secret protection unless the information is or contains the narrow categories in this section, and then only the information subject to current trade secrets protection will be redacted.

(p) **Limits on Redaction**. There shall be no redaction of: (i) names of the Debtors' directors, officers, employees, agents, attorneys or consultants or of prescribers or of officials or

employees of a government agency, or (ii) email addresses at the "pharma.com" or "purduepharma.com" domain.

(q) **Notice to Third Parties**. Debtors shall provide notice to third parties, consistent with such third-party agreements, whose trade secrets or confidential information may appear in documents which are to be provided to the DOB.

(r) **Inadvertent Release of Privileged or Protected Information**. Notwithstanding anything else in the Plan, the Public Document Repository shall not contain or disclose any documents or content of documents that are Privileged, except for those documents identified in Section 5.13(i)(i) and (ii) above that are eligible for the Public Document Repository, or any Protected Information. Inadvertent disclosure of Privileged documents in the Public Document Repository does not operate as a waiver of Privilege, and, upon discovery, any Privileged documents shall be promptly removed from the Public Document Repository. The DOB will establish a procedure that permits any party or member of the public to identify or challenge the disclosure of any potentially Protected Information placed in the Public Document Repository. The DOB will cause any document identified through this process to be immediately removed from the Public Document Repository pending review. Any disagreements regarding whether such material is Protected Information shall be resolved by the Special Master.

(s) **Special Master**.

(i) Shortly after the Confirmation Date, the Debtors shall file an appropriate motion asking the Bankruptcy Court or the United States District Court for the Southern District of New York to select and appoint a disclosure oversight Special Master. The Special Master's qualifications shall include former service as a judicial officer, whether as a state or federal judge, and no current or former director, officer, employee or attorney of the Debtors, the Sackler Family Members, the Creditors' Committee, or the Governmental Consent Parties shall be eligible to be appointed as the Special Master, counsel or staff working under the Special Master, *provided* that prior work for a Governmental Consent Party that was completed prior to 2015 shall not preclude the appointment of a Special Master. The Special Master will adjudicate all privilege and related disputes. The Special Master's reasonable hourly fees and expenses shall be paid out of the Disclosure Program Budget except as the Special Master orders otherwise upon finding that a party advanced an argument that was frivolous, harassing or in bad faith.

(ii) Selection of Special Master. The selection of the Special Master shall be made by the Bankruptcy Court; *provided* that the Bankruptcy Court may consider a recommendation made jointly by the Debtors, the Sackler Family Members, the Creditors Committee, and the Governmental Consent Parties. For the purposes of determining if there is to be a joint recommendation, five (5) Business Days after the Confirmation Date, the parties ((x) the Debtors, (y) the Creditors' Committee, the Governmental Consent Parties and (z) the Sackler Family Members) each shall exchange a list of up to five (5) names as recommendations for the role of Special Master. The Debtors thereafter shall make a motion to the Bankruptcy Court to select a Special Master. If there are names in common on the exchanged lists, the Debtors' motion shall be limited to any name or names that are common to all such parties' lists. If there is no name common to each of the three lists, the Debtors' motion will ask the Bankruptcy Court, in its discretion, to select a Special Master.

(iii) Disclosure Challenges: To the extent that the DOB seeks to (A) challenge the Debtors' assertion of Privilege with respect to any documents withheld or redacted from production in the Purdue Legal Matters, or excluded by the Debtors from the Access Materials, or (B) disclose any Protected Information in the Public Document Repository, such efforts shall be subject to review by the Special Master, who

shall have final say regarding whether (y) the DOB should be provided with such materials, and (z) such materials shall be protected from public disclosure.

(iv) Timing of Challenges: All challenges to the redaction or withholding of documents from the Public Document Repository, including with regard to the Privilege and to Protected Information, including challenges brought by either the DOB or members of the public, shall be brought within the later of (A) one (1) year of the Effective Date and (B) one (1) year from when the document or information at issue is first withheld from the Public Document Repository by redaction or logging.

(v) Counsel for Challenges: On or shortly after the Effective Date, the Debtors, the Governmental Consent Parties, and the Creditors' Committee shall agree to appoint a law firm to defend Privilege and Protected Information assertions against challenges ("***Defense Counsel***"); *provided, however*, that if the Debtors, the Governmental Consent Parties, and the Creditors' Committee are unable to reach an agreement regarding the identity of Defense Counsel, the Bankruptcy Court shall appoint the Defense Counsel. Third parties shall represent themselves before the Special Master and shall bear their own costs.

(vi) Procedure for Challenges: Any party seeking to initiate a challenge to the Privilege or Protected Information designation of a document or information in a document or any other challenge to the inclusion or exclusion of documents in the Public Document Repository (the "***Petitioner***") must first, as a condition precedent to any such challenge, meet and confer with the relevant defense counsel by serving a written statement of the specific material being disputed and the reasons for disputing each such material. If the meet and confer does not resolve the dispute, then the Petitioner shall submit a brief to the Special Master arguing why each individual document at issue should not be considered Privileged or Protected Information or should otherwise be included or excluded. Once a challenge has been submitted, the Special Master shall set a briefing schedule, permitting defense counsel no fewer than twenty-one (21) days to respond to the challenge, which may include in camera submissions in response. At the discretion of the Special Master, the briefing schedule may also include supplemental submissions, oral argument or other procedures the Special Master deems necessary to reach a determination. The Special Master shall then evaluate and decide the challenge based upon existing legal precedent of federal law within the U.S. Court of Appeals for the Second Circuit, and shall be empowered to determine whether such materials are subject to a valid claim of Privilege or otherwise constitute Protected Information or should have otherwise been included or excluded, but shall not be empowered to waive any Privilege ever asserted by the Debtors with respect to the Purdue Legal Matters or with respect to the Access Materials or the Sequestered Materials. If the Petitioner does not prevail, then the Special Master shall have the discretion to shift to the Petitioner some or all of the reasonable legal expense of Defense Counsel, whose reasonable fees and expenses shall otherwise be paid for by the Disclosure Program Budget. If the Special Master determines that the challenge was frivolous, harassing, needlessly increasing costs or expenses, or otherwise brought for an improper purpose, then the Special Master shall shift to the Petitioner some or all of the reasonable legal expense of Defense Counsel. For avoidance of doubt, any materials determined by the Special Master to be Privileged or to contain Protected Information shall not be included in the Public Document Repository.

(vii) Pending resolution of a challenge asserting a document was improperly disclosed, the Host Institution shall remove or redact each identified, challenged document.

(t) **Materials Produced by Shareholder Released Parties**. The Public Document Repository shall include all Sackler Family Members' documents that were produced in the Chapter 11 Cases and that relate to the manufacturing, sale or marketing of opioids in the United States, the Debtors' alleged role or liability in connection with the opioid crisis or the regulatory approval of any opioid product sold in the United States by the Debtors, but subject to appropriate exclusions for documents covered by the attorney-client and work product privileges and certain confidential

information (including exclusions for information and documents related to the finances, financing activities, taxes and tax filings, investments and third party business and advisory relationships of the Shareholder Released Parties).

(i) The Special Master appointed in accordance with Section 5.13(s) shall resolve disputes regarding whether certain documents or information is required to be included in the document repository by the Sackler Family Members.

(ii) The Sackler Family Members shall have the right to claw back documents that they were entitled to exclude in accordance with this provision but inadvertently produced to the Public Document Repository, and such inadvertent production shall not operate as a waiver of rights. The Special Master shall resolve any disputes between Sackler Family Members, the Governmental Consent Parties, and the DOB concerning the exercise of clawback rights.

(iii) For the avoidance of doubt, "Sackler Family Members' documents" refer only to documents in the Sackler Family Members' possession, custody or control. Section 5.13(t) does not refer to documents including or involving Sackler Family Members that are in the Debtors' possession, custody or control.

(u) **Release of Confidentiality Rights by Parties Receiving Releases**. With regard to the disclosure of information in the Public Document Repository as authorized by this Section 5.13, the protections provided to Released Parties and Shareholder Released Parties shall be limited to the protections provided by this Plan. To the extent that Released Parties and Shareholder Released Parties possess rights to confidentiality beyond those provided this Plan (for example, a contractual confidentiality provision) or the Direct Claims Shareholder Settlement Agreements, those rights are waived to facilitate this disclosure program in exchange for the benefit of the releases provided to the Released Parties and Shareholder Released Parties by the Plan.

(v) **DOJ Settlement Communications**. Communications between the Debtors and DOJ regarding settlement or cooperation between 2015 and the final, non-appealable conclusion of *U.S. v. Purdue Pharma L.P.*, Case 2:20-cr-01028-MCA (D.N.J.) shall be protected from disclosure to the Master Disbursement Trust and the DOB and shall not be included in the Public Document Repository, nor shall any internal Debtor documents reflecting such communications or the strategy for such communications. The Debtors shall implement this exclusion when creating the set of Sequestered Materials.

(w) **Documents Produced By Certain Financial Institutions**. The disclosure program shall not include the documents produced by financial institutions pursuant to the examination authorized by the Bankruptcy Court at D.I. 1143. For the avoidance of doubt, if the same information also appears in a second source that is subject to disclosure (e.g., a deposition exhibit), then the information in that second source is subject to disclosure.

(x) **Active Vendor Contracts**. The Public Document Repository shall not disclose the NewCo's active vendor contracts or expired contracts that would reveal the sum and substance of active contracts.

(y) **Exculpation and Indemnification of DOB members and Host Institution**. To the maximum extent permitted by applicable law, the DOB members, whenever appointed, and the Host Institution shall not have or incur any liability for actions taken or omitted in his or her capacity as a DOB member, or on behalf of the DOB, except those acts found to be arising out of his or her willful misconduct, bad faith, gross negligence or fraud, and shall be entitled to indemnification, advancement and reimbursement for reasonable fees and expenses in defending any and all of his or her actions or inactions in his or her capacity as a DOB member, except for any actions or

inactions found to be arising out of his or her willful misconduct, bad faith, gross negligence or fraud. Any valid indemnification claim of any of the DOB members shall be satisfied from the Disclosure Program Budget.

(z) **Reports**. On each of the first five anniversaries of the Effective Date, the DOB shall publish a public report describing the activities of the disclosure program, the use of any funds expended, and any funds committed for future use.

(aa) **Wind Down**. In or after one year following the Sequestration Date, the DOB shall wind itself down. If appropriate to facilitate the long-term success of the Public Document Repository, the DOB may arrange for another long-lived institution, such as one or more Attorneys General Offices, to interact with the Host Institution after the DOB is wound down (e.g., by receiving reports). Upon the wind down of the DOB, (i) the Host Institution shall be responsible for the permanent maintenance of the Public Document Repository; *provided* that, for avoidance of doubt, the access to the Access Materials and the Sequestered Materials granted to the DOB herein shall not be transferred to any successor institution other than the Host Institution and (ii) any Access Materials or Sequestered Materials in the possession of the DOB but not included in the Public Document Repository, for any reason, shall be, at NewCo's election, delivered to NewCo or destroyed or, if all or substantially all of the Assets of or Interests in NewCo have been sold, destroyed or delivered to Defense Counsel. Within ninety (90) days of the announcement of the dissolution of the Plan Administration Trust, the Plan Administration Trust shall use commercially reasonable efforts to return Privileged and Protected Information materials to Defense Counsel who shall retain the materials in a segregated client file.

(bb) **Master Disbursement Trust**. For the avoidance of doubt, nothing in this Section 5.13 limits the rights of the Master Disbursement Trust, subject to and in accordance with Section 5.12 of the Plan, to access or use Privileged documents, including Excluded Privileged Materials, in connection with any potential or actual Causes of Action, including, among other things, any potential or actual Causes of Action contemplated by or that may result from, the Shareholder Settlement Agreement, including, without limitation, with respect to a Cause of Action against a Shareholder Release Snapback Party upon the filing of a Notice of Shareholder Release Snapback.

5.14 ***Effective Date Cash; Surplus Reserved Cash***.

(a) **Effective Date Fixed Payments**. On the Effective Date, Effective Date Cash shall be used to fund (i) the Professional Fee Escrow Account in an amount necessary to satisfy Professional Fee Claims in accordance with Section 2.1(b) of the Plan, (ii) the Priority Claims Reserve in an amount necessary to satisfy estimated Allowed Administrative Claims (other than Professional Fee Claims and the DOJ Forfeiture Judgment Claim), Allowed Secured Claims and Allowed Priority Claims, (iii) the Claims Reserves in accordance with Section 7.2 of the Plan, (iv) the Disputed Cure Claims Reserve in accordance with Section 8.2(d) of the Plan, (v) the Wind-Up Reserve in accordance with Section 5.3(d) of the Plan, (vi) the MDT Operating Reserve in accordance with Section 5.6(f) of the Plan, (vii) the Special Operating Reserve in accordance with Section 5.7(a) of the Plan, (viii) the Initial NewCo Cash in accordance with Section 5.4(c) of the Plan, (ix) the applicable PAT Distribution Account in the amounts necessary to make Distributions required in accordance with Article IV of the Plan in respect of Allowed Adlon General Unsecured Claims, Allowed Avrio General Unsecured Claims, and Allowed Other General Unsecured Claims, each to the extent Allowed as of the Effective Date, (x) the Initial Private Creditor Trust Distributions, (xi) the Initial Federal Government Distribution, (xii) the Initial Public Schools Distribution, (xiii) amounts required to establish the Public Document Repository in accordance with Section 5.13 of the Plan, (xiv) the upfront insurance premium payments and other amounts in accordance with Sections 5.3(e), 5.4(f) and 5.5(c) of the Plan and (xv) any other amounts required to be paid on the Effective Date pursuant to the Plan. No later than five (5) Business Days prior to the Effective Date, the Debtors shall provide notice to the Creditors' Committee and the Governmental

Consent Parties of the then-current estimated amount of Effective Date Cash and all amounts described in this Section 5.14(a), and shall promptly notify the Creditors' Committee and the Governmental Consent Parties of any changes to such estimations prior to the Effective Date. Any objection by the Creditors' Committee or the Governmental Consent Parties with respect to the Debtors' proposed amount of funding of any PAT Reserve shall be resolved by the Bankruptcy Court.

(b) **Initial Public Creditor Trust Distributions**. On the Effective Date, all Effective Date Cash remaining after the satisfaction of all amounts described in the foregoing paragraph (a) shall be used to make the Initial Governmental Remediation Trust Distribution and the Initial Tribe Trust Distribution.

(c) **Surplus Reserved Cash**. Prior to the dissolution of the Plan Administration Trust, the Plan Administration Trustee shall determine, on each six (6)-month anniversary of the Effective Date, whether the amounts available in any PAT Reserve exceed the amounts necessary to satisfy the purpose for which such reserves were established. If the Plan Administration Trustee determines that a surplus exists in any PAT Reserve as of the date of such determination, such Surplus Reserve Cash shall be (i) *first*, used to satisfy any funding deficiency in any other PAT Reserve and (ii) *second*, with respect to any amounts not used to satisfy any such funding deficiency in another PAT Reserve, transferred to the Master Disbursement Trust in accordance with the MDT Agreement. All Cash and cash equivalents of the Plan Administration Trust remaining upon the dissolution of the Plan Administration Trust, including any remaining Surplus Reserve Cash in the PAT Reserves, shall be transferred to the Master Disbursement Trust in accordance with the MDT Agreement.

5.15 ***Corporate Action***.

(a) **Dissolution of Boards of the Debtors**. As of the Effective Date, the respective boards of directors and managers, as applicable, of each of the Debtors shall be terminated and dissolved and the members of each of the boards of directors and managers, as applicable, of the Debtors shall be deemed to have resigned.

(b) **Continued Existence of the Liquidating Debtors**. Each of the Debtors, other than the Transferred Debtors, shall continue to exist as a Liquidating Debtor after the Effective Date in accordance with the laws of the state under which such Debtor was formed and pursuant to its certificate of incorporation, bylaws, articles of formation, operating agreement, and other organizational documents, as applicable, in effect prior to the Effective Date, except to the extent such organizational documents are amended under the Plan, for the limited purposes of liquidating all of the Assets of such Debtor's Estate and making distributions in accordance with the Plan. From and after the Effective Date, except as set forth herein, the Liquidating Debtors (i) for all purposes shall be deemed to have withdrawn their business operations from any state in which the Liquidating Debtors were previously conducting, or are registered or licensed to conduct, their business operations, and shall not be required to file any document, pay any sum, or take any other action in order to effectuate such withdrawal, (ii) shall be deemed to have canceled pursuant to the Plan all PPI Interests and, as of the PPLP Dissolution Date, all PPLP Interests, and (iii) shall not be liable in any manner to any taxing authority for franchise, business, license or similar taxes accruing on or after the Effective Date.

(c) **Appointment of the PPLP Liquidator as the Sole Representative for the Liquidating Debtors**. On the Effective Date, the PPLP Liquidator shall be appointed as the sole director and sole officer of the Liquidating Debtors, and shall succeed to the powers of the Liquidating Debtors' general partners, directors and officers. From and after the Effective Date, the PPLP Liquidator shall be the sole representative of, and shall act for, the Liquidating Debtors and administer the winding up and dissolution of the Liquidating Debtors. The PPLP Liquidator shall act for the Liquidating Debtors in the same fiduciary capacity as applicable to a board of directors and officers, subject to the provisions

hereof (and all certificates of formation, partnership agreements, operating agreements, membership agreements and related documents are deemed amended by the Plan to permit and authorize the same). Any fees and expenses incurred by the PPLP Liquidator shall be paid by the Plan Administration Trustee from the Wind-Up Reserve.

(d) **Merger; Dissolution; Consolidation of the Liquidating Debtors**. On or after the date(s) upon which the Plan Administration Trust is established, the Liquidating Debtors or the PPLP Liquidator may, subject to the terms of the Plan, cause any or all of the Liquidating Debtors to be merged into one or more of the Liquidating Debtors, dissolved or otherwise consolidated and engage in any other transaction in furtherance of the Plan. Notwithstanding the foregoing, upon the dissolution of each Liquidating Debtor by the PPLP Liquidator after the completion of the acts required of such Liquidating Debtor pursuant to this Plan, such Liquidating Debtor shall be deemed dissolved for all purposes without the necessity for any other or further actions to be taken by or on behalf of such Liquidating Debtor; *provided*, *however*, that each Liquidating Debtor or the PPLP Liquidator, as applicable, shall file with the office of the Secretary of State, or other appropriate office for the state of its organization, a certificate of cancellation or dissolution.

(e) **Charter and Bylaws**. To the extent necessary or appropriate, the charters, by-laws and other organizational documents of the Debtors shall be amended, or amended and restated as necessary, in a manner consistent with section 1123(a)(6) of the Bankruptcy Code, if applicable, and the terms of this Plan.

(f) **No Further Action**. Each of the matters provided for under the Plan involving the corporate structure of the Debtors or the Plan Administration Trust, or corporate action to be taken by or required of the Debtors, shall, as of the Effective Date, be deemed to have occurred (unless contemplated hereunder to occur before or after the Effective Date) and be effective as provided herein, and shall be authorized and approved in all respects without any requirement of further action by any Person, including, but not limited to, the Plan Administration Trustee, the PPLP Liquidator, Holders of Claims against or Interests in the Debtors or directors or officers of the Debtors.

(g) **Effectuating Documents**. Prior to or after the Effective Date, any appropriate officer of the Debtors or the PPLP Liquidator, as applicable, shall be authorized to execute, deliver, file or record such contracts, instruments, releases, indentures and other agreements or documents, and to take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

(h) **Exculpation and Indemnification of the PPLP Liquidator**. To the maximum extent permitted by applicable law, the PPLP Liquidator shall not have or incur any liability for actions taken or omitted in its capacity as the PPLP Liquidator, except those acts found by Final Order to be arising out of its willful misconduct, bad faith, gross negligence, or fraud, and shall be entitled to indemnification, advancement and reimbursement for reasonable fees and expenses in defending any and all of its actions or inactions in its capacity as the PPLP Liquidator, except for any actions or inactions found by Final Order to be arising out of its willful misconduct, bad faith, gross negligence or fraud. Any valid indemnification claim of the PPLP Liquidator shall be satisfied from the Wind-Up Reserve.

5.16 ***Cancellation of Notes, Interests, Instruments, Certificates and Other Documents***.

Except as otherwise provided herein, on and after the Effective Date, all PPLP Interests and PPI Interests and all notes, instruments, certificates, agreements, indentures, mortgages, security documents and other documents evidencing Claims against or Interests in the Debtors or

obligations of the Debtors or the Liquidating Debtors, as applicable, thereunder or in any way related to the foregoing shall be deemed canceled, satisfied in full and of no further force or effect without any need for further action or approval of the Bankruptcy Court.

5.17 ***Closing of Chapter 11 Cases***.

After a Debtor's Estate has been fully administered, the Plan Administration Trustee shall seek authority from the Bankruptcy Court to close the applicable Chapter 11 Case in accordance with the Bankruptcy Code and Bankruptcy Rules.

ARTICLE VI DISTRIBUTIONS.

6.1 ***Distributions Generally***.

Except as otherwise provided in the Plan or the PAT Agreement, all Distributions in respect of Allowed Claims, other than Channeled Claims, shall be made by the Disbursing Agent, or such other Persons designated by the Plan, in accordance with the terms of the Plan, including this Article VI. Except with respect to Sections 6.17, 6.20, and 6.21 of the Plan, this Article VI shall not apply to Channeled Claims.

6.2 ***Distributions on the Effective Date***.

On the Effective Date or as soon as reasonably practicable thereafter, the Disbursing Agent shall make Distributions (a) from the Priority Claims Reserve in respect of Allowed Administrative Claims, Allowed Secured Claims and Allowed Priority Claims, each in an amount and to the extent Allowed as of the Effective Date, and (b) from the PAT Distribution Account in respect of Allowed Avrio General Unsecured Claims and Allowed Adlon General Unsecured Claims, each in an amount required in accordance with this Article VI of the Plan and solely to the extent Allowed as of the Effective Date.

6.3 ***Date of Distributions***.

In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

6.4 ***Disbursing Agent***.

The Disbursing Agent shall be deemed to hold all property to be distributed under this Plan in trust for the Persons entitled to receive the same. The Disbursing Agent shall not hold an economic or beneficial interest in the property to be distributed under this Plan. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties.

6.5 ***Rights and Powers of Disbursing Agent***.

The Disbursing Agent shall be empowered to (a) effect all actions and execute all agreements, instruments and other documents necessary to perform its duties under the Plan, (b) make all Distributions contemplated by the Plan, (c) employ professionals to represent it with respect to its responsibilities and (d) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions of the Plan.

The Disbursing Agent shall only be required to act and make Distributions in accordance with the terms of the Plan and the PAT Agreement, and shall have no (x) liability for actions taken in accordance with the Plan and the PAT Agreement or in reliance upon information provided to it in accordance with the Plan or (y) obligation or liability in respect of any Channeled Claims or for Distributions under the Plan to any party who does not hold an Allowed Claim administered by the Plan Administration Trust at the time of Distribution or who does not otherwise comply with the terms of the Plan; *provided*, *however*, that the foregoing shall not affect the liability that otherwise would result from any such act or omission to the extent such act or omission is determined by a Final Order to have constituted willful misconduct, gross negligence, intentional fraud or criminal conduct of any such Person.

6.6 ***Expenses of Disbursement Agent***.

Any reasonable fees and expenses incurred by the Disbursing Agent on or after the Effective Date shall be paid in Cash by the Plan Administration Trustee from the Wind-Up Reserve.

6.7 ***Delivery of Distributions***.

Subject to Bankruptcy Rule 9010, the Disbursing Agent shall make all Distributions to any Holder of an Allowed Claim at the address of such Holder (a) as set forth on the Schedules filed with the Bankruptcy Court or (b) on the books and records of the Debtors or their agents, unless the Disbursing Agent has been notified in writing of a change of address, including, without limitation, by filing of a Proof of Claim by such Holder that contains an address for such Holder that is different than the address of such Holder as set forth in the Schedules or on such books and records of the Debtors.

6.8 ***Undeliverable and Unclaimed Distributions***.

In the event that any Distribution to any Holder of an Allowed Claim is returned as undeliverable, no Distribution to such Holder shall be made unless and until the Disbursing Agent has been notified of the then-current address of such Holder, at which time or as soon as reasonably practicable thereafter such Distribution shall be made to such Holder without interest; *provided*, *however*, that all Distributions made by the Disbursing Agent that are unclaimed for a period of six (6) months after the Distribution thereof shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and shall revest in the Plan Administration Trust, and any entitlement of any Holder of any Claims to such Distributions shall be extinguished and forever barred.

6.9 ***Distribution Record Date***.

As of the close of business on the Distribution Record Date, the Claims register shall be closed. The Disbursing Agent shall have no obligation to recognize any transfer of any such Claims occurring after the close of business on the Distribution Record Date and shall instead be entitled to recognize and deal, for all purposes under the Plan, with only those Holders of record as of the close of business on the Distribution Record Date.

6.10 ***Manner of Payment under Plan***.

At the option of the Disbursing Agent, any Cash payment to be made pursuant to the Plan may be made by a check or wire transfer or as otherwise required or provided in the PAT Agreement.

6.11 ***Minimum Cash Distributions***.

The Disbursing Agent shall not be required to make any Distributions of Cash in an amount less than $100, or such lower amount as determined by the Disbursing Agent in accordance with the PAT Agreement, to any Holder of an Allowed Claim; *provided*, *however*, that if any Distribution is not made pursuant to this Section 6.11, such Distribution shall be added to any subsequent Distribution to be made on behalf of such Holder's Allowed Claims. The Disbursing Agent shall not be required to make any final Distribution of Cash in an amount less than $25 to any Holder of an Allowed Claim. If the amount of any final Distribution to any Holder of Allowed Claims would be $25 or less, then such Distribution shall be made available for Distribution to all Holders of Allowed Claims in the same Class receiving final Distributions of at least $25.

6.12 ***Setoffs and Recoupment***.

Subject to Section 2.1 and Sections 10.5 through 10.13 of the Plan, the Disbursing Agent may, but shall not be required to, set off against or recoup from any Claim against the Debtors, and from any payments to be made pursuant to the Plan with respect to such Claim, any Claims of any nature whatsoever (to the extent permitted by applicable law) that the Debtors or the Plan Administration Trust, as applicable, may have against the Holder of such Claim, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors or the Plan Administration Trust of any such Claim it may have against such Holder.

6.13 ***Claims Paid or Payable by Third Parties***.

The Plan Administration Trustee shall reduce in full a Claim against the Debtors, and such Claim shall be Disallowed without a Claims objection having to be filed and without any further notice to or action, order or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from any Person that is not a Debtor. Subject to the last sentence of this paragraph, to the extent a Holder of a Claim against the Debtors receives a Distribution on account of such Claim and receives payment from a Person that is not a Debtor on account of such Claim, such Holder shall, within fourteen (14) days of receipt thereof, repay or return the Distribution to the Plan Administration Trust to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such Distribution under the Plan. The failure of such Holder to timely repay or return such Distribution shall result in the Holder owing the Debtors annualized interest at the federal judgment rate on such amount owed for each Business Day after the fourteen (14)-day grace period specified above until the amount is repaid.

6.14 ***Distributions after Effective Date***.

Distributions made after the Effective Date to Holders of Non-Participating Channeled Claims and other Disputed Claims that are not Allowed Claims as of the Effective Date, but which later become Allowed Claims, shall be deemed to have been made on the Effective Date (except for U.S. federal income tax purposes).

6.15 ***No Postpetition Interest and Penalties on Claims***.

Unless otherwise provided for in the Plan or the Confirmation Order or required by the Bankruptcy Code, no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date or to penalties on any Claim. Any such interest or penalty component of any such Claims, if Allowed, shall be paid only in accordance with section 726(b) of the Bankruptcy Code.

6.16 ***Allocation of Distributions between Principal and Interest***.

To the extent that any Allowed Claim is based upon any obligation or instrument that is treated for U.S. federal income tax purposes as indebtedness of any Debtor or any other Person and is entitled to accrued but unpaid interest thereon, it is intended, subject to applicable law, that such Distribution shall be allocated first to the principal amount of the Allowed Claim (as determined for U.S. federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Allowed Claim, to accrued but unpaid interest.

6.17 ***No Constructive Receipt***.

No Holder of Claims shall be treated as receiving a Distribution for U.S. federal income tax purposes except to the extent such Holder is entitled to receive such Distribution directly under the Plan (or such Distribution is made in satisfaction of an obligation of such Holder). All parties (including, without limitation, Holders of Claims against or Interests in the Debtors, the Related Parties of such Holders, the Debtors, the Master Disbursement Trust, the MDT Trustees and the Creditor Trusts) shall report consistently with the foregoing for U.S. federal income tax purposes.

6.18 ***No Distribution in Excess of Amount of Allowed Claim***.

Notwithstanding anything to the contrary in this Plan, no Holder of an Allowed Claim shall receive, on account of such Allowed Claim, Distributions in excess of the Allowed amount of such Claim when combined with amounts received by such Holder from other sources.

6.19 ***Satisfaction of Claims***.

Unless otherwise provided herein, the Distributions and deliveries to be made on account of Allowed Claims under this Plan shall, in the aggregate, be in complete and final satisfaction, settlement and discharge of, and exchange for, such Allowed Claims. The Distributions and deliveries to be made on account of Claims under this Plan shall additionally be in consideration of the release and discharge of any and all Released Claims and Shareholder Released Claims related to or arising from such Claims.

6.20 ***Withholding and Reporting Requirements***.

(a) **Withholding Rights**. In connection with the Plan, and all instruments or Interests issued in connection therewith and in consideration thereof, any party issuing any instrument or Interest or making any Distribution or other payment described in the Plan shall comply with all applicable withholding and reporting requirements imposed by any U.S. federal, state or local or foreign taxing authority, and all Distributions pursuant to the Plan and all related agreements shall be subject to any such withholding or reporting requirements to the extent required under applicable law. In the case of a non-Cash Distribution that is subject to withholding, the distributing party may withhold a portion of such distributed property equal in value to the tax to the extent required to be withheld, and either (i) sell such withheld property to generate Cash necessary to pay over the withholding tax (or reimburse the distributing party for any advance payment of the withholding tax), or (ii) pay the withholding tax using its own funds and retain such withheld property. Any amounts withheld pursuant to this Section 6.20(a) and properly remitted to the applicable Governmental Unit shall be deemed to have been distributed to, and received by, the applicable recipient for all purposes of the Plan. In the event that any Person issues any instrument or Interest or makes any non-Cash Distribution or other payment pursuant to the Plan that is subject to withholding tax and such issuing or distributing party has not sold such withheld property to generate Cash to pay the withholding tax, or paid the withholding tax using its own funds and retained such withheld property as described above, such issuing or distributing party has the right, but not the

obligation, to not make a Distribution or other payment until such Holder or other recipient has made arrangements reasonably satisfactory to such issuing or distributing party for payment of any such tax obligations, after which such issuing or distributing party shall return to such Holder or other recipient the portion of the property previously withheld.

(b) **Forms**. Any party entitled to receive any Cash or other property under the Plan shall, upon request, deliver to the Disbursing Agent, the Master Disbursement Trust, the applicable Creditor Trust, NewCo, the Foundation or such other Person designated by the Plan Administration Trustee (which Person shall subsequently deliver to the Disbursing Agent any applicable IRS Form W-8 or Form W-9 or other forms or documents received), as applicable, a properly executed IRS Form W-9 or Form W-8, as applicable, and any other forms or documents reasonably requested by such party, to reduce or eliminate any withholding required by any U.S. federal, state, local or foreign taxing authority. Except as otherwise provided in the Creditor Trust Documents, as applicable, if any such request is made by such party in accordance with the foregoing, and the Holder fails to comply before the date that is three hundred sixty-five (365) calendar days after the request is made, the amount of such Distribution shall irrevocably revert to the Plan Administration Trust, the Master Disbursement Trust, the applicable Creditor Trust, NewCo or the Foundation, as applicable, and any Claim with respect to such Distribution shall be discharged and forever barred from assertion against such party or its property.

(c) **Tax Liability**. Notwithstanding Section 6.20(a), each Holder of a Claim or other Person that receives or is to receive a Distribution pursuant to this Plan shall have the sole and exclusive responsibility for the satisfaction and payment (to the extent not withheld from such Distribution pursuant to Section 6.20(a) of the Plan) of any tax obligations imposed on such Holder by any Governmental Unit, including income, withholding and other tax obligations, on account of such Distribution.

6.21 ***Post-Confirmation Claims***.

Except as otherwise provided in the applicable Creditor Trust TDP, in the event a Person seeks payment at any time on account of a Channeled Claim as to which no Proof of Claim was filed before the Bar Date and/or for which no motion seeking leave or order granting leave to file a late Proof of Claim was filed or entered before the Confirmation Date, or as to which no Proof of Claim was required to be filed, such Person shall not be entitled to any payment or distribution on account of such Channeled Claim unless such Channeled Claim is held by a Settling Creditor. If such Channeled Claim is held by a Settling Creditor, such Person shall be entitled to seek to recover on such Channeled Claim solely from the Creditor Trust to which such Channeled Claim is or was channeled pursuant to the Master TDP, as determined by the Bankruptcy Court, and any such recovery shall be solely in accordance with and to the extent provided in the Creditor Trust TDP for such Creditor Trust. After the Effective Date, in addition to the Person seeking to assert such Channeled Claim and any Person against which such Channeled Claim is purportedly asserted, only the MDT Trustees, the Creditor Trustees and NewCo shall have standing to participate in any action before the Bankruptcy Court (or, in the event that such actions are heard before another tribunal, before such tribunal) in respect of the foregoing. For the avoidance of doubt, nothing in this paragraph is intended or shall be construed to enlarge, amend or modify the provisions of the Bar Date Order, nor is anything in this paragraph intended to derogate from, modify or amend the terms and conditions of any Creditor Trust TDP or the Master TDP or the rights of any MDT Trustee, Creditor Trustee or claims administrator for any Creditor Trust.

ARTICLE VII PROCEDURES FOR NON-PARTICIPATING CHANNELED CLAIMS AND OTHER DISPUTED CLAIMS.

7.1 ***Procedures for Non-Participating Channeled Claims and other Disputed Claims Generally***.

Except as otherwise provided in the Plan, the PAT Agreement, or the Creditor Trust Documents, all Claims against the Debtors that are Non-Participating Channeled Claims or otherwise Disputed as of the Effective Date shall be subject to the claims resolution procedures set forth in the Plan, including this Article VII. Any Distributions on account of Non-Participating Channeled Claims or other Disputed Claims shall be reserved pending the completion of the Claims resolution process in this Article VII.

7.2 ***Non-Participating Claims Reserves; PAT Disputed Claims Reserves***.

(a) **Establishment**. On the Effective Date, or as soon as reasonably practicable thereafter, the Plan Administration Trustee and each applicable Creditor Trustee shall, consistent with and subject to section 1123(a)(4) of the Bankruptcy Code, with respect to each applicable Class of Claims against the Debtors, establish the PAT Disputed Claims Reserves or the applicable Non-Participating Claims Reserve(s) for such Class.

(b) **Funding of PAT Disputed Claims Reserves**. The PAT Disputed Claims Reserves shall be (i) funded on the Effective Date with Effective Date Cash in an amount determined by the Debtors and reasonably acceptable to the Creditors' Committee, the Governmental Consent Parties and, solely with respect to amounts funded on account of Disputed Other General Unsecured Claims, the Sackler Parties' Representative. Following establishment of the PAT Disputed Claims Reserves, the Plan Administration Trustee shall administer the applicable PAT Disputed Claims Reserve, in each case taking into account any changes in the projected distributions to Holders of the applicable Disputed Claims.

(c) **Funding of Creditor Trust Non-Participating Claims Reserves**. With respect to the Creditor Trust Non-Participating Claims Reserves other than the Class 4 Non-Participating Claims Reserves, (i) each Creditor Trust PRA Non-Participating Claims Reserve and each Select Private Creditor Trust Non-Participating Claims Reserve will be funded on the Effective Date, and from time to time on or after the Effective Date, by the PRA Estate Distributions to which the Holders of the Non-Participating Channeled Claims in such Class would be entitled should their Claims be Allowed Claims pursuant to the applicable Creditor Trust TDP, and (ii) each Creditor Trust Non-PRA Non-Participating Claims Reserve will be funded from time to time after the Effective Date, in an amount equal to the Non-PRA Estate Distributions to which the Holders of the Non-Participating Channeled Claims in such Class would be entitled should their Claims be Allowed Claims pursuant to the applicable Creditor Trust TDP, in each case as determined by the applicable Creditor Trustee and reasonably acceptable to the Debtors, the Creditors' Committee, the Governmental Consent Parties and the Sackler Parties' Representative, and (i) with respect to the Class 5 Non-Participating Claims Reserves, the Native American Tribe Group, (ii) with respect to the Class 6 Non-Participating Claims Reserve, the Public School District Claimants, (iii) with respect to the Class 7 Non-Participating Claims Reserve, the Ad Hoc Group of Hospitals, (iv) with respect to the Class 8 Non-Participating Claims Reserve, the Third-Party Payor Group, (v) with respect to the Class 9 Non-Participating Claims Reserve, the ERP Trustee, (vi) with respect to the Class 10(a) Non-Participating Claims Reserve, the NAS Committee, and (vii) with respect to the Class 10(b) Non-Participating Claims Reserves, the Ad Hoc Group of Individual Victims.

(d) **Funding of Class 4 Non-Participating Claims Reserves**. The Class 4 PRA Non-Participating Claims Reserve shall be funded with the Non-Settling States Holdback

Distributions and the Non-Settling Subdivisions Holdback Distributions, in each case, that are PRA Estate Distributions, and the Class 4 Non-PRA Non-Participating Claims Reserve shall be funded with the Non-Settling States Holdback Distributions and the Non-Settling Subdivisions Holdback Distributions, in each case, that are Non-PRA Estate Distributions in accordance with the following requirements;

(i) In the event that a State is a Non-Settling State on the Effective Date, then such State and each Subdivision of such State that has filed a Proof of Claim will be deemed to hold a Non-Participating Channeled Claim, and (A) a Non-Settling States Holdback Distribution on account of such State and each such Subdivision, that is a PRA Estate Distribution shall be deposited in the Class 4 Creditor Trust PRA Non-Participating Claims Reserve and (B) a Non-Settling States Holdback Distribution on account of such State and each such Subdivision, that is a Non-PRA Estate Distribution shall be deposited in the Class 4 Creditor Trust Non-PRA Non-Participating Claims Reserve. The Non-Settling States Holdback Distribution for the benefit of such Non-Settling State shall be equal to such State's share of Estate Distributions based on the interstate allocation as further described in Governmental Remediation Trust Documents. Any Non-Settling State's share shall be subdivided generally in accordance with the default state-subdivision allocation set forth in the Governmental Entity Shareholder Direct Settlement Agreement as if there was no applicable state-subdivision agreement. The portion of a Non-Settling State's share allocated to its Subdivisions who filed Proofs of Claim shall be further subdivided based on the applicable subdivision metrics developed by the MDL Plaintiffs' Executive Committee.

(ii) Subject to Section 7.2(d)(iii), in the event that a State is a Settling State, but one or more of its Subdivisions that filed Proofs of Claim are not Participating Subdivisions, then the amount of the total PRA Estate Distributions and Non-PRA Estate Distributions allocated to such State shall be reduced by an amount equal to the share that a Non-Settling Subdivision would have received under (A) the intrastate allocation agreement that exists between that Settling State and its Subdivisions (if an intrastate allocation agreement exists), (B) the intrastate allocation statute (if an intrastate allocation statute exists), or (C) the default state-subdivision allocation set forth in the Governmental Entity Shareholder Direct Settlement Agreement (if no intrastate allocation agreement or statute exists), with the Non-Settling Subdivision's share calculated based on the applicable subdivision metrics developed by the MDL Plaintiffs' Executive Committee, with the amounts of such reductions deposited, (X) in the case of PRA Estate Distributions, in the Class 4 PRA Non-Participating Claims Reserve and (Y) in the case of Non-PRA Estate Distributions, in the Class 4 Non-PRA Non-Participating Claims Reserve. Non-Settling Subdivisions that have filed Proofs of Claim and whose Claims are or may be Allowed may be entitled to different allocations of Estate Distributions upon such Subdivision becoming a Participating Subdivision.

(iii) In the event a Non-Settling Subdivision is located in a Settling State that has a statutory bar against such Non-Settling Subdivision pursuing a Released Claim, such Creditor Trust shall not be required to reserve any amount on account of the Non-Participating Non-Federal Domestic Governmental Claim held by such Non-Settling Subdivision.

(iv) The Class 4 PRA Non-Participating Claims Reserve shall be funded over time from each PRA Estate Distribution and the Class 4 Non-PRA Non-Participating Claims Reserve shall be funded over time from each Non-PRA Estate Distribution, in each case, on account of each such Class 4 Non-Participating Channeled Claim, as applicable, including such amount(s) payable on account of Attorneys' Fees under Section 5.9 of this Plan.

(e) **U.S. Federal Income Tax Matters Relating to the Creditor Trust Non-PRA Non-Participating Claims Reserves**. Each Creditor Trust Non-PRA Non-Participating Claims Reserve is intended to be treated and shall be reported as an account of the corresponding Creditor Trust, and not as an entity separate from the corresponding Creditor Trust, for U.S. federal income tax purposes, and shall be treated consistently for state and local tax purposes, to the extent

applicable. All parties (including the Shareholder Payment Parties, the Debtors, the MDT Trustees, the Plan Administration Trustee, each applicable Creditor Trustee, and Holders of Non-Participating Claims and other Disputed Claims) shall be required to report for tax purposes in a manner consistent with the foregoing. Each applicable Creditor Trustee shall be responsible for payment, out of the assets of the applicable Creditor Trust Non-PRA Non-Participating Claims Reserve, of any taxes imposed on the applicable Creditor Trust Non-PRA Non-Participating Claims Reserve or its assets.

(f) **U.S. Federal Income Tax Matters Relating to the Creditor Trust PRA Non-Participating Claims Reserves and the Select Private Creditor Trust Non-Participating Claims Reserves**. Each Creditor Trust PRA Non-Participating Claims Reserve and each Select Private Creditor Trust Non-Participating Claims Reserve is intended to be treated and shall be reported as a qualified settlement fund within the meaning of Treasury Regulations section 1.468B-1 for U.S. federal income tax purposes and shall be treated consistently for state and local tax purposes. The Master Shareholder Settlement Agreement provides that PRA L.P. shall timely elect, pursuant to Treasury Regulations Section 1.468B-1(k) (and any applicable state and local income tax purposes), to treat each Creditor Trust PRA Non-Participating Claims Reserve and each Select Private Creditor Trust Non-Participating Claims Reserve as a "grantor trust," all of which is owned, for federal and applicable state and local income tax purposes only, by PRA L.P., and that PRA L.P. shall maintain such elections and shall not revoke any of such elections without the prior written consent of the Master Disbursement Trust and the applicable Creditor Trust(s), and this Section 7.2(f) assumes that is the case. All parties (including the Shareholder Payment Parties, the Debtors, the Plan Administration Trustee, each applicable Creditor Trustee, the MDT Trustees, and Holders of Non-Participating Claims and other Disputed Claims) shall be required to report for tax purposes in a manner consistent with the foregoing. The applicable Creditor Trustee shall be the "administrator" of each Creditor Trust PRA Non-Participating Claims Reserve and each Select Private Creditor Trust Non-Participating Claims Reserve. The Master Shareholder Settlement Agreement provides that PRA L.P. shall take into account all items of income, gain, loss, deduction and credit (including capital gains and losses) recognized by or otherwise attributable to each of the Creditor Trust PRA Non-Participating Claims Reserves and each of the Select Private Creditor Trust Non-Participating Claims Reserve for U.S. federal (and any applicable state or local) income tax purposes on its tax returns. The applicable Creditor Trustee may request an expedited determination of taxes of a Creditor Trust PRA Non-Participating Claims Reserve or a Select Private Creditor Trust Non-Participating Claims Reserve, as applicable, under section 505(b) of the Bankruptcy Code for all returns, if any, filed for, or on behalf of, the Creditor Trust PRA Non-Participating Claims Reserve or Select Private Creditor Trust Non-Participating Claims Reserve for all taxable periods through the dissolution of the Creditor Trust PRA Non-Participating Claims Reserve or Select Private Creditor Trust Non-Participating Claims Reserve, as applicable. Nothing in this Section 7.2(f) shall be deemed to determine, expand or contract the jurisdiction of the Bankruptcy Court under section 505 of the Bankruptcy Code.

7.3 ***Claim Objections***.

(a) **Prior to Effective Date**. Prior to the Effective Date, objections to Claims against the Debtors may be interposed and prosecuted by the Debtors and any other party in interest, including, for the avoidance of doubt, any Shareholder Released Party; *provided*, that no Shareholder Released Party shall interpose any objection to a Claim held by a Settling Creditor.

(b) **PAT Disputed Claims Reserves**. On or after the Effective Date, except as otherwise provided in the Plan or the PAT Agreement, objections to Avrio General Unsecured Claims, Adlon General Unsecured Claims, and Other General Unsecured Claims against the Debtors may be interposed and prosecuted only by the Plan Administration Trustee, provided that with respect to Disputed Other GUC Litigation Claims, such objections may be interposed and prosecuted by any other

party in interest, including, for the avoidance of doubt, any Shareholder Released Party. Any objections to Avrio General Unsecured Claims, Adlon General Unsecured Claims, and Other General Unsecured Claims shall be served on the applicable Holders of such Claims and filed with the Bankruptcy Court (A) on or before one hundred eighty (180) days following the later of (i) the Effective Date and (ii) the date that a Proof of Claim is filed or amended or a Claim is otherwise asserted or amended in writing by or on behalf of the Holder of such Claim or (B) on such later date as may be fixed by the Bankruptcy Court (including upon request by a party in interest, including, for the avoidance of doubt, any Shareholder Released Party).

(c) **Objections to Non-Participating Channeled Claims**. On or after the Effective Date, except as otherwise provided in the Plan or the applicable Creditor Trust Documents, objections to Non-Participating Channeled Claims may be interposed and prosecuted by the Master Disbursement Trust and any other party in interest, including, for the avoidance of doubt, the applicable Creditor Trustee or any Shareholder Released Party, and the Bankruptcy Court shall retain exclusive jurisdiction to the greatest extent permitted by applicable law to hear and determine such objections.

(d) **Proceedings on Objections to Creditor Trust Channeled Claims other than in Class 4**. In connection with any objection to a Non-Participating Channeled Claim other than a Non-Participating Channeled Claim in Class 4, any judgment entered (i) as to the validity of such Claim shall constitute a binding determination that such Claim is either Allowed or Disallowed; and (ii) as to the amount of such Claim shall not be binding for purposes of Distribution, which shall instead be determined in accordance with Section 7.7(b) of this Plan and the applicable Creditor Trust Documents. The Bankruptcy Court (or any other court of competent jurisdiction in connection with such an objection) may, at its discretion, decline to enter any judgment as to the amount of a Non-Participating Channeled Claim.

(e) **Proceedings on Objections to Creditor Trust Channeled Claims in Class 4**. In connection with any objection to a Non-Participating Channeled Claim in Class 4, any judgment entered (i) as to the validity of such Claim shall constitute a binding determination that such claim is either Allowed or Disallowed; and (ii) shall not determine the amount of such Claim for purposes of Distribution, which shall instead be determined in accordance with Section 7.7(c) of this Plan. The Bankruptcy Court (or any other court of competent jurisdiction in connection with such an objection) may, at its discretion, decline to enter any judgment as to the amount of a Non-Participating Channeled Claim.

(f) **Omnibus Objections to Non-Participating Channeled Claims**. On or after the Effective Date, notwithstanding anything to the contrary in Bankruptcy Rule 3007, any party in interest, including, for the avoidance of doubt, the Creditor Trustee for the applicable Creditor Trust or any Shareholder Released Party, may object to more than one Non-Participating Channeled Claim consistent with the *Omnibus Claims Objection Procedures Approved in the Bankruptcy Court's Corrected Order Approving (I) Omnibus Claims Objection Procedures, (II) Omnibus Claims Settlement Procedures and (III) Omnibus Claims Hearing Procedures* [D.I. 2878] (the "**Omnibus Claims Objection Order**") as if (solely for purposes of such procedures) such party in interest were the Debtors. Any such omnibus objection shall be governed by the Omnibus Claims Hearing Procedures set forth in the Omnibus Claims Objection Order.

(g) **Joint Hearings on Common Issues of Law or Fact**. To the extent that multiple pending objections to Non-Participating Channeled Claims in the same Class (including when brought as an omnibus objection pursuant to Section 7.3(f) of this Plan) raise common issues of law or fact, including for the avoidance of doubt issues of fact as to the Debtors' or other parties' alleged conduct, the Bankruptcy Court may, to the extent practicable and consistent with applicable law, schedule joint hearings in respect of such common issues, including joint evidentiary hearings as to

issues of fact. For the avoidance of doubt, this Section 7.3(g) shall apply notwithstanding differences in the law governing Non-Participating Channeled Claims to which this Section 7.3(g) of the Plan applies.

7.4 ***No Distribution Pending Allowance***.

Except as otherwise expressly provided in the Plan or the PAT Agreement, if any portion of any Claim in any Class in this Plan, including any Avrio General Unsecured Claims, Adlon General Unsecured Claims, or Other General Unsecured Claims is Disputed or Non-Participating, no payment or Distribution provided under the Plan shall be made on account of such Claim unless and until such Disputed Claim or Non-Participating Claim becomes an Allowed Claim.

7.5 ***Estimation of Claims***.

Subject in all respects to Section 7.12 of the Plan, the Debtors (before the Effective Date), and the Plan Administration Trustee (on or after the Effective Date), or any party in interest (including, for the avoidance of doubt, any Shareholder Released Party) may, at any time, request that the Bankruptcy Court estimate, pursuant to section 502(c) of the Bankruptcy Code, any Disputed Avrio General Unsecured Claims, Disputed Adlon General Unsecured Claims or Disputed Other General Unsecured Claims that the Bankruptcy Court has jurisdiction to estimate in accordance with the Bankruptcy Code or other applicable law, regardless of whether an objection was previously filed with the Bankruptcy Court with respect to such Claim, or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any such Claim at any time during litigation concerning any objection to any such Claim, including during the pendency of any appeal relating to any such objection. If the Bankruptcy Court estimates such a Disputed Claim, such estimated amount shall constitute either the Allowed amount of such Claim, the amount used to determine the PAT Disputed Claims Reserves or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If such estimated amount constitutes a maximum limitation on such Claim, the Plan Administration Trustee or any party in interest (including, for the avoidance of doubt, any Shareholder Released Party) may elect to pursue any supplemental proceeding to object to any ultimate Distribution on account of such Claim.

7.6 ***Resolution of Claims***.

Subject in all respects to Section 7.12 of the Plan, and except as expressly provided in the Plan, the PAT Agreement, the applicable Creditor Trust Documents, or any order entered by the Bankruptcy Court before the Effective Date, including the Confirmation Order, the MDT Trustees, the Plan Administration Trustee and each applicable Creditor Trustee shall have and retain any and all rights and defenses held by the Debtors with respect to any Claim against the Debtors as of the Petition Date, and, subject in all respects to Section 7.12 of the Plan, shall have the authority to compromise, settle, otherwise resolve or withdraw any objections to such Claims and to compromise, settle or otherwise resolve any Non-Participating Channeled Claims and other Disputed Claims without approval of the Bankruptcy Court; *provided*, *however*, that no Non-Participating Channeled Claim or other Disputed Claim may be resolved as contemplated in this Section 7.6 without the consent of the corresponding Creditor Trustee or Plan Administration Trustee, as applicable. Subject to the applicable Creditor Trust Documents, if the Master Disbursement Trust, the Plan Administration Trustee or the applicable Creditor Trustee, as applicable, and a Holder of a Non-Participating Channeled Claim or other Disputed Claim are unable to reach a settlement on the Non-Participating Channeled Claim or other Disputed Claim within two (2) years of the Effective Date, such Non-Participating Channeled Claim or other Disputed Claim shall be submitted to the Bankruptcy Court for resolution consistent with this Article VII of the Plan. For the avoidance of doubt, nothing in this Section 7.6 shall (i) alter the processes for determining Distributions to the Holders of Allowed Channeled Claims set forth in this Plan, any

order of the Bankruptcy Court, and the applicable Creditor Trust Documents or (ii) limit the rights and obligations of the Creditor Trustees in connection with such processes.

7.7 ***Distribution After Allowance***.

(a) **PAT Disputed Claims Reserves**. In accordance with the PAT Agreement, on the first PAT Distribution Date following the date on which a Disputed Avrio General Unsecured Claim, Disputed Adlon General Unsecured Claim or Disputed Other General Unsecured Claim becomes an Allowed Claim, the Disbursing Agent shall remit to the respective PAT Distribution Account, for Distribution to the Holder of such Allowed Claim, the Cash or cash equivalents retained in the applicable PAT Disputed Claims Reserve in an amount equal to any amount that would have been distributed to the Holder of such Claim from the Effective Date through and including the PAT Distribution Date if such Claim had been Allowed as of the Effective Date, net of any costs and expenses, including taxes (if any), of or related to the applicable PAT Disputed Claims Reserve. Each Holder of a Disputed Avrio General Unsecured Claim, Disputed Adlon General Unsecured Claim and Disputed Other General Unsecured Claim that ultimately becomes an Allowed Claim shall have recourse only to the undistributed Cash held in the applicable PAT Disputed Claims Reserve for satisfaction of such Holders' Allowed Claim and shall have no recourse against any Protected Party or any Assets previously distributed on account of any Allowed Claim. No distribution from a PAT Disputed Claims Reserve or otherwise shall be made on account of any Disputed Claim unless such Disputed Claim is Allowed by a Final Order.

(b) **Creditor Trust Non-Participating Claims Reserves**. With respect to the Creditor Trust Non-Participating Claims Reserves other than the Class 4 Non-Participating Claims Reserves, in accordance with the applicable Creditor Trust Documents, following the date on which a Non-Participating Channeled Claim becomes an Allowed Claim, each applicable Creditor Trust shall distribute to the Holder of such Allowed Claim the Cash or cash equivalents retained in the applicable Creditor Trust Non-Participating Claims Reserve(s) in an amount equal to any Estate Distribution amount that would have been distributed to the Holder of such Claim from the Effective Date through and including the applicable distribution date if such Claim had been Allowed as of the Effective Date pursuant to the applicable Creditor Trust TDP, net of any costs and expenses, including taxes (if any), of or related to the applicable Non-Participating Claims Reserve, and shall be entitled to receive its pro rata share of Estate Distributions as a Holder of an Allowed Claim in its applicable Class if and when such distribution is made, pursuant to the applicable Creditor Trust TDP. For the avoidance of doubt, nothing herein shall entitle the Holder of a Non-Participating Claim, regardless of Allowance, to any share of the Shareholder Direct Settlement Portion. Each Holder of a Non-Participating Channeled Claim that ultimately becomes an Allowed Claim shall have no recourse against any Protected Party or any Assets previously distributed on account of any Allowed Claim.

(c) **Class 4 Non-Participating Claims Reserve**. Upon the Allowance of a Non-Participating Channeled Claim in Class 4, (i) the Governmental Remediation Trust shall distribute from the Class 4 Non-Participating Claims Reserves to the holder of such Allowed Claim an amount equal to the Estate Distribution the Holder of such Claim would have received if such Claim was an Allowed Class 4 Claim on the Effective Date, less (A) any costs, expenses, and fees (including taxes, if any) of or related to the Class 4 Non-Participating Claims Reserves and (B) any costs, expenses, and fees incurred by the Governmental Remediation Trust, the Master Disbursement Trust, the Debtors, or any Released Party (to the extent not already claimed or paid to or on behalf of any Released Party out of the Direct Claim Settlement Retained Payment Amounts or the Special Operating Reserve) arising out of, in relation to, or in connection with litigating or in any way resolving any objection to that Class 4 Claim, and (ii) the Holders of such Claim shall be entitled to receive further Estate Distributions pursuant to Article VI of the Plan.

7.8 ***Disallowance of Non-Participating Channeled Claims and Other Disputed Claims***.

(a) **PAT Disputed Claims Reserves**. Upon Disallowance of a Disputed Avrio General Unsecured Claim, Disputed Adlon General Unsecured Claim or Disputed Other General Unsecured Claim, in whole or in part, the Plan Administration Trustee shall (i) first, reallocate all amounts reserved for distribution on account of such Disallowed Claim or the Disallowed portion thereof (the "***Disallowed Claim Distribution***") to Holders of then Allowed and Disputed Claims in the applicable Class and (ii) second, distribute the Disallowed Claim Distribution that has been so reallocated to each Holder of an Allowed Claim in such Class and allocate to the PAT Disputed Claims Reserve for such Class, pro rata, in accordance with clause (i) of this sentence.

(b) **Creditor Trust Non-Participating Claims Reserves**. Upon Disallowance of a Non-Participating Channeled Claim other than with respect to any Non-Participating Channeled Claims in Class 4: (i) any amounts held in the applicable Creditor Trust PRA Non-Participating Claims Reserve or the applicable Select Private Creditor Trust Non-Participating Claims Reserve on account of such Non-Participating Channeled Claim shall be transferred by the applicable Creditor Trustee from the applicable Creditor Trust PRA Non-Participating Claims Reserve or the applicable Select Private Creditor Trust Non-Participating Claims Reserve directly to the corresponding Released Claims Reserve and any future Distribution that would have been funded to the applicable Creditor Trust PRA Non-Participating Claims Reserve or the applicable Select Private Creditor Trust Non-Participating Claims Reserve on account of such Non-Participating Channeled Claim shall be funded directly to the applicable Released Claims Reserve, and (ii) any amounts held in the applicable Creditor Trust Non-PRA Non-Participating Claims Reserve on account of such Non-Participating Channeled Claim shall be released to the applicable Creditor Trust for distribution pursuant to the applicable Creditor Trust Documents.

(c) **Class 4 Non-Participating Claims Reserve**. In the event a Non-Participating Channeled Claim in Class 4 is Disallowed: (i) the amount reserved on account of such Claim in the Class 4 PRA Non-Participating Claims Reserve shall be released to the corresponding Released Claims Reserve, and any future Distribution that would have been funded to the Class 4 PRA Non-Participating Claims Reserve on account of such Non-Participating Non-Federal Domestic Governmental Channeled Claim shall be funded directly to the Released Claim Reserve established in the Governmental Remediation Trust, and (ii) the amount reserved on account of such Claim in the Class 4 Non-PRA Non-Participating Claims Reserve shall be released to the Governmental Remediation Trust for distribution pursuant to the Governmental Remediation Trust Documents.

(d) **Released Claims Reserves**. All amounts funded to the Released Claims Reserves in accordance with this Section 7.8 shall be administered in accordance with the terms of the Master Shareholder Settlement Agreement, including Article 5 and Exhibit N.

7.9 ***Allowance of Non-Participating Channeled Claims***.

(a) If no objection is affirmatively raised to the Allowance of a Non-Participating Channeled Claim (other than a Non-Participating Channeled Claim in Classes 10(a) or 10(b)) within two (2) years of the Effective Date, such claim shall be deemed Allowed and the holder thereof shall be entitled to the Estate Distribution allocated to such Channeled Claim under the applicable TDP. If no objection is affirmatively raised to the Allowance of a Non-Participating Channeled Claim in Classes 10(a) or 10(b) within eighteen (18) months of the Effective Date, such claim shall be deemed Allowed and the holder thereof shall be entitled to the Estate Distribution allocated to such Channeled Claim (if any) under the applicable TDP. Notwithstanding the foregoing, (i) any Allowance pursuant to this Section 7.9(a) of the Plan shall not constitute a determination as to the merits

of such Non-Participating Channeled Claim and shall not be used as a basis to assert the merits of such Non-Participating Channeled Claim in any forum, and (ii) any Non-Participating Channeled Claim that is Allowed (pursuant to this Section 7.9 or otherwise) shall still be subject to, and shall only receive a distribution pursuant to, the applicable TDP.

(b) For the purposes of Allowance of any Non-Participating Channeled Claim that is not otherwise Disallowed in accordance with the Plan, such Channeled Claim shall be deemed an Allowed Claim (i) pursuant to a settlement or other resolution in accordance with Section 7.6 of the Plan, (ii) pursuant to Section 7.9(a) of the Plan, or (iii) upon entry of a Final Order finding that such Holder has a valid, compensable Channeled Claim, regardless of the allowed amount of such Channeled Claim (and, for the avoidance of doubt, such Holder shall not be required to litigate the allowed amount of its Allowed Claim). Other than as expressly contemplated by the applicable trust distribution procedures, any judgment entered as to the amount of a Non-Participating Channeled Claim shall not be binding for purposes of Distribution, which shall instead be determined in accordance with Sections 7.7(b) and (c) of this Plan. The Bankruptcy Court (or any other court of competent jurisdiction in connection with such an objection) may, at its discretion, decline to enter any judgment as to the amount of a Non-Participating Channeled Claim.

7.10 ***Claims Resolution Procedures Cumulative***.

All of the objection, estimation, settlement and resolution procedures set forth in this Plan with respect to Claims against the Debtors are intended to be cumulative and not exclusive of one another. Claims against the Debtors may be established and subsequently settled, compromised, withdrawn or resolved in accordance with this Plan by any mechanism approved by the Bankruptcy Court.

7.11 ***No Postpetition Interest or Penalties on Non-Participating Channeled Claims and other Disputed Claims***.

Unless otherwise specifically provided for in the Plan or the Confirmation Order or required by applicable bankruptcy law, no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date or to any penalties on any Claim. Interest and penalties shall not accrue or be paid upon any Non-Participating Channeled Claim or other Disputed Claim with respect to the period from the Effective Date to the date a Distribution is made thereon, or on and after such Non-Participating Channeled Claim or other Disputed Claim becomes an Allowed Claim.

7.12 ***Shareholder Rights Regarding Settlement and Estimation of Claims***.

In consideration of certain compromises made under the Shareholder Settlements, notwithstanding anything to the contrary contained in the Plan, the Confirmation Order, or the other Plan Documents, neither the Debtors, the reorganized Debtors, the Estates, the Plan Administration Trust, the Plan Administration Trustee, any of the Creditor Trusts, any of the Creditor Trustees, nor any representative or successor of any of the foregoing shall be permitted to settle or seek to estimate any Non-Participating Channeled Claim or other Disputed Claim absent the express written consent of the Sackler Parties' Representative, not to be unreasonably withheld, solely to the extent that such settlement or estimation of any such Non-Participating Channeled Claim or other Disputed Claim could be reasonably expected to adversely impact any Shareholder Released Party's defense against or resolution of any claims or Causes of Action asserted or potentially asserted against any Shareholder Released Party that would have been released pursuant to the Shareholder Direct Claims Release had the Persons asserting or potentially asserting such claims or Causes of Action been Settling Creditors (including because admissions of fact or showings of evidentiary support requisite to effectuation of such settlement or estimation could adversely impact the legal defenses of any Shareholder Released Party);

provided that no such consent shall be required to the extent that (a) such settlement or estimation of such Non-Participating Channeled Claim or other Disputed Claim is sought in an amount not exceeding $1,000,000, (b) such settlement or estimation of such Non-Participating Channeled Claim or other Disputed Claim would include no non-monetary conditions on the part of any Debtor, any reorganized Debtor, any Estate, the Plan Administration Trust, the Plan Administration Trustee, any Creditor Trust, any Creditor Trustee, or any representative or successor of any of the foregoing, and (c) the total aggregate amount of Non-Participating Channeled Claims or other Disputed Claims or formerly Non-Participating Channeled Claims or other Disputed Claims that have been settled or estimated do not exceed $10,000,000. Whether or not the Debtors, the reorganized Debtors, the Estates, the Plan Administration Trust, the Plan Administration Trustee, any of the Creditor Trusts, any of the Creditor Trustees, or any representative or successor of any of the foregoing settles or estimates (or seeks to settle or estimate) any Non-Participating Channeled Claim or other Disputed Claim, in no event shall any Shareholder Released Parties be considered the privies of any of the foregoing for purposes of preclusion principles or otherwise. For the avoidance of doubt, nothing in this Section 7.12 gives, or is intended to give, any party any consent rights over any determinations made by any Creditor Trustee with regard to the appropriate amount that any Holder of an Allowed Claim is entitled to receive from the applicable Creditor Trust TDP.

ARTICLE VIIIEXECUTORY CONTRACTS AND UNEXPIRED LEASES.

8.1 ***Assumption and Rejection of Executory Contracts and Unexpired Leases***.

(a) As of and subject to the occurrence of the Effective Date, all executory contracts and unexpired leases to which any Debtor is a party, subject to the terms of Section 8.4, shall be deemed assumed by the applicable Debtor and, except with respect to any contract or lease held by a Transferred Debtor, assigned to NewCo or its designee, except for any executory contract or unexpired lease that (i) has previously been assumed or rejected pursuant to a Final Order of the Bankruptcy Court, (ii) is specifically identified on the Schedule of Rejected Contracts, (iii) is the subject of a separate assumption or rejection motion filed by the Debtors under section 365 of the Bankruptcy Code pending on the Confirmation Date, (iv) is the subject of a pending Contract Dispute or (v) is being otherwise treated pursuant to the Plan. The Debtors reserve the right to modify the treatment of any particular executory contract or unexpired lease pursuant to this Plan with the reasonable consent to the Governmental Consent Parties. Furthermore, notwithstanding anything to the contrary in the Plan, the Debtors may alter, amend, modify or supplement the Schedule of Rejected Contracts and assume, assume and assign or reject executory contracts and unexpired leases at any time prior to the Effective Date or, with respect to any executory contract or unexpired lease subject to a Contract Dispute that is resolved after the Effective Date, within thirty (30) days following entry of a Final Order of the Bankruptcy Court resolving such Contract Dispute.

(b) Subject to the occurrence of the Effective Date, the payment of any applicable Cure Amount and the resolution of any Contract Dispute, the entry of the Confirmation Order shall constitute approval of the rejections, assumptions and assumptions and assignments provided for in this Plan pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Unless otherwise indicated herein or provided in a separate order of the Bankruptcy Court, rejections, assumptions and assumptions and assignments of executory contracts and unexpired leases pursuant to the Solicitation Procedures Order and this Plan are effective as of the Effective Date. Each executory contract and unexpired lease assumed pursuant to this Plan or by order of the Bankruptcy Court shall vest in and be fully enforceable by the applicable Debtor or NewCo, in each case in accordance with its terms, except as modified by the provisions of this Plan, any order of the Bankruptcy Court authorizing and providing for its assumption, or applicable law.

(c) Unless otherwise provided herein (including Section 8.4 of the Plan) or by separate order of the Bankruptcy Court, each executory contract or unexpired lease that is assumed or assumed and assigned shall include any and all modifications, amendments, supplements, restatements or other agreements made directly or indirectly by any agreement, instrument or other document that in any manner affects such executory contract or unexpired lease, without regard to whether such agreement, instrument or other document is listed in an Assumption Notice.

(d) Except as otherwise expressly set forth on an Assumption Notice, any contracts, engagement letters, retention agreements, and similar arrangements, in each case between the Debtors and any attorneys, accountants, financial advisors, investment bankers or similar professionals, representatives or advisors, shall not be treated under the Plan as executory contracts subject to assumption, assumption and assignment, or rejection. Counterparties to any such contracts, engagement letters, retention agreements and similar arrangements were required to file Proofs of Claim by the General Bar Date, and any Allowed Claims relating thereto shall be treated as Other General Unsecured Claims or Co-Defendant Claims, as applicable.

8.2 ***Determination of Contract Disputes and Deemed Consent***.

(a) The Debtors shall serve Assumption Notices in accordance with the Solicitation Procedures Order. If a counterparty to an executory contract or unexpired lease receives an Assumption Notice, but such executory contract or unexpired lease is not listed therein, the proposed Cure Amount for such executory contract or unexpired lease shall be deemed to be zero dollars ($0).

(b) Any counterparty to an executory contract or unexpired lease shall have the time prescribed in the Solicitation Procedures Order to object to (i) the Cure Amount identified on the Assumption Notice, (ii) adequate assurance of future performance by the applicable Debtor, NewCo or its assignee (within the meaning of section 365 of the Bankruptcy Code) and (iii) any other matter pertaining to assumption or assumption and assignment of such executory contract or unexpired lease on the terms set forth in the Plan and such Assumption Notice.

(c) To the extent a Contract Dispute is asserted in an objection filed in accordance with the procedures set forth in the Assumption Notice, such Contract Dispute shall be heard by the Bankruptcy Court at the Confirmation Hearing. Following resolution of a Contract Dispute by Final Order of the Bankruptcy Court, the applicable executory contract or unexpired lease shall be deemed assumed or assumed and assigned effective as of the Effective Date, subject to the Debtors' right to reject such executory contract or unexpired lease at any time prior to the Effective Date or, if any Contract Dispute is resolved after the Effective Date, within thirty (30) days following entry of such Final Order of the Bankruptcy Court resolving the applicable Contract Dispute.

(d) To the extent a Contract Dispute has not been resolved prior to the Effective Date, the Debtors shall establish the Disputed Cure Claims Reserve. Any amounts in the Disputed Cure Claims Reserve remaining after the resolution of all Disputed Cure Claims and the payment of all Cure Amounts with respect to Allowed Cure Claims for contracts and leases to be assumed or assumed and assigned shall be applied in accordance with Section 5.14(b) of the Plan.

(e) To the extent an objection is not timely filed and properly served on the Debtors with respect to a Contract Dispute, then the counterparty to the applicable contract or lease shall be deemed to have assented to (i) the Cure Amount proposed by the Debtors and (ii) the assumption or assumption and assignment of such contract or lease on the terms set forth in the Plan and the Assumption Notice, notwithstanding any provision of the applicable contract or lease that (A) prohibits, restricts or conditions the transfer or assignment of such contract or lease or (B) terminates or permits the termination of such contract or lease as a result of any direct or indirect transfer or assignment of the

rights of the Debtors under such contract or lease or a change in the ownership or control as contemplated by the Plan, and shall forever be barred and enjoined from asserting such objection against the Debtors or terminating or modifying such contract or lease on account of transactions contemplated by the Plan.

(f) With respect to payment of any Cure Amounts or resolution of Contract Disputes, none of the Debtors, the Plan Administration Trustee, NewCo or any Transferred Debtor shall have any obligation to recognize or deal with any party other than the non-Debtor party to the applicable executory contract or unexpired lease, even if such non-Debtor party has sold, assigned or otherwise transferred its Cure Claim.

8.3 ***Payments Related to Assumption of Contracts and Leases***.

(a) Subject to resolution of any Contract Dispute, any Cure Claim shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Plan Administration Trust from the Priority Claims Reserve or the Disputed Cure Claims Reserve, as applicable, or NewCo in the ordinary course of business upon assumption thereof.

(b) Assumption or assumption and assignment of any executory contract or unexpired lease pursuant to the Plan, or otherwise, shall result in the full release and satisfaction of any Claims or defaults, subject to satisfaction of the Cure Amount, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed executory contract or unexpired lease at any time before the effective date of assumption or assumption and assignment. Any Proofs of Claim filed with respect to an executory contract or unexpired lease that has been assumed shall be deemed Disallowed and expunged, without further notice, or action, order or approval of the Bankruptcy Court or any other Person.

8.4 ***Co-Defendant Contracts***.

Except as otherwise provided in the Plan or agreed by any counterparty and the Debtors (with the consent (not to be unreasonably withheld, conditioned or delayed) of the Governmental Consent Parties, and after consultation with the Creditors' Committee), the assumption of any contract or lease under the Plan shall (a) release any Causes of Action on account of any and all terms or provisions of such contract or lease solely to the extent such terms or provisions create an obligation of any party thereto (or any assignee thereof), or give rise to a right in favor of any non-Debtor under any MDT Insurance Policy or any other insurance policy of any Protected Party, for the indemnification or reimbursement of any Person for costs, losses, damages, fees, expenses or any other amounts whatsoever relating to or arising from any actual or potential opioid-related litigation or dispute, whether accrued or unaccrued, asserted or unasserted, existing or hereinafter arising, based on or relating to, or in any manner arising from, in whole or in part, Opioid-Related Activities or other conduct occurring prior to the Effective Date; and (b) constitute a release by each party of each other counterparty (and any assignee thereof or successor thereto) and by each non-Debtor party of all Insurance Companies, in each case, from any and all Causes of Action and other rights of recovery arising under or relating to such indemnification and reimbursement rights to the extent relating to any conduct occurring prior to the Effective Date, and an agreement by each non-Debtor counterparty to release any and all Co-Defendant Claims held by such party and to channel, in accordance with the Channeling Injunction, all Channeled Claims arising under or relating to such contract, including any such Claims that might otherwise be elevated to administrative status through assumption of such contract or lease. On the Effective Date, (x) all Co-Defendant Claims arising under or related to any such assumed or assumed and assigned contract or lease shall be released and discharged with no consideration on account thereof, and all Proofs of Claim in respect thereof shall be deemed expunged, without further notice, or action, order or

approval of the Bankruptcy Court or any other Person and (y) all Channeled Claims arising under or related to any such assumed or assumed and assigned contract or lease shall be channeled in accordance with the Channeling Injunction. For the avoidance of doubt, unless otherwise agreed by the counterparty to any assumed or assumed and assigned contract or lease, the foregoing shall not release or otherwise modify any term or provision of such contract or lease to the extent of any indemnification or reimbursement rights (i) accruing after the Effective Date for conduct occurring after the Effective Date, (ii) for any amounts, if any, due to a Co-Defendant as a result of the New York Opioid Stewardship Act (2018 N.Y. Sess. Laws, ch. 57, pt. NN 7 (codified at N.Y. Pub. Health Law § 3323 and N.Y. State Fin. Law § 97-aaaaa)) or (iii) for any Co-Defendant Surviving Pre-Effective Date Claim. Notwithstanding the release, satisfaction, expungement and extinguishment of Co-Defendant Claims, a Co-Defendant retains its Co-Defendant Defensive Rights, which include the ability to recover from Persons that are not Protected Parties or from any insurance policies that are not Purdue Insurance Policies or other insurance policies of Protected Parties. The counterparty to such contract or lease and all other applicable Persons shall be bound by the terms set forth in this Section 8.4.

8.5 ***Rejection Claims***.

In the event that the rejection of an executory contract or unexpired lease by any of the Debtors herein results in damages to the other party or parties to such contract or lease, any Claim for such damages shall be forever barred and shall not be enforceable against the Debtors or their Estates, properties or interests in property, unless a Proof of Claim is filed with the Bankruptcy Court and served upon the Debtors no later than thirty (30) days after the entry of the order of the Bankruptcy Court (including the Confirmation Order) authorizing the rejection of such executory contract or unexpired lease. Any such Claim shall be classified in accordance with the classification of Claims set forth in Article III of the Plan, including that any such Claims that constitute Co-Defendant Claims shall be classified as such. The Confirmation Order shall constitute the Bankruptcy Court's authorization of the rejection of all the leases and contracts identified in the Schedule of Rejected Contracts.

8.6 ***Compensation and Benefit Plans***.

Except with respect to any Benefit Plans for which the Debtors have received approval of the Bankruptcy Court to reject or terminate on or before the Effective Date or that are subject to a pending motion to reject or terminate as of the Confirmation Hearing, all Benefit Plans shall be deemed to be, and shall be treated as, executory contracts under this Plan pursuant to sections 365 and 1123 of the Bankruptcy Code and shall be assumed by applicable Debtors and, unless held by a Transferred Debtor, assigned to NewCo (or one of its Subsidiaries).

8.7 ***Purdue Pension Plan***.

The Purdue Pension Plan has approximately 3,200 participants. PPLP is the contributing sponsor of the Purdue Pension Plan. The Debtors that are members of the contributing sponsor's controlled-group within the meaning of 29 U.S.C. §§ 1301(a)(13), (14) are jointly and severally liable with respect to the Purdue Pension Plan. Further, any non-debtor members of the contributing sponsor's controlled-group are also jointly and severally liable with respect to the Purdue Pension Plan.

On or prior to the Effective Date, the Debtors shall have commenced a standard termination of the Purdue Pension Plan pursuant to 29 U.S.C. § 1341 and any standard termination costs, other liabilities, or obligations remaining thereunder as of the Effective Date shall be assumed and payable by NewCo.

NewCo or its wholly owned subsidiary will assume the Purdue Pension Plan to the extent the standard termination and PBGC audit, pursuant to 29 U.S.C. § 1303, has not been completed for the Purdue Pension Plan prior to the Effective Date. Specifically, upon the Effective Date, NewCo or its wholly owned subsidiary shall be deemed to have assumed the Purdue Pension Plan (to the extent the standard termination and PBGC audit has not been completed prior to the Effective Date) and all liabilities and assets thereunder and shall comply with all applicable statutory provisions of ERISA and the IRC, including, but not limited to, satisfying the minimum funding standards pursuant to 26 U.S.C. §§ 412, 430, and 29 U.S.C. §§1082, 1083; paying the PBGC premiums in accordance with 29 U.S.C. §§ 1306 and 1307; administering the Purdue Pension Plan in accordance with its terms and the provisions of ERISA and the IRC, and completing the standard termination under 29 U.S.C. § 1341 (and NewCo reserves all rights thereunder).

Notwithstanding any provision in the Plan to the contrary, no provision contained in the Plan, the Confirmation Order, the Bankruptcy Code (including section 1141 thereof), or any other document filed in the Debtors' bankruptcy cases shall be construed as discharging, releasing, exculpating or relieving any Person (other than the Liquidating Debtors) from any fiduciary duties or liabilities under Title I of ERISA with respect to the Purdue Pension Plan. PBGC and the Purdue Pension Plan shall not be enjoined or precluded from enforcing such fiduciary duties or liabilities under Title I of ERISA as a result of any of the provisions of the Plan, the Confirmation Order, the Bankruptcy Code or any other document filed in the Debtors' bankruptcy cases. The PBGC and the Debtors agree that all Proofs of Claim filed by the PBGC shall be deemed to be withdrawn, with prejudice, as of the Effective Date.

8.8 ***Insurance Policies***.

Notwithstanding anything to the contrary in the Plan, the Plan Documents, the Disclosure Statement or the Confirmation Order:

(a) nothing in the Plan, the Plan Documents, the Disclosure Statement or the Confirmation Order shall terminate or otherwise reduce the coverage under any D&O Insurance Policy with respect to conduct occurring on or prior to the Effective Date, and, after the Effective Date, all directors, officers, managers, authorized agents and employees of the Debtors who served in such capacity at any time prior to the Effective Date shall be entitled to the full benefits of any applicable D&O Insurance Policy for the full term of such policy, including but not limited to any extension of coverage after the end of such policy period if an extended reporting period has been purchased, in accordance with the terms thereof, subject to (i) any release or assignment of rights by certain Shareholder Released Parties pursuant to the Shareholder Settlements and (ii) with respect to D&O Insurance Policies that are MDT Insurance Policies, the provisions of paragraph (b) of this Section 8.8;

(b) after the Effective Date, in consideration of the Estate Releases and Shareholder Releases in favor of each Released Party and Shareholder Released Party that is an individual insured under any MDT Insurance Policy:

(i) each such Released Party or Shareholder Released Party (A) will fully cooperate with the Master Disbursement Trust in connection with the settlement of claims or rights under such MDT Insurance Policy, including but not limited to as set forth in this Section 8.8(b)(i), and (B) shall be deemed to consent to the release of any claims or rights held by such Released Party or Shareholder Released Party against and under such MDT Insurance Policy in the event that the Master Disbursement Trust has otherwise obtained settlement terms that it deems acceptable in its sole discretion with the same effect as if such Released Party or Shareholder Released Party had executed such settlement agreement, and

without further consideration to such Released Party or Shareholder Released Party from the insurance settlement proceeds or otherwise in respect of such settlement;

(ii) no such Released Party or Shareholder Released Party (other than a Sackler Family Member) that was a director, officer, manager, authorized agent or employee of the Debtors who served in such capacity at any time prior to the Petition Date shall be entitled to submit a claim under any MDT Insurance Policy for anything other than reimbursement of attorneys' fees and related expenses incurred in connection with such individual's cooperation with, or in connection with the defense of such individual with respect to, any investigation, prosecution and/or litigation involving conduct relating to the Debtors or the Debtors' business or property or any defense of the Releases or the Channeling Injunction; and

(iii) no such Shareholder Released Party (other than a current or former director, officer, manager, authorized agent or employee that is not a Sackler Family Member, each of whom is subject to the foregoing paragraph (ii) of this Section 8.8(b)) shall be entitled to submit a claim under any MDT Insurance Policy other than in accordance with the Shareholder Settlements;

(c) on and after the Effective Date, all Purdue Insurance Policies (other than the MDT Insurance Policies) shall be deemed to be, and shall be treated as, executory contracts under the Plan, and shall be assumed pursuant to sections 105 and 365 of the Bankruptcy Code by the applicable Debtor, and such Purdue Insurance Policies shall vest, and/or the Purdue Insurance Rights (other than the MDT Insurance Rights) associated therewith shall vest, as applicable, in NewCo, the applicable Transferred Debtor or the Plan Administration Trust, as applicable, in accordance with the NewCo Transfer Agreement and the PAT Agreement and continue in full force and effect in accordance with their respective terms such that the applicable recipients of the Purdue Insurance Policies (other than the MDT Insurance Policies) and the Purdue Insurance Rights (other than the MDT Insurance Rights) shall become and remain liable in full for and shall satisfy, to the extent required under applicable law, any prospective premiums, deductibles, self-insured retentions and any other amounts or obligations arising in any way out of the receipt of payment from an Insurance Company in respect of the Purdue Insurance Policies (other than the MDT Insurance Policies); and

(d) solely with respect to Purdue Insurance Policies that are not MDT Insurance Policies, the automatic stay of section 362(a) of the Bankruptcy Code and the injunctions set forth in the Plan, if and to the extent applicable, shall be deemed lifted without further order of this Bankruptcy Court, solely to permit (i) claimants with valid workers' compensation claims or direct action claims against Insurance Companies under applicable non-bankruptcy law to proceed with their claims; and (ii) Insurance Companies to administer, handle, defend, settle and/or pay, in the ordinary course of business and without further order of this Bankruptcy Court, (A) workers' compensation claims, (B) claims where a claimant asserts a direct claim against an Insurance Company under applicable non-bankruptcy law, or an order has been entered by this Bankruptcy Court granting a claimant relief from the automatic stay or the injunctions set forth in the Plan to proceed with its claim, and (C) all costs in relation to each of the foregoing.

8.9 ***Reservation of Rights***.

(a) Neither the exclusion nor the inclusion by the Debtors of any contract or lease on any exhibit, schedule or other annex to this Plan or in the Plan Supplement, nor anything contained in this Plan, shall constitute an admission by the Debtors that any such contract or lease is or is not an executory contract or unexpired lease or that the Debtors have any liability thereunder.

(b) Except as explicitly provided in this Plan, nothing herein shall waive, excuse, limit, diminish or otherwise alter any of the Estate Causes of Action under any executory or non-executory contract or unexpired lease.

(c) Nothing in this Plan shall increase, augment or add to any of the duties, obligations, responsibilities or liabilities of the Debtors under any executory or non-executory contract or unexpired or expired lease, including the Purdue Insurance Policies.

(d) If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of its assumption under this Plan, the Debtors shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease.

ARTICLE IX CONDITIONS PRECEDENT TO THE OCCURRENCE OF THE EFFECTIVE DATE.

9.1 ***Conditions Precedent to Effective Date***.

The Effective Date shall not occur unless all of the following conditions precedent have been satisfied:

(a) the Confirmation Order shall have been entered by the Bankruptcy Court, and shall not be subject to any stay and shall not have been modified or vacated on appeal;

(b) the Plan Documents shall have been approved of or accepted by all applicable Persons in accordance with the respective consent rights under this Plan, and shall have been filed, executed and delivered, as applicable, and the conditions precedent contained therein shall have been satisfied or waived in accordance with the terms thereof, except with respect to such conditions that by their terms shall be satisfied substantially simultaneously with or after consummation of the Plan;

(c) the DOJ Resolution (including, for the avoidance of doubt, the entry of a judgment of conviction in strict accordance with the Plea Agreement and the payment in full of the DOJ Forfeiture Payment) shall have been consummated or will be consummated substantially simultaneously with consummation of the Plan;

(d) the NewCo Operating Agreement shall have been executed and shall be in compliance with the DOJ Resolution, the NewCo Transferred Assets shall have vested in NewCo (or one or more of its Subsidiaries) in accordance with the NewCo Transfer Agreement and the NewCo Managers shall have been appointed;

(e) the MDT Agreement shall have been executed, the MDT Transferred Assets shall have vested, or will vest simultaneously with the consummation of the Plan, in the Master Disbursement Trust in accordance therewith and the MDT Trustees shall have been appointed;

(f) the Creditor Trust Documents shall have been executed and the Creditor Trustees shall have been appointed;

(g) the Public Entity Settlements other than the Public School District Shareholder Direct Settlement shall have been consummated or will be consummated substantially simultaneously with consummation of the Plan, including (i) the payment in full of the Initial Public Creditor Trust Distributions and (ii) the issuance of the MDT Interests to the Public Creditor Trusts;

(h) the Foundation Bylaws shall have been adopted, the Foundation Trustees shall have been appointed and the NewCo Interest shall have been issued, or will be issued simultaneously with consummation of the Plan, to the Foundation;

(i) the Private Entity Settlements other than the Opt-Out Class Action Settlements shall have been consummated or will be consummated substantially simultaneously with consummation of the Plan, including: (i) with respect to the Creditor Trusts that are not the subject of Opt-Out Class Actions, the payment in full of the Initial Private Creditor Trust Distributions to such Creditor Trusts, (ii) the issuance of the MDT Claims (in the case of Creditor Trusts that are the subject of Opt-Out Class Actions, to the extent that the applicable Opt-Out Class Action Settlement has been consummated) and (iii) the execution of any Plan Documents required to be executed in connection with the foregoing;

(j) with respect to the Creditor Trusts that are the subject of Opt-Out Class Actions, payment in full of the Initial Private Creditor Trust Distributions to such Creditor Trusts, or, to the extent that the applicable Opt-Out Class Action Settlement has not been consummated, the placement of the Shareholder Direct Settlement Portion of the Initial Private Creditor Trust Distributions for such Creditor Trusts into the applicable Class Action Escrow Account;

(k) each Shareholder Settlement Agreement other than the Opt-Out Class Action Settlements shall have been executed and all amounts required to be paid thereunder on the Effective Date shall have been received, and all of the conditions precedent to the effectiveness of each Shareholder Settlement Agreement other than the Opt-Out Class Action Settlements shall have been satisfied or waived in accordance with the terms of such Shareholder Settlement Agreement;

(l) the Ratepayer Mediation Participants Stipulation shall have been approved by a Final Order of the Bankruptcy Court;

(m) the PAT Agreement shall have been executed, the PAT Assets shall have vested, or will vest simultaneously with the consummation of the Plan, in the Plan Administration Trust in accordance therewith and the Plan Administration Trustee shall have been appointed;

(n) each of the PAT Reserves, the Claims Reserves, the Professional Fee Escrow Account, the Special Operating Reserve and the PAT Distribution Accounts shall have been fully funded, or will be funded simultaneously with the consummation of the Plan, and each of the other payments and Distributions of Effective Date Cash described in Section 5.14(a) and (b) of the Plan shall have been made or will be made substantially simultaneously with consummation of the Plan;

(o) the Debtors shall have obtained all authorizations, consents, regulatory approvals, rulings and documents that are necessary to implement and effectuate the Plan;

(p) all Professional Fee Claims shall have been paid in full or amounts sufficient to pay such Claims after the Effective Date shall have been placed in the Professional Fee Escrow Account, or shall be otherwise contained in a professional fee retainer, pending approval by the Bankruptcy Court;

(q) the Debtors shall have implemented the Restructuring Transactions, or shall implement the Restructuring Transactions simultaneously with the consummation of the Plan, in a manner consistent in all material respects with this Plan;

(r) the Bankruptcy Court shall have confirmed that the Bankruptcy Code authorizes the transfer and vesting of the MDT Transferred Assets, notwithstanding any terms of the

Purdue Insurance Policies or provisions of non-bankruptcy law that any Insurance Company may otherwise argue prohibits such transfer and vesting;

(s) the DOB shall have been appointed in accordance with Section 5.13(c) of the Plan;

(t) all Liens granted as contemplated by the Plan and any documents included in the Plan Supplement shall have been approved by the Bankruptcy Court;

(u) the Debtors shall have Effective Date Cash sufficient to pay the effective date fixed payments as provided in Section 5.14(a) of this Plan in full in cash; and

(v) all other actions, documents and agreements necessary to implement and effectuate the Plan shall have been effected or executed.

9.2 ***Waiver of Conditions Precedent***.

Each of the conditions precedent to the occurrence of the Effective Date (other than the condition precedent set forth in Section 9.1(i) of the Plan) may be waived by the Debtors; *provided* that (a) with respect to any condition precedent, the waiver of which would materially and adversely affect the entitlements of any Class of Claims (or any Creditor Trust to which such Claims shall be channeled) represented by any of the Supporting Claimants, the waiver of such condition precedent shall also require the consent (not to be unreasonably withheld, conditioned or delayed) of the applicable Supporting Claimants representing such materially and adversely affected Class of Claims, it being understood that the waiver of the condition precedent set forth in Section 9.1(i) materially and adversely affects the Class of Claims and the Creditor Trust entitled to the applicable Initial Private Creditor Trust Distribution and/or MDT Claim, (b) the waiver of the conditions precedent set forth in Section 9.1(a), (b) (solely with respect to any Plan Document over which the Creditors' Committee has a consent right set forth in the Plan), (e), (f), (i), (j), (k), (l), (m), (n), (p) (solely with respect to Professional Fee Claims by Professional Persons retained by the Creditors' Committee), (q), (r), (s), and (u) of the Plan shall also require the consent of the Creditors' Committee (which consent shall not be unreasonably withheld, delayed or conditioned), (c) the waiver of the conditions precedent set forth in Section 9.1(a), (b) (solely with respect to any Plan Document over which the Governmental Consent Parties have a consent right set forth in the Plan), (d), (e), (f), (g), (i), (n),(q), (r), (s), and (u) of the Plan shall also require the consent of the Governmental Consent Parties (which consent shall not be unreasonably withheld, delayed or conditioned) and (d) the waiver of the conditions precedent set forth in Section 9.1(a), (b) (solely with respect to any Plan Document over which the Sackler Parties' Representative has a consent right set forth in the Master Shareholder Settlement Agreement), (e), (g), (i), (j), (k), (m), (n), and (q) of the Plan shall also require the consent of the Sackler Parties' Representative (which consent shall not be unreasonably withheld, delayed or conditioned).

9.3 ***Frustration of Conditions Precedent***.

Notwithstanding anything to the contrary herein, if the failure to satisfy any condition precedent to the Effective Date set forth in Section 9.1 was primarily caused by the action of any party (or such party's failure to act), then (i) such party's consent shall not be required for the Debtors' waiver of such condition and (ii) such party shall not be entitled to prevent or delay the Effective Date by asserting that such condition has not been satisfied.

ARTICLE X EFFECT OF CONFIRMATION.

10.1 ***Binding Effect***.

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, and subject to the occurrence of the Effective Date, on and after the entry of the Confirmation Order, the provisions of this Plan and the Plan Documents shall bind every Holder of a Claim against or Interest in any Debtor and every Holder of a Channeled Claim and inure to the benefit of, and be binding on, any such Holder's respective successors and assigns, regardless of whether any Claim or Interest of such Holder is Impaired under this Plan or whether such Holder has accepted this Plan.

10.2 ***Discharge of Claims against and Interests in the Debtors***.

Upon the Effective Date and in consideration of the Distributions to be made under this Plan, except as otherwise provided in the Plan or in the Confirmation Order, each Holder (as well as any trustee or agent on behalf of such Holder) of a Claim or Interest and any successor, assign and affiliate of such Holder shall be deemed to have forever waived, released and discharged the Debtors (other than the Liquidating Debtors), to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Interests, rights and liabilities that arose prior to the Effective Date. Except as otherwise provided in this Plan, upon the Effective Date, all such Holders of Claims against or Interests in the Debtors, and their successors, assigns and affiliates, shall be forever precluded and enjoined, pursuant to sections 105, 524 and 1141 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against, or terminated Interest in, any Debtor. Pursuant to section 1141(d)(3) of the Bankruptcy Code, confirmation of the Plan will not discharge the Liquidating Debtors; *provided* that, upon confirmation of the Plan and the occurrence of the Effective Date, Holders of Claims against and Interests in the Debtors may not seek or receive any payment or other Distribution from, or seek recourse against, the Debtors or their Estates or, to the extent set forth in the Plan, any other Protected Party, except as expressly provided in the Plan. The Co-Defendant Defensive Rights shall not be waived, released or discharged and all Co-Defendant Defensive Rights are preserved, as provided in Section 10.18 of the Plan.

10.3 ***Pre-Confirmation Injunctions, Stays, Stipulations and Discovery Orders***.

(a) Unless otherwise provided in this Plan, all injunctions and stays arising under or entered during the Chapter 11 Cases, whether under section 105 or 362 of the Bankruptcy Code or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

(b) Notwithstanding the foregoing paragraph (a) of this Section 10.3, on the Effective Date, without further action by or order of the Bankruptcy Court:

(i) any and all obligations of the Shareholder Released Parties arising under the Case Stipulation shall terminate and the Case Stipulation shall be withdrawn, vacated and superseded by the Confirmation Order solely with respect to paragraphs 15, 17, 19, 22 and 25 of the Case Stipulation, and solely as such paragraphs apply to any Shareholder Released Party; *provided* that, for the avoidance of doubt, the terms of such paragraphs shall continue in full force and effect with respect to all other parties (if applicable), and all other provisions of the Case Stipulation shall remain in full force and effect, in each case, unless otherwise provided by the Plan;

(ii) any and all obligations of any Shareholder Released Party arising under paragraph I of the voluntary injunction set forth in Appendix I to the Preliminary Injunction (and any predecessors or successors of the Preliminary Injunction) shall terminate, and the Preliminary Injunction shall be

withdrawn, vacated and superseded by the Confirmation Order solely with respect to paragraph I of the voluntary injunction set forth in Appendix I; *provided* that, for the avoidance of doubt, all other provisions of the Preliminary Injunction shall remain in full force and effect, unless otherwise provided by the Plan; and

(iii) any and all obligations of any Person arising under any subpoenas issued pursuant to any of *Order Pursuant to Federal Rules of Bankruptcy Procedure 2004 and 9016 Authorizing Examination of Third Parties* [D.I. 992] (as amended by the *Amended Order Pursuant to Federal Rules of Bankruptcy Procedure 2004 and 9016 Authorizing Examination of Third Parties* [D.I. 1008]), the *Order Pursuant to Rules 2004 and 9016 of the Federal Rules of Bankruptcy Procedure Authorizing Examinations of Certain Financial Institutions* [D.I. 1143], the *Order Pursuant to Federal Rules of Bankruptcy Procedure 2004 and 9016 Authorizing Examinations of and Document Production by Third Parties [D.I. 1340] and the Order Pursuant to Federal Rules of Bankruptcy Procedure 2004 and 9016 Authorizing Examination of Certain Former Debtor Executives, Separately Represented Debtor Personnel, and Norton Rose Fulbright Pursuant to Federal Rules of Bankruptcy Procedure 2004 and 9006* [D.I. 1788] shall terminate.

(c) Any and all information shared or produced by any Shareholder Released Party pursuant to the agreements or orders referenced in the foregoing paragraph (b) of this Section 10.3, including any such information also shared with Persons not party to the Case Stipulation, shall remain subject to the confidentiality terms under which it was shared, including any information that was designated under the Protective Order (or confidentiality agreement that was superseded by the Protective Order), which such information shall remain confidential under the terms of the Protective Order unless such information, materials or documents are included in the Public Document Repository in accordance with the Plan and the Master Shareholder Settlement Agreement. Names or other identifying information of investments or specific third-party counterparties or advisors with whom or with which a Shareholder Released Party has or had a third-party investment, advisory or business relationship that was disclosed in documents or information produced by a Shareholder Released Party and designated Outside Professional Eyes Only Information under the Protective Order shall retain such designation and be protected accordingly.

(d) Except as provided in the PI TDP, nothing in this Plan shall either (i) excuse any Person from compliance with any legislative, judicial or administrative subpoena, any civil investigative demand or any request for information made in the course of a government investigation; or (ii) limit any right of any Person with respect to compliance with any legislative, judicial or administrative subpoena, any civil investigative demand or any request for information made in the course of a government investigation.

10.4 ***Injunction against Interference with Plan***.

Subject to Section 12.4 of the Plan, upon entry of the Confirmation Order, all Holders of Claims against or Interests in the Debtors, Holders of Channeled Claims, Releasing Parties, Released Parties, Shareholder Released Parties and other parties in interests shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan and the Plan Documents. This Section 10.4 shall be included in the Confirmation Order.

10.5 ***Plan Injunction***.

(a) Except as otherwise provided in this Plan or in the Confirmation Order, as of the entry of the Confirmation Order but subject to the occurrence of the Effective Date, all Persons who have held, hold or may hold Claims against or Interests in the Debtors are, with respect to any such Claim or Interest, permanently enjoined after the entry of the Confirmation Order from: (i) commencing,

conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting, directly or indirectly, a Debtor or an Estate or the property of any of the foregoing, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this clause (i) or any property of any such transferee or successor; (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree or order against a Debtor or an Estate or its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this clause (a) or any property of any such transferee or successor; (iii) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against a Debtor or an Estate or any of its property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons mentioned in this clause (iii) or any property of any such transferee or successor; (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of this Plan; and (v) commencing or continuing, in any manner or in any place, any action that does not comply, or is inconsistent, with the provisions of this Plan; *provided*, *however*, that nothing contained herein shall preclude such Persons who have held, hold or may hold Claims against or Interests in a Debtor or an Estate from exercising their rights, or obtaining benefits, pursuant to, and consistent with, the terms of this Plan and the Plan Documents.

(b) All Persons, including all governmental, tax and regulatory authorities, lenders, trade creditors, dealers, customers, employees, litigation claimants and other creditors holding Claims, Liens, Interests, charges, encumbrances and other interests of any kind or nature whatsoever, including rights or Claims based on any successor or transferee liability, against or in a Debtor, the NewCo Transferred Assets, the MDT Transferred Assets or the PAT Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or noncontingent, known or unknown), arising under or out of, in connection with, or in any way relating to the Debtors, the NewCo Transferred Assets, the MDT Transferred Assets, the PAT Assets, the operation of the NewCo Transferred Assets prior to the Effective Date or the Restructuring Transactions are forever barred, estopped and permanently enjoined from asserting against the Released Parties, their respective successors and assigns, their property, the NewCo Transferred Assets, the MDT Transferred Assets or the PAT Assets, any Released Claim or any other Cause of Action the assertion of which does not comply with or is inconsistent with the provisions of this Plan, including, without limitation, by: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting, directly or indirectly, a Released Party, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this clause (i) or any property of any such transferee or successor; (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree or order against a Released Party, or any direct or indirect transferee of any property of, or direct or indirect successor-in-interest to, any of the foregoing Persons mentioned in this clause (ii) or any property of any such transferee or successor; (iii) creating, perfecting or otherwise enforcing any encumbrance of any kind or asserting any Released Claims in any manner, directly or indirectly, against a Released Party or any of its property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons mentioned in this clause (iii) or any property of any such transferee or successor; (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of this Plan; and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of this Plan.

10.6 *Releases*.

(a) Releases by Debtors.

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, including, without limitation, the service of the Released Parties before and during the Chapter 11 Cases to facilitate the reorganization of the Debtors and the implementation of the Restructuring Transactions, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released by the Debtors and their Estates from any and all Causes of Action, including any derivative claims asserted or assertible by or on behalf of any Debtor or any of their Estates and including any claims that any Debtor or any of their Estates, or that any other Person or party claiming under or through any Debtor or any of their Estates, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Debtor or any of their Estates or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, based on or relating to, or in any manner arising from, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date (including the Debtors' Opioid-Related Activities, manufacture, marketing and sale of Products, interaction with regulators concerning Opioid-Related Activities or Products, and involvement in the subject matter of the Pending Opioid Actions, and the past, present or future use or misuse of any opioid by a Releasing Party), (ii) the Estates or (iii) the Chapter 11 Cases. The Debtors, the Plan Administration Trust, the Master Disbursement Trust, the Creditor Trusts, NewCo, the Foundation and any other newly-formed Persons that shall be continuing the Debtors' businesses after the Effective Date shall be bound, to the same extent the Debtors are bound, by the Releases set forth in this Section 10.6(a).

Notwithstanding anything herein to the contrary, (x) nothing in the Plan shall release any Excluded Claim and (y) nothing in this Section 10.6(a) shall (A) release any contractual Estate Cause of Action or any Estate Cause of Action that is commercial in nature and, in each case, unrelated to either the Chapter 11 Cases or the subject matter of the Pending Opioid Actions; *provided* that, with respect to the Settling Co-Defendants, only Estate Surviving Pre-Effective Date Claims shall be retained and not released, (B) release any Estate Cause of Action against a Holder of a Claim against a Debtor, to the extent such Estate Cause of Action is necessary for the administration and resolution of such Claim solely in accordance with the Plan, *provided*, *however*, that the foregoing shall not apply to any Holder of a Co-Defendant Claim solely with respect to such Co-Defendant Claim, (C) be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements, or (D) release any Claim or right to disgorge, recoup or recover compensation under the orders authorizing the Key Employee Plans or the orders with respect to the *Motion of Debtors for Entry of an Order Authorizing (I) Debtors to (A) Pay Pre-Petition Wages, Salaries, Employee Benefits and Other Compensation and (B) Maintain Employee Benefits Programs and Pay Related Administrative Obligations, (II) Employees and Retirees to Proceed with Outstanding Workers' Compensation Claims and (III) Financial Institutions to Honor and Process Related Checks and Transfers* [D.I. 6].

(b) Releases by Releasing Parties.

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, including, without limitation, the service of the Released Parties

before and during the Chapter 11 Cases to facilitate the reorganization of the Debtors and the implementation of the Restructuring Transactions, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released by the Releasing Parties from any and all Causes of Action, including, without limitation, any Estate Cause of Action and any claims that any Releasing Party, or that any other Person or party claiming under or through any Releasing Party, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Releasing Party or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, (A) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (ii) the Estates, (iii) the Chapter 11 Cases, or (iv) Covered Conduct and (B) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor.

Without limiting the foregoing: (A) the foregoing releases include any Cause of Action of a Releasing Party that has been or may be asserted against any Released Party, by such Releasing Party (whether or not such party has brought such action or proceeding) in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) (x) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (I) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (II) the Estates, (III) the Chapter 11 Cases, or (IV) Covered Conduct and (y) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor; and (B) the parties intend that these releases (including the term "Released Claims") be broad and interpreted so as to give the Released Parties the broadest possible release of any liability relating in any way to the Released Claims.

For the avoidance of doubt and notwithstanding anything to the contrary in this Plan or the Confirmation Order, the releases set forth in this Section 10.6(b), and all references to "Releasing Parties" as used herein, shall not apply to (i) Holders of Claims who do not opt-in to the releases through their applicable ballots, (ii) Holders of Claims whose releases will be governed solely and exclusively by a Direct Claims Shareholder Settlement Agreement and (iii) Holders of Non-Federal Domestic Governmental Claims, whose releases shall be governed solely and exclusively by the Governmental Entity Shareholder Direct Settlement Agreement.[~~16~~17] For the avoidance of doubt and notwithstanding anything to the contrary in this Plan, none of the releases, injunctions, or other terms contained in the Plan or the Confirmation Order shall expand, limit, alter, or otherwise affect any releases, waivers, or disclaimers of liability or other terms contained in any of the Direct Claims Shareholder Settlement Agreements.

To the extent that, on or after the Effective Date, any Releasing Party 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 Releasing Party will include (or in the case of a Non-Party Settlement that is part of a Chapter 11 Plan, will take reasonable best efforts to cause the debtor to include), unless prohibited from doing so under

[~~16~~17] **The Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, remain subject to ongoing negotiations. The releases in the Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, may differ from those provided for in this Section 10.6(b). The rights of all parties to the Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, are fully reserved.**

applicable law, in the Non-Party Settlement a prohibition on contribution or indemnity of any kind against the Released Parties substantially equivalent to that required from the Shareholder Released Parties in Section 10.7(b)(ii)(A) of the Plan, or a release from such Non-Released Party in favor of the Released Parties (in a form equivalent to this Section 10.6(b)) of any Claim-Over. Each Releasing Party 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 and the Released Parties.

Notwithstanding anything herein to the contrary, (x) nothing in the Plan shall release any Excluded Claim; (y) Co-Defendants (including, for the avoidance of doubt, Settling Co-Defendants) shall not be Released Parties for purposes of this Section 10.6(b); and (z) nothing in this Section 10.6(b) shall (A) release any Non-Opioid Excluded Claims, (B) release any Estate Cause of Action against a Holder of a Claim against a Debtor, to the extent such Estate Cause of Action is necessary for the administration and resolution of such Claim solely in accordance with the Plan, *provided*, *however*, that the foregoing shall not apply to any Holder of a Co-Defendant Claim solely with respect to such Co-Defendant Claim, or (C) be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements.

Notwithstanding anything herein to the contrary, but subject to the MDT Insurer Injunction and the Settling MDT Insurer Injunction, the Debtors shall not be released from liability for any Claim (other than any Co-Defendant Claim) that is or may be covered by any Purdue Insurance Policy; *provided* that recovery for any such Claim, including by way of settlement or judgment, shall be limited to the available proceeds of such Purdue Insurance Policy (and any extra-contractual liability of the Insurance Companies with respect to the Purdue Insurance Policies), and no Person or party shall execute, garnish or otherwise attempt to collect any such recovery from any assets other than the available proceeds of the Purdue Insurance Policies. The Debtors shall be released automatically from a Claim described in this paragraph upon the earlier of (x) the abandonment of such Claim and (y) such a release being given as part of a settlement or resolution of such Claim, and shall be released automatically from all Claims described in this paragraph upon the exhaustion of the available proceeds of the Purdue Insurance Policies (notwithstanding the nonoccurrence of either event described in the foregoing clauses (x) and (y)).

(c) Releases by Debtors of Holders of Claims.

As of the Effective Date, all Holders of Channeled Claims (excluding, in all respects, any Excluded Party, Shareholder Release Snapback Party or MDT Insurer) are hereby released by the Debtors and their Estates from any and all Causes of Action for any Claim in connection with, or arising out of, (i) the administration of the Chapter 11 Cases; the negotiation and pursuit of the Restructuring Transactions, the Plan, the Master Disbursement Trust, the Creditor Trusts (including the trust distribution procedures and the other Creditor Trust Documents) and the solicitation of votes with respect to, and confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan and the property to be distributed under the Plan; and the wind-up and dissolution of the Liquidating Debtors and the transactions in furtherance of any of the foregoing or (ii) such Holder's participation in the Pending Opioid Actions. The Debtors, the Plan Administration Trust, the Master Disbursement Trust, the Creditor Trusts, NewCo, the Foundation and any other newly-formed Persons that shall be continuing the Debtors' businesses after the Effective Date shall be bound, to the same extent the Debtors are bound, by the Releases set forth in this Section 10.6(c).

As of the Effective Date, all Holders of PI Channeled Claims (excluding, in all respects, any Excluded Party, Shareholder Release Snapback Party or MDT Insurer) are hereby released by the Debtors and their Estates from any and all Causes of Action for any Claim in connection with, or arising out of, (i) the Debtors, as such Entities existed prior to or after the Petition Date (including the Debtors' Opioid-Related Activities, manufacture, marketing and sale of Products, interaction with regulators concerning Opioid-Related Activities or Products, and involvement in the subject matter of the Pending Opioid Actions, and the past, present or future use or misuse of any opioid by a Releasing Party), (ii) the Estates or (iii) the Chapter 11 Cases, including, in each case, without limitation, any act, conduct, omission, event, transaction, occurrence, injury, damage, or continuing condition in any way relating to the foregoing.

Notwithstanding anything herein to the contrary, (x) nothing in the Plan shall release any Excluded Claim and (y) nothing in this Section 10.6(c) shall (A) release any contractual Estate Cause of Action or any Estate Cause of Action that is commercial in nature and, in each case, unrelated to either the Chapter 11 Cases or the subject matter of the Pending Opioid Actions, *provided* that, with respect to the Settling Co-Defendants, only Estate Surviving Pre-Effective Date Claims shall be retained and not released, (B) release any Estate Cause of Action against a Holder of a Claim against a Debtor, to the extent such Estate Cause of Action is necessary for the administration and resolution of such Claim solely in accordance with the Plan, *provided*, *however*, that the foregoing shall not apply to any Holder of a Co-Defendant Claim solely with respect to such Co-Defendant Claim, (C) release any claim or right arising in the ordinary course of the Debtors' or NewCo's business, including, without limitation, any such claim with respect to taxes or (D) be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements.

10.7 *Shareholder Releases*.

(a) Releases by Debtors.

(i) As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Shareholder Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released, subject to clause (z) of the last paragraph of this Section 10.7(a), by the Debtors and their Estates from any and all Causes of Action, including any Estate Causes of Action asserted or assertible by or on behalf of any Debtor or any of their Estates and including any claims that any Debtor or any of their Estates, or that any other Person or party claiming under or through any Debtor or any of their Estates, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Debtor or any of their Estates or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, based on or relating to, or in any manner arising from, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date (including the Debtors' Opioid-Related Activities, manufacture, marketing and sale of Products, interaction with regulators concerning Opioid-Related Activities or Products, and involvement in the subject matter of the Pending Opioid Actions, and the past, present or future use or misuse of any opioid by a Releasing Party), (ii) the Estates or (1) the Chapter 11 Cases. The Debtors, the Plan Administration Trust, the Master Disbursement Trust, the Creditor Trusts, NewCo, the Foundation and any other newly-formed Persons that shall be continuing the Debtors' businesses after the Effective Date shall be bound, to the same extent the Debtors are bound, by the Shareholder Releases set forth in this Section 10.7(a).

(ii) To the extent that, on or after the Effective Date, any Debtor Party 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 Debtor Party will include (or in the case of a Non-Party Settlement that is part of a Chapter 11 Plan, will take reasonable best efforts to 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 substantially equivalent to that required from the Shareholder Released Parties in Section 10.7(b)(ii)(A) of the Plan, or a release from such Non-Released Party in favor of the Shareholder Released Parties (in a form equivalent to this Section 10.7(b)) of any Claim-Over. Each Debtor Party 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.

(iii) In the event that (x) any Debtor Party, after the Effective Date, either (i) obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Party that does not contain a prohibition like that described in Section 10.7(a)(ii); (ii) files a Non-Party Covered Conduct Claim against a Non-Released Party in bankruptcy and such Debtor Party does not use reasonable best efforts to obtain a prohibition/release like that described in Section 10.7(a)(ii); or (iii) enters into a Non-Party Settlement without a prohibition/release like that described in Section 10.7(a)(ii), and (y) such Non-Released Party asserts a Claim-Over against a Shareholder Released Party, the Shareholder Released Party shall be relieved of the prohibition in Section 10.7(b)(ii)(B) with respect to that Non-Released Party and that Debtor Party 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 than the amounts owed under the Plan and the Master Shareholder Settlement Agreement by Shareholder Payment Groups:

(I) The Sackler Parties' Representative shall notify that Debtor Party 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, whichever is later;

(II) The Sackler Parties' Representative and that Debtor Party 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 Shareholder Payment Groups under Plan and the Master Shareholder Settlement Agreement;

(III) That Debtor Party and the Sackler Parties' Representative shall take steps sufficient and permissible under the law of the state of the Debtor Party 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 Shareholder Payment Groups under Plan and the Master Shareholder Settlement Agreement. Such steps may include, where permissible:

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

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

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

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

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

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

(IV) To the extent the preconditions for this Section 10.7(b)(ii)(C) to apply are satisfied, the actions taken pursuant to paragraph (III) must, in combination, ensure that Shareholder Payment Groups are not required to pay more with respect to Covered

Conduct than the amounts owed by them to such Debtor Party under the Plan and the Master Shareholder Settlement Agreement.

(iv) Each Debtor and each Estate will not transfer any Cause of Action and no Person shall prosecute any such Cause of Action on any Debtor's or Estate's behalf, in each case unless such transferee or Person has agreed to comply with Sections 10.7(a)(ii) and (iii) of the Plan.

(v) Notwithstanding anything herein to the contrary, (x) nothing in the Plan shall release any Excluded Claim; (y) nothing in this Section 10.7(a) shall be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements and the Separation Agreements; and (z) upon the filing of a Notice of Shareholder Release Snapback, (1) the Shareholder Releases set forth in this Section 10.7(a) shall be entirely null and void, revoked and invalidated, as of the Effective Date, with respect to all members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties, (a) the *status quo ante* shall be restored in all respects for the Debtors and the Master Disbursement Trust with respect to the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties, and (b) the Master Disbursement Trust shall be deemed to have received and accepted all of the rights with respect to any member of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties, in each case, that the Debtors and their Estates had prior to the Effective Date and that the Master Disbursement Trust would have pursuant to the transfer of the MDT Shareholder Rights to the Master Disbursement Trust if the Shareholder Releases of this Section 10.7(a) had never been granted, which rights the Debtors and their Estates shall be deemed to have irrevocably transferred, granted and assigned to the Master Disbursement Trust; *provided* that, for the avoidance of doubt, notwithstanding the nullification, voiding, revocation and invalidation pursuant to the foregoing clause (1), the Shareholder Releases shall continue in effect for, and shall be fully enforceable by and for the benefit of, all other Shareholder Released Parties other than the Breaching Shareholder Family Group and the Designated Shareholder Released Parties.

(b) Releases by Releasing Parties.

(i) As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Shareholder Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released, subject to clause (y) of the last paragraph of this Section 10.7(b) of the Plan, by the Releasing Parties from any and all Causes of Action, including, without limitation, any Estate Cause of Action and any claims that any Releasing Party, or that any other Person or party claiming under or through any Releasing Party, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Releasing Party or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, (A) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (ii) the Estates, (iii) the Chapter 11 Cases, or (iv) Covered Conduct and (B) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor.

Without limiting the foregoing: (A) the foregoing releases include any Cause of Action of a Releasing Party that has been or may be asserted against any Shareholder Released Party, by such Releasing Party (whether or not such party has brought such action or proceeding) in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) (x) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (I) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (II) the Estates, (III) the Chapter 11 Cases, or (IV) Covered Conduct and (y) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor; and (B) the parties intend that these releases (including the term "Shareholder Released Claims") be broad and interpreted so as to give the Shareholder Released Parties the broadest possible release of any liability relating in any way to the Shareholder Released Claims.

For the avoidance of doubt and notwithstanding anything to the contrary in this Plan or the Confirmation Order, the releases set forth in this Section 10.7(b), and all references to "Releasing Parties" as used herein, shall not apply to (i) Holders of Claims who do not opt-in to the releases through their applicable ballots, (ii) Holders of Claims whose releases will be governed solely and exclusively by a Direct Claims Shareholder Settlement Agreement and (iii) Holders of Non-Federal Domestic Governmental Claims, whose releases shall be governed solely and exclusively by the Governmental Entity Shareholder Direct Settlement Agreement.[~~17~~18] For the avoidance of doubt and notwithstanding anything to the contrary in this Plan, none of the releases, injunctions, or other terms contained in the Plan or the Confirmation Order shall expand, limit, alter, or otherwise affect any releases, waivers, or disclaimers of liability or other terms contained in any of the Direct Claims Shareholder Settlement Agreements.

(ii) (A) No Shareholder Released Party shall seek to recover for amounts paid under Master Shareholder Settlement Agreement and the Plan 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.

[~~17~~18] **The Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, remain subject to ongoing negotiations. The releases in the Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, may differ from those provided for in this Section 10.7. The rights of all parties to the Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, are fully reserved.**

(B) To the extent that, on or after the Effective Date, any Releasing Party 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 Releasing Party will include (or in the case of a Non-Party Settlement that is part of a Chapter 11 Plan, will take reasonable best efforts to 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 substantially equivalent to that required from the Shareholder Released Parties in Section 10.7(b)(ii)(A) of the Plan, or a release from such Non-Released Party in favor of the Shareholder Released Parties (in a form equivalent to this Section 10.7(b)) of any Claim-Over. Each Releasing Party 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.

(C) In the event that (x) any Releasing Party, after the Effective Date, either (i) obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Party that does not contain a prohibition like that described in Section 10.7(b)(ii)(B); (ii) files a Non-Party Covered Conduct Claim against a Non-Released Party in bankruptcy and such Releasing Party does not use reasonable best efforts to obtain a prohibition/release like that described in Section 10.7(b)(ii)(B); or (iii) enters into a Non-Party Settlement without a prohibition/release like that described in Section 10.7(b)(ii)(B), and (y) such Non-Released Party asserts a Claim-Over against a Shareholder Released Party, the Shareholder Released Party shall be relieved of the prohibition in Section 10.7(b)(ii)(B) with respect to that Non-Released Party and that Releasing Party 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 than the amounts owed under the Plan and the Master Shareholder Settlement Agreement by Shareholder Payment Groups:

(V) The Sackler Parties' Representative shall notify that Releasing Party 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, whichever is later;

(VI) The Sackler Parties' Representative and that Releasing Party 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 Shareholder Payment Groups under Plan and the Master Shareholder Settlement Agreement;

(VII) That Releasing Party and the Sackler Parties' Representative shall take steps sufficient and permissible under the law of the state of the Releasing Party 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 Shareholder Payment Groups under Plan and the Master Shareholder Settlement Agreement. Such steps may include, where permissible:

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

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

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

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

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

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

(VIII) To the extent the preconditions for this Section 10.7(b)(ii)(C) to apply are satisfied, the actions taken pursuant to paragraph (III) must, in combination, ensure that Shareholder Payment Groups are not required to pay more with respect to Covered Conduct than the amounts owed by them to such Releasing Party under the Plan and the Master Shareholder Settlement Agreement.

(D) To the extent that the Claim-Over is based on a contractual indemnity, the obligations under Section 10.7(b)(ii)(C) 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- Released Party asserts a Claim-Over arising out of contractual indemnity against it.

(iii) Notwithstanding anything herein to the contrary, (x) nothing in this Section 10.7(b) shall (A) release any Excluded Claims or (B) be construed to impair in any way the rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements and (y) upon the filing of a Notice of Shareholder Release Snapback, (A) the Shareholder Releases set forth in this Section 10.7(b) shall be entirely null and void, revoked and invalidated, as of the Effective Date, with respect to all members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties and (B) the status quo ante shall be restored in all respects for the Releasing Parties with respect to the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties; provided that, for the avoidance of doubt, notwithstanding the nullification, voiding, revocation and invalidation pursuant to the foregoing clause (A), the Shareholder Releases shall continue in effect for, and shall be fully enforceable by and for the benefit of, all other Shareholder Released Parties other than the Breaching Shareholder Family Group and the Designated Shareholder Released Parties.

(c) Releases by Shareholder Released Parties.

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Reciprocal Releasees shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released, subject to clause (z) of the last paragraph of this Section 10.7(c), by the Shareholder Released Parties from any and all Causes of Action, including any derivative claims asserted or assertible by or on behalf of the Debtors or their Estates and including any claims that any Shareholder Released Party, or that any other Person or party claiming under or through any Shareholder Released Party, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Shareholder Released Party or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, based on or relating to, or in any manner arising from, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date (including the Debtors' Opioid-Related Activities, manufacture, marketing and sale of Products, interaction with regulators concerning Opioid-Related Activities or Products, and involvement in the subject matter of the Pending Opioid Actions, and the past, present or future use or misuse of any opioid by a Releasing Party), (ii) the Estates or (2) the Chapter 11 Cases.

Notwithstanding anything herein to the contrary, (x) nothing in the Plan shall release any Excluded Claim; (y) nothing in this Section 10.7(c) shall be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements, and the Separation Agreement, and including the rights of any Shareholder Released Party that is a current or former director, officer or employee of the Debtors but is not a Sackler Family Member relating to plan treatment of any Claims held by such party; and (z) upon the filing of a Notice of Shareholder Release Snapback and the commencement or continuation of any action or proceeding against a member of a Breaching Shareholder Family Group or a Designated Shareholder Released Party by any Reciprocal Releasee, (A) the releases set forth in this Section 10.7(c) of any Reciprocal Releasee that has commenced or continued any such action shall be entirely null and void, revoked and invalidated, as of the Effective Date, with respect to the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties and (B) the *status quo ante* shall be restored in all respects for the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties with respect to any Reciprocal Releasee that has commenced or continued any such litigation; *provided* that, for the avoidance of doubt, notwithstanding the nullification, voiding, revocation and invalidation pursuant to the foregoing clause (A), the releases set forth in this Section 10.7(c) shall continue in effect for, and shall be fully enforceable by and for the benefit of, all other Reciprocal Releasees, and shall be binding on, and enforceable against, all other Shareholder Released Parties, including any members of the Breaching Shareholder Family Group with respect to any Reciprocal Releasee that has not commenced any such litigation.

10.8 *Channeling Injunction*.

In order to supplement the injunctive effect of the Plan Injunction, the Estate Releases and the Shareholder Releases set forth in Sections 10.5, 10.6 and 10.7 of the Plan, the Confirmation Order shall provide for the following permanent injunction to take effect as of the Effective Date:

(a) Terms. In order to preserve and promote the settlements contemplated by and provided for in the Plan and to supplement, where necessary, the injunctive effect of the Plan Injunction, the Estate Releases and the Shareholder Releases described in Sections 10.5, 10.6 and 10.7 of the Plan, and pursuant to the exercise of the equitable jurisdiction and power of the Bankruptcy Court under section 105(a) of the Bankruptcy Code, all Persons that have held or asserted, that hold or assert or that may in the future hold or assert any Channeled Claim shall be permanently and forever stayed, restrained and enjoined from taking any action for the purpose of directly or indirectly collecting, recovering or receiving payments, satisfaction, recovery or judgment of any form from or against any Protected Party with respect to any Channeled Claim, including:

(i) commencing, conducting or continuing, in any manner, whether directly or indirectly, any suit, action or other proceeding, in each case, of any kind, character or nature, in any forum in any jurisdiction with respect to any Channeled Claims, against or affecting any Protected Party, or any property or interests in property of any Protected Party with respect to any Channeled Claims;

(ii) enforcing, levying, attaching, collecting or otherwise recovering, by any means or in any manner, either directly or indirectly, any judgment, award, decree or other order against any Protected Party or against the property of any Protected Party with respect to any Channeled Claims;

(iii) creating, perfecting or enforcing, by any means or in any manner, whether directly or indirectly, any Lien of any kind against any Protected Party or the property of any Protected Party with respect to any Channeled Claims;

(iv) asserting or accomplishing any setoff, right of subrogation, indemnity, contribution or recoupment of any kind, whether directly or indirectly, in respect of any obligation due to any Protected Party or against the property of any Protected Party with respect to any Channeled Claims; and

(v) taking any act, by any means or in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan Documents, with respect to any Channeled Claims.

(b) Reservations. Notwithstanding anything to the contrary in this Section 10.8 or the Confirmation Order, this Channeling Injunction shall not stay, restrain, bar or enjoin:

(i) the rights of Holders of Channeled Claims to the treatment afforded them under the Plan and the Plan Documents, including the rights of Holders of Channeled Claims to assert such Channeled Claims solely in accordance with Section 6.21 of the Plan, the Master TDP and the Creditor Trust TDPs, in each case whether or not there are funds to make Distributions in respect of such Channeled Claims and whether or not such rights entitle such Holders to any Distributions;

(ii) the rights of Persons to assert any claim, debt, litigation or liability for payment of Creditor Trust Operating Expenses solely against the applicable Creditor Trust;

(iii) the rights of Persons to assert any claim, debt or litigation against any Excluded Party;

(iv) the rights of the Master Disbursement Trust to pursue and enforce the MDT Shareholder Rights, the MDT Insurance Rights and the MDT Causes of Action;

(v) the rights of the parties to the LRP Agreement to enforce the terms thereof in accordance with the Plan;

(vi) the Creditor Trusts from enforcing their respective rights against the Master Disbursement Trust under the Plan and the MDT Documents; or

(vii) the Master Disbursement Trust and the Plan Administration Trust from enforcing its rights against NewCo under the Plan.

(c) **Notice of Shareholder Release Snapback**. Upon the filing of a Notice of Shareholder Release Snapback, the Channeling Injunction shall terminate, be rescinded and have no application, without further order of the Bankruptcy Court, to any suit, action or other proceeding, in each case, of any kind, character or nature, brought against any member of the Breaching Shareholder Family Group and any Designated Shareholder Released Party; *provided*, *however*, that the extension of time provided by Section 10.9(a) of the Plan shall continue in effect in accordance with its terms; *provided further* that, for the avoidance of doubt, notwithstanding the termination and rescission pursuant to this Section 10.8(c), the Channeling Injunction shall continue in effect for, and shall be fully enforceable by and for the benefit of, all other Protected Parties, including all other Shareholder Released Parties, other than the Breaching Shareholder Family Group and the Designated Shareholder Released Parties; and *provided further* that, in the event of the filing of a Notice of Shareholder Release Snapback, any determination made in the claims resolution process in accordance with Section 7.6 of this Plan will not be binding against any party.

(d) **Modifications**. Except as expressly set forth in paragraph (c) of this Section 10.8, there can be no modification, dissolution or termination of the Channeling Injunction, which shall be a permanent injunction.

(e) **Non-Limitation of Channeling Injunction**. Except as expressly set forth in paragraphs (b) and (c) of this Section 10.8, nothing in the Plan, the MDT Documents or the Creditor Trust Documents shall be construed in any way to limit the scope, enforceability or effectiveness of the Channeling Injunction issued in connection with the Plan.

(f) **Bankruptcy Rule 3016 Compliance**. The Debtors' compliance with the requirements of Bankruptcy Rule 3016 shall not constitute an admission that the Plan provides for an injunction against conduct not otherwise enjoined under the Bankruptcy Code.

10.9 ***Tolling of Shareholder Released Claims; Violations of Shareholder Releases and Channeling Injunction***.

(a) **Tolling of Shareholder Released Claims**. If applicable law, an order in any proceeding or an agreement fixes a period for commencing or continuing an action or proceeding based on a Shareholder Released Claim and such Shareholder Released Claim is released pursuant to the Shareholder Releases or such action or proceeding is enjoined by the Channeling Injunction, then such period does not expire with respect to such Shareholder Released Claim with respect to the Master Disbursement Trust (or the MDT Trustees) or the Releasing Parties until the latest of (i) the end of such period; (ii) with respect to the applicable Shareholder Family Group and any Designated Shareholder Released Party, two hundred twenty-five (225) days after the filing of a Notice of Shareholder Release Snapback with respect to such Shareholder Family Group; (iii) with respect to the applicable Shareholder Family Group and any Designated Shareholder Released Party, when such Shareholder Family Group fulfills its payment obligations under the Shareholder Settlement Agreements; and (iv) with respect to the applicable Shareholder Released Party that is a Subsidiary (as defined in the Master Shareholder Settlement Agreement) of a Shareholder Payment Party, two hundred twenty-five (225) days after the reinstatement of any Estate Cause of Action against such Shareholder Released Party pursuant to Section 10.19 of the Plan.

(b) **Violations of Shareholder Releases and Channeling Injunction**. In the event that any Person takes any action that a Shareholder Released Party believes violates the Shareholder Releases or Channeling Injunction as it applies to any Shareholder Released Party, such

Shareholder Released Party shall be entitled to make an emergency application to the Bankruptcy Court for relief, and may proceed by contested matter rather than by adversary proceeding. The Bankruptcy Court shall have jurisdiction and authority to enter final orders in connection with any dispute over whether an action violates the Shareholder Releases or Channeling Injunction. Upon determining that a violation of the Shareholder Releases or Channeling Injunction has occurred, the Bankruptcy Court, in its discretion, may award any appropriate relief against such violating Person, including, but not limited to, (i) disgorgement from the violating Person of any funds, assets or other value received, directly or indirectly, pursuant to the Plan or Plan Documents (including fees and expenses paid pursuant to the Plan or Plan Documents on account of legal or other advisory services rendered to or for the benefit of the violating Person); (ii) the termination of any rights of the violating Person to receive any funds, assets or other value pursuant to the Plan or Plan Documents; (iii) the reduction of any payments owed by any Shareholder Released Parties under the Shareholder Settlement Agreements to the violating Person in an amount equal to the amount of disgorgement ordered from, or the reduction of future payments ordered to be made to, or on account of, the violating Person (subject to the right of the violating Person to request that any amounts actually disgorged from such violating Person offset any reduction of future payments ordered to be made to, or on account of, such violating Person); (iv) an admonition, reprimand or censure of, or citation of contempt by, the violating Person and its counsel; (v) a fine or penalty paid into the Bankruptcy Court; (vi) a bond or other security in an amount equal to any financial obligation ordered by the Bankruptcy Court in respect of the violation; (vii) an appropriate sanction on any attorney or law firm responsible for the violation; (viii) injunctive relief to prevent future violations by the Person or its counsel; and (ix) attorney and other professional fees incurred by any Shareholder Released Party arising from the violation. The provision of any one form of relief shall not preclude the provision of any other form of relief.

10.10 ***MDT Insurer Injunction***.

(a) **Terms**. In accordance with section 105(a) of the Bankruptcy Code, upon the occurrence of the Effective Date, all Persons that have held or asserted, that hold or assert or that may in the future hold or assert any Claim based on, arising under or attributable to an MDT Insurance Policy shall be, and hereby are, permanently stayed, restrained and enjoined from taking any action for the purpose of directly or indirectly collecting, recovering or receiving payment or recovery on account of any such Claim based on, arising under or attributable to an MDT Insurance Policy from or against any MDT Insurer, including:

(i) commencing, conducting or continuing, in any manner, any action or other proceeding of any kind (including an arbitration or other form of alternate dispute resolution) against any MDT Insurer, or against the property of any MDT Insurer, on account of any Claim based on, arising under or attributable to an MDT Insurance Policy;

(ii) enforcing, attaching, levying, collecting or otherwise recovering, by any manner or means, any judgment, award, decree or other order against any MDT Insurer, or against the property of any MDT Insurer, on account of any Claim based on, arising under or attributable to an MDT Insurance Policy;

(iii) creating, perfecting or enforcing in any manner any Lien of any kind against any MDT Insurer, or against the property of any MDT Insurer, on account of any Claim based on, arising under or attributable to an MDT Insurance Policy;

(iv) asserting or accomplishing any setoff, right of subrogation, indemnity, contribution or recoupment of any kind, whether directly or indirectly, against any obligation due to any MDT Insurer, or against the property of any MDT Insurer, on account of any Claim based on, arising under or attributable to an MDT Insurance Policy; and

(v) taking any act, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan applicable to any Claim based on, arising under or attributable to an MDT Insurance Policy.

(b) **Reservations**. The provisions of this MDT Insurer Injunction shall not preclude the Master Disbursement Trust from pursuing any Claim based on, arising under or attributable to an MDT Insurance Policy, or any other claim that may exist under any MDT Insurance Policy against any MDT Insurer, or enjoin the rights of the Master Disbursement Trust to prosecute any action based on or arising from the MDT Insurance Policies or the rights of the Master Disbursement Trust to assert any claim, debt, obligation, cause of action or liability for payment against an MDT Insurer based on or arising from the MDT Insurance Policies. The provisions of this MDT Insurer Injunction are not issued for the benefit of any MDT Insurer, and no such insurer is a third-party beneficiary of this MDT Insurer Injunction. This MDT Insurer Injunction shall not enjoin, impair or affect (i) any claims between or among MDT Insurers that are not Settling MDT Insurers; (ii) the rights of current and former directors, officers, employees and authorized agents of the Debtors that are not Sackler Family Members that are preserved under the Plan; or (iii) the terms of the Master Shareholder Settlement Agreement with respect to the MDT Shareholder Insurance Rights. For the avoidance of doubt, with respect to a Person that purports to be insured under any MDT Insurance Policy, the MDT Insurer Injunction shall enjoin only derivative claims and rights. Nothing in this Plan shall determine whether any Claim or right under any MDT Insurance Policy is either derivative or direct, or otherwise would be disallowed or subordinated under the Bankruptcy Code, which determination shall be made, as necessary, to the extent such Claim or right is not otherwise released under this Plan, in accordance with applicable law.

(c) **Modifications**. To the extent the MDT Trustees make a good faith determination that some or all of the MDT Insurance Proceeds are substantially unrecoverable by the Master Disbursement Trust, the Master Disbursement Trust shall have the sole and exclusive authority at any time, upon written notice to any affected MDT Insurer, to terminate, reduce or limit the scope of this MDT Insurer Injunction with respect to any MDT Insurer; *provided* that any termination, reduction, or limitation of the MDT Insurer Injunction (A) shall apply in the same manner to all beneficiaries of the Creditor Trusts that are MDT Beneficiaries and (B) shall comply with any procedures set forth in the MDT Agreement.

(d) **Non-Limitation of MDT Insurer Injunction**. Except as set forth in paragraphs (b) and (c) of this Section 10.10, nothing in the Plan, the MDT Documents or the Creditor Trust Documents shall be construed in any way to limit the scope, enforceability or effectiveness of the MDT Insurer Injunction issued in connection with the Plan.

10.11 ***Settling MDT Insurer Injunction***.

(a) Terms. In accordance with section 105(a) of the Bankruptcy Code, upon the occurrence of the Effective Date, all Persons that have held or asserted, that hold or assert or that may in the future hold or assert any Claim based on, arising under or attributable to an MDT Insurance Policy shall be, and hereby are, permanently stayed, restrained and enjoined from taking any action for the purpose of directly or indirectly collecting, recovering or receiving payment or recovery on account of any such Claim based on, arising under or attributable to an MDT Insurance Policy from or against any Settling MDT Insurer, solely to the extent that such Settling MDT Insurer has been released from such Claim under such MDT Insurance Policy pursuant to an MDT Insurance Settlement, including:

(i) commencing, conducting or continuing in any manner any action or other proceeding of any kind (including an arbitration or other form of alternate dispute resolution) against any such Settling MDT

Insurer, or against the property of such Settling MDT Insurer, on account of such Claim based on, arising under or attributable to such MDT Insurance Policy;

(ii) enforcing, attaching, levying, collecting or otherwise recovering, by any manner or means, any judgment, award, decree or other order against any such Settling MDT Insurer, or against the property of such Settling MDT Insurer, on account of such Claim based on, arising under or attributable to such MDT Insurance Policy;

(iii) creating, perfecting or enforcing in any manner any Lien of any kind against any such Settling MDT Insurer, or against the property of such Settling MDT Insurer, on account of such Claim based on, arising under or attributable to such MDT Insurance Policy;

(iv) asserting or accomplishing any setoff, right of subrogation, indemnity, contribution or recoupment of any kind, whether directly or indirectly, against any obligation due to any such Settling MDT Insurer, or against the property of such Settling MDT Insurer, on account of such Claim based on, arising under or attributable to such MDT Insurance Policy; and

(v) taking any act, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan applicable to such Claim based on, arising under or attributable to such MDT Insurance Policy.

(b) **Reduction of Insurance Judgments.** Any right, Claim or cause of action that an Insurance Company may have been entitled to assert against any Settling MDT Insurer but for the Settling MDT Insurer Injunction, if any such right, Claim or cause of action exists under applicable non-bankruptcy law, shall become a right, Claim or cause of action solely as a setoff claim against the Master Disbursement Trust and not against or in the name of the Settling MDT Insurer in question. Any such right, Claim or cause of action to which an Insurance Company may be entitled shall be solely in the form of a setoff against any recovery of the Master Disbursement Trust from that Insurance Company, and under no circumstances shall that Insurance Company receive an affirmative recovery of funds from the Master Disbursement Trust or any Settling MDT Insurer for such right, Claim or cause of action. In determining the amount of any setoff, the Master Disbursement Trust may assert any legal or equitable rights the Settling MDT Insurer would have had with respect to any right, Claim or cause of action.

(c) **Modifications**. There can be no modification, dissolution or termination of the Settling MDT Insurer Injunction, which shall be a permanent injunction.

(d) **Non-Limitation of Settling MDT Insurer Injunction**. Except as set forth in paragraphs (b) and (c) of this Section 10.11, nothing in the Plan, the MDT Documents or the Creditor Trust Documents shall be construed in any way to limit the scope, enforceability or effectiveness of the Settling MDT Insurer Injunction issued in connection with the Plan.

10.12 ***Exculpation***.

To the maximum extent permitted by applicable law, no Exculpated Party shall have or incur, and each Exculpated Party is hereby released and exculpated from: any Cause of Action for any Claim in connection with, or arising out of, the administration of the Chapter 11 Cases; the negotiation and pursuit of the Disclosure Statement (including any information provided, or statements made, in the Disclosure Statement or omitted therefrom), the Restructuring Transactions, the Plan, the Master Disbursement Trust (including the Master TDP and the MDT Agreement), the Creditor Trusts (including the Creditor Trust TDPs and the other Creditor Trust Documents) and the solicitation of votes for, and confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the

administration of the Plan and the property to be distributed under the Plan; and the wind-up and dissolution of the Liquidating Debtors and the transactions in furtherance of any of the foregoing, in each case other than Causes of Action arising out of, or related to, any act or omission of an Exculpated Party that is a criminal act or constitutes fraud, gross negligence or willful misconduct. This exculpation shall be in addition to, and not in limitation of, all other Releases, indemnities, exculpations and any other applicable law or rules protecting such Exculpated Parties from liability. For the avoidance of doubt, this Section 10.12 shall not exculpate or release any Exculpated Party with respect to any act or omission of such Exculpated Party prior to the Effective Date that is later found to be a criminal act or to constitute fraud, gross negligence or willful misconduct, including findings after the Effective Date. Notwithstanding anything herein to the contrary, nothing in the Plan shall release any Causes of Action that may be asserted against any Excluded Party.

10.13 ***Injunction Related to Releases and Exculpation***.

To the maximum extent permitted under applicable law, the Confirmation Order shall permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively or otherwise, of any Causes of Action released pursuant to this Plan, including, without limitation, the Causes of Action released or exculpated in this Plan and with respect to any Claims, Interests, Liens, other encumbrances or liabilities that are subject to Sections 5.3(b), 5.4(c) or 5.6(b) of the Plan (but, for the avoidance of doubt, excluding any Excluded Claims).

10.14 ***Subordinated Claims***.

The allowance, classification and treatment of all Claims and Interests and the respective Distributions and treatments in respect thereof under this Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with contractual, legal and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, sections 509(c), 510(a), 510(b) or 510(c) of the Bankruptcy Code or otherwise. Pursuant to sections 509(c) and 510 of the Bankruptcy Code or otherwise, the Debtors reserve the right to reclassify any Allowed Claim or Allowed Interest in accordance with any contractual, legal or equitable subordination relating thereto.

10.15 ***Preservation of Causes of Action and Reservation of Rights***.

As of the Effective Date, (a) the Master Disbursement Trust shall have the right to prosecute any and all MDT Causes of Action, (b) the Plan Administration Trust shall have the right to prosecute any and all Retained Causes of Action relating to and necessary for the administration of Claims against the Debtors (other than Channeled Claims) or the other responsibilities of the Plan Administration Trustee in accordance with the PAT Agreement, (c) each Creditor Trust shall have the right to prosecute any and all Retained Causes of Action relating to and necessary for the administration of the applicable Channeled Claims in accordance with the applicable Creditor Trust TDP and (d) NewCo shall have the right to prosecute any and all Retained Causes of Action constituting NewCo Transferred Assets. Pursuant to section 1123(b) of the Bankruptcy Code, except as expressly provided in Sections 10.5 through 10.13 of the Plan, nothing contained in this Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any Causes of Action that the Debtors had immediately before the Effective Date on behalf of the Estates or of themselves in accordance with any provision of the Bankruptcy Code or any applicable nonbankruptcy law, including but not limited to any actions specifically enumerated in the Schedule of Retained Causes of Action. Subject to Sections 10.5 through 10.13 of the Plan, all such Causes of Action shall be transferred to the Master Disbursement Trust, the Plan Administration Trust, the applicable Creditor Trust or NewCo, as applicable, which shall have, retain, reserve and be entitled to assert all such Causes of Action in accordance with the Plan as fully as if the Chapter 11 Cases had not been commenced, and all of the Debtors' legal and equitable rights with

respect to any Claim or Interest may be asserted after the Effective Date to the same extent as if the Chapter 11 Cases had not been commenced.

10.16 ***Ipso Facto and Similar Provisions Ineffective***.

Any term of any policy, contract or other obligation applicable to a Debtor shall be void and of no further force or effect with respect to any Debtor to the extent such policy, contract, or other obligation is conditioned on, creates an obligation of any Debtor as a result of, or gives rise to a right of any Person based on any of the following: (a) the insolvency or financial condition of a Debtor; (b) the commencement of the Chapter 11 Cases; iii) the confirmation or consummation of this Plan, including any change of control that shall occur as a result of such consummation; or iv) the Restructuring Transactions.

10.17 ***No Successor Liability***.

Except as otherwise expressly provided in this Plan and the Confirmation Order, each of NewCo, the Foundation, the Master Disbursement Trust, the Plan Administration Trust and the Creditor Trusts (a) is not, and shall not be deemed to assume, agree to perform, pay or otherwise have any responsibilities for any liabilities or obligations of the Debtors or any other Person relating to or arising out of the operations or the Assets of the Debtors on or prior to the Effective Date, (b) is not, and shall not be, a successor to the Debtors by reason of any theory of law or equity or responsible for the knowledge or conduct of any Debtor prior to the Effective Date and (c) shall not have any successor or transferee liability of any kind or character.

10.18 ***Co-Defendant Defensive Rights***.

Except as provided in the MDT Insurer Injunction, the Settling MDT Insurer Injunction or clause (ii) of the penultimate sentence of this Section 10.18, notwithstanding anything to the contrary in this Article X or in the Plan as it currently exists or as it might be further amended, the Confirmation Order or any order entered in connection with the Plan (or the Plan as amended) (or any such order, as amended, modified or supplemented), or any supplement to the Plan (or the Plan as amended), nothing contained in the Plan or any of the foregoing documents or orders (including, without limitation, the classification, treatment, allowance, disallowance, release, bar, injunction, Channeling Injunction or any other provision of the Plan or the Plan as amended with respect to, impacting, affecting, modifying, limiting, subordinating, impairing, in any respect, a Co-Defendant Claim), will release, bar, enjoin, impair, alter, modify, amend, limit, prohibit, restrict, reduce, improve or enhance any Co-Defendant Defensive Rights of any Holder of a Co-Defendant Claim or Excluded Party as such rights exist or might in the future exist under applicable non-bankruptcy law. Nothing in the Plan, any of the Plan Documents or in the Confirmation Order shall preclude, operate to or have the effect of, impairing any Holder of a Co-Defendant Claim or Excluded Party from asserting in any proceeding any and all Co-Defendant Defensive Rights that it has or may have under applicable law. Nothing in the Plan, any of the Plan Documents or the Confirmation Order shall be deemed to waive any Co-Defendant Defensive Rights, and nothing in the Chapter 11 Cases, the Plan, any of the Plan Documents or the Confirmation Order may be used as evidence of any determination regarding any Co-Defendant Defensive Rights, and under no circumstances shall any Person be permitted to assert issue preclusion or claim preclusion, waiver, estoppel or consent in response to the assertion of any Co-Defendant Defensive Rights. This Section 10.18 shall be included in the Confirmation Order. Co-Defendant Defensive Rights (i) may be used to offset, set-off, recoup, allocate or apportion fault, liability, or damages, or seek judgment reduction or otherwise defend against any Cause of Action brought by any Person against the Holder of any Co-Defendant Claim or the Excluded Party based in whole or in part on Opioid-Related Activities and (ii) shall in no case be used to seek or obtain any affirmative monetary recovery from any Protected Party or any Asset of any Protected Party (including from any Purdue Insurance Policy or any other

insurance policy of a Protected Party) on account of any Released Claim or Shareholder Released Claim. The foregoing does not constitute a release of any Co-Defendant's Class 14 Claim or any other Excluded Party's Class 11(c) Claim.

10.19 ***Reinstatement of Certain Shareholder Released Claims***.

As set forth in the Shareholder Settlement Agreements, if any Shareholder Released Party that is a Subsidiary (as defined in the Master Shareholder Settlement Agreement) of a Shareholder Payment Party voluntarily or involuntarily becomes subject to an insolvency, bankruptcy, reorganization, winding-up, administration, dissolution, composition or similar proceeding, upon election by notice from the Sackler Parties' Representative, with the consent of the Master Disbursement Trust, any Estate Causes of Action against such Shareholder Released Party that were previously held by the Debtors and that were released pursuant to Section 10.7(a) of the Plan shall be reinstated in full (and the Shareholder Release provided under Section 10.7(a) of the Plan shall be deemed null and void with respect thereto, and the Channeling Injunction shall terminate, be rescinded and have no application with respect thereto) and the Master Disbursement Trust, in its sole discretion and upon receipt of an advance for fees and expenses provided by the Shareholder Released Parties in an amount determined by the Master Disbursement Trust in its sole discretion (which advance shall be repaid to the extent not used), shall utilize commercially reasonable efforts to maximize the value of any such Estate Causes of Action in such insolvency or liquidation proceeding, and any recovery shall be treated in accordance with the terms as set forth in the Shareholder Settlement Agreements.

10.20 ***Special Provisions for United States***.

(a) As to the United States, notwithstanding anything contained in the Plan or Confirmation Order to the contrary (except Section 5.2(i) of the Plan and in respect of the United States-PI Claimant Medical Expense Claim Settlement), including but not limited to this Article X, nothing in the Plan or Confirmation Order (except Section 5.2(i) of the Plan and in respect of the United States-PI Claimant Medical Expense Claim Settlement) shall:

(i) limit or expand the scope of discharge, release or injunction permitted to debtors under the Bankruptcy Code. The discharge, release, and injunction provisions contained in the Plan and Confirmation Order are not intended and shall not be construed to bar the United States from, subsequent to the Confirmation Order, pursuing any police or regulatory action, or any criminal action;

(ii) discharge, release, exculpate, impair or otherwise preclude: (A) any liability to the United States that is not a "claim" within the meaning of section 101(5) of the Bankruptcy Code; (B) any Claim of the United States arising on or after the Effective Date; (C) any liability of the Debtors under police or regulatory statutes or regulations to the United States as the owner, lessor, lessee or operator of property that such Entity owns, operates or leases after the Effective Date; or (D) any liability to the United States, including but not limited to any liabilities arising under the IRC, the environmental laws, the criminal laws, the civil laws or common law, of any Person, including any Released Parties, Shareholder Released Parties or any Exculpated Parties, in each case, other than the Debtors; *provided*, *however*, that the foregoing shall not (x) limit the scope of discharge granted to the Debtors under sections 524 and 1141 of the Bankruptcy Code, (y) diminish the scope of any exculpation to which any Person is entitled under section 1125(e) of the Bankruptcy Code or (z) change the treatment of the DOJ Forfeiture Judgment Claim pursuant to Section 2.3 of the Plan or the treatment of the Federal Government Unsecured Claims pursuant to Section 4.3 of the Plan;

(iii) enjoin or otherwise bar the United States from asserting or enforcing, outside the Bankruptcy Court, any liability described in the preceding clause (ii); *provided*, *however*, that the non-bankruptcy rights and defenses of all Persons with respect to (A) – (D) in clause (ii) are likewise fully preserved;

(iv) affect any valid right of setoff or recoupment of the United States against any of the Debtors; *provided*, *however*, that the rights and defenses of the Debtors with respect thereto are fully preserved (other than any rights or defenses based on language in the Plan or the Confirmation Order that may extinguish setoff or recoupment rights);

(v) divest any court, commission or tribunal of jurisdiction to determine whether any liabilities asserted by the United States are discharged or otherwise barred by this Confirmation Order, the Plan or the Bankruptcy Code; *provided*, *however*, that the Bankruptcy Court shall retain jurisdiction as set forth in and pursuant to the terms of the Plan to the extent permitted by law; or

(vi) be deemed to (A) determine the tax liability of any Person, including but not limited to the Debtors, (B) have determined the federal tax treatment of any item, distribution or Entity, including the federal tax consequences of the Plan or Confirmation Order, or (C) expressly expand or diminish the jurisdiction of the Bankruptcy Court to make determinations as to federal tax liability and federal tax treatment under the Bankruptcy Code and 28 U.S.C. §§ 157, 1334.

For the avoidance of doubt, the Channeling Injunction set forth in Section 10.8 of the Plan does not apply to the rights and causes of action protected by this Section 10.20.

(b) Notwithstanding anything to the contrary herein, nothing in the Plan, the Confirmation Order, the Shareholder Settlement Agreements or any other document filed in connection with the Plan shall release claims held by the United States of America against the Shareholder Released Parties; *provided* that, for the avoidance of doubt, nothing in the Plan, Confirmation Order, the Shareholder Settlement Agreements or any other document filed in connection with the Plan shall limit the releases contained in the Settlement Agreement between the United States of America and Purdue Pharma L.P., executed on October 21, 2020, or the Settlement Agreement between the United States of America and Dr. Richard Sackler, David Sackler, Mortimer D.A. Sackler, Kathe Sackler, and the Estate of Jonathan Sackler, executed on October 21, 2020.

(c) Several of the Debtors are parties to the various following agreements with the Secretary of the Department of Health and Human Services under which the Debtors owe rebates to third parties:

(i) The Medicare Coverage Gap Discount Program Agreement is established under 42 U.S.C. §§ 1395w-l14A, 1395w-153 and is required should manufacturers wish to have coverage for their products under Medicare Part D. Under the Medicare Coverage Gap Discount Program Agreement, manufacturers agree to reimburse Medicare Part D plan sponsors for certain Coverage Gap discounts the plans provide to Medicare beneficiaries in the Part D coverage gap. The Centers for Medicare & Medicaid Services require that a new entity that seeks to assume a Medicare Coverage Gap Discount Program Agreement enter into a novation agreement with the Centers for Medicare & Medicaid Services with respect to the transfer of such agreement. The Debtors that have entered into Medicare Coverage Gap Discount Program Agreements with the Secretary are: Purdue Pharma L.P. (P1180) and Rhodes Pharmaceuticals L.P. (P1281);

(ii) The Medicaid Drug Rebate Program, established under section 1927 of the Social Security Act, requires manufacturers to enter into National Drug Rebate Agreements with the Secretary for the coverage and payment of a manufacturer's covered outpatient drugs. Under the Medicaid Drug Rebate Program, if a manufacturer has entered into and has in effect a National Drug Rebate Agreement,

Medicaid covers and pays for all of the drugs of that manufacturer dispensed and paid for under the state plan, and in return manufacturers pay applicable rebates to the states. The Debtors that have National Drug Rebate Agreements and the labeler codes associated with the National Drug Rebate Agreements are as follows: Rhodes Pharmaceuticals L.P. (42858), Purdue Pharma L.P. (59011), and Adlon Therapeutics L.P. (72912);

(iii) Manufacturers with National Drug Rebate Agreements must also comply with the Drug Pricing Program under section 340B of the Public Health Service Act, 42 U.S.C. § 256b, and have Pharmaceutical Pricing Agreements with the Secretary of the Department of Health and Human Services. Under the Pharmaceutical Pricing Agreements, manufacturers agree to charge a price for covered outpatient drugs that will not exceed the average manufacturer price decreased by a rebate percentage. The Debtors that have Pharmaceutical Pricing Agreements and the labeler codes associated with such agreements are as follows: Rhodes Pharmaceuticals L.P. (42858), Purdue Pharma L.P. (59011), and Adlon Therapeutics L.P. (72912); and

(iv) The Medicare Coverage Gap Discount Program Agreements, the Medicaid National Drug Rebate Agreements and the Pharmaceutical Pricing Agreements identified above provide that, in the event of a transfer of ownership, such agreements are automatically assigned to the new owner and all terms and conditions of such agreements remain in effect as to the new owner. Accordingly, notwithstanding anything contained in the Plan or the Confirmation Order which may be to the contrary, the Debtors shall assume such agreements pursuant to section 365 of the Bankruptcy Code, and upon the Effective Date, the Medicare Coverage Gap Discount Program Agreements, the Medicaid National Drug Rebate Agreements and the Pharmaceutical Pricing Agreements identified above shall be assigned to NewCo. NewCo, as the new owner, will assume the obligations of the Debtors who are parties under such agreements from and after the Effective Date, and to fully perform all the duties and responsibilities that exist under such agreements in accordance with their terms, including the payment of discounts owed to Part D Plan sponsors or payment of rebates owed to states and wholesalers for quarters prior to the Effective Date. For the avoidance of doubt, NewCo shall be liable for any outstanding rebates or discounts owed to third parties (and any applicable interest thereon) arising prior to the Effective Date, as well as any penalties associated with noncompliance by the Debtors with the Medicare Coverage Gap Discount Program Agreements, the Medicaid National Drug Rebate Agreements and the Pharmaceutical Pricing Agreements identified above prior to the Effective Date.

(d) Notwithstanding anything to the contrary herein, nothing in the Plan, the Confirmation Order, the Shareholder Settlement Agreements or any other document filed in connection with the Plan shall bind the United States in any application of statutory, or associated regulatory, authority grounded in Title 19 of the Social Security Act, 42 U.S.C. § 1396-1 et seq. (the "***Medicaid Program***") or in section 1115 of Title 11 of the Social Security Act. The United States is neither enjoined nor in any way prejudiced in seeking recovery of any funds owed to the United States under the Medicaid Program.

ARTICLE XI RETENTION OF JURISDICTION.

11.1 ***Retention of Jurisdiction***.

(a) The Bankruptcy Court shall retain exclusive jurisdiction of all matters arising under, arising out of or related to the Chapter 11 Cases and the Plan pursuant to, and for the purposes of, sections 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following purposes:

(i) to hear and determine applications for the assumption or rejection of executory contracts and unexpired leases and any Disputed Cure Claims or Disputed Claims in respect of rejection damages resulting therefrom;

(ii) to hear and determine any motions, adversary proceedings, applications, contested matters and other litigated matters pending on, or commenced after, entry of the Confirmation Order;

(iii) to hear and resolve any disputes arising from or related to (A) any orders of the Bankruptcy Court still in effect granting relief under Bankruptcy Rule 2004 or (B) any protective orders entered by the Bankruptcy Court in connection with the foregoing (including the Protective Order);

(iv) to ensure that Distributions to Holders of Allowed Claims are accomplished as provided in this Plan and the Confirmation Order;

(v) to consider Claims or the allowance, classification, priority, compromise, estimation or payment of any Claim, including any Administrative Claim or, solely to the extent provided in the Master TDP and/or the applicable Creditor Trust TDP, any Channeled Claim;

(vi) to enter, implement or enforce such orders as may be appropriate in the event that the Confirmation Order is, for any reason, stayed, reversed, revoked, modified or vacated;

(vii) to issue and enforce injunctions, enter and implement other orders and take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation, implementation or enforcement of this Plan, the Confirmation Order or any other order of the Bankruptcy Court;

(viii) to hear and determine any application to modify this Plan in accordance with section 1127 of the Bankruptcy Code to remedy any defect or omission or reconcile any inconsistency in this Plan, the Disclosure Statement or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(ix) to hear and determine all Professional Fee Claims;

(x) to resolve disputes concerning any reserves with respect to Non-Participating Channeled Claims and other Disputed Claims or the administration thereof;

(xi) to hear and determine disputes arising in connection with the interpretation, implementation or enforcement of this Plan, the Confirmation Order, any transactions or payments in furtherance of the Plan or the Confirmation Order or any agreement, instrument or other document governing, or related to, any of the foregoing, including the Plan Documents;

(xii) to take any action and issue such orders, including any such action or orders as may be necessary after entry of the Confirmation Order or the occurrence of the Effective Date, as may be necessary to construe, enforce, implement, execute and consummate this Plan, including any release (including, but not limited to, the United States-PI Claimant Medical Expense Claim Releases), exculpation or injunction provisions set forth in this Plan, or to maintain the integrity of this Plan following the occurrence of the Effective Date;

(xiii) to hear and determine any other matters related to the Chapter 11 Cases and not inconsistent with the Bankruptcy Code or title 28 of the United States Code;

(xiv) to hear, determine and resolve disputes arising in connection with the interpretation, implementation or enforcement of the Plan or Confirmation Order;

(xv) to resolve any disputes concerning whether a Person had sufficient notice of the Chapter 11 Cases, the Disclosure Statement, any solicitation conducted in connection with the Chapter 11 Cases, any Bar Date established in the Chapter 11 Cases or any deadline for responding or objecting to a Cure Amount, in each case, for the purpose of determining whether a Claim or Interest is discharged hereunder or for any other purpose;

(xvi) to hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Shareholder Settlement Agreements, the Public Entity Settlements and the Private Entity Settlements;

(xvii) to hear and determine disputes arising in connection with the MDT Claims or operations of the Master Disbursement Trust or the actions of the MDT Trustees;

(xviii) to hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Creditor Trust Documents, and to hear and determine disputes concerning violations of the Confirmation Order or the use of funds from the Creditor Trusts in a manner inconsistent with the applicable Creditor Trust Documents; *provided* that, with respect to the Governmental Remediation Trust and the Tribe Trust, such jurisdiction shall be concurrent and not exclusive to the extent set forth in the Governmental Remediation Trust Documents and the Tribe Trust Documents, respectively, as in effect on the Effective Date;

(xix) to hear and resolve any disputes arising from or related to (A) Liens, collateral, or other forms of credit protections that are granted or otherwise effected pursuant to the Shareholder Settlement Agreements, the Public Entity Settlements and the Private Entity Settlements, or (B) any other attempt by any Person to seek orders of attachment, Liens, or collateral involving any Assets, in full or in part, of the Shareholder Released Parties;

(xx) to determine such other matters, and for such other purposes, as may be provided in the Confirmation Order;

(xxi) to hear and determine all matters relating to the Plan Settlements, to the extent permitted under applicable law; and

(xxii) to enter a final decree closing each of the Chapter 11 Cases.

(b) The Bankruptcy Court shall retain concurrent, rather than exclusive, jurisdiction of all matters arising under, arising out of or related to the Chapter 11 Cases and the Plan to, among other things, hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code (including the expedited determination of taxes under section 505(b) of the Bankruptcy Code), and to hear and resolve or recommend resolution of disputes related to the MDT Insurance Rights.

(c) Notwithstanding anything in this Article XI to the contrary, the resolution of Channeled Claims against the Debtors and the forum in which such resolution shall be determined shall be governed by, and in accordance with, Section 6.21 of the Plan, the Master TDP and the Creditor Trust TDPs, if applicable.

(d) By consenting to the treatment provided by this Plan or otherwise supporting the Plan, no State or Tribe shall be construed to have waived any claim of Sovereign

Immunity that it may have in any other action or proceeding, including any action or proceeding occurring after the Effective Date.

(e) Nothing in this Article XI shall be construed to alter the jurisdiction of a court in which an Opt-Out Class Action is pending or was adjudicated in respect of such Opt-Out Class Action.

(f) As of the earlier of the Effective Date or the expiration of the Preliminary Injunction, all Persons are permanently enjoined from commencing, conducting, or continuing, directly or indirectly, any litigation or prosecution of an Estate Cause of Action (including in any proceeding in a judicial, arbitral, administrative, or other forum). Any Person seeking to commence, conduct, or continue litigation or prosecution of a Cause of Action against a Shareholder Released Party or a Released Party may, but is not required to, seek a prior determination in the Bankruptcy Court that a Cause of Action is not an Estate Cause of Action. If any Person commences, conducts or continues litigation or prosecution of such Cause of Action without a prior determination by the Bankruptcy Court, the Person against which such Cause of Action was asserted, and the Master Disbursement Trust or NewCo, shall be entitled to make an emergency application to the Bankruptcy Court for a determination that such Cause of Action is an Estate Cause of Action and that the injunction in this Section 11.1(f) has been violated. In either event, the determination whether or not a Cause of Action is an Estate Cause of Action shall be based on an appropriate evidentiary record, and the only Persons with standing to be heard shall be: (i) the Person seeking to bring such Cause of Action; (ii) the Person or entity against which such Cause of Action would be or has been brought; or (iii) the Debtors, the Creditors' Committee, the PAT, each Governmental Consent Party, the Master Disbursement Trust or NewCo. Upon determining that a violation of the injunction has occurred, damages may be awarded in the amount of attorneys' fees and other litigation costs and expenses incurred by the Person against which the Estate Cause of Action was brought or who is otherwise seeking to enforce the injunction, including in connection with litigation or prosecution of the Estate Cause of Action and in connection with enforcing the injunction in this Section 11.1(f) subject to the discretion of the Bankruptcy Court. Without limiting the foregoing, the Bankruptcy Court, in its discretion, also may award any additional appropriate relief against a violating Person and may award any sanctions against any other Person engaging in otherwise sanctionable conduct in connection with the enforcement of the injunction in this Section 11.1(f).

ARTICLE XII MISCELLANEOUS PROVISIONS.

12.1 *Exemption from Certain Transfer Taxes*.

To the maximum extent permitted pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property under the Plan pursuant to (a) the issuance, distribution, transfer or exchange of any debt, equity security or other interest in the Debtors, (b) the Restructuring Transactions, (c) the creation, modification, consolidation, termination, refinancing and/or recording of any mortgage, deed of trust or other security interest, or the securing of additional indebtedness by such or other means, or (d) the making, assignment, recording or surrender of any lease or sublease, or the making, delivery or recording of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan, including any deeds, bills of sale or other assignments or instruments of transfer, or assignments executed in connection with any disposition of Assets contemplated by the Plan (including transfers of Assets to and by the Debtors, the Plan Administration Trust, NewCo, the Foundation, the Master Disbursement Trust and the Creditor Trusts) shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles tax, transfer tax (including real estate transfer tax), mortgage tax or mortgage recording tax, sales or use tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee or other similar tax or governmental assessment, and the appropriate federal, state, provincial or local government officials or agents shall forego collection of any such tax or governmental

assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

12.2 ***Dates of Actions to Implement Plan***.

In the event that any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day but shall be deemed to have been completed as of the required date.

12.3 ***Amendments***.

(a) **Plan Modifications**. This Plan may be amended, modified or supplemented by the Debtors in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law, without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as otherwise ordered by the Bankruptcy Court; *provided* that (i) any such amendment, modification or supplement shall be reasonably acceptable to the Governmental Consent Parties; *provided further* that any such amendment, modification or supplement that expands the scope of the Releases or modifies any provision relating to the MDT Insurance Policies (including the scope thereof) or the transfer of the MDT Insurance Rights shall be acceptable to the Governmental Consent Parties, (ii) any such amendment, modification or supplement shall be reasonably acceptable to the Creditors' Committee to the extent that it (A) relates to the MDT Insurance Rights, (B) modifies Section 5.9 of the Plan as it relates to payment of the attorneys' fees and costs of Holders of Healthcare Provider Claims, Third-Party Payor Claims, or PI Claims, the Ad Hoc Group of Individual Victims, the Ratepayer Mediation Participants or the NAS Committee, (C) modifies the Creditors' Committee's consent rights under the Plan, (D) expands the scope of the Releases or (E) materially and adversely affects the treatment of Holders of Healthcare Provider Claims, Third-Party Payor Claims, PI Claims, ER Physician Claims or Other General Unsecured Claims (it being understood that (x) any reduction in the amount of any Initial Private Creditor Trust Distribution, the PI Trust Obligation or any Private Creditor Trust's MDT Claim, (y) any elimination of any consent rights in favor of such Holders or (z) any modification to Section 5.2, 5.6 or 5.7 of the Plan to the extent such modification relates to the Master Disbursement Trust or a Private Creditor Trust shall constitute such a material and adverse effect), and (iii) any such amendment, modification or supplement shall be acceptable to the Sackler Parties' Representative with respect to the Specified Shareholder Provisions and, to the extent set forth in the Master Shareholder Settlement Agreement, reasonably acceptable to the Sackler Parties' Representative with respect to modification of terms relating to the rights, obligations, or interests of the Shareholder Released Parties; *provided* that solely with respect to the Creditor Trust Documents, such consent shall only apply to the extent set forth in the Master Shareholder Settlement Agreement. In addition, after the Confirmation Date, as long as such action does not materially and adversely affect the treatment of Holders of Allowed Claims pursuant to this Plan, the Debtors may remedy any defect or omission or reconcile any inconsistencies in this Plan or the Confirmation Order with respect to such matters as may be necessary to carry out the purposes or effects of this Plan, and any Holder of a Claim or Interest that has accepted this Plan shall be deemed to have accepted this Plan as amended, modified or supplemented.

(b) **Certain Technical Amendments**. Prior to the Effective Date, the Debtors may make appropriate technical adjustments and modifications to this Plan without further order or approval of the Bankruptcy Court; *provided*, *however*, that such technical adjustments and modifications do not adversely affect in a material way the treatment of Holders of Claims and Interests under this Plan.

12.4 ***Revocation or Withdrawal of Plan***.

The Debtors reserve the right to revoke or withdraw this Plan prior to the Effective Date as to any or all of the Debtors; *provided* that each Debtor shall be entitled to revoke this Plan only in full and not in part. If, with respect to a Debtor, this Plan has been revoked or withdrawn prior to the Effective Date, or if confirmation or the occurrence of the Effective Date as to such Debtor does not occur on the Effective Date, then, with respect to such Debtor: (a) this Plan and the Plan Documents shall be null and void in all respects; (b) any settlement or compromise embodied in this Plan (including the fixing or limiting to an amount any Claim or Interest or Class of Claims or Interests), assumption or rejection of executory contracts and unexpired leases effected by this Plan and any document or agreement executed pursuant to this Plan (including the Plan Documents) shall be deemed null and void; and (c) nothing contained in this Plan shall (1) constitute a waiver or release of any Claim by or against, or any Interest in, such Debtor or any other Person, (2) prejudice in any manner the rights of such Debtor or any other Person, or (3) constitute an admission of any sort by any Debtor or any other Person; *provided* that any provisions under the Shareholder Settlement Agreements that are expressly contemplated to survive revocation or reversal of the Plan shall survive.

12.5 ***Payment of Statutory Fees***.

All fees payable under section 1930 of chapter 123 of title 28 of the United States Code shall be paid on or before the Effective Date by the Debtors. After the Effective Date, the Plan Administration Trust shall assume liability for and shall pay, or cause to be paid, any and all quarterly fees owed to the U.S. Trustee when due in accordance with applicable law, and shall continue to file, or cause to be filed, with the Bankruptcy Court quarterly reports to show the calculation of such fees for the Debtors' Estates. Each of the Debtors shall remain obligated to pay quarterly fees to the U.S. Trustee until such Debtor's Chapter 11 Case is closed, dismissed or converted to a case under chapter 7 of the Bankruptcy Code.

12.6 ***Severability***.

(a) Notwithstanding anything else contained in the Plan, (i) the Plan provisions effectuating the Releases provided by the Debtors, their Estates, and the Releasing Parties and the Channeling Injunction (A) are integrated with and integral to all other provisions of the Master Shareholder Settlement Agreement, the Plan and the Plan Documents, (B) are not and shall not be severable from the remainder of the Master Shareholder Settlement Agreement, the Plan or the Plan Documents and (C) shall not be excised or modified other than in accordance with the Plan and the Master Shareholder Settlement Agreement and (ii) if the Plan provisions effectuating the Releases provided by the Debtors, their Estates, and the Releasing Parties and the Channeling Injunction are deemed null, void, illegal or unenforceable, then the terms, provisions, covenants and restrictions of the Master Shareholder Settlement Agreement and the Plan shall be void and shall not remain in force or effect, except as specifically and expressly stated otherwise in the Master Shareholder Settlement Agreement or the Plan, or as specifically and expressly agreed in writing by all parties to the Master Shareholder Settlement Agreement.

(b) If, prior to entry of the Confirmation Order, any term or provision of this Plan that is not related to the Master Shareholder Settlement Agreement or the Releases provided by the Debtors, their Estates, and the Releasing Parties and the Channeling Injunction is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation by the Bankruptcy Court, the remainder of

the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with this Section 12.6, is valid and enforceable pursuant to its terms.

(c) The impact of any modification, reversal, or vacatur of the Confirmation Order, the Plan, or the Shareholder Settlements following the Effective Date will be governed by the Master Shareholder Settlement Agreement.

12.7 ***Governing Law***.

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent that a Plan Document provides otherwise, the rights, duties and obligations arising under this Plan and the Plan Documents shall be governed by, and construed and enforced in accordance with, the internal laws of the State of New York, without giving effect to the principles of conflicts of laws thereof (other than section 5-1401 and section 5-1402 of the New York General Obligations Law).

12.8 ***Immediate Binding Effect***.

Subject only to Bankruptcy Rules 3020(e), 6004(h) and 7062, as applicable, upon the occurrence of the Effective Date, the terms of this Plan and the Plan Documents shall be immediately effective and enforceable and deemed binding upon and inure to the benefit of the Debtors, the other Protected Parties, all Holders of Claims against or Interests in the Debtors, all Holders of Channeled Claims, all Releasing Parties and each of their respective successors and assigns.

12.9 ***Successors and Assigns***.

The rights, benefits and obligations of any Person named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or permitted assign, if any, of each such Person.

12.10 ***Entire Agreement***.

On the Effective Date, this Plan, the Plan Supplement and the Confirmation Order shall supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings and representations concerning such documents, all of which have become merged and integrated into this Plan.

12.11 ***Computing Time***.

In computing any period of time prescribed or permitted by this Plan, unless otherwise set forth in this Plan or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

12.12 ***Exhibits to Plan***.

All exhibits, schedules, supplements and appendices to this Plan (including the Plan Supplement) are incorporated into and are part of this Plan as if set forth in full herein.

12.13 ***Notices***.

All notices, requests and demands to or upon the Debtors shall be in writing (including by facsimile transmission) and, unless otherwise provided herein, shall be deemed to have been duly given or made only when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

DAVIS POLK & WARDWELL LLP
450 Lexington Avenue
New York, New York 10017
Attn: Marshall S. Huebner, Benjamin S. Kaminetzky, Eli J. Vonnegut,
Christopher S. Robertson, Joshua Y. Sturm and Abraham Bane.

Counsel to the Debtors
and Debtors in Possession

After the occurrence of the Effective Date, the Plan Administration Trustee shall have authority to send a notice to Entities providing that, to continue to receive documents pursuant to Bankruptcy Rule 2002, such Entities must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002; *provided*, *however*, that the U.S. Trustee need not file such a renewed request and shall continue to receive documents without any further action being necessary. After the occurrence of the Effective Date, the Debtors and the Plan Administration Trustee are authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to the U.S. Trustee and those Entities that have filed such renewed requests.

12.14 ***Dissolution of the Creditors' Committee***.

On the Effective Date, the Creditors' Committee will dissolve; *provided*, *however*, that following the Effective Date, the Creditors' Committee shall continue in existence and have standing and a right to be heard for the following limited purposes: (a) applications, and any relief related thereto, for compensation by Professional Persons and requests for allowance of fees and/or expenses under section 503(b) of the Bankruptcy Code, (b) any appeals of, or related to, the Confirmation Order or (c) any other appeal to which the Creditors' Committee is a party. Upon the dissolution of the Creditors' Committee, the Creditors' Committee, each of its members (including each officer, director, employee or agent thereof) and its respective Professional Persons will cease to have any duty, obligation or responsibility arising from, or related to, the Chapter 11 Cases and shall be released and discharged from all rights and duties from, or related to, the Chapter 11 Cases.

12.15 ***Reservation of Rights***.

Except as otherwise provided herein, this Plan shall be of no force or effect unless the Bankruptcy Court enters the Confirmation Order. None of the filing of this Plan, any statement or provisions of this Plan or the taking of any action by the Debtors with respect to this Plan shall be, or deemed to be, an admission or waiver of any rights of the Debtors with respect to any Claim or Interest prior to the Effective Date.

Dated: [•], 2025
By: */s/ [•]*

Name: [•]
Title: Authorized Signatory

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
PURDUE PRODUCTS 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
SVC PHARMA INC.

EXHIBIT A

Hospitals in Class 7 (Healthcare Provider Claims)

Claimant Name	Claim No.
Acquisition Bell Hospital, LLC	149170
Affinity Hospital, LLC	148659
AHS Claremore Regional Hospital, LLC	149249
AHS Cushing Hospital, LLC	149250
AHS Henryetta Hospital, LLC	149251
AHS Hillcrest Medical Center, LLC	149252
AHS Pryor Hospital, LLC	149253
AHS Southcrest Hospital, LLC	149255
Aiken Regional Medical Centers, LLC	149138
Allegheny Health Network	254160
Allegheny Health Network	214810
Allegiance Hospital of Many, LLC	149274
Allegiance Hospital of North Little Rock, LLC	149307
Allegiance Medical Center of Ruston, LLC	146401
Alliance Healthcare System	148859
American Hospital Management Corporation	148898
Amery Regional Medical Center, Inc.	148933
AMISUB (SFH), Inc.	148634
Amisub of South Carolina, Inc.	148643
Anderson Regional Health System	148766
Anna Hospital Corporation	148878
Appalachian Regional Healthcare, Inc. (ARH)	148600
ARH Mary Breckinridge Health Services, Inc.	148601
ARMC, L.P.	148748
Ashley Valley Medical Center, LLC	149171
Athens Hospital, LLC	149263
Athens Regional Medical Center, LLC	149172
Attentus Moulton, LLC	146064
Avera Gettysburg	148950
Avera Granite Falls	148952
Avera Holy Family	148947
Avera Marshall	148944
Avera McKennan	148942
Avera Queen of Peace	148941
Avera St. Anthony's Hospital	148948
Avera St. Luke's	148940
Avera St. Mary's	148945
Avera Tyler	148951

Bacon County Hospital, Georgia	148176
Bailey Medical Center, LLC	149254
Baptist Health Madisonville, Inc.	148814
Baptist Health Richmond, Inc.	148815
Baptist Healthcare System, Inc.	148813
Baptist Hospital, Inc.	149154
Baptist Medical Center - Leake, Inc.	148770
Baptist Medical Center - Yazoo, Inc.	148769
Baptist Memorial Hospital	148779
Baptist Memorial Hospital - Booneville, Inc.	148778
Baptist Memorial Hospital - Calhoun, Inc.	148772
Baptist Memorial Hospital - Collierville	148777
Baptist Memorial Hospital - DeSoto, Inc.	148776
Baptist Memorial Hospital - Golden Triangle, Inc.	148774
Baptist Memorial Hospital - Huntingdon	148782
Baptist Memorial Hospital - North Mississippi, Inc.	148773
Baptist Memorial Hospital - Tipton	148780
Baptist Memorial Hospital - Union City	148783
Baptist Memorial Hospital - Union County, Inc.	148775
Baptist Memorial Hospital-Jonesboro, Inc.	148781
Bartow Regional Medical Center, Inc.	149289
Bay Area Healthcare Group, Inc.	149093
BAY HOSPITAL, INC.	149021
BayCare Alliant Hospital, Inc.	147620
Bayfront HMA Medical Center, LLC	148681
BBH BMC, LLC	148637
BBH CBMC, LLC	148639
BBH PBMC, LLC	148636
BBH SBMC, LLC	148638
BBH WBMC, LLC	148635
Berwick Hospital Company LLC	148727
Bienville Medical Center, Inc.	149280
Big Bend Hospital Corporation	148887
Big Spring Hospital Corporation	148819
Biloxi HMA, LLC	148701
Blessing Hospital	148923
BlessingCare Corporation	148924
Blount Memorial Hospital, Incorporated	148986
Blue Island Hospital Company, LLC	148871
Blue Mountain Hospital	147759
Blue Ridge Georgia Hospital Company, LLC	148869
Bluefield Hospital Company, LLC	148763
Bluffton Health System, LLC	148691

BMC Attala, LLC	148768
Boa Vida Hospital of Aberdeen, MS, LLC	148895
Bon Secours Depaul Medical Center, Inc.	65187
Bon Secours Health System, Inc.	70051
Bon Secours Hospital Baltimore Inc.	65412
Bon Secours-Memorial Regional Medical Center, Inc.	65160
Bon Secours-Richmond Community Hospital, Incorporated	65191
Bon Secours-St. Francis Medical Center, Inc.	65171
Bon Secours-St. Francis Xavier Hospital, Inc.	65186
Bon Secours-St. Mary's Hospital of Richmond, Inc.	65036
Bourbon Community Hospital, LLC	149173
Bowling Green-Warren County Community Hospital Corporation	148810
Brandon HMA, LLC	148705
Braxton County Memorial Hospital, Inc.	148827
BRIGHAM CITY COMMUNITY HOSPITAL, INC.	149120
Broaddus Hospital Association	148835
Brownwood Hospital, L.P.	148752
BSA Hospital, LLC	149256
Bullhead City Hospital Corporation	148667
Bullock County Hospital	146495
Burleson County Hospital District	146588
Burleson County Hospital District	147480
Burleson County Hospital District	86886
Cache Valley Specialty Hospital, LLC	149121
Camden-Clark Memorial Hospital Corporation	148824
Cameron Parish Hospital and Psychiatric Facility	49368
Campbell County HMA, LLC	148739
Cape Canaveral Hospital, Inc.	148899
Care Plan Oversight, LLC	146092
CARLSBAD MEDICAL CENTER, LLC	148715
Carolinas Medical Alliance, Inc.	148732
Carondelet St. Joseph's Hospital	148619
Carondelet St. Mary's Hospital	148618
CARTERSVILLE MEDICAL CENTER, LLC	149049
Carthage Hospital, LLC	149264
Castleview Hospital, LLC	149174
Cedar Park Health System, L.P.	148756
CENTERPOINT MEDICAL CENTER OF INDEPENDENCE, LLC	149071
CentraCare Health System	148939
Central Florida Regional Hospital, Inc.	149015
CENTRAL TENNESSEE HOSPITAL CORPORATION	149091
CGH Hospital, Ltd.	148651

Charles A. Dean Memorial Hospital	148979
Charleston Area Medical Center, Inc.	148785
Charleston Hospital, Inc.	148907
Chatham County Hospital Authority, Georgia	148219
CHCA BAYSHORE, L.P.	149101
CHCA CLEAR LAKE, L.P.	149095
CHCA CONROE, L.P.	149096
CHCA Pearland, L.P.	149100
CHCA WEST HOUSTON, L.P.	149103
Chesapeake Hospital Corporation	65098
Chester HMA, LLC	148734
CHIPPENHAM & JOHNSTON-WILLIS HOSPITALS, INC.	149128
Christiana Care Health System, Inc.	147583
Citrus HMA, LLC	148684
Citrus Memorial Hospital, Inc.	149016
City Hospital, Inc.	148825
Clarksville Health System, G.P.	148743
Clay County Medical Corporation	149160
Cleveland Tennessee Hospital Company, LLC	148744
CLHG-Acadian, LLC	149278
CLHG-Avoyelles, LLC	149272
CLHG-DeQuincy, LLC	149281
CLHG-Leesville, LLC	149273
CLHG-Minden, LLC	149277
CLHG-Oakdale, LLC	149275
CLHG-Ruston, LLC	146257
CLHG-Ville Platte, LLC	149279
CLHG-Winn, LLC	149276
Clinch Valley Medical Center, Inc.	149175
CLINTON HMA, LLC	148719
Coastal Carolina Medical Center, Inc.	148642
Cocke County HMA, LLC	148741
COLISEUM MEDICAL CENTER, LLC	149050
College Station Hospital, L.P.	148749
Columbia Capital Medical Center Limited Partnership	149176
COLUMBIA HOSPITAL AT MEDICAL CITY DALLAS SUBSIDIARY, L.P.	149107
COLUMBIA HOSPITAL CORPORATION OF SOUTH BROWARD	149048
COLUMBIA MEDICAL CENTER OF ARLINGTON SUBSIDIARY, L.P.	149106
COLUMBIA MEDICAL CENTER OF DENTON SUBSIDIARY, L.P.	149108
COLUMBIA MEDICAL CENTER OF LAS COLINAS, INC.	149111

COLUMBIA MEDICAL CENTER OF LEWISVILLE SUBSIDIARY, L.P.	149112
COLUMBIA MEDICAL CENTER OF MCKINNEY SUBSIDIARY, L.P.	149113
COLUMBIA MEDICAL CENTER OF PLANO SUBSIDIARY, L.P.	149110
COLUMBIA NORTH HILLS HOSPITAL SUBSIDIARY, L.P.	149114
COLUMBIA OGDEN MEDICAL CENTER, INC.	149125
COLUMBIA PLAZA MEDICAL CENTER OF FORT WORTH SUBSIDIARY, L.P.	149109
COLUMBIA RIO GRANDE HEALTHCARE, L.P.	149117
Columbia Riverside, Inc.	149008
COLUMBIA VALLEY HEALTHCARE SYSTEM, L.P.	149119
COLUMBIA/ALLEGHANY REGIONAL HOSPITAL INCORPORATED	149131
COLUMBIA/HCA JOHN RANDOLPH, INC.	149130
Community Health Association	148850
Community Hospital of Andalusia, LLC	149177
Community Hospital, Inc.	148846
Community Hospital, LLC	113484
Cornerstone Regional Hospital, LP	149139
Cox Barton County Hospital	148852
Crestview Hospital Corporation	148676
Crestwood Healthcare, L.P.	148658
Crisp Regional Hospital, Inc.	148998
Crockett Hospital, LLC	149178
Danville Regional Medical Center, LLC	149179
Dardanelle Community Hospital, LLC	149308
Davis Memorial Hospital	148834
Deaconess Health System, LLC	148720
Delray Medical Center, Inc.	148649
Delta Regional Medical Center	148897
Deming Hosptial Corporation	148883
Desert Regional Medical Center, Inc.	148612
DESERT SPRINGS HOSPITAL, INC.	148918
DHSC, LLC	148890
Dickenson Community Hospital	148800
District Hospital Partners, L.P.	148922
DLP Central Carolina Medical Center, LLC	149180
DLP Conemaugh Memorial Medical Center, LLC	149181
DLP Conemaugh Meyersdale Medical Center, LLC	149182
DLP Conemaugh Miners Medical Center, LLC	149183
DLP Frye Regional Medical Center, LLC	149184
DLP Harris Regional Hospital, LLC	149185

DLP Haywood Regional Medical Center, LLC	149186
DLP Maria Parham Medical Center, LLC	149187
DLP Marquette General Hospital, LLC	149188
DLP Person Memorial Hospital, LLC	149189
DLP Rutherford Regional Health System, LLC	149190
DLP Swain County Hospital, LLC	149191
DLP Twin County Regional Healthcare, LLC	149192
DLP Wilson Medical Center, LLC	149193
DOCTORS HOSPITAL OF AUGUSTA, LLC	149052
Doctors Hospital of Manteca, Inc.	148603
Doctors Medical Center of Modesto, Inc.	148604
Dodge City Healthcare Group, LLC	149194
Donalsonville Hospital, Inc.	149002
Downtown Bronx Medical Associates	145919
Drew Memorial Hospital Inc	616050
Dukes Health System, LLC	148695
Duplin General Hospital, Inc.	148993
DURANT H.M.A., LLC	148721
DVH Hospital Alliance, LLC	149141
East Baton Rouge Medical Center, LLC	149284
East Carolina Health	148989
East Carolina Health-Beaufort, Inc.	148992
East Carolina Health-Bertie	148991
East Carolina Health-Chowan, Inc.	148990
East Carolina Health-Heritage, Inc.	148988
East Cooper Community Hospital, Inc.	148640
EAST GEORGIA REGIONAL MEDICAL CENTER, LLC	148690
Eastern Idaho Health Services, Inc.	149058
Eastern Maine Medical Center	148980
EASTSIDE MEDICAL CENTER, LLC	149053
EL PASO HEALTHCARE SYSTEM, LTD.	149094
EMPORIA HOSPITAL CORPORATION	148761
ENGLEWOOD COMMUNITY HOSPITAL, INC.	149018
Erie County Medical Center (ECMC)~~18~~19	148595
Essent PRMC, L.P.	149195
Evanston Hospital Corporation	148889
Evergreen Medical Center, LLC	148656
Fairview Park, Limited Partnership	149054

~~18~~19 The Mediation Parties, as well as ECMC, have agreed that for purposes of the Purdue Pharma chapter 11 cases and the Hospitals Direct Sackler Settlement, Erie County Medical Center ("ECMC") shall be treated as a private acute care hospital. All Mediation Parties and ECMC reserve all rights with respect to the status of ECMC in connection with any other proceedings involving other opioid defendants.

Faulkton Area Medical Center Foundation, Inc.	148967
Fauquier Medical Center, LLC	149196
FAWCETT MEMORIAL HOSPITAL, INC.	149019
Fayette Community Hospital, Inc.	149301
Fayetteville Arkansas Hospital Company, LLC	148669
Field Memorial Community Hospital	148832
Flaget Healthcare, Inc.	148931
Flagler Hospital, Inc.	148843
Fleming Medical Center, LLC	149197
Florida Health Sciences Center, Inc.	148847
Flushing Hospital Medical Center	117307
Foley Hospital Corporation	148663
Forrest City Arkansas Hospital Company, LLC	148867
Fort Duncan Medical Center, L.P.	149143
Fort Payne Hospital Corporation	148864
Fort Smith HMA, LLC	148673
FORT WALTON BEACH MEDICAL CENTER, INC.	149020
Fountain Valley Regional Hospital & Medical Center	148609
FRANKFORT HOSPITAL, INC.	149064
Franklin Hospital Corporation	148760
Freeman Health System	148903
Freeman Regional Health Services	148968
Gadsden Regional Medical Center, LLC	148662
Gaffney HMA, LLC	148735
GALEN HOSPITAL ALASKA, INC	149004
GALEN OF FLORIDA, INC.	149044
GALENCARE, INC.	149013
Galesburg Hospital Corporation	148872
Georgetown Community Hospital, LLC	149198
Gilliard Health Services, Inc.	148657
Good Samaritan Hospital	149005
Good Samaritan Medical Center, Inc.	148648
GPCH-GP, INC	149069
Grafton City Hospital, Inc.	148833
Granbury Hospital Corporation	148750
Grand Strand Regional Medical Center, LLC	149086
Granite City Illinois Hospital Company, LLC	148873
Grant Memorial Hospital	148863
Grant-Blackford Mental Health, Inc	145921
Grayson County Hospital Foundation, Inc.	148858
Greenbrier VMC, LLC	148764
GREENVIEW HOSPITAL, INC.	149065
Greenwood Leflore Hospital	149157

Haines City HMA, LLC	148687
Halifax Hospital District	148845
Halifax Regional Medical Center, Inc.	148994
Hardin County, Kentucky	148927
Harris County Hospital District dba Harris Health System	147111
Hartsville, LLC	149199
Havasu Regional Medical Center, LLC	149200
Hawkins County Memorial Hospital, Inc.	148802
HCA HEALTH SERVICES OF FLORIDA, INC.	149012
HCA HEALTH SERVICES OF NEW HAMPSHIRE, INC.	149078
HCA HEALTH SERVICES OF TENNESSEE, INC.	149089
HCA HEALTH SERVICES OF VIRGINIA, INC.	149129
HCA-HEALTHONE LLC	149010
HDMC Holdings, LLC	148611
Healthcare Partner Investments, LLC	113676
Heart Hospital of South Dakota, LLC	148949
Hegg Memorial Hospital	148957
Henderson Hospital, LLC	149265
HENDERSONVILLE HOSPITAL CORPORATION	149090
Hendricks Community Hospital Assn & Retirement Home	148965
Hernando HMA, LLC	148674
HH/Killeen Health System, LLC	149258
Hialeah Hospital, Inc.	148652
Highlands Hospital Corporation	148809
Hillside Hospital, LLC	149201
HILTON HEAD HEALTH SYSTEM, L.P.	148641
HMA Santa Rosa Medical Center, LLC	148677
Holmes Regional Medical Center, Inc.	148900
Holy Cross Hospital, Inc.	148620
HOSPITAL CORPORATION OF UTAH	149122
Hospital Development of West Phoenix, Inc.	148615
Hospital Menonita Caguas, Inc.	75149
Hospital Menonita Guayama, Inc.	75172
Hospital of Barstow, Inc.	148866
Hospital of Louisa, Inc.	148879
Hospital of Morristown, Inc.	148740
Hot Springs National Park Hospital Holdings, LLC	149202
Houston - PPH, LLC	149098
Houston Northwest Operating Company, L.L.C.	149099
HTI MEMORIAL HOSPITAL CORPORATION	149092
Hudson Hospital, Inc.	148935
Hudson Regional Hospital	117163
Hughston Hospital, Inc.	149300

Infirmary Health Hospitals, Inc.	135431
Inland Hospital	148981
Integris - Bass Pavilion (FKA - Northwest Specialty Hospital)	114397
Integris Health - Baptist Medical Center	115089
Integris Health - Bass Baptist Hospital	115158
Integris Health - Canadian Valley Hospital	114566
Integris Health - Edmond	115770
Integris Health - Lakeside Women's Hospital	112990
Integris Health - MC Portland Ave.	113710
Integris Health - Miami Hospital	114321
Integris Health - Southwest Medical Center	115529
Integris Health, Inc	113101
Integris Heatlh - Grove Hospital	115113
Ivy Creek of Butler, LLC	146535
Ivy Creek of Elmore, LLC	146507
Ivy Creek of Tallapoosa, LLC	146547
Jackson HMA, LLC	148704
Jackson Hospital & Clinic, Inc.	148792
Jackson Hospital Corporation	148881
Jacksonville Hospital, LLC	149266
Jamaica Hospital and Medical Center	118550
Jay Hospital, Inc.	149155
Jefferson County HMA, LLC	148738
Jefferson Parish Hospital Service District No. 1	147695
Jefferson Parish Hospital Service District No. 2	115109
Jennie Stuart Medical Center	148855
JFK MEDICAL CENTER LIMITED PARTNERSHIP	149023
JFK Memorial Hospital, Inc.	148613
Johns Hopkins Health System Corp.	254159
Johnston Memorial Hospital, Inc.	148803
KAY COUNTY OKLAHOMA HOSPITAL COMPANY, LLC	148724
KENDALL HEALTHCARE GROUP, LTD.	149024
Kennett HMA, LLC	148711
Kentucky Hospital, LLC	149203
Key West HMA, LLC	148682
Kingman Hospital, Inc.	148837
Kirksville Missouri Hospital Company, LLC	148712
Knox Hospital Company, LLC	148694
KPH-CONSOLIDATION, INC.	149097
La Porte Hospital Company, LLC	148696
Lafayette General Health System, Inc.	111425
Lake Cumberland Regional Hospital, LLC	149205
Lake Hospital System, Inc.	115152

Lake Shore HMA, LLC	148688
Lake Wales Hospital Corporation	148675
Lakeland Community Hospital, Inc.	146125
Lakeland Community Hospital, Inc.,	148892
Lakeshore Home Health Care, LLC	146147
LAKEVIEW MEDICAL CENTER, LLC	149066
Lakeview Mem Hosp Assoc Inc	148934
Lakewood Regional Medical Center, Inc.	148607
Lancaster Hospital Corporation (CA)	149146
Lancaster Hospital Corporation (DE)	148737
Landmann-Jungman Memorial Hospital Corporation	148953
Laredo Regional Medical Center, LP	149142
Laredo Texas Hospital Company, L.P.	148754
LARGO MEDICAL CENTER, INC.	149026
Larkin Community Hospital Palm Springs Campus, LLC	148839
Larkin Community Hospital, Inc.	148838
Las Cruces Medical Center, LLC	148716
Laureate Psychiatric Clinic and Hospital, Inc.	115318
LAWNWOOD MEDICAL CENTER, INC.	149027
Lea Regional Hospital, LLC	148817
Lebanon HMA, LLC	148746
Lee Health System	121306
Lee Memorial Health System	145903
Leesburg Regional Medical Center, Inc.	148820
Lester E. Cox Medical Centers	148854
LEWIS-GALE MEDICAL CENTER, LLC	149134
Lexington Hospital Corporation	148886
Lexington Medical Center	145956
LifeBrite Hospital Group of Early, LLC	148997
LifeBrite Hospital Group of Stokes, LLC	148996
Lifemark Hospitals of Florida, Inc.	148654
Live Oak HMA, LLC	148678
Livingston Regional Hospital, LLC	149206
Logan General Hospital, LLC	149207
Logan Memorial Hospital, LLC	149208
LONE PEAK HOSPITAL, INC.	149123
Longivew Medical Center, L.P.	148758
Loretto Hospital	149287
Los Alamitos Medical Center, Inc.	148608
LOS ROBLES REGIONAL MEDICAL CENTER	149006
Lourdes Hospital, LLC	149209
Lovelace Health System, Inc.	149271
Macon Northside Hospital, LLC	149051

Madison HMA, LLC	148707
Magnolia Regional Health Center	148788
Maine Coast Regional Health Facilities	148983
Manatee Memorial Hospital, L.P.	148921
MARION COMMUNITY HOSPITAL, INC.	149034
Marion Hospital Corporation	148877
Marion Regional Medical Center, Inc.	149164
Marshall County HMA, LLC	148722
Marshall County Memorial Hospital	148963
Mary Black Health System, LLC	148736
Mary Immaculate Hospital Incorporated	65193
Maryview Hospital	64983
Mat-Su Valley Medical Center, LLC	148664
Maverick County Hospital District, Texas	145118
McAllen Hospitals, L.P.	149147
McBride Orthopedic Hospital	113029
McKenzie Tennessee Hospital Company, LLC	148876
McKenzie Williamette Regional Medical Center Associates, LLC	148865
MCSA, LLC	148668
Meadowview Regional Medical Center, LLC	149210
Medical West Hospital Authority, an Affiliate of UAB Health System	148767
MEMORIAL HEALTHCARE GROUP, INC.	149029
Memorial Hospital Corporation	148841
Mennonite General Hospital	73893
Mercy Hospital	148984
Mercy Medical Center, Inc.	115203
Methodist Healthcare System of San Antonio, Ltd., L.L.P.	149116
Metro Knoxville HMA, LLC	148742
Mexia Principal Healthcare Limited Partnership	149211
MH ANGEL MEDICAL CENTER, LLLP	149079
MH BLUE RIDGE MEDICAL CENTER, LLLP	149080
MH HIGHLANDS-CASHIERS MEDICAL CENTER, LLLP	149081
MH MISSION HOSPITAL MCDOWELL, LLLP	149083
MH MISSION HOSPITAL, LLLP	149082
MH TRANSYLVANIA REGIONAL HOSPITAL, LLLP	149084
MIAMI BEACH HEALTHCARE GROUP, LTD	149011
Middlesex Health System, Inc.	113452
Midwest Division - LRHC, LLC	149072
MIDWEST DIVISION - LSH, LLC	149073
MIDWEST DIVISION - RMC, LLC	149074
Midwest Division-MMC, LLC	149061
Midwest Division-OPRMC, LLC	149062

Midwest Division-RBH, LLC	149070
Midwest Regional Medical Center, Inc.	148723
Mississippi Baptist Medical Center, Inc.	148771
Mizell Memorial Hospital, Inc.	148794
MMC of Nevada, LLC	148884
Moberly Hospital Company, LLC	148710
Mobridge Regional Health Care Foundation	148966
Monongalia County General Hospital Company	148840
Monroe HMA LLC	148816
Montclair Hospital, LLC	149260
MONTGOMERY REGIONAL HOSPITAL, INC.	149132
Mooresville Hospital Management Associates, LLC	148718
Morton Plant Hospital Association, Inc.	149291
Mount Sinai Hospital and St. Luke's-Roosevelt Hospital Center ("Mount Sinai")	146892
Mountain States Health Alliance	148801
MOUNTAIN VIEW HOSPITAL, INC.	149124
MRH Corp.	148982
Nacogdoches Medical Center	148625
Naples Community Hospital, Inc.	115404
Naples HMA, LLC	148683
Nason Medical Center, LLC	149212
Nassau University Medical Center	49455
Natchez Hospital Company, LLC	148702
National Healthcare of Mt. Vernon, Inc.	148875
Navarro Hospital, L.P.	148751
NCH Healthcare System, Inc.	112919
NEW PORT RICHEY HOSPITAL, INC.	149028
NHCI of Hillsboro, Inc.	148757
NORTH ARKANSAS REGIONAL MEDICAL CENTER	148911
North Broward Hospital District	148860
NORTH FLORIDA REGIONAL MEDICAL CENTER, INC.	149032
North Houston - TRMC, LLC	149102
North Mississippi Medical Center, Inc.	149159
North Shore Medical Center, Inc.	148653
North Sunflower Medical Center	148278
North Texas - MCA, LLC	149105
NORTHERN UTAH HEALTHCARE CORPORATION	149126
Northern Virginia Community Hospital, LLC	149137
Northwell Health	628676
Northwell Health	616025
Northwest Arkansas Hospitals, LLC	148670
Northwest Hospital, LLC	148665

NORTHWEST MEDICAL CENTER, INC.	149033
Northwest Medical Center, Inc.	146126
Northwest Texas Healthcare System, Inc.	149145
Norton Community Hospital	148804
Norton Hospitals, Inc.	148929
NOTAMI HOSPITALS OF FLORIDA, INC.	149025
Nueces County Hospital District	145077
Oak Hill Hospital Corporation	148765
Ochsner Bayou, LLC d/b/a Ochsner St. Anne General Hospital	135450
Ochsner Clinic Foundation	149282
Ochsner Medical Center – Hancock, LLC	149286
Ochsner Medical Center - Kenner, LLC	149283
Ochsner Medical Center - Northshore, LLC	149285
OKALOOSA HOSPITAL, INC.	149045
OKEECHOBEE HOSPITAL, INC.	149042
ORANGE PARK MEDICAL CENTER, INC.	149035
Oro Valley Hospital, LLC	148666
ORTHOPEDIC HOSPITAL, LTD.	149118
Osceola Community Hospital, Inc.	148958
OSCEOLA REGIONAL HOSPITAL, INC.	149036
Osceolasc LLC	148689
OU Medicine, Inc.	114630
Our Lady of Bellefonte Hospital, Inc.	65155
Our Lady of Lourdes Regional Medical Center, Inc.	147632
Our Lady of the Angels Hospital, Inc.	147628
Our Lady of the Lake Hospital, Inc.	147666
OVIEDO MEDICAL CENTER, LLC	149037
Owensboro Health, Inc.	113671
Paintsville Hospital Company, LLC	148880
Palestine Principal Healthcare Limited Partnership	149213
Palm Bay Hospital, Inc.	148901
Palm Beach Gardens Community Hospital, Inc.	148646
PALMS WEST HOSPITAL LIMITED PARTNERSHIP	149039
Park Nicollet Methodist Hospital	148936
PARKRIDGE MEDICAL CENTER, INC.	149088
Pascack Valley Hospital, LLC	149259
Patients' Choice Medical Center of Erin, Tennessee	37482
Patients' Choice Medical Center of Humphreys County, LLC	35151
Pearl River County Hospital & Nursing Home	149166
Petersburg Hospital Company, LLC	148762
PHC-Cleveland, Inc.	149214
PHC-Elko, Inc.	149215
PHC-Fort Mohave, Inc.	149216

PHC-Fort Morgan, Inc.	149217
PHC-Las Cruces, Inc.	149218
PHC-Los Alamos, Inc.	149219
Phillips Hospital Company, LLC	148868
Physicians Surgical Hospitals, LLC	149257
Piedmont Athens Regional Medical Center, Inc.	149296
Piedmont Henry Hospital, Inc.	149298
Piedmont Hospital, Inc.	149297
Piedmont Mountainside Hospital, Inc.	149302
Piedmont Newnan Hospital, Inc.	149303
Piedmont Newton Hospital, Inc.	149304
Piedmont Rockdale Hospital, Inc.	149305
Piedmont Walton Hospital, Inc.	149306
Pikeville Medical Center, Inc.	148844
PineLake Regional Hospital, LLC	149220
Piney Woods Healthcare System, L.P.	148759
Pitt County Memorial Hospital, Incorporated	148987
Pittsburg Hospital, LLC	149267
Placentia-Linda Hospital, Inc.	148610
PLANTATION GENERAL HOSPITAL, L.P.	149031
Pocatello Hospital, LLC	149261
POINCIANA MEDICAL CENTER, INC.	149040
Pontotoc Health Services, Inc.	149161
Poplar Bluff Regional Medical Center, LLC	148713
Port Charlotte HMA, LLC	148680
Portage Hospital, LLC	149221
Porter Hospital, LLC	148697
Potomac Valley Hospital of W. Va., Inc.	148831
PRHC-Ennis, L.P.	149222
Princeton Community Hospital Association, Inc.	148849
Professional Resource Management of Rabun, LLC	148795
Progressive Medical Management of Batesville	148893
ProMedica Health System, Inc.	146184
Providence Hospital, LLC	149223
Providence St. Joseph's Health	146688
PULASKI COMMUNITY HOSPITAL, INC.	149133
Punta Gorda HMA, LLC	148686
PUTNAM COMMUNITY MEDICAL CENTER OF NORTH FLORIDA, LLC	149041
QHG of Enterprise, Inc.	148661
QHG of South Carolina, Inc.	148733
Quitman County Hospital, LLC	148912
Quitman Hospital, LLC	149268

Raleigh General Hospital, LLC	149224
RAPIDES HEALTHCARE SYSTEM, L.L.C.	149067
RCCH Trios Health, LLC	149225
RCHP Billings-Missoula, LLC	149226
RCHP-Florence, LLC	149227
RCHP-Ottumwa, LLC	149228
RCHP-Sierra Vista, Inc.	149229
RCHP-Wilmington, LLC	149230
Red Bud Illinois Hospital Company, LLC	148874
Redmond Park Hospital, LLC	149057
Regional Health Services Foundation	148962
Regions Hospital	148938
Rehabilitation Hospital, LLC	149270
Resolute Hospital Company, LLC	148624
RESTON HOSPITAL CENTER, LLC	149135
Reynolds Memorial Hospital, Inc	148826
RHN Clark Memorial Hospital, LLC	149231
RHN Scott Memorial Hospital, LLC	149232
River Oaks Hospital, LLC	148708
Riverton Memorial Hospital, LLC	149233
Riverview Medical Center, LLC	149234
ROH, LLC	148709
Roswell Hospital Corporation	148818
Rush Health Systems, Inc.	149167
Russellville Holdings, LLC	149235
Russellville Hospital, Inc.	148891
Russellville Hospital, Inc.	146124
RUSTON LOUISIANA HOSPITAL COMPANY, LLC	148700
Sacred Heart Health Services	148943
Sage LTAC, LLC	146134
Saint Elizabeth Medical Center, Inc.	148807
Saint Francis Health System Inc.	115605
Saint Francis Healthcare System	148906
Saint Francis Hospital - Bartlett, Inc.	148633
Saint Francis Hospital Muskogee, Inc.	116210
Saint Francis Hospital South, LLC	115381
Saint Francis Hospital Vinita, Inc.	115638
Saint Francis Hospital, Inc.	112617
Saint Joseph Health System, Inc.	148928
Salem Hospital Corporation	148714
Saline Hospital, LLC	149236
San Angelo Hospital, L.P.	148755
San Jose Medical Center, LLC	149007

San Miguel Hospital Corporation	148882
Sanford Bismarck	148974
Sanford Health Network	148971
Sanford Health Network North	148973
Sanford Health of Northern Minnesota	148972
Sanford Medical Center	148976
Sanford Medical Center Fargo	148975
Sarasota County Public Hospital District d/b/a Sarasota Memorial Healthcare System	627852
Sarasota County Public Hospital District d/b/a Sarasota Memorial Healthcare System	624513
Sarasota County Public Hospital District d/b/a Sarasota Memorial Healthcare System	624514
Sarasota County Public Hospital District d/b/a Sarasota Memorial Healthcare System	624515
Sarasota County Public Hospital District d/b/a Sarasota Memorial Healthcare System	624491
Sarasota County Public Hospital District d/b/a Sarasota Memorial Healthcare System	624495
Sarasota County Public Hospital District d/b/a Sarasota Memorial Healthcare System	624502
Sarasota County Public Hospital District d/b/a Sarasota Memorial Healthcare System	618482
Sarasota County Public Hospital District dba Sarasota Memorial Healthcare System	147246
SARASOTA DOCTORS HOSPITAL, INC.	149017
Sarasota Memorial Hospital	179
Sarasota Memorial Hospital	103
Savannah Health Services, LLC	149055
Scranton Hospital Company LLC	148729
Scranton Quincy Hospital Company, LLC	148728
Sebasticook Valley Health	148985
SEBRING HEALTH SERVICES, LLC	149022
Seminole HMA, LLC	148725
Sharkey-Issaquena Community Hospital and Nursing Home	149168
Shelby County Healthcare Corporation	148894
Shelbyville Hospital Company, LLC	148747
Sierra Vista Hospital, Inc.	148606
Siloam Springs Arkansas Hospital Company, LLC	148671
Singing River Health System	148602
Sioux Center Health	148959
Skaggs Community Hospital Assn.	148853
Smyth County Community Hospital	148805
South Broward Hospital District d/b/a Memorial Healthcare System	88984
South Central Regional Medical Center	149169

South Florida Baptist Hospital, Inc.	149292
South Shore Hospital Corporation	148916
Southeastern Psychiatric Management, Inc.	146544
Southern Hills Medical Center, LLC	149076
Southern Illinois Health Care Foundation, Inc. d/b/a SIHF Healthcare	149288
Southern Tennessee Medical Center, LLC	149237
Southwest Mississippi Regional Medical Center	135445
Southwestern Illinois Health Facilities, Inc	114620
Southwestern Medical Center, LLC	149238
Sparks Family Hospital, Inc.	149144
Spotsylvania Medical Center, Inc.	149136
Spring View Hospital, LLC	149239
St. Anthony's Hospital, Inc.	149293
St. Barnabas Health System Bronx NY	147243
St. Benedict Health Center	148946
St. Claire Medical Center, Inc.	148808
St. David's Healthcare Partnership, L.P., LLP	149104
St. Dominic-Jackson Memorial Hospital	147629
St. Francis Health System	121320
St. Francis Health, LLC	149240
St. Francis Hospital, Inc	65167
St. Francis Medical Center	42375
St. Francis Medical Center, Inc.	147638
St. John's Riverside Hospital	121335
St. Joseph Health System, LLC	148699
St. Joseph Hospital, LLC	149241
St. Joseph’s Hospital of Buckhannon, Inc.	148829
St. Joseph's Hospital, Inc.	149294
St. Joseph's/Candler Health System, Inc.	145910
St. Mary's Medical Center, Inc.	148647
St. Michael's Hospital, Inc.	148954
Starke HMA, LLC	148685
Statesville HMA, LLC	148717
Stonewall Jackson Memorial Hospital Company	148842
Summerlin Hospital Medical Center, LLC	148920
Sumner County Hospital District No 1	147763
Sumner Regional Medical Center, LLC	149242
SUN CITY HOSPITAL, INC.	149043
Sunflower County , Mississippi, Districts 1, 2 & 3 (Board of Supervisors)	148914
Sunrise Hospital and Medical Center, LLC	149077
Sunrise MountainView Hospital, Inc.	149075

SV Healthcare System, Inc.	148645
T.J. Samson Community Hospital	148930
Takoma Regional Hospital, Inc.	148806
TALLAHASSEE MEDICAL CENTER, INC.	149014
Taylor County Hospital District Health Facilities Corporation	148857
Taylor Regional Hospital, Inc.	41770
Temecula Valley Hospital, Inc.	149150
Tenet Hospitals, Ltd.	148614
TERRE HAUTE REGIONAL HOSPITAL, L.P.	149060
The Aroostook Medical Center	148977
The Blount County Health Care Authority	146103
The Blue Hill Memorial Hospital	148978
The Charles Town General Hospital	148830
The Harrison Memorial Hospital, Inc.	148856
The Health Care Authority of Haleyville and Winston County, AL	146131
The Healthcare Authority of Winfield, Alabama	146116
The Jackson County Health Care Authority	145946
The Lawrence County Health Care Authority	146075
The Lutheran Foundation, Inc.	148693
The Medical Center at Clinton County, Inc.	148811
The Medical Center at Franklin, Inc.	148812
The Medical Center, Inc.	149299
The Orthopedic Hospital at Parkview North, LLC	148698
The Outer Banks Hospital, Inc.	148995
The Titusville Area Hospital	148597
The Villages Tri-County Medical Center, Inc.	148821
Thomas Health System, Inc.	148908
TIMPANOGOS REGIONAL MEDICAL SERVICES, INC.	149127
Tippah County Hospital	148798
Tishomingo Health Services, Inc.	149163
Tooele Hospital Corporation	148888
Topeka Hospital, LLC	149262
TPG Hospital, LLC (DBA Northwest Surgical Hospital)	115691
Triad of Alabama, LLC	148660
Trident Medical Center, LLC	149087
Trousdale Medical Center, LLC	149243
Trustees of Mease Hospital, Inc	149290
Tucson Medical Center	146387
Tullahoma HMA, LLC	148745
Tunkhannock Hospital Company, LLC	148730
Twin Cities Community Hospital, Inc.	148605
Tyler Regional Hospital, LLC	149269
UHS of Oklahoma, LLC	149149

UHS of Texoma, Inc.	149151
UHS-Corona, Inc.	149140
United Hospital Center, Inc.	148823
Universal Health Services of Rancho Springs, Inc	149148
University Health Services, Inc.	149310
University Health System, Inc.	149309
UNIVERSITY HEALTHCARE SYSTEM L.C.	149068
UNIVERSITY HOSPITAL, LTD.	149046
University McDuffie County Regional Medical Center, Inc.	149311
Valley Health System LLC	148919
Valley Hospital Medical Center, Inc.	148917
Van Buren HMA, LLC	148672
Vanderbilt University Medical Center	214811
Vaughan Regional Medical Center, LLC	149244
Venice HMA, LLC	148679
VHS Acquisition Subsidiary Number 1, Inc.	148617
VHS Acquisition Subsidiary Number 3, Inc.	148626
VHS Acquisition Subsidiary Number 9, Inc.	148644
VHS Brownsville Hospital Company, LLC	148622
VHS Children's Hospital of Michigan, Inc.	148632
VHS Detroit Receiving Hospital, Inc.	148631
VHS Harlingen Hospital Company, LLC	148621
VHS Huron Valley-Sinai Hospital, Inc.	148629
VHS of Arrowhead, Inc.	148616
VHS of Illinois, Inc.	149000
VHS San Antonio Partners, LLC	148623
VHS Sinai-Grace Hospital, Inc.	148630
VHS West Suburban Medical Center, Inc.	148627
VHS Westlake Hospital, Inc.	148628
Vicksburg Healthcare, LLC	148703
Victoria of Texas, L.P.	148753
Viera Hospital, Inc.	148902
Virginia Commonwealth University Health System Authority (VCUHS)	148970
Wagner Community Memorial Hospital	148955
Walterboro Community Hospital, Inc.	149085
Warsaw Health System, LLC	148692
Watertown Medical Center, LLC	149245
Waukegan Illinois Hospital Company, LLC	148870
Weatherford Health Services, LLC	149115
Webster Health Services, Inc.	149162
Weirton Medical Center, Inc.	148905
Wellington Regional Medical Center, LLC	149152

Wellmont Health System	148799
Wesley Health System, LLC	148706
Wesley Medical Center, LLC	149063
West Boca Medical Center, Inc.	148650
WEST FLORIDA - MHT, LLC	149030
WEST FLORIDA - PPH, LLC	149038
WEST FLORIDA REGIONAL MEDICAL CENTER, INC.	149047
West Harrison Hospital District	148862
WEST HILLS HOSPITAL	149009
WEST VALLEY MEDICAL CENTER, INC.	149059
West Virginia University Hospitals, Inc.	148822
West Volusia Hospital Authority	627957
West Volusia Hospital Authority	627956
West Volusia Hospital Authority	627958
West Volusia Hospital Authority	627960
West Volusia Hospital Authority	89648
West Volusia Hospital Authority	43254
Western Reserve Hospital, LLC	115133
Westfields Hospital, Inc.	148937
Wetzel County Hospital Association	148828
Wheeling Hospital, Inc.	148909
White County Medical Center	148596
White River Health System, Inc.	148599
Willamette Valley Medical Center, LLC	149246
Williamston Hospital Corporation	148885
Winnie Community Hospital, L.L.C	148915
Winston Medical Center	49450
Winter Haven Hospital, Inc	149295
Woman's Hospital Foundation	148598
Woodford Hospital, LLC	149247
Woodward Health System, LLC	148726
Wyoming Valley Care Systems, Inc.	148731
Wythe County Community Hospital, LLC	149248
Yale New Haven Health Services Corporation	113503
Yuma Regional Medical Center	148913

EXHIBIT B

Hospitals in Class 4 (Non-Federal Domestic Governmental Entity Claims))

Claimant Name	Claim No.
Acadia-St. Landry Hospital Service District d/b/a Acadia-St. Landry Hospital	115200
Bexar County Hospital District	147340
Bexar County Hospital District	75156
Bibb County Healthcare Authority	148789
Bowdle Healthcare Foundation	148969
Candler County Hospital Authority	148925
Citizens Memorial Hospital District	148904
Clarksdale HMA, LLC	148896
Clay County Healthcare Authority	146520
Clinch County Hospital Authority	148926
Colquitt County Hospital Authority	149001
Comanche County Hospital Authority	146510
Cullman Regional Medical Center, Inc.	146203
D.W. McMillan Memorial Hospital	148793
Dale Medical Center	148790
Dallas County Hospital District	148848
DCH Health Care Authority	148851
Dodge County Hospital Authority d/b/a Dodge County Hospital	49499
Elberton-Elbert County Hospital Authority	148999
Evans Memorial Hospital, Inc.	38782
Floyd Valley Hospital Foundation	148956
Geneva County Healthcare Authority, Inc.	148797
Gonzales Healthcare Systems, Inc.	149156
Goodland Regional Medical Center	147766
Greene County Hospital	148791
Guadalupe Regional Medical Center	148784
Habersham County Hospital, Georgia	136480
Health Care Authority of Clarke County, Alabama	148786
Healthcare Authority for the City of Anniston	146024
Hennepin Healthcare System, Inc.	148932
HH Health System-Athens Limestone, LLC	146004
HH Health System-Marshall, LLC	146068
HH Health System-Morgan, LLC	145975
HH Health System-Shoals, LLC	146011
Hospital Authority of Baxley and Appling County d/b/a Appling Health Care System	49033
Hospital Authority of Bleckley County d/b/a Bleckley Memorial	41812

Hospital	
Hospital Authority of the City of Bainbridge and Decatur County	149003
Hospital Service District No. 1 of the Parish of Avoyelles, State of Louisiana, d/b/a Bunkie General Hospital	93915
Hospital Service District No. 1 of The Parish of LaSalle, State of Louisiana, d/b/a Hardtner Medical Center	94168
J. Paul Jones Hospital, Inc.	149158
Jackson County Hospital District	134462
Kershaw County, South Carolina and the Kershaw County and the Kershaw County Hospital Board A/K/A Kershawhealth D/B/A Health Services District of Kershaw County	147847
Kershaw Hospital, LLC	149204
Lakes Regional Healthcare Foundation	148961
Marshall Medical Centers	147118
Mason Hospital District, Mason County, IL	143798
Massac Memorial, LLC	148910
Medical University Hospital Authority	39088
Mitchell County Hospital	147764
Monroe County Healthcare Authority	135438
North Caddo Hospital Service District d/b/a North Caddo Medical Center	147503
North Oaks Medical Center, LLC	86787
Ochiltree County Hospital District	149165
Opelousas General Hospital Authority, a Louisiana Public Trust, d/b/a Opelousas General Health System	112853
Palo Pinto County Hospital District	148787
Parish Hospital Service District for the Parish of Orleans - District A	143973
Patients' Choice Medical Center of Claiborne, LLC	35110
Pipestone Medical Clinic	148960
Pointe Coupee Parish Health Services District Number 1	15998
Rawlins County Health Center	147770
Redfield Community Memorial Hospital and Clinic Foundation, Inc.	148964
Slidell Memorial Hospital	147471
SLIDELL MEMORIAL HOSPITAL	67993
Southeast Georgia Health Services, LLC	149056
St. Tammany Parish Hospital Service District No. 1, d/b/a St. Tammany Health Systems	147447
Tarrant County Hospital District	144955
The Colbert County-Northwest Alabama Health Care Authority	146015
The Health Care Authority for Baptist Health, an Affiliate of UAB Health System	148655
The Health Care Authority of Athens and Limestone County	146027
The Health Care Authority of Cullman County	147222
The Health Care Authority of Morgan County - City of Decatur	146000

The Health Care Authority of The City of Huntsville	145978
The Hospital Authority of Valdosta and Lowndes County, Georgia	145866
The Hospital Authority of Wayne County, Georgia	144114
The Marshall County Health Care Authority	145979
The MetroHealth System	94348
The Sylacauga Health Care Authority	148861
Tombigbee Healthcare Authority	148796
Troy Hospital Healthcare Authority	146525
UAB Health System	149312
WAYNE COUNTY GENERAL HOSPITAL (MISSISSIPPI)	38819
Webster County Memorial Hospital, Inc.	148836
West Ascension Hospital Service District d/b/a Prevost Memorial Hospital	144097
West Wharton County Hospital District	149153
William Newton Memorial Hospital	88889
Yalobusha County, MS General Hospital	143228
Yalobusha County, MS General Hospital	38809

EXHIBIT C

Non-Hospitals in Class 7 (Healthcare Provider Claims)

Claimant Name	Claim No.
1 Method Center	146733
A Change INto Recovery	145873
A Forever Recovery	146794
A Safe Haven Foundation	70039
AAC Holdings, Inc.	146622
Aaron E. Henry Community Health Services, Inc	615979
Acorn Addiction Center, Indianapolis, IN	616137
Acqua Recovery	145883
Ambrose of NJ, Medford, NJ	615970
Amhealth Behavioral Inc.	146176
A-MMED Ambulance, Inc., d/b/a A-MED Ambulance Service	116196
ApolloMD Business Services, LLC	147264
Aquila Recovery Clinic	145878
Aquila VA	145893
Arcadia Trails	114571
Asana Recovery	146183
Aspen Ridge North	145969
Aspen Ridge Recovery	145909
ATON CENTER, INC.	146179
Awakening Behavioral Health	146186
Awakenings Rehabilitation, Inc	146793
Beaches Recovery	146182
Behavioral Rehabilitation Services, Inc.	146706
Bellator Health Care Management, LLC	146043
Bellefonte Physician Services, Inc.	65152
Best Drug Rehabilitation	146791
Beyond the Basics	145963
Bolt Surgery Center	146197
Bon Secours-Virginia Healthsource, Inc	65151
BOULDER INTEGRATED HEALTH LLC DBA: BOLDER LIFE	146199
BRC Recovery Inc.	146200
Bridge House Corporation	116615
Bridging the Gaps Inc.	146384
Bristol SL Holdings	146630
California Prime Recovery	146191
Calument Counseling & Dui Services, Inc	616138
Camcare Health Corp	618540

Camcare Health Corp	147765
Capo Canyon Recovery LLC	146710
Casa Recovery Inc.	146714
CCT-OTC, LLC	146034
Center Point, Inc.	147794
Changing Tides Treatment LLC.	146615
Choices Recovery Inc.	146689
CHP Properties, LLC	146084
Cirque Lodge, Oreau, UT	616013
CNV Detox	146540
Coastline Recovery for Men, Coastline Recovery for Women	146202
Community Based Care of Brevard, Inc. d/b/a Brevard Family Partnership	147797
Community Partnership for Children, Inc.	147796
Companion Home Services, LLC	146135
Comprehensive Alcohol Rehabilitation Programs, Inc.	147219
CROSS TIMBERS HOSPICE	342
Dacco Behavioral Health, Tampa, FL	616006
Delphi Behavioral Health	146570
Denver Womens Recovery	146063
Desert Cove Recovery	147400
Desert Mountain Detox	146067
Diamond House Detox	146071
Disc Village, Tallahassee, FL	616228
ECI Healthcare Partners, LLC	113193
EDCare Management, Inc.	104798
Elite Care, Inc.	146204
Elite Care, Inc.	146391
Etowah-Dekalb-Cherokee Mental Health Board, Incorporated	146090
EVNSQ, Inc.	146074
Faith Recovery Center Inc.	146211
Family Health Care Clinic, Inc	616149
Family Health Care Clinic, PSC	69865
Family Health Care Clinic, PSC	69944
Family Health Care Clinic, PSC as class representative for all similarly-situated rural health clinics under Fed.R.Civ.P. 23	69939
Family Practice Clinic of Booneville, Inc.	65022
Family Practice Clinic of Booneville, Inc. as class representative for all similarly-situated Rural Health Clinics under Fed.R.Civ.P. 23	64973
Fifth Street Counseling Center, Plantation FL	616200
Foster Hill Wellness, Inc.	146216
Freedom House	146917
Freedom Recovery LLC.	146086

Goforth Inspired	146094
Grace Hospice of New Orleans, LLC	145881
Guest House Ocala, LLC	146093
Hansei Solutions	146734
Harmony Hollywood, LLC	146609
Health Care & Rehab Services Southeastern Vermont, Inc.	147799
Health Help Incorporated	147767
Henry J Austin Health Center Inc.	147761
High Watch Recovery Center	147386
Homedica of Louisiana, LLC	146130
Ignite Teen Treatment, LLC	146112
I-Kare Treatment Center, LLC	49509
Imperial Healing Estate	146104
Infinity Behavioral Health Group	146502
Infinity Behavioral Health Services	614549
Infinity Behavioral Health Services	146461
Inland Detox Inc.	615901
Integris ProHealth, Inc.	115477
Integrity Billing	146581
iRecover Treatment Centers Inc. DBA: Serenity Palms	146117
Ivy Healthcare, LLC	146327
J. Herndons, LLC dba Addiction Therapeutic Services	146840
JBRC Medcial Group LLC	73885
JBRC Medical Group Center, LLC.	147748
JBRC Medical Group Center, LLC.	70224
JBRC Medical Group Center, LLC.	73860
JBRC Medical Group LLC	147323
JBRC Medical Group LLC	147329
JBRC Medical Group LLC	147331
JBRC Medical Group LLC	147504
JBRC Medical Group LLC	147508
JBRC Medical Group LLC	147514
JBRC Medical Group LLC	147712
JBRC Medical Group LLC	147714
JBRC Medical Group LLC	147717
JBRC Medical Group LLC	70030
JBRC Medical Group LLC	73873
JBRC Medical Group LLC	70009
JBRC Medical Group LLC	70227
JBRC Medical Group LLC	73683
JBRC Medical Group LLC	70081
JBRC Medical Group, LLC	89103
JBRC Medical Group, LLC	147669

JBRC Medical Group, LLC	147704
JBRC Medical Group, LLC	147724
JBRC Medical Group, LLC	147728
JBRC Medical Group, LLC	147746
JBRC Medical Group, LLC	70090
JBRC Medical Group, LLC	70196
JBRC Medical Group, LLC	70213
JBRC Medical Group, LLC	73685
JBRC Medical Group, LLC.	147174
JBRC Medical Group, LLC.	147266
JBRC Medical Group, LLC.	147278
JBRC Medical Group, LLC.	147281
JBRC Medical Group, LLC.	147288
JBRC Medical Group, LLC.	147291
JBRC Medical Group, LLC.	147295
JBRC Medical Group, LLC.	147301
JBRC Medical Group, LLC.	147356
JBRC Medical Group, LLC.	147375
JBRC Medical Group, LLC.	147418
JBRC Medical Group, LLC.	147421
JBRC Medical Group, LLC.	147429
JBRC Medical Group, LLC.	89044
JBRC Medical Group, LLC.	147674
JBRC Medical Group, LLC.	147680
JBRC Medical Group, LLC.	147740
JBRC Medical Group, LLC.	147742
JBRC Medical Group, LLC.	73673
JBRC Medical Group, LLC.	73676
JBRC Medical LLC	89642
JBRC Medical LLC	70063
JRBC Medical Group LLC	70031
Just Believe Recovery Center LLC	147713
Just Believe Recovery Center LLC	69976
Just Believe Recovery Center LLC	70008
Just Believe Recovery Center LLC	70091
Just Believe Recovery Center of Port Saint Lucie LLC	147325
Just Believe Recovery Center of Port Saint Lucie LLC	147512
Just Believe Recovery Center of Port Saint Lucie LLC	147519
Just Believe Recovery Center of Port Saint Lucie LLC	147521
Just Believe Recovery Center of Port Saint Lucie LLC	89639
Just Believe Recovery Center of Port Saint Lucie LLC	147710
Just Believe Recovery Center of Port Saint Lucie LLC	147716
Just Believe Recovery Center of Port Saint Lucie LLC	70179

Just Believe Recovery Center of Port Saint Lucie LLC	73730
Just Believe Recovery Center of Port Saint Lucie LLC	75115
Just Believe Recovery Center of Port Saint Lucie LLC	73804
Just Believe Recovery Center of Port Saint Lucie LLC	70085
Just Believe Recovery Center of Port Saint Lucie LLC	73743
Just Believe Recovery Center of Port Saint Lucie LLC	73902
Just Believe Recovery Center of Port Saint Lucie, LLC	147678
Just Believe Recovery Center of Port Saint Lucie, LLC.	147270
Just Believe Recovery Center of Port Saint Lucie, LLC.	147279
Just Believe Recovery Center of Port Saint Lucie, LLC.	147287
Just Believe Recovery Center of Port Saint Lucie, LLC.	147289
Just Believe Recovery Center of Port Saint Lucie, LLC.	147293
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Just Believe Recovery Center of Port Saint Lucie, LLC.	147297
Just Believe Recovery Center of Port Saint Lucie, LLC.	147300
Just Believe Recovery Center of Port Saint Lucie, LLC.	147366
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Just Believe Recovery Center of Port Saint Lucie, LLC.	147433
Just Believe Recovery Center of Port Saint Lucie, LLC.	147445
Just Believe Recovery Center of Port Saint Lucie, LLC.	147652
Just Believe Recovery Center of Port Saint Lucie, LLC.	147672
Just Believe Recovery Center of Port Saint Lucie, LLC.	147707
Just Believe Recovery Center of Port Saint Lucie, LLC.	147725
Just Believe Recovery Center of Port Saint Lucie, LLC.	147726
Just Believe Recovery Center of Port Saint Lucie, LLC.	89591
Just Believe Recovery Center of Port Saint Lucie, LLC.	147745
Just Believe Recovery Center of Port Saint Lucie, LLC.	73702
Just Believe Recovery Center of Port Saint Lucie, LLC.	73719
Just Believe Recovery Center of Port Saint Lucie, LLC.	73731
Just Believe Recovery Center of Port Saint Lucie, LLC.	73734
Just Believe Recovery Center of Port Saint Lucie, LLC.	73798
Just Believe Recovery Center of Port Saint Lucie, LLC.	89201
Just Believe Recovery Center of Port Saint Lucie, LLC.	89035
Just Believe Recovery Center, LLC	70222
Just Believe Recovery Center, LLC	73789
Just Believe Recovery Center, LLC	73851
Just Believe Recovery Center, LLC.	89574
Just Believe Recovery Center, LLC.	147280
Just Believe Recovery Center, LLC.	147285
Just Believe Recovery Center, LLC.	147663
Just Believe Recovery Center, LLC.	89623
Just Believe Recovery Center, LLC.	73649

Kids First of Florida, Inc.	147800
Lab Express LLC	146662
Lake Hughes Recovery Estates Inc, DBA First Responders First	146218
Lake Hughes Recovery, Inc.	146217
Lakeview Center, Inc.	147802
LifeSpring, Inc,	147769
Living Rebos LLC	146219
Los Angeles Recovery Centers	146611
Malibu Behavioral Health Services	146224
Mercy House Teen Challenge	43312
Mercy Medical, Kankakee, IL	616001
Mia Health Group	11722
Narconon Suncoast, Inc.	146725
New Balance OM, Merrillville, IL	616134
New Found Life	147393
New Freedom Recovery Center LLC.	146101
New Orleans Mission, Inc.	57380
Newman's Medical Services, INC.	121181
Niznik Behavioral Health	146227
NOLA SJH II, LLC	146154
Northeast Kingdom Human Services, Inc.	75143
OC Revive	146229
Pacific Recovery Solutions	146232
PCI Westlake Centers	146230
Perspectives II	146100
Perspectives III	146119
Phoenix House Mid Atlantic	146612
Porter-Starke Services Inc	117140
POSC of Orange	146225
Primary Purpose Center, Inc.	57006
Project New Start, Inc.- New Life Church of God (similarly situated as Creditor Mercy House Teen Challenge)	74462
Rancho Milagro Recovery, Inc.	146756
Rayl Enterprises, Inc.	147381
Renaissance Ranch	146599
Renaissance Recovery	146237
Resurgence Behavioral Health	146505
Riverbend Center for Mental Health	146111
RMP Enterprises, LLC, Port St Lacie, FL	616179
Roots Counseling Services, LLC	147383
Royal Life Centers, Del Ray Beach, FL	616136
RS Medical Inc	12325
Safe Harbor Treatment center	147066

SAFE HAVEN RECOVERY , INC.	146676
Saint Francis Outreach Services, LLC	111648
Saint Francis Pharmacy Services, Inc.	115470
Schumacher Group of Arkansas, Inc.	113233
Schumacher Medical Corporation	111462
Schumacher Medical Corporation of Alabama, Inc	113166
Sea Change Santa Monica, LP d/b/a Sea Change Recovery	146236
Serenity Springs Recovery	146121
Silicon Beach Outpatient Center	146235
Silver Lining Recovery Center DBA: Recovery BLVD	146115
Silver Sands Recovery, LLC	146127
Singing River Mental Health/Mental Retardation Services Region XIV Commission	146256
Sober Life Recovery Solutions	146500
South Coast Counseling	146242
South Florida Behavioral Health Network	43214
South Florida Recovery, Greenacers, FL	616097
Southern California Recovery, LLC, Beverly Hills, CA	616133
St. Francis Physician Services, Inc.	65188
St. Joseph Hospice & Palliative Care-Northshore, LLC	145907
St. Joseph Hospice and Palliative Care of Monroe, LLC	145889
St. Joseph Hospice of Acadiana, LLC	145861
St. Joseph Hospice of Bayou Region	145870
St. Joseph Hospice of Cenla, LLC	145887
St. Joseph Hospice of Houston, LLC	145950
St. Joseph Hospice of South Alabama, LLC	145973
St. Joseph Hospice of Southern Mississippi, LLC	145929
St. Joseph Hospice of Southwest Louisiana, LLC	145991
St. Joseph Hospice of West Mississippi, LLC	145935
St. Joseph Hospice, LLC	145857
St. Vincent Charity Medical Center (& Rosary Hall)	135459
Stat Home Health Florida Panhandle, LLC	146030
Stat Home Health Houston Bellaire, LLC	146059
Stat Home Health Houston, LLC	146060
Stat Home Health of Cenark, LLC	146161
Stat Home Health of Northwest Louisiana, LLC	146062
Stat Home Health of Southeast Louisiana, LLC	146155
Stat Home Health of Southwest Louisiana, LLC	146057
Stat Home Health, LLC	145994
Stat Home Health-North, LLC	146016
Stat-Home Health-West, LLC	146025
Stepping Stones of San Diego	146128
Sterling Group Physician Services, LLC	111669

Summit Behavioral Health of Arizona, LLC	146240
Summit County Women's Recovery	147160
Summit Estate Recovery Center	147081
Sunshine Behavioral Health Group	103587
Surf City Recovery	146351
Surf City Recovery	146132
The Bloc Outpatient	147161
The Carpenter Hospice of Northwest Louisiana, LLC	135435
The Counseling Service of Addison County, Inc.	147798
The Heights Treatment, LLC	146454
The Marshall-Jackson Mental Health Board, Inc.	146096
The Physicians' Group, LLC	114102
The Schumacher Group of Colorado, Inc.	111459
The Schumacher Group of Florida, Inc.	111659
The Schumacher Group of Illinois, Inc.	113214
The Schumacher Group of Indiana, Inc.	104479
The Schumacher Group of Kentucky, Inc.	113111
The Schumacher Group of Louisiana, Inc.	111664
The Schumacher Group of Michigan, Inc.	111614
The Schumacher Group Of Mississippi, Inc	111623
The Schumacher Group of Missouri, Inc.	111647
The Schumacher Group of Montana, Inc.	103471
The Schumacher Group of Nevada, Inc.	110721
The Schumacher Group of New Jersey, Inc.	113208
The Schumacher Group of New Mexico, Inc.	103768
The Schumacher Group of New York, Inc.	103786
The Schumacher Group of North Carolina, Inc.	111644
The Schumacher Group of Ohio, Inc.	113163
The Schumacher Group of Oklahoma, Inc.	111665
The Schumacher Group of Pennsylvania, Inc.	111643
The Schumacher Group of South Carolina, Inc.	112736
The Schumacher Group of Tennessee, Inc.	103830
The Schumacher Group of Texas, Inc.	103812
The Schumacher Group Of Virginia, Inc	111629
The Schumacher Group Of Washington, Inc	111468
The Schumacher Group Of West Virginia, Inc	111635
The Well Recovery Partners	146579
The Well Recovery Partners	146651
Transcend Living, Inc.	147103
Transitions Recovery Program	121354
Triad Health Systems Inc	69941
Triad Health Systems, Inc. as class representative for all similarly-situated Federally Qualified Healthcare Systems and	73811

Clinics under Fed.R.Civ.P. 23	
True Accountability LLC	147159
Volunteers of America Mid-States, Inc. and Subsidiaries	146804
Warren Clinic, Inc.	115308
Wavelengths Recovery LLC	147158
Wellstone, Inc.	146309
Westside Treatment, LLC.	146483
Y and Y Recovery	146663

EXHIBIT D

MSGE Fee Allocation Agreement

Exhibit E

Oklahoma Litigating Political Subdivisions

Atoka County	Beckham County
Caddo County	Choctaw County
Cimarron County	Cleveland County
Coal County	Comanche County
Craig County	Creek County
Custer County	Delaware County
Dewey County	Garvin County
Grady County	Greer County
Harmon County	Harper County
Haskell County	Hughes County
Jackson County	Jefferson County
Johnston County	Kay County
Kiowa County	Latimer County
LeFlore County	Lincoln County
Logan County	Love County
Major County	Mayes County
McClain County	McCurtain County
Muskogee County	Noble County
Nowata County	Okfuskee County
Oklahoma County	Okmulgee County
Osage County	Ottawa County
Pawnee County	Payne County
Pittsburg County	Pottawatomie County
Roger Mills County	Rogers County
Seminole County	Stephens County
Texas County	Tillman County
Tulsa County	Washington County
Woods County	Woodward County
City of Ada	City of Altus
City of Anadarko	City of Bethany
City of Broken Arrow	City of Collinsville
City of Edmond	City of El Reno
City of Elk City	City of Enid
City of Guthrie	City of Jenks

City of Lawton	City of Midwest City
City of Muskogee	City of Mustang
City of Oklahoma City	City of Owasso
City of Ponca City	City of Seminole
City of Shawnee	City of Stillwater
City of Tulsa	City of Yukon

Exhibit F

Oklahoma Subdivision Allocation

Summary report: **Litera Compare for Word 11.10.1.2 Document comparison done on 7/1/2025 3:08:59 PM**	
Style name: Comments+Color Legislative Moves+Images	
Intelligent Table Comparison: Active	
Original DMS: iw://dmsweb.ad.dpw.com/AMERICASACTIVE/99533272/44	
Modified DMS: iw://dmsweb.ad.dpw.com/AMERICASACTIVE/99533272/45	
Changes:	
Add	155
~~Delete~~	156
~~Move From~~	25
Move To	25
Table Insert	0
~~Table Delete~~	0
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	361

Exhibit B

Blackline of Disclosure Statement for Updated Thirteenth Amended Plan Against Disclosure Statement for June 20 Thirteenth Amended Plan

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	**Chapter 11**
PURDUE PHARMA L.P., *et al.*,	**Case No. 19-23649 (SHL)**
Debtors.[1]	**(Jointly Administered)**

DISCLOSURE STATEMENT FOR THIRTEENTH AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION OF PURDUE PHARMA L.P. AND ITS AFFILIATED DEBTORS

~~**THIS IS NOT A SOLICITATION OF AN ACCEPTANCE OR REJECTION OF THE PLAN. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL THIS DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR APPROVAL BUT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT. THE INFORMATION IN THIS DISCLOSURE STATEMENT IS SUBJECT TO CHANGE. THIS DISCLOSURE STATEMENT IS NOT AN OFFER TO SELL ANY SECURITIES AND IS NOT SOLICITING AN OFFER TO BUY ANY SECURITIES.**~~

[1] 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.

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Eli J. Vonnegut
Christopher S. Robertson
Joshua Y. Sturm
Abraham Bane

Counsel to the Debtors and Debtors in Possession

Dated: ~~June 20~~July 1, 2025
New York, New York

DISCLAIMER

THIS DISCLOSURE STATEMENT CONTAINS A SUMMARY OF CERTAIN PROVISIONS OF THE PLAN AND CERTAIN OTHER DOCUMENTS AND INFORMATION. THE INFORMATION INCLUDED HEREIN IS FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE PLAN PURSUANT TO SECTION 1125(A) OF THE BANKRUPTCY CODE AND SHOULD NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW AND WHETHER TO VOTE ON THE PLAN. THE DEBTORS BELIEVE THAT THESE SUMMARIES ARE FAIR AND ACCURATE. THE SUMMARIES OF THE FINANCIAL INFORMATION AND THE DOCUMENTS THAT ARE ATTACHED HERETO ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO SUCH INFORMATION AND DOCUMENTS. IN THE EVENT OF ANY INCONSISTENCY OR DISCREPANCY BETWEEN A DESCRIPTION IN THIS DISCLOSURE STATEMENT AND THE TERMS AND PROVISIONS OF THE PLAN OR SUCH OTHER PLAN-RELATED DOCUMENTS AND INFORMATION, THE PLAN OR SUCH OTHER PLAN-RELATED DOCUMENTS AND INFORMATION, AS THE CASE MAY BE, SHALL GOVERN FOR ALL PURPOSES.

THE STATEMENTS AND INFORMATION CONTAINED HEREIN HAVE BEEN MADE AS OF THE DATE HEREOF UNLESS OTHERWISE SPECIFIED. HOLDERS OF CLAIMS REVIEWING THIS DISCLOSURE STATEMENT (INCLUDING ALL EXHIBITS HERETO) SHOULD NOT INFER AT THE TIME OF SUCH REVIEW THAT THERE HAVE BEEN NO CHANGES IN THE FACTS SET FORTH HEREIN SINCE THE DATE HEREOF. EACH HOLDER OF A CLAIM ENTITLED TO VOTE ON THE PLAN SHOULD CAREFULLY REVIEW THE PLAN AND THIS DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE CASTING A BALLOT. THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE LEGAL, BUSINESS, FINANCIAL, OR TAX ADVICE. ANY PERSONS DESIRING ANY SUCH ADVICE OR OTHER ADVICE SHOULD CONSULT WITH THEIR OWN ADVISORS.

ALTHOUGH THE DEBTORS HAVE ATTEMPTED TO ENSURE THE ACCURACY OF THE FINANCIAL INFORMATION PROVIDED IN THIS DISCLOSURE STATEMENT, EXCEPT WHERE SPECIFICALLY NOTED, THE FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS NOT BEEN AUDITED.

THE FINANCIAL PROJECTIONS PROVIDED IN THIS DISCLOSURE STATEMENT HAVE BEEN PREPARED BY THE MANAGEMENT OF THE DEBTORS AND THEIR FINANCIAL ADVISORS. THESE FINANCIAL PROJECTIONS, WHILE PRESENTED WITH NUMERICAL SPECIFICITY, ARE NECESSARILY BASED ON A VARIETY OF ESTIMATES AND ASSUMPTIONS THAT, ALTHOUGH CONSIDERED REASONABLE BY MANAGEMENT, MAY NOT BE REALIZED AND ARE INHERENTLY SUBJECT TO SIGNIFICANT BUSINESS, ECONOMIC, COMPETITIVE, INDUSTRY, REGULATORY, MARKET, AND FINANCIAL UNCERTAINTIES AND CONTINGENCIES, MANY OF WHICH ARE BEYOND THE DEBTORS' CONTROL. THE DEBTORS CAUTION THAT NO REPRESENTATIONS CAN BE MADE AS TO THE ACCURACY OF THESE FINANCIAL PROJECTIONS OR THE ABILITY TO ACHIEVE THE PROJECTED

RESULTS. SOME ASSUMPTIONS INEVITABLY WILL NOT MATERIALIZE. FURTHER, EVENTS AND CIRCUMSTANCES OCCURRING SUBSEQUENT TO THE DATE ON WHICH THESE FINANCIAL PROJECTIONS WERE PREPARED MAY BE DIFFERENT FROM THOSE ASSUMED AND/OR MAY HAVE BEEN UNANTICIPATED AND, THUS, THE OCCURRENCE OF THESE EVENTS MAY AFFECT FINANCIAL RESULTS IN A MATERIALLY ADVERSE OR MATERIALLY BENEFICIAL MANNER. THE FINANCIAL PROJECTIONS, THEREFORE, MAY NOT BE RELIED UPON AS A GUARANTEE OR OTHER ASSURANCE OF THE ACTUAL RESULTS THAT WILL OCCUR.

NO PARTY IS AUTHORIZED TO GIVE ANY INFORMATION WITH RESPECT TO THE PLAN OTHER THAN THAT WHICH IS CONTAINED IN THIS DISCLOSURE STATEMENT. NO REPRESENTATIONS CONCERNING THE DEBTORS OR THE VALUE OF THEIR PROPERTY HAVE BEEN AUTHORIZED BY THE DEBTORS OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT. ANY INFORMATION, REPRESENTATIONS, OR INDUCEMENTS MADE TO OBTAIN AN ACCEPTANCE OF THE PLAN OTHER THAN, OR INCONSISTENT WITH, THE INFORMATION CONTAINED HEREIN AND IN THE PLAN SHOULD NOT BE RELIED UPON BY ANY HOLDER OF A CLAIM.

WITH RESPECT TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS, AND OTHER PENDING, THREATENED, OR POTENTIAL LITIGATION OR ACTIONS, THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE, AND MAY NOT BE CONSTRUED BY ANY PARTY AS, AN ADMISSION OF FACT, LIABILITY, STIPULATION, OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT WILL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING NOR WILL IT BE CONSTRUED TO CONSTITUTE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PLAN AS IT RELATES TO THE HOLDERS OF CLAIMS AGAINST, OR INTERESTS IN, THE DEBTORS.

THE SECURITIES DESCRIBED HEREIN WILL BE ISSUED WITHOUT REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), OR ANY SIMILAR FEDERAL, STATE, OR LOCAL LAW, IN RELIANCE ON THE EXEMPTIONS SET FORTH IN SECTION 1145 OF THE BANKRUPTCY CODE. IN ACCORDANCE WITH SECTION 1125(E) OF THE BANKRUPTCY CODE, A DEBTOR OR ANY OF ITS AGENTS THAT PARTICIPATES, IN GOOD FAITH AND IN COMPLIANCE WITH THE APPLICABLE PROVISIONS OF THE BANKRUPTCY CODE, IN THE OFFER, ISSUANCE, SALE, OR PURCHASE OF A SECURITY, OFFERED OR SOLD UNDER THE PLAN, OF THE DEBTOR, OF AN AFFILIATE PARTICIPATING IN A JOINT PLAN WITH THE DEBTOR, OR OF A NEWLY ORGANIZED SUCCESSOR TO THE DEBTOR UNDER THE PLAN, IS NOT LIABLE, ON ACCOUNT OF SUCH PARTICIPATION, FOR VIOLATION OF ANY APPLICABLE LAW, RULE, OR REGULATION GOVERNING THE OFFER, ISSUANCE, SALE, OR PURCHASE OF SECURITIES.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 3016(B) AND NOT IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER NON-APPLICABLE BANKRUPTCY LAWS. THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION (THE "**SEC**"), NOR HAS THE SEC PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.

SEE ARTICLE VIII OF THIS DISCLOSURE STATEMENT, ENTITLED "CERTAIN RISK FACTORS TO BE CONSIDERED PRIOR TO VOTING," FOR A DISCUSSION OF CERTAIN CONSIDERATIONS IN CONNECTION WITH A DECISION BY A HOLDER OF AN IMPAIRED CLAIM TO ACCEPT THE PLAN.

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ARTICLE I

INTRODUCTION

A. Purpose of the Disclosure Statement

On September 15, 2019 (the "**Petition Date**"), each of Purdue Pharma L.P. ("**Purdue Pharma**" or "**PPLP**"), its general partner Purdue Pharma Inc. ("**PPI**"), and Purdue Pharma's wholly owned direct and indirect subsidiaries (collectively, the "**Debtors**") filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**"). The Debtors' chapter 11 cases are being jointly administered under the caption *In re Purdue Pharma L.P.*, Case No. 19-23649 (the "**Chapter 11 Cases**"). The Debtors have continued in possession of their property and have continued to operate and manage their businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors submit this disclosure statement (including all exhibits and schedules attached thereto, and as may be amended, altered, modified, revised, or supplemented from time to time, the "**Disclosure Statement**") in connection with the solicitation of votes on the *Thirteenth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and Its Affiliated Debtors*, dated ~~June 17~~July 1, 2025 (the "**Plan**"), a copy of which is attached hereto as **Appendix A**.[2]

The Debtors submit this Disclosure Statement pursuant to section 1125 of the Bankruptcy Code to holders of Claims against and Interests in the Debtors in connection with (i) the solicitation of acceptances of the Plan and (ii) a hearing to consider confirmation of the Plan.

The purpose of this Disclosure Statement is to describe the Plan and its provisions and to provide adequate information, as required under section 1125 of the Bankruptcy Code, to inform holders of Claims against the Debtors who, as applicable, have the right to vote on the Plan so they can make informed decisions in doing so. Holders entitled to vote to accept or reject the Plan will receive a Ballot together with this Disclosure Statement to enable them to vote on the Plan.

This Disclosure Statement includes, among other things, information pertaining to the Debtors' prepetition business operations and financial history, and the events leading up to the Chapter 11 Cases. In addition, this Disclosure Statement includes an overview of the Plan (which overview sets forth certain terms and provisions of the Plan), the effects of confirmation of the Plan, certain risk factors associated with the Plan, and the manner in which distributions will be made under the Plan. This Disclosure Statement also discusses the confirmation process and the

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan or the Disclosure Statement; *provided*, that capitalized terms used herein that are not defined herein or in the Plan or the Disclosure Statement, but are defined in title 11 of the United States Code (the "**Bankruptcy Code**") or the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), shall have the meanings ascribed to such terms in the Bankruptcy Code or the Bankruptcy Rules, as applicable.

procedures for voting, which procedures must be followed by the holders of Claims entitled to vote under the Plan in order for their votes to be counted.

B. Executive Summary

On the very first day of these Chapter 11 Cases, the Debtors committed to turn over all of their assets for the benefit of their claimants and the American public. The Debtors' proposed Plan delivers on this commitment.

Under the Plan and various settlements with the Sackler Parties, billions of dollars will flow into trusts established for the benefit of claimants harmed by the opioid crisis including states and localities, Native American Tribes, healthcare providers, public schools, emergency room physicians and qualified personal injury claimants (including children born with Neonatal Abstinence Syndrome). Creditors in these Chapter 11 Cases will have the opportunity to elect whether to settle their direct claims against the Sackler Parties in exchange for enhanced recoveries under the Plan. In the aggregate, as much as $8 billion in value could be available for creditors under the Plan.

Under the terms of the Shareholder Settlements, the Sackler Parties will be required to pay up to approximately $7 billion over fifteen years in settlement of both the Debtors' claims against the Sackler Parties and direct claims against the Sackler Parties held by creditors that elect to settle those claims. These payments (assuming that all creditors elect to grant the Third-Party Releases) would exceed the amount of the Sackler Families' commitments under the settlement set forth in the Debtors' prior plan of reorganization. The principal consideration to be granted to the Sackler Parties in exchange for such payments is the release and injunction provisions with respect to specified parties associated with the Sackler Parties provided for under the Plan and in the various Direct Claims Shareholder Settlements. The terms of the Shareholder Settlements are discussed in greater detail herein.

The Plan also incorporates a number of updates and changes to the previous 12th amended plan to comply with the U.S. Supreme Court's ruling in *Harrington v. Purdue Pharm. L.P.*, 603 U.S. 204 (2024) that the Bankruptcy Code does not authorize non-consensual releases of claims held by non-debtors against other non-debtors (*i.e.*, third-party releases). The Third-Party Releases in the Plan will only bind those creditors who elect to grant them. Those creditors will receive additional distributions in exchange for their release of direct claims against the Sackler Parties and other released parties. The Plan does not release or compromise any direct claims against the Sackler Parties or any other non-Debtors held by creditors that elect not to grant third-party releases.

On or immediately after the Effective Date, Purdue Pharma will be dissolved and cease to exist. The Debtors' businesses will be transferred to a newly created company, Knoa Pharma LLC ("**NewCo**"), which will be wholly owned by an independent entity intended to be treated as an exempt organization under IRC section 501(c)(4) (the "**Foundation**"). No federal, state, or local governmental entity will own the equity of NewCo or the Foundation. NewCo will be a private company, will be required to operate in a responsible manner (*i.e.*, as the Debtors have been required to since the Petition Date), and will be subject to the same laws and regulations as any other U.S. pharmaceutical company. NewCo will, however, be historic and unique because

it will be governed by a charter that will require that it deploy its assets to address the opioid crisis.

This remarkable accomplishment has been reached through tireless effort and negotiations undertaken by many parties—parties that often held radically divergent views on fundamental issues that had to be, and to an exceptional degree have been, painstakingly reconciled over time. The result of these unparalleled efforts is a Plan and a number of non-bankruptcy settlements that the Debtors expect will be almost entirely consensual and will deliver significant value to many of those in need. The proposed global settlement represents the best possible outcome for the creditors, and the Plan, if confirmed, will fairly and expeditiously resolve these complex bankruptcy cases.

~~[~~The Plan is supported by nearly all of the Debtors' creditor constituencies, including the States AG Negotiating Group, the Ad Hoc Committee of Governmental and Other Contingent Litigation Claimants (the "**AHC**" or "**Ad Hoc Committee**"), the Multi-State Governmental Entity Group (the "**MSGE Group**"), the Native American Tribes Group, the Ad Hoc Group of Individual Victims, the Ad Hoc Group of Hospitals, the ER Physicians, the Third-Party Payor Group, the Ratepayer Mediation Participants, the NAS Committee, and the Public School District Claimants.~~]~~[~~ A statement from the Creditors' Committee regarding its support for the Plan will be included in the Solicitation Package and can also be found at www.kccllc.net/PurdueCreditors.~~]~~[3] The negotiations leading up to the proposal of this widely supported Plan and the key terms of the Plan are summarized below.

Events Following Confirmation of the 12th Amended Plan: Following entry of the Twelfth Amended Plan Confirmation Order, the United States Trustee, eight states and the District of Columbia (collectively, "**the Nine**"), certain Canadian municipalities and indigenous tribes, the City of Seattle, as well as certain individual claimants appealed the Twelfth Amended Plan Confirmation Order to the United States District Court for the Southern District of New York (the "**Southern District of New York**"). In December 2021, the Southern District of New York vacated the Twelfth Amended Plan Confirmation Order, holding that the nonconsensual third-party releases under the Plan were not authorized by the Bankruptcy Code. *See In re Purdue Pharma, L.P.*, 635 B.R. 26 (S.D.N.Y. 2021). The Debtors and others appealed this decision to the Second Circuit Court of Appeals, which appeal resulted in the fourth phase of the Mediation, leading to further improvements of the settlement terms embodied in the Twelfth Amended Plan that resolved the appeal by the Nine.

The settlement terms as of the conclusion of the fourth phase of the Mediation included the following (many of which were also part of the Plan that was confirmed in September 2021): (i) NewCo, a new company, would be created, among other things, to develop and distribute opioid addiction treatment and overdose reversal and other medicines, continue serving patients and consumers who use Purdue Pharma's existing medicines and products, (ii) the Sackler Families would pay an aggregate $5.5 billion over the course of 18 years, in addition to the $225 million already paid directly to the DOJ to satisfy their Civil Settlement outside of the Plan (as defined below), (iii) the Sackler Families would engage in a sale process over a seven-year

[3] ~~[**NTD:** subject to ongoing review.]~~

period to divest their ex-U.S. pharmaceutical companies and contribute up to an additional $500 million from such net sale proceeds, and (iv) key members of the Sackler Families would exit their investments and involvement in opioid businesses in perpetuity and other family members would not hold a controlling interest or serve in an executive role in an opioid business until all payment obligations of the Sackler Families under the Twelfth Amended Plan were satisfied in full. In addition, in exchange for the contributions by the Sackler Families, they and other related parties would receive narrowly tailored releases from potential liability in connection with the Debtors' business operations.

On May 30, 2023, the Second Circuit Court of Appeals reversed the Southern District of New York and affirmed the Twelfth Amended Plan Confirmation Order (the "**Second Circuit Decision**"). *See In re Purdue Pharma L.P.*, 69 F.4th 45 (2d Cir. 2023). Although virtually every single economically interested party had agreed to support (or not object to) the Twelfth Amended Plan, the United States Trustee sought, and was granted, certiorari before the Supreme Court of the United States (the "**Supreme Court**"). On June 27, 2024, the Supreme Court reversed, in a 5-4 vote, the Second Circuit Decision, holding that the Bankruptcy Code does not authorize the non-consensual release of claims held by a non-debtor against another non-debtor as contemplated by Section 10.7 of the Twelfth Amended Plan, and remanded the case for further proceedings consistent with its opinion (the "**Harrington Decision**"). *Harrington v. Purdue Pharm. L.P.*, 603 U.S. 204, 1 (2024).

Events Since the Harrington Decision: Following the Harrington Decision, the parties engaged in the fifth phase of the Mediation to modify the settlement with the Sackler Families and portions of the Twelfth Amended Plan in a manner consistent with the ruling of the Supreme Court. Multiple months of further Mediation yielded a further revised global settlement, adapted to comply with the new legal landscape. *See* Article III.CC.2 for a further description of the Mediation process and outcome.

The Plan incorporates the global settlement reached during this latest phase of the Mediation. As set forth herein, the settlement contained in the Twelfth Amended Plan was largely preserved, with enhancements and changes described below. The aggregate payment by the Sackler Parties to settle both estate and direct claims against them has been increased from $5.5 billion over eighteen years to up to $7 billion over fifteen years, with up to $1.5 billion of that total due on the Effective Date of the Plan (and more than 40% of the $6.5 billion total due in the first three years).

The Plan provides for the settlement of the Debtors' claims against the Sackler Parties (the "**Estate Causes of Action**") and allocates the proceeds of such settlement among the Debtors' creditors (the "**Estate Claims Settlement**"). Further, and consistent with the ruling of the United States Supreme Court, the Plan also provides for the voluntary settlement of direct claims held by creditors ("**Direct Claims Settlements**") against the Sackler Parties, who will provide cash distributions to public and private claimants who elect to participate in the Direct Claims Settlements and grant releases of their direct claims (as described in the Plan in more detail) (the "**Third-Party Releases**"). A claimant's vote on the Plan is independent of whether that claimant elects to grant the Third-Party Releases in exchange for an increased recovery. The Settlement provides for an election mechanism for Holders of Claims to grant consensual releases of any actual or potential direct claims or causes of action against the Shareholder

Released Parties relating to the Debtors (including claims in connection with Opioid-Related Activities) and an associated channeling injunction. The election mechanism differs among classes of Claims. Specifically, holders of personal injury claims and third-party payor claims will be able to grant the consensual releases through the ballot for Plan voting; governmental entities other than the federal government will be able to grant the consensual releases through direct settlement agreements; hospitals, emergency room physicians and public schools will be able to grant the consensual releases through to-be-filed opt-out class action settlements. If the Plan is consummated, the Holders of Claims that grant Third-Party Releases pursuant to the applicable mechanism will conclusively, absolutely, unconditionally, irrevocably, and forever release the Shareholder Released Parties from actual or potential claims or causes of action relating to the Debtors (including claims relating to OxyContin and other opioid medications) held by such Holders, subject to the conditions set forth in the Plan, including Sections 10.7(a), (b) and (c) of the Plan. Following the Notice of Shareholder Release Snapback, the Third-Party Releases granted by the Holders of Claims pursuant to the Plan do not apply to any Shareholder Release Snapback Party, as set forth in Section 10.7 of the Plan.

The payments to be made by the Sackler Parties will be divided between the Estate Claims Settlement and the Direct Claims Shareholder Settlements.[43] Those creditors that elect to grant the Third-Party Releases will receive their pro-rata share of distributions on account of both the Estate Claims Settlement and the Direct Claims Shareholder Settlements, while the creditors that do not elect to grant the Third-Party Releases will only receive their pro-rata share of distributions from the Estate Claims Settlement and other estate value once their claims are Allowed. The claims of those creditors that do not elect to grant the Third-Party Releases ("**Non-Participating Claims**") will not automatically be Allowed and may be subject to objections (which must be lodged by a certain time, as set forth in the next paragraph) by the Debtors, the Master Disbursement Trust, other applicable creditor representatives, or the Shareholder Released Parties in accordance with the Bankruptcy Code and the Plan (and such objections must be lodged within a certain period of time after the Effective Date, or else such claims will be Allowed). For the avoidance of doubt, a creditor that does not elect to grant the

[43] For the avoidance of doubt, all parties have agreed that this "allocation" of settlement amounts on account of Estate Releases, on the one hand, and the Direct Release, on the other, is part of an overall compromise and settlement under Bankruptcy Rule 9019 between the Debtors, the Creditors' Committee, all creditor groups that are Mediation Parties, and the Sackler Parties, and, upon confirmation of the Plan will be deemed to be a settlement between the Debtors, the Creditors' Committee, all creditor groups that are Mediation Parties, and the Sackler Parties in which, among other things, the Sackler Parties are providing the Settlement Payments in consideration over fifteen (15) years. The "allocation" is intended by the Sackler Parties and the other Mediation Parties, among other things, to facilitate the distribution of proceeds for opioid abatement, victim compensation, and other permitted uses under the Plan and otherwise. All parties, including the public side claimants and the Sackler Parties (as well as the Shareholder Released Parties), agree that neither the amount of the Settlement Payments nor the "allocation" (including any allocation between the Sackler Parties of the payment responsibility) reflects any concession or agreement by any party as to the strength, validity, merits, collectability, amount, or otherwise, of the Estate Released Claims or of the Direct Released Claims or any defenses to the Estate Released Claims or the Direct Released Claims, and that if for whatever reason the agreement in principle is not consummated, neither the amount of the Settlement Payments nor the "allocation" shall be cited or used by the Debtors, the Creditors' Committee, all creditor groups that are Mediation Parties, or the Sackler Parties (or the Shareholder Released Parties) – or any party hereto – for any purpose whatsoever in any pleading or proceeding wherever or whenever.

Third-Party Release will be able to pursue litigation of any direct claims against the Shareholder Released Parties, subject to any limitations set forth in the Plan or the Confirmation Order.

Non-Participating Claims will not receive any distribution on the Effective Date. Rather, on the Effective Date, the Debtors will fund disputed claims reserves established under the Plan (the "**Non-Participating Claims Reserve**") corresponding to each Class of Channeled Claims in amounts equal to the aggregate amount of estate distributions to which Holders of Non-Participating Claims in such class would be entitled pursuant to the applicable Trust Distribution Procedures ("**TDP**") if all such Non-Participating Claims are ultimately Allowed. If a Non-Participating Claim (other than a Non-Participating Claim that is a PI Claim) has not been the subject of a claims objection within two (2) years of the Effective Date, such Non-Participating Claim shall automatically become an Allowed claim and receive its treatment in accordance with the Plan (but shall not receive any distribution from any Direct Claims Settlement). If a Non-Participating Claim that is a PI Claim has not been the subject of a claims objection within eighteen (18) months of the Effective Date, such Non-Participating Claim shall become an Allowed claim and will receive its treatment in accordance with the Plan (but shall not receive any distribution from any Direct Claims Settlement).

A claimant shall be entitled to the amount reserved for such claim, as calculated in accordance with the mechanics of the Non-Participating Claims Reserve and the applicable TDPs, if the claimant proves that it has a valid, compensable claim against the Debtors, *i.e.*, a legal theory upon which it can recover. Upon the disallowance of any Non-Participating Claim, any amounts held in the applicable Non-Participating Claims Reserve for such claimant shall be released to the applicable Released Claims Reserve and any future distribution from the Estate that would have been funded to the Non-Participating Claims Reserve for that Claimant shall be funded directly to the Released Claims Reserve. Funds in the Released Claims Reserves may ultimately be made available for creditor distributions if certain criteria are met.

The principal consideration for the payments to be made by the Sackler Parties are the release and injunction provisions with respect to specified parties associated with the Sackler Parties provided for under the Plan and in the various Direct Claims Shareholder Settlements. *See* Article III.Y below and the Master Shareholder Settlement Agreement setting forth the principal terms of the agreement with the Sackler Parties, which Master Shareholder Settlement Agreement is part of the Plan Supplement, for a more detailed description of the terms of this settlement. The release and injunction provisions are described in detail in Articles I.E-F below.

As a condition to the Sackler Parties' increased settlement contributions without the assurance of broad third-party releases, the Plan, the Master Shareholder Settlement Agreement and the various Direct Claims Settlements also provide that certain qualifying litigation costs and expenses (including, for the avoidance of doubt, settlements and judgments, and collectively, "**Litigation Costs**")[54] incurred by the Sackler Parties related to creditor claims (including their treatment) that do not participate in the Direct Claims Settlement will reduce the Sackler Parties'

[54] For the avoidance of doubt, Litigation Costs shall not include any costs to object to the allowance of Claims if the underlying Claim holder has not commenced litigation against the Shareholder Released Parties, or any costs arising from litigation following a Notice of Shareholder Release Snapback.

settlement payment obligations. As described in more detail in Section III.Y.1, those Litigation Costs incurred by the Sackler Parties will be first payable from the applicable Shareholder Payment Parties' Retained Payment Amounts and Released Claims Reserves. If these funds are insufficient (or unavailable at the time because, for example, any litigation regarding the allowance of Non-Participating Claims is still on-going), such Litigation Costs shall be payable from the Special Operating Reserve. The Special Operating Reserve will initially be funded in an aggregate amount of $200 million by withholding Effective Date estate distributions in the amount of (i) $20 million allowable to Private Creditor Trusts and the Public School Trust and (ii) $180 million allowable to Public Creditor Trusts. If, on any Sackler Parties' settlement payment date, the Special Operating Reserve balance is less than $300 million, then the Sackler Parties' settlement payments due on that date on account of Estate Causes of Action will first be used to return the balance of the Special Operating Reserve to $300 million, until the aggregate amount of all contributions to the Special Operating Reserve total $800 million.[65]

As noted above, substantially all of the Debtors' non-cash assets (other than certain causes of action and insurance rights), including direct or indirect interests in PPLP's subsidiaries as separate legal entities except as otherwise provided by or permitted in the Plan, and approximately $135 million of cash will be transferred directly or indirectly to NewCo. Up to 5% of the unrestricted cash of NewCo (net of costs, expenses, fees, taxes, disbursements, debts or obligations) (the "**NewCo Distributable Cash**"), which shall not exceed $5 million per annum, will be distributed annually to the Foundation, which the Foundation may utilize to make grants for evidence-based strategies to abate the opioid crisis. NewCo shall pay the remaining NewCo Distributable Cash not distributed to the Foundation to the Governmental Remediation Trust and the Tribe Trust.

NewCo will be required to be operated in a responsible manner, balancing: (i) the interests of its stakeholders to fund and provide abatement of the opioid crisis; (ii) effective deployment of its assets to address the opioid crisis; and (iii) the interests of those materially affected by its conduct. As a result, NewCo will operate in an accountable manner with nearly all of the net value that it generates ultimately being used to abate the opioid crisis. NewCo will be wholly owned by the Foundation, an independent newly created New York corporation intended to be treated as a an exempt organization under IRC section 501(c)(4) for U.S. federal income tax purposes. There will be no creditor ownership of, or involvement in the governance, or operations of, the Foundation or NewCo. The managers of NewCo (the "**NewCo Managers**")—who will effectively function as a board of directors for the new company—and the trustees of the Foundation (the "**Foundation Trustees**") will initially be selected by the Settling States with the consent (not to be unreasonably withheld) of the Ad Hoc Committee and in consultation with the Debtors and the Creditors' Committee, pursuant to a selection process

[65] Amounts in the Special Operating Reserve will be returned to creditors who granted Third-Party Releases to the Shareholder Released Parties after the passage of a certain amount of time so long as there is no then-existing litigation against the Shareholder Released Parties, all as set forth in the Master Shareholder Settlement Agreement, dated as of June 17, 2025 by and among the Master Disbursement Trust, the parties listed on Exhibit A thereto, the parties listed on Exhibit B thereto, the Sackler Parties' Representative, and PRA L.P. (the "**Master Shareholder Settlement Agreement**"), as attached as Exhibit A to the *Notice of Filing of Plan Supplement Pursuant to the Thirteenth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and its Affiliated Debtors* [D.I. 7591].

that is reasonably acceptable to the Debtors, and the DOJ will have the right, in its discretion, to observe such selection process. The initial NewCo Managers and the Foundation Trustees must all be disinterested and independent. Neither any member of the Sackler Parties, who have had no role in managing the Debtors since 2018, nor any related entity, will have any role in the selection of the NewCo Managers, Foundation Trustees or in any other aspect of NewCo's or the Foundation's governance or operations. The NewCo and Foundation organizational documents and the identities of the initial NewCo Managers and initial Foundation Trustees will be included in the Plan Supplement.

Under the Plan, funds created for the benefit of each group of Private Claimants[76] will receive fixed cash distributions over time,[87] with varying values and time periods for each such group.

Private Claimants/Public Schools. Approximately $263,498,910 will be distributed to the Healthcare Provider Trust, comprised of $89,283,589.18 from the Estate and $174,215,320.82 from the Sackler Parties, approximately $394,911,880 will be distributed to the TPP Trust, comprised of $133,807,505.09 from the Estate and $261,104,374.91 from the Sackler Parties, approximately $5,811,015 will be distributed to the ERP Trust, comprised of $1,968,832.88 from the Estate and $3,842,182.12 from the Sackler Parties, and $40,560,000 will be distributed to the Public School Trust, comprised of $13,783,783.45 from the Estate and $26,776,216.55 from the Sackler Parties. Further, $865,818,195 will be distributed to a trust be established for personal injury victims (of which $114,061,265, comprised of $88,923,199.75 from the Estate and $25,138,065.25 from the Sackler Parties, shall be provided to NAS PI victims, and $751,756,930, comprised of $598,578,263.70 from the Estate and $153,178,666.30 from the Sackler Parties, shall be provided to non-NAS PI victims). A detailed description of each of the trusts, how they will be funded, which types of creditors may qualify for distributions from each trust and how distributions will be made is set forth in Article III.CC.3. Copies of the final trust distribution procedures (the "**Trust Distribution Procedures**") for each such trust (and the PI Trust, as defined below) will be included in the Plan Supplement.

The chart below sets forth the projected distributions to each of the Private Claimant trusts and the Public School Trust:

Trust	Effective Date Distributions	SOR Holdback Amounts[98]	Post-Emergence Distributions	Total Distributions
PI Trust	$815,818,195	$11,138,195	$50,000,000	$865,818,195

[76] The Private Claimants consist of (i) personal injury claimants, including guardian claimants asserting claims on behalf of minors with NAS due to exposure to opioids in utero, (ii) healthcare providers, (iii) private health insurance carrier plaintiffs and third-party payors and (iv) emergency room physicians.

[87] In the event that the Ratepayer Mediation Participants Stipulation has been entered into on or prior to the Effective Date, the Debtors will also pay attorneys' fees of the Ratepayer Mediation Participants on the Effective Date in an amount not to exceed $1.4 million.

[98] Included in Effective Date distributions shown in chart.

Non-NAS PI Portion	$701,756,930	$9,328,930	$50,000,000	$751,756,930
NAS PI Portion	$114,061,265	$1,809,265	$0	$114,061,265
TPP Trust	$394,911,880	$5,971,880	$0	$394,911,880
Healthcare Provider Trust	$263,498,910	$2,688,910	$0	$263,498,910
Public School Trust	$25,560,000	$60,000	$15,000,000	$40,560,000
ERP Trust	$5,811,015	$141,015	$0	$5,811,015
Total	**$1,505,600,000**	**$20,000,000**	**$65,000,000**	**$1,570,600,000**

Public Creditor Trusts. In addition to the Private Creditor Trusts and the Public School Trust described above, the settlement provides for the establishment of two public creditor trusts, which will receive the remainder of the distributable value. Specifically, all remaining value from the Debtors after satisfying other obligations under the Plan will be distributed through the Governmental Remediation Trust and the Tribe Trust,[~~10~~9] on account of the Non-Federal Domestic Governmental Claims and Tribe Claims, respectively.

The Public Creditor Trust Distributions to the Governmental Remediation Trust and/or the Tribe Trust will be allocated between the Governmental Remediation Trust and the Tribe Trust as follows, in each case, as calculated before accounting for any amounts payable pursuant to Section 5.9 of the Plan: (I) with respect to the Estate Distributions, (X) 96.7% to the Governmental Remediation Trust and (Y) 3.3% to the Tribe Trust; and (II) with respect to the Shareholder Direct Settlement Portion, (X) 96.7% of the Maximum Governmental Direct Settlement Amount on the payment dates indicated therein to the Governmental Remediation Trust, subject to, and payable in accordance with, the terms of the Governmental Entity Shareholder Direct Settlement Agreement[~~11~~10], and (Y) 3.3% of the Maximum Governmental Direct Settlement Amount on the payment dates indicated therein to the Tribe Trust, subject to, and payable in accordance with, the terms of the Tribe Trust Agreement.

Settlement with the DOJ: Following commencement of the Chapter 11 Cases, the Debtors also reached a settlement with the United States.[~~12~~11] On November 18, 2020, the Bankruptcy Court approved PPLP entering into (i) a plea agreement (the "**Plea Agreement**") by and among PPLP and the United States,[~~13~~12] and (ii) a civil settlement agreement by and between PPLP and the United States (the "**Civil Settlement**," and together with the Plea Agreement, the

[~~10~~9] The Tribe Trust refers to one or more trusts, limited liability companies or other Persons to be established in accordance with Section 5.8 of the Plan.

[~~11~~10] An initial draft of the Governmental Entity Shareholder Direct Settlement Agreement, dated as of June 17, 2025, is filed at D.I. 7592.

[~~12~~11] The proposed settlements described in this Disclosure Statement and Plan to which the United States would be a party are subject to necessary Government approvals. The United States cannot enter into binding agreements unless and until such approvals have been obtained.

[~~13~~12] Acting through the United States Attorney's Office for the District of New Jersey (the "**NJ USAO**"), the United States Attorney's Office for the District of Vermont ("**VT USAO**"), and the United States Department of Justice, Civil Division, Consumer Protection Branch.

"**DOJ Resolution**"). On November 24, 2020, in accordance with the terms of the DOJ Resolution, PPLP pled guilty in the United States District Court for the District of New Jersey (the "**New Jersey District Court**") to an information charging it with three felony offenses: one count charging a dual-object conspiracy to defraud the United States and to violate the Food, Drug, and Cosmetic Act, and two counts charging conspiracy to violate the Federal Anti-Kickback Statute. Consistent with the terms of the Plea Agreement, the New Jersey District Court's consideration of the Plea Agreement has been deferred to the sentencing hearing, which will occur following confirmation of the Debtors' Plan. If the Plea Agreement is accepted by the New Jersey District Court at the sentencing hearing, the DOJ Resolution will fully resolve the United States' civil and criminal investigations into the Debtors' past practices related to the production, sale, marketing and distribution of opioid products. Pursuant to the Plea Agreement, among other things, the Debtors and the United States agreed to a criminal forfeiture judgment in the amount of $2 billion (the "**Forfeiture Judgment**") that will be entered after confirmation of the Chapter 11 Plan and upon the New Jersey District Court's acceptance of the Plea Agreement, and will be deemed to have the status of an allowed superpriority administrative expense claim against PPLP.

Critically, the United States further agreed to provide a credit offsetting the Forfeiture Judgment (the "**Forfeiture Judgment Credit**") of up to $1.775 billion for value distributed or otherwise conferred by Purdue Pharma under the Plan in respect of claims asserted by state, tribal, or local government entities, *provided* that the Plan provides for the emergence of a public benefit company (or entity with a similar mission) and certain other terms and conditions as described in more detail in the Plea Agreement. The Forfeiture Judgment Credit therefore helps maximize the amount of value that can be dedicated to abatement purposes. Distribution of the value from the Debtors' Estates to the Governmental Remediation Trust and the Tribe Trust will satisfy the first primary requirement to realize the Forfeiture Judgment Credit. The transfer of the Debtors' business to NewCo, which is described in more detail below, will satisfy the second primary requirement. Accordingly, the Plan contemplates that the Debtors will be able to utilize the full amount of the Forfeiture Judgment Credit. *See* Article III.U for a further description of the DOJ Resolution.

In sum, the cornerstone of the Plan is the recognition by most of the core stakeholder groups that (a) all of the Debtors' assets should be distributed to their creditors, and almost all of such value should be provided to opioid claimants, and (b) the Settlement Agreements reflect the best available alternative for claimants. ~~[~~The Plan enjoys broad support from most of the Debtors' significant creditor groups.~~]~~[14] This level of consensus is extraordinary, given the nature of the litigation against the Defendant Debtors and the Shareholder Released Parties and the heterogeneous views on fundamental settlement and allocation issues held over time by the various supporting stakeholders.

[14] ~~[**NTD:** subject to ongoing review.]~~

[THE DEBTORS, THE CREDITORS' COMMITTEE, THE STATES AG NEGOTIATING GROUP, THE AD HOC COMMITTEE, THE MSGE GROUP, THE NATIVE AMERICAN TRIBES GROUP, THE AD HOC GROUP OF INDIVIDUAL VICTIMS, THE AD HOC GROUP OF HOSPITALS, THE ER PHYSICIANS, THE THIRD-PARTY PAYOR GROUP, THE RATEPAYER MEDIATION PARTICIPANTS, THE NAS COMMITTEE, AND THE PUBLIC SCHOOL DISTRICT CLAIMANTS (COLLECTIVELY, THE "**SUPPORTING CLAIMANTS**") SUPPORT CONFIRMATION OF THE PLAN AND URGE ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN TO VOTE TO ACCEPT THE PLAN. THE SUPPORTING CLAIMANTS BELIEVE THAT THE PLAN PROVIDES THE HIGHEST AND BEST RECOVERY FOR ALL CREDITORS AND IS IN THE BEST INTERESTS OF STAKEHOLDERS OF THE DEBTORS.][15]

[***DOJ Statement Regarding Confirmation of the Plan***

The Department of Justice has confirmed that, subject to agreement on acceptable operating principles and covenants for NewCo, the Plan (i) is consistent with the civil settlement agreement by and between PPLP and the United States and the plea agreement by and among PPLP and the United States that collectively constitute the DOJ Resolution and (ii) satisfies the two conditions precedent to the realization of the full $1.775 billion Forfeiture Judgment Credit—because the Plan provides for (a) the emergence of a public benefit company (or entity with a similar mission), and (b) at least $1.775 billion of value to be distributed or otherwise conferred by Purdue Pharma under the Plan in respect of claims asserted by state, tribal, or local government entities.]

Creditors' Committee Statement Regarding Confirmation of the Plan

[The Debtors have agreed to include in the Solicitation Package a letter from the Creditors' Committee supporting the Plan and providing greater detail regarding the Creditors' Committee's position with respect to the Plan. The views expressed in such letter are those of the Creditors' Committee. The Debtors appreciate the support of the Creditors' Committee, although they do not endorse or agree with all of the statements made in this letter.][16]

C. Summary of Classification and Treatment of Claims and Interests in the Debtors

The Plan is being proposed as a joint plan of reorganization of the Debtors for administrative purposes only, and constitutes a separate chapter 11 plan of reorganization for each Debtor. The Plan groups the Debtors together solely for purposes of describing treatment under the Plan, confirmation of the Plan and making distributions ("**Plan Distributions**") in respect of Claims against and/or Interests in the Debtors under the Plan. Such groupings shall not affect any Debtor's status as a separate legal entity, change the organizational structure of the Debtors' business enterprise, constitute a change of control of any Debtor for any purpose, cause a merger or consolidation of any legal entities, nor cause the transfer of any assets or the

[15] ~~[**NTD:** subject to ongoing review.]~~

[16] ~~[**NTD**: subject to review of the UCC letter.]~~

assumption of any liabilities; and, except as otherwise provided by or permitted in the Plan, all Debtors shall continue to exist as separate legal entities.

Over 614,000 Proofs of Claim were filed in these Chapter 11 Cases by the July 30, 2020 General Bar Date. More than 550,000 of those Proofs of Claim, approximately 90% of the total, did not state a claim amount. The approximately 10% of the Proofs of Claim that did state an amount asserted, in the aggregate, claims of over $140 trillion. Even if the single proof of claim asserting $100 trillion in damages is excluded, the approximately 10% of Proofs of Claim that state claim amounts assert, in the aggregate, claims of over $40 trillion. For comparison, the gross domestic product of the United States for 2023 is estimated at approximately $27.36 trillion,[~~17~~13] and the gross domestic product of the entire world for 2023 is estimated at approximately $106.17 trillion.[~~18~~14]

The vast majority of the filed Proofs of Claim assert unsecured opioid litigation claims, including the claims in the following classes: Non-Federal Domestic Governmental Claims (Class 4); Tribe Claims (Class 5); Public School Claims (Class 6); Healthcare Provider Claims (Class 7); Third-Party Payor Claims (Class 8); ER Physician Claims (Class 9); and PI Claims (Classes 10(a) and 10(b)). Many of the opioid litigation claims against the Debtors are based upon novel or untested legal theories. In addition to the legal uncertainties, the value of any opioid litigation claim will depend greatly on the facts and circumstances of the claim, and a number of highly particularized judgments about the quantum of economic and non-economic damages that the claimant has incurred and that are compensable under applicable law. The information necessary to determine these amounts is also generally not available from the Proofs of Claim, and, in litigation, would be learned through fact and expert discovery. Any estimate of the aggregate value of opioid litigation claims, and any estimate of the aggregate percentage recovery of a class of opioid litigation claims, would be so uncertain as not to provide claimants with information useful to make judgments about the proposed Plan.

The categories of Claims and Interests listed below classify Claims and Interests for all purposes, including voting, confirmation, and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. For a summary of the treatment of each Class of Claims and Interests, *see* the description below and "Summary of the Plan" in Article IV.

Class	Type of Claim or Interest	Impairment	Entitled to Vote
Class 1	Secured Claims	Unimpaired	No (Presumed to Accept)

[~~17~~13] Gross Domestic Product, Fourth Quarter and Year 2023 (Second Estimate), BEA 24-05, U.S. Department of Commerce, Bureau of Economic Analysis (Feb. 28, 2023).

[~~18~~14] GDP (current US$) (NY.GDP.MKTP.CD), World Bank (Dec. 17, 2024).

Class	Type of Claim or Interest	Impairment	Entitled to Vote
Class 2	Other Priority Claims	Unimpaired	No (Presumed to Accept)
Class 3	Federal Government Unsecured Claims	Impaired	Yes
Class 4	Non-Federal Domestic Governmental Claims	Impaired	Yes
Class 5	Tribe Claims	Impaired	Yes
Class 6	Public School Claims	Impaired	Yes
Class 7	Healthcare Provider Claims	Impaired	Yes
Class 8	Third-Party Payor Claims	Impaired	Yes
Class 9	ER Physician Claims	Impaired	Yes
Class 10(a)	NAS PI Claims	Impaired	Yes
Class 10(b)	Non-NAS PI Claims	Impaired	Yes
Class 11(a)	Avrio General Unsecured Claims	Unimpaired~~19~~ 15	No (Presumed to Accept)
Class 11(b)	Adlon General Unsecured Claims	Unimpaired~~20~~ 16	No (Presumed to Accept)

~~19~~15 As discussed in the Liquidation Analysis, the Debtors believe that the Holders of Avrio General Unsecured Claims would be paid in full in a hypothetical chapter 7 liquidation. Accordingly, the Plan provides that Holders of Avrio General Unsecured Claims will be paid in full under the Plan and are unimpaired.

~~20~~16 As discussed in the Liquidation Analysis, the Debtors believe that the Holders of Adlon General Unsecured Claims would be paid in full in a hypothetical chapter 7 liquidation. Accordingly, the Plan provides that Holders of Adlon General Unsecured Claims will be paid in full under the Plan and are unimpaired.

Class	Type of Claim or Interest	Impairment	Entitled to Vote
Class 11(c)	Other General Unsecured Claims	Impaired	Yes
Class 12	Intercompany Claims	Unimpaired or Impaired	No (Presumed to Accept or Deemed to Reject)
Class 13	Shareholder Claims	Impaired	No (Deemed to Reject)
Class 14	Co-Defendant Claims	Impaired	No (Deemed to Reject)
Class 15	Other Subordinated Claims	Impaired	No (Deemed to Reject)
Class 16	PPLP Interests	Impaired	No (Deemed to Reject)
Class 17	PPI Interests	Impaired	No (Deemed to Reject)
Class 18	Intercompany Interests	Unimpaired or Impaired	No (Presumed to Accept or Deemed to Reject)

If a controversy arises regarding whether any Claim is properly classified under the Plan, the Bankruptcy Court shall, upon proper motion and notice, determine such controversy at the Confirmation Hearing. If the Bankruptcy Court finds that the classification of any Claim is improper, then such Claim shall be reclassified and the Ballot previously cast by the Holder of such Claim shall be counted in, and the Claim shall receive the treatment prescribed in, the Class in which the Bankruptcy Court determines such Claim should have been classified, without the necessity of resoliciting any votes on the Plan.

For the reasons described above, a traditional recovery percentage for each impaired Class is not provided. The number of claims in and aggregate treatment provided to such Classes is summarized below. This summary does not take into account the timing of such Distributions or other important factors and does not describe procedures for making Distributions to individual claimants, which are discussed elsewhere in this Disclosure Statement.

With respect to the treatment of Other General Unsecured Claims (Class 11(c)), the Debtors estimate that, following completion of Claims litigation and related matters, the Other

General Unsecured Claim Cash, which is reserved for distribution to Holders of Allowed Other General Unsecured Claims exclusively, will likely exceed the aggregate amount of Allowed Other General Unsecured Claims. This estimate is based on certain assumptions based on a variety of factors. Should these underlying assumptions prove incorrect, the actual Allowed Other General Unsecured Claims may differ from the Debtors' estimates, and such differences could be material. Because distributions to Holders of Other General Unsecured Claims are linked to the value of Allowed Other General Unsecured Claims, any material increase in the amount of Allowed Other General Unsecured Claims in excess of the Other General Unsecured Claim Cash would materially reduce the recovery to Holders of Other General Unsecured Claims under the Plan.

This summary is qualified in its entirety by the more detailed description provided in the "Summary of the Plan" in Article IV, which sets forth in detail the treatment for certain Classes and the procedures by which the aggregate value provided for a certain Class will be distributed on account of claims in that Class.

Class	Type of Claim or Interest	Approximate Number of Timely Filed Proofs of Claim	Aggregate Treatment
Class 3	Federal Government Unsecured Claims	6	The United States shall receive (i) the Initial Federal Government Distribution and (ii) the MDT Federal Government Claim, which collectively total $50 million in payment obligations.
Class 4	Non-Federal Domestic Governmental Claims	~~6,986~~6,987	The Governmental Remediation Trust shall receive (i) the Initial Governmental Remediation Trust Distribution, (ii) the MDT Governmental Remediation Trust Interest and (iii) the right to receive 96.7% of the Governmental NewCo Distributable Cash pursuant to Section 5.4(e) of the Plan.
Class 5	Tribe Claims	397	The Tribe Trust shall receive (i) the Initial Tribe Trust Distribution, (ii) the MDT Tribe Interest and (iii) the right to receive 3.3% of the Governmental NewCo Distributable Cash pursuant to Section 5.4(e) of the Plan.

Class	Type of Claim or Interest	Approximate Number of Timely Filed Proofs of Claim	Aggregate Treatment
Class 6	Public School Claims	702	The Public School Trust shall receive (i) the Initial Public Schools Distribution (less any required payments to the Common Benefit Fund and/or in respect of attorneys' fees and expenses of the Public School District Claimants in accordance with Section 5.9(c) and (h) of the Plan) and (ii) the MDT Public School District claim, subject to certain conditions set forth in Section 4.6 of the Plan.
Class 7	Healthcare Provider Claims	~~1,141~~1,247	The Healthcare Provider Trust shall receive (i) the Initial Healthcare Provider Trust Distribution and (ii) the MDT Healthcare Provider Claim, subject to certain conditions set forth in Section 4.7 of the Plan.
Class 8	Third-Party Payor Claims	~~471,493~~471,534	The TPP Trust shall receive (i) the Initial TPP Trust Distribution and (ii) the MDT TPP Claim, subject to certain conditions set forth in Section 4.8 of the Plan.
Class 9	ER Physician Claims	1	The ERP Trust shall receive (i) the Initial ERP Trust Distribution and (ii) the MDT ERP Claim, subject to certain conditions set forth in Section 4.9 of the Plan.
Class 10(a)	NAS PI Claims	~~6,593~~6,597	The PI Trust NAS Fund shall receive the NAS PI Portion. Distributions from the PI Trust NAS Fund to Holders of Allowed NAS PI Channeled Claims shall be exclusively in the form of Distributions from the PI Trust NAS Fund or a Sub-Qualified Settlement Fund to Holders of Allowed NAS PI Channeled Claims in accordance with the NAS PI TDP.

Class	Type of Claim or Interest	Approximate Number of Timely Filed Proofs of Claim	Aggregate Treatment
Class 10(b)	Non-NAS PI Claims	~~130,942~~130,786	The PI Trust Non-NAS Fund shall receive the Non-NAS PI Portion. Distributions in respect of Non-NAS PI Channeled Claims shall be exclusively in the form of Distributions from the PI Trust Non-NAS Fund or a Sub-Qualified Settlement Fund to Holders of Allowed Non-NAS PI Channeled Claims in accordance with the Non-NAS PI TDP.
Class 11(c)	Other General Unsecured Claims	~~762~~657	$15 million in aggregate Other General Unsecured Claim Cash.

D. The DOJ Resolution, Settlements with the Private Claimant Groups and Shareholder Contribution Are Interdependent and Vastly Superior to Potential Alternatives

The Debtors and their key stakeholders have spent more than five years, at significant expense, to reach the point of proposing a highly negotiated Plan that will make the Debtors' assets and up to $7.0 billion from the Sackler Parties available to creditors. The extraordinary benefits of the proposed Plan are further highlighted by the immensely value-destructive nature of the alternatives to the Plan, which are described below.

Absent the DOJ Resolution, the Debtors would face enormous and potentially catastrophic litigation, prosecution, and possible exclusion from healthcare programs administered by the federal government. If the United States were to prevail in a criminal prosecution of the Debtors, it is likely that any convicted party would be excluded from participating in federal healthcare programs. Additionally, the consequences of the United States prevailing could potentially include a $6.2 billion or more non-dischargeable criminal fine and/or a criminal forfeiture judgment of $3.5 billion. The DOJ also asserted a substantial claim for civil liability, which the DOJ asserted was non-dischargeable, totaling $2.8 billion or more in damages, which could be trebled to $8.4 billion, plus penalties, as well as claims for civil forfeiture. Accordingly, the DOJ's claims and the likely massive costs associated with litigation against the DOJ had the potential to wipe out all of the value of the Debtors' Estates—and still do if the conditions to the DOJ Resolution are not met. Preserving the DOJ Resolution should therefore be of paramount importance to all stakeholders.

The resolution with the Non-Federal Public Claimants embodied in the Plan is critical to preserving and realizing the full benefit of the DOJ Resolution. As explained above, if less than

$1.775 billion of value is provided under the Plan in respect of claims asserted by state, tribal, or local government entities, then there is a dollar-for-dollar increase in the amount of the $2 billion Forfeiture Judgment that must be satisfied in cash rather than through the Forfeiture Judgment Credit, leaving less available for distribution to other creditors. In addition, the Forfeiture Judgment Credit is conditioned on confirmation of a plan of reorganization that provides for the emergence of a public benefit company or entity with a similar mission. Accordingly, under the terms of the Plea Agreement, any alternative structure that does not provide for emergence of a public benefit company or entity with a similar mission would reduce the amount available for distribution to other creditors by at least $1.775 billion.

Preserving the resolutions reached with the Private Claimants in the Pre-Confirmation Mediation and as supplemented by the Post-SCOTUS Decision Mediation (the "**Private-Side Resolutions**") is likewise critical. If the Debtors were to become unable to satisfy the terms of the Private-Side Resolutions, these Chapter 11 Cases would likely devolve into an unmitigated and value-destructive tempest, with the various Private Claimants vigorously disputing the claims of the Non-Federal Public Claimants, the United States, and other Private Claimants, and each of those groups compelled to respond in kind against each of the other groups. The litigation of the complex issues presented by the claims of the Non-Federal Public Claimants and each of the Private Claimants, particularly in light of the large number of parties in interest who would be expected to participate with varying goals, would be protracted and incredibly costly. There can be no assurance that the claims of the Non-Federal Public Claimants would ultimately be allowed in a particular amount or at all at the eventual conclusion of such litigation. Accordingly, if the Private-Side Resolutions are not preserved, then confirmation of the Plan would be at the very least materially delayed, and, if the outcome of the litigation with the Private Claimants were to preclude providing at least $1.775 billion in respect of claims asserted by state, tribal, or local government entities or emergence of a public benefit company or entity with a similar mission, then the Forfeiture Judgment Credit would be reduced or entirely unavailable, requiring the Debtors to satisfy the $2 billion Forfeiture Judgment in cash. That is a judgment that the Debtors could not satisfy in full, and other creditors would be at risk of receiving no recovery.

The Debtors' Plan, by contrast, facilitates a fair and equitable distribution of funds with certainty regarding the timing of payments. The up to $7.0 billion expected to be paid by the Sackler Parties under the settlement embodied in the Plan and their settlement with the DOJ ensures that there will be sufficient funds to meet the terms of the various public and private settlements. As explained above, the DOJ Resolution will require the Debtors to make $2.0 billion in distributions in respect of the Forfeiture Judgment in one form or another (given that the total amount of the Forfeiture Judgment must be either paid to the DOJ Asset Forfeiture Fund or conferred on the Non-Federal Claimants in a manner that allows the Debtors to realize the Forfeiture Judgment Credit) before any payments can be made to holders of unsecured claims, while the Private-Side Resolutions will require the Debtors to make a total of up to $1.48 billion in distributions. There would be substantial execution risk associated with any structure intended to allow the Debtors to satisfy the Private-Side Resolutions, the DOJ Resolution and the resolution with the Non-Federal Public Claimants without the funding provided under the settlement with the Sackler Parties. Accordingly, the contribution required under such settlement ensures that these Chapter 11 Cases will not collapse into the quagmire of expensive litigation and years of delay that would result if the Debtors cannot meet the terms of the

Private-Side Resolutions, the DOJ Resolution, or the resolution with the Non-Federal Public Claimants, which are all embodied in the Plan.

The Debtors carefully considered emergence alternatives to raise funds, including asset sales or a sale of the entire company. While a limited portion of the Debtors' assets could potentially be marketed if necessary and value-maximizing,[~~21~~17] the Debtors, with the assistance of their advisors, including PJT Partners LP ("**PJT**"), determined that a sale of the Debtors' business on the terms available would not be value maximizing or otherwise optimal at this time.

As described in more detail in Article III.M. below, the Debtors were approached by a number of potential purchasers that expressed an interest in acquiring some or all of the Debtors' business, but despite diligent and extensive engagement, the Debtors never received any actionable proposals. Moreover, the Debtors, with the assistance of PJT, assessed the prospects for selling the Debtors' business and concluded that multiple factors weighed against pursuing a sale during the Chapter 11 Cases, including, without limitation, the fact that: (i) the revenue streams associated with the Debtors' opioid businesses were likely to be heavily discounted by potential purchasers, (ii) the Debtors' pipeline of investments has not yet reached the stage at which they would traditionally be marketed by a typical pharmaceutical company and therefore are unlikely to be adequately valued by a purchaser, (iii) any sale contemplated by such proposals would have resulted in the unavailability of the $1.775 billion Forfeiture Judgment Credit and required PPLP to satisfy the entire Forfeiture Judgment in cash, and (iv) the proposals did not maximize the value of the Debtors' Estates for the benefit of creditors and other stakeholders. Transferring the Debtors' business to NewCo is therefore both value maximizing with respect to the business itself and with respect to best realizing the Forfeiture Judgment Credit by making the residual value of the business available to the Non-Federal Public Claimants to fund certain programs. Additionally, the capabilities of NewCo in advancing and executing on its Public Health Initiatives will generate significant additional value for creditors.

Accordingly, each of the major compromises embodied in the Plan is necessary for a successful resolution of these Chapter 11 Cases, while a failure of the Plan is likely to result in a scenario that is, or is not materially better than, the outcome described in the Liquidation Analysis, involving years of delay, billions of dollars less in available value for creditors. The Debtors, like the Supporting Claimants, therefore strongly urge all eligible holders of impaired Claims to vote to accept the Plan.

E. Channeling Injunction[~~22~~18]

In order to supplement the injunctive effect of the Plan Injunction, the Estate Releases and the Shareholder Releases set forth in Sections 10.5, 10.6 and 10.7 of the Plan, the Plan provides for the Channeling Injunction to take effect as of the Effective Date to permanently channel all Channeled Claims against any Protected Party to the Creditor Trusts, which will

[~~21~~17] During the Chapter 11 Cases the Debtors sold several assets for value as outlined in Article III.L. and Article II.B.1.

[~~22~~18] For the avoidance of doubt, only Opt-In Settling Creditors shall have their direct claims channeled to the applicable Creditor Trusts pursuant to the Plan.

forever stay, restrain, and enjoin all Persons that have held or asserted, that hold or assert or that may in the future hold or assert, any Channeled Claims from taking any action to directly or indirectly collect, recover, or receive payment, satisfaction, or recovery from any Protected Party with respect to any Channeled Claim. All Channeled Claims will be released and the Channeling Injunction will bar recovery or any action against any Protected Party for or in respect of all Channeled Claims. In other words, all Channeled Claims may be asserted only and exclusively against the Creditor Trusts and only to the extent of the right to treatment therefrom afforded under the Plan and the applicable Creditor Trust Documents.

Accordingly, the Channeling Injunction provides for a resolution process administered pursuant to the Plan in an attempt to provide final, fair, and efficient resolution of Channeled Claims against the Debtors and Released Claims. The Channeling Injunction would eliminate the need for prolonged and extremely expensive court involvement. The Plan provides for payment to holders of PI Claims that qualify for payment pursuant to the PI Trust Documents and for treatment of Non-Federal Domestic Governmental Claims, Tribe Claims, Public School Claims, Healthcare Provider Claims, Third-Party Payor Claims, and ER Physician Claims by means of Distributions made by the respective Creditor Trusts in accordance with the applicable Creditor Trust Documents.

"**Channeled Claims**" means, collectively, all Non-Federal Domestic Governmental Channeled Claims, Tribe Channeled Claims, Public School Channeled Claims, Healthcare Provider Channeled Claims, Third-Party Payor Channeled Claims, ER Physician Channeled Claims, and PI Channeled Claims.

"**Protected Parties**" means, collectively, (i) the Debtors, (ii) each of the Debtors' Related Parties, (iii) NewCo, (iv) the Foundation, (v) the Plan Administration Trust, (vi) the Master Disbursement Trust, except, solely to the extent provided in the Master TDP and the Governmental Remediation Trust Documents, with respect to the Channeled Claims channeled to the Master Disbursement Trust, (vii) each Creditor Trust, except, solely to the extent provided in the applicable Creditor Trust TDP, with respect to the Channeled Claims channeled to such Creditor Trust and (viii) the Shareholder Released Parties, subject to Section 10.8(c) of the Plan with respect to the Shareholder Release Snapback Parties.

F. Releases

As noted in the Executive Summary, a key element of the Plan is the settlement with the Sackler Parties, pursuant to which members of the Sackler Parties and Sackler Entities will pay up to $7.0 billion in cash to the Master Disbursement Trust over fifteen years in exchange for a release of potential claims of the Debtors' Estates and of third parties against the Sackler Parties, the Sackler Entities and certain other persons.

The release and injunction provisions in the Plan are described in detail in this section. The Special Committee's careful consideration of the Debtors' and third parties' potential claims against the Sackler Entities and the Special Committee's evaluation of such settlement, including agreeing to provide for such releases and injunctions in the Plan, are described in detail in Article III.Y.

All releases provided for in the Plan specifically exclude from the scope thereof any criminal action or criminal proceeding arising under a criminal provision of any statute instituted (i) by a Domestic Governmental Entity that has authority to bring such a criminal action or criminal proceeding, and (ii) to adjudicate a person's guilt or to set a convicted person's punishment. In addition, Section 10.20 of the Plan provides that the discharge, release, and injunction provisions contained in the Plan and Confirmation Order are not intended and shall not be construed to bar the United States from, subsequent to the Confirmation Order, pursuing any police or regulatory action, or any criminal action.

The releases include releases that are deemed to be granted by certain Persons, described herein, that consent to grant such releases.

The definitions of certain important terms that are used in the descriptions of the release are set forth below. The definitions of all defined terms used in the Plan (and which apply with respect to this Disclosure Statement as well) are set forth in Section 1.1 of the Plan, a copy of which is attached as **Appendix A** hereto, in alphabetical order.

"**Releasing Parties**" means, collectively, (i) the Supporting Claimants, solely in their respective capacities as such, (ii) the Opt-In Settling Creditors, (iii) the Settling Co-Defendants and (iv) with respect to each of the Persons in the foregoing clauses (i) through (iii), each of their Related Parties, to the extent the applicable Releasing Party has the authority under applicable law to grant such release on their behalf, in each case, other than any Shareholder Released Party.

"**Released Parties**" means, collectively, (i) the Debtors, (ii) each of the Debtors' Related Parties, solely in their respective capacities as such, and (iii) solely for purposes of the releases by the Debtors in Section 10.6(a) of the Plan, (A) the Supporting Claimants, the Creditors' Committee and the Creditors' Committee's members and each of their respective professionals, in each case solely in their respective capacities as such and (B) the Settling Co-Defendants and each of their Related Parties, in each case solely in their respective capacities as such; *provided*, *however*, that, notwithstanding the foregoing or anything in the Plan to the contrary, no Excluded Party or Shareholder Release Snapback Party 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.

"**Shareholder Released Parties**" means, collectively, (i) the Shareholder Payment Parties; (ii) the Designated Shareholder Released Parties and the Persons identified on Exhibit X to the Master Shareholder Settlement Agreement; (iii) all Persons directly or indirectly owning an equity interest in any Debtor on the date on which such Debtor commenced its Chapter 11 Case; (iv) Sackler Family Members; (v) all trusts for the benefit of any of the Persons identified in the foregoing clause (iv) and the past, present and future trustees (including, without limitation, officers, directors and employees of any such trustees that are corporate or limited

liability company trustees and members and managers of trustees that are limited liability company trustees), protectors and beneficiaries thereof, solely in their respective capacities as such; (vi) all Persons (other than the Debtors) to which property or funds of the Persons identified in any of the foregoing clauses (i) through (v) have been or are directly or indirectly transferred (including for charitable or philanthropic purposes), solely in such Persons' capacities as transferees and solely to the extent of any property or funds transferred to them; and (vii) with respect to each Person in the foregoing clauses (i) through (v), such Person's (A) predecessors, successors, permitted assigns, subsidiaries (other than the Debtors), controlled affiliates, spouses, heirs, executors, estates and nominees, in each case solely in their respective capacities as such, (B) current and former officers and directors, principals, members and employees, in each case, solely in their respective capacities as such, (C) financial advisors, attorneys (including, without limitation, attorneys retained by any director, in his or her capacity as such), accountants, investment bankers (including, without limitation, investment bankers retained by any director, in his or her capacity as such), consultants, experts and other professionals, in each case, solely in their respective capacities as such, and (D) property possessed or owned at any time or the proceeds therefrom; *provided* that notwithstanding anything in the Plan to the contrary, the Debtors and the Excluded Parties identified on the Schedule of Excluded Parties shall not be Shareholder Released Parties. For purposes of this definition of "Shareholder 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 Shareholder 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 Shareholder Released Party, such claim would be released if asserted against such other Shareholder Released Party. For the avoidance of doubt, any Person that fits within multiple categories above shall be a Shareholder Released Party in all such categories and failure to include any Person that fits within any category above on Exhibit X to the Master Shareholder Settlement Agreement shall not mean that such Person is not a Shareholder Released Party.

"**Related Parties**" means, with respect to a Person, (i) such Person's predecessors, successors, assigns, Subsidiaries, affiliates, managed accounts or funds, past, present and future officers, board members, directors, principals, agents, servants, independent contractors, co-promoters, third-party sales representatives, medical liaisons, members, partners (general or limited), managers, employees, subcontractors, agents, advisory board members, financial advisors, attorneys and legal representatives, accountants, investment bankers, consultants, representatives, management companies, fund advisors and other professionals and advisors, trusts (including trusts established for the benefit of such Person), trustees, protectors, beneficiaries, direct or indirect owners and/or equityholders, parents, transferees, heirs, executors, estates, nominees, administrators, and legatees, in each case in their respective capacities as such; (ii) the Related Parties of each of the foregoing, in each case in their respective capacities as such; and (iii) solely with respect to the Settling Co-Defendants, any insurer of any Settling Co-Defendant solely in its capacity as such (and specifically excluding certain insurers of the Debtors that have issued, are responsible for, or have liability on account of insurance rights arising out of or in connection with Opioid-Related Activities, solely in such insurers capacities as such). For the avoidance of doubt, the citizens and residents of a State shall not be deemed to be Related Parties of such State solely as a result of being citizens or

residents of such State; provided, however, that notwithstanding the foregoing, in no event shall an Excluded Party be a Related Party.

"**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 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 by any federal, state or local authority with respect to taxes (other than tax laws targeting Covered Conduct) imposed on such non-Debtor Person; (iii) any Estate Cause of Action or any Cause of Action held by a Releasing Party against an Excluded Party; (iv) any Cause of Action against any Person to the extent based on the actual conduct of such Person after the Effective Date; (v) any Cause of Action against persons or entities who are not Released Parties or Shareholder Released Parties; or (vi) any claim arising under the Plan for enforcement of the Plan.

To clarify, unless a Person qualifies as a Related Party of the Debtors under clause (i) of the definition of "Related Parties," such Person is generally released only for claims that both arise from actions or omissions that such Person took in its capacity as a Related Party and that are released against the Person through which the Related Party qualifies as related.

1. Releases by Debtors

The releases granted by the Debtors and their Estates to the Released Parties is a key component of the Plan. Such releases are provided for in Section 10.6(a) of the Plan.

Specifically, the Plan provides that, as of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, including, without limitation, the service of the Released Parties before and during the Chapter 11 Cases to facilitate the reorganization of the Debtors and the implementation of the Restructuring Transactions, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released by the Debtors and their Estates from any and all Causes of Action, including any derivative claims asserted or assertible by or on behalf of any Debtor or any of their Estates and including any claims that any Debtor or any of their Estates, or that any other Person or party claiming under or through any Debtor or any of their Estates, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Debtor or any of their Estates or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, based on or relating to, or in any manner arising from, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date (including the Debtors' Opioid-Related Activities, manufacture, marketing and sale of Products, interaction with regulators concerning Opioid-Related Activities or Products, and involvement in the subject matter of the Pending Opioid Actions, and the past, present or future use or misuse of any opioid by a Releasing Party), (ii) the Estates or (iii) the Chapter 11 Cases. The Debtors, the Plan Administration Trust, the Master Disbursement Trust, the Creditor Trusts, NewCo, the Foundation and any other newly-formed Persons that shall be continuing the

Debtors' businesses after the Effective Date shall be bound, to the same extent the Debtors are bound, by the Releases set forth in Section 10.6(a) of the Plan.

Notwithstanding anything in the Plan to the contrary, (x) nothing in the Plan shall release any Excluded Claim and (y) nothing in Section 10.6(a) of the Plan shall (A) release any contractual Estate Cause of Action or any Estate Cause of Action that is commercial in nature and, in each case, unrelated to either the Chapter 11 Cases or the subject matter of the Pending Opioid Actions; *provided* that, with respect to the Settling Co-Defendants, only Estate Surviving Pre-Effective Date Claims shall be retained and not released, (B) release any Estate Cause of Action against a Holder of a Claim against a Debtor, to the extent such Estate Cause of Action is necessary for the administration and resolution of such Claim solely in accordance with the Plan, *provided*, *however*, that the foregoing shall not apply to any Holder of a Co-Defendant Claim solely with respect to such Co-Defendant Claim, (C) be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements, or (D) release any Claim or right to disgorge, recoup or recover compensation under the orders authorizing the Key Employee Plans or the orders with respect to the *Motion of Debtors for Entry of an Order Authorizing (I) Debtors to (A) Pay Pre-Petition Wages, Salaries, Employee Benefits and Other Compensation and (B) Maintain Employee Benefits Programs and Pay Related Administrative Obligations, (II) Employees and Retirees to Proceed with Outstanding Workers' Compensation Claims and (III) Financial Institutions to Honor and Process Related Checks and Transfers* [D.I. 6].

2. Releases by Releasing Parties[~~23~~19]

In addition to ordinary and customary Debtor releases and exculpations, the Plan provides for certain releases to be deemed granted by the Releasing Parties, including Holders of Claims against or Interests in the Debtors, in favor of the Released Parties. Such release is provided for in Section 10.6(b) of the Plan.[~~24~~20]

Specifically, the Plan provides that, as of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, including, without limitation, the service of the Released Parties before and during the Chapter 11 Cases to facilitate the reorganization of the Debtors and the implementation of the Restructuring Transactions, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released by the Releasing Parties from any and all Causes of Action, including, without limitation, any Estate Cause of Action and any claims that any Releasing Party, or that any other Person or party claiming under or through any Releasing Party, would have presently or in the future been legally entitled to assert in its own right (whether individually or

[~~23~~19] For the avoidance of doubt, only Holders of Claims that are Opt-in Settling Creditors may be Releasing Parties.

[~~24~~20] The NAS Committee has requested that the Disclosure Statement specifically state that such releases in favor of the Debtors include, among other things, a release of any causes of action that allege that the Debtors were aware that (i) Oxycodone Hydrochloride must not be used during pregnancy and (ii) fetal exposure to opioids is an injury without a known cure.

collectively) or on behalf of any Releasing Party or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, (A) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (ii) the Estates, (iii) the Chapter 11 Cases, or (iv) Covered Conduct and (B) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor.

Without limiting the foregoing: (A) the foregoing releases include any Cause of Action of a Releasing Party that has been or may be asserted against any Released Party, by such Releasing Party (whether or not such party has brought such action or proceeding) in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) (x) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (I) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (II) the Estates, (III) the Chapter 11 Cases, or (IV) Covered Conduct and (y) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor; and (B) the parties intend that these releases (including the term "Released Claims") be broad and interpreted so as to give the Released Parties the broadest possible release of any liability relating in any way to the Released Claims.

For the avoidance of doubt and notwithstanding anything to the contrary in the Plan or the Confirmation Order, the releases set forth in Section 10.6(b) of the Plan, and all references to "Releasing Parties" as used in the Plan, shall not apply to (i) Holders of Claims who do not opt-in to the releases through their applicable ballots, (ii) Holders of Claims whose releases will be governed solely and exclusively by a Direct Claims Shareholder Settlement Agreement and (iii) Holders of Non-Federal Domestic Governmental Claims, whose releases shall be governed solely and exclusively by the Governmental Entity Shareholder Direct Settlement Agreement.[~~25~~21] For the avoidance of doubt and notwithstanding anything to the contrary in the Plan, none of the releases, injunctions, or other terms contained in the Plan or the Confirmation Order shall expand, limit, alter, or otherwise affect any releases, waivers, or disclaimers of liability or other terms contained in any of the Direct Claims Shareholder Settlement Agreements.

To the extent that, on or after the Effective Date, any Releasing Party 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 Releasing Party will include (or in the case of a Non-Party Settlement that is part of a Chapter 11 Plan, will take reasonable best efforts to 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 Released Parties substantially equivalent to that required from the Shareholder Released Parties

[~~25~~21] The Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, remain subject to ongoing negotiations. The releases in the Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, may differ from those provided for in Section 10.6(b) of the Plan. The rights of all parties to the Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, are fully reserved.

in Section 10.7(b)(~~iii~~ii)(A) of the Plan, or a release from such Non-Released Party in favor of the Released Parties (in a form equivalent to Section 10.6(b)~~)~~ of the Plan) of any Claim-Over. Each Releasing Party 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 and the Released Parties.

Notwithstanding anything in the Plan to the contrary, (x) nothing in the Plan shall release any Excluded Claim; (y) Co-Defendants (including, for the avoidance of doubt, Settling Co-Defendants) shall not be Released Parties for purposes of Section 10.6(b) of the Plan; and (z) nothing in Section 10.6(b) of the Plan shall (A) release any Non-Opioid Excluded Claims, (B) release any Estate Cause of Action against a Holder of a Claim against a Debtor, to the extent such Estate Cause of Action is necessary for the administration and resolution of such Claim solely in accordance with the Plan, *provided*, *however*, that the foregoing shall not apply to any Holder of a Co-Defendant Claim solely with respect to such Co-Defendant Claim, or (C) be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements.

Notwithstanding anything in the Plan to the contrary, but subject to the MDT Insurer Injunction and the Settling MDT Insurer Injunction, the Debtors shall not be released from liability for any Claim (other than any Co-Defendant Claim) that is or may be covered by any Purdue Insurance Policy; *provided* that recovery for any such Claim, including by way of settlement or judgment, shall be limited to the available proceeds of such Purdue Insurance Policy (and any extra-contractual liability of the Insurance Companies with respect to the Purdue Insurance Policies), and no Person or party shall execute, garnish or otherwise attempt to collect any such recovery from any assets other than the available proceeds of the Purdue Insurance Policies. The Debtors shall be released automatically from a Claim described in this paragraph upon the earlier of (x) the abandonment of such Claim and (y) such a release being given as part of a settlement or resolution of such Claim, and shall be released automatically from all Claims described in this paragraph upon the exhaustion of the available proceeds of the Purdue Insurance Policies (notwithstanding the nonoccurrence of either event described in the foregoing clauses (x) and (y)).

3. Releases by Debtors of Holders of Claims

The Plan also provides for releases granted by the Debtors and their Estates in favor of certain Holders of Claims. Such release is provided for in Section 10.6(c) of the Plan.

Specifically, the Plan provides that, as of the Effective Date, all Holders of Channeled Claims (excluding, in all respects, any Excluded Party, Shareholder Release Snapback Party or MDT Insurer) are hereby released by the Debtors and their Estates from any and all Causes of Action for any Claim in connection with, or arising out of, (i) the administration of the Chapter 11 Cases; the negotiation and pursuit of the Restructuring Transactions, the Plan, the Master Disbursement Trust, the Creditor Trusts (including the trust distribution procedures and the other Creditor Trust Documents) and the solicitation of votes with respect to, and confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan and the property to be distributed under the Plan; and the wind-up and dissolution of the Liquidating Debtors and the transactions in furtherance of any of the foregoing or (ii) such Holder's participation in the Pending Opioid Actions. The Debtors, the Plan Administration Trust, the Master Disbursement Trust, the Creditor Trusts, NewCo, the Foundation and any other newly-formed Persons that shall be continuing the Debtors' businesses after the Effective Date shall be bound, to the same extent the Debtors are bound, by the Releases set forth in Section 10.6(c) of the Plan.

As of the Effective Date, all Holders of PI Channeled Claims (excluding, in all respects, any Excluded Party, Shareholder Release Snapback Party or MDT Insurer) are hereby released by the Debtors and their Estates from any and all Causes of Action for any Claim in connection with, or arising out of, (i) the Debtors, as such Entities existed prior to or after the Petition Date (including the Debtors' Opioid-Related Activities, manufacture, marketing and sale of Products, interaction with regulators concerning Opioid-Related Activities or Products, and involvement in the subject matter of the Pending Opioid Actions, and the past, present or future use or misuse of any opioid by a Releasing Party), (ii) the Estates or (iii) the Chapter 11 Cases, including, in each case, without limitation, any act, conduct, omission, event, transaction, occurrence, injury, damage, or continuing condition in any way relating to the foregoing.

Notwithstanding anything in the Plan to the contrary, (x) nothing in the Plan shall release any Excluded Claim and (y) nothing in Section 10.6(c) of the Plan shall (A) release any contractual Estate Cause of Action or any Estate Cause of Action that is commercial in nature and, in each case, unrelated to either the Chapter 11 Cases or the subject matter of the Pending Opioid Actions, *provided* that, with respect to the Settling Co-Defendants, only Estate Surviving Pre-Effective Date Claims shall be retained and not released, (B) release any Estate Cause of Action against a Holder of a Claim against a Debtor, to the extent such Estate Cause of Action is necessary for the administration and resolution of such Claim solely in accordance with the Plan, *provided*, *however*, that the foregoing shall not apply to any Holder of a Co-Defendant Claim solely with respect to such Co-Defendant Claim, (C) release any claim or right arising in the ordinary course of the Debtors' or NewCo's business, including, without limitation, any such claim with respect to taxes or (D) be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements.

4. Shareholder Releases: Releases by Debtors

The Plan also provides for releases granted by the Debtors and their Estates in favor of the Shareholder Released Parties. Such release is provided for in Section 10.7(a) of the Plan.

(i) Specifically, the Plan provides that, as of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Shareholder Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released, subject to clause (z) of the last paragraph of Section 10.7(a) of the Plan, by the Debtors and their Estates from any and all Causes of Action, including any Estate Causes of Action asserted or assertible by or on behalf of any Debtor or any of their Estates and including any claims that any Debtor or any of their Estates, or that any other Person or party claiming under or through any Debtor or any of their Estates, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Debtor or any of their Estates or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, based on or relating to, or in any manner arising from, in whole or in part, (1) the Debtors, as such Entities existed prior to or after the Petition Date (including the Debtors' Opioid-Related Activities, manufacture, marketing and sale of Products, interaction with regulators concerning Opioid-Related Activities or Products, and involvement in the subject matter of the Pending Opioid Actions, and the past, present or future use or misuse of any opioid by a Releasing Party), (2) the Estates or (3) the Chapter 11 Cases. The Debtors, the Plan Administration Trust, the Master Disbursement Trust, the Creditor Trusts, NewCo, the Foundation and any other newly-formed Persons that shall be continuing the Debtors' businesses after the Effective Date shall be bound, to the same extent the Debtors are bound, by the Shareholder Releases set forth in Section 10.7(a) of the Plan.

(ii) To the extent that, on or after the Effective Date, any Debtor Party 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 Debtor Party will include (or in the case of a Non-Party Settlement that is part of a Chapter 11 Plan, will take reasonable best efforts to 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 substantially equivalent to that required from the Shareholder Released Parties in Section 10.7(b)(~~iii~~ii)(A) of the Plan, or a release from such Non-Released Party in favor of the

Shareholder Released Parties (in a form equivalent to Section 10.7(b)) of the Plan of any Claim-Over. Each Debtor Party 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.

(iii) In the event that (x) any Debtor Party, after the Effective Date, either (i) obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Party that does not contain a prohibition like that described in Section 10.7(a)(ii) of the Plan; (ii) files a Non-Party Covered Conduct Claim against a Non-Released Party in bankruptcy and such Debtor Party does not use reasonable best efforts to obtain a prohibition/release like that described in Section 10.7(a)(ii) of the Plan; or (iii) enters into a Non-Party Settlement without a prohibition/release like that described in Section 10.7(a)(ii), and (y) such Non-Released Party asserts a Claim-Over against a Shareholder Released Party, the Shareholder Released Party shall be relieved of the prohibition in Section 10.7(b)(~~iii~~ii)(B) of the Plan with respect to that Non-Released Party and that Debtor Party 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 than the amounts owed under the Plan and the Master Shareholder Settlement Agreement by Shareholder Payment Groups:

(1) The Sackler Parties' Representative shall notify that Debtor Party 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, whichever is later;

(2) The Sackler Parties' Representative and that Debtor Party 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 Shareholder Payment Groups under Plan and the Master Shareholder Settlement Agreement;

(3) That Debtor Party and the Sackler Parties' Representative shall take steps sufficient and permissible under the law of the state of the Debtor Party 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 Shareholder Payment Groups under Plan and the Master Shareholder Settlement 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 that Releasing Party, in response to any claim filed in litigation or arbitration;

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

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

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

(E) Credits to Shareholder Payment Groups under ~~this~~the Plan and the Master Shareholder Settlement Agreement to reduce the overall amounts to be paid under Plan and the Master Shareholder Settlement Agreement such that they are held harmless from the Claim-Over; and

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

(iv) To the extent the preconditions for Section 10.7(b)(~~iii~~ii)(C) of the Plan to apply are satisfied, the actions taken pursuant to paragraph (III) must, in combination, ensure that Shareholder Payment Groups are not required to pay more with respect to Covered Conduct than the amounts owed by them to such Debtor Party under the Plan and the Master Shareholder Settlement Agreement.

(v) ~~[~~Each Debtor and each Estate will not transfer any Cause of Action and no Person shall prosecute any such Cause of Action on any Debtor's or

Estate's behalf, in each case unless such transferee or Person has agreed to comply with Sections 10.7(a)(ii) and (iii) of the Plan.~~]~~[26]

(vi) Notwithstanding anything in the Plan to the contrary, (x) nothing in the Plan shall release any Excluded Claim; (y) nothing in Section 10.7(a) of the Plan shall be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements and the Separation Agreements; and (z) upon the filing of a Notice of Shareholder Release Snapback, (A) the Shareholder Releases set forth in Section 10.7(a) of the Plan shall be entirely null and void, revoked and invalidated, as of the Effective Date, with respect to all members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties, (B) the *status quo ante* shall be restored in all respects for the Debtors and the Master Disbursement Trust with respect to the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties, and (C) the Master Disbursement Trust shall be deemed to have received and accepted all of the rights with respect to any member of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties, in each case, that the Debtors and their Estates had prior to the Effective Date and that the Master Disbursement Trust would have pursuant to the transfer of the MDT Shareholder Rights to the Master Disbursement Trust if the Shareholder Releases of Section 10.7(a) of the Plan had never been granted, which rights the Debtors and their Estates shall be deemed to have irrevocably transferred, granted and assigned to the Master Disbursement Trust; *provided* that, for the avoidance of doubt, notwithstanding the nullification, voiding, revocation and invalidation pursuant to the foregoing clause (A), the Shareholder Releases shall continue in effect for, and shall be fully enforceable by and for the benefit of, all other Shareholder Released Parties other than the Breaching Shareholder Family Group and the Designated Shareholder Released Parties.

5. Shareholder Releases: Releases by Releasing Parties~~[27]~~[22]

The Plan also provides for certain releases to be deemed granted by the Releasing Parties and all other Persons, including Holders of Claims against or Interests in the Debtors, in favor of the Shareholder Released Parties. Such release is provided for in Section 10.7(b) of the Plan.

(i) Specifically, the Plan provides that, as of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, and except as otherwise explicitly

~~[26] [NTD: Subject to ongoing review in all respects.]~~

~~[27]~~[22] For the avoidance of doubt, only Holders of Claims that are Opt-in Settling Creditors may be Releasing Parties.

provided in the Plan or in the Confirmation Order, the Shareholder Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released, subject to clause (y) of the last paragraph of Section 10.7(b) of the Plan, by the Releasing Parties from any and all Causes of Action, including, without limitation, any Estate Cause of Action and any claims that any Releasing Party, or that any other Person or party claiming under or through any Releasing Party, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Releasing Party or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, (A) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (ii) the Estates, (iii) the Chapter 11 Cases, or (iv) Covered Conduct and (B) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor.

Without limiting the foregoing: (A) the foregoing releases include any Cause of Action of a Releasing Party that has been or may be asserted against any Shareholder Released Party, by such Releasing Party (whether or not such party has brought such action or proceeding) in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) (x) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (I) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (II) the Estates, (III) the Chapter 11 Cases, or (IV) Covered Conduct and (y) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor; and (B) the parties intend that these releases (including the term "Shareholder Released Claims") be broad and interpreted so as to give the Shareholder Released Parties the broadest possible release of any liability relating in any way to the Shareholder Released Claims.

For the avoidance of doubt and notwithstanding anything to the contrary in the Plan or the Confirmation Order, the releases set forth in Section 10.6(b) of the Plan, and all references to "Releasing Parties" as used in the Plan, shall not apply to (i) Holders of Claims who do not opt-in to the releases through their applicable ballots, (ii) Holders of Claims whose releases will be governed solely and exclusively by a Direct Claims Shareholder Settlement Agreement and (iii) Holders of Non-Federal Domestic Governmental Claims, whose releases shall be governed solely and exclusively by the Governmental Entity Shareholder Direct Settlement Agreement.[2823] For the avoidance of doubt and notwithstanding anything to the contrary in the Plan, none of the releases, injunctions, or other terms contained in the Plan or the Confirmation Order shall expand, limit, alter, or otherwise affect any releases, waivers, or disclaimers of liability or other terms contained in any of the Direct Claims Shareholder Settlement Agreements.

(ii) (A) No Shareholder Released Party shall seek to recover for amounts paid under Master Shareholder Settlement Agreement and the Plan 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.

(B) To the extent that, on or after the Effective Date, any Releasing Party 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 Releasing Party will include (or in the case of a Non-Party Settlement that is part of a Chapter 11 plan, will take reasonable best efforts to 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 substantially equivalent to that required from the Shareholder Released Parties in Section 10.7(b)(~~iii~~ii)(A) of the Plan, or a release from such Non-Released Party in favor of the Shareholder Released Parties (in a form equivalent to Section 10.7(b) of the Plan) of any Claim-Over. Each Releasing Party 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.

[2823] The Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, remain subject to ongoing negotiations. The releases in the Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, may differ from those provided for in Section 10.7 of the Plan. The rights of all parties to the Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, are fully reserved.

(C) In the event that (x) any Releasing Party, after the Effective Date, either (i) obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Party that does not contain a prohibition like that described in Section 10.7(b)(~~iii~~ii)(B) of the Plan; (ii) files a Non-Party Covered Conduct Claim against a Non-Released Party in bankruptcy and such Releasing Party does not use reasonable best efforts to obtain a prohibition/release like that described in Section 10.7(b)(~~iii~~ii)(B) of the Plan; or (iii) enters into a Non-Party Settlement without a prohibition/release like that described in Section 10.7(b)(~~iii~~ii)(B) of the Plan, and (y) such Non-Released Party asserts a Claim-Over against a Shareholder Released Party, the Shareholder Released Party shall be relieved of the prohibition in Section 10.7(b)(~~iii~~ii)(B) of the Plan with respect to that Non-Released Party and that Releasing Party 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 than the amounts owed under the Plan and the Master Shareholder Settlement Agreement by Shareholder Payment Groups:

(I) The Sackler Parties' Representative shall notify that Releasing Party 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, whichever is later;

(II) The Sackler Parties' Representative and that Releasing Party 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 Shareholder Payment Groups under Plan and the Master Shareholder Settlement Agreement;

(III) That Releasing Party and the Sackler Parties' Representative shall take steps sufficient and permissible under the law of the state of the Releasing Party 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 Shareholder Payment Groups under Plan and the Master Shareholder Settlement Agreement. Such steps may include, where permissible:

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

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

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

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

(5) Credits to Shareholder Payment Groups under the Plan and the Master Shareholder Settlement Agreement to reduce the overall amounts to be paid under Plan and the Master Shareholder Settlement Agreement such that they are held harmless from the Claim-Over; and

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

(IV) To the extent the preconditions for section 10.7(b)(~~iii~~ii)(C) of the Plan to apply are satisfied, the actions taken pursuant to paragraph (III) must, in combination, ensure that Shareholder Payment Groups are not required to pay more with respect to Covered Conduct than the amounts owed by them to such Releasing Party under the Plan and the Master Shareholder Settlement Agreement.

(D) To the extent that the Claim-Over is based on a contractual indemnity, the obligations under Section 10.7(b)(~~iii~~ii)(C) of the Plan 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- Released Party asserts a Claim-Over arising out of contractual indemnity against it.

(iii) Notwithstanding anything in the Plan to the contrary, (x) nothing in Section 10.7(b) of the Plan shall (A) release any Excluded Claims or (B) be construed to impair in any way the rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements and (y) upon the filing of a Notice of Shareholder Release Snapback, (A) the Shareholder Releases set forth in Section 10.7(b) of the Plan shall be entirely null and void, revoked and invalidated, as of the Effective Date, with respect to all members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties and (B) the status quo ante shall be restored in all respects for the Releasing Parties with respect to the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties; provided that, for the avoidance of doubt, notwithstanding the nullification, voiding, revocation and invalidation pursuant to the foregoing clause (A), the Shareholder Releases shall continue in effect for, and shall be fully enforceable by and for the benefit of, all other Shareholder Released Parties other than the Breaching Shareholder Family Group and the Designated Shareholder Released Parties.

6. Releases by Shareholder Released Parties

The Plan also provides for the Shareholder Releasing Parties to provide reciprocal releases in favor of the Reciprocal Releasees. Such release is provided for in Section 10.7(c) of the Plan.

Specifically, the Plan provides that, as of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Reciprocal Releasees shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released, subject to clause (z) of the last paragraph of Section 10.7(c) of the Plan, by the Shareholder Released Parties from any and all Causes of Action, including any derivative claims asserted or assertible by or on behalf of the Debtors or their Estates and including any claims that any Shareholder Released Party, or that any other Person or party claiming under or through any Shareholder Released Party, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Shareholder Released Party or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, based on or relating to, or in any manner arising from, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date (including the Debtors' Opioid-Related Activities, manufacture, marketing and sale of Products, interaction with regulators concerning Opioid-Related Activities or Products, and involvement in the subject matter of the Pending Opioid Actions, and the past, present or future use or misuse of any opioid by a Releasing Party), (ii) the Estates or (iii) the Chapter 11 Cases.

Notwithstanding anything in the Plan to the contrary, (x) nothing in the Plan shall release any Excluded Claim; (y) nothing in Section 10.7(c) of the Plan shall be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements, and the Separation Agreement, and including the rights of any Shareholder Released Party that is a current or former director, officer or employee of the Debtors but is not a Sackler Family Member relating to plan treatment of any Claims held by such party; and (z) upon the filing of a Notice of Shareholder Release Snapback and the commencement or continuation of any action or proceeding against a member of a Breaching Shareholder Family Group or a Designated Shareholder Released Party by any Reciprocal Releasee, (A) the releases set forth in Section 10.7(c) of the Plan of any Reciprocal Releasee that has commenced or continued any such action shall be entirely null and void, revoked and invalidated, as of the Effective Date, with respect to the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties and (B) the status quo ante shall be restored in all respects for the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties with respect to any Reciprocal Releasee that has commenced or continued any such litigation; provided that, for the avoidance of doubt, notwithstanding the nullification, voiding, revocation and invalidation pursuant to the foregoing clause (A), the releases set forth in Section 10.7(c) of the Plan shall continue in effect for, and shall be fully enforceable by and for the benefit of, all other Reciprocal Releasees, and shall be binding on, and enforceable against, all other Shareholder Released Parties, including any

members of the Breaching Shareholder Family Group with respect to any Reciprocal Releasee that has not commenced any such litigation.

G. Confirmation of the Plan

1. Requirements

The requirements for confirmation of the Plan are set forth in section 1129 of the Bankruptcy Code. The requirements for approval of the Disclosure Statement are set forth in section 1125 of the Bankruptcy Code.

2. Approval of the Plan and Confirmation Hearing

To confirm the Plan, the Bankruptcy Court must hold a hearing to determine whether the Plan meets the requirements of section 1129 of the Bankruptcy Code.

3. Treatment and Classification of Claims and Interests

A Claim or Interest is placed in a particular Class for all purposes, including voting, confirmation and Distributions under the Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Interest is classified in a particular Class for the purpose of receiving Distributions pursuant to the Plan only to the extent such Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent any portion of the Claim or Interest qualifies within the description of such other Classes; *provided* that, to the extent any Claim satisfies the definition of a Shareholder Claim, a Co-Defendant Claim or an Other Subordinated Claim, such Claim shall be classified as such, notwithstanding that such Claim may satisfy the definition of another type of Claim. A Claim or Interest is also classified in a particular Class for the purpose of receiving Distributions under the Plan only to the extent such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been satisfied, released or otherwise settled prior to the Effective Date. In no event shall any Holder of an Allowed Claim be entitled to receive payments under the Plan that, in the aggregate, exceed the Allowed amount of such Holder's Claim.

4. Only Impaired Classes Vote

Pursuant to the provisions of the Bankruptcy Code, only classes of claims or interests that are "impaired" (as defined in section 1124 of the Bankruptcy Code) under a plan may vote to accept or reject such plan. Generally, a claim or interest is impaired under a plan if the applicable holder's legal, equitable, or contractual rights are modified under such plan. In addition, if the holders of claims or interests in an impaired class do not receive or retain any property under a plan on account of such claims or interests, such impaired class is deemed to have rejected such plan under section 1126(g) of the Bankruptcy Code and, therefore, such holders are not entitled to vote on such plan.

Under the Plan, holders of Claims in Classes 3, 4, 5, 6, 7, 8, 9, 10(a), 10(b) and 11(c) are impaired and are entitled to vote on the Plan.

Under the Plan, holders of Claims and Interests in Classes 1, 2, 11(a) and 11(b) are unimpaired and, therefore, deemed to accept the Plan.

Under the Plan, holders of Claims and Interests in Classes 13, 14, 15, 16 and 17 are impaired and will not receive or retain any property under the Plan on account of their Claims or Interests in such classes and, therefore, are (i) not entitled to vote on the Plan and (ii) deemed to reject the Plan.

Under the Plan, holders of Claims and Interests in Classes 12 and 18 are either conclusively presumed to have accepted the Plan or are deemed to have rejected the Plan. Accordingly, such Holders are not entitled to vote to accept or reject the Plan.

ACCORDINGLY, A BALLOT FOR ACCEPTANCE OR REJECTION OF THE PLAN IS BEING PROVIDED ONLY TO HOLDERS OF CLAIMS IN CLASSES 3, 4, 5, 6, 7, 8, 9, 10(a), 10(b) AND 11(c).

H. Solicitation Process, Voting Procedures and Voting Deadline

1. Solicitation Process

Accompanying the Disclosure Statement is a package of materials called the "Solicitation Package." The Solicitation Package contains copies of, among other things:

- the Bankruptcy Court order approving the Disclosure Statement and procedures for soliciting and tabulating votes on the Plan the ("**Solicitation Order**") which, among other things, approves the Disclosure Statement as containing adequate procedures for distributing the Solicitation Packages to the holders of claims against the Debtors that are entitled to vote on the Plan, establishes the procedures for tabulating Ballots used in voting on the Plan and sets the deadline for objecting to confirmation of the Plan;

- the notice of the hearing to consider confirmation of the Plan; and

- a ballot (the "**Ballot**") for voting to accept or reject the Plan if you are the record holder of a claim in a class entitled to vote on the Plan (each, a "**Voting Class**").

2. Voting Procedures and Voting Deadline

If you are entitled to vote to accept or reject the Plan, a Ballot is enclosed for the purpose of voting on the Plan. To ensure your vote is counted, you must complete, date, sign, and promptly mail the Ballot enclosed with the notice or complete your Ballot using the online portal maintained by the solicitation agent (the "**Solicitation Agent**"), in each case indicating your decision to accept or reject the Plan in the boxes provided.

TO BE COUNTED, YOUR BALLOT INDICATING YOUR ACCEPTANCE OR REJECTION OF THE PLAN MUST BE RECEIVED BY THE SOLICITATION AGENT NO

LATER THAN SEPTEMBER 30, 2025, AT 4:00 P.M. (PREVAILING EASTERN TIME) (THE "**VOTING DEADLINE**").

In order for the Plan to be accepted by an impaired Class of Claims, a majority in number and two-thirds in dollar amount of the Claims voting in such Class must vote to accept the Plan. At least one Voting Class, excluding the votes of insiders, must actually vote to accept the Plan.

Pursuant to the Solicitation Procedures, and subject to the parties' rights to seek allowance of a claim in different amount under the Solicitation Procedures, each Claim in Class 4 (Non-Federal Domestic Governmental Claims), Class 5 (Tribe Claims), Class 6 (Public School Claims), Class 7 (Healthcare Provider Claims), Class 8 (Third-Party Payor Claims), Class 9 (ER Physician Claims), Class 10(a) (NAS PI Claims), and Class 10(b) (Non-NAS PI Claims) shall be accorded one (1) vote and valued at one United States dollar ($1.00) for voting purposes only, and not for purposes of allowance or distribution. Accordingly, a vote of two-thirds in number will effectively be required in order for the Plan to be accepted in the case of each of these Classes of Claims.

The Debtors will argue to the Bankruptcy Court that if no Holders of Claims in a particular Class that is entitled to vote on the Plan vote to accept or reject the Plan, then such Class shall be deemed to accept the Plan.

You may have previously received a Ballot for voting to accept or reject the *Fifth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and its Affiliated Debtors* (the "**Original Purdue Plan**") [D.I. 2967], which was proposed by the Debtors. **Ballots that were distributed in connection with the Original Purdue Plan are no longer valid. If you cast a vote to accept or reject the Original Purdue Plan, that vote will not be counted as a vote to accept or reject the Plan – a new Ballot must be cast to vote to accept or reject the Plan**.

YOU ARE URGED TO COMPLETE, DATE, SIGN, AND PROMPTLY MAIL THE BALLOT ENCLOSED WITH THE NOTICE OR COMPLETE YOUR BALLOT USING THE ONLINE PORTAL MAINTAINED BY THE SOLICITATION AGENT. PLEASE BE SURE TO COMPLETE THE BALLOT PROPERLY AND LEGIBLY AND TO IDENTIFY THE EXACT AMOUNT OF YOUR CLAIM AND THE NAME OF THE HOLDER. IF YOU ARE A HOLDER OF A CLAIM ENTITLED TO VOTE ON THE PLAN AND YOU DID NOT RECEIVE A BALLOT, YOU RECEIVED A DAMAGED BALLOT, OR YOU LOST YOUR BALLOT, OR IF YOU HAVE ANY QUESTIONS CONCERNING THE DISCLOSURE STATEMENT, THE PLAN, OR PROCEDURES FOR VOTING ON THE PLAN, PLEASE CONTACT YOUR ATTORNEY OR THE SOLICITATION AGENT AT (844) 217-0912 (U.S./CANADA, TOLL-FREE) OR +1 (347) 859-8093 (INTERNATIONAL, TOLL) OR AT PURDUEPHARMAINFO@KROLL.COM (WITH A REFERENCE TO "PURDUE PHARMA SOLICITATION INQUIRY" IN THE SUBJECT LINE). THE SOLICITATION AGENT IS NOT AUTHORIZED TO PROVIDE LEGAL ADVICE AND WILL NOT PROVIDE ANY SUCH ADVICE.

I. Confirmation Hearing

The Bankruptcy Court has scheduled a hearing to consider confirmation of the Plan (the "**Confirmation Hearing**"). The Confirmation Hearing will take place on November 10, 2025 at 10:00 a.m. (Prevailing Eastern Time). Parties in interest will have the opportunity to object to the confirmation of the Plan at the Confirmation Hearing.

ARTICLE II

GENERAL INFORMATION REGARDING THE DEBTORS

A. The Debtors' Businesses, Structure, Management, and Employees

1. Overview

The Debtors operate two main business segments through a number of operating subsidiaries: a branded prescription medication business and a generic prescription medication business. The branded prescription medications business consists of both opioid and non-opioid medications, including investment in a robust and diversified pipeline of non-opioid investigative candidates that have the potential to address many serious medical conditions, as described in more detail below. In addition, as part of their commitment to advancing meaningful solutions to the opioid crisis, the Debtors continue to develop, and plan to have NewCo develop and distribute opioid overdose reversal and addiction treatment medications (the "**Public Health Initiative**").

Purdue Pharma L.P., a Delaware limited partnership headquartered in Stamford, Connecticut, is the Debtors' main operating entity. Purdue Pharma's general partner is Purdue Pharma Inc. Purdue Pharma also owns, directly or indirectly, 22 operating and nonoperating subsidiaries in the United States and the British Virgin Islands ("**Purdue Subsidiaries**"). An organizational chart setting forth this corporate structure is provided in **Appendix B**. Purdue Pharma and its direct and indirect subsidiaries other than the Rhodes Debtors (the "**Purdue Debtors**") primarily operate a branded pharmaceuticals business, while Debtor Rhodes Associates L.P. and its direct and indirect subsidiaries (the "**Rhodes Debtors**") primarily develop and distribute generic pharmaceutical products. While a handful of the Debtors are managed by their own boards of directors, most of the Debtors are managed by a single board of directors and are wholly owned by the same ultimate owners: various trusts for the benefit of the descendants of Mortimer and Raymond Sackler.

(i) Branded Prescription Medication Business

The Debtors' branded prescription pharmaceutical business, operated by the Purdue Debtors, consists of both opioid and non-opioid medications. The Debtors' three principal branded opioid medications are OxyContin®, Hysingla ER®, and Butrans®:

- OxyContin Extended-Release Tablets: OxyContin is a Schedule II extended-release, long-acting opioid analgesic. Its active pharmaceutical

ingredient ("**API**") is oxycodone.[2924] OxyContin received United States Food and Drug Administration ("**FDA**") approval in 1995 and was launched in 1996. In 2010, the FDA approved, and the Purdue Debtors began selling, a new abuse-deterrent formulation of OxyContin formulated with physical and chemical properties intended to make abuse by injection difficult and to reduce abuse via the intranasal route.

- Hysingla ER Extended-Release Tablets: Hysingla ER is a Schedule II extended-release, long-acting, abuse-deterrent opioid analgesic formulated with physical and chemical properties intended to make abuse by injection difficult and to reduce abuse via the intranasal route. Its API is hydrocodone. Hysingla ER was approved by the FDA in 2014 and was launched in 2015.

- Butrans Transdermal System: Butrans is a Schedule III,[3025] seven-day, transdermal patch pain medication. Its API is buprenorphine.[3126] Butrans was approved by the FDA in 2010 and launched in 2011.

The Purdue Debtors manufacture OxyContin and Hysingla for themselves and, in relatively limited amounts, manufacture OxyContin for certain foreign independent associated companies ultimately owned by the Sackler Families ("**IACs**"). Purdue Pharma also receives royalties from foreign IACs for sales of OxyContin outside the United States. Butrans is manufactured by a third party, LTS Lohmann Therapie-Systeme AG.

The FDA continues to strike a careful balance between the necessity of OxyContin and other opioid pain medications and the associated risks of misuse, abuse, and addiction.[3227] While OxyContin is approved for the management of pain severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate, it is required to carry a label with a type of warning—commonly referred to as a black box warning—that is designed to call attention to serious or life-threatening risks. OxyContin carries the following black box warning:

[2924] *See* U.S. Food and Drug Admin., OxyContin Full Prescribing Information, at 1 (Sept. 26, 2018), https://www.accessdata.fda.gov/drugsatfda_docs/label/2018/022272s039lbl.pdf (hereinafter "**OxyContin FPI**").

[3025] Schedule III drugs are defined as "drugs with a moderate to low potential for physical and psychological dependence," according to the U.S. Drug Enforcement Administration ("**DEA**"). *See* U.S. Drug Enf't Admin., Drug Schedule (last visited Sept. 15, 2019), https://www.dea.gov/drug-scheduling.

[3126] *See* U.S. Food and Drug Admin., Butrans Full Prescribing Information, at 1 (Sept. 18, 2018), https://www.accessdata.fda.gov/drugsatfda_docs/label/2018/021306s032s034lbl.pdf (hereinafter "**Butrans FPI**").

[3227] *See* Press Release, U.S. Food and Drug Admin., Statement of FDA Commissioner Scott Gottlieb, M.D., on balancing access to appropriate treatment for patients with chronic and end-of-life pain with need to take steps to stem misuse and abuse of opioids (July 9, 2018), https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-balancing-access-appropriate-treatment-patients-chronic. ("[T]he FDA remains focused on striking the right balance between reducing the rate of new addiction by decreasing exposure to opioids and rationalizing prescribing, while still enabling appropriate access to those patients who have legitimate medical need for these medicines.").

WARNING: ADDICTION, ABUSE AND MISUSE; LIFE-THREATENING RESPIRATORY DEPRESSION; ACCIDENTAL INGESTION; NEONATAL OPIOID WITHDRAWAL SYNDROME; and CYTOCHROME P450 3A4 INTERACTION
See full prescribing information for complete boxed warning.

- **OXYCONTIN exposes users to risks of addictions, abuse and misuse, which can lead to overdose and death. Assess each patient's risk before prescribing and monitor regularly for development of these behaviors and conditions. (5.1)**
- **Serious, life-threatening, or fatal respiratory depression may occur. Monitor closely, especially upon initiation or following a dose increase. Instruct patients to swallow OXYCONTIN tablets whole to avoid exposure to a potentially fatal dose of oxycodone. (5.2)**
- **Accidental ingestion of OXYCONTIN, especially in children, can result in a fatal overdose of oxycodone. (5.2)**
- **Prolonged use of OXYCONTIN during pregnancy can result in neonatal opioid withdrawal syndrome, which may be life-threatening if not recognized and treated. If opioid use is required for a prolonged period in a pregnant woman, advise the patient of the risk of neonatal opioid withdrawal syndrome and ensure that appropriate treatment will be available. (5.3)**
- **Initiation of CYP3A4 inhibitors (or discontinuation of CYP3A4 inducers) can result in a fatal overdose of oxycodone from OXYCONTIN. (5.14)**

Purdue Pharma has also invested—and continues to invest—substantial resources in its pipeline of non-opioid investigative candidates that have the potential to address many serious medication conditions, including difficult-to-treat blood cancers, solid cancers, and central nervous system cancers, overactive bladder, chronic low back pain and insomnia associated with alcohol cessation. For example, Tinostamustine, a potentially first-in-class alkylating deacetylase inhibiting molecule in development for the treatment of certain cancers, is in phase 2 trials; IMB-115, an internally discovered compound with a novel mechanism of action in clinical development for the treatment of insomnia associated with alcohol cessation has recently completed a phase 2 proof of concept study which has demonstrated that the drug is efficacious, and is now being progressed to larger phase 3 studies, as well as commencing phase 1 studies in indications for overactive bladder and interstitial cystitis.

(ii) **Generic Prescription Medication Business / API Business**

(A) Rhodes Pharmaceuticals L.P.

The Debtors' generic prescription pharmaceutical business is operated by Purdue Pharma subsidiary Rhodes Pharmaceuticals L.P. ("**Rhodes Pharma**"), a Delaware limited partnership created in 2008. Rhodes Pharma, which until May 2019 was separately managed from Purdue, *see* Article II.A.1.(ii).c, *infra*, primarily sells a variety of generic prescription medications, including opioid (principally immediate-release) pain relievers.~~33~~28 Rhodes Pharma does not

~~33~~28 Starting in 2017, Purdue Pharma authorized Rhodes Pharma to sell an authorized generic of Butrans (opioid transdermal patch) in exchange for a profit share. Rhodes Pharma's authorized generic Butrans has been sold as a

have—and never has had—sales representatives promote or market its opioid drugs to prescribers or patients.

Rhodes Pharma also sells non-opioid medications, such as medications to treat attention deficit hyperactivity disorder, high cholesterol, depression disorder, and pain management. A Purdue Pharma subsidiary and other non-Debtor entities manufacture finished dosage forms for Rhodes Pharma.

(B) Rhodes Technologies

Rhodes Technologies ("**Rhodes Tech**"), a Delaware general partnership, also became a Purdue Pharma subsidiary (as of May 2019) and a Debtor in the Chapter 11 Cases. Prior to December 31, 2020, Rhodes Tech manufactured APIs that Purdue Pharma used to manufacture its branded finished products and some of Rhodes Pharma's generic finished products.

As further described in Article III.L, on October 1, 2020, the Bankruptcy Court entered an order approving the sale of assets of Rhodes Tech to Noramco Coventry LLC and approving the Debtors' entry into a supply agreement (the "**Supply Agreement**") with Noramco LLC. The Supply Agreement secures provision of APIs to the Debtors for a minimum of seven years, with two two-year renewal options. Noramco LLC is an experienced API manufacturer with the capability to ensure high-quality supply at a cost substantially lower than previously incurred through the vertically integrated structure. The sale transaction closed and the parties entered into the Supply Agreement on December 31, 2020.

(C) The Rhodes Entities Were Managed Separately Prior to May 2019

Prior to 2008, Rhodes Tech (or its predecessor) was a subsidiary of Purdue Pharma. On or around January 1, 2008, Rhodes Tech was moved to a different Sackler Families ownership chain (through Purdue Pharma's distribution of its interest in Rhodes Tech's parent to an affiliate) though with the same ultimate owners. Rhodes Tech then came under common ownership with newly created Rhodes Pharma. Until May 2019, Rhodes Pharma and Rhodes Tech were separately managed by different boards of directors from that of Purdue Pharma.[~~34~~29] The ultimate owners of these Rhodes entities, however, have always been the same as Purdue Pharma's—various trusts for benefit of the Sackler Families.

transdermal patch) in exchange for a profit share. Rhodes Pharma's authorized generic Butrans has been sold as a generic product and never promoted to prescribers or patients. Moreover, although Rhodes Pharma's portfolio of products is composed mostly of generic products, in 2015, Rhodes Pharma expanded into a branded prescription product, Aptensio XR, a once-daily extended-release central nervous system stimulant (methylphenidate) indicated for the treatment of attention deficit hyperactivity disorder. Additionally, since 2017, Rhodes Pharma has sold MS Contin and Dilaudid branded opioid pain medications, which were contributed to Rhodes Pharma by Purdue. Rhodes Pharma has never promoted any Dilaudid or MS Contin product to prescribers or patients.

[~~34~~29] Prior to May 2019, some Rhodes Pharma and Rhodes Tech directors served as directors or officers of Purdue Pharma.

In May 2019, Rhodes Pharma and Rhodes Tech were contributed to Purdue Pharma, becoming subsidiaries of PPLP. Thus, from and after that date, PPI effectively managed Rhodes Pharma and Rhodes Tech. This reorganization was undertaken, among other reasons, to achieve cost and operational efficiencies and so that a single board and management team would be at the helm of the U.S. pharmaceutical businesses in order to, among other things, help facilitate a complex settlement process, including one that potentially could be implemented through chapter 11.

(iii) **Over-the-Counter Health and Wellness Business**

Avrio Health L.P. ("**Avrio**"), now known as Purdue Products, L.P., a Delaware limited partnership and also a Purdue Pharma subsidiary, operated the Debtors' over-the-counter ("**OTC**") business. OTC products are FDA-regulated but do not require prescriptions. Avrio's primary products were Betadine (an antiseptic), Senokot and Colace (laxatives), and SlowMag (a supplement). Avrio had no role in the Debtors' branded or generic prescription medication business.

As further described in Article III.BB, on May 30, 2023, the Bankruptcy Court entered an order approving the sale of substantially all of the assets of Avrio to Atlantis Consumer Healthcare Inc., a wholly owned subsidiary of Arcadia Consumer Healthcare, Inc. The sale transaction closed on June 1, 2023.

(iv) **Public Health Initiatives: Opioid Overdose Reversal and Addiction Treatment Medications**

As part of their commitment to advance meaningful solutions to the opioid crisis, the Debtors are pursuing three initiatives: developing and distributing at low or no cost two medications to treat opioid overdoses and a medication to treat opioid addiction. Leading public health officials have encouraged the development of certain of these types of medications, and the Debtors have offered to develop and distribute millions of doses of each for no profit to communities throughout the country. During the Chapter 11 Cases, the Debtors have made substantial progress on these initiatives, and the Bankruptcy Court—with creditor support—has authorized certain steps that have facilitated that progress.

First, the Debtors have developed emergency opioid overdose treatments containing the opioid antagonist nalmefene.[~~35~~30] Emergency opioid overdose rescue drugs, when timely administered, can quickly restore normal respiration to a person whose breathing has slowed or stopped as a result of overdosing with a prescription or illicit opioid.[~~36~~31] Synthetic opioids, such as illicit fentanyl and its analogues, are a principal driver of today's epidemic of opioid overdose

[~~35~~30] Opioid antagonists block or reverse the effects of opioids, including potentially fatal respiratory depression. *See* Nat'l Inst. on Drug Abuse, Medications to Treat Opioid Use Disorder (June 2018), https://www.drugabuse.gov/publications/research-reports/medications-to-treat-opioid-addiction/how-do-medications-to-treat-opioid-addiction-work.

[~~36~~31] *See* U.S. Nat'l. Inst. on Drug Abuse, Opioid Overdose Reversal with Naloxone (Narcan, Evzio) (Apr. 2018), https://www.drugabuse.gov/related-topics/opioid-overdose-reversal-naloxone-narcan-evzio.

deaths.[37][32] Doses of existing opioid overdose reversal medications that could reverse prescription opioid or heroin overdoses may not be sufficiently strong or long-lasting to reverse the effects of fentanyl (which is 50 times more potent than heroin).[38][33] For this reason, the Directors of the National Institutes of Health and the National Institute on Drug Abuse have called for the development of "stronger, longer-acting formulations of antagonists."[39][34]

In response to that need, the Debtors have developed and are making available an opioid overdose reversal medication containing nalmefene,[40][35] a strong, long-acting opioid antagonist, in two different injectable forms: (1) a single-dose vial for use in a hospital setting by certain first responders and (2) an autoinjector ("**Zurnai**"), an easy-to-use EpiPen®-like device, for use by friends, family, and caregivers without medical training. The debtors reintroduced the single-dose vial application 2023 which is on formulary in 82 hospitals across the country, with many more expected to come online. In August 2024, the FDA approved the Zurnai auto-injector, and preparations for commercial introduction are ongoing.

On February 21, 2020, the Bankruptcy Court authorized an important element of the Debtors' nalmefene development program when it approved the Debtors' entry into an agreement with a technology partner to develop the nalmefene autoinjecetor. *See Order (I) Shortening Notice with Respect to Debtors' Motion for Authorization to Enter into Development Agreement and (II) Authorizing Entry into Development Agreement* [D.I. 868].

The Debtors believe that a settlement that enables them to continue to develop and distribute millions of doses of both forms of injectable nalmefene, at no or low cost, to communities and individuals throughout the country would provide great benefit to the public health, saving the lives of individuals in instances where other reversal medicines do not work.

Second, the Debtors have aided the development of a low-cost, non-prescription OTC naloxone nasal spray to reverse known or suspected opioid overdose. Although intranasal naloxone has been available to consumers under the brand name Narcan® for a number of years, access was limited because of (i) Narcan's relatively high cost to consumers and first responders, and (ii) the requirement that consumers, when obtaining Narcan from a pharmacy, obtain this prescription medication from a pharmacist.

Consistent with the FDA's encouragement, the Debtors worked with Harm Reduction Therapeutics ("**HRT**"), an independent nonprofit pharmaceutical company, to develop a low-cost OTC naloxone nasal spray ("**RiVive**"). By reducing the cost to consumers and first responders, and enabling consumers to acquire the medication over the counter and without the

[37][32] *See* Centers for Disease Control and Prevention, Opioid Overdose: Understanding the Epidemic, https://www.cdc.gov/drugoverdose/epidemic/index.html.

[38][33] *See* Volkow N., Collins F., The Role of Science in Addressing the Opioid Crisis, N. Engl. J. Med. 377:4 (July 27, 2017), https://www.nejm.org/doi/full/10.1056/NEJMsr1706626.

[39][34] *Id.*

[40][35] A prior version of nalmefene was previously approved by the FDA and later withdrawn from sale by the manufacturer for reasons other than safety or effectiveness. Department of Health and Human Services; Food and Drug Administration. 82 Federal Register 51282 (November 3, 2017).

shame or fear of needing to procure a prescription or speak with a pharmacist, the Debtors and HRT have greatly improved access to this needed medication. To facilitate bringing this low-cost OTC medication to market, the Debtors have paid for HRT's development costs. On June 25, 2020, the Court entered the *Order Authorizing Debtors to Enter into Funding Agreement* [D.I. 1301], which authorized the Debtors to continue funding certain of those costs. The Debtors' use of funding was approved on March 23, 2022, when the Court entered the *Order Authorizing Debtors to Enter Into Amended and Restated Funding Agreement* [D.I. 4588], and again on March 30, 2023, the Court entered the third *Order Authorizing Debtors to Enter Into Funding Agreement* [D.I. 5513]. To provide further assistance, the Debtors also licensed to HRT valuable technical know-how and data and provided regulatory and drug development advice.

RiVive received FDA approval for OTC distribution in July 2023. RiVive is now available in 36 states, with over 300,000 twin packs sold at cost. HRT has also donated approximately 23,000 twin packs to various harm reduction organizations across the United States. One month after OTC RiVive was approved, generic OTC Narcan (Padagis) and branded OTC Narcan were both launched. In April and May of 2024, two formulations of generic OTC Narcan were also approved by the FDA. RiVive's presence in the market drives significant downward pressure on the cost of naloxone nasal sprays, working to keep the life-saving medication affordable and ensuring expanded access as a result. Not so long ago, a twin pack of Narcan cost approximately $140 USD.[41][36] As a result of Rivive's approval by the FDA in August 2023, the price of the generic retail version of Narcan was introduced at $45 USD per pack and later reduced to approximately $34 USD per pack, and $24 USD for the generic version available in California (Cal Rx). The benefits of the introduction of ReVive cannot be overstated.

Third, the Debtors, through Rhodes Pharma, have already developed, obtained FDA approval, and manufactured a generic version of Suboxone®[42][37] tablets, a leading opioid addiction treatment consisting of a combination of buprenorphine and naloxone. Despite evidence that medication-assisted treatment can help many people recover from opioid addiction, these medications remain underutilized, and the cost of treatment is one of the barriers to access.[43][38] To help ensure broader access, the FDA has facilitated the entry of generic versions of these medicines,[44][39] and, in March of 2020, approved the Debtors' generic version of

[41][36] *See* Alice Park, Times, Narcan Is Now Sold at Walgreens. What's That? https://time.com/4999223/what-is-narcan/.

[42][37] *See* https://dailymed.nlm.nih.gov/dailymed/fda/fdaDrugXsl.cfm?setid=da90618a-5621-4b15-bc48-9dcc631418de&type=display.

[43][38] Centers for Disease Control and Prevention, CDC Guideline for Prescribing Opioids for Chronic Pain – United States, 2016, https://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm (though "buprenorphine has been shown to be more effective in preventing relapse among patients with opioid use disorder, ... patient cost can be a barrier to buprenorphine treatment because insurance coverage of buprenorphine for opioid use disorder is often limited"); *see* National Institutes of Health, Methadone and buprenorphine reduce risk of death after opioid overdose, https://www.nih.gov/news-events/news-releases/methadone-buprenorphine-reduce-risk-death-after-opioid-overdose.

[44][39] U.S. Food & Drug Administration, www.fda.gov/news-events/press-announcements/fda-approves-first-generic-versions-suboxone-sublingual-film-which-may-increase-access-treatment.

Suboxone tablets. To increase access to these treatments, the Debtors are distributing millions of doses of their buprenorphine/naloxone tablets at low or no cost. In January 2024, the Debtors signed an agreement with the Minnesota Multistate Contracting Alliance for Pharmacy ("**MMCAP**") to provide 1.25 million tabs of generic suboxone at $0.01/tablet to State correctional facilities, which was increased to two million tablets in September 2024. As of October 2024, over one million tablets have been provided to 21 correctional facilities in 10 States. The Debtors are further expanding the program in 2025 to enable more tablets to be available to correctional facilities. In 2025, the Debtors plan to grow the program by at least 50 percent over 2024 levels with aspirations to exceed distribution of 2.5 million tablets this year.

(v) **Purdue Pharma Inc.**

PPI is the general partner of Purdue Pharma, and the board of directors of PPI ("**Board**") effectively manages the Debtors.[4540]

2. Management

The Debtors' current management team is composed of highly capable and experienced professionals. Information regarding the Debtors' senior management is as follows:

Name	Position
Craig Landau	President and Chief Executive Officer
Marc L. Kesselman	Executive Vice President, General Counsel

(i) **Craig Landau**

Craig Landau, M.D., is a pharmaceutical industry veteran with over 25 years of R&D and general management experience. After overseeing the development and approval by FDA of multiple commercial products, he was President and CEO of Purdue Pharma Canada from July 2013 to June 2017. Since June 2017, he has been President and CEO of Purdue Pharma LP, headquartered in Stamford, CT. Dr. Landau demonstrates visionary leadership as he navigates a company at the center of one of the greatest challenges in public health: the opioid crisis.

Purdue develops and manufactures prescription medications—including opioid analgesic medicines. Dr. Landau is a bold leader in the service of the public good. Upon becoming CEO of Purdue, he assembled a new management team, renewed the company's focus on R&D, and prioritized the advancement of public health initiatives – namely, medicines intended to treat opioid overdoses and opioid use disorder offered at no profit to the company. He also ended the company's promotion of opioids by sales representatives to prescribers, eliminated its opioid sales force, established an Office of Corporate Social Responsibility and a vibrant grant-giving program. Dr. Landau directs the company to leverage its unique capabilities and expertise to develop a portfolio of investigational medicines to address important medical needs in multiple

[4540] As illustrated in **Appendix B**, the Purdue Subsidiaries have PPI as a general partner, are indirectly controlled by PPI pursuant to PPI's being a general partner of another Purdue subsidiary, or have Purdue Pharma, directly or indirectly, as their ultimate sole shareholder.

therapeutic areas including oncology and central nervous system disorders. Additionally, since 2022, Dr. Landau has overseen a vertically integrated generic medicine business, Rhodes Pharma, which has successfully introduced 6 generic new medicines since that time, in an effort to keep costs lower for patients and improve patient access.

As CEO, Dr. Landau is laser-focused on maintaining the engagement and retention of the company's many talented, dedicated employees. Notwithstanding the strong market for talent in the pharma sector, and despite the challenges of bankruptcy, truly extraordinary people choose Purdue as their employer because they believe in its future vision. Dr. Landau initiated an Advisory Committee on DEI to ensure employees experience a strong sense of inclusion and belonging. He increased the percentage of women on the Executive Committee to more than 60% since 2022, and he champions HR programming that prioritizes wellbeing and fosters a positive company culture. Employee surveys demonstrate his success, as 93% of employee respondents say they feel connected to their colleagues, engaged in the company's future purpose, and inspired to contribute actively.

Dr. Landau earned his B.S. in physiology and anatomy from Cornell University and his M.D. from Mount Sinai School of Medicine. He completed his Anesthesiology residency at Yale University with specialty training in chronic pain management, obstetric and peripheral vascular anesthesia. He is also a U.S. Army veteran, with 14 years of distinguished service as an officer throughout Operation Iraqi Freedom and Operation Enduring Freedom. He has advised and served on multiple boards for foundations and nonprofit organizations focusing on rare diseases such as Friedreich Ataxia, Adrenoleukodystrophy, and Duchenne Muscular Dystrophy.

(ii) **Marc L. Kesselman**

Marc L. Kesselman was appointed General Counsel and Corporate Secretary of Purdue Pharma in July 2018, with responsibility for Purdue's legal strategy, corporate governance, compliance and government affairs.

Prior to joining Purdue Pharma, Mr. Kesselman worked for YUM! Brands, Inc. where he served as Chief Legal Officer, Corporate Secretary & Chief Public Policy Officer. In that role, he oversaw all aspects of legal, compliance, regulatory, government affairs, and sustainability agendas for one of the world's largest restaurant companies, with more than 45,000 restaurants in 135 countries and territories. Mr. Kesselman joined YUM! from Dean Foods where he held a similar role. Previously, he was Senior Vice President & General Counsel at PepsiCo Americas Foods where he oversaw a wide variety of complex commercial, transactional, litigation, regulatory and government affairs issues relating to PepsiCo's food businesses in North and South America.

From 2006 through 2008, Mr. Kesselman served as General Counsel of the U.S. Department of Agriculture (the "**USDA**"), where he advised the Secretary of Agriculture and directed all legal activity for the USDA. From 2003 to 2006 he served as Deputy General Counsel in the White House Office of Management and Budget, where he handled a variety of regulatory, budgetary and legal policy matters. Mr. Kesselman also worked at the U.S. Department of Justice as Senior Counsel in the Office of Legal Policy and as a Trial Attorney in

its Civil Division. His work there earned him the John Marshall Award, the Attorney General's highest recognition for trial of litigation.

Mr. Kesselman currently serves on the Board of the U.S. Chamber of Commerce Litigation Center and the Penn Law Alumni Board of Managers. He also recently served as a public member of the Administrative Conference of the United States and a member of the Leadership Council on Legal Diversity. He has previously served on the Board of the Dallas Symphony, on the Campaign Cabinet of the United Way of Metropolitan Dallas, and as Chair of the D.C. Bar Administrative Law Section. Mr. Kesselman holds a J.D. from the University of Pennsylvania, and a B.S. in government from Cornell University.

3. The Debtors' Employees

The Debtors maintain a workforce of dedicated employees that has enabled them to continue to achieve their high standards of performance, productivity, and safety. The Debtors employ approximately 439 people in active status,[4641] which represents an approximately 40% reduction since the Petition Date and an approximately 76% reduction since 2017. These employees work in both full-time and part-time positions, including executives, business and operational managers, sales and marketing personnel, medical affairs personnel, research and development personnel, manufacturing technology operations personnel, human resource professionals, information technology specialists, administrative support staff and other personnel ("**Employees**").

B. Debtors' Organizational Structure

Purdue Pharma L.P., a Delaware limited partnership, is the Debtors' main operating entity. Purdue Pharma's general partner is PPI. Purdue Pharma also owns, directly or indirectly, 22 operating and nonoperating subsidiaries in the United States and the British Virgin Islands. A chart showing the organizational structure of the Debtors is attached hereto as **Appendix B**.

C. The Debtors' Prepetition Capital Structure

Unlike most debtors, the Debtors have no funded debt, no material past-due trade obligations, and no judgment creditors.

D. Summary of Events Leading to the Chapter 11 Filings

As noted above in Article I.B, the marketing and sale of OxyContin, Purdue Pharma's most prominent pain medication, and certain other opioid pain medications have been the target of the Pending Actions, which name the Defendant Debtors among other parties. These Pending Actions generally allege that the Defendant Debtors falsely and deceptively marketed OxyContin

[4641] The sale transaction between Rhodes Tech and Normaco Coventry LLC resulted in a headcount reduction of approximately 120 Employees, many of whom received offers of employment from Noramco. The number of employees in active status listed above is after completion of such transaction.

and other opioid pain medications. Many of the Pending Actions further allege that Defendant Debtors and certain related parties are liable for the national opioid crisis.

A common set of factual allegations forms the core of these actions: that the Defendant Debtors acted improperly in the marketing and sale of prescription opioid medications, including, principally, OxyContin. The specific causes of action asserted against the Defendant Debtors in the Pending Actions are predicated on both federal and state laws—with variations among the laws of each state. They include: (i) state and federal false claims acts; (ii) state consumer protection laws; (iii) statutory and common law public nuisance; (iv) fraud, fraudulent concealment, deceit, and other willful misconduct; (v) negligence, including negligent misrepresentation, negligence per se, and gross negligence; (vi) unjust enrichment; (vii) federal and state civil RICO laws, as well as civil conspiracy; (viii) state-controlled substances acts; (ix) intentional and constructive fraudulent conveyance or transfer; (x) strict products liability; and (xi) wrongful deaths and loss of consortium.

As of the Petition Date, the Debtors were party to approximately 2,600 Pending Actions, of which 2,200 were consolidated in a multidistrict litigation pending in the United States District Court for the Northern District of Ohio. There were also hundreds of actions pending against the Debtors in state and territorial courts throughout the country. The state court actions included those asserted by Attorneys General of 46 states (which are not part of the Ohio MDL). Certain of the Defendant Debtors were also named in 13 actions in Canada (the "**Canadian Actions**"). The Canadian Actions were brought on behalf of both private individuals and governmental entities and raised claims predicated on similar allegations and causes of action as the Pending Actions in the United States.

In addition to the Pending Actions, as of the Petition Date, Purdue Pharma was responding to subpoenas and civil investigative demands issued by various components of the DOJ in connection with criminal and civil investigations of Purdue Pharma. The Debtors had been subject to investigation by the DOJ since at least June 2016. Specifically, PPLP received a subpoena from a United States Attorney's Office in the summer of 2016 seeking documents and information relating to the marketing of OxyContin and, beginning in December 2017, received additional subpoenas and other requests for documents and information from several other United States Attorney's Offices and components of the DOJ seeking various documents and other information related to topics including but not limited to PPLP's opioid medications, the Debtors' monitoring programs, payments to professionals, marketing practices, and other matters. In response to the various DOJ requests, to date PPLP has produced to the DOJ more than 13 million documents (totaling over 100 million pages), including more than 2.7 million documents (totaling more than 17 million pages) produced in direct response to the DOJ's requests and millions of additional documents previously produced in civil litigation, state government investigations or Purdue's bankruptcy proceeding and reproduced to the DOJ. PPLP also provided numerous presentations and submissions to the DOJ in cooperation with its investigations and in the course of plea and settlement negotiations.

The sheer number and scale of the Pending Actions were possibly without precedent. Purdue is a mid-sized pharmaceutical company that had approximately 700 employees as of the Petition Date. The lawsuits were spread among courts across the country, involve thousands of

plaintiffs with differing interests, include scores of legal claims and theories of damages under multiple states' laws, and were at various procedural stages.

The onslaught of litigation posed a grave threat to the Debtors' continued viability. Litigation of thousands of Pending Actions to judgment and through appeals in the civil court system would have resulted only in the financial and operational destruction of the Debtors and the immense value they could otherwise provide, and the squandering of hundreds of millions of dollars on legal and other professional fees. Pre-bankruptcy, professionals' fees relating to litigation and government investigations were accruing at an average rate of over $2 million per week, and that was before a single trial against Purdue had commenced.

Moreover, the case-by-case mass tort litigation of the type the Defendant Debtors faced prior to the Petition Date in the civil tort system was neither an efficient nor an equitable way to resolve the asserted liability. Such litigation incentivized a multiplicity of "races to the courthouse" as various plaintiffs vied to be the first to trial. For example, several plaintiffs commenced administrative proceedings seeking dozens of trial days to bypass the normal court process and expedite the time by months or years to a final determination of their claims. This kaleidoscope of piecemeal litigation was all but guaranteed to continue to result in inconsistent outcomes and inequitable treatment, as well as unsustainable cost. Any judgments or settlements extracted in the process would, at best, potentially have benefited only those select few plaintiffs who happened to have been positioned at the beginning of the trial and judgment queue. And it would not have benefited even them, because defending approximately 2,600 lawsuits to conclusion would almost certainly have forced the Defendant Debtors to file for chapter 11 protection even had they suffered only a small number of significant adverse judgments at the trial level.

The Debtors commenced the Chapter 11 Cases because chapter 11 was the only way to halt the destruction of value and runaway costs associated with the Pending Actions; centralize all of the claims against the Defendant Debtors; address the claims asserted against them efficiently; resolve the litigation rationally; and consummate a global resolution of the Pending Actions—all while conserving the assets of the Debtors' estates so that billions of dollars in value could be preserved for creditors.

E. Independence of Company from Sacklers

1. Independent Board

No member of the Sackler Families is currently a member of the Board or employed by the Debtors. The last member of the Sackler Families to serve on the Board resigned in January 2019. The current Board is composed of the following six directors (the "**Directors**") (a majority of whom have no prior connection to the Sackler Families):

(i) **Robert S. "Steve" Miller (Chairman of the Board, appointed in July 2018)**

Mr. Miller has a storied, nearly 50-year career in corporate restructuring, including the successful restructurings of Chrysler (during which he served as Vice Chairman and CFO), Delphi Corp. (during which he served as the Chairman and CEO), and American International

Group, Inc., where he was Non-Executive Chairman. He authored the 2008 book, *The Turnaround Kid*. He has served on more than a dozen corporate boards including U.S. Bank, United Airlines and Dow DuPont.

(ii) **Kenneth Buckfire (At-Large Director, appointed in May 2019)**

Kenneth A. Buckfire is President of Miller Buckfire & Co., LLC and a Vice-Chairman of Stifel Financial Corporation's Institutional Banking Group. He specializes in the restructuring and refinancing of highly leveraged companies in the energy, telecommunications, consumer products, technology and information services industries. He has won many awards for leading major restructurings such as the City of Detroit, Calpine and General Growth Properties, and for his innovations in the restructuring field. Prior to co-founding Miller Buckfire in 2002, he was a Managing Director and Co-Head of the Financial Restructuring Group of Wasserstein Perella & Co. He has been a director and co-founder of many public and private companies, and has served as a trustee of several philanthropic and education institutions. He is a Visiting Professor at the Columbia Business School.

Mr. Buckfire received his Bachelor's degree in economics and philosophy from the University of Michigan (1980) and his MBA from Columbia University (1987).

(iii) **John S. Dubel (At-Large Director, appointed in July 2019)**

John S. Dubel is the Chief Executive Officer of Dubel & Associates, LLC, a provider of restructuring and turnaround services to underperforming companies, which he founded in 1999. He has over 40 years of experience in Board representation, turnaround management, crisis management, operational restructurings and divestments with respect to distressed companies. Over the course of his career, John has served as an independent board member for numerous companies. In addition, he has served as the Chief Executive Officer of SunEdison, a renewable energy development company, Chief Executive Officer of Financial Guaranty Insurance Company (FGIC), a monoline insurance company, among others, and as a partner in Gradient Partners, L.P., a single-strategy distressed hedge fund.

Mr. Dubel is a member of the Turnaround Management Association and the American Bankruptcy Institute. Mr. Dubel received a Bachelor in Business Administration degree from the College of William and Mary.

(iv) **Michael Cola (Class A Director, appointed in February 2019; At-Large Director, appointed in July 2019)**

Michael Cola is the former CEO of Avalo Therapeutics Inc (formerly Cerecor). He was appointed CEO in February 2020 in connection with the merger of Cerecor Inc. with Aevi Genomic Medicine, where he served as the President and CEO since September 2013. Prior to joining Aevi Genomic Medicine, Mr. Cola served as President of Specialty Pharmaceuticals at Shire plc, a global specialty pharmaceutical company, from 2007 until April 2012. He joined Shire in 2005 as EVP of Global Therapeutic Business Units and Portfolio Management. Prior to joining Shire, he was with Safeguard Scientifics, Inc., a growth capital provider to life sciences and technology companies, where he served as President of the Life Sciences Group. While at Safeguard, Mr. Cola served as Chairman and CEO of Clarient, Inc., a cancer diagnostics

company subsequently acquired by GE Healthcare, and as Chairman of Laureate Pharma, Inc. Prior to Safeguard Scientifics, Mr. Cola held senior positions in product development and commercialization at Merck, Astra Merck, a pharmaceutical company, and at Astra Zeneca, a global biopharmaceutical company. Mr. Cola received a B.A. in biology and physics from Ursinus College and an M.S. in biomedical science from Drexel University. He serves on the Board of Directors of Sage Therapeutics and Phathom Pharmaceuticals, and currently serves as vice Chairman of the Board of Governors of the Boys & Girls Clubs of Philadelphia.

(v) **Anthony Roncalli (Class B Director, appointed in December 2018)**

Anthony Roncalli is an attorney and former partner at Norton Rose Fulbright LLP. Mr. Roncalli has extensive experience advising the Debtors, IACs, and other pharmaceutical and other companies on corporate governance matters and complex tax and structure planning. Mr. Roncalli also has extensive pharmaceutical transaction experience including licensing, asset acquisition and divestiture transactions and complex pharmaceutical research, development and collaboration transactions. Mr. Roncalli received his Bachelor's degree from Georgetown University and his J.D. from Boston College Law School.

(vi) **Cecil Pickett, Ph.D. (Class A Director, appointed in January 2010)**

Dr. Cecil B. Pickett served as the President of Research and Development at Biogen and a member of the Board of Directors until his retirement in 2009. Dr. Pickett earned his B.S. in biology from California State University at Hayward and his Ph.D. in cell biology from University of California, Los Angeles. He previously served as Senior Vice President and President of Schering-Plough Research Institute, the pharmaceutical research arm of Schering-Plough Corporation. Dr. Pickett came to Schering-Plough Research Institute from Merck Research Laboratories, Montreal, Canada, and West Point, Pa., where he served as Senior Vice President of Basic Research. During his 15 years at Merck & Co., Dr. Pickett held various positions of increasing responsibility, including Research Fellow, Biochemical Regulation; Associate Director, Department of Molecular Pharmacology and Biochemistry; Director, Department of Molecular Pharmacology and Biochemistry; Executive Director of Research at the Merck Frosst Center for Therapeutic Research, Montreal; and Vice President of the center. Dr. Pickett also served as a member of the Zimmer Biomet Board of Directors from 2008 through 2018. Dr. Pickett previously served as a member of the Board of Directors of Yumanity Therapeutics, Inc. until 2020.

Dr. Pickett is an expert in drug discovery and development. During his career, he has overseen all aspects of the internal research and collaboration with partners aimed at developing advanced drug therapies and has played an integral role in bringing several large and small molecule candidates into clinical development.

Dr. Pickett has published extensively in leading research journals and has been a frequent speaker at scientific symposia and conferences. He has received several major academic awards, appointments and fellowships and has served on a number of scientific committees and editorial boards of research journals and organizations. His awards and honors include the UCLA Alumni Association Award for Scholarly Achievement and Academic Distinction; the first Robert A. Scala Award and Lectureship in Toxicology of Rutgers University and the University of

Medicine and Dentistry of New Jersey; and the CIIT Centers for Health Research Founders' Award. Dr. Pickett served as a member of the FDA Science Board, the Advisory Committee to the Director of the National Institutes of Health and the National Cancer Policy Board of the Institute of Medicine. He was elected to the National Academy of Medicine in 1993 and has been a member of the American Society for Cell Biology, American Society of Biochemistry & Molecular Biology, American Association for Cancer Research, and American Association for the Advancement of Science.

Dr. Pickett previously served on the Boards of the following IACs: MNP Consulting Limited (Delaware); Mundipharma Verwaltungsgesellschaft mbH (Germany); and Napp Pharmaceutical Holdings Ltd. (United Kingdom). He resigned from each of these positions on or prior to August 9, 2018.

2. Formation of the Special Committee

Purdue Pharma's governance documents irrevocably granted an independent Special Committee of the Board of Directors exclusive authority over the prosecution, defense, and settlement of any causes of action Purdue Pharma may assert against the Sackler Parties as well as members of the Sackler Families and their affiliates.

On May 14, 2019, PPI's shareholders adopted an Amended and Restated Shareholders' Agreement (the "**Shareholders' Agreement**") which, among things, established a "Transaction Committee," and on the same date, PPI filed a corresponding Restated Certificate of Incorporation ("**Restated Certificate of Incorporation**"). The Restated Certificate of Incorporation provided that the Transaction Committee would be composed of the independent Chairman of the Board, who would chair the committee, and such other Directors appointed by a majority of the Board, none of whom could be a member of the Sackler Families. The Restated Certificate of Incorporation gave the Transaction Committee exclusive authority over "all dividends by the Corporation to its Shareholders and all distributions by PPLP to its general and/or limited partners." The Restated Certificate of Incorporation also gave the Transaction Committee authority over any "Affiliate Transaction," defined as including transactions between PPI, PPLP, or PPLP's subsidiaries, on the one hand, and any Class A Shareholder, any Class B Shareholder, any person specified by the Class A or B Shareholders, and any affiliate (other than PPI, PPLP or PPLP's subsidiaries), on the other hand.

On September 3, 2019, PPI's shareholders agreed to an amendment of the Shareholders' Agreement that, among other things, renamed the Transaction Committee the "Special Committee," and on the same date, PPI filed a Certificate of Amendment to its Restated Certificate of Incorporation ("**A&R Certificate of Incorporation**"). The A&R Certificate of Incorporation gave the Special Committee the same authorities as had been granted to the Transaction Committee and, in addition, authority over "Affiliate Litigation," defined as "the prosecution, defense or settlement of any claim or litigation" between the Debtors and the Sackler Families, trusts established by or for the benefit of members of the Sackler Families, and other Sackler-related entities, including the IACs (collectively, the "**Sackler Entities**"). The A&R Certificate of Incorporation made clear that "no dividend, distribution, Affiliate Transaction or Affiliate Litigation shall take place without the approval of the Special Committee." The A&R Certificate of Incorporation did not modify the composition of the

Special Committee, except to allow any At-Large Director to serve as chair of the Special Committee, and still prohibited any member of the Sackler Families from serving on it.[4742]

Chairman Miller and At-Large Directors Buckfire, Cola and Dubel are the members of the Special Committee. Mr. Dubel serves as Chairman of the Committee. Each member of the Special Committee has decades of restructuring and/or corporate governance expertise, including, in the case of Mr. Cola, in the pharmaceutical and life sciences industries. Their resumes can be found above, *see supra* Article II.E. None of the Directors serving on the Special Committee has any prior relationship with either of the Sackler Families.

To further safeguard their independence, the members of the Special Committee are protected against removal by the shareholders. A letter agreement executed by PPI's shareholders, dated November 6, 2019 ("**2019 Letter Agreement**"), irrevocably delegated to the General Counsel of PPI, as proxy for PPI's shareholders, several of the shareholders' rights, including the ability to appoint and remove the Chairman of the Board and the At-Large Directors, all of whom serve on the Special Committee. The 2019 Letter Agreement directs the General Counsel of PPI to act in accordance with the vote of two-thirds of the Directors in Office of PPI and, in the case of any decision to remove any Director from the Board, to disregard the vote of any affected Director.

3. Other Governance Improvements

In addition to adding the independent Directors to the Board and forming the Special Committee (as described above), the Debtors made other significant changes with the goal of allowing the Debtors to operate independently before commencement of these Chapter 11 Cases. All general partnership relationships between Debtor and non-Debtor entities were terminated prior to the Petition Date. In particular, PPI was removed from its role as the general partner of certain non-Debtor entities and replaced certain non-Debtor entities as the general partner of Debtor entities Purdue Pharmaceutical Products L.P. (formerly known as Avrio Health L.P.) and Purdue Neuroscience Company. As a result, all of PPLP's subsidiaries were directly or indirectly effectively managed by PPI as of the Petition Date and during the pendency of these Chapter 11 Cases. Officers or employees of PPLP that were simultaneously directors, officers or employees of IACs resigned from such roles at either such IACs or PPLP. As a result, no current officer or employee of PPLP was director, officer or employee of any IAC on the Petition Date or during the pendency of these Chapter 11 Cases. In addition, under the supervision of the Special Committee, the Debtors reviewed agreements between the Debtors and the IACs and terminated, amended or documented such agreements as appropriate.

4. Cessation of Cash Distributions

All cash distributions to the Sackler Families ceased in 2017. In 2017, Purdue Pharma lent $313 million to its parent, Pharmaceutical Research Associates L.P. ("**PRA**"), which was repaid prior to the Petition Date. A loan of $1.7 million by Purdue Pharma to an IAC was also

[4742] As defined in the A&R Certificate of Incorporation, At-Large Directors are those elected jointly by the Class A Shareholders and the Class B Shareholders. Class A Directors are those elected by the Class A Shareholders and Class B Directors are those elected by the Class B Shareholders.

repaid in 2018. There are no remaining outstanding loans from Purdue Pharma to any of the IACs. Reimbursement of the officer/director legal fees owed to members of the Sackler Families ceased as of March 1, 2019, and certain expenses of members of the Sackler Families over the last 10 years have been repaid.

At the direction of the Special Committee and Davis Polk, AlixPartners LLP ("**AlixPartners**") (with the support of Davis Polk and Bates White LLC ("**Bates White**")) prepared (i) a 355-page report (the "**Cash Transfers of Value Report**") setting forth the results of a comprehensive cash transfers of value analysis, based on the identification and quantification of transfers of value on or after January 1, 2008 made as cash distributions, compensation, legal expenses and benefits provided to or for the benefit of the Sackler Families; and (ii) a 400-page report (the "**Intercompany and Non-Cash Transfers Analysis**") setting forth the results of a comprehensive intercompany and non-cash transfer analysis based on the identification and quantification of significant transfers of value on or after January 1, 2008 made as non-cash transfers and cash payments for goods, services, and other consideration among Purdue, PRA, the IACs, and Rhodes. The Cash Transfers of Value Report exhaustively details the $10.4 billion of cash distributions made to or for the benefit for the shareholders from January 1, 2008 to September 30, 2019 (in particular, $4.1 billion in U.S. partner cash distributions, $1.5 billion in distributions for the benefit of ex-US IACs, and $4.7 billion in tax distributions). The Intercompany and Non-Cash Transfers Analysis identifies and describes 27 categories of dealings between Debtor entities and the IACs, including terms of licenses for various drugs sold by the Debtor entities and IACs, shared R&D, manufacturing and administrative services, and purchases of finished products and active pharmaceutical ingredients, and details 10 non-cash distributions of assets from Purdue Pharma to PRA, which include distributions of equity interests in other IACs and third-party pharmaceutical companies and of certain intellectual property rights.

Together, these two massively detailed reports provide a complete and total catalog of the financial and contractual connections between the Debtors and the Sackler Families dating back more than a decade. These two reports exemplify the Debtors' extraordinary transparency and commitment to providing creditors and other parties-in-interest with the information necessary to evaluate potential claims and progress towards a settlement.

On December 16, 2019, the Debtors filed the Cash Transfers of Value Report with the Bankruptcy Court [D.I. 654]. On May 29, 2020, the Debtors filed the Intercompany and Non-Cash Transfers Analysis with the Bankruptcy Court [D.I. 1194].

ARTICLE III

THE CHAPTER 11 CASES

On the Petition Date, each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Chapter 11 Cases are being jointly administered under the caption *In re Purdue Pharma L.P.*, Case No. 19-23649. The Debtors have continued in possession of their property and have continued to operate and manage their businesses as debtors in possession

pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these Chapter 11 Cases.

A. First-Day Motions

On the Petition Date, the Debtors filed a number of "first-day" motions and applications seeking various relief from the Bankruptcy Court and authorizing the Debtors to maintain their operations in the ordinary course (collectively, the "**First-Day Motions**"). This relief was designed to ensure a seamless transition between the Debtors' prepetition and postpetition business operations, facilitate a smooth transition into chapter 11, maximize the value of the Debtors' Estate, and minimize the effects of the commencement of the Chapter 11 Cases. A description of the First-Day Motions is set forth in the *Declaration of Jon Lowne in Support of Debtors' Chapter 11 Petitions and First Day Pleadings* [D.I. 3].

B. Appointment of Statutory Committee

On September 27, 2019, the United States Trustee for the Southern District of New York (the "**U.S. Trustee**") appointed the official committee of unsecured creditors (the "**Creditors' Committee**"). The Creditors' Committee, as originally constituted, comprised the following entities and persons: (i) Blue Cross and Blue Shield Association; (ii) CVS Caremark Part D Services, L.L.C. and CaremarkPCS Health, L.L.C.; (iii) Ryan Hampton; (iv) Cheryl Juaire; (v) LTS Lohmann Therapy Systems, Corporation; (vi) Pension Benefit Guaranty Corporation; (vii) Walter Lee Salmons; (viii) Kara Trainor; and (ix) West Boca Medical Center. *See Notice of Appointment of Official Committee of Unsecured Creditors* [D.I. 131].

On October 21, 2019, the Creditors' Committee granted a request by the MSGE[~~48~~43] to join the Creditors' Committee in an *ex officio* capacity, and the MSGE designated Cameron County, Texas to act as an *ex officio* member.

On October 9, 2019, the Native American Tribes filed a motion requesting entry of an order directing the U.S. Trustee to appoint an official committee of Native American affiliated creditors comprising Native American tribes, tribal members and/or support organizations, health organizations or clinics that serve Native American communities. *See Motion Seeking Appointment of an Official Committee of Native American and Native American Affiliated Creditors* [D.I. 276]. On November 4, 2019, the Creditors' Committee invited the Native American Tribes to serve as an *ex officio* member of the Creditors' Committee. On November 6, 2019, the Native American tribes appointed the Cheyenne and Arapaho Tribes to serve as an *ex officio* member of the Creditors' Committee and agreed to withdraw their motion.

On June 18, 2020, the Creditors' Committee invited certain public school districts (the "**Public School Districts**") to serve as an *ex officio* member of the Creditors' Committee. The Public School Districts accepted this invitation on June 19, 2020 and appointed Thornton Township High School District 205 to serve as an *ex officio* member of the Creditors' Committee.

[~~48~~43] The Rule 2019 Statement describing the composition of the MSGE is filed at D.I. 1794.

C. Filing of Schedules of Assets and Liabilities and Statements of Financial Affairs

On September 16, 2019, the Debtors filed the *Debtors' Motion for an Order Extending the Time to File Schedules of Assets and Liabilities, Schedules of Current Income and Expenditures, Schedules of Executory Contracts and Unexpired Leases, and Statements of Financial Affairs* [D.I. 13] (the "**Extension Motion**"). On September 18, 2019, the Bankruptcy Court entered an order approving the Extension Motion [D.I. 69]. On October 29, 2019, the Debtors filed their Schedules of Assets and Liabilities and Statements of Financial Affairs [D.I. 357–405].

D. Professional Advisors

The Debtors' primary professional advisors include the following:

- On September 16, 2019, the Debtors filed the *Application for an Order Appointing Prime Clerk LLC as Claims and Noticing Agent for the Debtors* [D.I. 4] (the "**Prime Clerk 156(c) Retention Application**"). On September 18, 2019, the Bankruptcy Court entered an order approving the Prime Clerk 156(c) Retention Application [D.I. 60]. On November 5, 2019, the Debtors filed *Debtors' Application for an Order Authorizing Employment and Retention of Prime Clerk LLC as Administrative Advisor Nunc Pro Tunc to the Petition Date* [D.I. 433] (the "**Prime Clerk Retention Application**"). On November 21, 2019, the Bankruptcy Court entered an order approving the Prime Clerk Retention Application [D.I. 531].

- On November 5, 2019, the Debtors filed the Application of Debtors for Authority to Employ and Retain Davis Polk & Wardwell LLP as Attorneys for the Debtors Nunc Pro Tunc to the Petition Date [D.I. 419] (the "**Davis Polk Retention Application**"). On November 25, 2019, the Bankruptcy Court entered an order approving the Davis Polk Retention Application [D.I. 542].

- On November 5, 2019, the Debtors filed the Application of Debtors for Authority to Employ Dechert LLP as Special Counsel for the Debtors Nunc Pro Tunc to the Petition Date [D.I. 424] (the "**Dechert Retention Application**"). On November 21, 2019, the Bankruptcy Court entered an order approving the Dechert Retention Application [D.I. 525].

- On November 5, 2019, the Debtors filed the Application of Debtors for Authority to Retain and Employ King & Spalding LLP as Special Counsel to the Debtors Nunc Pro Tunc to the Petition Date [D.I. 427] (the "**King & Spalding Retention Application**"). On November 25, 2019, the Bankruptcy Court entered an order approving the King & Spalding Retention Application [D.I. 543].

- On November 5, 2019, the Debtors filed the Application of Debtors for Authority to Retain and Employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel to the Debtors Nunc Pro Tunc to the Petition Date [D.I. 428] (the "**WilmerHale Retention Application**"). On November 25, 2019, the Bankruptcy

Court entered an order approving the WilmerHale Retention Application [D.I. 544].

- On November 5, 2019, the Debtors filed the Debtors' Application an Order Authorizing the Debtors to Retain and Employ AlixPartners, LLP as Financial Advisor Nunc Pro Tunc to the Petition Date [D.I. 429] (the "**AlixPartners Retention Application**"). On November 21, 2019, the Bankruptcy Court entered an order approving the AlixPartners Retention Application [D.I. 528].

- On November 5, 2019, the Debtors filed the *Debtors' Application to Employ PJT Partners LP as Investment Banker Nunc Pro Tunc to the Petition Date* [D.I. 430] (the "**PJT Retention Application**"). On December 5, 2019, the Debtors filed the *Supplemental Declaration of Timothy Coleman in Support of the Debtors' Application to Employ PJT Partners LP as Investment Banker Nunc Pro Tunc to the Petition Date* [D.I. 590]. On January 9, 2020, the Bankruptcy Court entered an order approving the PJT Retention Application [D.I. 728].

- On November 5, 2019, the Debtors filed the *Debtors' Application to Employ Ernst & Young as its Auditor, Nunc Pro Tunc to the Petition Date* [D.I. 432] (the "**EY Retention Application**"). On December 23, 2019, the Bankruptcy Court entered an order approving the EY Retention Application [D.I. 698]. On August 21, 2020, the Debtors filed the *Notice of Expansion of Scope of Services to be Provided Pursuant to the Ernst & Young Retention Order* [D.I. 1598]. On September 22, 2020, the Debtors filed the *Second Notice of Expansion of Scope of Services to be Provided Pursuant to the Ernst & Young Retention Order* [D.I. 1713]. On November 25, 2020, the Debtors filed the *Third Notice of Expansion of Scope of Services to be Provided Pursuant to the Ernst & Young Retention Order* [D.I. 2035].

- On November 6, 2019, the Debtors filed the Application of Debtors for Authority to Retain and Employ Skadden, Arps, Slate, Meagher & Flom LLP as Special Counsel to the Debtors Nunc Pro Tunc to the Petition Date [D.I. 438] (the "**Skadden Retention Application**"). On November 25, 2019, the Bankruptcy Court entered an order approving the Skadden Retention Application [D.I. 545].

- On December 5, 2019, the Debtors filed the Application of the Debtors for an Order Authorizing Them to Retain and Employ Jones Day as Special Counsel, Nunc Pro Tunc to the Petition Date [D.I. 592] (the "**Jones Day Retention Application**"). On December 20, 2019, the Bankruptcy Court entered an order approving the Jones Day Retention Application [D.I. 690].

- On December 5, 2019, the Debtors filed the Application of Debtors for Authority to Retain and Employ Arnold & Porter Kaye Scholer LLP as Special Counsel to the Debtors Nunc Pro Tunc to the Petition Date [D.I. 593] (the "**Arnold & Porter Retention Application**"). On December 20, 2019, the Bankruptcy Court entered an order approving the Arnold & Porter Retention Application [D.I. 691].

- On February 7, 2020, the Debtors filed the Application for Order Authorizing Employment and Retention of KPMG LLP as Tax Consultants to the Debtors and the Official Committee of Unsecured Creditors Nunc Pro Tunc to December 23, 2019 [D.I. 815] (the "**KPMG Retention Application**"). On February 24, 2020, the Bankruptcy Court entered an order approving the KPMG Retention Application [D.I. 867].

- On May 13, 2020, the Debtors filed the Application of Debtors for Authority to Retain and Employ Cornerstone Research as Consultants to the Debtors Nunc Pro Tunc to January 14, 2020 [D.I. 1150] (the "**Cornerstone Retention Application**"). On June 11, 2020, the Bankruptcy Court entered an order approving the Cornerstone Retention Application [D.I. 1255].

- On April 13, 2021, the Debtors filed the Application of Debtors for Authority to Retain and Employ Grant Thornton LLP as Tax Structuring Consultants to the Debtors Nunc Pro Tunc to January 20, 2021 [D.I. 2636] (the "**Grant Thornton Retention Application**"). On April 28, 2021, the Bankruptcy Court entered an order approving the Grant Thornton Retention Application [D.I. 2760]. The Bankruptcy Court approved procedures for the Debtors to retain and employ certain professionals utilized by the Debtors in the ordinary course of business pursuant to an order entered on November 26, 2019 [D.I. 548].

- On August 13, 2021, the Debtors filed the Debtors' Application for an Order Pursuant to 11 U.S.C. §§ 327(a) and 328 and Fed. R. Bankr. P. 2014(a) Authorizing the Employment and Retention of Sullivan & Worcester LLP as Special Counsel to the Debtors and Debtors in Possession [D.I. 3561] (the "**Sullivan & Worcester Retention Application**"). On September 2, 2021, the Bankruptcy Court entered an order approving the Sullivan & Worcester Retention Application [D.I. 3728].

- On April 1, 2022, the Debtors filed the Application of Debtors for Authority to Retain and Employ Latham & Watkins LLP as Special Counsel to the Debtors Effective as of January 13, 2022 [D.I. 4627] (the "**Latham & Watkins Retention Application**"). On April 18, 2022, the Bankruptcy Court entered an order approving the Latham & Watkins Retention Application [D.I. 4670].

- On April 19, 2022, the Debtors filed the Debtors' Application for Entry of an Order Pursuant to Section 327(e) and 328(a) of the Bankruptcy Code Authorizing the Retention and Employment of Reed Smith LLP as Special Insurance Counsel, Nunc Pro Tunc to March 1, 2022 [D.I. 4674] (the "**Reed Smith Retention Application**"). On May 18, 2022, the Bankruptcy Court entered an order approving the Reed Smith Retention Application [D.I. 4850].

- On April 3, 2024, the Debtors filed the Application of the Debtors to Retain and Employ BDO USA, P.C. as Accountant to the Debtors and Debtors in Possession Pursuant to Sections 327(a), 328(a), and 330 of the Bankruptcy Code, Bankruptcy Rules 2014(a) and 2016, and Local Rules 2014-1 and 2016-1, Effective as of

March 13, 2024 [D.I. 6290] (the "**BDO Retention Application**"). On April 24, 2024, the Bankruptcy Court entered an order approving the BDO Retention Application [D.I. 6324].

On April 29, 2021, the United States Trustee filed the Motion of United States Trustee Pursuant to sections 105(a), 327, 328, and 330 of the Bankruptcy Code and Rule 2014 of the Federal Rules of Bankruptcy Procedure for Entry of an Order Approving (1) Settlement Agreement with Skadden, Arps, Slate, Meagher & Flom, LLP, Wilmer Cutler Pickering Hale and Dorr LLP, and Dechert LLP and (2) Certain Releases by the Debtors [D.I. 2763] (the "**Settlement Motion**"). As set forth in the Settlement Motion, Skadden, Arps, Slate, Meagher & Flom, LLP; Wilmer Cutler Pickering Hale and Dorr LLP; and Dechert LLP (collectively, the "**Firms**") did not disclose a written joint defense and common interest agreement that they each entered into prepetition on behalf of the Debtors with various other parties, including members of the Sackler families, as a "connection" at the time of filing of their respective retention applications. The United States Trustee and the Firms disagree about whether the common interest agreement is a "connection" that is required to be disclosed. The Motion seeks approval of a settlement agreement between the United States Trustee and the Firms under which the Firms agree to supplement their retention applications to reflect any common interest or joint defense agreement that the Firms entered into on behalf of Debtors with any party in interest identified in the most recent list provided by Debtors' bankruptcy counsel and the Firms will collectively reduce their pending or future fee applications or monthly fee statements, as applicable, by $1.0 million in the aggregate. The United States Trustee and the Debtors and their estates will release the Firms from all claims relating to alleged disclosure failures concerning common interest agreements. On May 20, 2021, the Bankruptcy Court entered an order approving the Settlement Motion [D.I. 2890].

E. CCAA Proceedings

On September 19, 2019, the Ontario Superior Court of Justice (Commercial List) in Toronto, Ontario, Canada (the "**Canadian Court**") entered the *Initial Recognition Order (Foreign Main Proceeding)* pursuant to Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, that, among other things, recognized the Chapter 11 Cases as foreign main proceedings (Court File No. CV-19-627656-00CL) (the "**CCAA Proceedings**").

The orders issued by the Canadian Court, among other things, (i) recognized the Chapter 11 Cases as "foreign main proceedings" under the CCAA; (ii) stayed all proceedings in Canada currently under way against or in respect of any of the Debtors or affecting their business or property (the "**Stay**"); (iii) appointed Ernst & Young Inc. as information officer to report to the Canadian Court, creditors and other stakeholders in Canada on the status of the Chapter 11 Proceedings; and (iv) recognized certain orders entered in the Chapter 11 Cases to permit the Chapter 11 Debtors to continue operating their respective businesses during the course of the Chapter 11 Proceedings.

On December 30, 2019, the Canadian Court entered the *Related Party Stay Order* in the CCAA Proceedings (the "**Related Party Stay**") which recognized the Injunction Order in Canada and stayed all opioid-related proceedings against certain related persons, US affiliated

entities, and Canadian affiliated entities of the Debtors, including Purdue Pharma Inc., Purdue Frederick Inc., and Purdue Pharma (collectively, "**Purdue Canada**").[4944]

On December 1, 2021, PPLP filed a motion seeking recognition of the September 2021 Confirmation Order in the CCAA Proceedings following issuance by the Bankruptcy Court. The recognition motion was adjourned pending the appeal of the September 2021 Confirmation Order to the District Court and subsequently abandoned following the Harrington Decision.

The Stay and Related Party Stay in the CCAA Proceedings has been lifted for certain limited purposes as follows:

- On September 21, 2021, the Canadian Court, with the consent of PPLP, (i) lifted the Related Party Stay to permit a private claimant plaintiff in a putative class action before the Superior Court of Quebec to proceed with an application for authorization and/or certification as against Purdue Canada; and (ii) lifted the Stay and Related Party Stay to permit the plaintiff in a Saskatchewan patient class action to continue its application for settlement approval of the Canadian Patient Class Action Settlement (defined below) before the Court of King's Bench of Saskatchewan;

- On June 1, 2022, the Canadian Court, with the consent of PPLP, lifted the Related Party Stay against Purdue Canada to permit a private claimant plaintiff in a putative class action before the Ontario Superior Court of Justice to proceed with a motion for certification against Purdue Canada;

- On November 15, 2022, the Canadian Court, with the consent of PPLP, lifted the Related Party Stay to allow an application for approval of the Canadian Government Settlement (defined below) to proceed before the British Columbia Supreme Court; and

- On January 6, 2023, the Canadian Court, with the consent of PPLP, lifted the Related Party Stay to permit certain first nations and municipalities as plaintiffs in putative class actions to (i) proceed with motions for certification against Purdue Canada before the Court of King's Bench of Saskatchewan and the Court of King's Bench of Alberta; and (ii) issue claims against certain affiliates of PPLP's owners in respect of claims related to opioid-related activities.

1. The Canadian Settlements

(i) The Canadian Patient Class Action Settlement

Pursuant to a settlement agreement dated March 8, 2017, PPLP, certain other US affiliates, and Purdue Canada agreed to settle ten class actions commenced in nine Canadian provinces in exchange for an all-inclusive settlement amount of CAD $19 million (later

[4944] As used in this sentence, "Purdue Pharma Inc." and "Purdue Pharma" refer to Canadian entities that are IACs and not the Debtor entities PPI or PPLP. Purdue Canada generally consists of IACs which are non-debtor entities.

increased to CAD $20 million) (the "**Canadian Patient Class Action Settlement**"). The class actions were collectively brought on behalf of proposed classes of Canadians who were prescribed and had used OxyContin or OxyNeo since 1995, and who allegedly became addicted or otherwise suffered damages as a result of an alleged conspiracy by the defendants to market OxyContin and OxyNeo as less addictive than known to the defendants, and for a wider range of patients than approved by Health Canada.

The Canadian Patient Class Action Settlement was conditional on settlement approval orders being issued by the Ontario, Nova Scotia, Quebec and Saskatchewan courts. The Canadian Patient Class Action Settlement was approved by the Ontario Superior Court of Justice on July 20, 2017, the Supreme Court of Nova Scotia on August 2, 2017, and the Superior Court of Quebec on August 21, 2017. The Canadian Patient Class Action Settlement was approved by the Court of King's Bench of Saskatchewan on September 23, 2022 and the class actions were subsequently dismissed on consent pursuant to the terms of the Settlement.

(ii) **The Canadian Government Settlement**

On May 17, 2022, Purdue Canada and 14 federal, provincial, and territorial governments in Canada (collectively, the "**Canadian Governments**") entered into an agreement to settle a proposed class action commenced in British Columbia against Purdue Canada and numerous manufacturers and distributors of opioids (including PPLP and the Purdue Frederick Company Inc.) seeking recovery of healthcare costs allegedly resulting from wrongful conduct in relation to the opioid crisis (the "**Canadian Government Settlement**"). Pursuant to the Canadian Government Settlement, Purdue Canada will pay CAD $150 million over seven years, protected by Purdue Canada's agreement to grant the class a security interest over its personal and real property.

The application for settlement approval was heard on December 15 and 16, 2022 before the British Columbia Supreme Court. Lac La Ronge Indian Band and another non-party applied for leave to intervene and sought to oppose the Canadian Government Settlement, claiming, among other things, that the Canadian Government Settlement, and the security interest proposed, was unfair and unreasonable and that there was a "legitimate concern as to whether any funds would remain" for other Canadian unsecured creditors of Purdue Canada following implementation of the Settlement.

The British Columbia Supreme Court denied the applications to intervene, noting that they were not creditors of Purdue Canada, and approved the Canadian Government Settlement. Lac La Ronge appealed the Court's orders to the British Columbia Court of Appeal and the Canadian Governments brought a motion to quash the appeals, which motion was granted on February 22, 2024.

The Peter Ballantyne Cree Nation, Lac La Ronge Indian Band, the City of Grand Prairie and the Corporation of the City of Brantford (collectively, the "**Objecting Canadian First Nations and Municipalities**") subsequently filed a motion in the CCAA Proceedings seeking to stay the implementation of the Canadian Government Settlement until Purdue Canada

demonstrated that it was not insolvent and that the implementation of the Canadian Government Settlement was not unlawful, preferential or an abuse of process.

In reasons for decision dated June 6, 2024, the Canadian Court dismissed the Objecting Canadian First Nations and Municipalities' motion finding that "Purdue Canada is solvent and the Settlement was structured with the objective of Purdue Canada remaining a going concern." The Objecting Canadian First Nations and Municipalities subsequently filed a Notice of Motion for Leave to Appeal the decision of the Canadian Court to the Court of Appeal for Ontario. On October 1, 2024, the Notice of Motion for Leave to Appeal was dismissed for delay.

The Canadian Government Settlement became effective as of May 22, 2024 and Purdue Canada made the initial payment under the agreement on June 21, 2024.

F. Preliminary Injunction and Voluntary Injunction

On September 18, 2019, the Debtors filed the *Motion for a Preliminary Injunction* [Adv. Proc. No. 19-08289, D.I. 2, 3] (the "**Preliminary Injunction Motion**") for a preliminary injunction (the "**Preliminary Injunction**") to stay active litigation against the Debtors, as well as against their current and former owners (including any trusts and their respective trustees and beneficiaries), officers, directors, employees, and associated entities, arising out of the Debtors' manufacture, distribution, and sale of prescription opioid medications.

The Preliminary Injunction Motion also sought entry of a voluntary injunction against the Debtors, enjoining the Debtors from, among other things, promoting opioid Products and providing financial support to third parties for the purpose of promoting opioids or opioid Products, subject to enforcement by the Bankruptcy Court (the "**Voluntary Injunction**"). The Debtors requested that the unprecedented Voluntary Injunction be entered to subject themselves to the coercive power of the Court with respect to the commitments set forth therein, to make clear that they are not in any way using chapter 11 as an improper shield for conduct challenged in the Pending Actions, and to demonstrate that they are committed to safely and responsibly maintaining the continuity of supply of the Debtors' FDA-approved medications and fully complying with all federal and state laws and regulations governing pharmaceutical companies.

On October 11, 2019, the Bankruptcy Court held an evidentiary hearing on the Debtors' Preliminary Injunction Motion. The Preliminary Injunction Motion was supported by certain estate stakeholders, including the Creditors' Committee and Ad Hoc Committee, and was opposed by the NCSG and other objectors. On October 11, 2019, the Bankruptcy Court issued an oral ruling entering the Preliminary Injunction, including the Voluntary Injunction, on an interim basis through and including November 6, 2019. *See* Order Pursuant to 11 U.S.C. § 105(a) Granting, in part, Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Oct. 11, 2019) [D.I. 82]. On November 6, 2019, the Bankruptcy Court granted the Preliminary Injunction, including the Voluntary Injunction, through April 8, 2020, again over the objection of the NCSG and other objectors, including certain Tennessee plaintiffs (the "**Tennessee Plaintiffs**"). *See* Second Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Nov. 6, 2019) [D.I. 105]. On March 30, 2020, the Bankruptcy Court entered an order granting the Debtors' motion to

extend the Preliminary Injunction, including the Voluntary Injunction, for an additional 180 days, until October 5, 2020, over the limited objection of the NCSG and the Tennessee Plaintiffs. *See* Eighth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Mar. 30, 2020) [D.I. 168].[5045] On October 1, 2020, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until March 1, 2021, over the limited objection of the NCSG, the Tennessee Plaintiffs, and certain other objectors. *See* Thirteenth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Oct. 1, 2020) [D.I. 194]. On March 1, 2021, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until March 24, 2021, over the limited objection of the Tennessee Plaintiffs. *See* Fifteenth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Mar. 1, 2021) [D.I. 224]. On March 26, 2021, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until April 21, 2021, over the objections of the NCSG, the Ad Hoc Committee on Accountability, and Tennessee Plaintiffs. *See* Sixteenth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Mar. 26, 2021) [D.I. 241]. On April 22, 2021, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until May 20, 2021, over the objections of the NCSG and the Ad Hoc Committee on Accountability. *See* Seventeenth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Apr. 22, 2021) [D.I. 254]. On May 20, 2021, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until July 16, 2021, over the objections of the NCSG and the Ad Hoc Committee on Accountability. *See* Eighteenth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. May 24, 2021) [D.I. 264]. On June 17, 2021, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until August 31, 2021, over the objections of the NCSG. *See* Nineteenth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. June 17, 2021) [D.I. 274]. On August 30, 2021, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until September 1, 2021. *See* Twentieth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Aug. 30, 2021) [D.I. 286]. On September 2, 2021, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction,

[5045] On August 11, 2020, in an appeal filed by the Tennessee Plaintiffs, the United States District Court for the Southern District of New York affirmed the Preliminary Injunction, as extended by the Bankruptcy Court on March 30, 2020. *See In re Purdue Pharmaceuticals, L.P.*, No. 19-cv-10941 (CM), 2020 WL 4596869 (S.D.N.Y. Aug. 11, 2020).

including the Voluntary Injunction, until entry of the Plan Confirmation Order and the expiration of the stay of such Plan Confirmation Order. *See* Twenty-First Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Sep. 2, 2021) [D.I. 287]. On September 21, 2021, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until entry of the Plan Confirmation Order and the expiration of the stay of such Plan Confirmation Order. *See* Twenty-Second Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Sep. 21, 2021) [D.I. 291]. On January 3, 2022, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until February 1, 2022, over the objections of the Canadian Municipality Creditors, the Canadian First Nation Creditors, the State of Connecticut and the State of Washington. *See* Twenty-Third Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Jan. 3, 2022) [D.I. 314]. On February 1, 2022, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until February 17, 2022, over the objections of the Plaintiffs' Executive Committee. *See* Twenty-Fourth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Feb. 1, 2022) [D.I. 323]. On February 17, 2022, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until March 3, 2022, over the objections of the Plaintiffs' Executive Committee. *See* Twenty-Fifth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Feb. 17, 2022) [D.I. 333]. On March 2, 2022, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until March 23, 2022. *See* Twenty-Sixth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Mar. 2, 2022) [D.I. 338]. On March 23, 2022, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until April 27, 2022. *See* Twenty-Seventh Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Mar. 23, 2022) [D.I. 349]. On April 29, 2022, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until 30 days after the decision by the United States Court of Appeals for the Second Circuit (the "**Second Circuit**") in the appeals from the District Court's December 16, 2021 order, consolidated and captioned as *In re Purdue Pharma L.P. et al*., No. 22-110- bk(L) (the "**Second Circuit Appeal**"). *See* Twenty-Eighth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Apr. 29, 2022) [D.I. 356]. On August 19, 2022, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until 30 days after the Second Circuit decision in the Second Circuit Appeal, over the objections of Fredrick Hill. *See* Twenty-Ninth Amended Order Pursuant to 11 U.S.C.

§ 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Aug. 19, 2022) [D.I. 379]. On October 4, 2022, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until 30 days after the Second Circuit decision in the Second Circuit Appeal. *See* Thirtieth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Oct. 4, 2022) [D.I. 391]. On December 5, 2022, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until 30 days after the Second Circuit decision in the Second Circuit Appeal. *See* Thirty-First Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Dec. 5, 2022) [D.I. 400]. On February 7, 2023, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until 30 days after the Second Circuit decision in the Second Circuit Appeal, over the objections of the Lac La Ronge Indian Band. *See* Thirty-Second Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Feb. 7, 2023) [D.I. 410]. On July 12, 2023, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until the earlier of (1) the date that an order confirming a plan of reorganization is entered and not subject to any stay; and (2) 30 days after entry of an opinion or order vacating or reversing the May 30, 2023 judgment of the Second Circuit (the "**Second Circuit Decision**") in the Second Circuit Appeal, over the objections of the Lac La Ronge Indian Band. *See* Thirty-Third Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. July 12, 2023) [D.I. 432]. On January 23, 2024, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until the earlier of (1) the date that an order confirming a plan of reorganization is entered and not subject to any stay; and (2) 30 days after entry of an opinion or order vacating or reversing the Second Circuit Decision in the Second Circuit Appeal, over the objections of Rosemary Walker. *See* Thirty-Fourth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Jan. 23, 2024) [D.I. 460]. On May 31, 2024, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until the earlier of (1) the date that an order confirming a plan of reorganization is entered and not subject to any stay; and (2) 30 days after entry of an opinion or order vacating or reversing the Second Circuit Decision in the Second Circuit Appeal, over the objections of Fredrick Hill. *See* Thirty-Fifth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. May 31, 2024) [D.I. 484]. On July 10, 2024, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until 60 days after entry of the Post-Confirmation Mediation Order, over the objections of Fredrick Hill. *See* Thirty-Sixth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. July 10, 2024) [D.I. 506]. On September 6, 2024, the Bankruptcy Court entered an order granting the Debtors' motion to

extend the Preliminary Injunction, including the Voluntary Injunction, until October 28, 2024. *See* Thirty-Seventh Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Sep. 6, 2024) [D.I. 533]. On September 27, 2024, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until December 2, 2024. *See* Thirty-Eighth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Sep. 27, 2024) [D.I. 557]. On November 1, 2024, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until January 2, 2025. *See* Thirty-Ninth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Nov. 1, 2024) [D.I. 583]. On December 2, 2024, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until January 22, 2025. *See* Fortieth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Dec. 2, 2024) [D.I. 610]. On December 23, 2024, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until February 24, 2025. *See* Forty-First Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.,* Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Dec. 23, 2024) [D.I. 634]. On January 27, 2025, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until April 29, 2025. *See* Forty-Second Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Jan. 27, 2025) [D.I. 656]; On February 28, 2025, the Bankruptcy Court entered an order granting the Debtors' motion to extend the Preliminary Injunction, including the Voluntary Injunction, until May 30, 2025. *See* Forty-Third Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction, *Purdue Pharma L.P. v. Commonw. of Mass.*, Adv. Pro. No. 19-08289 (Bankr. S.D.N.Y. Feb. 28, 2025) [D.I. 670] (the "**Injunction Order**").~~51~~46

The Voluntary Injunction, the terms of which reflect extensive discussions with and input from parties-in-interest including the NCSG, enjoins the Debtors from, among other things: (i) engaging in the promotion of opioids or opioid Products to prescribers and patients, including through (a) employing sales representatives to promote opioids or opioid Products, or (b)

~~51~~46 Arizona, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Idaho, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Nevada, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, Wisconsin, the NCSG (as listed on the October 11, 2019 Verified Statement pursuant to Bankruptcy Rule 2019 filed under D.I. 296 of Case No. 19-23649), the AHC and each of its members (as listed on the October 10, 2019 Verified Statement pursuant to Bankruptcy Rule 2019 filed under D.I. 279 of Case No. 19-23649), and the MSGE and each of its members (as listed on the October 30, 2019 Verified Statement pursuant to Bankruptcy Rule 2019 filed under D.I. 409 of Case No. 19-23649) (collectively, the "**Voluntarily Bound Parties**") have each consented and agreed to continue to abide by the terms of the *Seventeenth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction*, without the need to have any order entered against them.

supporting (financially, in kind or by distributing) any advertising that promotes opioid or opioid Products, whether print or online; (ii) compensating (x) sales or marketing employees through agreements or packages tied to sales volume, sales goals, or sales quotas for opioid Products, or (y) any person for the prescribing, sale, use, or distribution of opioid Products (except through rebates, chargebacks, and/or savings cards); and (iii) sponsoring or supporting (financially or in kind) any medical society or patient advocacy group for the purpose of promoting opioid Products. There are exceptions in the Voluntary Injunction to permit Debtors, among other things, to maintain a corporate website and to continue to provide information required by law, scientific and medical information, and information on the FDA-approved labeling.

G. Appointment of Monitor

At the Bankruptcy Court's suggestion, the Debtors agreed to retain a monitor, selected in consultation with the Creditors' Committee, the NCSG, and the Ad Hoc Committee, to report on the Debtors' compliance with the terms of the Voluntary Injunction every 90 days. On February 21, 2020, the Debtors retained Secretary Thomas J. Vilsack, former United States Secretary of Agriculture and former Governor of Iowa, to serve as the monitor ("**Monitor**").

On May 20, 2020, the Monitor filed the Initial Monitor Report [D.I. 1175] (the "**Initial Monitor Report**") with the Bankruptcy Court, describing actions taken by the Monitor to date to determine compliance with the terms and conditions of the Voluntary Injunction and providing a set of recommendations. On August 18, 2020, the Monitor filed the Second Monitor Report [D.I. 1584] (the "**Second Monitor Report**") with the Bankruptcy Court, describing the steps taken since the Initial Monitor Report to determine compliance with the terms and conditions of the Voluntary Injunction, including retention of expert services, and providing a set of further recommendations. On November 16, 2020, the Monitor filed the Third Monitor Report [D.I. 1956] (the "**Third Monitor Report**") with the Bankruptcy Court, describing the steps taken since the Second Monitor Report to determine compliance with the terms and conditions of the Voluntary Injunction and providing a set of further recommendations. On February 3, 2021, the Monitor filed the Fourth and Final Monitor Report [D.I. 2350] (the "**Fourth Monitor Report**") describing the steps taken since the Third Monitor Report to determine compliance with the terms and conditions of the Voluntary Injunction and providing a set of further recommendations. In each of these four reports, the Monitor stated that the Debtors had been "responsive and cooperative" with the Monitor and that they had made "good faith efforts to comply with the terms and conditions of the Voluntary Injunction."

On February 3, 2021, pursuant to the Fourth Monitor Report, Secretary Vilsack formally requested in the Fourth Monitor Report to be discharged of his duties as Monitor. On February 18, 2021, the Debtors retained Stephen Bullock, former Montana Governor and former Montana Attorney General, to replace Secretary Vilsack as Monitor.

On May 20, 2021, the Monitor (now Stephen Bullock) filed the Fifth Monitor Report [D.I. 2891]. On August 19, 2021, the Monitor filed the Sixth Monitor's Report [D.I. 3613]. On November 22, 2021, the Monitor filed the Seventh Monitor's Report [D.I. 4166]. On February 22, 2022, the Monitor filed the Eighth Monitor Report [D.I. 4380]. On May 20, 2022, the Monitor filed the Ninth Monitor Report [D.I. 4856]. On June 29, 2022, the Monitor filed the Tenth Monitor Report [D.I. 4928]. On August 22, 2022, the Monitor filed the Eleventh Monitor

Report [D.I. 5031]. On November 14, 2022, the Monitor filed the Twelfth Monitor Report [D.I. 5235]. On February 20, 2023, the Monitor filed the Thirteenth Monitor Report [D.I. 5454]. On May 22, 2023, the Monitor filed the Fourteenth Monitor Report [D.I. 5624]. On August 18, 2023, the Monitor filed the Fifteenth Monitor Report [D.I. 5823]. On November 20, 2023, the Monitor filed the Sixteenth Monitor Report [D.I. 6023]. On February 20, 2024, the Monitor filed the Seventeenth Monitor Report [D.I. 6221]. On May 17, 2024, the Monitor filed the Eighteenth Monitor Report [D.I. 6362]. On August 16, 2024, the Monitor filed the Nineteenth Monitor Report [D.I. 6621]. On November 15, 2024, the Monitor filed the Twentieth Monitor Report [D.I. 6922]. On February 13, 2025, the Monitor filed the Twenty-First Monitor Report [D.I. 7202]. In each of these reports, the Monitor stated that the Debtors had been "responsive" with the Monitor and "appear to be making a good-faith effort to comply with the terms and conditions of the Injunction."

H. Appointment of Fee Examiner

On April 8, 2020, the Bankruptcy Court entered the *Order Authorizing Appointment of Independent Fee Examiner Pursuant to 11 U.S.C. § 105(a) and Modifying Interim Compensation Procedures for Certain Professionals Employed Pursuant to 11 U.S.C. § 327* [D.I. 1023], appointing David M. Klauder as the fee examiner in these Chapter 11 Cases.

I. Emergency Relief Fund Negotiations

Soon after the Petition Date, negotiations began between the Debtors, the Creditors' Committee, the AHC, the NCSG, the MSGE and various other stakeholders regarding a proposal to dedicate approximately $200 million of the Debtors' cash on hand to establish an emergency relief fund (the "**ERF**" or the "**Emergency Relief Fund**") during the pendency of the Chapter 11 Cases to provide emergency relief and assistance to respond to the opioid crisis. The Debtors supported the proposal to establish the ERF and believed that the ERF should be distributed as quickly and efficiently as practicable, with the goal of putting the Debtors' assets to work funding worthy causes on the front lines of the opioid crisis rather than sitting on the Debtors' balance sheet.

After high-level negotiations among the parties regarding the nature of the ERF during the initial months of the Chapter 11 Cases, both the Creditors' Committee and AHC began developing detailed proposals for the structure of the ERF. While the AHC worked extensively with governmental constituencies to develop their proposal, the Debtors in parallel worked with the Creditors' Committee to refine the Creditors' Committee's initial proposal. During this time, the parties also continued to engage with each other regarding their high-level goals and priorities in structuring the ERF. On January 22, 2020, the Debtors and the Creditors' Committee provided a working draft proposed structure of the ERF to the AHC, and the AHC provided a draft proposal for the structure of the ERF that had the support of their group and reflected extensive input from the NCSG (although not their formal endorsement). The Debtors then worked extensively with the Creditors' Committee and AHC to understand the goals underlying their respective proposals as well as engaged with the NCSG and the MSGE to understand their specific viewpoints. On February 27, 2020, the Debtors hosted dozens of representatives of major creditor constituencies and interested governmental organizations at a summit in an attempt to negotiate the terms of a unified proposal for an ERF. The Debtors also

attempted to craft a proposal that incorporated concepts from the proposals of both the Creditors' Committee and AHC in order to reach a compromise.

These extensive and good-faith negotiations, however, failed to yield full consensus among the parties regarding the proposed structure and governance of the ERF. While the parties were able to reach agreement on the total size of the ERF, the geographic distribution of the funds, and the process of developing initial state/territory-level grant funding proposals, the parties were unable to reach agreement on, among other things, (i) the composition of an ERF review board that would oversee grant allocation decisions and the level of oversight to be provided by such board and (ii) the types of programs that should be eligible for grants, including the degree to which grants should be allocated to newly developed programs relative to existing programs.

Nevertheless, while the parties were not able to reach agreement on an ERF structure that was fully supported by all major case constituencies, the Plan maximizes the value of the Debtors' Estates for the benefit of their stakeholders.

J. Bar Date

On January 3, 2020, the Debtors filed the *Debtors' Motion for Entry of an Order (I) Establishing 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* [D.I. 717] (the "**Bar Date Motion**"). On February 3, 2020, the Bankruptcy Court entered an order approving the Bar Date Motion [D.I. 800] (the "**Bar Date Order**"), establishing 5:00 p.m. (Prevailing Eastern Time) on June 30, 2020 (the "**Initial General Bar Date**") as the deadline for all persons and entities (including, without limitation, individuals, partnerships, corporations, joint ventures, trusts, governmental units and Native American Tribes), holding a prepetition claim, as defined in section 101(5) of the Bankruptcy Code (a "**Claim**"), against the Debtors which arose on or prior to the Petition Date, to file a proof of claim. On May 20, 2020, the Debtors filed the *Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a) and 501 and Fed. R. Bankr. P. 2002 and 3003(c)(3) for Entry of an Order (I) Extending the General Bar Date for a Limited Period and (II) Approving the Form and Manner of Notice Thereof* [D.I. 1178] (the "**Bar Date Extension Motion**"). On June 3, 2020, the Bankruptcy Court entered an order approving the Bar Date Extension Motion [D.I. 1221] (the "**Bar Date Extension Order**"), extending the Initial General Bar Date to July 30, 2020 at 5:00 p.m. (Prevailing Eastern Time) (the "**General Bar Date**").

Specifically, the Bar Date Extension Order established the following deadlines for filing proofs of claim:

- **General Bar Date**: 5:00 p.m. (prevailing Eastern Time) on July 30, 2020, as the deadline for each person (as defined in section 101(41) of the Bankruptcy Code), governmental unit (as defined in section 101(27) of the Bankruptcy Code), and Native American Tribe to file a proof of claim (as defined in section 101(5) of the Bankruptcy Code) against the Debtors which arose on or prior to September 15, 2019.

- **Rejection Damages Bar Date**: the later of: (i) the General Bar Date; and (ii) thirty (30) days after entry of any order authorizing the rejection of such executory contract or unexpired lease of the Debtors as the deadline by which claimants asserting claims resulting from the Debtors' rejection of an executory contract or unexpired lease must file proofs of claim for damages arising from such rejection.

- **Amended Schedules Bar Date**: the later of: (i) the General Bar Date; and (ii) thirty (30) days after such holders of affected claims are served with notice that the Debtors amended their Schedules of Assets and Liabilities and/or Statements of Financial Affairs (collectively, the "**Schedules**") to identify, reduce, delete, or change the amount, priority, classification, or other status of such a claim as the deadline by which claimants holding claims affected by such amendment or supplement must file proofs of claim with respect to such claim.

The Debtors' notice program provided actual notice of the Bar Dates to known claimants, and included a supplemental notice plan (the "**Supplemental Notice Plan**") to provide an extraordinarily broad array of forms of publication notice to unknown claimants.

The Bar Date form of notice (the "**Bar Date Notice**") (i) notified claimants of the Bar Dates: (a) who must file a proof of claim, (b) the procedures for filing a proof of claim, and (c) the consequences of failing to timely file a proof of claim; and (ii) stated that for a claim to be validly and properly filed, a signed original of the proof of claim form, together with any accompanying documentation, must be filed with Kroll Restructuring Administration LLC or the Bankruptcy Court on or before the appropriate Bar Date. The Debtors provided actual notice of the Bar Dates to all known claimants by serving them with the following: (x) the Bar Date Notice and (y) the appropriate proof of claim form(s) and instructions.

The Supplemental Notice Plan employed six additional primary methods of providing notice: (i) paid media (e.g., television, radio, magazine, and newspaper); (ii) online displays across multiple devices and videos (e.g., YouTube); (iii) social media campaigns (e.g., Facebook, Twitter); (iv) out-of-home advertising (e.g., billboards); (v) earned media (e.g., press releases, blogs); and (vi) community outreach.

The Supplemental Notice Plan provided publication notice to areas where claims have arisen or where potential claimants may now be located, including the United States and the U.S. Territories of Guam, U.S. Virgin Islands, Mariana Islands, American Samoa, and Puerto Rico, using the following: (i) broadcast and cable television, radio (terrestrial and streaming), and traditional print media such as magazines and newspapers; (ii) various online displays and videos on websites such as YouTube and Google; (iii) social media, networking and engaging influencers on websites such as Facebook, Instagram, Twitter, and LinkedIn; (iv) static and digital billboards located in high-traffic areas; (v) press releases; and (vi) community outreach via a one-page notice to (a) all prescribers of Purdue brand name medications, (b) U.S. pharmacies and institutions that received certain brand name and generic opioid medications, and (c) third-party organizations such as tribal leaders, veterans communities, treatment and addiction centers, mobile health teams, mining communities, religious leaders, homeless and women's shelters, and government agencies. The Supplemental Notice Plan provided

publication notice in both French and English in Canada using the following: (i) traditional print media such as magazines and newspapers; (ii) online and social media, including Google, Facebook, Instagram, and YouTube; and (iii) press releases.

Additionally, the Debtors published the notice of the Bar Dates across several print publications in the United States and Canada. In the United States, the Debtors published the full Bar Date Notice in three (3) nationally circulated newspapers and published a summary notice of the Bar Dates in eight (8) consumer magazines, fourteen (14) industry-specific trade magazines, and seventy-nine (79) local newspapers in eleven (11) states. In Canada, the Debtors published a summary notice of the Bar Dates in nine (9) nationally distributed magazines and three (3) nationally circulated newspapers.

The Supplemental Notice Plan cost over $20 million and included a total of over 1.5 billion impressions across social media, display and search platforms. The nearly unprecedented reach and cost of the Supplemental Notice Plan, which the Debtors developed while engaging extensively with key creditor constituencies, was carefully tailored to the circumstances of potential claims and provided publication notice far beyond what is customary in typical chapter 11 cases. The Bankruptcy Court included in the Bar Date Order its finding that the noticing procedures outlined therein constituted good, sufficient and due notice of the Bar Dates and the procedures for filing proofs of claim in these Chapter 11 Cases.

K. Entry into Stipulation in Respect of Certain Canadian Patient Litigation

Prior to the Petition Date, the lead plaintiffs (collectively, the "**Patient Plaintiffs**") in ten class actions (the "**Canadian Patient Class Actions**") that were commenced in each province of Canada (except Manitoba) between May 11, 2007 and June 22, 2012, on one hand, and the defendants in the Canadian Patient Class Actions, on the other hand, entered into a conditional national class action settlement agreement (the "**Patient Settlement Agreement**"). Pursuant to its own terms and Canadian class action legislation, the Patient Settlement Agreement must be approved by the Ontario Superior Court of Justice, the Superior Court of Quebec, the Supreme Court of Nova Scotia and the Saskatchewan Court of Queen's Bench in order to become effective. The Patient Settlement Agreement has yet to receive the approval of the Saskatchewan Court of Queen's Bench (the "**Saskatchewan Court**"). Proceedings in respect of the Canadian Patient Class Actions are currently stayed and suspended pursuant to the *Order Re: Related Party Stay* entered in the CCAA Proceedings on December 30, 2019.

The Debtors and the Patient Plaintiffs are party to the *Amended and Restated Stipulation and Order Permitting the Filing of a Class Proof of Claim Solely for Administrative Convenience in Order to Effectuate a Potential Settlement in Respect of Certain Canadian Patient Litigation* (the "**Patient Claim Settlement Stipulation**"). The Bankruptcy Court entered an order approving the Patient Claim Settlement Stipulation on July 24, 2020 [D.I. 1515]. The purpose of the Patient Claim Settlement Stipulation is to permit the Patient Plaintiffs to file a Proof of Claim on their own behalf, and on behalf of the Patient Class (as defined in the Patient Claim Settlement Stipulation) in the Canadian Patient Class Actions solely for protecting their claims pursuant to the terms of the Patient Settlement Agreement and not for any other purpose.

On July 30, 2020, Class Counsel (as defined in the Patient Claim Settlement Stipulation) filed a Proof of Claim [Claim No. 146518] (the "**Patient Class Proof of Claim**") in accordance with the Patient Claim Settlement Stipulation.

Prior to the Petition Date, non-Debtor Purdue Pharma (Canada), an independent associated company beneficially owned by the Sackler Parties, settled a trust for CAD $20 million (the "**Settlement Trust**"), which is the full amount of the Settlement Payment (as defined in the Patient Settlement Agreement). The funds in the Settlement Trust are held in trust and are sufficient to make payment of the Settled Patient Claims (as defined in the Patient Claim Settlement Stipulation). The funds will only be distributed in accordance with the Patient Settlement Agreement after the occurrence of the Effective Date (as defined in the Patient Settlement Agreement). The Effective Date is the date on which the requisite orders contemplated by the Patient Settlement Agreement have become final orders from which no appeal lies or in respect of which any right of appeal has expired without the initiation of proceedings in respect of that appeal, or proposed appeal such as the delivery of a notice of appeal or application for leave to appeal.

As set forth in the Patient Claim Settlement Stipulation, if the Patient Settlement Agreement is approved by the Saskatchewan Court and the funds held in the Settlement Trust are released for benefit of Holders of Settled Patient Claims (as defined in the Patient Claim Settlement Stipulation), (i) the Patient Settlement Agreement and Patient Class Proof of Claim will be the exclusive remedy for all Settled Patient Claims in the Chapter 11 Cases; (ii) the Patient Settlement Agreement and Patient Class Proof of Claim will supersede and replace any other Proof of Claim or portion thereof filed by any of the Patient Plaintiffs, Settlement Patient Claimants (as defined in the Patient Claim Settlement Stipulation), or counsel to any of the foregoing, in the Chapter 11 Cases in respect of Settled Patient Claims; and (iii) upon the Effective Date (as defined in the Patient Settlement Agreement), the Debtors will be deemed to have been completely and unconditionally released, forever discharged, and acquitted from any and all Settled Patient Claims against the Debtors and from any other Proof of Claim or portion thereof in respect of any Settled Patient Claim filed against any Debtor. If the Patient Settlement Agreement is approved by the Saskatchewan Court and the funds in the Settlement Trust are released for the benefit of Holders of Settled Patient Claims (as defined in the Patient Claim Settlement Stipulation): (i) no Settlement Patient Claimant that filed a Proof of Claim in the Chapter 11 Cases shall receive a recovery in respect of a Settled Patient Claim from any source other than the Settlement Payment made from the Settlement Trust; and (ii) any Settlement Patient Claimant that filed a Proof of Claim in the Chapter 11 Cases shall have the burden of proving that such Proof of Claim is not in respect of a Settled Patient Claim that was released and discharged pursuant to the Patient Claim Settlement Stipulation.

No Distributions will be made on account of any Claims that may constitute Settled Patient Claims unless and until (x) the Saskatchewan Court approves the Patient Settlement Agreement and all funds in the Settlement Trust have been distributed to Holders of Settled Patient Claims (as defined in the Patient Claim Settlement Stipulation) in accordance with the Patient Settlement Agreement or (y) the Saskatchewan Court denies the Patient Settlement Agreement. In the event the Saskatchewan Court does not approve the Patient Settlement

Agreement, the Patient Claim Settlement Stipulation will be deemed withdrawn and the Patient Class Proof of Claim will be rescinded and deemed null and void.

The Patient Class Proof of Claim does not otherwise prejudice any proof of claim filed in respect of (a) claims against the Debtors arising on or before the Petition Date other than Settled Patient Claims or any other claims of the Settlement Patient Claimants; (b) Settled Patient Claims or any other claims of the Settlement Patient Claimants in the event the Patient Settlement Agreement is not approved by the Saskatchewan Court or the Effective Date does not otherwise occur under the Patient Settlement Agreement; or (c) any claims of Canadian provincial health insurers, whether direct or subrogated to claims of the Patient Plaintiffs and other members of the Patient Class (as defined in the Patient Claim Settlement Stipulation) (the "**Contingent Claims**"). For the avoidance of doubt, the Contingent Claims are subject to the General Bar Date and any Contingent Claim filed after the General Bar Date will be considered untimely.

L. Sale of Rhodes Technologies Manufacturing Facility and Entry into Supply Agreement

In April 2020, the Debtors made the decision to explore strategic alternatives with respect to Rhodes Tech's API manufacturing business. The Debtors determined that a transition away from the API manufacturing facility located in Coventry, Rhode Island (the "**Coventry Facility**") would have the effect of unburdening the Debtors from the facility's extensive annual fixed operating costs, creating a variable cost structure as volumes decrease. The Debtors could not, however, transition away from the Coventry Facility without securing an alternative source of APIs from a credible, high-quality supplier with experience in the API manufacturing industry, and doing so at a lower cost than was then incurred by manufacturing APIs "in house." Following an extensive marketing and negotiation process, on September 14, 2020, Debtor Rhodes Technologies, Noramco Coventry LLC (the "**Purchaser**"), and Noramco LLC ("**Normaco**"), as guarantor of Purchaser's obligations, executed an asset purchase agreement (the "**Rhodes APA**") in contemplation of a sale of the Coventry Facility and related assets to the Purchaser and agreed to enter into the Supply Agreement under which Noramco would supply the Debtors with all products then manufactured at the Coventry Facility for a minimum term of seven years, with two two-year renewals available at the Debtors' option (collectively, the "**Coventry Transactions**"). The Rhodes APA also contemplated additional ancillary documents, including a transition services agreement to effectuate the transfer of the Coventry Facility operations from the Debtors to the Purchaser. On October 1, 2020, the Bankruptcy Court entered the *Order (I) Approving Sale of Debtors' Coventry Facility and Related Assets Free and Clear of Liens, Claims, Interests and Encumbrances, (II) Approving Debtors' Entry into a Long-Term API Supply Agreement, (III) Authorizing Assumption and Assignment, or Assignment, as Applicable, of Executory Contracts and Unexpired Leases and (IV) Granting Related Relief* [D.I. 1765]. The sale of the Coventry Facility closed and the parties entered into the Supply Agreement on December 31, 2020.

M. Consideration of Unsolicited Offers for Certain Assets

1. First Interested Party

In August, 2020, the Debtors were contacted on an unsolicited basis by a party (the "**First Interested Party**") interested in discussing a proposed risk evaluation and mitigation strategy ("**REMS**") initiative and a potential acquisition of certain of the Debtors' assets. At the time of this initial contact, the First Interested Party did not have the financial resources to acquire any material portion of the Debtors' assets. Following several discussions between the Debtors' advisors and the First Interested Party, including a call with the Debtors' full management team regarding the proposed REMS initiative in October 2020, the First Interested Party provided in November 2020 an asset purchase indication of interest. Although the First Interested Party had still not demonstrated any ability to provide financing for any potential acquisition proposal, the Debtors determined that it was nevertheless in the best interests of its stakeholders to afford the First Interested Party an opportunity to develop a potential offer. As a result, the Debtors and the First Interested Party entered into a customary confidentiality agreement on November 16, 2020. Between late November 2020 and early January 2021, the Debtors executed additional confidentiality agreements with ten potential financing sources to the First Interested Party at the First Interested Party's request.

On December 3, 2020, the First Interested Party submitted a non-binding proposal to acquire substantially all of the operating assets of the Debtors. Of the aggregate consideration potentially payable to the Debtors under the proposal, approximately 70% was proposed to be paid in cash at closing of a transaction and the remainder was proposed to be payable in cash in the future, subject to material contingencies. The proposal lacked reasonable evidence of the First Interested Party's ability to obtain the funds required to pay the proposed acquisition consideration. Notwithstanding that the First Interested Party had not provided assurance that it had the ability to obtain the financing necessary to pay for its proposal, in the interest of providing the First Interested Party the opportunity to obtain such financing, the Debtors agreed to commence a process to provide substantial due diligence information regarding the Debtors and their businesses to the First Interested Party, the potential financing sources identified by the First Interested Party, and their respective representatives and advisors.

Beginning in early December 2020 and continuing until late February 2021, the Debtors and their advisors dedicated hundreds of hours of time to obtain, organize, review and process over 22,000 pages of requested due diligence information, at a significant cost to the Debtors in fees and expenses and time commitment of its management and employees. In addition, the Debtors and their advisors conducted numerous due diligence discussions with the First Interested Party and their respective representatives and advisors to allow the First Interested Party to propose an actionable transaction.

After a number of discussions, given the overall status and timeline of the Debtors' bankruptcy process, the Debtors requested that the First Interested Party submit a best and final binding bid with committed financing by January 8, 2021. At the request of the First Interested Party, the Debtors agreed to extend the bid date to January 11, 2021. On January 11, 2021, the First Interested Party submitted a revised proposal. Notwithstanding the bid requirements specified by the Debtors, the revised proposal was non-binding and subject to due diligence and

was not supported by any financing commitments, which would have been required to pay the proposed acquisition consideration. Of the aggregate consideration potentially payable to the Debtors under the revised proposal, which was substantially the same as that in the December 3 proposal, only half would now be payable at closing of a transaction, with the remainder payable over a number of years and subject to significant contingencies. In addition, the non-binding proposal lacked material information necessary for the Debtors to evaluate the value of the proposed consideration. On January 14, 2021, the First Interested Party provided certain additional information; however, such information continued to lack significant information necessary for the Debtors to evaluate the proposal. On a number of occasions, the Debtors, together with the Creditors' Committee and the Ad Hoc Committee, sent follow-up questions to the First Interested Party and requested discussions with the First Interested Party. None of these discussions clarified all of the required information necessary to evaluate the proposal.

On January 18, 2021 and January 19, 2021, the First Interested Party submitted letters from several potential financing sources. Notwithstanding the bid requirements specified by the Debtors, the financing letters were non-binding, were subject to due diligence and were subject to further internal approvals of the applicable financing parties. The financing letters also stated that they would not become binding unless and until definitive transaction documents were executed, which the First Interested Party estimated would require an additional 60-day period, and also indicated that the financing sources could seek further syndication of their proposed financing commitments, which would also result in additional delay. Furthermore, certain financing letters described a transaction that would effectively result in parties other than the First Interested Party acquiring significant portions of the Debtors' assets. In addition, the financing letter relating to the proposed acquisition of assets by such other party required the Debtors to deliver certain material assets not owned by the Debtors.

In late January 2021, through ongoing discussions with the First Interested Party, the Debtors learned that the First Interested Party was in fact only intending to assume a fraction of the Debtors' ordinary course postpetition liabilities, leaving approximately $300 million dollars, and possibly more, of postpetition liabilities to be borne by the bankruptcy estate as administrative claims, effectively resulting in a significant reduction in any upfront consideration offered by the First Interested Party. Moreover, the Purdue Pharma L.P. Pension Plan, a single-employer defined benefit pension plan covered by Title IV of ERISA (the "**Purdue Pension Plan**"),[~~52~~47] would not be transferred with the assets proposed to be acquired, and the Debtors estimated at the time that, if they became subject to unfunded benefit liabilities on account of the Purdue Pension Plan, such claims would likely total approximately $180 million. Moreover, the First Interested Party would not continue the Debtors' Public Health Initiatives or undertake any other initiatives that would have allowed the Debtors to emerge as a public benefit company or similar entity and therefore satisfy the conditions necessary to benefit from the Forfeiture Judgment Credit in the DOJ Resolution.

[~~52~~47] The Purdue Pension Plan has approximately 3,200 current participants. PPLP is the contributing sponsor of the Purdue Pension Plan. The Debtors that are members of the contributing sponsor's controlled group within the meaning of 29 U.S.C. §§ 1301(a)(13), (14) are jointly and severally liable with respect to the Purdue Pension Plan. Further, any non-Debtor members of the contributing sponsor's controlled group are also jointly and severally liable with respect to the Purdue Pension Plan.

On February 7, 2021, the First Interested Party submitted a proposal that consisted of a completely revised and further degraded proposed transaction structure. The revised structure contemplated an essentially "seller-financed" transaction whereby the Debtors would effectively transfer substantially all of its assets to the First Interested Party in exchange for no consideration at consummation of such transaction, with the potential for the Debtors' Estates to receive payments over many years as repayment of the seller financing to the extent the First Interested Party was able to generate sufficient revenues and profits in the future. The revised proposed transaction structure continued to include the requirement that significant postpetition liabilities be borne by the bankruptcy estate as administrative claims and the Purdue Pension Plan remain with the bankruptcy estate as described above.

Notwithstanding that the First Interested Party's revised proposals had in each iteration significantly reduced the proceeds reasonably/potentially deliverable to the Debtors, including the reduction in proceeds payable at consummation of a transaction to zero, over the ensuing weeks, the Debtors continued to permit the First Interested Party to conduct further due diligence.

Based on a careful review of all of the materials submitted by, and the discussions that occurred with, the First Interested Party, its potential financing sources and their respective representatives and advisors over many months, the Debtors determined that the proposals submitted by the First Interested Party were not value maximizing for the Debtors and its stakeholders, provided significantly less cash to the estate than the Debtors' Plan, resulted in stakeholders continuing to be tied to the performance of the Debtors' opioids business for a significantly longer period of time than would the Plan, introduced risk of potentially significant negative tax consequences on stakeholders, and were likely not capable of being executed upon by the First Interested Party, and that further diversion of the Debtors' resources towards discussions with the First Interested Party would only result in significant costs to the Debtors with a high risk of no transaction being executed.

2. Second Interested Party

In March 2024, the Debtors were contacted on an unsolicited basis by a party (the "**Second Interested Party**") interested in discussing certain of the Debtors' assets. An introductory meeting between the Debtors' management team, the Debtors' advisors and the Second Interested Party was held on May 3, 2024, and the Debtors subsequently received a diligence list from the Second Interested Party on May 6, 2024. On August 15, 2024, the Debtors' advisors received a non-binding proposal from the Second Interested Party to acquire the Debtors' branded and generic prescription pharmaceutical businesses. The proposal contemplated (1) divesting the pipeline drugs then in development, and (2) with respect to the operating profits of the branded and generic prescription businesses, transferring 25% of such profits to fund the Debtors' Public Health Initiatives and allocating the remaining 75% of such profits to the Second Interested Party.[~~53~~48] Upon an extensive review of the proposal and

[~~53~~48] The Debtors' public health initiatives are described in more detail and defined in Section II(A)(iv).

following multiple discussions with the Second Interested Party, the Debtors determined that this proposal was not value maximizing for the Debtors and their stakeholders.

On September 11, 2024, the Second Interested Party submitted a revised proposal to the Debtors, presenting several alternative transaction structures. The Debtors, in consultation with its advisors, determined that the revised structure failed to address certain key issues. The Debtors provided feedback to the Second Interested Party on September 18, 2024, outlining a series of non-negotiable terms, which included the Debtors' post-reorganization mission, compliance with the DOJ Settlement, and an obligation to acquire substantially all of the Debtors' assets. The Debtors received a second revised offer on November 1, 2024, which the Second Interested Party presented to the Debtors' management team on December 18, 2024. The Debtors, in consultation with their advisors seriously evaluated the updated proposal, but concluded it did not address all the Debtors' articulated terms and had other shortcomings. In connection with the second revised offer, the Second Interested Party also submitted an additional diligence request to the Debtors.

The Debtors have provided responses to substantially all of the diligence items requested by the Second Interested Party. The Debtors remain open to further enhanced offers from the Second Interested Party.

3. Other Interested Parties

In the course of the Chapter 11 Cases, the Debtors have received other unsolicited offers and/or indications of interest from other parties to acquire some or all of the Debtors' assets. The Debtors, in consultation with their advisors, have given due consideration to each such proposal, consistent with the applicable fiduciary duties to maximize the value of the Debtors' Estates for the benefit of creditors and other stakeholders. To date, the Debtors have not determined any of the foregoing proposals to be actionable.

N. Continuation of Certain Prepetition Employee Compensation Programs

In order to maintain business operations during the Chapter 11 Cases, the Debtors sought to continue certain preexisting employee compensation programs, which were critical to sustain employee morale and protect the value of the Debtors' business. On September 16, 2019, the Debtors filed the *Motion of Debtors for Entry of an Order Authorizing (I) Debtors to (A) Pay Pre-Petition Wages, Salaries, Employee Benefits and Other Compensation and (B) Maintain Employee Benefits Programs and Pay Related Administrative Obligations, (II) Employees and Retirees to Proceed with Outstanding Workers' Compensation Claims and (III) Financial Institutions to Honor and Process Related Checks and Transfers* [D.I. 6] (the "**Wages Motion**"). As part of the relief requested in the Wages Motion, the Debtors sought to continue two long-standing compensation programs: their annual incentive program (the "**AIP**") and their long-term results plan (the "**LTRP**," and together with the AIP, the "**Prepetition Incentive Plans**"). The AIP designates payments on an annual basis to eligible employees based on a combination of employee performance and the performance of the Debtors. The LTRP is a long-term cash incentive program that provides an annual grant to employees based on a

three-year performance period. The Debtors also sought, *inter alia*, to continue a non-executive retention plan.

Objections to the Wages Motion were filed by the U.S. Trustee, Nevada Counties and Municipalities, the Commonwealth of Pennsylvania, the NCSG and the State of Arizona [D.I. 134, 190, 196, 197, 201]. The New York State Department of Financial Services also submitted an informal objection [D.I. 99]. The NCSG filed a statement maintaining its and certain of its members' objections insofar as such objections related to the Debtors' CEO [D.I. 557].

The Debtors agreed to multiple partial adjournments of the Wages Motion such that various elements of the relief sought in the Wages Motion were considered at different hearings. Following extensive negotiations with certain creditor groups, the Debtors agreed to certain modifications to the relief sought in the Wages Motion. The Debtors reached agreement on, or agreement not to object to, modified relief with all relevant creditor groups except with respect to the Debtors' CEO's incentive compensation, which was opposed only by the NCSG. The modified relief sought in the Wages Motion was granted in the *Final Order Authorizing (I) Debtors to (A) Pay Prepetition Wages, Salaries, Employee Benefits and Other Compensation and (B) Maintain Employee Benefits Programs and Pay Related Administrative Obligations, (II) Employees and Retirees to Proceed with Outstanding Workers' Compensation Claims and (III) Financial Institutions to Honor and Process Related Checks and Transfers* [D.I. 309]; the *Supplemental Final Order Authorizing (I) Debtors to (A) Pay Certain Prepetition Wages, Salaries, Employee Benefits and Other Compensation and (B) Maintain Employee Benefits Programs and Pay Related Administrative Obligations, (II) Employees and Retirees to Proceed with Outstanding Workers' Compensation Claims and (III) Financial Institutions to Honor and Process Related Checks and Transfers* [D.I. 629] and the *Second Supplemental Final Order Authorizing (I) Debtors to (A) Pay Certain Prepetition Wages, Salaries, Employee Benefits and Other Compensation and (B) Maintain Employee Benefits Programs and Pay Related Administrative Obligations, (II) Employees and Retirees to Proceed with Outstanding Workers' Compensation Claims and (III) Financial Institutions to Honor and Process Related Checks and Transfers* [D.I. 783].

On February 4, 2025, the Debtors filed the *Debtors' Motion for Authorization to (A) Commence "Standard Termination" Proceedings for the Debtors' Defined Benefit Pension Plan, (B) Execute Amendments in Connection Therewith and (C) Fund Such Plan and Annuitization of Benefits Thereunder* [D.I. 7166] (the "**Purdue Pension Plan Termination Motion**"), pursuant to which, the Debtors sought authorization to effect a "standard termination" of the Purdue Pension Plan. On March 17, 2025, the Bankruptcy Court entered an order approving the Purdue Pension Plan Termination Motion [D.I. 7302].

In order to effectuate a standard termination of the Purdue Pension Plan, the Debtors must make contributions to the Purdue Pension Plan so that it will possess sufficient assets to satisfy all plan benefits and liabilities as of the date of distribution. The Debtors believe that, given the value of Plan assets and the favorable interest rate environment, terminating the Purdue Pension Plan at this time would reduce the risk of future liability and ensure that more funds would be available to creditors. The Debtors expect to contribute approximately $30 million in order to initiate the standard termination process and permit participants to elect lump-sum

withdrawals, and the Debtors expect to contribute approximately $13 million of additional funds to be used to purchase annuities in approximately 12-24 months' time for participants who do not elect lump sums.

O. Key Employee Incentive Program and Key Employee Retention Program

The Debtors developed a Key Employee Incentive Program (the "**KEIP**") and the Key Employee Retention Program (the "**KERP**," and together with the KEIP, the "**Compensation Plans**"), in order to ensure the continued motivation, engagement and retention of the Debtors' workforce and the maximization of the value of the Debtors' Estates. On September 9, 2020, the Debtors filed the *Motion of Debtors for Entry of an Order Authorizing Implementation of a Key Employee Incentive Plan and a Key Employee Retention Plan* [D.I. 1674] (the "**Compensation Motion**").

The KEIP, as initially designed, would have applied to the Debtors' eight then-current insider employees, consisting of the: (i) CEO; (ii) CFO; (iii) General Counsel; (iv) Senior Vice President, Intellectual Property Law & Public Health Initiatives; (v) Chief Technical Operations Officer; (vi) President, Imbrium Therapeutics; (vii) President, Rhodes Pharmaceuticals; and (viii) President, Rhodes Technologies. After filing the Compensation Motion, the President of Imbrium Therapeutics and the Debtors' Senior Vice President, Intellectual Property Law & Public Health Initiatives resigned and therefore became ineligible for the proposed KEIP. The KERP applies to virtually all incentive-eligible employees other than the employees covered under the KEIP.

After extensive discussions with creditor groups, the Debtors agreed to certain modifications to the proposed KEIP and KERP. The Debtors also agreed to multiple partial adjournments of the Compensation Motion such that various elements of the relief sought in the Compensation Motion were considered at different hearings. On October 1, 2020, the Bankruptcy Court entered the *Order Authorizing the Debtors to Implement a Key Employee Retention Plan* [D.I. 1762]. On October 28, 2020, the Bankruptcy Court entered the *Order Authorizing the Debtors to Implement a Key Employee Incentive Plan* [D.I. 1861] (the "**2020 KEIP**"), which granted the Debtors authority to implement the KEIP as modified with respect to (i) General Counsel; (ii) Chief Technical Operations Officer; (iii) President, Rhodes Pharmaceuticals; and (iv) President, Rhodes Technologies. On November 18, 2020, the Bankruptcy Court entered the *Supplemental Order Authorizing the Debtors to Implement a Key Employee Incentive Plan* [D.I. 2002], which granted the Debtors authority to implement the KEIP as modified with respect to the CEO and CFO.

In the four years following implementation of the Compensation Plans in 2020, the Debtors have annually sought approval for successive Compensation Plans that have remained consistent both with the levels negotiated in 2020 with the Creditors' Committee and other critical stakeholders and generally below the compensation levels under the Debtors' longstanding prepetition compensation plans. Moreover, where the Debtors initially sought authority to pay eight participants under the 2020 KEIP, only three KEIP participants remain, dividing the same crucial leadership roles among a leaner executive team. Approval of the Compensation Plans have enabled the Debtors to provide their employees with appropriate, market-based compensation for the duration of the Chapter 11 Case. On September 15, 2021, the

Bankruptcy Court entered the *Order Authorizing the Debtors to Implement 2021 Key Employee Incentive Plan* [D.I. 3770], which granted the Debtors authority to implement the 2021 Compensations Plans, including with respect to the (i) Chief Executive Officer; (ii) Chief Financial Officer; (iii) General Counsel; (iv) Chief Technical Operations Officer and (v) President, Rhodes Pharmaceuticals. On May 20, 2022 and, subsequently, on June 27, 2022, the Bankruptcy Court entered the *Order Authorizing the Debtors to Implement 2022 Key Employee Retention Plan and 2022 Key Employee Incentive Plan* [D.I. 4862] and the *Supplemental Order Authorizing ~~The~~the Debtors ~~To~~to Implement 2022 Key Employee Incentive Plan* [D.I. 4924], which granted the Debtors authority to implement the 2022 Compensations Plans, including with respect to the (i) Chief Executive Officer and (ii) General Counsel. On May 30, 2023, the Bankruptcy Court entered the *Order Authorizing the Debtors to Implement 2023 Key Employee Incentive Plan and 2023 Key Employee Retention Plan* [D.I. 5646], which granted the Debtors authority to implement the 2023 Compensations Plans, including with respect to the (i) Chief Executive Officer; (ii) new Chief Financial Officer and (iii) General Counsel. On April 24, 2024, the Bankruptcy Court entered the *Order Authorizing the Debtors to Implement 2024 Key Employee Incentive Plan and 2024 Key Employee Retention Plan* [D.I. 6322], which granted the Debtors authority to implement the 2024 Compensations Plans, including with respect to the (i) Chief Executive Officer; (ii) Chief Financial Officer and (iii) General Counsel.

P. Extension of Exclusive Periods

Section 1121(b) of the Bankruptcy Code provides for a period of one hundred twenty (120) days after the commencement of a chapter 11 case during which time a debtor has the exclusive right to file a plan of reorganization (the "**Exclusive Filing Period**"). In addition, section 1121(c)(3) of the Bankruptcy Code provides that if the debtor files a plan within the Exclusive Filing Period, it shall have a period of one hundred eighty (180) days after commencement of the chapter 11 case to obtain acceptances of such plan (the "**Exclusive Solicitation Period**," and together with the Exclusive Filing Period, the "**Exclusivity Periods**"). Pursuant to section 1121(d) of the Bankruptcy Code, the Bankruptcy Court may, upon a showing of cause, extend the Exclusivity Periods.

The Debtors' Exclusive Filing Period and Exclusive Solicitation Period were initially set to expire on January 13, 2020 and March 13, 2020, respectively. On January 28, 2020, the Court entered the *Order Extending the Exclusive Periods Within Which to File a Chapter 11 Plan and Solicit Acceptances Thereof* [D.I. 782] extending the Exclusive Filing Period and the Exclusive Solicitation Period through and including Monday, July 13, 2020 and Wednesday, September 9, 2020, respectively. On July 24, 2020, the Court entered the *Second Order Extending the Exclusive Periods Within Which to File a Chapter 11 Plan and Solicit Acceptances Thereof* [D.I. 1517] extending the Exclusive Filing Period and the Exclusive Solicitation Period through and including Thursday, December 10, 2020 and Monday, February 8, 2021, respectively. On December 16, 2020, the Court entered the *Third Order Extending the Exclusive Periods Within Which to File a Chapter 11 Plan and Solicit Acceptances Thereof* [D.I. 2143] extending the Exclusive Filing Period and Exclusive Solicitation Period through and including Monday, February 15, 2021 and Monday, May 17, 2021, respectively. On March 1, 2021, the Court entered the *Fourth Order Extending the Exclusive Periods Within Which to File a Chapter 11*

Plan [D.I. 2433] extending the Exclusive Filing Period through and including Monday, March 15, 2021.

Q. Information Sharing/Diligence

From the outset of the Chapter 11 Cases, the Debtors have been committed to transparency and robust information sharing, both of which the Debtors believe are critical in cases of this magnitude and public import. To that end, the Debtors have provided an extensive amount of diligence and discovery material—totaling over 90 million pages—on a wide range of topics, including in response to requests from the Debtors' major creditor groups, such as the Creditors' Committee, the Ad Hoc Committee, the NCSG, the MSGE, the NAS Committee, the Ad Hoc Group of Hospitals, the Personal Injury Claimants, and the DOJ. A select summary of key aspects of the Debtors' information sharing follows:

In addition to the public reports prepared at the direction of the Debtors' Special Committee described in Article II.E above, the Debtors have provided extensive amounts of document discovery to key stakeholders. These materials include, for example, more than 10 million documents, totaling more than 70 million pages, which had been previously produced by the Debtors in the federal multidistrict litigation pending in the Ohio MDL and in similar non-MDL civil litigations, and more than 2.5 million documents, totaling 13.5 million pages, that had been previously produced to the DOJ in connection with its investigation of the Debtors.

These enormous productions, however, only represent a small fraction of the Debtors' information sharing efforts. Recognizing the Creditors' Committee's important role in these Chapter 11 Cases, the Debtors also agreed to undertake review of substantial email and document collections from over 50 custodians, including from additional Sackler Families custodians and Directors, in most cases for time periods going back 25 years, and make corresponding productions. These productions have resulted in the provision of more than 680,000 documents, totaling more than 4.2 million pages, to the Creditors' Committee and NCSG.

The Debtors also reached an extraordinary agreement in connection with a negotiated resolution of two motions filed by the Creditors' Committee to share over 16,000 of the Debtors' privileged documents, which are ordinarily not subject to discovery, with the Creditors' Committee on a common interest basis. These productions included privileged documents related to distributions or transfers of assets from the Company to the Sackler Families or entities owned by or operated for the benefit of Sackler Families members; privileged documents that were contemporaneously sent to or by Sackler Families members or Purdue Board members during their time serving on the Debtors' Board; and privileged documents identified by the Debtors' Special Committee's counsel as important to its investigation—all of which go to the heart of the investigation of possible estate claims against the Sacklers.

Parallel to the foregoing efforts, the Debtors have separately provided almost a million pages of diligence materials (comprising both original analyses and historical documents) to the Creditors' Committee and other key stakeholders in response to dozens of requests. These include materials comprising original analyses and reams of historical documents on a wide variety of topics, including, for example, compilations of all settlements, lists of all personal

injury claims ever filed against Purdue, compilations of licensing and royalty agreements, granular opioid sales data at the prescription level over a 22-year period, and much more.

Finally, the Debtors have worked closely with other parties to support and facilitate extensive discovery and information sharing from members of the Sackler Families and entities associated with them. As a result of the parties' efforts, the Sackler Families, certain financial institutions with which they have had relationships, and other non-Sackler Board members among others, have produced over 600,000 documents (totaling over 3.2 million pages) in these Chapter 11 Cases. The Sackler Families' IACs have also made productions totaling over 830,000 documents and over 8.3 million pages. Finally, another 180,000 documents, totaling over a 1.3 million pages, have been produced from the files of Norton Rose Fulbright LLP, a longtime advisor to the Debtors, the Sackler Families and Sackler-related entities. In addition to these document productions, the Creditors' Committee and NCSG took 16 depositions of members of the Sackler Families, current and former Board members, current employees of the Debtors, and other parties, which counsel for the Debtors' Special Committee attended.

R. Pre-Confirmation Mediation

On February 20, 2020, the Debtors filed the *Debtors' Motion for Entry of an Order Appointing Mediators* [D.I. 855] (the "**Mediation Motion**"), seeking to appoint the Honorable Layn Phillips and Mr. Kenneth Feinberg as co-mediators (together, the "**Mediators**") to conduct mediation in the Chapter 11 Cases and mandating that the Debtors, the Creditors' Committee, and various ad hoc committees and groups in the Chapter 11 Cases participate in mediation (the "**Pre-Confirmation Mediation**"). After a telephonic hearing on March 2, 2020, the Bankruptcy Court entered an order approving the Mediation Motion. *See Order Appointing Mediators* [D.I. 895] (the "**Pre-Confirmation Mediation Order**"). The following parties (collectively, the "**Mediation Parties**") participated in the Pre-Confirmation Mediation: (i) the Debtors; (ii) the Creditors' Committee (including *ex officio* members); (iii) the Ad Hoc Committee;[5449] (iv) the NCSG;[5550] (v) the MSGE;[5651] (vi) the Ad Hoc Group of Individual Victims[5752] (the "**Personal Injury Claimants**"); (vii) the Ad Hoc Group of NAS Children[5853] (the "**NAS Committee**"); (viii) representatives of a group of hospitals in the United States[5954] (the "**Ad Hoc Group of Hospitals**"); (ix) counsel for the Blue Cross Blue Shield Association, various private third-party payors and health insurance carrier plaintiffs (the "**Private Third-Party Payors**"); and (x) counsel for a putative class of individual health insurance purchasers[6055] (the "**Ratepayers**"). The following parties participated in the Pre-Confirmation Mediation process although they were not "Mediation Parties" as defined in the Pre-Confirmation Mediation Order: (a) the United

[5449] The Rule 2019 Statement for the Ad Hoc Committee is filed at D.I. 279.

[5550] The Rule 2019 Statement for the NCSG is filed at D.I. 296.

[5651] The Rule 2019 Statement for the MSGE is filed at D.I. 1794.

[5752] The Rule 2019 Statement for the Personal Injury Claimants, as amended, is filed at D.I. 3939.

[5853] The Rule 2019 Statement for the NAS Committee is filed at D.I. 1582.

[5954] The Rule 2019 Statement for the Ad Hoc Group of Hospitals is filed at D.I. 1536.

[6055] The Rule 2019 Statement for the Ratepayers is filed at D.I. 333.

States of America; (b) the Muscogee (Creek) Nation, a member of the Ad Hoc Committee, the Cheyenne and Arapaho Tribes, an *ex officio* member of the Creditors' Committee, and other federally recognized tribes represented by various counsel from the Tribal Leadership Committee and the Plaintiffs Executive Committee in MDL No. 2804 (the "**Native American Tribes**"); (c) proposed representatives of a putative class of independent public school districts (the "**IPSDs**"); (d) proposed representatives of a putative class of children born with NAS in the State of West Virginia (the "**WV NAS**"); (e) the National Association for the Advancement of Colored People (the "**NAACP**"); and (f) a group of individual victim advocates which refer to themselves as the "Ad Hoc Committee on Accountability."

The Mediators' initial and exclusive objective pursuant to the Pre-Confirmation Mediation Order was to mediate the disputes between the Non-Federal Public Claimants (as defined in the Mediation Motion), on the one hand, and the Private Claimants (as defined in the Mediation Motion), on the other, as to the allocation of value/proceeds available from the Debtors' Estates, including, without limitation, from any settlements, to such claimants, in each case on an aggregate basis as between them. The Pre-Confirmation Mediation provided the least expensive means to achieve a consensual resolution of the Chapter 11 Cases and avoid the protracted, burdensome and costly process associated with testing the validity of each of the claims filed in the Chapter 11 Cases through a claims objection process. The Mediators engaged in numerous informal discussions with the Mediation Parties commencing February 28, 2020, and conducted a series of rigorous formal mediation sessions during the period from March 6, 2020 to September 11, 2020. Additional information regarding the results of the Pre-Confirmation Mediation can be found in the *Mediators' Report* [D.I. 1716] (the "**Mediators' Report**").

On September 30, 2020, the Bankruptcy Court entered the *Order Expanding Scope of Mediation* [D.I. 1756], which authorized the Mediators to continue the Pre-Confirmation Mediation to resolve certain open issues referenced in the Mediators' Report, as well as to mediate the estate causes of action and any potential claims or causes of action held by any of the Non-Federal Public Claimants against members of the Sackler Families.

S. Protocols for the Resolution of Healthcare Liens

1. The United States-PI Claimant Medical Expense Claim Settlement is as follows:

(i) On the Effective Date of the Plan, the PI Trust shall be deemed, without further action of the Bankruptcy Court or the PI Trust, to have irrevocably assigned to the United States the PI Trust's right to receive $26 million from the Master Disbursement Trust, which amount shall be paid by the Debtors or the Master Disbursement Trust, as applicable, to the United States in the following installments: (x) $13 million from amounts otherwise distributable to the PI Trust from the Initial Non-NAS PI Distribution, to be paid on the Effective Date and (y) $13 million from the first amounts otherwise distributable to the PI Trust pursuant to Section 5.2(e)(iii) of the Plan. For the avoidance of doubt, in no event shall (1) the stated amount of the Initial PI Trust Distribution or amounts payable

pursuant to Section 5.2(e)(iii) of the Plan be altered in a manner that would reduce the aggregate amount to be paid to the United States pursuant to Section 5.2(i)(i) of the Plan, (2) the aggregate amount paid to the United States pursuant to Section 5.2(i)(i) of the Plan exceed $26 million, or (3) the United States' claim against the Master Disbursement Trust arising from the assignment described in Section 5.2(i)(i) of the Plan be released until the United States has received payments thereof aggregating to $26 million. The United States shall have the right to enforce the obligations set forth in Section 5.2(i)(i) of the Plan notwithstanding the United States-PI Claimant Medical Expense Claim Releases.

(ii) Notwithstanding Section 10.19 of the Plan, as of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, the PI Trust, each Holder of a PI Claim and, in respect of each of the PI Trust and each Holder of a PI Claim, its respective agents, representatives, heirs, successors and assigns, in their respective capacities as such, shall, without any further action by the Bankruptcy Court, be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released by each Holder of a United States-PI Claimant Medical Expense Claim of all United States-PI Claimant Medical Expense Claims and all Causes of Action based on or relating to, or in any manner arising from, in whole or in part, the United States-PI Claimant Medical Expense Claim Settlement (other than a Cause of Action to enforce the United States-PI Claimant Medical Expense Claim Settlement, including, but not limited to, the release set forth in Section 5.2(i)(iii) of the Plan) that each Holder of a United States-PI Claimant Medical Expense Claim has asserted or could assert on its own behalf or on behalf of another Person or party, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), against the PI Trust, a Holder of a PI Claim, Distributions to Holders of PI Claims pursuant to the PI TDP or under the Plan and, in respect of each of the PI Trust and each Holder of a PI Claim, its respective agents, representatives, heirs, successors and assigns, in their respective capacities as such; provided, however, that, if a Holder of a PI Claim commences a legal action against a Holder of a United States-PI Claimant Medical Expense Claim challenging all or any portion of the United States-PI Claimant Medical Expense Claim Settlement, then, from and after the commencement of such legal action, the United States-PI Claimant Medical Expense Claim Release shall be void ab initio solely with respect to such Holder of a PI Claim, and the heirs, successors and assigns of such Holder of a PI Claim, in their capacities as such, and not with respect to any other Person or party, including, but not limited to, the PI Trust, counsel to such Holder of a PI Claim and, in respect of each of the PI Trust and such counsel, its respective agents, representatives, heirs, successors and assigns, in their respective capacities as such; provided

further that no such legal action against a Holder of a United States-PI Claimant Medical Expense Claim shall impair or reduce the amount that the United States shall receive pursuant to Section 5.2(i)(i) of the Plan. Nothing in Section 5.2(i)(ii) of the Plan creates any rights of a Holder of a PI Claim to sue the United States or any of its agencies, including a Holder of a United States-PI Claimant Medical Expense Claim, and the United States and its agencies reserve all rights and defenses in that regard; and nothing in this paragraph is or shall be deemed a waiver of any applicable sovereign immunity with respect to any legal action against the United States or any of its agencies challenging all or any portion of the United States-PI Claimant Medical Expense Claim Settlement brought by a Holder of a PI Claim or the heirs, successors or assigns of such Holder of a PI Claim, in their capacities as such.

(iii) As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, each Holder of a United States-PI Claimant Medical Expense Claim shall, without any further action by the Bankruptcy Court, be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released by the PI Trust and its agents, representatives, successors and assigns, in their respective capacities as such, of all Causes of Action based on or relating to, or in any manner arising from, in whole or in part, the United States-PI Claimant Medical Expense Claim Settlement (other than a Cause of Action to enforce the United States-PI Claimant Medical Expense Claim Settlement, including, but not limited to, any United States-PI Claimant Medical Expense Claim Release) that the PI Trust has asserted or could assert on its own behalf or on behalf of another Person or party, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), against a Holder of a United States-PI Claimant Medical Expense Claim and, in respect of each Holder of a United States-PI Claimant Medical Expense Claim, its respective agents, representatives, successors and assigns, in their respective capacities as such.

(iv) The payments made to the United States pursuant to Section 5.2(i)(i) of the Plan are a prepayment by the PI Trust of amounts that would otherwise be payable by certain Holders of PI Claims to Holders of United States-PI Claimant Medical Expense Claims upon receipt by such Holders of PI Claims of Distributions pursuant to the PI TDP and under the Plan. Such prepayment shall be borne equitably by such Holders of PI Claims in the form of a reduction in the Distributions otherwise payable to such Holders of PI Claims pursuant to the PI TDP.

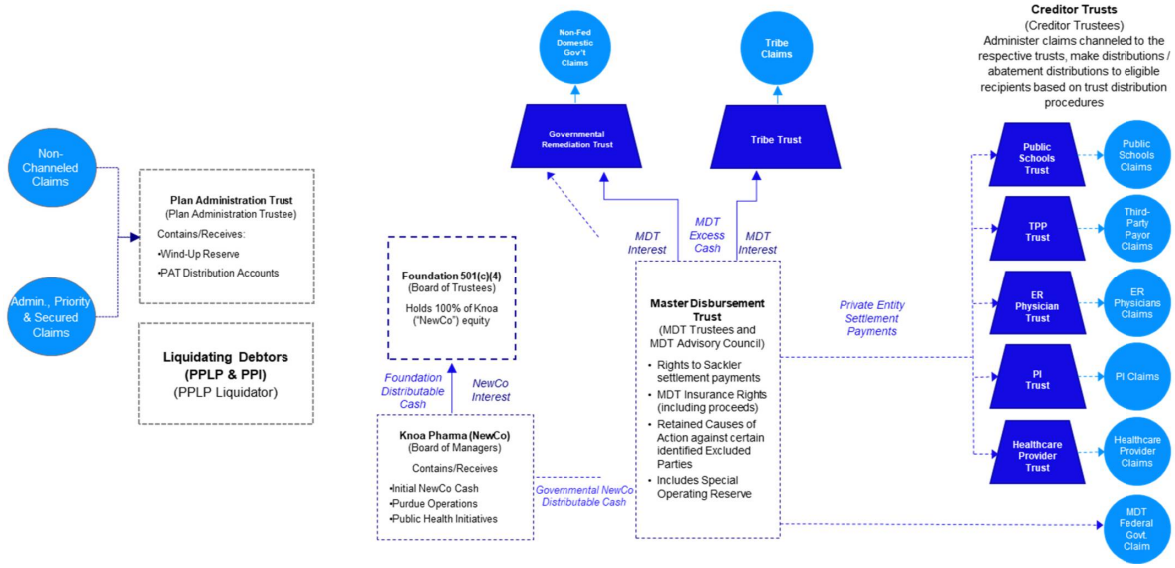
(v) The United States Department of Defense, Defense Health Agency (in respect of the TRICARE Program) submits to the jurisdiction of the Bankruptcy Court for purposes of the United States-PI Claimant Medical

Expense Claim Settlement, including, but not limited to, the United States-PI Claimant Medical Expense Claim Releases.

(vi) The United States Department of Health and Human Services, on its own behalf and on behalf of its component agencies, which are the Centers for Medicare & Medicaid Services and the Indian Health Service on behalf of its federally-operated programs; the United States Department of Defense, Defense Health Agency (in respect of the TRICARE Program); and the United States Department of Veterans Affairs submit to the exclusive jurisdiction of the Bankruptcy Court for purposes of any proceeding in respect of the interpretation or enforcement of the United States-PI Claimant Medical Expense Claim Settlement, including, but not limited to, the United States-PI Claimant Medical Expense Claim Releases.

T. Post-Effective Date Structure and Governance

NewCo's post-Effective Date ownership and governance structure fulfills the vision embodied in the initial Settlement Framework and the DOJ Resolution for the Debtors' businesses to be transferred to a new entity for the benefit of claimants and the U.S. public. Building upon the framework established in the originally confirmed Plan, the updated terms are the product of extensive negotiations among the Debtors, the States AG Negotiating Group, the AHC, the UCC, the DOJ and other stakeholders, during the Post-Supreme Court Decision Mediation. The diagram and descriptions below summarize key elements of the structure and the related mechanisms by which Foundation Distributable Cash will be paid to the Foundation and Governmental NewCo Distributable Cash will be paid to the Governmental Remediation Trust and the Tribe Trust.



1. NewCo

NewCo will be a newly formed Delaware limited liability company that will be directly owned by the Foundation (which will own 100% of the voting Interests in NewCo). NewCo's

Purpose will be to responsibly, sustainably, and transparently balance (i) the interests of its stakeholders to abate the opioid crisis, (ii) the effective deployment of its assets to address the opioid crisis, and (iii) the interests of those materially affected by its conduct. To this end, on or prior to the Effective Date, NewCo will directly or indirectly receive NewCo Transferred Assets, which consist of approximately $135 million of the Effective Date Cash and all of the Debtors' non-Cash Assets (including the equity of the Transferred Debtors) other than the Excluded Assets.[~~61~~56] In connection with any action of NewCo, all elements of NewCo's Purpose shall be taken into account, and NewCo shall not be required (and the NewCo Managers shall not be required to cause NewCo) to maximize NewCo's or NewCo's subsidiaries' sales or profits. Up to 5% of the NewCo Distributable Cash, which shall not exceed $5 million per annum, will be distributed annually to the Foundation, which the Foundation may utilize to make grants for evidence-based strategies to abate the opioid crisis. NewCo shall pay any remaining NewCo Distributable Cash not distributed to the Foundation to the Governmental Remediation Trust and the Tribe Trust.

NewCo will be governed by a board of five (5) disinterested and independent NewCo Managers who will each have experience in one or more of the following areas: pharmaceuticals, public policy (including public health policy), law enforcement, ethics and compliance, finance, audit, general business and/or corporate governance issues. The initial NewCo Managers will be selected by the Settling States, with the consent (not to be unreasonably withheld) of the Ad Hoc Committee and in consultation with the Debtors and the Creditors' Committee, and pursuant to a selection process that is reasonably acceptable to the Debtors; provided that the DOJ shall have the right, in its discretion, to observe such selection process. The NewCo Board will (1) determine appropriate expenditure levels for commercial operations and the Public Health Initiatives; (2) make all decisions with respect to operations, taking into account NewCo's purpose; and (3) do so subject to oversight by the Foundation.

2. The Foundation

The Foundation will be a newly formed New York corporation to be created in accordance with the Plan and the Foundation Bylaws and that is intended to be an exempt organization under IRC section 501(c)(4) for U.S. federal income tax purposes.

The Foundation will hold one hundred percent (100%) of the equity interests and voting rights in NewCo and will be entitled to collect cash distributions of up to 5% of NewCo Distributable Cash, which distributions shall not exceed in any year $5 million. NewCo shall allocate any remaining NewCo Distributable Cash not distributed to the Foundation to the Governmental NewCo Distributable Cash.

The Foundation will be governed by a board of three (3) disinterested and independent Foundation Trustees, *provided* that one (but no more than one) Creditor Trustee of the Master Disbursement Trust may serve as a Foundation Trustee; *provided* further that any action taken by such individual in his or her capacity as Foundation Trustee shall not be subject to the fiduciary

[~~61~~56] Prior to the Effective Date, the Debtors commenced termination of the Purdue Pension Plan to ensure that this liability is resolved in the current favorable environment in which forecasted costs are lower than anticipated.

duties of such individual in his or her capacity as a Creditor Trustee of the Master Disbursement Trust. The initial Foundation Trustees will be selected by the Settling States, with the consent (not to be unreasonably withheld) of the Ad Hoc Committee and in consultation with the Debtors and the Creditors' Committee, and pursuant to a selection process that is reasonably acceptable to the Debtors; *provided* that the DOJ shall have the right, in its discretion, to observe such selection process.

Additional information about the governance structure of the Foundation is set forth in Article IV.D.5.

3. Governmental Remediation Trust

The Governmental Remediation Trust will be a newly formed trust established in accordance with Section 5.8 of the Plan that will be administered by the Governmental Remediation Trust Administrator (as defined in the Governmental Remediation Trust Agreement) and created pursuant to the Delaware Statutory Trust Act and the Governmental Remediation Trust Agreement. The Governmental Remediation Trust will (i) receive all distributions on account of the Allowed Non-Federal Domestic Government Channeled Claims and (ii) make distributions to Allowed Non-Federal Domestic Governmental Claims, which distributions shall be further allocated among States and Subdivisions in accordance with the Governmental Remediation Trust Documents. The Governmental Remediation Trust will also hold and administer the Class 4 Non-Participating Claims Reserve. To the extent a Non-Participating Channeled Claim in Class 4 becomes an Allowed Claim, the Governmental Remediation Trust shall make distributions from the Class 4 Non-Participating Claims Reserve to the holder of such Allowed Claim.

The funds distributed to the Governmental Remediation Trust under the Plan will be allocated to each State for use within that State based on a detailed methodology developed in Mediation for determining the estimated amount of abatement funds to be distributed to each State. The Governmental Entity Shareholder Direct Settlement Agreement allows for intrastate allocation to be addressed by a State-Subdivision Agreement or by statute, with a default process to be used if a State does not otherwise have an allocation agreement. The core abatement purposes for which each State may allocate abatement funds are described in the Governmental Remediation Trust Documents.

States (and their Subdivisions) are divided into different groupings that impact the timing of payment of their distributions. Additional detail regarding the timing of distributions within each State will be set forth in more detail in the Governmental Remediation Trust Agreement, which will be included as part of the Plan Supplement.

The Governmental Remediation Trust Agreement will include provisions for distributing Estate Distributions in accordance with an estimated payment chart for each state (the "**GRT Waterfall**"). The GRT Waterfall will prioritize ensuring that each State receives its full amount of distributions on account of its settlement of direct claims and providing each state with its aggregate estimated total of Estate Distributions paid. The GRT Waterfall will also include certain provisions for disbursing funds to the extent the total amount received exceeds what is necessary to fully meet the aggregate distribution estimate for all 16 Payment Dates.

In addition to addressing intrastate allocation of abatement funds, the Governmental Entity Shareholder Direct Settlement Agreement sets forth the terms of the settlement between and among the Settling States, the Participating Subdivisions, and the Payment Parties. It includes various provisions outlining the solicitation process by which States and Subdivisions may opt into participating in the agreement, details base and incentive payments available to participating States and Subdivisions, and outlines mechanisms for the payment of certain attorneys' fees.

4. The Tribe Trust

The Tribe Trust will be one or more trusts, limited liability companies or other Persons to be established in accordance with Section 5.8 of the Plan to (i) assume all liability for the Tribe Channeled Claims, (ii) hold the MDT Tribe Interest and collect the Initial Tribe Trust Distribution and the other Public Creditor Trust Distributions received in accordance with the Public Entity Settlements, (iii) administer Tribe Channeled Claims, (iv) hold and administer the Class 5 Non-Participating Claims Reserve on and after the Effective Date, (v) hold the Class 5 Released Claims Reserve on and after the Effective Date and (vi) make Distributions in accordance with the Tribe TDP. Distributions to the Tribes will be required to be used exclusively for abatement purposes and permitted administrative costs, and will be made through one or more Tribe Trust entities that will abide by the Tribe Trust Distribution Procedures. The allocation of distributions among Tribes will be consistent with the Tribal Allocation Matrix set forth on Schedule E and the Tribal Allocation Percentages set forth on Schedule C to the Tribe Trust Distribution Procedures, which will be included as part of the Tribe Trust Documents filed with the Plan Supplement. The Tribes will use the tribal allocation of Abatement Funds for programs on the approved list of abatement strategies (see Schedule B to the Tribe Trust Distribution Procedures) and also for culturally appropriate activities, practices, teachings or ceremonies that are, in the judgment of a tribe or tribal health organization, aimed at or supportive of remediation and abatement of the opioid crisis within a tribal community. A list of representative examples of such culturally appropriate abatement strategies, practices, and programs is attached to the Tribe Trust Distribution Procedures as Schedule D (the "**Tribal Abatement Strategies**"). The separate allocation of abatement funding and illustrative list of Tribal Abatement Strategies recognizes that American Indian and Alaska Native Tribes and the communities they serve possess unique cultural histories, practices, wisdom, and needs that are highly relevant to the health and well-being of American Indian and Alaska Native people and that may play an important role in both individual and public health efforts and responses in Native communities.

5. The Master Disbursement Trust

The Master Disbursement Trust will be a newly formed Delaware trust that will (i) hold and administer the MDT Transferred Assets and the Special Operating Reserve, (ii) serve as administrative agent with respect to Released Claims Reserves, (iii) make payments in satisfaction of the MDT Claims in accordance with the Plan ~~and~~, the Private Entity Settlements and, with respect to the MDT Public School Districts Claim, the Public Entity Settlements and (iv) make Public Creditor Trust Distributions in respect of the MDT Interests from MDT

Distributable Value in accordance with the Plan and the Public Entity Settlements. The beneficiaries of the MDT Trust initially shall include, subject to Section 5.6(f)(iv) of the Plan, each of (i) the Public Creditor Trusts, (ii) the Healthcare Provider Trust, (iii) the ERP Trust, (iv) the Public School Trust, (v) the PI Trust, (vi) the TPP Trust, and (vii) the United States. Holders of MDT Claims shall cease to be MDT Beneficiaries upon payment in full of such MDT Claim. The Master Disbursement Trust will be governed by a board of three (3) disinterested and independent MDT Trustees. The MDT Trustees will be selected by the Settling States with the consent of the Ad Hoc Committee in consultation with the Debtors and the MSGE Group, through a selection process observed by the DOJ (in its discretion). There will also be an MDT Advisory Council that will consist of a total of seven (7) members: (i) four to be nominated by the Settling States, (ii) one to be nominated by the Settling States' four nominees, (iii) one to be nominated by the MDL Plaintiffs' Executive Committee, and (iv) one to be nominated by the MSGE Group, with each such nominee being appointed with the consent of the Ad Hoc Committee.

6. The Private Creditor Trusts

The Private Creditor Trusts consist of the PI Trust, the Healthcare Provider Trust, the TPP Trust, and the ERP Trust. The Private Creditor Trusts will hold beneficial interests in and collect payments from the Master Disbursement Trust of a specified amount in accordance with the Private Entity Settlements. Each of the Private Creditor Trusts will assume all liability for and administer Claims in the applicable Class and make distributions or award grants pursuant to their respective governing documents.

7. The Plan Administration Trust

The Plan Administration Trust will be established to (i) hold, manage, sell and invest the PAT Assets[~~62~~57] for the benefit of holders of Claims (other than Channeled Claims and Federal Government Unsecured Claims), (ii) hold and maintain the PAT Reserves[~~63~~58] and the PAT Distribution Account[~~64~~59] and maintain the Professional Fee Escrow Account, (iii) administer, process, resolve and liquidate Claims (other than Channeled Claims and Federal Government

[~~62~~57] The PAT Assets consist of (i) the PAT Reserves, (ii) the PAT Distribution Accounts, (iii) the Retained Causes of Action relating solely to, and only to the extent necessary for, the administration of Claims against the Debtors (other than Channeled Claims), the enforcement of the Plan Administration Trust's rights and the other responsibilities of the Plan Administration Trust, *provided* that no Retained Causes of Action against Excluded Parties shall constitute PAT Assets, except as necessary to object to and resolve any Disputed Claims held by an Excluded Party, (iv) the Excluded Privileged Materials and (v) any other Excluded Assets that are not MDT Transferred Assets.

[~~63~~58] The PAT Reserves consist of the Wind-Up Reserve, the PAT Disputed Claims Reserves, the Disputed Cure Claims Reserve and the Priority Claims Reserve. The Wind-Up Reserve will be established to pay all costs incurred from the administration of the Debtors' Estates after the Effective Date. The Disputed Claims Reserves will be established to make distributions to Disputed Claims that become Allowed Claims. The Disputed Cure Claims Reserves will be established to pay cure costs associated with contracts and leases assumed by NewCo and the Transferred Debtors. The Priority Claims Reserve will pay Allowed Administrative Claims, Allowed Secured Claims and Allowed Priority Claims.

[~~64~~59] The PAT Distribution Accounts are one or more accounts to be established to make distributions on account of Allowed Claims (other than Channeled Claims).

Unsecured Claims), and (iv) make distributions to holders of Allowed Claims (other than Channeled Claims and Federal Government Unsecured Claims).

The Plan Administration Trust will be administered by the Plan Administration Trustee, who will be responsible for all decisions and duties with respect to the Plan Administration Trust and PAT Assets. The Plan Administration Trustee will be selected by the Debtors.

The Plan Administration Trust shall be dissolved after (a) all Disputed Claims against the Debtors have been resolved, (b) all PAT Assets have been liquidated, (c) the Plan Administration Trust has made all required distributions and (d) PPLP has been dissolved.

8. Effective Date Payments

On the Effective Date, all cash and cash equivalents of the Debtors will be used to: (i) fund reserves to be held by the Plan Administration Trust;[6560] (ii) fund the MDT Operating Reserve for the operating expenses of the Master Disbursement Trust; (iii) fund the Initial NewCo Cash for post-Effective Date operations; (iv) make distributions under the Plan in respect of the Federal Government Unsecured Claims, Avrio General Unsecured Claims, Adlon General Unsecured Claims and Other General Unsecured Claims; (v) provide funding for the establishment of the public document repository; (vi) make Initial Private Creditor Trust Distributions under the Private Entity Settlements and the Public Entity Settlements; (vii) make Initial Tribe Trust Distributions; (viii) make Initial Public Schools Distribution; and (ix) after the satisfaction of all amounts described above, make Initial Governmental Remediation Trust Distributions.

9. Dissolution of PPLP and PPI

Under the terms of the Plan, all Interests in PPLP and PPI will be terminated with no distribution. After the Effective Date, PPLP (and any other Debtor not transferred to NewCo) will continue to exist as Liquidating Debtors solely for the purposes of winding up their respective estates and liquidating such entities. To administer the wind-up and liquidation process, the PPLP Liquidator (which will be the Plan Administration Trustee) will assume governance and control of the Liquidating Debtors. The Plan Administration Trustee may dissolve all of the Liquidating Debtors after the Plan Administration Trust is established.

U. DOJ Resolution

On October 21, 2020, the Debtors filed a motion (the "**DOJ 9019 Motion**") seeking approval to enter into the DOJ Resolution (as described above in Article I.B). If the Plea Agreement is accepted by the New Jersey District Court, the DOJ Resolution will fully resolve the United States' civil and criminal investigations into the Debtors' past practices related to the

[6560] Such reserves include: the Priority Claims Reserve to satisfy Administrative Claims, Secured Claims and Priority Claims, the Disputed Claims Reserve to pay Disputed Other General Unsecured Claims that are ultimately allowed and the Creditor Trust Non-Participating Claims Reserves, the Disputed Cure Claims Reserve to pay Disputed Cure Claims that are ultimately allowed, the Professional Escrow Account to pay Professional Fee Claims, and the Wind-Up Reserve to pay for expenses of the Plan Administration Trust.

production, sale, marketing and distribution of opioid Products and enable a value-maximizing restructuring. Pursuant to the DOJ Resolution (including the Plea Agreement, which remains subject to acceptance by the New Jersey District Court), the United States and the Debtors agreed as follows:

- Purdue Pharma agreed to the entry of the Forfeiture Judgment, which Forfeiture Judgment shall, (i) as of the later of (a) entry of the judgment of conviction in accordance with the Plea Agreement and (b) confirmation of the Debtors' Plan, have the status of an allowed superpriority administrative expense claim against Purdue Pharma, and (ii) be satisfied by (A) an upfront payment of $225 million (the "**Forfeiture Payment**") by Purdue Pharma within three business days following the entry of a judgment of conviction following a sentencing hearing held pursuant to the Plea Agreement and (B) application of the Forfeiture Judgment Credit by the United States of up to $1.775 billion for value distributed or otherwise conferred by Purdue Pharma under the Plan in respect of claims asserted by state, tribal, or local government entities;

- The sentence imposed at the sentencing hearing (which shall occur no earlier than 75 days following confirmation of the Debtors' Plan) shall order a criminal fine in the amount of $3.544 billion. The United States shall, as of the later of (i) entry of the judgment of conviction in accordance with the Plea Agreement and (ii) confirmation of the Debtors' Plan, have an allowed, unsubordinated, undisputed, non-contingent, liquidated unsecured claim against Purdue Pharma in such amount (the "**Criminal Fine Claim**");

- The United States shall have an allowed, unsubordinated, undisputed, non-contingent, liquidated unsecured claim against Purdue Pharma in the amount of $2.8 billion arising from the Department of Justice's civil investigation (the "**Civil Claim**");

- The United States and Purdue Pharma stipulated and agreed to the statements set forth in Schedule A to the Plea Agreement (the "**Agreed Statement of Facts**"), and the United States agreed to a resolution in exchange for guilty pleas from Purdue Pharma to a three-count information;

- After the order confirming the Plan has become final and non-appealable, and the Plan has become effective, the Debtors will create and host a public document repository containing non-privileged documents in their possession, custody, or control that they have produced to the United States and that the United States identifies as relating to the charges asserted in the information and the alleged civil violations, which will be publicly available at an easily identifiable and accessible website;

- The New Jersey District Court will determine whether to accept the Plea Agreement at the sentencing hearing, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C). Before the Plea Agreement is accepted by the New Jersey District Court at the sentencing hearing, Purdue Pharma may withdraw its pleas of

> guilty (i) if the Bankruptcy Court rejects, or otherwise declines to confirm, a Plan that provides for the emergence of a public benefit company (or other entity with a similar mission) or (ii) if the Office of Inspector General of the United States Department of Health and Human Services exercises, or states an intent to exercise, any available authority to exclude Purdue Pharma's successor public benefit company (or other entity with a similar mission) from participation in federal healthcare programs.

On November 17, 2020, the Bankruptcy Court held a hearing to consider approval of the DOJ 9019 Motion. On November 18, 2020, the Bankruptcy Court entered an order approving the DOJ 9019 Motion. *See Order Pursuant to 11 U.S.C. § 105 and Fed. R. Bankr. P. 9019 Authorizing and Approving Settlements Between the Debtors and the United States* [D.I. 2004] (the "**DOJ 9019 Order**").

On November 24, 2020, in accordance with the terms of the DOJ Resolution, PPLP pleaded guilty in the New Jersey District Court to an information charging it with three felony offenses: one count charging a dual-object conspiracy to defraud the United States and to violate the Federal Food, Drug, and Cosmetic Act, and two counts charging conspiracy to violate the federal Anti-Kickback Statute.

The DOJ Resolution preserves billions of dollars of value for creditors other than the federal government and maximizes the value available to address the opioid crisis. It favorably settles the risk of forfeiture or loss of all, or substantially all, of the Debtors' value flowing from the potential for criminal and civil forfeitures, fines, and penalties totaling billions of dollars, many of which are also alleged to be non-dischargeable. It also eliminates the prospect of extraordinarily expensive and value-destructive criminal prosecution and litigation by the federal government against the Debtors. While PPLP will be excluded from participation in federal healthcare programs if the Plea Agreement is accepted and PPLP is convicted, the DOJ Resolution anticipates the emergence of a public benefit company or entity with a similar mission that can continue to commercialize the Debtors' medications following PPLP's exclusion. Moreover, if the confirmed Plan provides for emergence of a public benefit company or entity with a similar mission, value distributed or otherwise conferred in respect of claims asserted by state, tribal, or local government entities will receive the benefit of the Forfeiture Judgment Credit up to the $1.775 billion cap. Accordingly, the DOJ Resolution enables distributions to various claimants under the Plan that are substantially larger than would likely be possible without such an agreement with the United States.

V. The Debtors' Acceptance of Responsibility and Apologies for Past Misconduct

The Debtors have publicly and unequivocally acknowledged and apologized for their past misconduct.

On October 21, 2020, the Debtors issued a press release announcing the DOJ Resolution, under which PPLP pled guilty to three felony offenses—one count charging a dual-object conspiracy to defraud the United States and to violate the Federal Food, Drug, and Cosmetic Act and two counts charging conspiracy to violate the federal Anti-Kickback Statute—and stipulated to an Agreed Statement of Facts describing the underlying conduct. In this release, Steve Miller,

who joined Purdue's Board as Chairman in July 2018, stated that "Purdue deeply regrets and accepts responsibility for the misconduct detailed by the Department of Justice in the agreed statement of facts." Press Release, Purdue Pharma, Purdue Pharma Reaches Agreement With U.S. Department of Justice (Oct 21, 2020), https://www.purduepharma.com/news/2020/10/21/purdue-pharma-reaches-agreement-with-u-s-department-of-justice/. In the DOJ 9019 Motion, the Debtors also highlighted for the Court that the DOJ Resolution is "the Debtors' public admission of responsibility for their past misconduct." DOJ 9019 Motion ¶ 9.

At the hearing in the United States District Court for the District of New Jersey at which PPLP (acting through its Chairman) pleaded guilty, PPLP again publicly acknowledged and took responsibility for its past misconduct, including acknowledging that Purdue "knowingly and intentionally conspire[d] with others to defraud the DEA by impeding, impairing, obstructing, and defeating the ability of the DEA to prevent the diversion of controlled substances," *US v. Purdue Pharma L.P.*, Tr. 38:21-25 (Nov. 24, 2020), "fail[ed] to cease promoting its opioid products to healthcare providers after receiving information suggesting that those healthcare providers were prescribing opioid products without a legitimate medical purpose and outside the usual course of professional practice, in situations in which Purdue possessed sufficient information that a decision should have been made to cease detailing," *Id.* 39:10-17, and "knowingly and willfully offer[ed] payments to two healthcare providers through the speaker program, where at least one purpose of the payment was to induce those healthcare providers to write more prescriptions for Purdue opioid products." *Id.* 42:6-11.

Purdue's CEO also addressed the Company's past misconduct at a public hearing before the House Committee on Oversight and Reform that was broadcast in video, stating: "To everyone listening who's been impacted by the opioid crisis, I want to be clear and I want to speak directly to you. On behalf of Purdue as its current leader, I'm profoundly sorry. . . . The company accepts full responsibility for its wrongdoing." The Role of Purdue Pharma and the Sackler Family in the Opioid Epidemic: Hearing before the Committee on Oversight and Reform, 116 Cong. 2 (2020) (Statement of Craig Landau).

W. Public Document Repository

As previously approved by this Court and the Creditors on September 1, 2021, pursuant to Section 5.13 of the Plan, the document disclosure program will lead to the public disclosure of the most significant documents about Purdue, the Sackler family and the opioid crisis, including video depositions and millions of documents that Purdue produced in investigations and litigation over the past two decades. In addition, it will lead to the public disclosure of millions of documents not previously available to the public, including documents not previously produced in any investigation or litigation and certain privileged documents from the years when Purdue developed and promoted OxyContin and other opioid medications, as identified below. The document disclosure program and Public Document Repository will be conducted in a way to maximize public confidence and public access and will set a new standard for transparency. The Debtors' responsibility for complying with the DOJ document repository obligation set forth in the Plea Agreement is not modified by the Plan.

The disclosure program provided in the Plan shall be funded in an aggregate amount of $39 million plus an additional $5 million earmarked for review and processing of the documents available for inclusion on the PDR. It will be overseen by the disclosure oversight board ("**DOB**"), made up of up to four representatives appointed by each of the Ad Hoc Committee, the Creditors' Committee, the States AG Negotiating Group and the MSGE Group and one representative appointed by the Native American Tribe Group created on the Confirmation Date. On the Effective Date, or as soon as reasonably practicable thereafter, a Public Document Repository shall be established and hosted at an academic institution or library selected by the DOB, which will be responsible for hosting and maintaining the Public Document Repository in perpetuity.

Debtors or the Plan Administration Trust will provide the DOB with the following materials, among others, for potential inclusion in the Public Document Repository: (a) all transcripts and audio or video recordings of depositions taken in the Purdue Legal Matters, together with the exhibits to those depositions; (b) more than 13,000,000 documents (of more than 100,000,000 pages) produced by Debtors during the course of the Purdue legal matters, including the following: (i) documents from the Debtors' email system from present and former officers and senior current and former employees in marketing, sales, R&D, legal, compliance, and regulatory; (ii) documents that the Sackler Families sent or received on the Debtors' email system; (iii) documents that reflect clinical and pre-clinical research regarding opioids, including research related to safety and effectiveness of opioids; (iv) minutes and documents presented to the Board; (v) marketing and sales plans for opioid medications; (vi) sales call notes; (vii) standard operating procedures; (viii) suspicious order monitoring data and documents; and (ix) reports of concern and Purdue's Abuse & Diversion Detection program files pertaining to prescribers; (c) the non-privileged documents collected in the course of litigation, which are estimated to comprise more than twenty million additional documents; (d) all privilege logs regarding documents withheld by the Debtors in the Purdue Legal Matters; (e) documents obtained during the Chapter 11 Cases by the Ad Hoc Committee of NAS Children identified in the *First Amended Verified Statement of the Ad Hoc Committee of NAS Children Pursuant to Bankruptcy Rule 2019* regarding clinical and pre-clinical studies conducted by the Debtors or other companies associated with the Sackler Family Members; and (f) certain privileged documents for which Debtors agree to waive privilege, including relating to marketing, regulatory submissions, distributions to the Sackler Family Members, and the organization and function of the board of directors.

Notwithstanding anything in the Plan, and with the exception of the documents over which Debtors waive privilege, the Public Document Repository shall not contain or disclose any documents or content of documents that are privileged, including privileged documents subject to a claw back by Debtors in the Purdue legal matters, documents that are subject to trade secret protection as defined in the Plan, or documents that are subject to protections against public disclosure by the Health Insurance Portability and Accountability Act or similar state or federal statute. Inadvertent production of non-waived privileged documents to the Public Document Repository does not operate as a waiver of the privilege and, upon discovery, any such privileged documents must be promptly removed from the Public Document Repository.

Shortly after the Confirmation Date, the Debtors shall file an appropriate motion asking the Bankruptcy Court or the United States District Court for the Southern District of New York

to select and appoint a disclosure oversight Special Master. The Special Master's qualifications shall include former service as a judicial officer, whether as a state or federal judge, and no current or former director, officer, employee or attorney of the Debtors, the Sackler Family Members, the Creditors' Committee, or the Governmental Consent Parties shall be eligible to be appointed as the Special Master, counsel or staff working under the Special Master, *provided* that prior work for a Governmental Consent Party that was completed prior to 2015 shall not preclude the appointment of a Special Master. The Special Master will adjudicate all privilege and related disputes. The Special Master's reasonable hourly fees and expenses shall be paid out of the Disclosure Program Budget except as the Special Master orders otherwise upon finding that a party advanced an argument that was frivolous, harassing or in bad faith.

X. Initial Shareholder Settlement

1. Initial Settlement Framework

Shortly before the Petition Date, after more than a year of intense negotiations, the Debtors, the Sackler Families, and a critical mass of plaintiff constituencies reached an agreement in principle on the structure of a global resolution of the Pending Actions (the "**Initial Settlement Framework**"). The Initial Settlement Framework had three basic components: (i) the Sackler Parties would relinquish all of their equity interests in the Debtors and consent to the transfer of all of the Debtors' assets to a trust or similar post-emergence structure for the benefit of claimants and the U.S. public, "free and clear" of liabilities to the fullest extent permitted by law; (ii) the Sackler Parties would engage in a sale process for their ex-U.S. pharmaceutical companies; and (iii) the Sackler parties would contribute an additional $3 billion over seven years (in addition to 100% of the value of all 24 Debtors), with the hope of substantial further contemplated contributions from the sales of their ex-U.S. pharmaceutical businesses. This Initial Settlement Framework served as the starting point for negotiating a settlement that could be finalized and effectuated only through chapter 11.

This Initial Settlement Framework, however, was far from a final settlement. Indeed, the Debtors made clear on multiple occasions that the Initial Settlement Framework left many items to be negotiated and resolved. The Debtors, together with the Creditors' Committee, the Ad Hoc Committee of Governmental and Other Contingent Litigation Claimants, the NCSG and the Multi-State Governmental Entity Group (together with the AHC and the NCSG, the "**Non-Federal Public Claimants**"), worked tirelessly for more than a year continuing to negotiate improved settlement terms that would maximize creditor support. As the Debtors explained early in these Chapter 11 Cases, the Debtors have long viewed the process of confirming a plan as requiring passing through four "gates." Gate one was reaching agreement with a critical mass of important plaintiff constituencies and the Sackler Families on the Initial Settlement Framework shortly before the Petition Date. Gate two was memorializing the Initial Settlement Framework in the term sheet agreed by and among the Debtors, the Ad Hoc Committee, and the Sackler Families filed with the Court on October 8, 2019. *See Notice of Filing of Term Sheet with Ad Hoc Committee* [D.I. 257]. Gate three was proposing a comprehensive restructuring transaction based on the Initial Settlement Framework, which the Debtors had always recognized would require massive amounts of diligence, structuring and negotiation. *See* Nov. 19, 2019 Hr'g Tr. 70:8-71:14. The Debtors and their key stakeholders engaged in an extensive process leading up to filing the plan, including through the

Court-ordered Pre-Confirmation Mediation, to develop, build upon and refine the Initial Settlement Framework. That process involved negotiating the proposed terms of the settlement of claims against the Sackler Parties, reaching agreement on the allocation of estate value among various classes of creditors and addressing a host of other issues expressly left open in the term sheet memorializing the Initial Settlement Framework. Gate four was the confirmation hearing where the Debtors sought approval of the substantially improved settlement embodied in the Twelfth Amended Plan.

2. The Special Committee's Investigation and Approval of Settlement of Claims Against the Sackler Families

Shortly after it was formed, the Special Committee, in consultation with Davis Polk, discussed certain areas of investigation, including a review of all transfers from Purdue Pharma to or for the benefit of the Sackler Families and Sackler Entities. This led the Special Committee, again in consultation with Davis Polk, to discuss the nature and scope of an investigation into potential estate claims against the Sackler Families and Sackler Entities. The purpose of this investigation was to form the basis to determine whether to bring litigation against the Sackler Families and Sackler Entities to recover on these potential Estate claims or to determine if, in the business judgment of the Special Committee, it was more prudent to seek a settlement with the Sackler Families and Sackler Entities and whether any proposed Initial Settlement Framework was fair and equitable and thus in the best interests of the estate.[~~66~~61]

The Special Committee met on a regular basis and in special sessions as warranted by circumstances. In total, the Special Committee held no fewer than 56 meetings between May 21, 2019 and March 14, 2021. During its meetings, the Special Committee received many reports, briefings, and updates from Davis Polk, including reports, briefings and updates, prepared at the request of Davis Polk, from expert accounting and financial advisors at AlixPartners and Bates White regarding the investigation and analysis of potential estate claims against the Sackler Families and Sackler Entities. There were also hundreds of calls and emails among the members of the Special Committee and with its professionals.

Together with evaluating potential claims by the Debtors against the Sackler Families and Sackler Entities, the Special Committee also considered, among other matters and pursuant to its mandate, (i) a review of all related party transactions that the Debtors maintained with the Sackler Families and Sackler Entities; (ii) the contribution of Rhodes Associates, including Rhodes Pharmaceuticals and Rhodes Technologies, to Purdue Pharma; (iii) the amendment, renegotiation, or termination of certain supply, licensing, and intercompany services agreements between Purdue and the IACs; (iv) a reevaluation of the lease for Purdue Pharma's headquarters with One Stamford Realty L.P. ("**OSR**"); and (v) all requests for advancement of legal fees for current and former officers, directors, and employees in connection with litigation or governmental investigations pending against the Debtors.

(i) Investigation of Potential Estate Causes of Action

[~~66~~61] *See Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414 (1968).

Over the course of more than 22 months, the Special Committee conducted a comprehensive investigation into potential claims that the Debtors may have against the Sackler Families and Sackler Entities. The investigation included an exhaustive review by legal counsel and forensic and financial experts to identify and assess transfers from the Debtors to or for the benefit of the Sackler Families and Sackler Entities and an in-depth legal and factual analysis of the strengths and weaknesses of various potential claims by the Debtors against the Sackler Families and Sackler Entities.

The legal and factual investigation undertaken by Davis Polk on behalf of the Special Committee was conducted by a team of Davis Polk lawyers. The Davis Polk investigation team was led by partner Charles S. Duggan and counsel Margarita Clarens. Mr. Duggan has deep experience representing corporate boards of directors, audit committees and special board committees in conducting internal investigations. Ms. Clarens similarly has extensive experience in conducting internal investigations on behalf of corporations in a broad range of industries.

Beginning in April 2019, in anticipation of the formation of a Special Committee, and continuing through March 2021, the Davis Polk lawyers assisting with the Special Committee's investigation devoted more than 22,500 hours to the investigation and analysis of potential estate claims. Where necessary, the Davis Polk team was supplemented by a separate team of attorneys that performed initial screenings of electronic documents and escalated relevant documents for review by Davis Polk and other professionals, including AlixPartners and Bates White, as appropriate.

(A) Identification of Potential Claims

At the outset of its investigation, Davis Polk undertook a searching assessment to identify all facts and legal theories that might provide a basis for claims by the Debtors against the Sackler Families and Sackler Entities. To this end, one of the first projects was to review the complaints filed against Purdue Pharma and members of the Sackler Families that asserted claims that in bankruptcy were capable of assertion by the Debtors, such as claims for fraudulent transfer, breach of fiduciary duty, unjust enrichment, veil piercing, and alter ego. In addition, to further ensure that the investigation on behalf of the Special Committee inquired into all facts and circumstances potentially relevant to such claims, Davis Polk also surveyed relevant news articles and media publications relating to Purdue Pharma and the Sackler Families and Sackler Entities for potentially relevant information. Based on this review of public-record materials, Davis Polk identified and evaluated potential subjects for further investigation.

For example, Davis Polk considered allegations made by the Connecticut, Massachusetts, New York, and Oregon Attorneys General, among others, that in the face of mounting litigation risk arising from its sale and marketing of OxyContin, Purdue Pharma, at the direction of the Sackler Families, made hundreds of millions of dollars in shareholder distributions each year for no consideration and in bad faith, leaving behind insufficient assets to satisfy the claims of Purdue Pharma's creditors. Based on these and other similar allegations, as well as information available regarding Purdue Pharma's distributions, Davis Polk continued to investigate fraudulent transfers.

Based on allegations reported by the *Financial Times* that Rhodes Pharma was created in 2008 as part of a scheme to "siphon billions of dollars" out of Purdue Pharma following its guilty plea in 2007 to violations of federal drug marketing laws and $634.5 million settlement, the circumstances surrounding the formation of Rhodes Pharma was similarly identified as a topic for investigation.

In view of these allegations and reports, and supplemented primarily by their ongoing review, the Special Committee and Davis Polk focused the factual investigation and legal analysis on the following potential theories of claims and recoveries against the Sackler Families and Sackler Entities:

- ***Intentional Fraudulent Transfer*** based on theories that members of the Sackler Families, acting based on fears that Purdue Pharma was subject to potentially overwhelming liabilities for harms caused by opioids or for violations of law relating to marketing or other sales practices, caused Purdue Pharma to transfer cash and other assets to the Sackler Families or Sackler Entities with the intent of keeping those assets out of the hands of possible Purdue Pharma creditors.

- ***Constructive Fraudulent Transfer*** based on theories that, while it was legally insolvent as a result of accrued but unliquidated liabilities, Purdue Pharma transferred cash and other assets to the Sackler Families and Sackler Entities without receiving reasonably equivalent value in exchange.

- ***Breach of Fiduciary Duty*** based on theories that members of the Board—including members of the Sackler Families—breached their fiduciary duties to Purdue Pharma by (i) entering into self-dealing transactions that injured Purdue Pharma, (ii) directly causing Purdue Pharma to engage in the misconduct underlying the DOJ settlements and other lawsuits, or (iii) consciously failing to monitor Purdue Pharma's compliance programs.

- ***Unjust Enrichment*** based on theories that members of the Sackler Families and the Sackler Entities had acted in bad faith and, therefore, were unjustly enriched by the transfers of cash and other assets from Purdue Pharma, as well as any additional profits realized as a result of such transfers, at the expense of Purdue Pharma and its creditors.

- ***Veil-Piercing***, as a means of recovery for potential claims, based on theories that members of the Sackler Families controlled and dominated the Debtors and the IACs, that members of the Sackler Families operated the Debtors and IACs as a single enterprise, and that members of the Sackler Families used their control and domination to cause injury generalized to the estate as a whole by transferring value from the Debtors to trusts held for their benefit.

(B) Analysis of Key Legal Issues

Throughout the investigation, the Special Committee received briefings on and considered various legal matters bearing on the potential estate claims. Specifically, Davis Polk

advised the Special Committee on choice of law analyses focused on determining which jurisdiction's laws would govern each of the claims. After canvassing the relevant statutes, case law, and secondary sources, Davis Polk also advised the Special Committee on the substantive elements of each claim including, among others, the "badges of fraud" considered intentional fraudulent transfer claims, the treatment of unliquidated legal claims in assessing insolvency in constructive fraudulent transfer claims, the fiduciary duties, including the duty of loyalty, owed by a board to a company and, potentially, the company's creditors, and conduct that could constitute a breach of such duties, how a party can recover for unjust enrichment, and when plaintiffs can pierce the corporate veil.

Other legal questions relevant to the potential estate claims were considered as well, including, but not limited to:

(ii) **Statutes of Limitation / Lookback Periods**

Davis Polk evaluated applicable statutes of limitations for each claim under review. Notably, Davis Polk evaluated whether the Company could extend the statute of limitations for a fraudulent transfer recovery action beyond the two-year lookback period provided by section 548 of the Bankruptcy Code. In particular, Davis Polk evaluated the applicability of state or federal law under section 544, as well as other legal principles and doctrines, that could form the basis of extending the limitations period.

(A) Prejudgment Interest

Davis Polk considered whether a court would award prejudgment interest in the context of potential estate claims, including an intentional fraudulent transfer recovery action, and, if so, the rate at which prejudgment interest would be set and the date from which prejudgment interest would accrue. In connection with this analysis, Bates White, at Davis Polk's direction, prepared an analysis of a range of prejudgment interest awards based on various rates and accrual dates.

(B) Tax Distributions

Davis Polk evaluated whether distributions made for the purpose of satisfying the tax obligations of the Sackler Parties (the "**Tax Distributions**") were properly the subject of a constructive or intentional fraudulent transfer recovery action, including whether the Tax Distributions could be considered reasonable equivalent consideration for Purdue Pharma's status as a pass-through entity.

(C) Collectability of Potential Judgments

Davis Polk also evaluated issues relating to the ability to collect judgments from the Sackler Families' trusts, both in the United States and abroad. Many of the trusts held for the benefit of the descendants of Mortimer D. Sackler ("**Side A**" of the Sackler Families) are organized in the Bailiwick of Jersey, Channel Isles, and are governed by Jersey law. For this reason, the Debtors, in conjunction with the Creditors' Committee, negotiated a standstill agreement and retained local counsel in Jersey to provide advice on matters pertaining to Jersey law.

(iii) Collection, Search and Review of Documents

With respect to the factual investigation conducted on behalf of the Special Committee, a key initial phase focused on identifying, collecting, and processing records—including electronic documents and emails—from Purdue Pharma and other entities that might be relevant to an assessment of potential claims by the Debtors against the Sackler Families and Sackler Entities. In conducting this key initial phase of its review, Davis Polk collected over 21 million documents covering a period of almost 25 years from Purdue Pharma custodial files of 110 current and former Directors, officers, and employees of Purdue Pharma and affiliated entities. The individuals whose records Davis Polk collected for search and review included:

- All members of the Sackler Families who held any position with Purdue Pharma between 1995 and the Petition Date, including as a Director, officer, employee, consultant, or intern;

- Every member of the Board between 1995 and the Petition Date, excepting only the new independent Directors who serve on the Special Committee;

- Each individual who served as a CEO, CFO, or General Counsel of Purdue Pharma between 2006 and 2018;

- Notable advisors to Purdue Pharma or the Sackler Families who held positions at Purdue Pharma or affiliates and were assigned a Purdue Pharma email address, such as Stuart Baker, the longtime corporate secretary for and advisor to the Board, and Stephen Ives, an outside advisor and accountant to certain members of the Sackler Families; and

- Specified custodians, who based on their tenure and positions in Purdue Pharma's legal, government affairs, compliance, corporate security, R&D, sales and marketing, and corporate communications functions, were identified as likely to have information relevant to potential estate claims.

The Purdue Pharma documents collected by Davis Polk included, among other things, custodial records, such as emails and other correspondence, as well as shareholder and Board materials and minutes, organization charts, memoranda, presentations, transaction documents, corporate governance documents, financial statements and projections, legal advice, spreadsheets, and litigation-related documents.

The collection included documents produced by Purdue Pharma in certain prior litigations, such as the opioid-related multidistrict litigation pending in the Northern District of Ohio, and certain government investigations, including the then-pending investigation by the DOJ, as well as the electronic files and records collected for purposes of those productions.

Davis Polk searched this enormous database of electronic records innumerable times in the course of conducting its investigation on behalf of the Special Committee and, as part of its review, developed complex search strings containing hundreds of potentially relevant terms designed to identify documents relevant to potential estate claims. These searches initially

identified more than 428,000 internal Purdue Pharma documents for higher-priority review. Utilizing a technology-assisted review algorithm to identify and prioritize documents most likely to be relevant to the investigation, Davis Polk and other attorneys reviewed 175,500 of these documents.

Davis Polk also conducted numerous individual targeted searches, as well as smaller and discrete targeted reviews, to probe key events, individuals, and relevant issues as they were identified over the course of the investigation. For example, in connection with the investigation into the circumstances surrounding the formation of Rhodes Pharma, Davis Polk reviewed and analyzed an additional 30,000 internal Purdue Pharma and Rhodes documents.

The topics and issues investigated by Davis Polk included, among other things:

- Purdue Pharma's exposure to civil or criminal liabilities relating to its sale and marketing of OxyContin, and the awareness by members of the Sackler Families of the same;

- Purdue Pharma's history of OxyContin-related litigation and government investigations, including its prior settlements with private plaintiffs and with various federal, state, and local government agencies;

- Purdue Pharma's history of litigation relating to its patents for OxyContin and related efforts to preserve patent exclusivity;

- Purdue Pharma's compliance with regulatory and other obligations concerning efforts to monitor potential abuse and diversion of OxyContin;

- Histories of and motivations behind various cash and non-cash transfers of value from Purdue Pharma to or for the benefit of the Sackler Families and Sackler Entities;

- Purdue Pharma's risk of potential insolvency and the consideration of restructuring;

- Purdue Pharma's stated business strategies and objectives, including its efforts relating to research and development, mergers and acquisitions, and other business development initiatives;

- Purdue Pharma's efforts to obtain third-party debt or other sources of capital;

- Purdue Pharma's motivations for pursuing an abuse-deterrent formulation of OxyContin;

- Reactions by senior Purdue Pharma executives and members of the Board to press articles reporting on the national opioid crisis; and

- The extent to which members of the Sackler Families controlled or dominated Purdue Pharma.

Davis Polk also reviewed approximately 760,500 additional internal Purdue Pharma documents in connection with responding to requests for discovery from the Creditors' Committee. Also considered and analyzed were documents identified by the Creditors' Committee and shared with Davis Polk on a common interest basis as relevant to the potential claims.

In addition to its collection and review of internal Purdue Pharma documents, Davis Polk also participated in efforts led primarily by the Creditors' Committee and NCSG to obtain discovery from parties and non-parties in these proceedings, including the Sackler Families, the law firm Norton Rose Fulbright LLP, the IACs, certain financial institutions, and others.[~~67~~62] Specifically, on behalf of the Special Committee, Davis Polk participated in over 20 teleconferences between the creditors and Sackler Families and Sackler Entities regarding the scope of discovery, among other issues. Davis Polk also participated in over a dozen additional calls and other communications relating to discovery from Norton Rose Fulbright LLP.

Based on the results of these efforts, Davis Polk, on behalf of the Special Committee, conducted numerous individual targeted searches over custodial documents, electronic records, and financial records produced by the parties and non-parties to probe key events, individuals, and relevant issues, as listed above.

Finally, Davis Polk reviewed and analyzed documents relating to Purdue Pharma's long and complex history of opioid-related litigation and legal liability principally arising from its sale and promotion of OxyContin, as well as relevant documents bearing on its long history of patent litigation. Davis Polk considered and analyzed public and internal documents related to Purdue Pharma's history of litigation and government investigations, including complaints and other court filings, subpoenas, civil investigative demands, plea agreements, settlement documents, and court decisions spanning from early 2001 through the Petition Date.

In all, Davis Polk, and other attorneys working at its direction, reviewed over 960,670 documents, comprising over seven million pages, in connection with its investigation into potential estate claims.

(iv) **Forensic Analysis of Transfers to or for the Benefit of Sackler Entities**

The Special Committee commissioned a sweeping review of transfers of value to or for the benefit of the Sackler Families and Sackler Entities, including to assess potential recoveries by the Debtors from the Sackler Families and Sackler Entities on a variety of legal theories. In furtherance of the Special Committee's investigation, Davis Polk engaged experts experienced in both forensic accounting and the valuation of pharmaceutical assets to assist Davis Polk by compiling and analyzing data at Purdue Pharma and obtained in discovery from third parties to identify transfers by Purdue Pharma to the Sackler Families and Sackler Entities or commercial

[~~67~~62] *See supra*, Article III.Q.

dealings with Sackler Entities that might support claims of recoupment by the Debtors, on a variety of legal theories.

In April 2019, Davis Polk engaged AlixPartners to perform a comprehensive forensic review to identify (i) all material cash transfers of value to or for the benefit of the Sackler Families and Sackler Entities and (ii) all material dealings between Purdue Pharma and the Sackler Families and Sackler Entities, in both cases from 2008 through September 2019.

AlixPartners is a preeminent consulting firm that provides forensic accountings, financial analyses, and other professional services. The AlixPartners team was led by Richard Collura, a Managing Director who specializes in large-scale financial investigations and complex forensic accounting. Mr. Collura has worked with counsel in representing companies, boards of directors, audit committees, special committees, and creditors' committees in connection with bankruptcy cases and other distressed company situations. He is a Certified Public Accountant, Certified Fraud Examiner, Certified Insolvency and Restructuring Advisor, and is certified in financial forensics by the American Institute of Certified Public Accountants. Mr. Collura was assisted in his work by an experienced team of professionals including Certified Public Accountants (CPAs), Certified Fraud Examiners (CFEs), CFA charterholders and Masters of Business Administration (MBAs), many of whom have been Certified in Financial Forensics by the American Institute of Certified Public Accountants.

AlixPartners has extensive experience conducting large-scale, high-profile independent forensic accounting investigations. Its professionals assisting Davis Polk with the investigation on behalf of the Special Committee have a comprehensive understanding of how transactions are recorded in accounting systems and the technical capabilities to extract, manage, and analyze large sets of transactional data. They have performed complex cash tracing analyses and traced assets transferred around the world, and conducted investigations involving intercompany transactions as well as transactions with insiders and related/affiliated entities.

AlixPartners had full access to Purdue Pharma's internal accounting systems, documents and personnel, including individuals in Purdue Pharma's finance and legal functions, as well as access to personnel at OSR, an IAC that provides facilities and administrative services to Purdue Pharma and PPI, and TXP Services Inc. ("**TXP**"), an IAC that provides accounting and other administrative services to Purdue and PPI.[~~68~~63]

(A) Cash Transfers

At the request and working under the supervision of Davis Polk, AlixPartners generated a comprehensive 355-page report on behalf of the Special Committee of all cash transfers to the Sackler Families and Sackler Entities from January 1, 2008 through September 30, 2019 (the "**1A Report**"). The 1A Report details approximately $10.347 billion in total net cash distributions paid by Purdue Pharma and Rhodes to or for the benefit of the Sackler Families and

[~~68~~63] The various services agreements between Purdue Pharma and PPI, on the one hand, and TXP and OSR, on the other hand, have been renegotiated at the direction of the Special Committee, such that TXP and OSR no longer provide the accounting, facilities and administrative services to Purdue Pharma and PPI that were historically provided in years prior.

Sackler Entities during this time period. These amounts include $4.120 billion in cash distributions to partners of Purdue Pharma, approximately $4.680 billion in Tax Distributions for the benefit of partners, and approximately $1.547 billion in distributions earmarked for other Sackler Entities.[~~69~~64]

In preparing its report, AlixPartners reviewed, among other things, organizational charts of entities owned by the Sackler Families, Purdue Pharma's SAP accounting system, audited financial statements, internal financial and accounting statements and records, payroll records, pension benefit records, and travel and expense reimbursement reports and records. AlixPartners interviewed 19 employees of Purdue Pharma, OSR, and TXP in connection with the 1A Report. AlixPartners' investigation and the report required approximately 6,500 hours to complete over the course of seven months.

At Davis Polk's direction, AlixPartners presented its findings as reflected in the draft 1A Report to the Special Committee and furthered certain points of its analysis in response to the Special Committee's review. The Special Committee authorized the Debtors to make the contents of the report public, and on December 16, 2019, the Debtors filed the 1A Report with the Bankruptcy Court [D.I. 654].[~~70~~65]

(B) Non-Cash Transfers and Intercompany Dealings

Also at the request and working under the direction of Davis Polk, AlixPartners produced a second comprehensive 400-page report on behalf of the Special Committee that detailed Purdue Pharma's non-cash distributions and transfers and other dealings with Sackler Entities between January 1, 2008 and September 15, 2019 (the "**1B Report**"). The forensic investigation and analysis required for the 1B Report similarly required an exhaustive review of, among other things, organizational charts of entities owned by the Sackler Families, Purdue Pharma's SAP accounting system, audited financial statements, internal accounting records and other documentation regarding intercompany transactions (e.g., invoices and wire instructions) maintained by Purdue Pharma. AlixPartners also interviewed numerous employees of Purdue Pharma and TXP in connection with the 1B Report. AlixPartners' work on the 1B Report required approximately 4,500 hours over a period of 12 months.

The 1B Report identified intercompany dealings between Purdue Pharma and the Sackler Entities, including royalty arrangements to sell OxyContin outside the United States, service agreements, and asset transfers; intercompany dealings between the Rhodes Debtors and Sackler Entities, including for active pharmaceutical ingredients; intercompany dealings between Purdue Pharma and the Rhodes Debtors, including for contract manufacturing services; and non-cash distributions from Purdue Pharma to the Sackler Parties, including distributions of equity in related- and third-party entities and distributions of the rights to non-ADF OxyContin and other products.

[~~69~~64] The figures identified in the 1A Report were essentially identical to those identified in the Company's earlier calculation.

[~~70~~65] The 1A Report was redacted consistent with the operative protective order in the Chapter 11 Cases.

At Davis Polk's direction, AlixPartners presented its findings as reflected in the draft 1B Report to the Special Committee and furthered certain points of its analysis in response to the Special Committee's review. The Special Committee authorized the Debtors to make the contents of the report public, and on May 29, 2020, the Debtors filed the 1B Report with the Bankruptcy Court [D.I. 1194].[~~71~~66]

(C) Valuation of Non-Cash Transfers and Intercompany Dealings

As a complement to AlixPartners' work in detailing the transactions contained in the 1B Report, Davis Polk retained the financial advisory firm Bates White, a leading financial consulting firm with expertise in valuation, transfer pricing, econometrics and data analysis and significant experience in the pharmaceutical and life sciences industries, to perform an analysis to determine whether, for each of the material transfers or transactions identified by AlixPartners in the 1B Report, (i) Purdue Pharma received fair value and (ii) if Purdue Pharma did not receive fair value, an estimation of the excess value provided by Purdue Pharma over the value (if any) that it received in exchange. Among numerous other items, Bates White assessed whether, for example, Purdue Pharma granted licenses to various IACs to market and sell OxyContin at royalty rates that were lower than a true arm's-length royalty, or whether Purdue Pharma paid various IACs amounts for services or for supply of API at rates higher than true arm's-length service and supply rates. In addition to this valuation and transfer pricing analysis, Davis Polk also asked Bates White to analyze the Tax Distributions identified by AlixPartners in the 1A Report to assess amounts actually paid to taxing authorities, as well as the portions of such amounts attributable to profits earned by Purdue Pharma as opposed to other Sackler Entities.

The valuation and transfer pricing analysis performed by Bates White was led by Dr. David DeRamus, a partner and founding member of Bates White and an expert in transfer pricing and tax, antitrust and competition, and public policy and regulatory economics. He has provided expert analysis on a number of topics, including pricing analysis, damages analysis, quantitative modeling, and valuation. Dr. DeRamus received a doctorate and a master's degree in economics from the University of Massachusetts and a Bachelor's degree from Duke University.

To prepare its transfer pricing analysis, Bates White reviewed, among other things, numerous documents provided by Purdue Pharma and produced by various IACs, including, for example, audited financial statements, Board materials and presentations, intercompany licensing, servicing and manufacturing supply agreements, and other internal records. In addition, Bates White reviewed over 4,000 documents, as well as other data from third-party sources, including, for example, information from commercial databases regarding third-party licensing agreements, public regulatory filings from third parties in the pharmaceutical industry, and other documents in the public domain. Bates White's analysis required approximately 15,130 hours over a period of more than 18 months.

[~~71~~66] The 1B Report was redacted consistent with the operative protective order in the Chapter 11 Cases.

Based on this analysis, Bates White determined in its professional judgment that Purdue Pharma transferred significant value to the Sackler Families and Sackler Entities between January 1, 2008 and September 15, 2019. These value transfers included, among other things, the distribution by Purdue Pharma of non-Cash Assets on certain occasions between 2008 and 2019—such as, for example, equity interests in businesses distributed out of Purdue Pharma in 2013 and 2014 and the assignment by Purdue Pharma of the right to future royalties payable on non-ADF formulations of OxyContin in 2017. Bates White also determined that certain dealings between Purdue Pharma and the Sackler Families and various Sackler Entities were not conducted on arm's-length terms, including in particular that Purdue Pharma received below-market royalties from the Sackler Families and Sackler Entities on sales of OxyContin.

Davis Polk and Bates White presented Bates White's preliminary findings as to these matters to the Special Committee, including the different amounts of value that Bates White estimated in its professional judgment had been transferred from Purdue Pharma to the Sackler Families and Sackler Entities as a result of the activities identified in the 1B Report.

At Davis Polk's direction, Dr. DeRamus and his colleagues at Bates White also presented their preliminary assessments and analyses with respect to these issues on a common interest basis to the legal counsel and the financial advisors for the Creditors' Committee on May 21, 2020 and September 21, 2020, and members of the investigation teams at Davis Polk and Bates White had numerous follow-on video or telephonic conferences on a common interest basis with the Creditors' Committee and its advisors on Bates White's methodology, views, and the evidence relied upon in making its assessments.

(v) **Insolvency Analysis**

With respect to its evaluation of potential constructive fraudulent conveyance claims, Davis Polk, on behalf of the Special Committee, directed Bates White to also complete two complementary analyses: (a) a "foreseeability" analysis evaluating the impact that certain events may have had on the foreseeability of Purdue Pharma's default risk and (b) an "accrual analysis" of Purdue Pharma's liabilities to determine its potential insolvency over time.

In conducting these analyses, Bates White reviewed numerous documents including relevant financial statements and business plans, as well as documents reflecting behavior of Purdue Pharma's economic counterparties (e.g., joint ventures, insurers and lenders), market indicators (e.g., Purdue Pharma's indicative credit ratings, industry exclusions, event studies, case studies and competitor disclosures), documents related to the overall legal environment for opioid manufacturers and public awareness of the opioid epidemic, and the DOJ settlement documentation, including any factual admissions and allegations of misconduct.

The foreseeability analysis was led by Dr. Charles Mullin. Dr. Mullin is the Managing Partner of Bates White and is a recognized expert in statistical and data analysis, econometrics, economic and microsimulation modeling, insurance allocation, and asbestos-related matters. He has provided expert opinions and testimony in a wide range of matters, including the valuation of mass tort claims in the class action and bankruptcy contexts. Dr. Mullin has published numerous papers on applied and theoretical econometrics and labor economics in peer-reviewed journals.

He received a doctorate in economics from the University of Chicago and a Bachelor's degree in mathematics and economics from the University of California, Berkeley.

Bates White presented the findings of the foreseeability analysis and the accrual analysis to the Special Committee.

(vi) **Depositions and Interviews**

Davis Polk attended all 16 discovery depositions conducted in these Chapter 11 Cases. The deponents included every living member of the Sackler Families who served on the Board, each of Purdue Pharma's current and former CEOs, and several advisors to Purdue Pharma and the Sackler Families. The examinations were conducted primarily by counsel for the Creditors' Committee and the NCSG, and in furtherance of cooperation with counsel for both groups, Davis Polk on repeated occasions provided select documents to the Creditors' Committee in advance for potential use during the depositions. In addition, prior to certain depositions, Davis Polk conferred with counsel for one or both groups regarding potential lines of examination.

In addition to participating in depositions, Davis Polk interviewed a number of key individuals in connection with various aspects of the investigation into potential estate claims. For example, in connection with its investigation into the circumstances surrounding the formation of Rhodes Pharma, Davis Polk interviewed six current and former Purdue Pharma and Rhodes Pharma officers and Directors. As noted, Bates White and Davis Polk also jointly interviewed 15 Purdue Pharma employees and advisors in connection with the investigation into various cash and non-cash transfers from Purdue Pharma. In addition, throughout the investigation, Davis Polk held numerous discussions with senior and longtime members of Purdue Pharma's in-house legal department with respect to Purdue Pharma's history of OxyContin-related litigation and government investigations, corporate governance issues, the Board's decision-making processes, including how decisions were made concerning the IACs, the purpose and functions of certain Sackler Entities, and various royalty and licensing arrangements, among other things.[~~72~~67]

(vi) **Information Presented on Behalf of the Sackler Families**

To complement its review of large numbers of internal Purdue Pharma and third-party documents, Davis Polk and its advisors also received and evaluated a series of detailed presentations and supporting documentation provided by representatives of the Sackler Families on several key topics, including the Sackler Families' trust structures, the amount and location of assets held by the Sackler Families, and the Sackler Families' defenses to primary liability and estate claims. The Sackler Families had agreed to make these presentations, and to supply the required information, under the terms of a case management stipulation signed on November 5, 2019, and so-ordered by the Bankruptcy Court on November 20, 2019. *See Amended and*

[~~72~~67] In connection with the transfer pricing analysis, Davis Polk and Bates White jointly interviewed 13 Purdue Pharma employees, including select members of Purdue Pharma's legal, finance, operations, sales and marketing, R&D, and regulatory affairs functions, as well as two outside advisors associated with Norton Rose Fulbright LLP.

Restated Case Stipulation Among the Debtors, the Official Committee of Unsecured Creditors and Certain Related Parties (the "**Case Management Stipulation**") [D.I. 431-1].

- On November 22, 2019, the Davis Polk investigation team attended an approximately four-hour oral presentation by Debevoise & Plimpton LLP ("**Debevoise**") on behalf of Side A and Milbank LLP ("**Milbank**") and Joseph Hage Aaronson LLC ("**Joseph Hage**") on behalf of the descendants of Raymond R. Sackler ("**Side B**" of the Sackler Families) regarding the general classes of assets held by the Initial Covered Sackler Persons ("**ICSPs**"), as defined in the Case Management Stipulation. The Davis Polk investigation team also received and reviewed an accompanying 130-page presentation from Side A regarding the general classes of assets for Side A ICSPs and a 108-page presentation and 21-page supplemental presentation regarding the general classes of assets for Side B ICSPs;

- On December 9, 2019, the Davis Polk investigation team attended an approximately seven-hour oral presentation by Debevoise on behalf of Side A and Milbank and Joseph Hage on behalf of Side B regarding the Sackler Families' defenses to primary liability and estate claims and arguments in favor of settlement. The Davis Polk investigation team also received and reviewed an accompanying 128-page presentation from Side A and a 580-page presentation from Side B;

- On January 29, 2020, the Special Committee received an approximately three-hour oral presentation from Debevoise on behalf of Side A and Milbank and Joseph Hage on behalf of Side B regarding their defenses to primary liability and estate claims and arguments in favor of settlement;

- On January 15, 2020, the Davis Polk investigation team attended an approximately four-and-one-half-hour oral presentation by Debevoise on behalf of Side A and Milbank and Joseph Hage on behalf of Side B covering the aggregate value of the assets and approximate liabilities of the Side B ICSPs. Davis Polk also received and reviewed an accompanying 168-page presentation from Side A and an accompanying 101-page presentation from Side B;

- On August 13, 2020, the Davis Polk investigation team attended an approximately one-hour oral presentation by Milbank, Joseph Hage, and Huron Consulting Group, financial advisors to Side B. Davis Polk also received and reviewed an accompanying 102-page presentation covering the flow of funds from Purdue Pharma to the so-called Top-Level Entities, transfers among the Top-Level Entities, and subsequent transfers to other parties;[~~73~~68] and

[~~73~~68] For purposes of the presentation, the term "Top-Level Entities" was defined to include the Rosebay Medical Company L.P., Trust U/A 11/5/74 fbo Beverly Sackler (a/k/a the "**74A Trust**"), Rosebay Medical Company, Inc., 1974 Irrevocable Trust A fbo BS and RSS, 1974 Irrevocable Trust A fbo BS and JDS, Trust B U/A dtd 11/5/74 fbo Beverly Sackler, 1974 Irrevocable Investment Trust, Raymond R. Sackler Trust 1 dtd 12/23/89, Raymond R.

- On September 17, 2020, the Davis Polk investigation team attended an approximately one-half-hour oral presentation by Debevoise and received and reviewed 16 accompanying spreadsheets detailing the flow of funds from Purdue Pharma to Beacon Company and related entities, including trusts held for the benefit of members of Side A.

(vii) **Cooperation with the Creditors' Committee**

In conjunction with and as part of the Special Committee's investigation, Davis Polk and the Special Committee's financial advisors cooperated on an ongoing basis since early November 2019 with the legal counsel and financial advisors to the Creditors' Committee as co-fiduciaries of the Debtors' estates, in evaluating potential claims by the Debtors against the Sackler Families and Sackler Entities.

In furtherance of that cooperation, and pursuant to a common interest understanding between counsel for the Debtors and the Creditors' Committee with respect to the assessment and prosecution of the claims of the Debtors' estates as to the Sackler Families and Sackler Entities, Davis Polk and the Special Committee's financial advisors participated in more than 25 substantive in-person meetings and teleconferences with the legal and financial advisors to the Creditors' Committee, as well as innumerable emails.

In these exchanges, the Creditors' Committee had direct access to the Special Committee's legal and financial advisors on matters concerning potential estate claims. Bates White, for example, participated in numerous hours-long meetings with the Creditors' Committee's counsel and financial advisors for common interest discussions of matters including but not limited to (a) methodological approaches to evaluating the value of non-cash transfers and intercompany transactions between Purdue Pharma and various Sackler Entities; and (b) interim conclusions by Bates White with respect to the values of various equity transfers, licenses granted with respect to OxyContin, and the 2017 assignment by PPLP of its royalty rights to non-ADF OxyContin. In the course of these discussions, Bates White explained its methodology and assessment of relevant factors with the Creditors' Committee's financial advisors, Province and Ocean Tomo. It also discussed its findings with the Ad Hoc Committee's professionals at FTI.

Throughout its investigation, Davis Polk shared with counsel to the Creditors' Committee, on a common interest basis, certain work product concerning potential estate claims, including among other things, preliminary legal analysis, document compilations relevant to specific deponents, and draft reports prepared by AlixPartners and Bates White.

Davis Polk also engaged in extensive discussions with counsel to the Creditors' Committee throughout the discovery period in the Debtors' Chapter 11 Cases, in order to, among other things: (a) identify an appropriately scoped set of documents for the Debtors to produce to the Creditors' Committee and (b) assist with the Creditors' Committee and NCSG's depositions

Sackler Trust 2 dtd 12/23/89, Raymond R. Sackler Trust 1B dtd 12/23/89, Raymond R. Sackler Trust 2B dtd 12/23/89, AR Irrevocable Trust and AJ Irrevocable Trust.

of the Sackler Families, current and former Board members, current employees of the Debtors, and other parties. With respect to the scope, Davis Polk engaged with the Creditors' Committee to best identify the materials relevant to potential estate claims and to produce an appropriate and extensive volume of documents and information.[~~74~~69]

Davis Polk also ensured that non-privileged documents identified by the Special Committee team as relevant to potential estate claims were produced to the Creditors' Committee. And, pursuant to a stipulation between the Debtors and the Creditors' Committee in connection with a negotiated resolution of two motions filed by the Creditors' Committee, Davis Polk also provided privileged Purdue Pharma documents that were deemed material to its analysis of potential estate claims to the Creditors' Committee on a common interest basis, representing an extraordinary level of cooperation with the Creditors' Committee on the part of the Debtors. Indeed, soon after the stipulation was reached, the Creditors' Committee itself informed the Bankruptcy Court that it was "aware of no other debtor agreeing to supply privileged documents to its creditors, certainly not on this scale." *See Creditors' Committee Reply in Support of Its Motion to Compel Production of Purportedly Privileged Documents* [D.I. 2014].

(viii) **Evaluation of Potential Claims by Special Committee**

As the work of the Special Committee's advisors was ongoing, the Special Committee received regular briefings and a series of in-depth presentations from Davis Polk, AlixPartners, and Bates White on relevant factual findings and legal analysis concerning potential estate claims, including on, among other topics, the value of the distributions to or for the benefit of the Sackler Families and Sackler Entities; the factual investigation into the cash and non-cash transfers made from Purdue Pharma; the transfer pricing analysis to determine whether Purdue Pharma received fair value for each of the material transfers or transactions made from Purdue Pharma; the legal framework for evaluating potential estate claims; the availability and range of prejudgment interest on potential estate claims; and the standards used by courts to decide whether to approve settlements in the bankruptcy context.

Davis Polk also periodically provided the Special Committee with a chronology of select documents identified as relevant to potential estate claims, as well as portfolios of the underlying documents. Over time, the chronology was expanded to include pertinent documents from productions by parties and non-parties in the Chapter 11 Cases, such as the Sackler Families and Norton Rose Fulbright LLP, and documents highlighted by the Creditors' Committee as relevant to estate claims.

Based on the investigation and analysis of its advisors, the Special Committee assessed the strength of the estate claims and any issues of fact and law that might be disputed in a potential litigation. The Special Committee considered the strength of the evidence, as well as the legal and expert analyses presented by its advisors. The Special Committee considered a

[~~74~~69] Davis Polk also devised technical solutions with the Debtors' discovery vendor to help remove duplicative documents to ensure efficiency; proposed numerous refinements to improve the Creditors' Committee's search terms; and participated in multiple teleconferences with the Creditors' Committee related to potential custodians of electronic documents for collection and review.

number of issues of fact and law that could affect the value of the claims including, but not limited to:

- The substance and strength of the evidence supporting the estate causes of action, including the substance and strength of any evidence of intent to transfer assets in order to frustrate creditors;
- The legal and factual basis for concluding that Purdue Pharma was insolvent prior to the Petition Date based on unliquidated and, often, unasserted claims;
- The applicable statute of limitations relevant to the fraudulent transfer claims;
- Whether all transfers of value may be avoidable based on fraudulent transfer claims, with a particular focus on Tax Distributions and the below-market royalty arrangements;
- The ability to recover and potential value of prejudgment interest; and
- The collectability of any judgments against individuals, trusts, and other affiliated entities, including in connection with assets located outside the United States.

(ix) **Negotiation and Approval of the Proposed Settlement and Release**

On September 30, 2020, the Bankruptcy Court entered the Supplemental Mediation Order, which authorized the Mediators to continue the Pre-Confirmation Mediation to resolve certain open issues referenced in the Mediators' Report, as well as to mediate the estate causes of action. *See Order Expanding Scope of Mediation* (the "**Supplemental Mediation Order**") [D.I. 1756].

On November 13, 2020, in the context of the parties' then-ongoing Mediation, Davis Polk attended an oral presentation by the Creditors' Committee on its provisional views and findings with respect to its investigation of potential estate causes of action. With the consent of the Creditors' Committee, on November 24, 2020, Davis Polk reviewed aspects of the Creditors' Committee's presentation with the Special Committee, and provided the Special Committee with a redacted version of the presentation consistent with the operative protective order in the Chapter 11 Cases.

In December 2020 and January 2021, as the Pre-Confirmation Mediation advanced, the Special Committee formally met on no fewer than eight occasions. Moreover, counsel had numerous additional calls with the Chair of the Special Committee and other members of the Special Committee. The Special Committee was provided regular updates on the Pre-Confirmation Mediation, including offers and counteroffers that had been communicated through the Mediators by the NCSG, on the one hand, and the Sackler Families, on the other hand. The Special Committee also discussed with its advisors the Debtors' strategic objectives in the Pre-Confirmation Mediation and potential alternative plans of reorganization, including such alternatives that both included and excluded contributions from a potential settlement with the Sackler Families. Among other things, financial advisors provided critical information on

the feasibility of the Company to operate post-emergence in light of potential mediation outcomes. Counsel also continued to update the Special Committee on the ongoing investigation.

On January 19, 2021, Davis Polk received additional information from the Creditors' Committee regarding documents considered by its advisors to be relevant to the estate causes of action, which were subsequently provided to the Special Committee. At the same time, on January 19, 2021, the Special Committee authorized the Special Committee's advisors to continue negotiations at the direction of the Special Committee Chair in between meetings of the Special Committee. In addition to this authorization, the Special Committee resolved to continue to meet regularly to ensure that, among other things, all members of the Special Committee were apprised of developments in the Pre-Confirmation Mediation and ongoing negotiations.

On January 22, 2021, the Special Committee was advised that the Mediators had made a joint Mediators' proposal. During a nearly two-hour meeting of the Special Committee on January 22, advisors provided the Special Committee with a comprehensive update on the investigation, including analysis of the estate causes of action and potential recoveries. The presentation also discussed the possible methodologies developed by economic advisors at Bates White for calculating the present value of the settlement proposal based on assumptions regarding the payment schedule. Following the presentation, the Special Committee authorized the Debtors to convey to the other parties to the Pre-Confirmation Mediation that the Special Committee supported ongoing negotiations subject to the satisfactory resolution of all economic terms.

With the Special Committee's authorization, the Debtors began to take an active role in the negotiations and at all times kept the Special Committee informed through contemporaneous email, calls and meetings of the status. During a Special Committee meeting on January 28, 2021, the Special Committee was advised that the Debtors, together with the Creditors' Committee, the Ad Hoc Committee, and the MSGE had written to the representatives of the Sackler Families and the Mediators to convey their willingness to continue negotiations with the Sackler Families based on the terms of the Mediators' proposal of January 21, 2021.

On January 29, 2021, the Sackler Families expressed their willingness to engage in such negotiations, accepting a payment amount and proposing a payment schedule. On January 31, 2021, the Pre-Confirmation Mediation formally concluded pursuant to court order, but settlement negotiations continued among the Sackler Families, the Debtors, the NCSG, the Creditors' Committee, the Ad Hoc Committee, and the MSGE. From January 29, 2021 to February 18, 2021, the Sackler Families and the Debtors, together with the Creditors' Committee, the Ad Hoc Committee, and the MSGE, exchanged eight offers and counteroffers. Each of the Creditors' Committee, the Ad Hoc Committee, and the MSGE supported each of the counteroffers. In addition to the Special Committee's discussion of the negotiations during meetings on February 2 and 16, 2021, the Special Committee Chair, as authorized by the Special Committee, subsequently approved all counteroffers proposed jointly by the Debtors, the Creditors' Committee, the Ad Hoc Committee, and the MSGE to the Sackler Families. Economic advisors

from Bates White provided constant financial analysis of the present value of the settlement proposals.

On February 21, 2021, all members of the Special Committee approved a best and final offer to the Sackler Families regarding the payment schedule. The offer, also supported by the Creditors' Committee, the Ad Hoc Committee, and the MSGE, as every counteroffer, was accepted by the Sackler Families on February 22. During a meeting on February 24, the Special Committee was provided an update on negotiations regarding all other terms, including payment guarantees, that the Debtors, the Creditors' Committee, the Ad Hoc Committee, the MSGE, and the Sackler Families were continuing to negotiate. The Special Committee was also provided an update on any additional investigatory work performed on its behalf.

On March 2, March 8 and March 11, the Special Committee was again provided updates on the ongoing negotiation of the additional settlement terms, including terms relating to credit support, remedies, terms of releases and other terms. At a meeting of the Special Committee held on Sunday, March 14, in advance of a full board meeting, the Special Committee authorized the filing of the Twelfth Amended Plan, including the Initial Shareholder Settlement Term Sheets (defined below).

3. The Initial Terms of Settlement of Claims Against the Sackler Families

The initial terms of the settlement with certain Sackler Entities (excluding the IACs but including certain direct and indirect owners of the IACs) (the "**Sackler Parties**") were set forth in the term sheets (the "**Initial Shareholder Settlement Term Sheets**") attached to the *Disclosure Statement for Fifth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and its Affiliated Debtors* (the "**Original Disclosure Statement**") as Appendix G, which document the principal terms of an initial settlement agreement (the "**Initial Shareholder Settlement Agreement**") that was included in the plan supplement for the Twelfth Amended Plan.

The settlement with the Sackler Parties required payments from the Sackler Parties totaling $4.275 billion over nine years (or ten years if certain amounts were paid ahead of schedule in the first five years), up from $3 billion over seven years under the Initial Settlement Framework. The expected schedule of payments, which allowed adjustment based on the actual effective date of the Twelfth Amended Plan, (the "**Initial Required Settlement Payments**") is set forth below.

Date	Initial Required Settlement Payments
Effective Date	$300 million
June 30, 2022	$350 million
June 30, 2023	$350 million
June 30, 2024	$350 million
June 30, 2025	$350 million
June 30, 2026	$300 million
June 30, 2027	$1 billion

Date	Initial Required Settlement Payments
June 30, 2028	$475 million
June 30, 2029	$425 million, subject to deferral of up to $25 million
June 30, 2030	$375 million, subject to deferral of up to $175 million
June 30, 2031	Up to $200 million, consisting of any deferred amounts

The potential deferral of certain Initial Required Settlement Payments would have been applicable as follows: each dollar in excess of $2.5 billion up to and including $2.675 billion in the aggregate that the Master Disbursement Trust actually receives pursuant to the Initial Shareholder Settlement Agreement on or prior to June 30, 2026 would have been deferred one dollar, up to a maximum aggregate amount of $175 million, of Initial Required Settlement Payments otherwise payable on June 30, 2030 to instead become payable on June 30, 2031. Furthermore, each dollar in excess of $2.675 billion that the Master Disbursement Trust actually receives pursuant to the Settlement Agreement on or prior to June 30, 2026 would have been deferred one dollar, up to a maximum aggregate amount of $25 million, of Initial Required Settlement Payments otherwise payable on June 30, 2029 to instead become payable on June 30, 2031. Deferrals would have only been made if the aggregate amount available for deferral exceeded $25 million.

As described in more detail in the Initial Shareholder Settlement Term Sheets, Initial Required Settlement Payments payable on June 30, 2023 or later, as well as certain other payments to be made by the Sackler Parties to the Master Distribution Trust pursuant to the Initial Shareholder Settlement Agreement, would have been made into escrow, paused or terminated (and amounts held in escrow would have been returned to the Sackler Parties), depending on whether the Confirmation Order had been appealed and the status or outcome of such appeal.

The Sackler Parties and certain other persons and/or individuals would have received the benefit of Releases and injunctions described in the Twelfth Amended Plan, as consideration for such payments under the Initial Shareholder Settlement Agreement.

As described in more detail in the Initial Shareholder Settlement Term Sheets, the Sackler Parties would have been required to use their best efforts to sell the IACs within seven years. All cash proceeds received by the Sackler Parties from the IACs, in connection with a sale or otherwise, would have been deposited and maintained in pledged and perfected deposit accounts or escrow accounts for the benefit of the Master Distribution Trust, with certain withdrawals permitted from such accounts as described in the Initial Shareholder Settlement Term Sheets. Certain of such proceeds would have been used to satisfy the next due Initial Required Settlement Payment(s), after accounting for a deduction consistent with the initial Settlement Framework based on the amount of previously funded Initial Required Settlement Payments, as well as other deductions that were agreed in connection with the Initial Shareholder Settlement Agreement.

As collateral for the Initial Required Settlement Payments and other obligations of the Sackler Parties under the Initial Shareholder Settlement Agreement, all equity interests in certain holding companies of the IACs owned by the Sackler Parties (subject to exclusions) were to be

pledged for the benefit of the Master Disbursement Trust. Moreover, certain Sackler Parties would have provided additional collateral under the Initial Shareholder Settlement Agreement of certain of the Sackler Parties that are trusts and in the case of the Raymond Sackler family collateral in the form of equity interests in investment holding companies that directly or indirectly own investment assets.

The Debtors and other parties were provided substantial information regarding the quantum of the Sackler Families' wealth, its location, the holdings and risk profile of various individual members of the Sackler Families and their trusts, and other factors relevant to collectability in connection with the extensive discovery conducted during these cases. Further detailed information regarding the net asset values of the proposed obligors under the Initial Shareholder Settlement Agreement was provided to the Debtors and other parties in response to diligence requests in connection with the settlement negotiations.

Under the terms of the Initial Shareholder Settlement Agreement, the obligation of the Sackler Parties to pay the $4.275 billion settlement amount was to be allocated between Side A and Side B of the Sackler Families on a 50/50 basis between the Side A and Side B Sackler Families, and then further allocated on a 50/50 basis within the Side B Sackler Families and on a 1/8 basis within the Side A Sackler Families, subject in each case to a financial adjustment mechanism based on the gross proceeds from the sale of the IACs (which would shift settlement obligations from Side A to Side B in the event IAC proceeds were in the lower end of the expected range and from Side B to Side A if IAC proceeds exceeded certain thresholds) and in the case of the A-Side Payment Group 8, subject to further adjustments, as set forth in more detail in the Initial Shareholder Settlement Term Sheets. Within the Side A and Side B families, there were also significant disparities between the financial positions and holdings of the various individuals and family groups. These differences between the separate family groups were taken into account within each of the 10 family groups in order to tailor an overall credit support package that would maximize the likelihood of recovery of the overall obligations under the Initial Shareholder Settlement Agreement, as set out in greater detail in the Initial Shareholder Settlement Term Sheets.

The settlement obligations of Side A of the Sackler Families were further allocated, largely on a *pro rata* basis, among eight different groups consisting of certain trusts, individuals and/or other entities that were obligors under the Initial Shareholder Settlement Agreement. The information received from Side A of the Sackler Family as of September 30, 2020 for trusts and for individuals (which, depending on the individual, may be as of September 30, 2020 or September/October 2019), which information was based on a methodology developed by the Sackler Families and subject to change since such respective dates, indicated that for each Side A group, the combined net asset value of the obligors in such Side A group represented an approximate multiple of more than 1.4x of the potential settlement obligations of the Side A group, on average across all of the Side A groups (including working assumptions for the IACs, per discussions between financial advisors to the Debtors and other parties). In addition, and as part of such net asset value, as detailed in the Initial Shareholder Settlement Term Sheets, certain obligors within each of the Side A groups were to provide additional collateral to support the settlement obligations, consisting of deposit accounts funded with cash and cash equivalents,

equity interests in holding companies that directly or indirectly own investment assets, real estate and/or other assets and security interests over substantially all of the assets of certain trusts.

Side B of the Sackler Families was divided into only two separate groups consisting of trusts, individuals and/or other entities that would be obligors under the Initial Shareholder Settlement Agreement, with settlement obligations allocated on a *pro rata* basis between the two Side B groups. The information received from Side B of the Sackler Family as of September 30, 2020 and October 2019 for individuals, trusts, and entities, which information was based on a methodology developed by the Sackler Families and was subject to change since such respective dates, indicated that for each Side B group, the combined net asset value of the obligors in such Side B groups represented an approximate multiple, on average across both of the Side B Groups, of more than 2.0x of the potential settlement obligations of the Side B group (including working assumptions for the IACs, per discussions between financial advisors to the Debtors and other parties). As collateral to support the settlement obligations, the Side B groups also pledged equity interests in certain holding companies that indirectly owned investment assets, which, across both Side B groups, were valued at over $1 billion.

The net asset values described above referred to the proposed obligors under the Initial Shareholder Settlement Agreement and did not represent the total net asset value of all individuals, entities and trusts associated with the Sackler Families.

In addition, certain Sackler Entities were prohibited from engaging in the manufacturing or sale of opioids, subject to exceptions to be agreed. Certain of the Sackler Parties agreed to additional affirmative and restrictive covenants, including with respect to the collateral provided, as more fully described in the Initial Shareholder Settlement Term Sheets.

Remedies for breach of the Initial Shareholder Settlement Agreement included, without limitation, acceleration of the unpaid and unfunded obligations of the defaulting Sackler Parties, voiding the releases applicable to the Sackler Parties in breach and certain other members of the Sackler Entities related to the breaching Sackler Parties, foreclosure by the Master Disbursement Trust on the collateral provided, and enforcement of confessions of judgment by the applicable Sackler Parties admitting the obligations that had come due and certain other remedies to be mutually agreed. For additional detail regarding such terms, see the Initial Shareholder Settlement Term Sheets attached to the Original Disclosure Statement as Appendix F.

The Initial Shareholder Settlement Agreement also resolved certain other matters between certain Sackler Entities and the Debtors, including that it would be a condition precedent to the effectiveness of the Initial Shareholder Settlement Agreement that the matters related to the ongoing contractual and intellectual property relationships among the Debtors, the Specified Parties (as defined in the Initial Shareholder Settlement Term Sheets) and the IACs had been mutually agreed, and that certain agreements related to such matters had been executed, including, but not limited to, an agreement between Avrio and PRA, pursuant to which (i) certain existing licenses from PRA to Avrio for the exploitation of Senokot-branded and Betadine-branded over-the-counter products would be terminated and (ii) all of the intellectual property licensed from PRA to Avrio under such existing licenses would be assigned to Avrio.

Y. Subsequent Shareholder Settlement

1. The Terms of Settlement of Claims Against the Sackler Parties

The principal terms of the Shareholder Settlements with the Sackler Payment Parties will be documented in the Plan, the Plan Supplement, the Confirmation Order, the Master Shareholder Settlement Agreement, and the Direct Claims Shareholder Settlement Agreements. The rights and obligations of all parties under the Master Shareholder Settlement Agreement and Direct Claims Shareholder Settlement Agreements remain subject to the finalization of such agreements.

Certain key terms of the Shareholder Settlements, including the terms of the settlement among the Shareholder Payment Parties and Holders of both Third-Party Payor Claims and PI Claims and the Debtors' releases of the Shareholder Released Estate Claims against the Shareholder Released Parties, are set forth in the Plan.

The Debtors, the Sackler Payment Parties and certain other parties will also enter into the Master Shareholder Settlement Agreement, which will govern the Sackler Payment Parties' settlement payment obligations on an aggregate basis, the terms, conditions and details with respect to such payments and general implementation of the Shareholder Settlements (e.g., provisions relating to the sale of the IACs and snapback litigation in the event of a default), the establishment of certain reserves (as described below), and certain other Sackler Payment Party covenants in connection with the Shareholder Settlements. An initial draft of the Master Shareholder Settlement Agreement, dated as of June 17, 2025, is filed at D.I. 7591 and is part of the Plan Supplement.

In addition to the Plan and the Master Shareholder Settlement Agreement, certain Settling Creditors will enter into Direct Claims Shareholder Settlement Agreements pursuant to which such Settling Creditors will provide releases of claims against the Shareholder Released Parties and the Released Parties. The Direct Claims Shareholder Settlement Agreements will provide specific terms governing the terms and enforcement of payment obligations of the Sackler Payment Parties to such Settling Creditors.[~~75~~70]

In aggregate, the Shareholder Settlement Agreements require payments from the Sackler Parties of up to $6.5 billion over fifteen years,[~~76~~71] which represents an increase in the Sackler Parties' payment obligations from the $4.325 billion over nine years required under the Initial Shareholder Settlement Agreement. Additionally, if the net proceeds from the sale of Sackler

[~~75~~70] For example, certain holders of Non-Federal Domestic Governmental Claims, the Master Disbursement Trust and the Sackler Payment Parties will enter into the Governmental Entity Settlement Agreement which will govern direct settlement payment determinations, enforcement, and release terms for Settling Creditors holding Non-Federal Domestic Governmental Claims. A draft of the Governmental Entity Settlement Agreement is filed at D.I. [~~●~~]7592 for informational purposes only (the Debtors are not a party to any Direct Claims Shareholder Settlement Agreements).

[~~76~~71] The Shareholder Direct Settlement Portion of the Sackler Parties' $7 billion maximum contribution will be subject to reduction based upon the number and category of claimants who choose not to provide releases to the Shareholder Released Parties and Released Parties.

Parties' IACs exceed $4.3 billion, the IAC Payment Parties (as defined in the Master Shareholder Settlement Agreement) will contribute to the Master Disbursement Trust 90% of such excess net proceeds, up to a maximum of a further $500 million.[~~77~~72]

The Sackler Payment Parties' payments under the Plan and Shareholder Settlement Agreements will be allocated between the Estate Claims Settlement and the Direct Claims Settlements, the two separate but related components of the Shareholder Settlement Agreements. Of the payments made by the Sackler Parties, approximately one-third (i.e. ~$2.17 billion) will be allocated to the Estate Claims Settlement payments and approximately two-thirds (i.e., ~4.33 billion) will be allocated to Direct Claims Settlements payments. Settling Creditors will receive Distributions on account of both the Estate Claim Settlement and the Direct Claims Settlements. Non-Settling Creditors who do not provide releases to the Sackler Parties will not receive Distributions on account of the Direct Claims Settlements but will be eligible to receive their share (as calculated pursuant to the Plan and Creditor Trust Documents) of Estate Distributions from the Estate Claim Settlement payments and other estate consideration if and when their claims are allowed.

The Sacklers' payments are front-loaded, with approximately 44% of the payments payable in the first three years after the Effective Date. The expected schedule of payments, which may be adjusted based on, among other things, creditor participation in the Shareholder Settlements and any permitted prepayments, is set forth below (the "**Required Settlement Payments**").[~~78~~73]

Date	**A-Side Contribution**	**B-Side Contribution**	**Required Settlement Payments**
Effective Date	$537.50 million	$962.50 million	$1.5 billion
Effective Date + 1 Year	$212.50 million	$287.50 million	$500 million
Effective Date + 2 Years	$212.50 million	$287.50 million	$500 million
Effective Date + 3 Years	$170.00 million	$230.00 million	$400 million
Effective Date + 4 Years	$156.25 million	$93.75 million	$250 million
Effective Date + 5 Years	$156.25 million	$93.75 million	$250 million

[~~77~~72] Under the Master Shareholder Settlement Agreement, the IAC Payment Parties must use commercially reasonable efforts to sell IACs within seven years. If they fail to do so, the Master Disbursement Trust will have the option to seek a forced sale for a price in excess of a certain appraised amount.

[~~78~~73] The parties intend that pursuant to a separate settlement agreement that will become effective alongside the Shareholder Settlement Agreements, one or more IACs will agree to make an estate payment simultaneously with the first payment, which will reduce the amount the A-Side and B-Side parties are obligated to pay the estate on the first payment date.

Date	A-Side Contribution	B-Side Contribution	Required Settlement Payments
Effective Date + 6 Years	$106.25 million	$143.75 million	$250 million
Effective Date + 7 Years	$106.25 million	$143.75 million	$250 million
Effective Date + 8 Years	$106.25 million	$143.75 million	$250 million
Effective Date + 9 Years	$106.25 million	$143.75 million	$250 million
Effective Date + 10 Years	$106.25 million	$143.75 million	$250 million
Effective Date + 11 Years	$106.25 million	$143.75 million	$250 million
Effective Date + 12 Years	$106.25 million	$143.75 million	$250 million
Effective Date + 13 Years	$191.25 million	$258.75 million	$450 million
Effective Date + 14 Years	$191.25 million	$258.75 million	$450 million
Effective Date + 15 Years	$191.25 million	$258.75 million	$450 million
Total	$2,762.5 million	$3,737.5 million	$6.5 billion

The Sackler Payment Parties, and certain other persons will receive the benefit of releases and injunctions, as described in Article I.E-F., as consideration for such payments and other agreements under the Shareholder Settlements. The Thirteenth Amended Plan will not contain non-consensual third-party releases. Consistent with the Harrington Decision, public and private claimants who choose not to provide releases to the Shareholder Released Parties and the Released Parties will have the opportunity to pursue litigation against the Shareholder Released Parties and the Released Parties, subject to certain terms and conditions described more fully in the Plan.

The Master Shareholder Settlement Agreement establishes certain "reserves" that will be available to fund "Litigation Costs" (as defined in the Master Shareholder Settlement Agreement) comprised of Shareholder Released Parties' litigation and settlement costs relating to, among other things, certain Causes of Action that would have been released pursuant to the 12th Amended Plan (if such Plan were in effect), subject to certain limitations and conditions set forth in the Master Shareholder Settlement Agreement.

The Sackler Payment Parties will provide collateral and other forms of credit support to secure the Required Settlement Payments and other obligations of the Sackler Parties under the

Shareholder Settlement Agreements, as more fully set forth in the Credit Support Annexes to the Master Shareholder Settlement Agreement.

As discussed in Article III.Q, *supra*, the Debtors and other parties were provided substantial information regarding the quantum of the Sackler Families' wealth, its location, the holdings and risk profile of various individual members of the Sackler Families and their trusts, and other factors relevant to collectability in connection with the extensive discovery conducted during these cases. Further detailed information regarding the net asset values of the proposed obligors under the Shareholder Settlement Agreements was provided to the Debtors and other parties in response to diligence requests in connection with the settlement negotiations.

Under the terms of the Shareholder Settlement Agreements, the obligation of the Sackler Parties to pay the $6.5 billion Required Settlement Amount will be allocated between the A-Side and B-Side of the Sackler Families as set forth above and in further detail in the Shareholder Settlement Agreements. Within the A-Side and B-Side of the Sackler Families, there are also significant disparities between the financial positions and holdings of the various individuals and family groups. These differences between the separate family groups will be taken into account within each of the 10 family groups in order to tailor an overall credit support package that will maximize the likelihood of recovery of the overall obligations under the Shareholder Settlement Agreements.

Finally, consistent with the Debtors' obligations under the DOJ Resolution, the Shareholder Settlement Agreements contemplate the creation of the Public Document Repository, which is described in Article III.W. herein.

Overall, when combined with what the Debtors expect will be approximately $927 million[~~79~~74] of Effective Date Cash of the Debtors available for distribution on the Effective Date, the total cash consideration available to the creditors under the Plan is anticipated to be up to $7.9 billion. In addition, public claimants may also receive recoveries from insurance and causes of action against third parties.

2. Evaluation of the Settlement with the Sackler Parties

The Shareholder Settlements with the Sackler Parties are key elements of the Plan. Pursuant to these interrelated settlements, the Sackler Parties will pay up to $7 billion in cash over 15 years (subject to certain pre-payment discounts) in exchange for (1) release of civil claims against the Sackler Families and certain other persons by the Debtors under the Plan and (2) releases of direct civil claims against the Sackler Families and certain other persons by only those claimants who elect to settle those claims.[~~80~~75]

[~~79~~74] The $927 million figure is based on current projections and subject to variability based on the Debtors' Effective Date, the cost of the Debtors' bankruptcy cases, and any legal, contractual or other restrictions on such cash.

[~~80~~75] As described in Article III.CC.3. the Direct Claims Settlements provide individual creditors with the opportunity to settle their Direct Claims in exchange for additional consideration. Creditors who elect to release their Direct Claims against the Sackler Parties will receive their pro rata share of (i) consideration from the Estates and (ii) consideration from the Sackler Parties. Creditors who do not elect to release their Direct Claims will retain such Claims and will be entitled to pursue litigation against the Sackler Parties after the Effective Date.

The Sackler Parties' settlement with the Estates and the Direct Claims Settlements are interrelated and mutually conditioned on one another, and together provide substantial value to creditors. The Debtors seek the Court's approval of only the Sackler Parties' settlement with the Estates, which is the only Shareholder Settlement subject to such approval under the Bankruptcy Code. However, the Debtors evaluated—and in the Debtors' view the Court should evaluate—the benefits of the comprehensive resolution provided by the Shareholder Settlements.

As described in Article III.X.2, *supra*, after an extensive investigation and careful consideration by the Special Committee of potential claims against the Sackler Parties held by the Debtors, and months of engagement with and the involvement of key creditor constituencies including the Creditors' Committee, the AHC, the MSGE Group, the Native American Tribes Group, the Ad Hoc Group of Individual Victims, the Ad Hoc Group of Hospitals, the ER Physicians, the Third-Party Payor Group, the Ratepayer Mediation Participants, the NAS Committee, and the Public School District Claimants, the Debtors[~~81~~76] have determined the Estates' settlement with the Sackler Parties is fair, equitable, and in the best interest of the Debtors' Estates. In light of the enormous value to the Estates provided by the global resolution of the Estate Causes of Action and interrelated opportunity for creditors to resolve (i) Direct Claims and (ii) disputes concerning the validity of claims and allocation of estate proceeds among claimants of the estate, the consideration contemplated by the Shareholder Settlements is well above "the lowest point in the range of reasonableness." *In re Telignet Services, Inc.,* 2010 WL 2034509 at *9 (S.D.N.Y. May 13, 2010) (citing *In re W.T. Grant Co.*, 699 F.2d 599, 613 (2d Cir. 1983)). Accordingly, the Debtors support the Shareholder Settlements as elements of the Plan, subject to satisfactory resolution of certain terms that continue to be negotiated.

(i) Factors Relevant to Evaluating the Settlements

Under Federal Rule of Bankruptcy Procedure 9019, any settlement of claims of or against the Debtors is subject to approval by the Bankruptcy Court. Further, because the Sackler Parties' settlement with the Estates is an essential element of the Plan, approval of that settlement by the Bankruptcy Court is a necessary precondition to confirmation and consummation of the Plan.

In *TMT Trailer Ferry*, the U.S. Supreme Court outlined the standards for courts to use in evaluating proposed settlements by debtors in bankruptcy. The key function of courts in that circumstance, the Court explained, is "to compare the terms of the compromise with the likely rewards of litigation." *Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 425 (1968). Following the Supreme Court's decision in *TMT Trailer Ferry*, courts in the Second Circuit have outlined certain factors to be considered by courts evaluating whether to approve settlements proposed by a debtor in bankruptcy proceedings:

[~~81~~76] As discussed in Art. II.E.2., supra, Purdue Pharma's governance documents irrevocably granted an independent Special Committee of the Board of Directors exclusive authority over the prosecution, defense, and settlement of any causes of action Purdue Pharma may assert against its shareholders as well as members of the Sackler Families and their affiliates. As such, all references in this Section to considerations and determinations of the Debtors, as they relate to its evaluation of claims against the Sackler Families and Sackler Parties, reflect considerations and determinations of the Special Committee pursuant to this exclusive delegated authority.

- The balance between the litigation's possibility of success and the settlement's future benefits;

- The likelihood of complex and protracted litigation, "with its attendant expense, inconvenience, and delay," including the difficulty in collecting on the judgment;

- "[T]he paramount interests of the creditors," including each affected class's relative benefits "and the degree to which creditors either do not object to or affirmatively support the proposed settlement";

- Whether other parties in interest support the settlement;

- The "competency and experience of counsel" supporting, and "[t]he experience and knowledge of the bankruptcy court judge" reviewing, the settlement;

- "[T]he nature and breadth of releases to be obtained by officers and directors"; and

- "[T]he extent to which the settlement is the product of arm's length bargaining."

In re Iridium Operating LLC, 478 F.3d 452, 462 (2d Cir. 2007).

In the following pages, the Debtors summarize their evaluation of the Shareholder Settlements under the foregoing factors to be considered by the Bankruptcy Court in evaluating the settlements and the reasons for the Debtors' belief that, under those factors, the settlements should be approved by the Bankruptcy Court as fair, reasonable and in the best interest of the Debtors' Estates. The Debtors understand that the Bankruptcy Court will have to rule on whether the *TMT Trailer* factors are satisfied. For purposes of this Disclosure Statement, the Debtors are providing this analysis for the more limited purpose of assisting creditors in understanding the Debtors' rationale for putting forward the Plan. The Debtors are aware that the claims against the Sackler Parties discussed herein may be litigated in the future, either because the settlement is not finally approved or because of a future default event. The analysis balances the need for disclosure regarding the Debtors' support for the Plan with the need to avoid any potential prejudice in future litigation.

(ii) Balancing Possible Litigation Recoveries Against the Benefits of the Settlements

In the Debtors' estimation, the first *Iridium* factor—the balance between the litigation's likelihood of success and the settlements' future benefits—weighs in favor of approval of the Sackler Parties' settlement with the Estates. As explained in more detail below, success in litigating and collecting on the Debtors' claims against the Sackler Parties cannot be guaranteed, whereas the Shareholder Settlements promise very significant benefits for the Debtors' Estates and stakeholders.

The settlements reflect a reasoned judgment as to the trade-off between a possible but uncertain recovery of a larger amount through years of continued litigation versus an agreed

recovery of settlement payments that are certain, but may be less than what the Debtors potentially could obtain in litigation.

The following section discusses the expected benefits of the settlements and then weighs them against the likelihood of success in litigation.

(1) The Benefits of the Settlements

There are many benefits of the Shareholder Settlements to weigh against the uncertain results of litigation. These include, among other things, the very material up to $7.0 billion in payments to be made by the Sackler Parties, which are a critical element of the Plan. Among other things, these payments make possible the agreed distribution of funds in satisfaction of the Private-Side Resolutions, secure the benefits of the DOJ Resolution for Purdue Pharma and its creditors, and still provide for billions of dollars in cash that will fund the state, local and tribal trusts. The settlements' benefits also include the avoidance of the potentially ruinous disintegration of Purdue Pharma's valuable assets that would result if it were left to participate in years of further litigation.

(A) The Shareholder Settlement Payments

The proposed settlements provide enormous financial value for the benefit of Purdue Pharma's creditors, and improve upon the settlement terms embodied in the Twelfth Amended Plan and on the Initial Settlement Framework announced in September 2019. As described in detail in Article III.Y.1., the settlements with the Sackler Parties require payments from the Sackler Parties totaling a maximum of $7 billion over fifteen years. These funds will be deposited in trusts established for the benefit of states and localities, as well as other creditor groups such as Native American Tribes, healthcare providers, and children with a history of Neonatal Abstinence Syndrome and their guardians. There will be transparency to ensure that the purpose of the trusts will be effected.

These payments by the Sackler Parties under the proposed Shareholder Settlements improve upon the Sackler Parties' prior payment obligations of $4.325 billion over nine years contemplated under the Initial Shareholder Settlement Agreement. The payments by the Sackler Parties also exceed the benefits contemplated by the Initial Settlement Framework that was under consideration at the time these Chapter 11 Cases commenced in September 2019. Under the proposed Shareholder Settlements, the Sackler Parties will pay up to $4 billion over and above the $3 billion they had offered as of September 2019 (and in addition to the $225 million they have already paid to the DOJ), a material additional recovery of funds that will be directed towards to Public Creditor Trusts and Private Creditor Trusts pursuant to the Plan.

The principal consideration to be granted to the Sackler Parties in exchange for such payments are the civil release and injunction provisions with respect to specified parties associated with the Sackler Parties provided for under the Plan and the various Direct Claims Shareholder Settlement Agreements. *See* Article III.CC below and the Master Shareholder Settlement Agreement for a more detailed description of the terms of these settlements. The release and injunction provisions are described in detail in Articles I.E-F. herein.

The Shareholder Settlements call for the Sackler Parties to make payments totaling up to $7.0 billion over a period of fifteen years. This time period was heavily negotiated by the Special Committee, the Creditors Committee, the AHC, the MSGE Group and the Sackler Parties, and takes into account the potential sale of the IACs, providing necessary assurance that the Sackler Parties would be able to satisfy the payment requirements and other considerations. The Debtors and other parties evaluated both the face value of the payments as well as their present value. The present value of future payments is a function of the applied discount rate.

The Debtors considered a number of approaches to determine the appropriate discount rate that, from an economic perspective, may reflect the creditworthiness of the payor and risk of nonpayment, or the cost to the payee of the delay in obtaining the funds. The Debtors considered various approaches, including: (i) the time value of money over the payment horizon; (ii) relevant historical AA municipal bond rates as a reasonable proxy for state and municipal borrowing costs over the future payment horizon; (iii) lower medium grade or even Ba1/BB+ corporate bond yields as a potential proxy for the Sackler Parties' credit risk under the terms contemplated for the settlements under the Plan; and (iv) other higher rates driven by the Debtors' own cost of capital and other potential factors.

(B) Other Benefits of the Settlements

The Shareholder Settlements also provide the critical benefit of enabling the Debtors to avoid potential negative consequences that would occur absent the additional value recovered through the settlements from the Sackler Parties. These include the potentially devastating consequences of being unable to secure the full benefits of the DOJ Resolution and to satisfy the Private-Side Resolutions. Absent the settlements, the Debtors would also continue to incur the very significant expenses of remaining in bankruptcy for an additional period of unknown length and would need to expend material further resources to litigate the estate claims against the Sackler Parties. Absent a resolution in these Chapter 11 Cases, the Preliminary Injunction could expire and tens of thousands of creditors would be competing with each other to obtain judgments. Moreover, in these circumstances, the Debtors would, themselves, be competing with creditors for whom the Debtors are a fiduciary, diminishing the value of the Debtors' Estates. The ensuing litigation of claims against the Sackler Parties, which could very well continue for years post-emergence, would diminish the value of the assets available to satisfy claimants and, if successful, would certainly result in delayed and inequitable recoveries among potential claimants.

These negative circumstances that the Shareholder Settlements enable the Debtor to avoid are discussed in turn below.

(A) **DOJ Resolution**

Absent the Shareholder Settlements and approval of the Plan, the Debtors would face the possible unwinding of the DOJ Resolution, which could put at risk the entire value of the Debtors' Estates. Under the terms of the DOJ Resolution, Purdue Pharma pled guilty to certain

criminal acts, and the Debtors agreed to a $2 billion Forfeiture Judgment.[8277] The Forfeiture Judgment will have the status of an allowed superpriority administrative expense claim against Purdue Pharma.

Under the terms of the DOJ Resolution, the United States agreed to provide a Forfeiture Judgment Credit of up to $1.775 billion for value distributed or otherwise conferred by Purdue Pharma under the Plan in respect of claims asserted by state, tribal, or local government entities, provided that the Plan provides for the emergence of a public benefit company (or entity with a similar mission) and certain other terms and conditions as described in more detail in the Plea Agreement.

As discussed in Article I.D, if the Shareholder Settlements with the Sackler Parties are not approved, there is considerable risk that the Debtors will not have sufficient value to satisfy both the Private-Side Resolutions, discussed below, and the distributions to the state, tribal and local government entities required to receive the Forfeiture Judgment Credit. In such a case, the United States will not provide the Forfeiture Judgment Credit, and Purdue Pharma will be forced to pay the full Forfeiture Judgment, $2 billion. Such funds, if paid to the United States, will be unavailable for distribution to other creditors.

Absent the DOJ Resolution, the United States could resume its criminal prosecution of the Defendant Debtors, potentially subjecting the Defendant Debtors to a $6.2 billion fine and a $3.5 billion forfeiture judgment. These exposures, together with the DOJ's $2.8 billion asserted claim for civil liability (which could be trebled to $8.4 billion), would exceed and could potentially consume the entire value of the Debtors' Estates, including litigation recoveries.

(B) **Private-Side Resolutions**

Without the financial contribution from the Shareholder Settlements, the Debtors would not be able to satisfy their obligations under the Private-Side Resolutions, and the agreements that major stakeholders, including the Non-Federal Public Claimants and the Private Claimants, reached following months of mediation would likely fail, with very negative potential consequences.

Absent the Private-Side Resolutions, the various Private Claimant groups would dispute the claims of the Non-Federal Public Claimants, the United States and other Private Claimant groups, and each of those groups would likely respond in kind against each of the other groups. Litigation over the claims of the Non-Federal Public Claimants and the Private Claimant groups would be protracted and extremely costly. There would be no assurance that the claims of any particular claimant would ultimately be allowed in any particular amount, or at all. And as noted above, if the ultimate resolution failed to provide at least $1.775 billion in respect of claims asserted by state, tribal, or local government entities and for the emergence of a public benefit company or entity with a similar mission, the DOJ could reduce or retract the Forfeiture Judgment Credit and the Debtors would need to satisfy the $2 billion Forfeiture Judgment in

[8277] The terms of the DOJ Resolution are described in greater detail in Article I.B. and I.D., *supra.*

cash (and would be at risk of further criminal prosecution and yet higher claims and fines). In such circumstances, other creditors could receive little to no recovery.

(C) **Sackler Parties' Estates**

When these Chapter 11 Cases began, the Sackler Parties were named in approximately 400 civil suits throughout the United States. At that time, additional new suits against them were being filed every week. At the same time, Purdue Pharma had been named as a defendant in more than 2,600 civil actions pending in various state and federal courts and other fora across the United States and its territories, and was also subject to several governmental investigations. Purdue Pharma's defense of these many matters was causing it to incur professionals' fees at an average rate of over $2 million per week, amounts attributable solely to pretrial defense costs, because none of these civil actions had yet proceeded to trial. In the event that thousands of cases are restarted or filed upon any expiration of the stay of litigation against Purdue Pharma or the Sackler Parties and move toward trial, run rate expenses would likely be multiples of those historical figures. These costs provide a potential basis for gauging the magnitude of the expenses that the Sackler Parties would incur in continuing to defend the pending and future lawsuits against them in the event the claims against them were not resolved as provided in the proposed settlements. Absent the proposed settlements, the Sackler Parties would likely need to incur such expenses, depleting the funds which they would potentially regard as available for compromising the claims against them and Purdue Pharma.

Moreover, in the event that any of the claims asserted in litigation against the Sackler Parties by parties other than the Debtors were to succeed, their assets would be depleted by the amounts of the costs incurred and judgments paid to successful litigants by the particular Sackler Parties in such actions. For this reason, upon the expiration of the stay of litigation against the Sackler Parties, there would be a race to the courthouse among their tens or hundreds of thousands of potential creditors, including both the Debtors and third parties. The recoveries in these individually prosecuted cases, were they to succeed, would not be equitably distributed among the claimants in Purdue Pharma's bankruptcy or to those asserting claims against the Sackler Parties. Rather, the assets would be recovered by perhaps just the handful of the successful plaintiffs that were the first to obtain and enforce court judgments, until the weight of liabilities or expected liabilities of the Sackler Parties exceeded the value of their estates. The litigation against the Sackler Parties would, if successful, likely force certain Sackler Parties into multiple separate bankruptcies. In other words, the process that, prior to and in this bankruptcy proceeding, after years of costly discovery and negotiations, eventually resulted in the proposed settlements with the Sackler Parties would likely have to be recommenced, in effect, in fragmented separate bankruptcy proceedings. Any possible recoveries that might be obtained by claimants or third parties as a result of those proceedings would very likely be delayed and, potentially, materially lower than their expected recoveries under the Plan.

Even were the Debtors able to secure judgments against the Sackler Parties in the U.S. courts, they would face several obstacles in collecting on those judgments. The Sackler Families comprise many distinct individuals and family units and the Sackler Parties comprise various businesses around the world. Many individual Sackler Parties live abroad, and many are not U.S. citizens. Not all of their very considerable assets may be readily accessible by Purdue Pharma or other claimants seeking to hold the Sackler Parties personally liable for the costs of the opioid

epidemic. Accordingly, while the U.S. House Committee on Oversight and Reform publicly reported on April 20, 2021 that the "Sackler family's total net assets equal approximately $11 billion" based on information from early 2020, that figure does not necessarily identify the total assets capable of being recovered by claimants at any specific point in time.

As of 2021, documents released by the Committee on Oversight and Reform indicate that the Sackler Families' wealth is divided between the A- and B-sides of the Sackler Families (the descendants of Mortimer and Raymond Sackler, respectively), with the A-Side individuals, companies and trusts holding collectively approximately $4.8 billion in assets and the B-Side individuals, companies and trusts holding collectively approximately $6.2 billion in assets. The information that the Debtors and certain other parties were provided with, while substantially more detailed in some respects and in certain instances including information as of different dates than those reported in the materials released by the Committee on Oversight and Reform, did not indicate that the aggregate value of the Sackler Families' wealth is materially different from the amounts indicated by the documents released by the Committee on Oversight and Reform; provided that the information released by the Committee on Oversight and Reform reference a hypothetical IAC value of $4.5 billion and the Debtors have utilized a more conservative assumption for purposes of evaluating the Shareholder Settlements. Further, most of the wealth is concentrated in dozens of U.S. and foreign-based spendthrift trusts. The ability of the Debtors or other creditor groups to enforce judgments by collecting amounts held by these trusts, or by the Sackler Parties in multiple jurisdictions around the world, is uncertain and would be zealously litigated, likely over a multi-year period and in multiple jurisdictions. In addition, documents released by the B-Side members of the Sackler Families indicate that the collective net worth of the B-Side individuals, companies and trusts has not changed significantly in the intervening years.[~~83~~78]

As discussed in Article III.Q, supra, the quantum of the Sackler Parties' wealth, its location, the holdings and risk profile of various individual Sackler Family Members and their trusts, and other factors relevant to collectability were the subject of extensive discovery and taken into consideration by the Special Committee in determining the reasonableness of the Shareholder Settlements. In particular, the Special Committee considered the wealth of both the A- and B-sides of the Sackler Parties. Then, within the A- and B-sides, there are also significant disparities between the financial positions and holdings of the various individuals and family groups. The Special Committee also took into account differences among "pods" within each of the two sides in order to maximize the likelihood of recovery of the overall promised settlement amounts. The Special Committee also considered the value of the IACs, which are owned equally by the A- and B-Side families, and how the value of those assets would affect the overall recoverable assets.

With respect to the B-Side of the Sackler Families, the Special Committee considered the value and location of the B-Side wealth, which is concentrated in a number of trusts, companies and individuals located in the United States, the beneficiaries of the trusts, and the personal

[~~83~~78] See https://www.judgeforyourselves.info/wp-content/uploads/2021/04/2021.04.08-Response-from-Side-B-Former-Directors-to-March-11-Letter.pdf, at 240 of 419 (updating the January 2020 Raymond-Side Net Assets Report).

wealth of certain B-Side members of the Sackler Families who sat on the Board or may face personal liability in connection with the estate and third-party claims. B-Side members of the Sackler Families include historical Board members Richard, Jonathan (now deceased) and David Sackler, among others.

With respect to the A-Side, the Special Committee considered the location of the family's wealth, which is overwhelmingly in foreign jurisdictions, and the dispersion of funds across a number of family units and companies, as well as dozens of trusts. While members of the A-Side family also participated in the governance of Purdue Pharma, including Theresa, Kathe, Mortimer D.A., Ilene Sackler, and Samantha Hunt, other members of the Sackler Families (including on A-Side) had no direct role in the management of the Debtors.

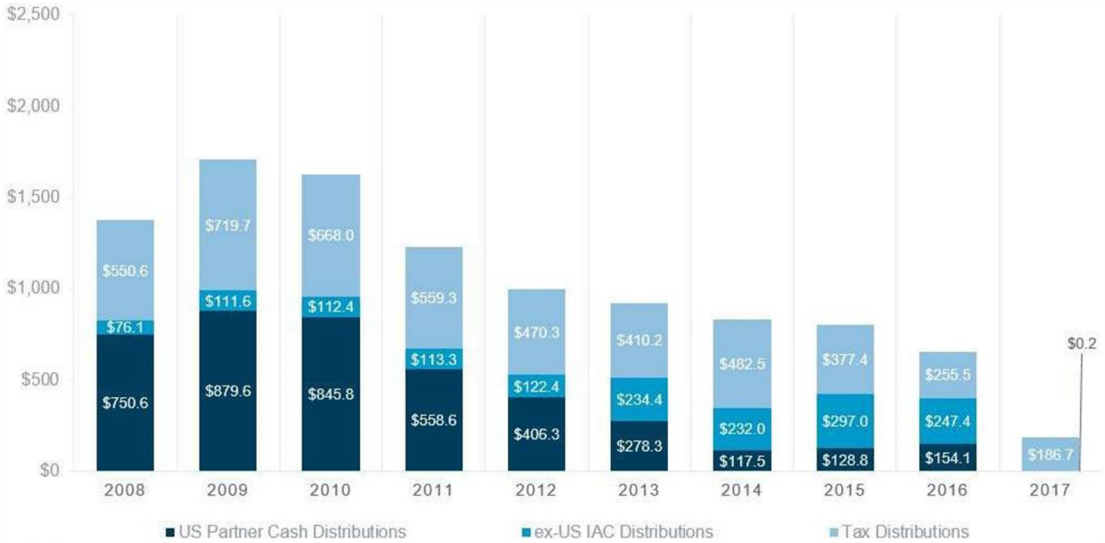
These considerations—including the uncertain prospects for enforcing potential U.S. court judgments against members of the Sackler Families and Sackler Parties, the differences between members of the Sackler Families, and the costs and delay that would be inherent in a multinational enforcement effort—make it difficult to conclude that continuing litigation outweighs the certain merits of the proposed Shareholder Settlements.

(2) Likelihood of Successful Litigation

The benefits of the Shareholder Settlements to the estate are to be weighed against an assessment of whether the Debtors' litigation would be successful—*i.e.*, the amounts that the Debtors might expect to recover in litigated judgments against the Sackler Parties. The litigation involves various potential claims, with varying prospects of success and different potential recoveries.

(A) The Debtors' Fraudulent Transfer Claims

As explained in more detail above, *see* Article II.E, *supra*, the Debtors' advisors have determined that from 2008 through 2019, the Debtors distributed approximately $10.4 billion in cash to Sackler Parties for the benefit of the Sackler Parties. The amounts of these distributions, which include distributions classified for tax purposes, are as follows:



In addition to these cash distributions, the Debtors' advisors have also catalogued non-cash distributions made for the benefit of the Sackler Parties from 2008 through 2019, as well as various commercial transactions between the Debtors and Sackler Parties, such as supply agreements, service agreements and license-and-royalty arrangements, during the same period. In the opinion of the Debtors' advisors, some of these commercial transactions between the Debtors and Sackler Parties did not reflect reasonable terms of exchange. To the extent that the Sackler Parties or Sackler Parties benefitted from above-market or below-market terms of exchange that were not reasonable, the excess benefits they obtained constitute additional transfers of value for the benefit of the Sackler Parties. Non-cash transfers and excess benefits based on non-market terms may total in excess of an additional $1.4 billion in value to or for the benefit of the Sackler Parties from 2008 through 2019.

Absent the Shareholder Settlements, the Creditors' Committee and/or any successors to the Debtors would litigate to recover all or some of these potential transfers of value made for the benefit of the Sackler Parties for the benefit of the Debtors' estates.[8479] The Creditors' Committee could pursue recovery of these transfers on a variety of legal theories, but the chief claims would be claims to recover fraudulent transfers, as provided under the Bankruptcy Code and applicable state law. The Bankruptcy Code authorizes debtors to assert two types of fraudulent transfer claims: constructive fraudulent transfers and intentional fraudulent transfers.

A constructive fraudulent transfer is one where the transferor (i.e., Purdue Pharma) received less than reasonably equivalent value for the transfer and was insolvent as of the date of the transfer or became insolvent as a result of the transfer. An intentional fraudulent transfer is one where the transfer was made with an actual intent to hinder, delay, or defraud creditors. A debtor's ability to recover assets that were fraudulently transferred may be limited by the applicable statute of limitations. The amount of recovery if a claim is proven may be increased by prejudgment interest.

In assessing the likelihood of success in litigating the Debtors' fraudulent transfer claims against the Sackler Parties, the key factors considered include:

1. whether Purdue Pharma was insolvent as of the time of a particular transfer made for the benefit of the Sackler Parties, such that the transfer was constructively fraudulent;
2. the strength of the evidence that a particular transfer was made with the intent to hinder, delay or defraud creditors, such that the transfer was intentionally fraudulent;
3. whether distributions made for purposes of funding tax payments owed by the Sackler Parties can be recovered on a theory of fraudulent transfer;
4. whether, under the applicable statute of limitations, certain transfers occurred too long ago for the Debtors to seek to recover them;
5. the time period and rate to be used in calculating prejudgment interest on a successful claim; and

[8479] On December 2, 2024, the Bankruptcy Court entered an order granting leave and sole standing to the Creditors' Committee to commence and prosecute claims held or that may be asserted by the Debtors' estates on behalf of the Debtors' estates. *Order Granting the Official Committee of Unsecured Creditors of Purdue Pharma L.P., et al. Sole Standing to Commence and Prosecute Estate Causes of Action* [D.I. 6979].

6. the Debtors' ability to collect a judgment on a successful claim.

Each of these key factors relating to the likelihood of the Debtors' success in recovering transfers for the benefit of the Sackler Parties is discussed below.

(B) Evidence of Insolvency

To prevail on a claim of constructive fraudulent transfer, a debtor must show that the debtor received less than reasonably equivalent value for the transfer and that the debtor was insolvent at the time of the transfer or was rendered insolvent as a result of the transfer.

At all times prior to the Petition Date—and thus for each of the transfers identified between 2008 and 2019—Purdue Pharma's balance sheet as presented in its audited financial statements indicated that the value of Purdue Pharma's assets exceeded that of its liabilities. The balance sheet is not determinative, however. Although as a general matter unliquidated litigation claims are not counted as liabilities for accounting purposes, courts may consider them when evaluating a debtor's liabilities for purposes of a claim of constructive fraudulent transfer. Even claims that were not asserted as of the date of a particular transfer may be considered liabilities in this context, if the court determines that the claim had "accrued" by that date and could be timely asserted under the relevant statute of limitations. Whether a claim had accrued and could be timely filed can vary depending on the type of claim, the governing law, the facts regarding the parties' conduct, the nature of the relief sought and the nature of the harm. In determining a debtor's liability for accrued but unasserted claims, courts take varying approaches that, among others, have included considering the likelihood that the plaintiff would succeed, the foreseeability of future litigation of the claims or evidence as to the value of such claims through adjudications or settlements. A court evaluating whether Purdue Pharma was insolvent as of the date of a particular transfer would accordingly assess whether, as of that time, Purdue Pharma's liabilities for accrued claims (even if unasserted) exceeded the value of its assets.

On this basis, the Debtors would seek to establish that Purdue Pharma was insolvent as of a date well prior to the Petition Date. The likelihood of being able to demonstrate that Purdue Pharma was insolvent would likely vary over time, in keeping with the changing circumstances. For example, the facts relevant to evaluating whether Purdue Pharma was insolvent in 2008 differ from the facts relevant to evaluating whether Purdue Pharma was insolvent in 2015 or 2019. Many different considerations are relevant to the insolvency analysis. One factor deemed relevant by some courts is the number of asserted claims as of a particular date (e.g., the date of a transfer). As of the Petition Date, approximately 2,600 lawsuits against Purdue were pending in various federal and state courts. Following the Petition Date, many thousands of proofs of claims were filed with the Court. These claims include those seeking recovery on behalf of cities, counties and states, which given their breadth could result in very significant amounts. However, the Sackler Parties would point to the fact that between 2008 and 2015, there were relatively few tort claims asserted against Purdue Pharma, and very few governmental claims. Given this history, a court would have to make a judgment as to when it was foreseeable that additional claims by governmental entities and others would be filed against Purdue Pharma, that Purdue Pharma would be deemed to have liability on those claims by governmental entities and others,

and that the aggregate liabilities of such claims exceeded Purdue Pharma's very significant enterprise value, so as to render it insolvent.

Even as of the Petition Date, after many such claims had been filed, none had proceeded to trial or resulted in a judgment against Purdue Pharma. Moreover, many of these claims rest on novel theories of liability. Unlike many other mass tort claims, such as asbestos claims, that have a more predictable value after many years of litigation, the claims against Purdue Pharma and other opioid manufacturers do not have a history of adjudicated values. The record of litigation against Purdue Pharma has been highly variable: Some cases have been dismissed as legally defective on the pleadings. In many others, courts have held that the complaints stated a valid claim for relief, and many of these were being litigated as of the time of the bankruptcy filing and stay of proceedings. Other cases asserting tort claims have been settled. In 2007, Purdue Pharma and three senior executives reached a settlement with the DOJ and the U.S. Attorney's Office for the Western District of Virginia that resolved federal criminal claims and certain civil claims for $634.5 million, on top of a $19.5 million settlement Purdue Pharma reached that same month with the attorneys general of 26 states and the District of Columbia to resolve certain civil claims. Despite the size of that resolution, Purdue Pharma's enterprise value exceeded amounts that it paid in settlements prior to filing for bankruptcy. In the aggregate, Purdue Pharma paid approximately $342 million in settlements from 2008 through 2019, excluding matters involving patents and similar intellectual property disputes.

Liabilities based on the total claims asserted by the federal government and resolved through the DOJ Resolution, including those that were not admitted to by the Debtors, would exceed Purdue Pharma's enterprise value today. Courts would likely consider the DOJ Resolution in determining Purdue Pharma's insolvency over time. While there are arguments against the appropriateness of such consideration, the DOJ Resolution, if taken at face value, would support a claim of insolvency prior to the Petition Date. Courts would then have to determine how the liabilities accrued over time. In doing so, a court could consider the various public documents filed by the government. For example, based upon the Agreed Statement of Facts associated with the Plea Agreement, a court might consider the nature and length of the conspiracies alleged. The documents do not explain how liability accrued over time. Further, if a court concluded that significant liabilities accrued in earlier years, as noted above, the court would have to balance such accrued liabilities against Purdue Pharma's significant enterprise value in those years.

There is, accordingly, uncertainty as to whether and to what extent the Debtors would prevail in recovering all relevant distributions based on a constructive fraudulent transfer claim.

(C) Evidence of Intent to Hinder, Delay or Defraud Creditors

To prevail on a claim of intentional fraudulent transfer, a debtor must show that the transferor acted with the intent to hinder, delay or defraud creditors. Such a showing would likely need to be proven by a standard of clear and convincing evidence, not merely a preponderance of the evidence, and it would need to be proven with respect to each individual transfer challenged as having been made with fraudulent intent, including where individuals acted based on multiple interests and motivations.

There is an extensive discovery record in this case. As is described more fully in Article III.Q. above, Purdue Pharma has produced more than 12.5 million documents it had previously produced in prior litigations and to the DOJ, as well as an additional 680,000 documents it produced in response to requests from the Creditors' Committee. For their part, the Sackler Parties have collectively produced over 1.5 million documents.

Within these materials are documents that could be used to argue that, as early as 2007, individual members of the Sackler Parties and members of the Board believed that Purdue Pharma faced substantial legal risks related to its sale and marketing of OxyContin and other opioid products, such as Hysingla ER and Butrans (collectively, the "**Opioid Products**"). In addition, some documents reflect concerns, at various times, about the concentration of the Sackler Parties' wealth in Purdue Pharma, including in respect of legal risks to the business, and discussions of ways to diversify the Sackler Parties' wealth beyond their investment in Purdue Pharma, including through strategies to distribute Purdue Pharma's assets. The Sackler Parties likely would argue in response that there are also contemporaneous indications throughout the period from 2007 through 2017 that certain individual members of the Sackler Parties and members of the Board did not consider those legal risks to present a threat of insolvency, but instead considered them to be manageable, just as Purdue Pharma had managed its liability exposures to the federal government, 26 states, and the District of Columbia in settling claims with those entities in May 2007 for approximately $650 million. It is uncertain how a court or jury might evaluate the full body of evidence in an ex post facto reconstruction of the intent of the PPI Board and members of the Sackler Parties as of the time of past transfers.

The record of Purdue Pharma's transfers for the benefit of the Sackler Parties reflect a large increase in the amount of cash distributions beginning in 2008, shortly after Purdue Pharma's large federal and state government settlements. At the same time, the Sackler Parties would likely argue that the increase in distributions coincided with a significant increase in Purdue Pharma's revenues, profits and cash position; and that documents show instances in which members of the Sackler Parties chose to reinvest in the business rather than take additional cash distributions. The Sackler Parties may also point to documents indicating that certain transfers of assets and certain off-market intercompany dealings were made based on rational business planning or the continuation of practices, such as distributions for tax purposes, that were consistently followed throughout Purdue Pharma's history going back well before 2008.

While the foregoing does not reflect the full record and considerations available in pursuing a claim of intentional fraudulent transfer, it demonstrates the uncertainty that would face the Debtors if they needed to establish that Purdue Pharma made transfers for the benefit of the Sackler Parties with the intention to defraud Purdue Pharma's creditors; or, significantly, that Debtors could succeed in establishing a right to recover amounts on such a claim in excess of the present value of the Shareholder Settlements.

(D) Tax Distributions

Since its formation on June 12, 1991 as a Delaware limited partnership, Purdue Pharma has been treated as a "pass-through" entity for U.S. federal income tax purposes, which means

that it was not itself subject to U.S. federal income tax. Purdue Pharma's taxable income instead "passed through" to, and was reportable by, its shareholders.

As set out in agreements entered into by the Sackler Parties, the Debtors distributed amounts equal to the income tax liability at the highest tax rate of any shareholder. Approximately $4.7 billion of the $10.4 billion of cash distributions identified in the 1A Report were identified as tax distributions.

The Debtors would argue that, for any period in which Purdue Pharma was insolvent, tax distributions can be recovered as transfers for less than reasonably equivalent value, because they were paid for the benefit of the Sackler Parties without any corresponding benefit to Purdue Pharma. The Sackler Parties would argue in response that the tax distributions were made so Purdue Pharma itself could receive the benefit of being structured as a limited partnership, and thus, not have any entity-level tax obligations. If it had not been designated as a pass-through entity for tax purposes, Purdue Pharma would have been subject to the federal statutory corporate tax rate of 35% during most of the relevant period. Many comparable pharma companies had lower overall effective tax rates, and, accordingly, the amount of taxes that Purdue Pharma would have owed, had it been a taxpayer, is uncertain. It is difficult to predict how courts would resolve these tax issues. Courts have reached different conclusions, and the case law is sparse on whether tax distributions should be regarded as transfers "for reasonably equivalent value" in circumstances where the transferor is (like Purdue Pharma) organized as a pass-through entity for purposes of income tax liability and the income associated with its operations is instead assigned to its partners. In addition, a March 26, 2025 decision by the Supreme Court, *United States v. Miller*, 604 U.S. ___ (2025) placed certain limitations on the ability of estate representatives to avoid certain tax payments pursuant to Bankruptcy Code section 544(b). Although the circumstances in that case were distinguishable, it presents another litigable issue in the event claims to recover certain tax distributions for the Sacklers were litigated.

Given the lack of uniformity in case law and the lack of controlling authority in the Second Circuit, it is uncertain whether a court would determine that the $4.7 billion in tax distributions made by Purdue Pharma from 2008 through 2017—a significant portion of the total distributions during this period—were transfers for less than "reasonably equivalent value" that could be voided as fraudulent transfers if Purdue Pharma had been insolvent at the time that each tax distribution was made.

(E) Statute of Limitations

A statute of limitations defines the period in which a debtor may recover transfers. Here, the first fraudulent transfer claims were brought by the New York Attorney General on March 28, 2019, which had the effect of stopping or "tolling" the limitations period.

Under Section 548 of the Bankruptcy Code, the Debtors can recover any fraudulent transfers made up to two years before the Petition Date. As such, a claim pursuant to section 548 would only allow the Debtors to recover transfers made beginning in September 2017, after which there have been limited transfers from Purdue Pharma to or for the benefit of the Sackler Parties.

The Debtors could also proceed under Section 544, which allows the Debtors to bring fraudulent transfer claims under applicable state or federal laws. The Debtors could proceed pursuant to Connecticut's Uniform Fraudulent Transfer Act, which provides for a four-year statute of limitations, under the Federal Debt Collection Procedures Act, which provides a six-year statute of limitations, or under other statutes. Because of the involvement of state creditors here, there are also colorable legal arguments that a ten-year statute of limitations could also be appropriate, or that statutes of limitations are inapplicable given the claims asserted by certain state creditors may not be subject to a limitation period under applicable state law. In addition, both Connecticut and Federal law apply a so-called "discovery rule," which tolls the statute of limitations in respect of intentional fraudulent transfer claims to the point when the plaintiff became aware of or should have been aware of the fraud. Such arguments are based on state statutes and case law specific to cases, as here, involving state claimants but have not been significantly developed in the context of bankruptcy proceedings. If the Debtors are not able to prevail on their ability to extend the statute of limitations to go back further in time, or to use an equitable argument to potentially stop the limitations clock from running for some period, the Debtors would be able to seek to recover transfers made from and after either 2015 or 2013, depending on whether the limitations period is determined to be four or six years, respectively. As discussed above, distributions from Purdue Pharma had largely ceased by 2017, thereby limiting the amount Debtors would likely be able to recover.

(F) Prejudgment Interest

The amount of a debtor's potential recovery in connection with transfers made at a time of insolvency or with an intent to defraud creditors can depend significantly on whether or not the recovery is augmented by an award of "prejudgment" interest. Awards of prejudgment interest are not mandated under the Bankruptcy Code. Whether and in what amount to award prejudgment interest are questions for the court's discretion.

A number of factors would affect a prejudgment interest award. *First*, while the decision whether to award any prejudgment interest is entirely up to the court's discretion, courts typically do award prejudgment interest in fraudulent transfer cases. *Second*, the rate at which prejudgment interest is awarded is also discretionary. Assuming Connecticut law applies, the maximum rate is 10% per annum, but courts can award prejudgment interest at a lower rate more in line with prevailing market rates. *Third*, courts have the discretion to award prejudgment interest from the date the transfer was made *or* from the date the fraudulent transfer lawsuit was filed. How a court might ultimately rule on these discretionary matters would materially affect the potential recovery here, where certain transfers were made in 2008, but the first fraudulent transfer complaint was not filed until eleven years later in 2019.

(G) Collectability of Potential Judgments

Fraudulent transfer claimants can recover from both the transferees, including trusts, and the parties for whose benefit a transfer is made. Importantly, this means that through a fraudulent transfer claim, a claimant may recover from a spendthrift trust, which could otherwise be considered "judgment proof" in connection with other types of claims. Here,

depending on the resolution of the legal and factual issues discussed above, the Debtors and other claimants could potentially recover up to the total net worth of the Sackler Parties.

However, there are various obstacles to litigating, enforcing, and collecting against the Sackler Parties that create uncertainty with respect to the sums that may ultimately be recoverable. For one, while the Sackler Parties are frequently described as a monolithic entity, there are, in fact, dozens of members of the Sackler Parties spread out around the globe over a number of independent family units and ranging in ages from very small children to senior citizens. The vast majority of them never served on the Board or otherwise held employment by the Debtors, and because many members of the Sackler Parties are not U.S. citizens, they are potentially beyond the reach of U.S. jurisdiction. Therefore, in order to obtain any significant recovery, the Debtors and other claimants would not be able to simply file a lawsuit against "the Sackler Parties," but would instead have to separately sue, prevail, and collect against each of these individuals (and entities), and expend considerable resources in multiple jurisdictions without any guarantee of success.

Additionally, as has been documented, most of the Sackler Parties' wealth is concentrated in dozens of trusts—several of which were established before the invention of OxyContin—located both within and outside the United States. As disclosed in the 1A Report, while distributions from Purdue Pharma were initially made to two primary trusts, funds have subsequently been dispersed not only to individual members of the Sackler Parties around the world, but also to dozens of trusts created for their benefit, including many that are located in the Bailiwick of Jersey in the Channel Isles or other locations, which may not subject to the Bankruptcy Court's jurisdiction. Notably, in order to recover assets held in Jersey, the Debtors would likely have to commence a *de novo* fraudulent transfer action in Jersey and relitigate all of the claims against each of these individual trusts.

Thus, the Debtors and other claimants may not be able to recover the full amount of a fraudulent transfer judgment, and would likely spend years and significant legal fees attempting to do so. By contrast, the Sackler Parties have consented to the jurisdiction of the Bankruptcy Court for settlement enforcement purposes, and, in considering the proposed Shareholder Settlements, the Debtors have taken into account these factors in contemplating the collectability of any judgments obtained in U.S. courts.

(H) Other Potential Claims of the Debtors' Estates

In addition to the fraudulent transfer claims, the Debtors' Estates could also pursue unjust enrichment and breach of fiduciary duty claims. Factors that affect the likelihood of a successful litigation of each of those claims are discussed in turn below.

(A) **Unjust Enrichment**

The Debtors could bring an unjust enrichment claim against the recipients of any of the assets wrongfully extracted from Purdue Pharma. The Debtors could argue that the various cash and undervalued non-cash transfers unjustly enriched the recipients thereof at the expense of the Debtors' Estates and, in turn, the creditors. Any unjust enrichment claim would likely be based on the same set of facts as the fraudulent claims; however, the Debtors would not have to prove

actual or constructive fraud. They would instead have to prove that any funds transferred out of Purdue Pharma could have been used to satisfy its creditors and that equity and good conscience require the return of the funds to the Debtors for the benefit of all creditors. Even if the Debtors were to prevail in establishing a right to recover under a theory of unjust enrichment, they would likely not be able to seek double recovery under both unjust enrichment and fraudulent transfer theories.

Any unjust enrichment claim is limited to a six-year lookback period, which would only allow the Debtors to seek recovery of transfers dating back to 2013. If they were to succeed on an unjust enrichment claim, the Debtors' ability to collect any such claim would be subject to the same considerations that apply in the fraudulent transfer context.

(B) **Breach of Fiduciary Duty**

The Debtors could potentially assert claims for breach of fiduciary duty against the members of the Board. As a general matter, the general partner of a limited partnership (and, by extension, its board of directors) owes the fiduciary duty of loyalty to the limited partnership.[~~85~~80] Directors may be liable for a breach of fiduciary duty where they engaged in self-dealing transactions, where they directly caused the partnership to violate the law, or where they failed to implement or adequately monitor internal compliance programs.

In the case of Purdue Pharma, claims of breach of fiduciary duty based on a theory of self-dealing transactions would largely overlap in terms of evidence and substance with the potential claims of fraudulent transfer discussed above. Such claims accordingly would be unlikely to add any significant recovery beyond what would already be available to the Debtors under a fraudulent transfer theory. Indeed, the prospects for recovery may be more limited on claims for breach of fiduciary duty, because recovery would have to be pursued against individual entities for breach of duty, rather than against a transferee of funds based on receipt of a transfer that was either constructively or intentionally fraudulent.

Generally, claims for breach of fiduciary duty by board members based on a failure of oversight face significant challenges of proof. The limitation period for asserting a claim of breach of fiduciary duty is likely to be three years, counted from the date of the Debtors' bankruptcy filing in September 2019. Thus, any actions from September 2016 forward that would give rise to liability could potentially support a claim. There may be grounds for asserting that Purdue Pharma itself engaged in misconduct after September 2016—particularly in light of facts accepted in connection with the recent guilty plea on federal criminal charges—yet there would also have to be evidence tying such conduct to individual members of the Board.

Members of the Sackler Parties will argue, as they have publicly stated, that the record shows that Purdue Pharma had a compliance program in place and that the Board received regular briefings with respect to it. In order for the Debtors to prevail, a court or a jury would

[~~85~~80] Partners may choose to disclaim the fiduciary duty of loyalty; however, Purdue Pharma's limited partnership agreement made no mention of the duty until March 7, 2018, when it was amended to disclaim the duty. Accordingly, Purdue Pharma would argue that PPI's directors owed Purdue Pharma a duty of loyalty up until March 7, 2018.

need to conclude that members of the Board had reason to doubt such reassurances and failed in their capacities as members of the Board to adequately monitor the compliance program. It is therefore uncertain whether the Debtors will be able to recover on a breach of fiduciary duty claim premised on the theory that any particular director, or all directors, caused Purdue Pharma to engage in illegal conduct in the period after September 2016.[~~86~~81]

(C) **Third-Party Claims**

The Shareholder Settlements allow claimants to choose—but do not require them—to provide the Shareholder Direct Claims Releases pursuant to the Shareholder Release Consent Mechanism applicable to the applicable Class of such Claims. Any such Settling Creditor that elects to grant the Third-Party Releases will share in substantial additional distributions available under to the Direct Claims Settlements. Critically, each individual claimant will have the opportunity to make an independent election to grant the Third-Party Releases applicable to that claimants' own direct claims in exchange for additional incremental consideration, or to preserve any such claims should they wish to do so.

Third-party creditors of the Sackler Parties have brought a variety of claims arising from Purdue Pharma's and the Sackler Parties' roles in manufacturing and marketing the various Opioid Products, including OxyContin. These claims include, but are not limited to, product liability, wrongful death, negligence, including negligent misrepresentation, negligence per se and gross negligence, fraud, fraudulent concealment, deceit and other willful misconduct, unjust enrichment, public nuisance, and claims under state consumer protection and controlled substances laws.

While the Debtors recognize the tragic circumstances underlying these suits, third-party creditors nonetheless face various legal hurdles in proving the elements of their claims and collecting on any judgments. Notably, third-party creditors would need to specifically prove that individual members of the Sackler Parties engaged in conduct that would give rise to personal liability and that such conduct caused the harms allegedly sustained by such third parties. The Sackler Parties would expend significant resources in defending against any direct claims. Among other things, they would likely argue that while Purdue Pharma manufactured, distributed and marketed its Opioid Products, other parties contributed to the chain of events relating to prescriptions for, consumption of, and harm resulting from, the Opioid Products. Generally, these medications were prescribed for patients by licensed medical doctors, and the prescribing judgments by these "learned intermediaries" have been recognized in court decisions to provide a legal defense to manufacturers of drugs for harms they cause, including harms for opioid addiction allegedly caused by the Opioid Products.

Other potential defenses by members of the Sackler Parties would include possible misuse of prescription opioids or wrongful conduct by victims, which could potentially preclude or limit liability on the part of the Sackler Parties or other released parties. State and local nuisance claims face similar hurdles. As noted above, those claims are novel, and the law remains unsettled. In some cases, lawsuits against Purdue Pharma and members of the Sackler

[~~86~~81] Absent extensions, the statute of limitations on a breach of fiduciary duty claim is three years.

Parties have been dismissed on various legal grounds, including causation and standing. Many others have survived motions to dismiss, including those alleging claims against certain members of the Sackler Parties brought by Massachusetts and Rhode Island.[8782] However, none had been tried to final judgment at the time of the bankruptcy filing and stay of litigation.

As a result, those third-party claims are uncertain and highly speculative. Even if a particular creditor were able to prevail in holding some individual members of the Sackler Parties liable and recover from those individuals, for the reasons discussed above, the vast majority of creditors who do not win the race to the courthouse would likely receive nothing.

The Sackler Parties have also submitted filings laying out their own views of the claims against them and their defenses: the *Reply by the Side A Initial Covered Sackler Persons in Support of Disclosure Statement for Second Amended Plan* [D.I. 2833] and the *Submission by The Raymond Sackler Family of a Proposed Position Statement for Inclusion or Reference in the Debtors' Disclosure Statement* [D.I. 2853].[8883]

(3) Complexity, Expense and Delay of Litigation & Difficulties of Collecting Judgments

The second *Iridium* factor—the complexity of the litigation and the likelihood of attendant cost, inconvenience and delay, and likely difficulties in collecting judgments—weighs in favor of the Shareholder Settlements. As explained in detail above, the claims of the Debtors and other parties would require adjudications of many complex matters, including detailed evidence of conduct and events that occurred over many years. These complex matters would include, among others, litigation over evidence regarding the intent behind numerous distinct distributions of assets from Purdue Pharma at different times over a period of years, Purdue Pharma's own accrued liabilities to third parties, if any, at different times—and its solvency or insolvency at particular times in view of any such liabilities. There would also be complex questions of causation and statutes of limitations, as noted above. Many of these issues would likely be litigated, at least in part, through complex expert opinions. The expense of litigating these claims to conclusion would be material and would diminish the Debtors' Estates and the potential assets of the defendants that would be available to satisfy any judgments that the claimants might be capable of obtaining after years of litigation.

There is also a significant risk of difficulties in collecting judgments against the Sackler Parties. The damages that could potentially be recovered in litigation are necessarily limited by

[8782] *See Commonwealth v. Purdue Pharma L.P., C.A.* No. 1884CV01808, 2019 WL 6497887 (Mass. Super. Ct. Nov. 4, 2019); State v. Purdue Pharma L.P., C.A. No. PC-2018-4555, 2019 WL 3991963 (R.I. Super. Ct. Aug. 16, 2019).

[8883] Copies thereof may be obtained at no charge from the Solicitation Agent by (a) calling the Debtors' restructuring hotline at (844) 217-0912 (toll-free) or (347) 859-8093 (international); (b) visiting the Debtors' restructuring website at https://restructuring.primeclerk.com/purduepharma; (c) writing to Purdue Pharma Ballot Processing, c/o Kroll Restructuring Administration LLC, 850 Third Avenue, Suite 412, Brooklyn, NY 11232; and or (d) emailing purduepharmainfo@kroll.com. You may also obtain copies of any pleadings filed in these Chapter 11 Cases for a fee via PACER at http://www.nysb.uscourts.gov.

the assets that could be reached to satisfy a judgment. According to information reviewed by the Debtors' representatives, the assets of the Sackler Parties exceed the settlement payments by a meaningful amount, but there are potential legal impediments to enforcing possible future court judgments against all of those assets. Some assets, for example, are held in trusts or held personally by individuals in foreign jurisdictions. The ability of the Debtors or third parties to enforce possible future judgments, if obtained, against such assets is uncertain. Accordingly, there is significant risk that the litigation of claims against the Sackler Parties and affiliated entities could result in recoveries of amounts less than the payments to be made by the Sackler Parties under the Shareholder Settlements.

With respect to third-party claims against the Sackler Parties, even were a claimant to succeed in establishing its claim, the claimant would still face the challenge of collecting on a judgment against the liable party. As noted above, a significant portion of the wealth of the Sackler Parties is held in trusts, both inside and outside the United States. These family trusts are irrevocable, non-donor, spendthrift trusts, and as a result, a plaintiff would face significant challenges in collecting the trusts' assets to satisfy a judgment against an individual member of the Sackler Parties. Under Connecticut and Wyoming law, which govern most of the relevant trusts, a plaintiff seeking to enforce a judgment cannot recover a defendant's assets held in spendthrift trusts. A creditor can only garnish or attach trust assets after the assets are distributed to the beneficiaries.

(4) Interest and Support of Creditors & Expertise of Representatives

The third, fourth, and fifth factors from the *Iridium* case—the interest and support of the creditors, and the expertise of their representatives—similarly weigh heavily in favor of the settlements. ~~[~~The vast majority of creditors, including the Creditors' Committee, AHC, MSGE Group, the Native American Tribes Group, the Ad Hoc Group of Individual Victims, the Ad Hoc Group of Hospitals, the ER Physicians, the Third-Party Payor Group, the Ratepayer Mediation Participants, the NAS Committee, and the Public School District Claimants support or have no objection to the Shareholder Settlements, subject to satisfactory resolution of certain terms that continue to be negotiated.~~]~~[89] The Debtors and these committees and other creditors have been represented by experienced and reputable counsel and financial and economic advisors.

(5) Releases of Sackler Families and Other Specified Persons

The sixth *Iridium* factor—the nature and breadth of releases of officers and directors or other third parties—is relevant here because the Plan contains Debtor releases of claims against the Sackler Families and certain other persons. Under the Shareholder Settlements, the Sackler Parties will pay up to $7 billion to creditors—a very material sum that will enable the Debtors to satisfy the Plan, including the Private-Side Resolutions, and help to secure the DOJ Resolution. The agreement by the Sackler Parties to pay these very significant amounts is part of an integrated settlement agreement that includes claimants receiving material consideration on account of their claims against the Debtor estates plus claimants having the additional

[89] ~~[**NTD:** subject to ongoing review.]~~

opportunity to receive additional value on account of Direct Claims if they elect to grant third-party releases for the benefit of the Sackler Families and related persons.

(6) Arm's Length Negotiation of Settlement Terms

The final *Iridium* factor—whether the Shareholder Settlements was achieved through arm's-length bargaining—is plainly present here. The Shareholder Settlements was reached in multiple stages after many years of vigorous arm's- length bargaining by the Special Committee, the Creditors' Committee, AHC and MSGE Group, and other key stakeholders and was facilitated by highly regarded professional (and indefatigable) mediators.

3. The Special Committee's Investigation and Approval of the Subsequent Shareholders Settlement of Claims Against the Sackler Parties

With the Special Committee's authorization, the Debtors continued to play an active role in the Post-SCOTUS Decision Mediation. Throughout these negotiations, the Debtors' counsel and financial advisors provided regular updates to the Special Committee through emails, calls, and virtual and in-person meetings on the status of negotiations and the various proposals and counterproposals made by the mediation parties. The Special Committee met no fewer than 13 times during this period to discuss the Debtors' approach and position on various matters. The Special Committee approved or delegated authority with respect to the offers and counter-offers made by the Debtors during the course of these negotiations.

In early March 2025, the Special Committee received drafts of the Plan, this Disclosure Statement, the Shareholder Settlement Term Sheet and other key documents and information. On March 13, 2025, in advance of the full board meeting, the Special Committee approved the Shareholder Settlements as a component of the global settlement proposed through the Plan. Following this approval, the full Board considered and approved the remaining components and authorized the filing of the Plan and the Disclosure Statement.

Z. Prosecution of Claims and Causes of Action Related to the Debtors' Insurance Coverage

On January 20, 2021, the Bankruptcy Court approved the *Stipulation and Agreed Order Granting Joint Standing to Prosecute Claims and Causes of Action Related to the Debtors' Insurance Coverage to (1) the Official Committee of Unsecured Creditors and (2) the Ad Hoc Committee of Governmental and Other Contingent Litigation Claimants* [D.I. 2305] (the "**Insurance Stipulation**"). On January 29, 2021, the Debtors, the Creditors' Committee and the Ad Hoc Committee commenced an adversary proceeding under the authority of the Insurance Stipulation by filing the *Complaint for Declaratory Relief*, Adv. Pro. No. 21-07005 (RDD) [D.I. 1] (the "**Insurance Complaint**"). The Insurance Complaint sought an order declaring the present and future rights, duties, and liabilities of the Debtors and the Defendant Insurers under the Debtors' Insurance Policies (each as defined in the Insurance Complaint) and directing the Defendant Insurers to indemnify the Debtors for, or pay on their behalf, damages suffered by the Debtors arising out of the Pending Actions. *E.g.*, Insurance Complaint ¶ 9.

On September 15, 2023, the Bankruptcy Court issued an order approving the stipulation amongst the parties to stay the adversary proceeding until approximately thirty (30) days after the

Harrington Decision [D.I. 283]. The Supreme Court issued a decision on June 27, 2024, a mediation among the Debtors and key stakeholders commenced on July 10, 2024, and on August 9, 2024 the Bankruptcy Court issued an order approving a stipulation amongst the parties to stay the adversary proceeding until approximately thirty (30) days after the mediation concludes [D.I. 289].

AA. Omnibus Claims Objection Procedures

On March 16, 2021, the Debtors filed the *Motion of Debtors for Entry of Order Approving (I) Omnibus Claims Objection Procedures, (II) Omnibus Claims Settlement Procedures and (III) Omnibus Claims Hearing Procedures* [D.I. 2490] (the "**Omnibus Claims Procedures Motion**"). Pursuant to the Omnibus Claims Procedures Motion, the Debtors sought entry of an order approving certain procedures to (a) object to claims (the "**Omnibus Claims Objection Procedures**"), (b) settle disputed claims without further Bankruptcy Court approval (the "**Omnibus Claims Settlement Procedures**"), and (c) streamline hearings on contested claims (the "**Omnibus Claims Hearing Procedures**"). The Bankruptcy Court granted the relief requested in the Omnibus Claims Procedures Motion on April 22, 2021 [D.I. 2696].

BB. Disclosure Statement Hearing and Confirmation Hearing

The hearing to consider approval of the Disclosure Statement ~~will take~~took place on June 18, 2025 at 10:00 a.m. (Prevailing Eastern Time) and June 20, 2025 at 1:00 p.m. (Prevailing Eastern Time). The deadline to object to the approval of this Disclosure Statement ~~is~~was June 11, 2025 at 4:00 p.m. (Prevailing Eastern Time). The Confirmation Hearing will be held on November 10, 2025 at 10:00 a.m. (Prevailing Eastern Time) to consider confirmation of the Plan.

CC. Post-Confirmation Developments

1. Post-Confirmation Mediation, Settlement and Appeals Process

On September 20, 2021, the Bankruptcy Court confirmed the Debtors' twelfth amended joint chapter 11 plan of reorganization (the "**Twelfth Amended Plan**"), which received the support of each of nine classes of creditors eligible to vote (the "**Voting Classes**") and over 95% of voting creditors, including 38 of 48 U.S. states. The Twelfth Amended Plan contemplated the release of the members of the Raymond Sackler family and Mortimer Sackler family (the "**Sackler Families**") from civil liability to Purdue and its creditors for any Purdue-related claims (the "**Release**") in exchange for their $4.275 billion contribution to the Debtors' estates. Despite nearly unanimous creditor support for the Twelfth Amended Plan, eight states and the District of Columbia (the "**Nine**"), the U.S. Trustee, the Canadian Municipality Creditors, the Canadian First Nation Creditors and a small number of *pro se* litigants appealed the Bankruptcy Court's order confirming the Twelfth Amended Plan (the "**Plan Confirmation Order**") to the United States District Court for the Southern District of New York (the "**SDNY District Court**"). The primary issue raised on appeal was whether creditors could be bound by the Release without their consent. In December 2021, the SDNY District Court overruled the Bankruptcy Court and vacated the Twelfth Amended Plan in the *Decision and Order on Appeal* [D.I. 279], as noted in *In Purdue Pharma, L.P.*, 635 B.R. 26, 118 (S.D.N.Y. 2021), holding that the Bankruptcy Code

did not permit binding third-parties to releases of their claims against the Sacklers without such creditors' consent (the "**SDNY Ruling**"). In January 2022, the SDNY District Court granted the Debtors' motion to certify the SDNY District Court's ruling for appeal to the Second Circuit. *See Order Granting the Petition for Leave to Appeal and Motion to Expedite* [D.I. 103].

Following the SDNY District Court's decision, in January 2022, the Bankruptcy Court re-appointed the Honorable Shelley C. Chapman to facilitate an additional round of mediation between the Sacklers and the Nine. *See Order Appointing the Honorable Shelley C. Chapman as Mediator* [D.I. 4260] (the "**Post-Confirmation Mediation Order**"). This fourth round of mediation culminated on March 2, 2022 with the filing of an agreed settlement term sheet. *See Mediators' Fourth Interim Report* [D.I. 4409] (the "**Post-Confirmation Settlement Framework**").

The Post-Confirmation Settlement Framework had three basic components: (i) the Sacklers' increased their total contribution to the Debtors' estates to $5.5 billion - $6 billion (depending upon the profits obtained from the sale of the Sackler Families' interest in certain non-U.S. pharmaceutical companies), of which approximately $277 million would be distributed through a supplemental fund for the benefit of the Nine (plus the State of New Hampshire), (ii) additional privileged materials of the Debtors' were included in the public document depository, and (iii) the Sackler Families and related foundations agreed to allow any U.S. institution to remove the Sackler name from its physical facilities and academic, medical, and cultural programs, scholarships, endowments, and the like. Judge Chapman also recommended that certain Sackler Family members, including former directors and officers of Purdue, participate in a special hearing before the Bankruptcy Court to provide a forum for opioid victims and their families to directly address those Sackler Family members. In exchange for these concessions (to be implemented through modification to the Twelfth Amended Plan), the Nine agreed to drop their opposition to the Twelfth Amended Plan, which left only the U.S. Trustee, the Canadian Municipality Creditors, the Canadian First Nation Creditors and a small number of *pro se* litigants in opposition to confirmation of the Twelfth Amended Plan. *See Motion of Debtors Pursuant to 11 U.S.C. § 105(a) and 363(b) For Entry of an Order Authorizing and Approving Settlement Term Sheet* [D.I. 4410].

In March 2022, the Bankruptcy Court approved the Post-Confirmation Settlement Framework. *See Order Pursuant to 11 U.S.C. §§ 105 and 363(b) Authorizing and Approving Settlement Term Sheet* [D.I. 4503].

In May 2023, the Second Circuit affirmed the Bankruptcy Court's approval of the Release and the Twelfth Amended Plan and reversed the SDNY Ruling. *Second Circuit Opinion* [D.I. 978] *In re Purdue Pharma L.P.*, 69 F.4th 45, 85 (2d. Cir. 2023).

The U.S. Trustee subsequently sought to stay the Second Circuit's decision while it petitioned the U.S. Supreme Court for review of the Second Circuit's ruling. While the Second Circuit denied this request, the U.S. Supreme Court granted certiorari to hear the appeal and recalled the case from the SDNY District Court. The U.S. Supreme Court issued the Harrington Decision on June 27, 2024. It held that, other than in asbestos cases, the Bankruptcy Code does not authorize a release and injunction that is granted under a plan of reorganization that

effectively seeks to discharge claims against a non-debtor without the consent of affected claimants. *Id* at 207.

The court expressly limited its opinion to non-consensual third-party releases and made clear that its opinion "should not be construed to call into question consensual third-party releases offered in connection with a bankruptcy reorganization plan." *Id.* at 208. The court declined to express any view as to what constitutes a "consensual" third-party release.

2. Post-Harrington Decision Mediation

Following the Harrington Decision, the Debtors submitted a letter to the Bankruptcy Court requesting further mediation to facilitate negotiations among key stakeholders to reach modified settlement agreements and a modified Plan. *See Request for Status Conference* [D.I. 6498]. On July 10, 2024, the Bankruptcy Court entered an order directing the appointment Judge Chapman (Ret.) and Eric D. Green as co-mediators. *See Order Appointing the Honorable Shelley C. Chapman and Eric D. Green as Co-Mediators and Establishing Terms and Conditions of Mediation* [D.I. 6537]. Further orders were subsequently entered extending the appointment of the co-mediators.

Per the Bankruptcy Court's July 10 order, the key stakeholders in the bankruptcty proceeding re-initiated mediation negotiations (the "**Post-SCOTUS Decision Mediation**"). They included the Debtors, the Creditors' Committee, the Ad Hoc Committee, the MSGE, the "Covered Parties" consisting of the Initial Covered Sackler Persons and the Additional Covered Sackler Persons (each as defined in the *Amended and Restated Case Stipulation Among the Debtors, the Official Committee of Unsecured Creditors and Certain Related Parties* [D.I. 518]), the Ad Hoc Group of Hospitals, the NAS Committee, the Ad Hoc Group of Individual Victims, the Third-Party Payor Group, the Public School District Claimants, the Ratepayer Mediation Participants, (each as defined in the Thirteenth Amended Plan) and one or more negotiating committee(s) of State Attorneys General.

After nearly eight months of intense further mediation negotiations, including numerous in-person meetings, the Mediation Parties (as defined in the Mediation Orders) reached an improved global settlement (the "**Shareholder Settlement Agreements**") as set forth in the Master Shareholder Settlement Agreement, which is part of the Plan Supplement. The Shareholder Settlement Agreements will deliver up to $7 billion of value over fifteen years to claimants and communities across the country affected by the opioid crisis.

3. The Shareholder Settlements

The Shareholder Settlement Agreements are comprised of two separate but related components: the Estate Claims Settlement and the Direct Claims Settlements. Pursuant to the Estate Claims Settlement, for which approval is being sought from the Bankruptcy Court through the Plan, the Debtors will settle their claims against the Sackler Covered Parties, which claims are collectively called the Estate Causes of Action. The Plan includes both an Estate release of such claims and an allocation of the proceeds of such settlement among the creditors of the Debtors.

Pursuant to the Direct Claims Settlements, the Sackler Covered Parties will provide cash distributions to creditors who elect to participate in the settlement in exchange for releasing such creditors' direct claims against the Sackler Parties, other Related Parties, and certain non-debtor parties. Pursuant to an agreed allocation, all payments from the Shareholder Payment Parties will be split between the Estate Claims Settlement and the Direct Claims Shareholder Settlements and further allocated among the creditors of the Debtors.

Under the terms of the Shareholder Settlement Agreement, billions of dollars will flow into trusts established for the benefit of States and Subdivisions (as defined in the Master Shareholder Settlement Agreement), as well as other creditor groups such as health providers, Public School Districts, ER Physicians, and qualified personal injury claimants. Funding for the various trusts comes primarily from two sources: (i) the Shareholder Payment Parties who have agreed make up to $7.0 billion of cash payments over fifteen years[~~90~~84] and, on a contingent basis, up to $500 million of incremental cash realized from the sale of their IACs,[~~91~~85] and (ii) the Estates, which the Debtors expect will have approximately $927 million of cash available for distribution on the Effective Date,[~~92~~86] bringing the total anticipated cash consideration available to the creditors to approximately up to $7.4 billion.

Of the total available cash consideration, other than (i) the amounts being used to pay private claimants and (ii) any other costs necessary for consummation of the Plan and related to the Shareholder Settlement Agreement, all residual amounts will be available for distribution to the public claimants, subject to certain contingencies and reductions. Private claimant groups and the public schools in the Debtors' bankruptcy cases will receive, in the aggregate across all categories, up to $1.53 billion and $40.5 million, respectively, of the total available cash consideration (subject to reduction as noted above).

(i) **Reserves for Non-Released Direct Claims**

The Sackler Covered Parties' maximum contribution is designed to replicate a global settlement with consensual releases provided in exchange for payments, as litigation settlements typically do. In the event that creditors determine not to participate in the direct claims settlement, the Master Shareholder Settlement Agreement establishes three levels of "reserves." These "reserves" are available to fund "Litigation Costs" (as defined in the Master Shareholder Settlement Agreement) incident to opioid-related civil litigation against the Sackler Covered Parties, subject to certain limitations and conditions set forth in the Shareholder Settlement Term

[~~90~~84] Specifically, with respect to the Sackler Covered Parties contribution and subject to certain contingencies, (a) $1.5 billion will be due on the Effective Date; (b) $500 million will be due on the first anniversary of the Effective Date; (c) $500 million will be due on the second anniversary of the Effective Date; (d) $400 million will be due on the third anniversary of the Effective Date; and (e) the remaining $3.6 billion will be due over the remaining payment years in annual installments.

[~~91~~85] Under the Shareholder Settlement Term, the Sackler Covered Parties must use commercially reasonable efforts to sell IACs within seven years. If they fail to do so, the Master Disbursement Trust will have the option to seek a forced sale for a price in excess of a certain appraised amount.

[~~92~~86] The $927 million figure is based on current projections and subject to variability based on the Debtors' Effective Date, the cost of the Debtors' bankruptcy cases, and any legal, contractual or other restrictions on such cash.

Sheet. To be clear, if every claimant provides the Sackler Release, there will be no reserves and the Sackler Covered Parties will fund the full $7.0 billion.

The "reserves" are: first, out of the Shareholder Direct Settlement Portion, any amounts not paid by Sackler Parties for the Direct Claims Shareholder Settlements based on the failure of public or private claimants to participate in the global proposed settlement that will be deemed as "Retained Payments" that the Sackler Covered Parties must look to first to fund Litigation Costs. Second, "Released Claims Reserves" that will be funded with certain amounts from Estate Distributions that otherwise would have been paid to claimants who both do not provide the Sackler Release and whose claims have been disallowed. These amounts may be used for Litigation Costs relating to claims in such claimant's category, but only after the applicable Retained Payments have been fully utilized. Third, there will be a "Special Operating Reserve" (the "**SOR**"), which may only be used to fund Litigation Costs after the Retained Payments and Released Claims Reserves have all been exhausted (or unable to be used). On the Effective Date, the SOR will be funded with $200 million. To the extent necessary to fund Litigation Costs (and only to such extent and subject to the requirement to first use Retained Payments and the Released Claims Reserves), the SOR may be incrementally funded up to an aggregate of $800 million. Any unused amounts in the SOR and Released Claims Reserves will begin reverting to the States and Subdivisions in year five, so long as no "Material Litigation" (as such term is defined in the Master Shareholder Settlement Agreement) is then pending.

(ii) **Mechanisms for Consensual Releases and Impact on Reserves**

Consistent with the Harrington Decision, the Plan does not contain non-consensual Third-Party Releases. Instead, the Plan will provide public and private claimants the choice of whether to elect to provide Third-Party Releases. A claimant that grants the Third-Party Releases will receive its *pro rata* share of both (a) the Estate Distributions and other estate cash allocated to its class and (b) the Shareholder Direct Settlement Portion for its class, subject to the applicable Creditor Trust TDPs. A claimant that does not grant the Third-Party Releases will not receive a payment from the Shareholder Direct Settlement Portion allocable to its class. Such claimant may be eligible to receive its *pro rata* share of the Estate Distributions and other estate consideration if and when its claim is allowed. A claimant that does not grant the Third-Party Releases will not be enjoined from bringing litigation against any of the Sackler Covered Parties on account of its direct claims, if any, subject to certain terms and conditions described more fully in the Master Shareholder Settlement Agreement. The consent of States, other public entities and Tribes in Classes 4 and 5 will be sought through Direct Claims Shareholder Settlements. The consent of Public School Districts in Class 6, Hospitals in Class 7 and ER Physicians in Class 9 will be sought through Opt-Out Class Action Settlements, described in greater detail below. The consent of creditors in all other voting Classes will be sought through opt-in check boxes on the applicable form of Ballot.

The decision by a creditor in respect of the Third-Party Releases also impacts the processing of their Claim against the Debtors. A Channeled Claim held by a creditor that grants the Third-Party Releases (and thereby becomes a Settling Creditor) will be Allowed subject to any applicable Creditor Trust Documents and the holder of such Claim will be entitled to the *pro rata* share of the Shareholder Direct Claims Settlement and the Shareholder Estate Claims Settlement allocable to such Claim subject to the applicable Creditor Trust TDP. On the other

hand, a Channeled Claim held by a Non-Settling Creditor will be treated as a Non-Participating Channeled Claim and may be subject to objection. If an objection is interposed, such Non-Settling Creditors may be required to prove the Debtors' liability for such Claim. If successful, such a Non-Settling Creditor will be entitled to their *pro rata* share of the Estate Distributions, but not the Shareholder Direct Settlement Portion, allocable to the value assigned to such Claim subject to the applicable Creditor Trust TDP. For the avoidance of doubt, in both scenarios, Distributions, if any, to such Channeled Claim shall be subject to and determined in accordance with, among other things, the applicable Creditor Trust TDP. If no objection is interposed within a designated span of time—eighteen (18) months for PI Claims, two (2) years for all other claims—such Non-Participating Channeled Claims will also be Allowed.

(1) PI and Third-Party Payor Claims: Claims Administrator and Ballot Opt-In Mechanism

The Direct Claim Settlement Retained Payment Amounts and the amounts held in the Released Claims Reserves depend not only on the relative numbers of claimants that opt-in to the Third Party Releases in each class, but also on the relative value of those claimants' Claims. The Plan provides that the value of each claim for purposes of performing these calculations will be determined by the TDP applicable to each such class. On April 15, 2025, the Bankruptcy Court approved the *Joint Motion of the Debtors and the Official Committee of Unsecured Creditors for an Order (I) Appointing PI and TPP Claims Administrators; (II) Authorizing the Establishment of Claims Deadlines and Claims Objection Procedures and (III) Granting Related Relief* [D.I. 7310] (the "**Claims Administrators Motion**"), to appoint Claims Administrators to perform information-gathering and pre-processing in connection with PI Claims in Classes 10(a) and 10(b) and Third-Party Payor Claims in Class 8, concurrent with Plan voting and solicitation. Following this information-gathering process, the Debtors and Creditors' Committee anticipate filing omnibus objections to Claims for which sufficient substantiating information is not received by the Claims Administrators or otherwise had been provided as part of an applicable timely filed proof of claim. Any Claims that are disallowed by Final Order prior to the Effective Date pursuant to such process will not be included in the total amount of potential claims on the basis of which the various reserves are calculated, thus limiting the funds that must be held in reserve on account of Non-Participating Channeled Claims to value associated with potentially compensable claims. In the event that an objection filed pursuant to this process is not resolved as of the Effective Date, and the Holder of such Claim is a Settling Creditor, such Claim will be Allowed pursuant to the Plan, but any Distributions will be subject to the applicable TDP, and the TDP's calculation may not result in any Distributions on account of such Claim. These processes are described in greater detail in connection with the descriptions of such Classes' treatments below.

(2) Public Schools, Hospitals and ER Physicians – Opt-Out Class Action Process

The Shareholder Settlement provides Holders of Claims in Class 6 (Public School Claims), Hospitals that are Holders of Claims in Class 7 (Healthcare Providers Claims) and Holders of Claims in Class 9 (ER Physician Claims) the option to elect to grant consensual Third-Party Releases. The Direct Claims Shareholder Settlement Agreements applicable to such classes will be effectuated by means of Opt-Out Class Actions that will be filed in United States

District Courts by plaintiffs for purposes of obtaining approval from such Direct Claims Shareholder Settlement Agreements pursuant to Federal Rules of Civil Procedure 23(b)(3). Notice of such Opt-Out Class Actions, including the opportunity to opt-out, will be governed by the applicable District Court overseeing such litigation.

The Plan provides that any Holder of a Claim in Class 7 or 9 bound by the Opt-Out Class Action settling its direct claims against the Shareholder Released Parties will be treated for purposes of allowance and distribution as a Settling Creditor. The consideration to be provided in each Opt-Out Class Action Settlement will consist solely of the Shareholder Direct Settlement Portion allocable to the relevant classes.

Direct claims asserted by the Holders of Public School Claims in Class 6 are anticipated to be the subject of an Opt-Out Class Action filed in the United States District Court for the Northern District of West Virginia.

Direct claims asserted by the Hospitals which are Holders of Healthcare Provider Claims in Class 7 are anticipated to be the subject of an Opt-Out Class Action filed in the United States District Court for the District of New Mexico.

Direct claims asserted by the Holders of ER Physician Claims in Class 9 are anticipated to be the subject of an Opt-Out Class Action filed in a venue to be determined.

(iii) **Future Operations**

As part of the Plan, Purdue Pharma will cease to exist. On the Effective Date, the Debtors' businesses will be transferred to NewCo, which will in turn be wholly owned by an independent and newly-created Foundation. NewCo will be a private company, will be required to operate in a responsible and sustainable manner, and will be subject to the same laws and regulations as any other pharmaceutical company. NewCo will, however, be historic and unique because its charter will require it to continue to develop opioid overdose reversal and addiction treatment medications and to distribute these life-saving medicines at or below cost. The terms of the post-Effective Date structure are set for in Article III.T.

Finally, consistent with the Debtors obligations under the DOJ Resolution, the Plan contemplates the creation of the Public Document Repository, which is described in Article III.W. herein.

(iv) **Class Treatment**

The relevant Classes and the treatment that such Classes will receive based on the agreements reached in the Post-SCOTUS Decision Mediation are described in more detail below.

(1) Non-Federal Domestic Governmental Claims

Forty-nine states, the District of Columbia, and five U.S. territories filed Proofs of Claim against the Debtors seeking damages for, without limitation, alleged violations of consumer protection laws, public nuisance, fraud, negligence, negligence *per se*, elder abuse, violations of

racketeering and other statutes, lost revenue, past and future costs and expenses, unliquidated claims based on non-Medicaid population, abatement, fraudulent conveyances or transfers, taxes, fines, penalties, forfeitures, and other penal claims, statutory civil penalties, disgorgement, restitution, mandatory and prohibitory injunctive relief under their respective consumer protection laws, and violations or enforcement of police powers. Various cities, counties, municipalities, and other local governmental entities also filed Proofs of Claim against the Debtors seeking damages under similar theories. Pursuant to the Plan, Non-Federal Domestic Governmental Claims consist of any Claims against any Debtor held by a Domestic Governmental Entity other than the United States or a Tribe (including any Claim based on the subrogation rights of the Holder thereof that is not an Other Subordinated Claim), and not a Priority Tax Claim. All Non-Federal Domestic Governmental Claims and all Claims against Released Parties or Shareholder Released Parties that is held by a Domestic Governmental Entity (in the case of Shareholder Released Direct Claims, solely to the extent that such Domestic Governmental Entity is a Settling Creditor) other than the United States or a Tribe will be channeled to the Governmental Remediation Trust. The Governmental Remediation Trust will be funded in an initial amount of all Effective Date Cash remaining after the satisfaction of all amounts described in Section 5.14(a) of the Plan and the SOR Holdback. In addition, the Governmental Remediation Trust may be entitled to (i)(A) its share of distributions of MDT Distributable Value in accordance with Section 5.2(f)(i)(A) of the Plan and the MDT Priority Waterfall and (B) the reversion rights from the Special Operating Reserve as set forth in the Plan, the Master Shareholder Settlement Agreement, and the Governmental Entity Shareholder Direct Settlement Agreement, as applicable, and (ii) 96.7% of the Governmental NewCo Distributable Cash pursuant to Section 5.4(e) of the Plan.

(A) Interstate Allocation of Governmental Remediation Trust Funds

The funds distributed to the Governmental Remediation Trust under the Plan will be allocated to each State for use within that State largely based on a formula and methodology developed through extensive negotiations among the Attorneys General of various States. This methodology is based on, among other things, prescription opioid sales, the prevalence of pain reliever use disorder, overdose deaths, and population. Non-Federal Domestic Governmental Allocation is shown in a chart attached hereto as **Appendix F.**

(2) Tribe Claims (Class 5)

Various federally recognized American Indian or Alaska Native Tribes, bands, nations, pueblos, villages or communities (each a "**Tribe**") filed Proofs of Claim against the Debtors seeking damages for a range of alleged harms arising from opioids, including, without limitation, costs related to addiction treatment, therapy, hospitalization, as well as other costs relating to members of the Tribes impacted by opioid use and dependency. Pursuant to the Plan, Tribe Claims consist of any Claim against any Debtor held by a Tribe (including any Claim based on the subrogation rights of a Tribe that is not an Other Subordinated Claim), in its capacity as such. For the avoidance of doubt, claims of Tribes against Holders of PI Claims or Distributions payable to Holders of PI Claims, to the extent such claims exist, are not claims against any Debtor and therefore are not included in this definition of "Tribe Claims." All Tribe Claims and all Claims against Released Parties or Shareholder Released Parties that is held by a Tribe (in the

case of Shareholder Released Direct Claims, solely to the extent that such Tribe is a Settling Creditor) will be channeled to the Tribe Trust. The Tribe Trust shall receive, on the Effective Date, (i) the Initial Tribe Trust Distribution, (ii) the MDT Tribe Interest and (iii) the right to receive 3.3% of the Governmental NewCo Distributable Cash pursuant to Section 5.4(e) of the Plan.

Tribal Allocation Distribution Percentages are shown in a chart attached hereto as **Appendix E**. David R. Cohen and Layn Phillips, in their capacity as court-appointed Tribal Allocation Appointees, conducted a process with regard to the Janssen Tribal Master Settlement Agreement by which Tribal Allocation Distribution Percentages were determined, and which shall also form the basis for the distributions to the Participating Tribes. For the avoidance of doubt, the procedures implemented by the Tribal Allocation Appointee included: (1) each Participating Tribe had the right to meaningfully participate in the Tribal Allocation Appointees' decision as to whether to approve or modify the Interim Tribal Allocation Matrix and a right to be heard prior to the Tribal Allocation Appointees' final decision; (2) the Directors provided notice of the proposed settlement allocation to the unrepresented Tribes, and the Directors coordinated with the Tribal Allocation Appointees to set forth the procedures by which notice was provided; and (3) Unrepresented Participating Tribes had the same rights as the represented Participating Tribes within the settlement allocation process.

(3) Public School Claims (Class 6)

Certain elementary, middle, or secondary public school districts in the United States assert Claims against the Debtors for past and future costs, including special education costs, associated with educating students harmed as a result of the opioid crisis. Pursuant to the Plan, a Public School Claim consists of any Claim against any Debtor held by a public school district in the United States, in its capacity as such, that (i) has filed one or more Proofs of Claim; (ii) has a student population greater than 5,000 students; or (iii) has filed one or more opioid-related cases against the opioid industry in MDL 2804 McKinsey or other courts (each such public school district, a "**Public School District**"). All Public School Claims and all Claims against Released Parties or Shareholder Released Parties held by a Public School District in its capacity as such (in the case of Shareholder Released Parties, solely to the extent that such Public School District is a Settling Creditor)[~~93~~87] will be channeled to benefit the Public School Districts' Opioid Recovery Trust (the "**Public School Trust**").

The Public School Trust will be (i) funded with an initial amount of $25,560,000, less (i) the applicable Direct Claim Settlement Retained Payment Amount and (ii) the SOR Holdback in the amount of $60,000. In addition, the Public School Trust shall be entitled to funding from the Master Disbursement Trust in the amount of (i) $7,500,000 on the first anniversary of the Effective Date *less* the applicable Direct Claim Settlement Retained Payment Amount and (ii) $7,500,000 on the second anniversary of the Effective Date *less* the applicable Direct Claim Settlement Retained Payment Amount. If, as of the Effective Date, the Public School District Shareholder Direct Settlement has not been consummated, the Shareholder Direct Settlement

[~~93~~87] "Settling Creditor" with respect to Public School Claims means those Public School Districts that have consented to the Third-Party Releases pursuant to the Public School District Shareholder Direct Settlement.

Portion of the Initial Public Schools Distribution will be deposited into a third-party interest bearing escrow in accordance with the Master Shareholder Settlement Agreement on the Effective Date and distributed in accordance with Section 5.2(e)(i) of the Plan.

The Public School Trust is a grant making trust with Dr. Andrés Alonso serving as Special Trustee and Truist Bank serving as Trustee. The Public School Trust aims to help public school districts recover from the opioid crisis and develop responses to help educate students harmed by the opioid crisis. To date, the Public School Trust has been funded with distributions from the bankruptcy proceedings of Mallinckrodt plc and Endo International plc, as well as other litigation recoveries related to the opioid crisis. The Public School Trust is advised by the Committee of Public School Districts' Representatives (the "**PSDR**"), which is comprised of three to five individuals with experience in education or services for at-risk youth and is tasked with, among other things, facilitating communication between public school districts and the Special Trustee.

Public School Districts may apply for grants by submitting applications through the Public School Trust portal (https://www.schooldistrictopioidrecoverygrants.com). Applications are accepted on a cyclical basis, with the next round of awarded grants expected to be announced in June 2025. The grants will be awarded to independent public school districts who demonstrate, among other things, a clear need for opioid recovery and support services and a plan to integrate these services into their existing support frameworks. The grant program is designed to encourage eligible school districts to apply for funding where it can have the greatest impact, including for classroom services, school-based behavioral and mental health supports, instructional innovations, and other district and school-based supports that assist students harmed by the opioid crisis.

(4) Healthcare Provider Claims (Class 7)

Some providers of healthcare treatment services (excluding Domestic Governmental Entities) filed Proofs of Claim against the Debtors for, among other things, alleged increased or otherwise un- or under-reimbursed costs relating to the provision of services to or on account of persons who have, at some point, ingested opioids. Some of these Holders of Healthcare Provider Claims filed prepetition lawsuits, including some putative class actions, against the Debtors.[9488] The Holders of Healthcare Provider Claims have asserted the following causes of action, without limitation, against the Debtors: (i) violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961, *et seq.* ("**RICO**") and state law equivalents, (ii) nuisance, (iii) negligence, (iv) common law fraud, and (v) violations of state consumer protection statutes. Pursuant to the Plan, Healthcare Provider Claims consist of all Claims against any Debtor that are held by (a) a Hospital or (b) a non-Hospital provider of healthcare treatment services or any social services, in each case (a) and (b) that is not a Domestic Governmental Entity or a Physician. All Healthcare Provider Claims and all Claims against Released Parties or Shareholder Released Parties held by providers of healthcare treatment services, in their capacity as such, (in the case of Shareholder Released Direct Claims, solely to

[9488] Capitalized terms used in Article III.S.1 of the Plan shall have the meaning attributed to such terms in the Healthcare Provider Trust Documents and the Plan, as applicable.

the extent that such provider is a Settling Creditor) will be channeled to the Healthcare Provider Trust. The Healthcare Provider Trust will be funded in an initial amount of $263,498,910 from the Debtors, less (i) the SOR Holdback in the amount of $2,688,910, (ii) any applicable Direct Claim Settlement Retained Payment Amount, and (iii) any applicable Creditor Trust Advance Amount. In addition, the Healthcare Provider Trust may be entitled to the MDT Healthcare Provider Claim. If, as of the Effective Date, the Hospital Shareholder Direct Settlement has not been consummated, the Shareholder Direct Settlement Portion of the Initial Healthcare Provider Trust Distribution will be deposited by the Master Disbursement Trust into a third-party interest bearing escrow in accordance with the Master Shareholder Settlement Agreement on the Effective Date and distributed in accordance with Section 5.2(e)(i) of the Plan.[9589]

The Healthcare Provider Trust will make distributions (net of attorneys' fees and costs, including funding of the Common Benefit Fund) to those Holders of Healthcare Provider Claims that either (i) filed timely Proofs of Claim prior to the General Bar Date of July 30, 2020, or (ii) are listed on the national registry of hospitals maintained by the American Hospital Directory®, as in effect on the Effective Date, in each case to the extent that such Holders are either (x) Acute Care Hospitals in the United States that (i) are not owned or operated by a Domestic Governmental Entity; and (ii) treated patients diagnosed with opioid use disorder and/or other opioid-related conditions at any time from January 1, 2009, through (a) the Petition Date, for purposes of distributions from the Debtors themselves or (b) October 30, 2024 for purposes of distributions in respect of the Shareholder Released Direct Claims in the Opt-Out Class Action; or (y) Other Providers, subject to certain other eligibility criteria set forth in the Healthcare Provider Trust Distribution Procedures (those Holders of Healthcare Provider Claims that satisfy such criteria, the "**Healthcare Provider Authorized Recipients**"). In order to receive an abatement distribution from the Healthcare Provider Trust, Holders of Healthcare Provider Claims will be required to submit a Healthcare Provider Abatement Distribution Form (as defined with the Healthcare Provider Trust Documents) to the Healthcare Provider Trust accompanied by certain additional data. In particular, the Healthcare Provider Abatement Distribution Form includes, among other things, a requirement to (i) certify that such Holder adheres to the standard of care for the emergency department, hospital wards and outpatient clinics at the time of any prospective evaluation, diagnosis, and treatment of Opioid Use Disorder ("**OUD**"), including with respect to the applicable standard of care for the treatment of addiction, acute withdrawal and treatment for OUD with medication assisted treatment, and provides discharge planning and post-discharge care coordination for patients with OUD, including information for appropriate OUD treatment services and (ii) submit, to the extent not already submitted in connection with its Proof of Claim, Requisite Claims Data including, among other things, copies of all claims, complaints, proofs of claim, notices, settlement documents, releases, recoveries, compensation received, or similar documents that a Holder of a Healthcare Provider Claim submits or entered into in respect of claims asserted against or to be asserted against any

[9589] For the avoidance of doubt, only Hospitals shall be eligible to receive distributions from the Hospital Shareholder Direct Settlement, and the Hospital Shareholder Direct Settlement will include trust distribution procedures that will govern the distribution to Hospitals of proceeds from the Hospital Shareholder Direct Settlement. All members of Class 7 shall be eligible to receive Estate Distributions (Class 7's share of the Estate Settlement and any other Estate proceeds distributed to Class 7) allocable to Class 7, and the Hospital Trust TDP shall govern distribution of such Estate Distributions

other entity or person arising from or related to such Holder of a Healthcare Provider Claim's OUD program or related to any of the injuries that underlie such claim. The amount of the abatement distribution(s) made to each Healthcare Provider Authorized Recipient shall be subject to a calculation methodology set forth in the Healthcare Provider Trust Documents that is based on (i) the diagnostic codes associated with operational charges incurred by the Healthcare Provider Authorized Recipient in connection with the treatment of OUD, (ii) the portion of such charges that were not reimbursed, and (iii) certain other weighted determination factors, as set forth in further detail therein.

Any Acute Care Hospital whose Released Claims or Shareholder Released Direct Claims have been released by any other settlement is not eligible to participate in the Healthcare Provider Trust.

Healthcare Provider Authorized Recipients will be required to spend all distributions from the Healthcare Provider Trust for Healthcare Provider Authorized Abatement Purposes, as defined in the Plan, including (i) the Authorized Abatement Purposes set forth in the Healthcare Provider Trust Documents or (ii) the payment of attorneys' fees and costs of the Holders of Healthcare Provider Channeled Claims (including counsel to the Ad Hoc Group of Hospitals) and funding of the Common Benefit Fund. Spending for a Healthcare Provider Authorized Abatement Purpose is designed to, among other things: provide transportation to treatment facilities for patients with OUD; provide continuing professional education in addiction medicine, including programs addressing stigma; allow participation in community efforts to provide OUD treatment to others in the community, such as those in jails, prisons, or other detention facilities; provide community education events on opioids and OUD; provide Naloxone kits and instruction to patients upon discharge; implement needle exchanges in hospitals or adjacent clinics and provide on-site Medication-Assisted Treatment ("**MAT**") services if possible; prospectively provide otherwise unreimbursed or under-reimbursed future medical services for patients with OUD or other opioid-related diagnoses; build or lease space to add half-way house beds; participate in research regarding development of innovating OUD treatment practices; direct moneys to any other public or private Authorized Recipient of funds concerning the treatment of persons with OUD or other opioid-related diagnoses; *provided* that such recipient's use of such funds would otherwise constitute an Authorized Abatement Purpose, and support MAT Programs. Each Healthcare Provider Authorized Recipient will have to submit to the Trustee on its Healthcare Provider Abatement Distribution Form a written statement that all funds will be spent only in the Healthcare Provider Authorized Recipient's Service Area.

The Healthcare Provider Trust's administrative expenses will be governed by the Healthcare Provider Trust Agreement. The Healthcare Provider Trust Agreement will provide that the Trustee shall use commercially reasonable efforts to ensure that the costs of administering the Healthcare Provider Trust are reasonable in all respects, but that the Trustee shall not be bound by any annual or cumulative "caps" on such expenditures.

Subject to the consent of the Debtors (which consent shall not be unreasonably withheld, delayed or denied), the Ad Hoc Group of Hospitals will choose a Trustee. The Healthcare Provider Trust Agreement will provide that the Honorable Thomas L. Hogan (ret.) will serve as Trustee. In the event of a vacancy in the Trustee position, whether by term expiration, death,

retirement, resignation, or removal, the vacancy shall be filled by the unanimous vote of the Trust Advisory Committee ("**TAC**"). In the event that the TAC cannot appoint a successor Trustee, for any reason, the Bankruptcy Court shall select the successor Trustee. Immediately upon the appointment of any successor Trustee, all rights, titles, duties, powers, and authority of the predecessor Trustee shall be vested in, and undertaken by, the successor Trustee without any further act. Each successor Trustee shall serve until the earliest of (i) the expiration of his or her term, (ii) his or her death, (iii) his or her resignation, (iv) his or her removal, or (v) the termination of the Healthcare Provider Trust.

The Healthcare Provider Trust Agreement will provide that the initial TAC shall consist of one member. The sole member of the TAC shall be Jeffrey James, CPA. The TAC shall consist of not less than one member, and shall never consist of more than three individuals.

The Healthcare Provider Trust Agreement shall provide that the Trustee shall have the power to appoint such officers, hire such employees, engage such legal, financial, accounting, investment, auditing, forecasting, and other consultants, advisors, and agents as the business of the Healthcare Provider Trust requires, and delegate to such persons such powers and authorities as the fiduciary duties of the Trustee permit and as the Trustee, in its discretion, deem advisable or necessary in order to carry out the terms of the Healthcare Provider Trust, including without limitation the Delaware Trustee, and any third-party claims or noticing agent deemed necessary or convenient by the Trustee, and pay reasonable compensation to those employees, legal, financial, accounting, investment, auditing, forecasting, and other consultants, advisors, and agents employed by the Trustee after the Effective Date (including those engaged by the Healthcare Provider Trust in connection with its alternative dispute resolution activities).

The Healthcare Provider Trust Agreement will further provide that the Trustee shall receive a retainer from the Healthcare Provider Trust for his or her service as a Trustee in the amount of $25,000 per annum, paid annually. Hourly time shall first be billed and applied to the annual retainer. Hourly time in excess of the annual retainer shall be paid by the Healthcare Provider Trust. For all time expended as a Trustee, including attending meetings, preparing for such meetings, and working on authorized special projects, the Trustee shall receive the sum of $600 per hour. For all non-working travel time in connection with Healthcare Provider Trust business, the Trustee shall receive the sum of $275 per hour. All time shall be computed on a decimal (1/10th) hour basis. The Healthcare Provider Trust Agreement shall also provide that the member(s) of the Trust Advisory Committee shall receive compensation from the Healthcare Provider Trust for services on the TAC at the same hourly rate as the Trustee (but with no annual retainer). Additionally, the Healthcare Provider Trust will promptly reimburse the member(s) of the TAC for all reasonable out-of-pocket costs and expenses incurred in connection with the performance of their duties as set forth in the Healthcare Provider Trust Documents.

The Healthcare Provider Trust Agreement will provide that neither the Trustee nor the Delaware Trustee shall be required to post any bond or other form of surety or security unless otherwise ordered by the Bankruptcy Court.

(5) Third-Party Payor Claims (Class 8)

Numerous private health insurers, employer-sponsored health plans, union health and welfare funds and any other providers of healthcare benefits, including any third-party administrators or agent on behalf thereof, that is not a Domestic Governmental Entity; *provided*, however, that California health districts acting as third-party payors that filed Third-Party Payor Proofs of Claim in such capacity by the Bar Date established in the Bar Date Order are included in the defined term "Third-Party Payor," filed or were included in Proofs of Claim filed against the Debtors seeking damages for allegedly improper and fraudulent prescriptions of opioids and for the alleged increased healthcare costs caused by their members' opioid use and dependency. Some of the Third-Party Payors filed prepetition lawsuits against the Debtors asserting, without limitation, (i) violations of RICO and state law equivalents, (ii) nuisance, (iii) negligence, (iv) common law fraud, and (v) violations of state consumer protection statutes. The Third-Party Payors were represented in the Mediation by counsel for the Blue Cross Blue Shield Association and various Third-Party Payors and health insurance carrier plaintiffs.

Pursuant to the Plan, Third-Party Payor Claims consist of any Claim against any Debtor that is held by a Third-Party Payor (including any Claim based on the subrogation rights of the Holder thereof that is not an Other Subordinated Claim) that is not a Domestic Governmental Entity; *provided* that Claims in respect of self-funded government plans that were and are asserted through Third-Party Payors shall be included in this definition of "Third-Party Payor Claims." For the avoidance of doubt, (i) Federal Government Unsecured Claims are not Third-Party Payor Claims, and (ii) claims of Third-Party Payors against Holders of PI Claims or Distributions payable to Holders of PI Claims are not claims against any Debtor and therefore are not included in this definition of "Third-Party Payor Claims." All Third-Party Payor Claims and all Claims against Released Parties or Shareholder Released Parties that are held by a Third-Party Payor (in the case of Shareholder Released Direct Claims, solely to the extent that such Third-Party Payor is a Settling Creditor) that is not a Domestic Governmental Entity will be channeled to the TPP Trust.

The TPP Trust will be funded in an initial amount of $394,911,880, less any amounts paid by the Debtors to the TPP Claims Administrator or his professionals as of the Effective Date and subject to (i) the SOR Holdback in the amount of $5,971,880, and (ii) any applicable Direct Claim Settlement Retained Payment Amount.[9690] In addition, the TPP Trust may be entitled to further funding from the Master Disbursement Trust in connection with the SOR Holdback.

Background and Definitions

Pursuant to the Plan:

> "Third-Party Payor" means a private health insurer, an employer-sponsored health plan, a union health and welfare fund or any other provider of healthcare benefits, including any third-party administrator or agent on behalf thereof, that is not a Domestic Governmental

[9690] In addition, the TPP Trust received $87,000, which shall be applied to the cost of the TPP Claims Administrator as authorized by the *Order (I) Appointing PI and TPP Claims Administrators; (II) Authorizing the Establishment of Claims Deadlines and Claims Objection Procedures; and (III) Granting Related Relief* [D.I. 7382].

Entity; provided, however, that California health districts acting as third-party payors that filed Third-Party Payor Proofs of Claim in such capacity by the Bar Date established by the Bar Date Order shall be included in this definition of "Third-Party Payor."

"Third-Party Payor Claim" means any Claim against any Debtor that is held by a Third-Party Payor (including any Claim based on the subrogation rights of the Holder thereof that is not an Other Subordinated Claim) that is not a Domestic Governmental Entity; *provided* that Claims in respect of self-funded government plans that were and are asserted through private Third-Party Payors shall be included in this definition of "Third-Party Payor Claims." For the avoidance of doubt, (i) Federal Government Unsecured Claims are not Third-Party Payor Claims, and (ii) claims of Third-Party Payors against Holders of PI Claims or Distributions payable to Holders of PI Claims are not claims against any Debtor and therefore are not included in this definition of "Third-Party Payor Claims."

Any (i) Third-Party Payor Claim or (ii) Released Claim or Shareholder Released Claim that is held by a Third-Party Payor (in the case of Shareholder Released Direct Claims, solely to the extent that such Third-Party Payor is a Settling Creditor) that is not a Domestic Governmental Entity is a ***Third-Party Payor Channeled Claim***, and all Third-Party Payor Channeled Claims are channeled to the TPP Trust in accordance with the Plan and Master TDP. **However, any Third-Party Payor Channeled Claim as to which no Proof of Claim was timely filed by the Bar Date, or which was not included in a consolidated Proof of Claim that was filed by the Bar Date (it being understood that a self-funded health plan that is solely pursuing its Third-Party Payor Claim through its third-party administrator shall be deemed to have timely filed a Proof of Claim if its third-party administrator timely filed a consolidated Proof of Claim on behalf of self-funded health plans administered by that third-party administrator) will not be entitled to any Distribution from the TPP Trust, regardless of whether the claimant timely files a TPP Trust Claim Form.**

Funding and Distributions

The TPP Trust will be funded in an initial amount of $394,911,880, representing the combined Shareholder Direct Settlement Portion of $261,104,374.91, as the same may be reduced by the TPP Direct Claim Settlement Retained Payment Amount, and the Estate Distribution of $133,807,505.09 on the Effective Date, less the SOR Holdback. In addition, the TPP Trust may be entitled to further funding from the Master Disbursement Trust in connection with the SOR Holdback.

The TPP Trust will make distributions to eligible Third-Party Payors based on their Claim amount as calculated pursuant to the TPP TDP and Part 3 of the TPP Trust Claim Form. Both of those documents will be included in the Plan Supplement, and the TPP Trust Claim Form has previously been disseminated to entities that filed Third-Party Payor Claims by the Bar Date, pursuant to the Order granting the Claims Administrators Motion. The amount is calculated taking into consideration, (i) the number of plan members, subscribers or dependents covered under the Third-Party Payor's plan during some or all of the period from January 1, 2008 through December 31, 2019 (each, a "**Unique Member**") who were prescribed one or more of the drugs identified on the NDC List, and (ii) the number of unique prescriptions paid, all or in

[9591] The NDC List for the TPP Trust Claim Form is the same as the NDC List for the Master Disbursement Trust Claim Form.

part, by that plan for the drugs identified on the NDC List; (iii) the total final dollars paid by that plan for the prescriptions for the drugs identified in (ii) above; (iv) the number of Unique Members identified in (i) above who were diagnosed with an Opioid Use Disorder, using one or more of the codes on the OUD ICD 10 List; and (v) for the Unique Members identified in (iv) above, the total dollar amount of medical claims with the ICD, CPT, or HCPS codes on the OUD Medical Claims Codes List, paid for those Unique Members.

In the event that a Holder of a Third-Party Payor Channeled Claim is a Non-Settling Creditor, funds will be reserved for such Non-Participating Claims from the Estate Distributions (the Non-Participating Claims Reserve) until the Non-Participating Claims Objection Deadline has passed without objection, or if an objection has been timely filed by the Shareholder Released Parties or any other party authorized to object, such objection has been determined by final order. If the Non-Settling Creditor obtains a judgment of liability against the Estate, the determination of the amount afforded to that Claim shall be made by the TPP Trustee, as further described in and pursuant to the TPP TDP.[~~98~~92]

The amount of the TPP Trust Assets available to make payments to Holders of Third-Party Payor Claims will be subject to certain deductions, including for the fees and expenses of administering the TPP Trust and the assessments to the Common Benefit Fund of 5% of each Distribution made by the TPP Trust, paid pursuant to Section 5.8 of the Plan. In addition, given that the Court has granted the Debtors' Claims Administrators Motion, which includes the appointment of a TPP Claims Administrator, the amount of TPP Trust Assets shall also be reduced as and to the extent authorized by the Court to reimburse the Debtors for their payment of certain TPP Claims Administrator expenses. The Claims Administrators Motion is discussed in Article III.CC.4.ii.1, *supra*.

TPP Trust Criteria for Evaluating Third-Party Payor Channeled Claims

the TPP Trust Claim Form, a draft of which was filed with the Bankruptcy Court as Exhibit C to the *Joint Motion of the Debtors and the Official Committee of Unsecured Creditors for an Order (I) Appointing PI and TPP Claims Administrators; (II) Authorizing the Establishment of Claims Deadlines and Claims Objection Procedures; and (III) Granting Related Relief* [D.I. 7310] and which was subsequently distributed with a notice from the TPP Claims Administrator.

[~~98~~92] The Shareholder Direct Settlement Portion paid to the TPP Trust will be reduced by (or the appropriate amount will be reimbursed to the Shareholder Released Parties) (a) the amount that such Non-Settling Creditor would have been entitled to pursuant to the Plan and the TPP Trust Distribution Procedures if that claimant had granted the shareholder releases, or (b) if the Non-Settling Creditor did not submit a TPP Trust Claim Form, an amount based upon a negotiated formula relating to that creditor's market share, and retained by the Shareholder Released Parties, as calculated by the TPP Trustee pursuant to applicable provisions of the TPP TDP.

If the Claim of a Non-Settling Creditor is not timely objected to by the Master Disbursement Trust and any other party in interest, including, for the avoidance of doubt, the applicable Creditor Trustee or any Shareholder Released Party or a timely objection is resolved in favor of the Non-Settling Creditor, the Non-Settling Creditor shall be entitled to a Distribution from the Non-Participating Claims Reserve. If a timely objection is decided in favor of the Shareholder Released Parties, the dollar amount attributable to that Claim in the Non-Participating Claims Reserve shall be transferred to the Released Claim Reserve and available to pay the Litigation Costs of the Shareholder Released Parties.

In order to have their Third-Party Payor Claims considered for Distributions by the TPP Trust, the Holders of such Claims (the Third-Party Payors who satisfy such criteria being "**TPP Authorized Recipients**") must, among other things:

(i) Be Third-Party Payors, as that term is defined in the Plan;

(ii) Be Holders of Third-Party-Payor Claims and have (a) timely filed a Proof of Claim in the Debtors' Chapter 11 cases or (b) have been included in a timely filed Proof of Claim in the Debtors' Chapter 11 cases, it being understood that a self-funded health plan that is solely pursuing its Third-Party Payor Claims through its third-party administrator shall be deemed to have timely filed a Proof of Claim by the Bar Date if its third-party administrator timely filed a consolidated Proof of Claim on behalf of self-funded health plans administered by that third-party administrator;

(iii) Submit a completed TPP Trust Claim Form to (or be included in a consolidated TPP Trust Claim Form submitted to) the TPP Claims Administrator or the TPP Trust, as applicable, by the TPP Trust Claim Deadline, which shall be no later than the first Business Day that is four months after the date of the notice (the "**TPP Trust Notice**") to filers identified in the above subparagraph (i) by the TPP Claims Administrator appointed prior to the Effective Date of the Plan (the "**TPP Trust Claim Deadline**"), in accordance with the instructions provided with the TPP Trust Claim Form and subject to the terms of the TPP Trust Notice and the TPP TDP, as applicable; and

(iv) Have provided in connection with such TPP Trust Claim Form, by or before the TPP Trust Claim Deadline, a calculation of its Purdue-related opioid spend (as described in the instructions that are a part of the TPP Trust Claim).[~~99~~93]

The TPP Claims Administrator, or the TPP Trustee, as applicable[~~100~~94], shall have the discretion but not the obligation to extend the TPP Trust Claims Deadline for some or all Holders of Third-Party Payor Claims or for some or all of those claimants that request an extension in writing that is received prior to the TPP Trust Claims Deadline. The TPP Claims Administrator's authority in this respect is set forth in the TPP Trust Notice, and the TPP Trustee's authority in this respect will be more fully set forth in the TPP TDP. After the TPP Trust Claim Deadline has passed, the TPP Trustee and the TPP Trustee's professionals, or if the Effective Date of the Plan has not yet occurred, the TPP Claims Administrator and the TPP Claims Administrator's professionals, shall determine whether, among other things, (i) all of the parties that submitted or were included in the TPP Trust Claim Forms are Third-Party Payors;

[~~99~~93] The Maximum Eligible Amount Calculation Methodology is provided in the TPP Trust Claim Form and in the TPP Trust Distribution Procedures.

[~~100~~94] The TPP Claims Administrator will be Alan D. Halperin, and he will become the TPP Trustee upon the Effective Date of the Plan.

(ii) such parties timely submitted Proofs of Claim or were included in timely submitted consolidated Proofs of Claim, as set forth above, (iii) the TPP Trust Claim Forms were timely submitted and properly completed, and the claims amounts were calculated pursuant to the instructions in the TPP Trust Claim Form; and (iv) the claimants and the Claims otherwise satisfy the requirements of the TPP Trust Documents.

Pursuant to the TPP TDP, the TPP Claims Administrator or the TPP Trustee, as applicable, shall make initial determinations of the Claim amount, if any, of each of the Third-Party Payor Claims and the allocations of Distributions to such TPP Authorized Recipients. The initial determinations shall be made by the later of eight months after the TPP Trust Claim Deadline or sixty days after the Effective Date, or such other deadline as may be authorized by the TPP TDP. Provided that the relevant Claim has not been Disallowed by Court order, Claimants will then have an opportunity to challenge the TPP Trustee's initial determinations, as set forth in the TPP TDP.[~~101~~95]

Any Third-Party Payor that failed to timely file a Third-Party Payor Claim on or before the Bar Date set by the Bar Date Order or was not included in a timely filed Third-Party Payor Claim in the Debtors' Chapter 11 cases (it being understood that a self-funded health plan that is solely pursuing its Third-Party Payor Claims through its third-party administrator shall be deemed to have timely filed a Claim by the Bar Date if its third-party administrator timely filed a consolidated Proof of Claim on behalf of self-funded health plans administered by that third-party administrator), is barred from asserting or seeking to enforce its Third-Party Payor Claim, pursuant to the Bar Date Order, and shall not be a TPP Authorized Recipient or eligible to receive a Distribution from the TPP Trust. Likewise, any Third-Party Payor that does not timely submit a TPP Trust Claim Form or is not included in timely submitted consolidated TPP Trust Claim Form shall not qualify as a TPP Authorized Recipient, and any Third-Party Payor that submits a TPP Trust Claim Form after the TPP Trust Claim Deadline (including as extended by the TPP Claims Administrator or TPP Trustee, as applicable) shall not qualify as a TPP Authorized Recipient, and shall have no right to any distribution from the TPP Trust. (For avoidance of doubt, no claim of a Domestic Governmental Entity shall be a Third-Party Payor Claim or be entitled to any distribution from the TPP Trust, unless such Claim is in respect of a self-funded government plan and was and is asserted through a Third-Party Payor.)

Holders of Third-Party Payor Channeled Claims should be aware that, as previously stated, *if they do not* grant the Third-Party Releases in connection with Plan voting, the approval of their Claims by the TPP Claims Administrator or the TPP Trustee, as applicable, will not be treated as final, and no Distribution shall be made on account of such Claims, unless and until the objection period during which the Master Disbursement Trust and any other party in interest, including, for the avoidance of doubt, the applicable

[~~101~~95] For avoidance of doubt, a Settling Creditor's Released Claims and Shareholder Released Claims will not be evaluated separately from such Holder's Third-Party Payor Channeled Claims against the Debtors; rather, all incremental value on account of such Claims being subject to the Third-Party Releases will be in the form of such Holder's access to the Shareholder Direct Settlement Portion.

Creditor Trustee or any Shareholder Released Party, are permitted to object to such Claims has expired, without objection or, in the event that there is a timely objection, until there is a final order ruling in favor of the claimant on the issue of liability. Any Distribution on account of a Non-Participating Third-Party Payor Channeled Claim that is eventually Allowed pursuant to the previous sentence and pursuant to terms of the TPP TDP will be limited to the claimant's *pro rata* share of the Estate Distribution as determined by the TPP Trustee.

Third-Party Payors may also elect to participate in the LRP Agreement, described in Articles I through XII of the Plan. The LRP Agreement is the result of negotiations between representatives of the Third-Party Payors and representatives of the Holders of PI Claims, and provides a lien resolution program that addresses the reimbursement and lien claims that Third-Party Payors may hold against Holders of PI Claims and Distributions to Holders of PI Claims. The LRP Agreement is an exhibit to the PI Trust Agreement and is a Plan Document.

ALL HOLDERS OF THIRD-PARTY PAYOR CLAIMS ARE ENCOURAGED TO CAREFULLY READ THE PLAN, AS WELL AS THE TPP TDP, AND TO CAREFULLY REVIEW THE TPP TRUST CLAIM FORM (INCLUDING THE INSTRUCTIONS FOR THE CALCULATION AND FILING OF SUCH TPP TRUST CLAIM FORM), THE TPP TRUST AGREEMENT AND THE LRP AGREEMENT. A COPY OF THE PLAN IS ATTACHED HERETO. ALL OF THE OTHER DOCUMENTS IDENTIFIED IN THIS SECTION HAVE EITHER BEEN FILED OR WILL BE FILED WITH THE BANKRUPTCY COURT WITH THE PLAN, THIS DISCLOSURE STATEMENT, OR THE PLAN SUPPLEMENT.

Other TPP Trust Information

As soon as practicable after the Effective Date, the TPP Trustee will send notice to persons or entities that have asserted Third-Party Payor Claims, advising such parties of (i) the establishment of the TPP Trust and relevant deadlines, (ii) the address of the TPP Trust website (which has links to TPP Trust Documents) and (iii) any additional information the TPP Trustee deems appropriate.

The administration of the TPP Trust will be governed by the TPP Trust Documents. With the consent of the Debtors, the Third-Party Payor Group has selected Alan D. Halperin as the TPP Trustee. The TPP Trustee shall have the power and authority to perform all functions on behalf of the TPP Trust, and shall undertake all administrative responsibilities of the TPP Trust (whether directly or through professionals and agents engaged by the TPP Trust, including a claims administrator) as are provided in the Plan and the TPP Trust Documents. The TPP Trustee shall be responsible for all decisions and duties with respect to the TPP Trust, as more fully set forth in the TPP Trust Agreement.

The TPP Trust Agreement will provide that the TPP Trustee shall have the authority to, in his/her discretion, consult with and retain attorneys, financial advisors, accountants, or other professionals and employees, including any third-party claims administrators or claims and noticing agent, as the TPP Trustee deems appropriate in the reasonable exercise of his/her discretion, and who the TPP Trustee reasonably determines to have qualifications necessary to

assist the TPP Trustee in the proper administration of the TPP Trust. The TPP Trustee may pay the reasonable fees, costs and expenses of such persons (including to him/herself and his/her firm) out of the assets of the TPP Trust in the ordinary course of business, pursuant to the terms of the TPP Trust Agreement.

The TPP Trust Agreement will provide for the compensation of the TPP Trustee and shall provide that the TPP Trustee shall not be required to post any bond or other form of surety or security unless otherwise ordered by the Bankruptcy Court.

(6) ER Physician Claims (Class 9)

The ERP Trust will administer ERP Claims, defined as any Claim against any Debtor that is held by an ER Physician, provided that such Claim arose when such ER Physician's billing and revenue collection were entirely separate from the billing and revenue collection practices of the medical facility at which such ER Physician practiced, and such ER Physician was not employed by such medical facility. All ERP Channeled Claims, including (i) the Claims of each ERP that filed a Proof of Claim and (ii) the Claims of any ERP that participates in the Direct Claims Settlement through an Opt-Out Class Action, will be channeled to the ERP Trust. To administer and provide Distributions on account of ERP Claims, the ERP Trust will be funded in an initial amount of $5,811,015, representing the combined Estate Claims Settlement Value and Direct Claims Settlement Value, from the Debtors, less the (i) SOR Holdback in the amount of $141,015 and (ii) any applicable Direct Claim Settlement Retained Payment Amount. In addition, the ERP Trust may be entitled to further funding from the Master Disbursement Trust in connection with the SOR Holdback. If, as of the Effective Date, the ER Physician Shareholder Direct Settlement has not been consummated, the Initial ERP Trust Distribution will be deposited by the Master Disbursement Trust into a third-party interest bearing escrow in accordance with the Master Shareholder Settlement Agreement on the Effective Date and distributed in accordance with Section 5.2(e)(i) of the Plan.

The ERP Trust will prepare the necessary forms to be completed as part of the claims process by Holders of ERP Claims that have been channeled to the ERP Trust pursuant to the Plan (the "**ERP Trust Forms**"). As part of the claims process, the ERP Trust will verify that the ERP: (i) holds an ERP Claim and that he or she was an ERP for at least five years at any point between 1990 and 2022; (ii) has suffered financial losses from treating uninsured or under-insured[~~102~~96] patients suffering from Opioid Use Disorder ("**OUD**"), opioid misuse, opioid dependency or opioid related co-morbidities, and (iii) has submitted all requested tax documents. Holders of ERP Claims will have 30 days from receipt of the ERP Trust Forms to submit such forms to the ERP Trust. If such Holder does not submit the ERP Trust Forms within 30 days, such Holder will not receive Distributions from the ERP Trust on account of their ERP Claim, and such Holder shall have no further recourse to any of the Debtors or the Post-Emergence Entities.

[~~102~~96] "Under-insured patients" refers to patients who have insurance but are still unable to pay for the medical treatment received in the emergency room as it relates to treating patients with opioid use disorder or any opioid-related diagnosis.

The ERP Trust will make distributions (net of attorneys' fees and costs, including funding of the Common Benefit Fund) to ERP Claim Holders who are deemed to be authorized pursuant to the ERP Trust Agreement. The amount of the ERP Trust Abatement Distribution that each verified and eligible ERP Trust Authorized Recipient will receive shall be based on (i) such ERP Trust Authorized Recipient's damages calculated for the years between 1990 and 2022, (ii) the number of ERP Claims channeled to the ERP Trust and the availability of ERP Trust Assets, (iii) the sufficiency, viability, and appropriateness of the applicable ERP Trust Authorized Recipient's proposed Abatement Strategies and budget, and (iv) whether such ERP Trust Authorized Recipient elected to grant Third-Party Releases in connection with Plan voting. In order to be considered to be eligible to receive an ERP Trust Abatement Distribution, the ERP Trust Authorized Recipient must timely submit all required forms and evidentiary documentation.

In the event that a Holder of a ERP Channeled Claim is a Non-Settling Creditor, funds will be reserved for such Non-Participating Claims from the Estate Distributions (the Non-Participating Claims Reserve) until the Non-Participating Claims Objection Deadline has passed without objection, or if an objection has been timely filed by the Shareholder Released Parties, such objection has been determined by final order.[~~103~~97] If the Non-Settling Creditor prevails on the issue of liability, the determination of the Allowed Claim amount shall be made by the ERP Trustee.

The amount of the ERP Trust Assets available to make payments to Holders of ERP Claims will be subject to certain deductions, including for the fees and expenses of administering the ERP Trust and the assessments to the Common Benefit Fund of 5% of each Distribution made by the ERP Trust, paid pursuant to Section 5.8 of the Plan.

The ERP Trust will consider the estimated total revenue loss, the number of verified ERP Trust Authorized Recipients and availability of funds, and the accuracy, viability and appropriateness of the ERP Trust Authorized Recipient's submitted Abatement Strategies to be implemented when determining the ERP Trust Abatement Distribution amount for each ERP Trust Authorized Recipient.

ERP Trust Authorized Recipients eligible to receive ERP Trust Abatement Distributions will be sent a form of agreement (the "**ERP Trust Abatement Distribution Form**") containing the following conditions that such ERP Trust Authorized Recipient must agree to in order to

[~~103~~97] The Shareholder Direct Settlement Portion paid to the ERP Trust will be reduced by the percentage of dollars attributable to the Claims of the Non-Settling Creditors (or the appropriate amount will be reimbursed to the Shareholder Released Parties) and retained by the Shareholder Payment Parties. The reduction shall be based on the ERP Trustee's determination of the amount of such Claim.

If the Claim of a Non-Settling Creditor is not timely objected to by the Shareholder Released Parties or a timely objection is resolved in favor of the Non-Settling Creditor, the Non-Settling Creditor shall be entitled to a Distribution from the Non-Participating Claims Reserve. If a timely objection is decided in favor of the Shareholder Released Parties, the dollar amount attributable to that Claim in the Non-Participating Claims Reserve shall be transferred to the Released Claim Reserve and available to pay the Litigation Costs of the Shareholder Released Parties.

receive an ERP Trust Abatement Distribution: (i) to only use the monies as provided in the ERP Trust Abatement Distribution Form; (ii) to be the sole person responsible for all applicable local, state, and federal taxes and any obligations to the IRS related to the receipt of any ERP Trust Abatement Distribution; (iii) to prepare and submit to the ERP Trustee (who will submit to the ERP TAC) an Annual Report regarding progress of implementing such ERP Trust Authorized Recipient's Abatement Strategies, funds expended, for what purpose such funds were expended, and a description of the next phase of the Abatement Strategies; (iv) to make all payments made in furtherance of the implementation of such ERP Trust Authorized Recipient's Abatement Strategies available for review by the Trustee and ERP TAC when requested; and (v) to provide to the ERP Trustee or ERP TAC, when requested, any information, forms, and documentation that may be required for tax purposes. Upon receipt of the signed ERP Trust Abatement Distribution Form, the ERP Trustee will distribute the applicable ERP Trust Abatement Distribution to the ERP Trust Authorized Recipient.

If the ERP Trust identifies a material misstatement made by the ERP Trust Authorized Recipient and contained in the ERP Trust Distribution Form or supporting documentation, the ERP Trust may, for good cause shown, allow the ERP Trust Authorized Recipient up to 30 days to resubmit a corrected ERP Trust Distribution Form with supporting documentation. Failure to timely correct misstatements in a manner acceptable to the ERP Trustee or ERP TAC may result in forfeiture of all or part of the ERP Claim Holder's qualification as an ERP Trust Authorized Recipient and of such Holder's right to receive ERP Trust Abatement Distributions. If the misstatement is discovered after an ERP Trust Abatement Distribution has been made, the Holder that received such ERP Trust Abatement Distribution may be required to return all funds received from the ERP Trust. Notwithstanding anything to the contrary herein, the Third-Party Releases granted by such ERP Trust Authorized Recipient in accordance with the Plan and the efficacy, enforceability, scope and terms thereof shall be unaffected and remain in full force and effect regardless of (i) whether or not such ERP Trust Authorized Recipient has already received, becomes eligible to receive, or is required to return all or a portion of any ERP Trust Abatement Distribution and (ii) when the misstatement was discovered.

All available funds distributed to ERP Trust Authorized Recipients shall be used solely and exclusively for ERP Trust Authorized Opioid Abatement Purposes. ERP Trust Authorized Opioid Abatement Purposes are those that are intended to: (i) reduce the use of opioids and increase the use of alternatives to opioids by emergency room physicians when treating pain to reduce the chance of opioid misuse; (ii) increase the use of risk assessments prior to prescribing opioids to determine the likelihood of misuse on the part of the patient; (iii) increase the use of OUD screening practices for all patients presenting at the emergency room to identify patients who could benefit from MAT and/or referral to treatment programs; (iv) increase the number of emergency room physicians initiating MAT in the emergency room to reduce overdose deaths and increase enrollment and retention in treatment programs; (v) increase the distribution of NARCAN (or comparable medication) by emergency rooms via emergency room physicians, recovery support specialists or nurses; (vi) increase accessibility and availability of NARCAN (or comparable medication) through participation in health fairs, community events, and other public gatherings as well as placement of NARCAN vending machines in key locations; and/or (vii) increase utilization of recovery support specialists by emergency room physicians to link the patient to MAT outpatient or residential treatment to increase the number of persons with OUD

who begin and remain in treatment. Any unused ERP Trust Assets (i.e., any funds remaining in the ERP Trust after all ERP Trust Abatement Distributions have been completed) shall be used by the ERP Trust to implement and evaluate Approved Abatement Programs. Any such Approved Abatement Programs shall be created from evidence-based data and must address ERP Trust Authorized Opioid Abatement Purposes, and expenditures for such Approved Abatement Programs must be approved by the ERP TAC prior to implementation. The proposed strategies for a Holder of an ERP Claim to accomplish the ERP Trust Authorized Abatement Purposes are referred to as "Abatement Strategies."

The administration of the ERP Trust will be governed by the ERP Trust Documents. The ERP Trust will be administered by the ERP Trustee, overseen by the ERP Trust Trust Advisory Committee (the "**ERP TAC**"). The ERP Trustee shall have the authority to perform all functions on behalf of the ERP Trust and shall undertake all administrative responsibilities as are provided in the ERP Trust Documents; provided that the ERP Trustee may not take any actions prohibited by the Plan or the Confirmation Order, or not authorized or without the consent of the ERP TAC. With the consent of the Debtors, the initial ERP Trustee will be Dr. Michael Masiowski. The initial ERP TAC shall consist of two members. The ERP TAC shall consist of no less than two members. The two initial members of the ERP TAC shall be Suzanne Colvin, PhD and Michelle Puggiari, Esq. Successive ERP TAC members shall be appointed by the ERP Trustee pursuant to the ERP Trust Agreement. The ERP Trust Agreement will provide that neither the ERP Trustee nor the Delaware Trustee shall be required to post any bond or other form of surety or security unless otherwise ordered by the Bankruptcy Court.

In accordance with the ERP Trust Documents, the ERP Trustee, with approval by the ERP TAC, shall have the power to hire employees, engage legal, financial, accounting, investment, auditing, forecasting, and other consultants, advisors, and agents as the business of the ERP Trust requires, and delegate to such persons such powers and authorities as the ERP Trustee, in his discretion, deems advisable or necessary in order to carry out the terms of the ERP Trust in accordance with the Governing Order and Filings and the ERP Trust Documents.

The ERP Trustee, with approval from the ERP TAC, shall have the authority to determine whether Holders of ERP Claims are ERP Trust Authorized Recipients and the amount of ERP Trust Abatement Distributions to be made by the ERP Trust. To qualify as an ERP Trust Authorized Recipient and be eligible to receive an ERP Trust Abatement Distribution, Holders of ERP Claims must comply with the terms, provisions and procedures set forth in the ERP Trust Documents and the Governing Order and Filings. The ERP Trustee and ERP TAC may investigate any ERP Claim and may request information from any Holder of an ERP Claim to ensure compliance with the terms set forth in the ERP Trust Documents.

Pursuant to the ERP Trust Agreement, the ERP Trustee shall administer the ERP Trust and ERP TDP in consultation with the ERP TAC, which represents the interests of Holders of ERP Claims and ensures fairness, efficiency and effectiveness of the ERP Trust. The duties of the ERP TAC with respect to the ERP Trust are set forth in the ERP Trust Agreement.

Any Claim channeled to the ERP Trust under the Plan that does not satisfy the requirements to qualify as an ERP Claim shall not be eligible to receive Distributions from the

ERP Trust and the Holder thereof shall have no recourse to, or right of recovery from, or any other rights against, the ERP Trust, any other PPOC Sub-Trust, any of the Debtors, or any of the Post-Emergence Entities.

The ERP Trustee will, in consultation with the ERP TAC, determine whether the Holder of an ERP Claim qualifies as an ERP Trust Authorized Recipient and, if so, the amount of the ERP Trust Abatement Distribution to be made to each ERP Trust Authorized Recipient. The ERP Trustee can modify all deadlines indicated in the ERP Trust Abatement Distribution Procedures with ERP TAC approval.

The ERP Trustee will cause to be prepared reporting documents to be completed by ERP Trust Authorized Recipients quarterly in the first year of implementation and semi-annually thereafter. A report is to be submitted to the ERP Trustee, who will subsequently submit it to the ERP TAC, within 14 days of receipt. The report shall contain, at a minimum, the following: (i) dated expenditures for administration and implementation of each Abatement Strategy and evidence that such expenditures commenced within the required time period (i.e., 90 days from receipt of the applicable ERP Trust Abatement Distribution); (ii) expenditures made to date and descriptions of their purposes; (iii) a timeline of Abatement Strategy implementation; (iv) data or descriptive information indicating the effectiveness of each Abatement Strategy implemented to date; and (v) responses to any inquiries received from the ERP Trustee or ERP TAC. The ERP Trustee and ERP TAC shall have the right to audit or cause to be audited an ERP Trust Authorized Recipient's expenditures for ERP Trust Authorized Abatement Purposes to determine if such ERP Trust Authorized Recipient has met the requirements set forth in the ERP Trust Documents governing the use of ERP Trust Abatement Distributions. Each ERP Trust Authorized Recipient, when requested by the ERP Trustee (or its agents or representatives) or the ERP TAC shall provide supporting documentation demonstrating that such ERP Trust Authorized Recipient's expenditures for ERP Trust Authorized Abatement Purposes have met the requirements of the ERP Trust Documents. All Proofs of Claim, ERP Trust Abatement Distribution Forms and certifications filed or submitted by Holders of ERP Trust Claims are subject to audit by the ERP Trustee or the ERP TAC.

(7) PI Claims (Classes 10(a) and 10(b))

Many individuals or their estates or guardians assert Claims against the Debtors for alleged opioid-related personal injury or similar opioid-related Claims. Approximately 140,000 opioid-related personal injury victims filed Claims in the Chapter 11 Cases, in addition to approximately 6,300 Claims filed against the Debtors for alleged opioid-related personal injury to or on behalf of an NAS Child. The PI TDPs[~~104~~98] provide a process for evaluating those Claims and compensating Holders of Allowed PI Claims.

Except as provided below, pursuant to the Plan, PI Claims consist of Claims brought by individuals, or their loved ones, who suffer from addiction, overdose, death, or other related and similar injuries, as a result of the use of opioid products. Specifically, PI Claims consist of all Claims against any Debtor for alleged opioid-related personal injury or other similar opioid-related Causes of Action against any Debtor, in each case arising before the Petition Date, and that are not Third-Party Payor Claims, Healthcare Provider Claims or Claims held by a Domestic Governmental Entity.

PI Claims are comprised of "Non-NAS PI Claims" and "NAS PI Claims." Non-NAS PI Claims are Claims against any Debtor for alleged opioid-related personal injury or similar opioid-related Causes of Action against a Debtor that are not NAS PI Claims. That is, Non-NAS PI Claims do not include Claims brought on behalf of children who suffered from neonatal abstinence syndrome ("**NAS**") or similar injuries resulting from their perinatal exposure to opioid products, which are referred to as NAS PI Claims. More specifically, NAS PI Claims are Claims against any Debtor for alleged opioid-related personal injury to an NAS Child or similar opioid-related Causes of Action against a Debtor asserted by or on behalf of an NAS Child.

For purposes of the PI TDPs, PI Claims, including both Non-NAS PI Claims and NAS PI Claims, fall into two categories:

(i) Those PI Claims whose respective Holders ***consent to release the Shareholder Released Parties*** through electing to grant the Third-Party Release on their respective Ballot on or before the Voting Deadline. These are known as "**PI Fully Channeled Claims**."

- PI Fully Channeled Claims are subdivided into Non-NAS PI Fully Channeled Claims and NAS PI Fully Channeled Claims, and in each case include two types of sub-claims:
  - (i) such PI Claims against any *Debtor* for alleged opioid-related personal injury or other similar opioid-related Causes of Action against any Debtor; and

[~~104~~98] The term "**PI TDPs**" refers to the Non-NAS PI TDP and the NAS PI TDP, each as described in greater detail below and in the PI Trust Documents, which will be included in the Plan Supplement. This section provides a summary of certain provisions of the PI Trust Documents, including the PI TDPs. This section is qualified in its entirety and is subject to the PI Trust Documents, including the exhibits thereto. The statements contained in this section do not purport to be precise or complete statements of all terms and provisions of the PI Trust Documents referred to therein. Reference is made to the PI Trust Documents for the full and complete statements of such terms and provisions thereof. In the event of any conflict between this summary, on the one hand, and the PI Trust Documents, on the other hand, the terms and provisions of the PI Trust Documents will control.

- (ii) Released Claims and Shareholder Released Claim, ***including but not limited to direct Claims against Shareholder Released Parties (including but not limited to the Sackler Family Members)*** for alleged opioid-related personal injury or other similar opioid-related Causes of Action, in each case arising before the Petition Date;

and

(ii) Those PI Claims whose respective Holders ***do not consent to release the Shareholder Released Parties*** through electing to grant the Third-Party Releases on their respective Ballot on or before the Voting Deadline. These are known as "**PI Partially Channeled Claims.**"

- PI Partially Channeled Claims are subdivided into Non-NAS PI Partially Channeled Claims and NAS PI Partially Channeled Claims. These Claims are referred to as "**Partially Channeled**" to account for:

  - (i) the portion of such Claims that are direct Claims against Shareholder Released Parties (including but not limited to the Sackler Family Members) for alleged opioid-related personal injury or other similar opioid-related Causes of Action that arose prior to the Petition Date that such Holders did not consent to release through electing to grant the Third-Party Releases on their respective Ballot, which are referred to as "**Non-NAS PI Non-Channeled Direct Sub-Claims**" or "**NAS PI Non-Channeled Direct Sub-Claims**," as applicable, and

  - (ii) the portion of such Claims that constitute Claims against any Debtor for alleged opioid-related personal injury or other similar opioid-related Causes of Action against any Debtor that arose prior to the Petition Date and are not Third-Party Payor Channeled Claims or Healthcare Provider Channeled Claims, or held by a Domestic Governmental Entity, which are referred to as "**Non-NAS PI Channeled Estate Sub-Claims**" or "**NAS PI Channeled Estate Sub-Claims**," as applicable.

The manner in which PI Claims become eligible for payment is set forth in the PI TDPs, which are trust distribution procedures included in the PI Trust Documents filed with the Plan Supplement. There are separate trust distribution procedures for Non-NAS PI Claims that are channeled to the PI Trust, known as the "**Non-NAS PI TDP**," and for NAS PI Claims that are channeled to the PI Trust, known as the "**NAS PI TDP**." The PI Trust will make distributions (net of attorneys' fees, costs, and other deductions as set forth in the applicable PI TDP, including funding of the Common Benefit Fund) to Holders of Allowed PI Channeled Claims, whose Distribution, if any, shall be subject to and determined in accordance with the Plan and the applicable PI TDP.

Except as otherwise provided in the PI TDPs, pursuant to the Plan and the Master TDP, the following PI Claims ***will*** be channeled to the PI Trust and, unless otherwise Disallowed pursuant to the claims objection process, liability therefor will be assumed by the PI Trust, as of the Effective Date: all Non-NAS PI Fully Channeled Claims, Non-NAS PI Channeled Estate

Sub-Claims, NAS PI Fully Channeled Claims, and NAS PI Channeled Estate Sub-Claims. Such Claims will be administered and resolved pursuant to the Non-NAS PI TDP and the NAS PI TDP, respectively.

Except as otherwise provided in the PI TDPs, pursuant to the Plan and the Master TDP, the following PI Claims ***will not*** be channeled to the PI Trust and liability therefor will not be assumed by the PI Trust, as of the Effective Date: Non-NAS PI Non-Channeled Direct Sub-Claims and NAS PI Non-Channeled Direct Sub-Claims.

Under the applicable PI TDP, Holders of Non-NAS PI Fully Channeled Claims and NAS PI Fully Channeled Claims will either be Qualified or Deficient, and in either case will be liquidated to determine the respective gross distribution on account of such Claim (an "**Award**"). A Qualified Claim refers to a Non-NAS PI Fully Channeled Claim that is Substantiated (i.e., it satisfies all of the requirements of the Non-NAS PI TDP) and entitled to receive an Award. Holders of Qualified Non-NAS PI Fully Channeled Claims and Qualified NAS PI Fully Channeled Claims will be entitled to one hundred percent (100%) of their respective Awards, subject to the PI Trust Deductions and Holdbacks in accordance with the applicable PI TDP. In other words, if Holders of PI Channeled Claims that elect to grant the Third-Party Releases satisfy the requirements set forth in the applicable PI TDP, such Holders will receive their respective Awards as described above and in the applicable PI TDP. A Deficient PI Fully Channeled Claim refers to a PI Fully Channeled Claim (i) that does not satisfy the requirements of §§ 3-6 of the applicable PI TDP, or (ii) for which a Deficiency was not timely cured under the applicable PI TDP. Deficient PI Fully Channeled Claims will not become Allowed or Disallowed until entry of a Final Order of the Bankruptcy Court allowing or disallowing such Claims, subject to the limitations in the PI TDPs and the PI Trust Deductions and Holdbacks; *provided*, that, to the extent a Deficient Non-NAS PI Fully Channeled Claim has not been Allowed or Disallowed by a Final Order, the Holder of such Claim has a right to appeal the Claims Administrator's determination that such Claim is Deficient, and thus Allowed in the amount of $0, within twenty (20) days of receiving notice of the Claims Administrator's determination, which appeal would be handled by a special master. In the event the Bankruptcy Court overrules any objection to a Deficient PI Fully Channeled Claim, such Claim will be Allowed and the Holder of such Claim can receive its Award, subject to the Claim otherwise being Substantiated under the applicable PI TDP. Deficient PI Fully Channeled Claims that are not Substantiated under the applicable PI TDP or are Disallowed by the Bankruptcy Court will receive no Award.

Under the PI TDP, all Non-NAS PI Partially Channeled Claims and NAS PI Partially Channeled Claims which are held by Holders that did not elect to grant the Third-Party Releases will be Deficient and may be objected to by any party in interest, including the Debtors, the Creditors' Committee, the Master Disbursement Trust, other applicable creditor representatives, or the Shareholder Released Parties in accordance with the Bankruptcy Code and the Plan. Non-NAS PI Partially Channeled Claims and NAS PI Partially Channeled Claims will be liquidated to determine what the respective Award would have been had such Claim been a Non-NAS PI Fully Channeled Claim or a NAS PI Fully Channeled Claim, respectively. If such PI Partially Channeled Claims are Disallowed by a Final Order, such Claims will receive no Award on account of such Claims either against the Debtors or any Shareholder Released Parties. With respect to Deficient Non-NAS PI Partially Channeled Claims and Deficient NAS

PI Partially Channeled Claims that are otherwise Substantiated (i.e., that satisfy all the requirements under the applicable PI TDP), (i) 22.1% and 22.4%, respectively, of what the respective Award would be as of the Effective Date (excluding the $50 million distribution due to the PI Trust pursuant to Section 5.2(e) of the Plan and the PI Trust's reversionary interest in the Special Operating Reserve) (i.e., the Individual Direct Claim Holdback Amount portion) will be withheld from funding the PI Trust by the Shareholder Released Parties pursuant to the Plan and (ii) 77.9% and 77.6%, respectively, of what the respective Award would be as of the Effective Date (excluding the $50 million distribution due to the PI Trust pursuant to Section 5.2(e) of the Plan and the PI Trust's reversionary interest in the Special Operating Reserve) (i.e., the Individual Deficient Claim Holdback Amount portion) will be deposited into the Class 10(b) Non-Participating Claims Reserve or the Class 10(a) Non-Participating Claims Reserve, as applicable, subject to the PI Trust Deductions and Holdbacks described below. For the avoidance of doubt, (i) (a) the overall Individual Direct Claim Holdback Amount for Non-NAS PI Partially Channeled Claims and for NAS PI Partially Channeled Claims will ultimately equal 20.4% and 22.0%, respectively, and (b) the overall Individual Deficient Claim Holdback Amount for Non-NAS PI Partially Channeled Claims and NAS PI Partially Channeled Claims will ultimately equal 79.6% and 78.0%, respectively, of what such Holder's Award will be upon the PI Trust's receiving (a) the $50 million distribution due to the PI Trust pursuant to Section 5.2(e) of the Plan and (b) the PI Trust's reversionary interest in the Special Operating Reserve.

ANY HOLDER OF A NON-NAS PI CHANNELED CLAIM OR NAS PI CHANNELED CLAIM WHO DOES NOT CONSENT TO VOLUNTARILY RELEASE THE SHAREHOLDER RELEASED PARTIES SHALL NOT RECEIVE ITS INDIVIDUAL DIRECT CLAIM HOLDBACK AMOUNT (I.E., 22.1% AND 22.4%, RESPECTIVELY, OF WHAT SUCH HOLDER'S AWARD WOULD HAVE BEEN ON THE EFFECTIVE DATE IF ITS NON-NAS PI CHANNELED CLAIM OR NAS PI CHANNELED CLAIM, RESPECTIVELY, WERE SUBSTANTIATED AND ALLOWED)

On the Effective Date, the PI Trust will be funded with $815,818,195 (less any amounts paid by the Debtors to the PI Claims Administrator), subject to (i) the SOR Holdback on account of the Initial NAS PI Distribution and the Initial Non-NAS Distribution in the total amount of $11,138,195, (ii) amounts distributed directly to the United States for federal lien reimbursement rights under the United States-PI Claimant Medical Expense Claim Settlement, discussed above and (iii) the Aggregate Direct Claims Holdback Amount. The Aggregate Direct Claims Holdback means the aggregate amount of Individual Direct Claims Holdback Amounts that are projected as of the Effective Date.

In addition, the PI Trust will be entitled to further funding from the Master Disbursement Trust from the first $50 million of proceeds, payments, and benefits received by the Master Disbursement Trust from third-party claims and causes of action assigned to the Master Disbursement Trust (including all amounts related to all types of insurance). For example, the Debtors have certain insurance rights that may cover some of the Claims in these Chapter 11 Cases. Should the Master Disbursement Trust recover any proceeds from those insurance policies, the PI Trust will receive the first such proceeds up to an amount of $50 million. However, to the extent the PI Trust does not receive the entire $50 million from such sources prior to the second anniversary of the Effective Date, the Master Disbursement Trust will pay to the PI Trust on the first Scheduled MDT Distribution Date following such second anniversary of

the Effective Date on a priority basis in accordance with Section 5.2(g) of the Plan any shortfall (up to an aggregate amount of $50 million) as of that date.

Moreover, the PI Trust will be entitled to any reversionary interest in the $11,138,195 deposited into the Special Operating Reserve by the Debtors as follows: the reversion of (i) $11.03 million on the earlier of (x) the first Special Operating Reserve reversion date in accordance with Section 5.7(b) of the Plan and (y) the eighth anniversary of the Effective Date (minus any amounts that have been used for Litigation Costs solely relating to PI Claims) and (ii) $111,375 on the date the Special Operating Reserve ceases to exist.

The PI Trust will establish a fund to pay Non-NAS PI Channeled Claims, known as the "**PI Trust Non-NAS Fund**," and a fund to pay NAS PI Channeled Claims, known as the "**PI Trust NAS Fund**." These amounts may be held in the same account in order to maximize interest returns, but will be accounted for separately. Non-NAS PI Fully Channeled Claims and Non-NAS PI Channeled Estate Sub-Claims will be satisfied solely from the PI Trust Non-NAS Fund or the Class 10(b) Non-Participating Claims Reserve, respectively, as described more fully below. NAS PI Fully Channeled Claims and NAS PI Channeled Estate Sub-Claims will be satisfied solely from the PI Trust NAS Fund or the PI Trust Class 10(a) Non-Participating Reserve Fund, respectively, as applicable and described more fully below.

Under the Plan, on the Effective Date the PI Trust will receive $815,818,195 of Effective Date Cash less any amounts paid by the Debtors to the PI Claims Administrator, subject to (i) the SOR Holdbacks on account of the Initial NAS PI Distribution and the Initial Non-NAS PI Distribution in the total amount of $11,138,195; (ii) amounts distributed directly to the United States under the United States-PI Claimant Medical Expense Claim Settlement, and (iii) the Aggregate Direct Claims Holdback Amount. The PI Trust will allocate the distributions it receives under the Plan as follows:

(i) $48,213,070~~105~~99 received by the PI Trust on the Effective Date to the PI Trust NAS Fund,

(ii) $65,848,195 to the PI Trust NAS Fund,

(iii) 16.2438% of the PI Trust's reversionary interest in the Special Operating Reserve to the PI Trust NAS Fund, and

(iv) the remainder to the PI Trust Non-NAS Fund,

in each case subject to applicable PI Trust Deductions and Holdbacks. The Initial NAS PI Distribution will be subject to deductions for (i) the SOR Holdback in the amount of $1,809,265 as well as (ii) any Aggregate Direct Claims Holdback Amount, (iii) any amounts advanced to the NAS Monitoring Trust by the Debtors prior to the Effective Date, and (iv) 13.98% of any amounts paid by the Debtors to the PI Claims Administrator and advanced to the PI Trust prior

~~105~~99 $48,213,070 is the sum of (i) 6.43% of $700,000,000 of the Initial PI Trust Distribution Amount, up to an aggregate $45 million in accordance with the definition of "NAS PI Portion" in the Twelfth Amended Plan, and (ii) 6.43% of the $49,970,000 remaining Initial PI Trust Distribution Amount.

to the Effective Date. The Initial Non-NAS PI Distribution shall be subject to deductions for (i) the SOR Holdback in the amount of $9,328,930 as well as (ii) any Aggregate Direct Claims Holdback Amount, and (iii) 86.02% of any amounts paid by the Debtors to the Claims Administrator and advanced to the PI Trust prior to the Effective Date. Notwithstanding the above, (i) one hundred percent (100%) of any Aggregate Direct Claims Holdback Amount with respect to Non-NAS PI Claims will be allocated to the PI Trust Non-NAS Fund and (ii) one hundred percent (100%) of any Aggregate Direct Claims Holdback Amount with respect to NAS PI Claims will be allocated to the PI Trust NAS Fund.

The Ad Hoc Group of Individual Victims believes that the Non-NAS PI TDP is fair and expeditious and resolves Non-NAS PI Channeled Claims in a way that is equitable, consistent, transparent and reasonable given the finite amount of funds available to satisfy such Claims. The NAS Committee believes that the NAS PI TDP is fair and expeditious and resolves NAS PI Channeled Claims in a way that is equitable, consistent, transparent and reasonable given the finite amount of funds available to satisfy such Claims.

Procedures Under the Non-NAS PI TDP:

The Non-NAS PI TDP sets forth what forms and qualifying evidence each Holder of a Non-NAS PI Channeled Claim must submit in order to be eligible to receive an Award. Non-NAS PI Claim Forms may be completed online, and evidence in support of a Non-NAS PI Channeled Claim can be uploaded online via the PI Trust Website, www.purduepitrust.com. Completed Non-NAS PI Claim Forms as well as evidence in support of a Non-NAS PI Channeled Claim also can be submitted to the PI Trust by sending such forms and evidence by (i) e-mail to purduepitrust@purduepitrust.com, (ii) mail to Purdue PI Trust, P.O. Box 361930, Hoover, Alabama 35236-1930, or (iii) facsimile to 205-716-2364. Law firm claim batches should be submitted via the Bulk Data and Document Submittal process outlined on the law firm tab of the PI Trust Website.

Classification of Non-NAS PI Channeled Claims as Qualified, Substantiated, or Deficient. For a Non-NAS PI Channeled Claim that is being liquidated pursuant to the streamlined procedures set forth in the Non-NAS PI TDP to be Qualified and Substantiated, the Holder of such Non-NAS PI Channeled Claim must:

(a) Hold such Non-NAS PI Channeled Claim against one or more Debtors;

(b) Provide proof demonstrating usage prior to the Petition Date of a qualifying prescribed opioid listed in Exhibit C of the Non-NAS PI TDP (a "**Qualifying Opioid**");[~~106~~100]

[~~106~~100] If the Holder of such Non-NAS PI Claim or the decedent of such Holder, as applicable, used only a **non-prescribed** (diverted) version of a Qualifying Opioid listed on Exhibit C of the Non-NAS PI TDP (OxyContin, MS Contin, Dilaudid, Hysingla ER, Butrans, DHC Plus, MSIR, OxyFast, OxyIR, Palladone, or Ryzolt), then such Non-NAS PI Claim will be Deficient.

(c) Have timely~~[107]~~[101] filed an individual personal injury Proof of Claim against one or more Debtors in the Chapter 11 Cases asserting his/her Non-NAS PI Channeled Claim against one or more Debtors;

(d) Complete, sign~~[108]~~[102] and submit the Non-NAS PI Claim Form (the form of which is attached to the Non-NAS PI TDP as Exhibit A), so that it is received on or before the PI Claims Deadline of July 28, 2025, which is sixty (60) days after notice of the PI Claims Deadline is distributed to Holders of PI Channeled Claims as set out in the *Order (I) Appointing PI and TPP Claims Administrators; (II) Authorizing the Establishment of Claims Deadlines and Claims Objection Procedures; and (III) Granting Related Relief* [D.I. 7382] a Final Order by the Bankruptcy Court establishing the PI TDP Claims Deadline and approving the form of notice informing Holders of PI Channeled Claims of same;

(e) Complete, sign, and submit the applicable HIPAA consent form (the form of which is attached to the Non-NAS PI TDP as Exhibit B); and

(f) If the Non-NAS PI Channeled Claim concerns the injuries of a decedent of the Holder of such Claim, then complete, sign, and submit the Heirship Declaration attached to the Non-NAS PI TDP as Exhibit D, or provide valid estate documents (as described in Exhibit D to the Non-NAS PI TDP) authorizing the Holder of the Claim to act on behalf of the decedent's estate.

If the Holder of a Non-NAS PI Fully Channeled Claim satisfies all these requirements, then such Non-NAS PI Fully Channeled Claim will be Qualified and Substantiated. If the Holder of a Non-NAS PI Fully Channeled Claim or a Non-NAS PI Partially Channeled Claim does not satisfy all these requirements, then such Claim will be Deficient. If the Holder of a Non-NAS Partially Channeled Claim satisfies all these requirements, then such Claim will be a Deficient Claim that is also Substantiated (a "Substantiated Disputed Claim"). Each Holder of a Non-NAS PI Channeled Claim must complete, sign, and submit a Non-NAS PI Claim Form so that it is received by the Claims

~~[107]~~[101] Subject to exceptions set forth in the Non-NAS PI TDP.

~~[108]~~[102] If the Holder of a Non-NAS PI Channeled Claim is represented by counsel, then such Holder's Non-NAS PI Claim Form may be signed by such Holder's attorney instead of by such Holder; *provided* that such Non-NAS PI Claim Form contains substantially the following attestation "I, [Name of Attorney], hereby swear under penalty of perjury that the information contained herein is true and accurate to the best of my knowledge made after conducting due diligence, and that this Non-NAS PI Claim Form is being filed with the consent of my client, or the authority to file on my client's behalf under applicable law and/or with appropriate power of attorney." The Claims Administrator will be entitled to rely on this attestation. However, in the event the Claims Administrator reasonably suspects that the Holder's counsel does not have such consent under applicable law or power of attorney, or is otherwise misrepresenting such consent or authority, the Claims Administrator may request backup documentation. If such backup documentation does not resolve the Claims Administrator's concerns regarding the attestation, the Claims Administrator may require the Holder of the Non-NAS PI Channeled Claim to sign the Non-NAS PI Claim Form in order to avoid such Claim being Deficient, or take other appropriate measures to prevent fraud. In the event of a large inventory doing bulk uploads, the PI Trustee will establish procedures for bulk attestations.

Administrator on or before the PI Claims Deadline. Failure to do so will result in such Non-NAS PI Channeled Claim being Deficient.[~~109~~103]

Qualifying Opioid. In order to demonstrate usage of a Qualifying Opioid as listed in Exhibit C of the Non-NAS PI TDP, the following should be taken into account to the extent applicable:

(i) A Holder of a Non-NAS PI Channeled Claim who provides evidence of a prescription for brand name OxyContin, MS Contin, Dilaudid, Hysingla ER, Butrans, DHC Plus, MSIR, OxyFast, OxyIR, Palladone, or Ryzolt may rely on the name alone without the necessity of a corresponding NDC number.

(ii) In order for a Non-NAS PI Channeled Claim to be Substantiated based on the use of one of the generic products listed in Exhibit C of the Non-NAS PI TDP (e.g., oxycodone, morphine sulfate, hydromorphone), the Holder of such Claim must present evidence that includes either:

(a) The product's corresponding NDC number, which is set forth on Exhibit C of the Non-NAS PI TDP, demonstrating that the product was manufactured or sold by any of the Debtors;[~~110~~104] or

(b) A notation in the record submitted by the Holder that the product was manufactured or sold by any of the Debtors.

(iii) The Holder of a Non-NAS PI Channeled Claim, or the decedent of such Holder, if applicable, who used a generic oxycodone prescription that does not contain evidence of (ii)(a) or (b) above may only have a Substantiated Non-NAS PI Channeled Claim if the prescription utilized one of the following:

(a) Oxycodone CR (Controlled Release); or

(b) Oxycodone ER (Extended Release).

Holders of Non-NAS PI Channeled Claims whose Claims are based on the use of opioids that are only manufactured by companies other than the Debtors will not be eligible or Qualified to receive a settlement payment from the PI Trust on account of such Claims.

[~~109~~103] If a Non-NAS PI Claim Form is received after the PI TDP Claims Deadline, such Non-NAS PI Channeled Claim will be a Deficient Claim absent a showing of extraordinary cause, to the satisfaction of and in the sole discretion of the Claims Administrator; *provided, however*, that in no event will such Non-NAS PI Channeled Claim be Qualified or Substantiated if such Non-NAS PI Claim Form is received more than fifteen (15) days after the PI Claims Deadline. Groups of Non-NAS PI Claim Forms represented by the same attorney received after the PI Claims Deadline will not be considered timely, and thus such Non-NAS PI Channeled Claims will not be Qualified or Substantiated, because the Claims Administrator only has the discretion to consider one Non-NAS PI Channeled Claim at a time.

[~~110~~104] Subject to addition of further NDC numbers.

The Non-NAS PI TDP outlines several ways that Holders of Non-NAS PI Channeled Claims can demonstrate their eligibility, including through prescription or pharmacy records or references in contemporaneous medical records. For a complete description of qualifying Purdue products and evidentiary requirements, Holders of Non-NAS PI Channeled Claims should carefully review the Non-NAS PI TDP, which is included in the Plan Supplement filed with the Bankruptcy Court.

The Claims Administrator has the discretion to request additional documentation believed to be in the possession of the Holder of a Non-NAS PI Channeled Claim or its authorized agent or counsel. It also has the sole discretion to classify a Non-NAS PI Channeled Claim as Deficient, or to reduce or eliminate the amount of Awards for Allowed Non-NAS PI Channeled Claims or Substantiated Non-NAS PI Channeled Claims, as applicable, if the Claims Administrator concludes there has been a pattern to circumvent full or truthful disclosure under the Non-NAS PI TDP.

Within thirty (30) days of the PI Claims Deadline, the Claims Administrator will send a notice of Deficiency to any Holder of a Non-NAS PI Channeled Claim that submitted a Non-NAS PI Claim Form that is incomplete or deficient because the Holder failed to meet the requirements or provide proof of meeting the requirements, of § 3(b)-(e) of the Non-NAS PI TDP. If the Holder of a Non-NAS PI Channeled Claim receives a notice of Deficiency, the Holder must cure the Deficiency by no later than thirty (30) days after the date on which such notice has been sent to the Holder in order for such Non-NAS PI Channeled Claim to avoid being Deficient. If a Deficiency is timely cured to the satisfaction of the Claims Administrator, the Non-NAS PI Channeled Claim will not be Deficient, but such cure does not guarantee that such Claim will otherwise be Qualified.

Award Determination. Substantiated Non-NAS PI Fully Channeled Claims or Substantiated Deficient Non-NAS PI Partially Channeled Claims will be categorized in one of two Tiers:

(i) **Tier 1**: Use of a Qualifying Opioid equal to or greater than six (6) months~~111~~[105] for a period prior to September 15, 2019 (16,000 points)

(ii) **Tier 2**: Use of a Qualifying Opioid for less than six (6) months for a period prior to September 15, 2019 (8,000 points)

The point values above resulted from the work of counsel and other professionals advising the Ad Hoc Group of Individual Victims, statistical sampling and modeling performed

~~111~~[105] The six months does not have to be consecutive use. It is calculated based on the sum of all days noted in the supply portion of the prescription or otherwise described in the records. If a prescription or reference to a Qualifying Opioid does not reference a time period of supply, it will not be counted towards the six months to qualify for Tier 1. However, a single reference to a Qualifying Opioid that does not contain a time period of supply would qualify for Tier 2.

by financial analysts and subject matter experts for the Ad Hoc Group of Individual Victims and other Holders of PI Channeled Claims, and collaborative discussions with stakeholders.

At this time, it is not possible to state with certainty how the assigned points will translate into dollars or, as a result, how much money any particular Holder of an Allowed Non-NAS PI Channeled Claim will receive from the PI Trust. Prior to determining the cash value of assigned points, the Claims Administrator must review the evidence submitted by Holders of PI Channeled Claims to determine how many Qualified or Substantiated PI Channeled Claims fall in each "**Tier**." Based on an initial sample, the amount of the dollar award per point is estimated to be between $0.70 and $1.20. The dollar amount ultimately awarded per point will be determined with reference to the funds available in the PI Trust and the number and nature of Allowed PI Channeled Claims. The estimated amount per point will be updated periodically on the PI Trust Website.

If a Non-NAS PI Channeled Claim has not been resolved through the claims resolution process as described in the Plan, after the Effective Date the Holder of such Claim has a right to appeal the Claims Administrator's determination that either (i) such Claim is not Substantiated or is otherwise Deficient, and thus Allowed in the amount of $0, or (ii) such Claim is Substantiated but designated as Tier 2 because of a deficiency in providing proof demonstrating use of a Qualified Opioid equal to or greater than six (6) months for a period prior to September 15, 2019. Any such appeal will be referred to a special master appointed by the PI Trustee (the "**Appeals Special Master**"). Specifically, within twenty (20) days of receiving notice of the Claims Administrator's determination, a Holder of a Non-NAS PI Channeled Claim choosing to appeal that determination must submit an appeal to the Claims Administrator setting forth the Holder's position and explaining the reason the Holder believes the determination is wrong. An appeal fee of $500 will be assessed regardless of the outcome of the appeal, and failure to provide the appeal fee within ten (10) days of submission of the appeal will result in the appeal's dismissal. Decisions of the Appeals Special Master will be final and binding, and Holders of Non-NAS PI Channeled Claims will have no further appeal rights as to any determinations made by the Claims Administrator beyond those set forth in the Non-NAS PI TDP. Decisions of the Appeals Special Master must be made within sixty (60) days of receipt of the notice of appeal.

Additional Claim Factors and Valuation

(i) To the extent practicable, only objective factors will be taken into account, based upon the maxim that, in the context of mass torts, consistency is fairness.

(ii) The point values for the two Tiers described above is based in part on scoring grids developed in comparable cases with unique customization according to the claims and injuries encountered and reviewed in sampling individual PI Claims.

(iii) With respect to Non-NAS PI Channeled Claims, because of limited funds, economic damages are not compensable. Awards issued pursuant to the Non-NAS PI TDP provide compensation only for general pain and suffering.

(iv) In no circumstance will the Claims Administrator assign any claim value for any punitive damages, exemplary damages, statutory enhanced damages, or attorneys' fees or costs

(including statutory attorneys' fees and costs).

An Award for a Non-NAS PI Fully Channeled Claim will be a gross number subject to the following deductions and holdbacks: (A) a pro rata share of the operating expenses of the PI Trust, (B) amounts held back under the Lien Resolution Program (the "**LRP Agreement**") to settle liens held by private insurance companies against that Award, if any, (C) amounts prepaid to the United States under the United States-PI Claimant Medical Expense Claim Settlement to settle liens of federal healthcare programs like Medicare, Tricare, or VA against that Award, if any, (D) a pro rata share of the compensation, costs and fees of professionals that represented or advised the Ad Hoc Group of Individual Victims and the NAS Committee in connection with the Chapter 11 Cases, subject to Section 5.9(g) of the Plan, (E) the common benefit assessment required under Section 5.9(c) of the Plan, and (F) the fees and costs of counsel to the Holder of the Non-NAS PI Channeled Claim in the Chapter 11 Cases, if any.[~~112~~106] In addition to these deductions and holdbacks, an Award may be subject to claims by certain state or tribal healthcare programs that are not part of the LRP Agreement, including Medicaid.

An Award for a Non-NAS PI Partially Channeled Claim will be a gross number subject to the following deductions and holdbacks: (A) a pro rata share of the operating expenses of the PI Trust; (B) amounts held back under the LRP Agreement to settle liens held or private insurance companies against that Award, if any; (C) amounts prepaid to the United States under the United States-PI Claimant Medical Expense Claim Settlement to settle liens of federal healthcare programs like Medicare, Tricare, or VA against that Award, if any; and (D) a pro rata share of the compensation, costs, and fees of professionals that represented or advised the Ad Hoc Group of Individual Victims and the NAS Committee in connection with the Chapter 11 Cases, subject to Section 5.9(g) of the Plan.[~~113~~107] For clarity, while the Award for a Non-NAS PI Partially Channeled Claim is a gross number, the actual calculation of the Individual Deficient Claim Holdback Amount and the Individual Direct Claim Holdback Amount will be net of the above deductions and holdbacks. For example, if the Award for a Substantiated Non-NAS PI Partially Channeled Claim would be $100 as of the Effective Date and the deductions and holdback amounts pursuant to clauses (A)-(D) of this paragraph is $30, the Individual Deficient Claim Holdback Amount would be $54.53 (77.9% of $70 net Award) and the Individual Direct Claim Holdback Amount would be $15.47 (22.1% of $70 net Award).

[~~112~~106] If a Holder of a Non-NAS PI Channeled Claim is represented by counsel, then such counsel, rather than the PI Trust, will be responsible for deducting its fees and expenses from the Holder's Award.

[~~113~~107] While the common benefit assessment required under Section 5.9(c) of the Plan and the fees and costs of counsel to the Holder of a Non-NAS PI Channeled Claim in the Chapter 11 Cases, if any, are used to calculate the deductions and holdback amounts for Non-NAS PI Fully Channeled Claims, they are not used to calculate deductions and holdback amounts for Non-NAS PI Partially Channeled Claims in the first instance. However, if a Non-NAS PI Partially Channeled Claim becomes Allowed, that Claim would be subject, at that time and from its recovery, to the common benefit assessment required under Section 5.9(c) of the Plan and the fees and costs of counsel to the Holder of the Non-NAS PI Channeled Claim in the Chapter 11 Cases, if any.

Finally, distributions to minors are to be held in trust until the minor becomes a legal adult (unless a competent court orders otherwise). For all these reasons, it may take years before the Holder of such Allowed Claim receives its entire Award.

The PI Trust will hold any amounts owed to a Holder of an Allowed Non-NAS PI Channeled Claim that is a minor in trust until such minor becomes a legal adult under applicable state law, unless otherwise directed by a court of competent jurisdiction.

* * *

Caps for Claims Adjudicated in Bankruptcy Court or the Tort System:

(a) Any Deficient Non-NAS PI Channeled Claims that are adjudicated and Allowed by the Bankruptcy Court as part of the claims resolution process will be channeled to the Class 10(b) Non-Participating Claims Reserve for payment pursuant to the Non-NAS PI TDP and the Plan. Each such Allowed Non-NAS PI Channeled Claims will be entitled to receive from the Class 10(b) Non-Participating Claims Reserve its respective Award consistent with § 6 of the Non-NAS PI TDP; *provided, however*, that if such Allowed Non-NAS PI Channeled Claim does not meet all the requirements of the Non-NAS PI TDP, then such Non-NAS PI Channeled Claim will only be entitled to receive the lesser of (i) the Allowed liquidated amount fixed by the Bankruptcy Court and (ii) the lower recovery amount for Allowed Awards therein (Tier 2). Such amounts (if any) will be paid from the Class 10(b) Non-Participating Claims Reserve, and in no event will the PI Trust be responsible for paying Holders of such Allowed Non-NAS PI Channeled Claims out of the PI Trust Non-NAS Fund.

(b) If a Holder of a Deficient Non-NAS PI Channeled Claim satisfies § 3(a)-(c) of the Non-NAS PI TDP elects to have such Claim against the Debtors liquidated in a court other than the Bankruptcy Court in response to an objection to such Claim, and successfully obtains a final judgment against any of the Debtors in such other court, such Claim will be channeled to the Class 10(b) Non-Participating Claims Reserve for payment pursuant to the Non-NAS PI TDP and the Plan. A Holder of such Non-NAS PI Channeled Claim will only be entitled to receive from the Class 10(b) Non-Participating Claims Reserve the lesser of (i) the liquidated amount of the final judgment so ordered by such court and (ii) three (3) times (x) what such Holder would have received under § 6 of the Non-NAS PI TDP, or (y) if such Non-NAS PI Channeled Claim does not meet all of the requirements of the Non-NAS PI TDP, the lower recovery amount for Allowed Awards therein (Tier 2). Such amounts (if any) will be paid from the Class 10(b) Non-Participating Claims Reserve, and in no event will the PI Trust be responsible for paying Holders of such Non-NAS PI Channeled Claims out of the PI Trust Non-NAS Fund. In no event will a Person who did not satisfy § 3(a) and (c) of the Non-NAS PI TDP receive any distribution under the Non-NAS PI TDP, regardless of whether such Person obtains a judgment in a court other than the Bankruptcy Court.

* * *

Procedures Under the NAS PI TDP:

The NAS PI TDP sets forth what forms and qualifying evidence each Holder of an NAS PI Channeled Claim must submit in order to be eligible to receive an Award. NAS PI Claim Forms may be completed online, and evidence in support of an NAS PI Channeled Claim can be uploaded online via the PI Trust Website, www.purduepitrust.com. Completed NAS PI Claim Forms as well as evidence in support of an NAS PI Channeled Claim may also be submitted to the PI Trust by sending such forms and evidence by (i) e-mail to purduepitrust@purduepitrust.com, (ii) mail to Purdue PI Trust, P.O. Box 361930, Hoover, Alabama 35236-1930, or (iii) facsimile to 205-716-2364. Law firm claim batches should be submitted via the Bulk Data and Document Submittal process outlined on the law firm tab of the PI Trust Website.

Classification of NAS PI Channeled Claims as Qualified, Substantiated, or Deficient. For an NAS PI Channeled Claim that is being liquidated pursuant to the streamlined procedures set forth in the NAS PI TDP to be Qualified or Substantiated, as applicable, the Holder of such NAS PI Channeled Claim must:

(i) Hold such NAS PI Channeled Claim against one or more Debtors;

(ii) Demonstrate by Competent Evidence a diagnosis by a licensed medical provider of a medical, physical, cognitive or emotional condition resulting from the NAS Child's intrauterine exposure to opioids or opioid replacement or treatment medication, including but not limited to the condition known as neonatal abstinence syndrome or NAS. The diagnosis can be made by any licensed medical professional, specifically including physicians, nurses, physician assistants, mental health counselors or therapists, or professionals at a rehabilitation center. Only NAS PI Claims based on injuries or facts occurring prior to the filing of a NAS PI Claim Form are eligible for recovery. However, if the Holder of an NAS PI Channeled Claim provided the required documentation in connection with the chapter 11 bankruptcy case of Mallinckrodt plc, Case No. 20-12522 (Bankr. D. Del.) or the chapter 11 bankruptcy case of Endo International plc, Case No. 22-22549 (Bankr. S.D.N.Y.), or with their Proof of Claim that was filed in the Chapter 11 Cases, such Holder does not need to resubmit the required documentation referenced in this paragraph, but must provide the PI Trustee with a statement (or a list if filing in bulk by a law firm) confirming the previously filed Claim(s) for the PI Trustee to vet and verify;

(iii) Have already timely~~[114]~~[108] filed an individual personal injury Proof of Claim against one or more Debtors in the Chapter 11 Cases asserting his/her NAS PI Channeled Claim against one or more Debtors;

~~[114]~~[108] Subject to exceptions set forth in the NAS PI TDP.

(iv) Complete, sign and submit the NAS PI Claim Form attached to the NAS PI TDP as Exhibit A so that it is received on or before the PI Claims Deadline (which is sixty (60) days after notice of the PI Claims Deadline is distributed to Holders of PI Channeled Claims as set out in the *Order (I) Appointing PI and TPP Claims Administrators; (II) Authorizing the Establishment of Claims Deadlines and Claims Objection Procedures; and (III) Granting Related Relief* [D.I. 7382], a Final Order of the Bankruptcy Court establishing the PI TDP Claims Deadline and approving the form of notice informing Holders of PI Channeled Claims of same);

(v) Complete, sign and submit the applicable HIPAA consent form attached as Exhibit B to the NAS PI TDP unless provided to the Claims Administrator in connection with the *Mallinckrodt plc* (Case No. 20-12522) (Bankr. Del.) bankruptcy, or the *Endo International plc* (Case No. 22-22549) (Bankr. S.D.N.Y.) bankruptcy; and

(vi) If the NAS PI Channeled Claim concerns the injuries of a decedent of the Holder of such Claim, then complete, sign, and submit the Heirship Declaration attached as Exhibit C to the NAS PI TDP or provide valid Estate Documents authorizing the Holder of the Claim to act on behalf of the decedent's estate unless provided to the Claims Administrator in connection with the *Mallinckrodt plc* (Case No. 20-12522) (Bankr. Del.) bankruptcy, or the *Endo International plc* (Case No. 22-22549) (Bankr. S.D.N.Y.) bankruptcy.

If a Holder of an NAS PI Fully Channeled Claim satisfies these requirements, then such NAS PI Fully Channeled Claim will be Qualified and Substantiated. If a Holder of an NAS PI Fully Channeled Claim or NAS Partially Channeled Claim does not satisfy these requirements, then such Claim will be Deficient. If the Holder of an NAS Partially Channeled Claim satisfies these requirements, then such Claim will be a Deficient Claim that is also Substantiated (a "Substantiated Deficient Claim").

Each Holder of an NAS PI Channeled Claim must complete, sign, and submit an NAS PI Claim Form so that it is received on or before the PI Claims Deadline. Failure to do so will result in such NAS PI Channeled Claim being Deficient.[~~115~~109]

Competent Evidence. To receive recovery on his/her NAS PI Channeled Claim, the Holder of such Claim must submit one of the following forms of "**Competent Evidence**":

[~~115~~109] If an NAS PI Claim Form is received after the PI Claims Deadline, such NAS PI Channeled Claim will be a Deficient Claim absent a showing, to the satisfaction of and in the sole discretion of the Claims Administrator, of extraordinary cause, *provided, however*, that in no event will such NAS PI Channeled Claim be Qualified or Substantiated if such NAS PI Claim Form is received more than fifteen (15) days after the PI TDP Claims Deadline. Groups of NAS PI Claim Forms represented by the same lawyer received after the PI Claims Deadline will not be considered timely, and thus such NAS PI Channeled Claims will not be Qualified or Substantiated, because the Claims Administrator only has the discretion to consider one NAS PI Channeled Claim at a time.

(i) A document from a licensed medical provider diagnosing the NAS Child with a medical, physical, cognitive or emotional condition resulting from the NAS Child's intrauterine exposure to opioids or opioid replacement or treatment medication, including but not limited to the condition known as NAS;

(ii) A document from a licensed medical provider affirming that the NAS Child had Neonatal Opioid Withdrawal Syndrome ("**NOWS**"); or

(iii) Other medical records evidencing that the NAS Child had an NAS diagnosis, including post-natal treatment for symptoms caused by opioid exposure, symptoms of post-natal withdrawal from opioids, medical scoring for NAS or NOWS that is positive or indicates fetal opioid exposure, a positive toxicology screen of the birth mother or infant for opioids or opioid-weaning drugs, or a maternal diagnosis of opioid use disorder by the birth mother.

The Claims Administrator has the sole discretion to determine whether these evidentiary requirements have been met, including whether the forms of evidence submitted constitute Competent Evidence.[~~116~~110] In addition, the Claims Administrator has the sole discretion to classify an NAS PI Channeled Claim as Deficient, or to reduce or eliminate the amount of Awards for Qualified NAS PI Channeled Claims or Substantiated NAS PI Channeled Claims, as applicable, if the Claims Administrator concludes there has been a pattern to circumvent full or truthful disclosure under the NAS PI TDP.

Within thirty (30) days of the NAS PI Claims Deadline, the Claims Administrator will send a notice of Deficiency to any Holders of NAS PI Channeled Claims who submitted a NAS PI Claim Form that is incomplete or deficient because the NAS PI Claim, failed to meet the requirements, or provide proof of the requirements, for § 3(b) through (f) of the NAS PI TDP, as applicable (an "**NAS Deficiency**"). If a Holder of an NAS PI Channeled Claim receives notice of an NAS Deficiency, such Holder must cure the NAS Deficiency no later than thirty (30) days after such notice has been sent to such Holder in order to avoid such Claim being Deficient. Failure to do so will result in such NAS PI Channeled Claim being deemed Deficient. If an NAS Deficiency is timely cured to the satisfaction of the Claims Administrator, such Claim will not be deemed Deficient on the basis of such NAS Deficiency, but does not guarantee such Claim will otherwise be Qualified.

Payment. The money available in the PI Trust NAS Fund for distribution to Substantiated NAS PI Fully Channeled Claims or Substantiated Disputed NAS PI Partially

[~~116~~110] Competent Evidence necessary for Allowance of an NAS PI Claim is evidence, in the opinion of the Trustee, that establishes that the occurrence of a diagnosis of NAS with respect to an NAS PI Claimant is more likely true than not true, i.e., a probability standard. Competent Evidence requires more than a mere possibility or scintilla of truth, but such standard does not require proof that rises to the level of clear and convincing evidence. However, notwithstanding anything to the contrary in the NAS PI TDP, proof of a prescription of an opioid product will not be required.

Channeled Claims will be allocated equally among the Substantiated NAS PI Fully Channeled Claims and Substantiated Disputed NAS PI Partially Channeled Claims and allocated as equal gross Awards to the Holders of such Claims.

Awards issued pursuant to the NAS PI TDP provide compensation only for general pain and suffering on account of a NAS Child's injuries. Because of limited funds, economic damages and punitive damages are not compensable. Only injuries occurring before the filing of a NAS PI Claim Form are compensable.

An Award for an NAS PI Fully Channeled Claim liquidated under the NAS PI TDP will be a gross number subject to the Fully Channeled PI Trust Deductions and Holdbacks, which are as follows: (A) a pro rata share of the operating expenses of the PI Trust; (B) amounts held back under the LRP Agreement to settle liens held by private insurance companies against that Award, if any; (C) amounts prepaid to the United States under the United States-PI Claimant Medical Expense Claim Settlement to settle liens of certain federal healthcare programs like Medicare, Tricare, and VA against such Award, if any; (D) a pro rata share of the compensation, costs and fees of professionals that represented or advised the Ad Hoc Group of Individual Victims and the NAS Committee in connection with the Chapter 11 Cases, subject to Section 5.9(f) of the Plan; (E) the fees and costs of the attorney(s) of the Holder of the NAS PI Channeled Claim in the Chapter 11 Cases, if any, reduced by the common benefit assessment in accordance with Section 5.9(c) of the Plan.[~~117~~111] In addition to the deductions and holdbacks described above, an Award may be subject to claims by certain state or tribal healthcare programs that are not part of the LRP Agreement, including Medicaid.

An Award for an NAS PI Partially Channeled Claim will be a gross number subject to the Partially Channeled PI Trust Deductions and Holdbacks, which are as follows: (A) a pro rata share of the operating expenses of the PI Trust; (B) amounts held back under the LRP Agreement to settle liens held by private insurance companies against that Award, if any; (C) amounts prepaid to the United States under the United States-PI Claimant Medical Expense Claim Settlement to settle liens of federal healthcare programs like Medicare, Tricare, or VA against that Award, if any; and (D) a pro rata share of the compensation, costs, and fees of professionals that represented or advised the Ad Hoc Group of Individual Victims and the NAS Committee in connection with the Chapter 11 Cases, subject to Section 5.9(g) of the Plan. For clarity, while the Award for an NAS PI Partially Channeled Claim is a gross number, the actual calculation of the Individual Disputed Claim Holdback Amount and the Individual Direct Claim Holdback Amount will be net of the above deductions. For example, if the Award for a Substantiated NAS PI Partially Channeled Claim would be $100 and the deductions and holdback amounts pursuant to clauses (A)-(D) of this paragraph is $30, the Individual Deficient Claim Holdback Amount would be $54.32 (77.6% of $70 net Award) and the Individual Direct Claim Holdback Amount would be $15.68 (22.4% of $70 net Award).

[~~117~~111] If the Holder of an NAS PI Channeled Claim is represented by an attorney, then such attorney, rather than the PI Trust, will be responsible for deducting its fees and expenses from such Holder's Award.

Finally, distributions to minors are to be held in trust until the minor becomes a legal adult (unless a competent court orders otherwise). For these reasons, it may take years before the Holder of an Allowed NAS PI Channeled Claim receives its entire Award.

The PI Trust will hold any amounts owed to a Holder of an Allowed NAS PI Channeled Claim who is a minor in trust until such minor becomes a legal adult under applicable state law, unless otherwise directed by a court of competent jurisdiction.

Caps for Claims Adjudicated in Bankruptcy Court or the Tort System

(a) Any Deficient NAS PI Channeled Claims that are adjudicated and Allowed by the Bankruptcy Court as part of the claims resolution process will be channeled to the Class 10(a) Non-Participating Claims Reserve for payment pursuant to the NAS PI TDP and the Plan. Each such NAS PI Channeled Claim will be entitled to receive from the Class 10(a) Non-Participating Claims Reserve its respective Award consistent with § 5 of the Non-NAS PI TDP; *provided, however*, that if such Allowed NAS PI Channeled Claim does not meet all of the requirements of the NAS PI TDP, then such NAS PI Channeled Claim will only be entitled to receive the lesser of (i) the Allowed liquidated amount fixed by the Bankruptcy Court and (ii) the lowest recovery of Allowed Awards therein. Such amounts (if any) will be paid from the Class 10(a) Release Claims Reserve, and in no event will the PI Trust be responsible for paying Holders of such Allowed NAS PI Channeled Claims out of the PI Trust Non-NAS Fund.

(b) If a Holder of a Deficient NAS PI Channeled Claim satisfies §3(a)-(c) of the NAS PI TDP, elects to have such Claim against the Debtors liquidated in a court other than the Bankruptcy Court in response to an objection to such Claim, and successfully obtains a final judgment against any of the Debtors in such other court, such Claim will be channeled to the Class 10(a) Non-Participating Claims Reserve for payment pursuant to the NAS PI TDP and the Plan. A Holder of such NAS PI Channeled Claim will only be entitled to receive from the Class 10(a) Non-Participating Claims Reserve the lesser of (i) the liquidated amount of the final judgment so ordered by such court and (ii) three (3) times (x) what such Holder would have received under § 5 of the NAS PI TDP, or (y) if such NAS PI Channeled Claim does not meet all of the requirements of the NAS PI TDP, the lowest recovery amount for Allowed Awards therein. Such amounts (if any) will be paid from the Class 10(a) Claims Reserve, and in no event will the PI Trust be responsible for paying Holders of such NAS PI Channeled Claims out of the PI Trust Non-NAS Fund. In no event shall a Person who did not satisfy §3(a) and (b) of the NAS PI TDP receive any distribution under the NAS PI TDP, regardless of whether such Person obtained a judgment in a court other than the Bankruptcy Court.

* * *

The PI Trust and the PI Trust Agreement

The expenses of the PI Trust will be governed by the PI Trust Agreement. The PI Trust Agreement provides that the PI Trustee will have the power to pay liabilities and expenses of the PI Trust (including indemnification obligations) and establish the Creditor Trust Operating

Reserve for the PI Trust and such other funds, reserves, and accounts within the PI Trust estate as deemed by the PI Trustee necessary to facilitate carrying out the purposes of the PI Trust. The PI Trust Agreement provides that the amount of the PI Trust Assets available to make settlement payments to Holders of Allowed PI Channeled Claims will be subject to the PI Trust Deductions and Holdbacks, which include the fees and expenses of PI Trust professionals and employees, including those professionals needed to administer the PI TDP and the LRP Agreement, and outside legal, financial, accounting, investment, auditing, forecasting, expert, and other consultants, advisors, and agents. These deductions will also include amounts for the compensation, costs and fees of professionals that have represented and/or are representing (A) the Ad Hoc Group of Individual Victims in connection with the Chapter 11 Cases, and (B) the NAS Committee in connection with the Chapter 11 cases, subject to certain limitations. To the extent such compensation, costs, fees and expenses were incurred prior to the Effective Date and were not paid by the PI Trust, the PI Trustee is authorized to pay or reimburse such fees and expenses from the PI Trust Assets as Trust Expenses. Fees and expenses of the Appeals Special Master will be borne respectively by any Holder of a PI Channeled Claim who appeals the Tier Award ruling of the Claims Administrator regarding such Holder's respective PI Channeled Claim, and such fees and expenses will be deducted from any Holder's respective payment from the PI Trust. Additionally, Holders of PI Channeled Claims who incurred individual legal fees and expenses (including fees and expenses pursuant to retainer agreements) will have such individual legal fees and expenses deducted from their respective payments from the PI Trust.

Edgar C. Gentle III will serve as the PI Trustee.[~~118~~112] In the event of a vacancy in the PI Trustee position, whether by term expiration, death, retirement, resignation, or removal, or because the PI Trustee is otherwise unable to perform his functions as trustee, the PI Trust Oversight Committee will choose a successor PI Trustee. In the event that the PI Trust Oversight Committee cannot agree on a successor trustee, the PI Trust Oversight Committee will ask the Bankruptcy Court to select the successor trustee.

The PI Trust Agreement provides that the PI Trust Oversight Committee will consist of three (3) members. Two members of the PI Trust Oversight Committee will be named by the Ad Hoc Group of Individual Victims. These two members will select the third member of the PI Trust Oversight Committee. The members of the PI Trust Oversight Committee will be compensated as provided in the Budget (as defined in the PI Trust Agreement). A description of the amounts paid to the PI Trust Oversight Committee members will be included in the annual report to be filed with the Bankruptcy Court.

For all time expended as the PI Trustee, including attending meetings, preparing for such meetings, and working on authorized special projects, the PI Trustee will receive the sum of $350 per hour.

The PI Trust Agreement will provide that the PI Trustee will have the power to appoint such officers and hire such employees and engage such legal, financial, accounting, investment, auditing, forecasting, and other consultants, advisors, and agents as the business of the PI Trust

[~~118~~112] In the event Mr. Gentle becomes unavailable to serve as the PI Trustee, the Ad Hoc Group of Individual Victims will, subject to the Debtors' consent (which consent will not be unreasonably withheld) select a different person to serve as the PI Trustee in accordance with the Plan.

requires, and delegate to such persons such powers and authorities as the fiduciary duties of the PI Trustee permit and as the PI Trustee, in his discretion, deems advisable or necessary in order to carry out the terms of the PI Trust Agreement, the PI TDP, and the LRP Agreement, and pay reasonable compensation to those employees, legal, financial, accounting, investment, auditing, forecasting, and other consultants, advisors, and agents.

The PI Trust Agreement will provide that the PI Trustee will retain a Claims Administrator, which may be the same individual as the PI Trustee. The PI Trust has chosen Edgar C. Gentle III to be the Claims Administrator.

The PI Trust Agreement will provide that neither the PI Trustee nor the Delaware Trustee (as defined in the PI Trust Agreement) will be required to post any bond or other form of surety or security unless otherwise ordered by the Bankruptcy Court.

(8) Ratepayers' Fees and Costs

Several Ratepayers filed Proofs of Claim against the Debtors under the theory that the opioid crisis caused increased healthcare costs that were, in turn, passed along to them by their insurance providers in the form of increased health insurance premiums, deductibles, and co-payments. Putative Ratepayer class action lawsuits were filed against the Debtors before the petition date, alleging, without limitation, (i) violations of RICO and state law equivalents, (ii) nuisance, (iii) negligence, (iv) common law fraud, and (v) violations of state consumer protection statutes. Pursuant to the Plan, in the event that the Ratepayer Mediation Participants Stipulation has been entered into on or prior to the Effective Date, on the Effective Date or as soon as reasonably practicable thereafter, the attorneys' fees of the Ratepayer Mediation Participants shall be paid from Effective Date Cash in an amount not to exceed $1.4 million.

4. Sale of Avrio Health L.P.

In the summer of 2022, the Debtors made the decision to explore strategic alternatives with respect to the Debtors' consumer health business, which was conducted by Avrio Health L.P. The Debtors determined that a sale of substantially all of Avrio's assets would maximize the value of these significant non-core, non-opioid assets and make additional cash available in the Debtors' estates for distribution under a plan of reorganization. Following an extensive marketing and negotiation process, on April 4, 2023, Debtor Avrio, Atlantis Consumer Healthcare Inc. ("**Atlantis**"), and Arcadia Consumer Healthcare, Inc., as guarantor of Atlantis's obligations, executed an asset purchase agreement (the "**Avrio APA**") in contemplation of a sale of substantially all of Avrio's assets to Atlantis. On May 30, 2023, the Bankruptcy Court entered the *Order (I) Approving Sale of Debtors' Avrio Assets Free and Clear of Liens, Claims, Interests and Encumbrances, (II) Authorizing Assumption and Assignment of Executory Contracts and Unexpired Leases and (III) Granting Related Relief* [D.I. 5644]. The sale of Avrio's assets closed on June 1, 2023.

ARTICLE IV

SUMMARY OF THE PLAN

The Debtors believe that the Plan provides the best and most prompt possible recovery to holders of Claims. The Debtors believe that (a) through the Plan, holders of Allowed Claims will obtain a recovery from the Debtors' estates equal to or greater than the recovery that they would receive if the Debtors' assets were liquidated under chapter 7 of the Bankruptcy Code and (b) consummation of the Plan will maximize the recovery of the holders of Allowed Claims.

The consummation of a plan is the principal objective of a chapter 11 case. A plan sets forth the means for satisfying Claims against, and interests in, a debtor. Confirmation of a plan makes the plan binding upon the debtor and any creditor of, or equity holder in, the debtor, whether or not such creditor or equity holder (a) is impaired under or has accepted the plan or (b) receives or retains any property under the plan. Subject to certain limited exceptions and other than as provided in the plan itself or the confirmation order, a confirmation order discharges the debtor from any debt that arose prior to the effective date of the plan and substitutes therefor the obligations specified under the confirmed plan.

A chapter 11 plan may specify that the legal, contractual, and equitable rights of the holders of Claims or Interests in certain classes are to remain unaltered by the reorganization effectuated by the plan. Such classes are referred to as "unimpaired" and, because of such favorable treatment, are deemed to accept the plan. Accordingly, a debtor need not solicit votes from the holders of Claims or Interests in such classes. A chapter 11 plan may also specify that certain classes will not receive any distribution of property or retain any Claim against a debtor. Such classes are deemed not to accept the plan and, therefore, need not be solicited to vote to accept or reject the plan. Any classes that are receiving a distribution of property under the plan but are not unimpaired will be solicited to vote to accept or reject the plan.

Prior to soliciting acceptances of the proposed plan, section 1125 of the Bankruptcy Code requires a debtor to prepare a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding the plan. To satisfy the requirements of section 1125 of the Bankruptcy Code, the Debtors are submitting this Disclosure Statement to holders of Claims against the Debtors who are entitled to vote to accept or reject the Plan.

THE REMAINDER OF THIS SECTION PROVIDES A SUMMARY OF THE STRUCTURE AND MEANS FOR IMPLEMENTATION OF THE PLAN AND THE CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN. THIS SECTION IS QUALIFIED IN ITS ENTIRETY BY AND IS SUBJECT TO THE PLAN AS WELL AS THE EXHIBITS THERETO AND DEFINITIONS THEREIN.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT INCLUDE SUMMARIES OF THE PROVISIONS CONTAINED IN THE PLAN AND IN DOCUMENTS REFERRED TO THEREIN. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT DO NOT PURPORT TO BE PRECISE OR COMPLETE STATEMENTS OF ALL THE TERMS AND PROVISIONS OF THE PLAN OR DOCUMENTS REFERRED TO

THEREIN. REFERENCE IS MADE TO THE PLAN AND TO SUCH DOCUMENTS FOR THE FULL AND COMPLETE STATEMENTS OF SUCH TERMS AND PROVISIONS OF THE PLAN OR DOCUMENTS REFERRED TO THEREIN.

THE PLAN ITSELF AND THE DOCUMENTS REFERRED TO THEREIN CONTROL THE ACTUAL TREATMENT OF CLAIMS AGAINST AND INTERESTS IN THE DEBTORS UNDER THE PLAN. UPON OCCURRENCE OF THE EFFECTIVE DATE, THE PLAN AND ALL SUCH DOCUMENTS WILL BE BINDING UPON ALL HOLDERS OF CLAIMS AGAINST AND INTERESTS IN THE DEBTORS AND THEIR ESTATES AND ALL OTHER PARTIES IN INTEREST. IN THE EVENT OF ANY CONFLICT BETWEEN THIS DISCLOSURE STATEMENT, ON THE ONE HAND, AND THE PLAN OR ANY OTHER OPERATIVE DOCUMENT, ON THE OTHER HAND, THE TERMS OF THE PLAN AND SUCH OTHER OPERATIVE DOCUMENT SHALL CONTROL.

STATEMENTS AS TO THE RATIONALE UNDERLYING THE TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN ARE NOT INTENDED TO, AND SHALL NOT, WAIVE, COMPROMISE, OR LIMIT ANY RIGHTS, CLAIMS, OR CAUSES OF ACTION IN THE EVENT THE PLAN IS NOT CONFIRMED.

The Debtors will file with the Court before the Voting Deadline (as defined in the Solicitation Procedures Order) the supplement or supplements to the Plan (the "**Plan Supplement**") containing certain documents relevant to the implementation of the Plan, which shall include the MDT Documents, the NewCo Transfer Agreement, the NewCo Operating Agreement, the Foundation Bylaws, the Governmental Remediation Trust Documents, the PAT Agreement, the PI Trust Documents (including the LRP Agreement), the Healthcare Provider Trust Documents, the ERP Trust Documents, the TPP Trust Documents, Public School Trust Documents, the Tribe Trust Documents, the identity of the MDT Trustees, the identity of the MDT Advisory Council Representatives, the identity of the NewCo Managers, the identity of the Foundation Trustees, the identity of the Plan Administration Trustee and PPLP Liquidator, the identity of the Creditor Trustees, identity of the Governmental Remediation Trust Trustees, the Schedule of Rejected Contracts, the Schedule of Retained Causes of Action, the Schedule of Excluded Parties, each Shareholder Settlement Agreement (and any exhibits, amendments or modifications thereto), and the Restructuring Steps Memorandum. Notice of filing of the Plan Supplement will be served in accordance with the Solicitation Procedures Order. Once filed, the Plan Supplement (and, at any time, the Disclosure Statement, including the Plan and the other exhibits thereto, Disclosure Statement Order, and all other materials in the Solicitation Package, except Ballots) may be obtained at no charge from the Solicitation Agent by (a) calling the Debtors' restructuring hotline at (844) 217-0912 (toll-free) or (347) 859-8093 (international); (b) visiting the Debtors' restructuring website at https://restructuring.ra.kroll.com/purduepharma; (c) writing to Purdue Pharma Ballot Processing, c/o Kroll Restructuring Administration LLC, 850 Third Avenue, Suite 412, Brooklyn, NY 11232; and or (d) emailing purduepharmaballots@kroll.com. You may also obtain copies of any pleadings filed in these Chapter 11 Cases for a fee via PACER at http://www.nysb.uscourts.gov.

A. Administrative Expense Claims, Professional Fee Claims, Priority Tax Claims and DOJ Forfeiture Judgment Claim

1. Administrative Claims

(i) **Generally**. Except as provided for in the Plan or in any order of the Bankruptcy Court, and subject to section 503(b)(1)(D) of the Bankruptcy Code, Holders of Administrative Claims (other than Professional Fee Claims and the DOJ Forfeiture Judgment Claim) must file and serve on the Debtors requests for the payment of such Administrative Claims not already Allowed by a Final Order. Any Holder of an Administrative Claim that is required to, but does not, file and serve a request for payment of such Administrative Claim pursuant to the procedures specified in the Confirmation Order shall be forever barred, estopped and enjoined from asserting such Claims against the Debtors, the Liquidating Debtors, the Transferred Debtors, the Plan Administration Trust or their respective Assets or properties, and such Claims shall be deemed discharged as of the Effective Date. An Administrative Claim, with respect to which a request for payment has been properly and timely filed pursuant to Section 2.1(a) of the Plan, shall become an Allowed Administrative Claim if no objection to such request is filed by the Debtors or the Plan Administration Trustee with the Bankruptcy Court on or before the date that is one hundred twenty (120) days after the Effective Date, or such later date as may be fixed by the Bankruptcy Court. If an objection is timely filed, such Administrative Claim shall become an Allowed Administrative Claim only to the extent Allowed by Final Order or such Claim is settled, compromised or otherwise resolved pursuant to Section 7.6 of the Plan. Except to the extent a Holder of an Allowed Administrative Claim and the Debtor against which such Claim is asserted agree to different treatment, each Holder of an Allowed Administrative Claim (other than a Professional Fee Claim or the DOJ Forfeiture Judgment Claim) shall receive, on account of such Allowed Claim, Cash in an amount equal to the Allowed amount of such Claim from the Priority Claims Reserve within thirty (30) days following the later to occur of (i) the Effective Date and (ii) the date on which such Administrative Claim shall become an Allowed Claim; provided that any Administrative Claim that is an Assumed Liability shall be paid by NewCo in the ordinary course of business.

(ii) **Professional Fee Claims**. All Professional Persons seeking awards by the Bankruptcy Court for compensation for services rendered or reimbursement of expenses incurred through and including the Effective Date under (x) section 327, 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4), 503(b)(5) or 1103 of the Bankruptcy Code, (y) with respect to the Ad Hoc Committee, the AHC Reimbursement Agreement Assumption Order, or (z) with respect to the MSGE Group, the MSGE Group Reimbursement Order, shall (i) file, on or before the date that is forty-five (45) days after

the Effective Date, or as soon as reasonably practicable thereafter, their respective applications for final allowances of compensation for services rendered and reimbursement of expenses incurred and (ii) be paid in full in Cash, (A) first, from any existing amounts held by a Professional Person as a fee advance, retainer, or security that such Professional Person is authorized to use to satisfy Allowed Professional Fee Claims pursuant to the Interim Compensation Order or the order of the Bankruptcy Court authorizing the retention of such Professional Person (other than a reasonable retainer to cover post-Effective Date work), and (B) second, from the Professional Fee Escrow Account, in such aggregate amounts as are Allowed by the Bankruptcy Court or authorized to be paid in accordance with the order(s) relating to or allowing any such Professional Fee Claim. On or prior to the Effective Date, the Debtors shall establish the Professional Fee Escrow Account and, on the Effective Date, fund the Professional Fee Escrow Account with Cash such that the total amount held in the Professional Fee Escrow Account is equal to the sum of each Professional Person's good-faith estimates of its Professional Fee Claims. The procedures for filing objections to Professional Persons' applications for final allowance of compensation for services rendered and expenses incurred shall be set forth in the Confirmation Order.

2. Priority Tax Claims

Except to the extent a Holder of an Allowed Priority Tax Claim and the Debtor against which such Claim is asserted agree to different treatment, on the Effective Date or as soon as reasonably practicable thereafter, each Holder of an Allowed Priority Tax Claim shall receive, on account of such Allowed Priority Tax Claim, either Cash in an amount equal to the Allowed amount of such Claim from the Priority Claims Reserve or such other treatment as may satisfy section 1129(a)(9) of the Bankruptcy Code.

3. DOJ Forfeiture Judgment Claim

(i) **Allowance**. Pursuant to the Plea Agreement and the DOJ 9019 Order, the DOJ Forfeiture Judgment Claim shall be Allowed in the amount of $2.0 billion on the later of (i) the DOJ Conviction Judgment Date and (ii) the entry by the Bankruptcy Court of the Confirmation Order.

(ii) **Treatment**. In full and final satisfaction, settlement, release and discharge of the DOJ Forfeiture Judgment Claim, the Debtors shall make the DOJ Forfeiture Payment within three (3) Business Days following the DOJ Conviction Judgment Date, which DOJ Forfeiture Payment, in combination with the DOJ Forfeiture Judgment Credit, shall satisfy and discharge the DOJ Forfeiture Judgment Claim in full.

B. Classification of Claims and Interests

1. Classification in General

A Claim or Interest is placed in a particular Class for all purposes, including voting, confirmation and Distributions under the Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Interest is classified in a particular Class for the purpose of receiving Distributions pursuant to the Plan only to the extent such Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent any portion of the Claim or Interest qualifies within the description of such other Classes; provided that, to the extent any Claim satisfies the definition of a Shareholder Claim, a Co-Defendant Claim or an Other Subordinated Claim, such Claim shall be classified as such, notwithstanding that such Claim may satisfy the definition of another type of Claim. A Claim or Interest is also classified in a particular Class for the purpose of receiving Distributions hereunder only to the extent such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been satisfied, released or otherwise settled prior to the Effective Date. In no event shall any Holder of an Allowed Claim be entitled to receive payments under the Plan that, in the aggregate, exceed the Allowed amount of such Holder's Claim.

2. Summary of Classification of Claims and Interests

The following table designates the Classes of Claims against and Interests in the Debtors and specifies which Classes are (a) Impaired or Unimpaired under the Plan, (b) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code or presumed to accept or deemed to reject the Plan:

Class	Type of Claim or Interest	Impairment	Entitled to Vote
Class 1	Secured Claims	Unimpaired	No (Presumed to Accept)
Class 2	Other Priority Claims	Unimpaired	No (Presumed to Accept)
Class 3	Federal Government Unsecured Claims	Impaired	Yes
Class 4	Non-Federal Domestic Governmental Claims	Impaired	Yes
Class 5	Tribe Claims	Impaired	Yes
Class 6	Public School Claims	Impaired	Yes
Class 7	Healthcare Provider Claims	Impaired	Yes
Class 8	Third-Party Payor Claims	Impaired	Yes
Class 9	ER Physician Claims	Impaired	Yes

Class 10(a)	NAS PI Claims	Impaired	Yes
Class 10(b)	Non-NAS PI Claims	Impaired	Yes
Class 11(a)	Avrio General Unsecured Claims	Unimpaired	No (Presumed to Accept)
Class 11(b)	Adlon General Unsecured Claims	Unimpaired	No (Presumed to Accept)
Class 11(c)	Other General Unsecured Claims	Impaired	Yes
Class 12	Intercompany Claims	Unimpaired or Impaired	No (Presumed to Accept or Deemed to Reject)
Class 13	Shareholder Claims	Impaired	No (Deemed to Reject)
Class 14	Co-Defendant Claims	Impaired	No (Deemed to Reject)
Class 15	Other Subordinated Claims	Impaired	No (Deemed to Reject)
Class 16	PPLP Interests	Impaired	No (Deemed to Reject)
Class 17	PPI Interests	Impaired	No (Deemed to Reject)
Class 18	Intercompany Interests	Unimpaired or Impaired	No (Presumed to Accept or Deemed to Reject)

3. Voting Classes; Presumed Acceptance by Non-Voting Classes

With respect to each Debtor, if a Class contains Claims eligible to vote and no Holder of Claims eligible to vote in such Class votes to accept or reject the Plan by the Voting Deadline, the Plan shall be presumed accepted by the Holders of Claims in such Class.

4. Voting; Presumptions; Solicitation

(i) **Acceptance by Certain Impaired Classes.** Only Holders of Claims in Classes 3, 4, 5, 6, 7, 8, 9, 10(a), 10(b) and 11(c) are entitled to vote to accept or reject the Plan. An Impaired Class of Claims shall have accepted the Plan if (i) the Holders, including Holders acting through a Voting Representative, of at least two-thirds (2/3) in amount of Claims actually voting in such Class have voted to accept the Plan and (ii) the Holders, including Holders acting through a Voting Representative, of more than one-half (1/2) in number of Claims actually voting in such Class have voted to accept the Plan. Holders of Claims in Classes 3, 4, 5, 6, 7, 8, 9, 10(a), 10(b) and 11(c) (or, if applicable, the Voting Representatives of such Holders) shall receive ballots containing detailed voting instructions. For the avoidance of doubt, pursuant to and except as otherwise provided in the Solicitation Procedures Order, each Claim in Classes 4, 5, 6, 7, 8, 9, 10(a) and 10(b) shall be accorded one (1) vote and valued at one dollar

($1.00) for voting purposes only, and not for purposes of Allowance or distribution, such that each of Classes 4, 5, 6, 7, 8, 9, 10(a) and 10(b) shall be deemed to have accepted the Plan if the Holders, including Holders acting through a Voting Representative, of at least two-third (2/3) in number of Claims actually voting in such Class have voted to accept the Plan.

(ii) **Deemed Acceptance by Unimpaired Classes.** Holders of Claims in Classes 1, 2, 11(a) and 11(b) are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Accordingly, such Holders are not entitled to vote to accept or reject the Plan.

(iii) **Deemed Rejection by Certain Impaired Classes.** Holders of Claims and Interests in Classes 13, 14, 15, 16, and 17 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Accordingly, such Holders are not entitled to vote to accept or reject the Plan.

(iv) **Deemed Acceptance or Rejection by Certain Classes.** Holders of Interests in Classes 12 and 18 are either conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code or are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Accordingly, such Holders are not entitled to vote to accept or reject the Plan.

(v) **Individual Creditor Voting Rights.** Notwithstanding anything to the contrary in the Plan, the voting rights of Holders of Claims in any Class shall be governed in all respects by the Solicitation Procedures Order, including without limitation with respect to the amount of such Claims for voting purposes.

5. Cramdown

If any Class of Claims is deemed to reject the Plan or is entitled to vote on the Plan and does not vote to accept the Plan, the Debtors may (a) seek confirmation of the Plan under section 1129(b) of the Bankruptcy Code and/or (b) amend or modify the Plan in accordance with the terms hereof and the Bankruptcy Code. If a controversy arises as to whether any Claim or Interest, or any Class of Claims or Interests, is Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

6. No Waiver

Nothing contained in the Plan shall be construed to waive a Debtor's or other Person's right to object on any basis to any Claim.

C. Treatment of Claims and Interests

1. Secured Claims (Class 1)

(i) Treatment: Except to the extent a Holder of an Allowed Secured Claim and the Debtor against which such Claim is asserted agree to different treatment, on the Effective Date, or as soon as reasonably practicable thereafter, each Holder of an Allowed Secured Claim shall receive, on account of such Allowed Claim, (i) payment in full in Cash from the Priority Claims Reserve in accordance with section 506(a) of the Bankruptcy Code, (ii) Reinstatement of such Allowed Claim pursuant to section 1124 of the Bankruptcy Code or (iii) such other treatment as may be necessary to render such Claim Unimpaired.

(ii) Impairment and Voting: Secured Claims are Unimpaired. Holders of Secured Claims are conclusively presumed to accept the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Secured Claims are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such Secured Claims.

2. Other Priority Claims (Class 2)

(i) Treatment: Except to the extent a Holder of an Allowed Other Priority Claim and the Debtor against which such Claim is asserted agree to different treatment, on the Effective Date, or as soon as reasonably practicable thereafter, each Holder of an Allowed Other Priority Claim shall receive, on account of such Allowed Claim, (i) payment in full in Cash from the Priority Claims Reserve or (ii) such other treatment consistent with the provisions of section 1129(a)(9) of the Bankruptcy Code.

(ii) Impairment and Voting: Other Priority Claims are Unimpaired. Holders of Other Priority Claims are conclusively presumed to accept the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Other Priority Claims are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such Other Priority Claims.

3. Federal Government Unsecured Claims (Class 3)

(i) Allowance of the DOJ Civil Claim and DOJ Criminal Fine Claim: Pursuant to the DOJ 9019 Order, the DOJ Civil Claim is Allowed in the amount of $2.8 billion. The DOJ Criminal Fine Claim shall be Allowed in the amount of $3.544 billion on the later of (i) the DOJ Conviction Judgment Date and (ii) the entry by the Bankruptcy Court of the Confirmation Order.

(ii) Treatment: On the Effective Date, in full and final satisfaction, settlement and release of the Allowed Federal Government Unsecured Claims, the United States shall receive (i) the Initial Federal Government Distribution and (ii) the MDT Federal Government Claim. The MDT Federal Government Claim shall be payable by the Master Disbursement Trust in the following installments: (x) $10 million on the second Scheduled MDT Distribution Date, (y) $10 million on the third Scheduled MDT Distribution Date and (z) $5 million on the fourth Scheduled MDT Distribution Date. The Initial Federal Government Distribution and the amounts paid to the United States on account of the MDT Federal Government Claim shall be deemed applied 60% to the DOJ Unsecured Claims and 40% to the Other Federal Agency Claims.

(iii) Impairment and Voting: The Federal Government Unsecured Claims are Impaired. Holders of Federal Government Unsecured Claims are entitled to vote to accept or reject the Plan.

4. Non-Federal Domestic Governmental Claims (Class 4)

(i) Treatment: On the Effective Date, in full and final satisfaction, settlement and release of the Debtors' obligations in respect of Non-Federal Domestic Governmental Claims, the Governmental Remediation Trust shall receive (i) the Initial Governmental Remediation Trust Distribution, (ii) the MDT Governmental Remediation Trust Interest and (iii) the right to receive 96.7% of the Governmental NewCo Distributable Cash pursuant to Section 5.4(e) of the Plan.

(ii) Channeling: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all Non-Federal Domestic Governmental Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the Governmental Remediation Trust and shall be exclusively satisfied by payments from the Governmental Remediation Trust. Each Non-Federal Domestic Governmental Channeled Claim shall be asserted exclusively against the Governmental Remediation Trust and resolved solely in accordance with the terms, provisions and procedures of the Governmental Remediation Trust Agreement. The sole recourse of any Person on account of any Non-Federal Domestic Governmental Channeled Claim, whether or not the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the Governmental Remediation Trust as and to the extent provided in the Governmental Remediation Trust Agreement. Subject to Section 10.8(c) of the Plan, Holders of Non-Federal Domestic Governmental Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any Channeled Claim, and may not proceed in any manner against any Debtor or other Protected Party on account of any Channeled Claim in

any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and are required to pursue Non-Federal Domestic Governmental Channeled Claims exclusively against the Governmental Remediation Trust.

(iii) Impairment and Voting: Non-Federal Domestic Governmental Claims are Impaired. Holders of Non-Federal Domestic Governmental Claims are entitled to vote to accept or reject the Plan.

5. Tribe Claims (Class 5)

(i) Treatment: On the Effective Date, in full and final satisfaction, settlement and release of the Debtors' obligations in respect of Tribe Claims, the Tribe Trust shall receive (i) the Initial Tribe Trust Distribution, (ii) the MDT Tribe Interest and (iii) the right to receive 3.3% of the Governmental NewCo Distributable Cash pursuant to Section 5.4(e) of the Plan.

(ii) Channeling: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all Tribe Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the Tribe Trust and shall be exclusively satisfied by payments from the Tribe Trust. Each Tribe Channeled Claim shall be asserted exclusively against the Tribe Trust and resolved solely in accordance with the terms, provisions and procedures of the Tribe TDP. The sole recourse of any Person on account of any Tribe Channeled Claim, whether or not the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the Tribe Trust as and to the extent provided in the Tribe TDP. Subject to Section 10.8(c) of the Plan, Holders of Tribe Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any Channeled Claim, and may not proceed in any manner against any Debtor or other Protected Party on account of any Channeled Claim in any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and are required to pursue Tribe Channeled Claims exclusively against the Tribe Trust, solely as and to the extent provided in the Tribe TDP.

(iii) Impairment and Voting: Tribe Claims are Impaired. Holders of Tribe Claims are entitled to vote to accept or reject the Plan.

6. Public School Claims (Class 6)

(i) Treatment: On the Effective Date, in full and final satisfaction, settlement and release of the Debtors' obligations in respect of Public School Claims, the Public School Trust shall receive (i) the Initial Public Schools Distribution (less any required payments to the Common Benefit Fund

and/or in respect of attorneys' fees and expenses of the Public School District Claimants in accordance with Section 5.9(d) and (i) of the Plan) and (ii) the MDT Public School Districts Claim; *provided* that if, as of the Effective Date, the Public School District Shareholder Direct Settlement has not been consummated, the Shareholder Direct Settlement Portion of the Initial Public Schools Distribution will be deposited into a third-party interest bearing escrow in accordance with the Master Shareholder Settlement Agreement on the Effective Date and distributed in accordance with Section 5.2(e)(i) of the Plan.

(ii) Channeling: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all Public School Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the Public School Trust and shall be exclusively satisfied by payments from the Public School Trust. Each Public School Channeled Claim shall be asserted exclusively against the Public School Trust and resolved solely in accordance with the terms, provisions and procedures of the Public School TDP. The sole recourse of any Person on account of any Public School Channeled Claim, whether or not the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the Public School Trust as and to the extent provided in the Public School TDP. Subject to Section 10.8(c) of the Plan, Holders of Public School Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any Channeled Claim, and may not proceed in any manner against any Debtor or other Protected Party on account of any Channeled Claim in any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and are required to pursue Public School Channeled Claims exclusively against the Public School Trust, solely as and to the extent provided in the Public School TDP.

(iii) Impairment and Voting: Public School Claims are Impaired. Holders of Public School Claims are entitled to vote to accept or reject the Plan.

7. Healthcare Provider Claims (Class 7)

(i) Treatment: On the Effective Date, in full and final satisfaction, settlement and release of the Debtors' obligations in respect of Healthcare Provider Claims, the Healthcare Provider Trust shall receive (i) the Initial Healthcare Provider Trust Distribution and (ii) the MDT Healthcare Provider Claim; *provided* that if, as of the Effective Date, the Hospital Shareholder Direct Settlement has not been consummated, the Shareholder Direct Settlement Portion of the Initial Healthcare Provider Trust Distribution will be deposited into a third-party interest bearing escrow in accordance with the Master Shareholder Settlement Agreement on the

Effective Date and distributed in accordance with Section 5.2(e)(i) of the Plan.

(ii) Channeling: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all Healthcare Provider Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the Healthcare Provider Trust and shall be exclusively satisfied by payments from the Healthcare Provider Trust. Each Healthcare Provider Channeled Claim shall be asserted exclusively against the Healthcare Provider Trust and resolved solely in accordance with the terms, provisions and procedures of the Healthcare Provider TDP. The sole recourse of any Person on account of any Healthcare Provider Channeled Claim, whether or not the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the Healthcare Provider Trust as and to the extent provided in the Healthcare Provider TDP. Subject to Section 10.8(c) of the Plan, Holders of Healthcare Provider Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any Channeled Claim, and may not proceed in any manner against any Debtor or other Protected Party on account of any Channeled Claim in any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and are required to pursue Healthcare Provider Channeled Claims exclusively against the Healthcare Provider Trust, solely as and to the extent provided in the Healthcare Provider TDP.

(iii) Impairment and Voting: Healthcare Provider Claims are Impaired. Healthcare Provider of Healthcare Provider Claims are entitled to vote to accept or reject the Plan.

8. Third-Party Payor Claims (Class 8)

(i) Treatment: On the Effective Date, in full and final satisfaction, settlement and release of the Debtors' obligations in respect of Third-Party Payor Claims, the TPP Trust shall receive (i) the Initial TPP Trust Distribution and (ii) the MDT TPP Claim. For the avoidance of doubt, any payments from the TPP LRP Escrow Account to which LRP Participating TPPs may be entitled under the LRP Agreement shall not be subject to Section 4.8 of the Plan.

(ii) Channeling: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all Third-Party Payor Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the TPP Trust and shall be exclusively satisfied by payments from the TPP Trust. Each Third-Party Payor Channeled Claim shall be asserted exclusively against the TPP Trust and

resolved solely in accordance with the terms, provisions and procedures of the TPP TDP. The sole recourse of any Person on account of any Third-Party Payor Channeled Claim, whether or not the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the TPP Trust as and to the extent provided in the TPP TDP. Subject to Section 10.8(c) of the Plan, Holders of Third-Party Payor Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any Channeled Claim, and may not proceed in any manner against any Debtor or other Protected Party on account of any Channeled Claim in any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and are required to pursue Third-Party Payor Channeled Claims exclusively against the TPP Trust, solely as and to the extent provided in the TPP TDP.

(iii) Impairment and Voting: Third-Party Payor Claims are Impaired. Holders of Third-Party Payor Claims are entitled to vote to accept or reject the Plan.

9. ER Physician Claims (Class 9)

(i) Treatment: On the Effective Date, in full and final satisfaction, settlement and release of the Debtors' obligations in respect of ER Physician Claims, the ERP Trust shall receive (i) the Initial ERP Trust Distribution and (ii) the MDT ERP Claim; *provided* that if, as of the Effective Date, the ER Physician Shareholder Direct Settlement has not been consummated, the Initial ERP Trust Distribution will be deposited into a third-party interest bearing escrow in accordance with the Master Shareholder Settlement Agreement on the Effective Date and distributed in accordance with Section 5.2(e)(i) of the Plan.

(ii) Channeling: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all ER Physician Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the ERP Trust and shall be exclusively satisfied by payments from the ERP Trust. Each ER Physician Channeled Claim shall be asserted exclusively against the ERP Trust and resolved solely in accordance with the terms, provisions and procedures of the ERP TDP. The sole recourse of any Person on account of any ER Physician Channeled Claim, whether or not the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the ERP Trust as and to the extent provided in the ERP TDP. Subject to Section 10.8(c) of the Plan, Holders of ER Physician Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any ER Physician Channeled Claim, and may not proceed in any manner against any Debtor or other Protected

Party on account of any ER Physician Channeled Claim in any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and are required to pursue ER Physician Channeled Claims exclusively against the ERP Trust, solely as and to the extent provided in the ERP TDP.

(iii) Impairment and Voting: ER Physician Claims are Impaired. Holders of ER Physician Claims are entitled to vote to accept or reject the Plan.

10. PI Claims (Classes 10(a) and 10(b))

(i) PI Trust: On the Effective Date, in full and final satisfaction, settlement and release of the Debtors' obligations in respect of PI Claims, the PI Trust shall receive, subject to Section 5.2(i) of the Plan, (i) the Initial PI Trust Distribution and (ii) the MDT PI Claim.

(ii) NAS PI Claims (Class 10(a))

(1) **Treatment**: The PI Trust shall deposit the NAS PI Portion into the PI Trust NAS Fund in periodic installments as funds are received by the PI Trust. Distributions in respect of NAS PI Channeled Claims shall be exclusively in the form of Distributions from the PI Trust NAS Fund or a Sub-Qualified Settlement Fund to Holders of Allowed NAS PI Channeled Claims, in accordance with the NAS PI TDP, and shall be subject to the PI Trust Deductions and Holdbacks.

(2) **Channeling**: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all NAS PI Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the PI Trust and shall be exclusively satisfied by payments from the PI Trust. Each NAS PI Channeled Claim shall be asserted exclusively against the PI Trust and resolved solely in accordance with the terms, provisions and procedures of the NAS PI TDP. The sole recourse of any Person on account of any NAS PI Channeled Claim, whether or not the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the PI Trust NAS Fund as and to the extent provided in the NAS PI TDP. Subject to Section 10.8(c) of the Plan, Holders of NAS PI Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any Channeled Claim, and may not proceed in any manner against any Debtor or other Protected Party on account of any Channeled Claim in any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and are required to pursue NAS PI Channeled

Claims exclusively against the PI Trust, solely as and to the extent provided in the NAS PI TDP.

(3) **Impairment and Voting**: NAS PI Claims are Impaired. Holders of NAS PI Claims are entitled to vote to accept or reject the Plan.

(iii) Non-NAS PI Claims (Class 10(b))

(1) **Treatment**: The PI Trust shall deposit the Non-NAS PI Portion into the PI Trust Non-NAS Fund in periodic installments as funds are received by the PI Trust. Distributions in respect of Non-NAS PI Channeled Claims shall be exclusively in the form of Distributions from the PI Trust Non-NAS Fund or Sub-Qualified Settlement Fund to Holders of Allowed Non-NAS PI Channeled Claims, in accordance with the Non-NAS PI TDP, and shall be subject to the PI Trust Deductions and Holdbacks.

(2) **Channeling**: As of the Effective Date, in accordance with the Plan and the Master TDP, any and all liability of the Debtors and the other Protected Parties for any and all Non-NAS PI Channeled Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the PI Trust and shall be exclusively satisfied by payments from the PI Trust. Each Non-NAS PI Channeled Claim shall be asserted exclusively against the PI Trust and resolved solely in accordance with the terms, provisions and procedures of the Non-NAS PI TDP. The sole recourse of any Person on account of any Non-NAS PI Channeled Claim, whether or not the Holder thereof participated in the Chapter 11 Cases and whether or not such Holder filed a Proof of Claim in the Chapter 11 Cases, shall be to the PI Trust Non-NAS Fund as and to the extent provided in the Non-NAS PI TDP. Subject to Section 10.8(c) of the Plan, Holders of Non-NAS PI Channeled Claims are enjoined from asserting against any Debtor or other Protected Party any Channeled Claim, and may not proceed in any manner against any Debtor or other Protected Party on account of any Channeled Claim in any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and are required to pursue Non-NAS PI Channeled Claims exclusively against the PI Trust, solely as and to the extent provided in the Non-NAS PI TDP.

(3) **Impairment and Voting**: Non-NAS PI Claims are Impaired. Holders of Non-NAS PI Claims are entitled to vote to accept or reject the Plan.

(iv) Canadian Patient Settlement: Pursuant to the Canadian Patient Claim Settlement Stipulation, (i) no Holder of a Settled Canadian Patient Claim

that filed a Proof of Claim shall receive a recovery in respect of such Settled Canadian Patient Claim from any source other than the Patient Settlement Payment (as defined in the Canadian Patient Claim Settlement Stipulation) made from the Canadian Patient Settlement Trust and (ii) in order to receive a recovery in respect of any other Claim for which a Proof of Claim was filed by a Holder of a Settled Canadian Patient Claim, such Holder shall have the burden of proving that such Proof of Claim is not in respect of a Settled Canadian Patient Claim that was released and discharged pursuant to the Canadian Patient Claim Settlement Stipulation and such Holder has not received any recovery from the Canadian Patient Settlement Trust on account of such Claim. No Distributions shall be made on account of any Claims that may constitute Settled Canadian Patient Claims unless and until (x) the Saskatchewan Court of Queen's Bench approves the Canadian Patient Settlement Agreement and all funds in the Canadian Patient Settlement Trust have been distributed to Holders of Settled Canadian Patient Claims in accordance with the Canadian Patient Settlement Agreement or (y) the Saskatchewan Court of Queen's Bench denies the Canadian Patient Settlement Agreement. For the avoidance of doubt, nothing in Article X of the Plan shall affect the validity or enforceability of the Canadian Patient Settlement Agreement.

11. Avrio General Unsecured Claims (Class 11(a))

(i) Treatment: Except to the extent a Holder of an Allowed Avrio General Unsecured Claim and Avrio Health L.P. agree to different treatment, on the Effective Date, or as soon as reasonably practicable thereafter, each Holder of an Allowed Avrio General Unsecured Claim shall receive, on account of such Allowed Claim, including interest, payment in full in Cash.

(ii) Impairment and Voting: Avrio General Unsecured Claims are Unimpaired. Holders of Avrio General Unsecured Claims are conclusively presumed to accept the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Avrio General Unsecured Claims are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited.

12. Adlon General Unsecured Claims (Class 11(b))

(i) Treatment: Except to the extent a Holder of an Allowed Adlon General Unsecured Claim and Adlon Therapeutics L.P. agree to different treatment, on the Effective Date, or as soon as reasonably practicable thereafter, each Holder of an Allowed Adlon General Unsecured Claim shall receive, on account of such Allowed Claim, including interest, payment in full in Cash.

(ii) Impairment and Voting: Adlon General Unsecured Claims are Unimpaired. Holders of Adlon General Unsecured Claims are conclusively presumed to accept the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Adlon General Unsecured Claims are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited.

13. Other General Unsecured Claims (Class 11(c))

(i) Treatment: All Other General Unsecured Claims are Disputed. Except to the extent a Holder of an Allowed Other General Unsecured Claim and the Debtor against which such Claim is asserted agree to different treatment, after the Effective Date upon the Allowance of such Claim in accordance with Article VII of the Plan, each Holder of an Allowed Other General Unsecured Claim shall receive, on account of such Allowed Claim, such Holder's *Pro Rata* Share of the Other General Unsecured Claim Cash, up to payment in full of such Allowed Claim.

(ii) Impairment and Voting: Other General Unsecured Claims are Impaired. Holders of Other General Unsecured Claims are entitled to vote to accept or reject the Plan.

14. Intercompany Claims (Class 12)

(i) Treatment: Except as otherwise provided in the NewCo Transfer Agreement or the Restructuring Steps Memorandum, on or after the Effective Date, Intercompany Claims shall be (x) in the case of Intercompany Claims held by a Liquidating Debtor against another Liquidating Debtor, at the discretion of the Debtors (or the Plan Administration Trustee, as applicable), (y) in the case of Intercompany Claims held by a Transferred Debtor against another Transferred Debtor, at the discretion of NewCo and (z) otherwise, at the discretion of the Debtors (or the Plan Administration Trustee, as applicable) with the consent (not to be unreasonably withheld, conditioned or delayed) of the Governmental Consent Parties:

(1) Reinstated; or

(2) Compromised and settled or canceled and extinguished with no distribution on account thereof.

(ii) Impairment and Voting: Intercompany Claims are either Unimpaired or Impaired with no distribution on account thereof. Holders of Intercompany Claims are either conclusively presumed to accept the Plan pursuant to section 1126(f) of the Bankruptcy Code or deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Intercompany Claims are not entitled to vote to accept or reject the Plan,

and the votes of such Holders will not be solicited with respect to such Intercompany Claims.

15. Shareholder Claims (Class 13)

(i) Treatment: Holders of Shareholder Claims shall not receive or retain any property on account of such Claims. As of the Effective Date, in accordance with the terms of and except as otherwise expressly provided in the Shareholder Settlements, all Shareholder Claims shall automatically, and without further act, deed or court order, be deemed to have been released without any distribution on account thereof, and such Claims shall be of no further force or effect.

(ii) Impairment and Voting: Shareholder Claims are Impaired. Holders of Shareholder Claims are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Shareholder Claims are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such Shareholder Claims.[~~119~~113]

16. Co-Defendant Claims (Class 14)

(i) Treatment: In full and final satisfaction and release of each Co-Defendant Claim, the Holder thereof shall (i) not receive or retain any property on account of such Co-Defendant Claim and not have any recourse to any Debtor or any Assets of any Debtor, or any Estate or any Assets of any Estate, and (ii) retain its Co-Defendant Defensive Rights, which may be exercised solely in accordance with Section 10.18 of the Plan. As of the Effective Date, Co-Defendant Claims shall be deemed expunged, released and extinguished without further action by or order of the Bankruptcy Court, and shall be of no further force or effect. Notwithstanding the release, satisfaction, expungement and extinguishment of Co-Defendant Claims, a Co-Defendant retains its Co-Defendant Defensive Rights.

(ii) Impairment and Voting: Co-Defendant Claims are Impaired. Holders of Co-Defendant Claims are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Co-Defendant Claims are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such Co-Defendant Claims.

[~~119~~113] Although Holders of Shareholder Claims are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code, the Shareholder Payment Parties, in all capacities (including as Holders of Claims), have agreed to support the Plan pursuant to the Master Shareholder Settlement Agreement.

17. Other Subordinated Claims (Class 15)

(i) Treatment: Other Subordinated Claims are subordinated pursuant to the Plan and section 509(c) and/or 510 of the Bankruptcy Code and/or other applicable law. Holders of Other Subordinated Claims shall not receive or retain any property under the Plan on account of such Claims. As of the Effective Date, Other Subordinated Claims shall be deemed expunged, released and extinguished without further action by or order of the Bankruptcy Court, and shall be of no further force or effect.

(ii) Impairment and Voting: Other Subordinated Claims are Impaired. Holders of Other Subordinated Claims are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Other Subordinated Claims are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such Other Subordinated Claims.

18. PPLP Interests (Class 16)

(i) Treatment: In accordance with the terms of the Shareholder Settlement Agreements, Holders of PPLP Interests shall relinquish such Interests and shall not receive or retain any property under the Plan on account of such Interests. As of the PPLP Dissolution Date, all PPLP Interests shall be deemed surrendered, canceled and/or redeemed without further action by or order of the Bankruptcy Court, and shall be of no further force or effect.

(ii) Impairment and Voting: PPLP Interests are Impaired. Holders of PPLP Interests are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of PPLP Interests are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such PPLP Interests.

19. PPI Interests (Class 17)

(i) Treatment: In accordance with the terms of the Shareholder Settlement Agreements, Holders of PPI Interests shall relinquish such Interests and shall not receive or retain any property under the Plan on account of such Interests. As of the Effective Date, PPI Interests shall be deemed surrendered, canceled and/or redeemed without further action by or order of the Bankruptcy Court, and shall be of no further force or effect.

(ii) Impairment and Voting: PPI Interests are Impaired. Holders of PPI Interests are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of PPI Interests are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such PPI Interests.

20. Intercompany Interests (Class 18)

(i) Treatment: Except as otherwise provided in the NewCo Transfer Agreement or the Restructuring Steps Memorandum, on the Effective Date, Intercompany Interests shall be:

(1) with respect to Intercompany Interests in any Transferred Debtor held by PPLP, Reinstated and transferred to NewCo (or one of its Subsidiaries) in accordance with the NewCo Transfer Agreement;

(2) with respect to Intercompany Interests in any Transferred Debtor held by another Transferred Debtor, Reinstated or otherwise treated in accordance with the NewCo Transfer Agreement; and

(3) with respect to Intercompany Interests in any Debtor that is not a Transferred Debtor, Reinstated solely for administrative convenience until canceled when such Debtor is dissolved or merged out of existence by the Plan Administration Trustee.

(ii) Impairment and Voting: Intercompany Interests are either Unimpaired or Impaired with no distribution on account thereof. Holders of Intercompany Interests are either conclusively presumed to accept the Plan pursuant to section 1126(f) of the Bankruptcy Code or deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Intercompany Interests are not entitled to vote to accept or reject the Plan, and the votes of such Holders will not be solicited with respect to such Intercompany Interests.

21. Debtors' Rights with Respect to Unimpaired Claims

Except as otherwise provided in the Plan, nothing under the Plan shall affect the rights of the Debtors with respect to an Unimpaired Claim, including all rights with respect to legal and equitable defenses to, or setoffs or recoupments against, any such Unimpaired Claims.

D. Means for Implementation

1. Restructuring Transactions

On or before the Effective Date or as soon as reasonably practicable thereafter, the Debtors may take all actions consistent with the Plan as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by or necessary to effectuate the Restructuring Transactions under and in connection with the Plan, including (i) the execution and delivery of all appropriate agreements or other documents of merger, consolidation, sale, restructuring, conversion, disposition, transfer, dissolution or liquidation containing terms that are consistent with the Plan; (ii) the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any Asset, property, interest, right, liability, debt or obligation on terms consistent with the Plan; (iii) the filing of appropriate certificates or articles of organization, limited partnership, incorporation, reincorporation, merger,

consolidation, conversion or dissolution pursuant to applicable law; (iv) the execution, delivery, filing, recordation and issuance of any other documents, instruments or agreements in connection with the Restructuring Transactions and (v) any transactions described in the Restructuring Steps Memorandum.

2. Plan Settlements

(i) As further described in the Disclosure Statement, the provisions of the Plan (including the provisions contained in Section 5.9 of the Plan and the release and injunctive provisions contained in Article X of the Plan), the Shareholder Settlements and the other Plan Documents constitute a good faith compromise and settlement of Claims and controversies among the Debtors, the Supporting Claimants, the Settling Creditors, the Shareholder Payment Parties, certain other participants in the Mediation and other parties in interest reached in connection with the Mediation and otherwise, which such compromise and settlement is necessary and integral to the Plan and the Plan Documents and the success of these Chapter 11 Cases. The Debtors, the Supporting Claimants, the Settling Creditors and the Shareholder Payment Parties believe the treatment provided in respect of Claims against and Interests in the Debtors and the treatment of competing Classes of Claims is fair and appropriate only when combined with the distribution scheme, including without limitation all Distributions to be made under the Plan, and the release, injunction and all other provisions contained in the Plan, all of which are material aspects of the Plan and the terms of the Shareholder Settlements. More than 614,000 Proofs of Claim alleging liability arising out of or in connection with Opioid-Related Activities were filed against the Debtors by the General Bar Date. Approximately 10% of the submitted Proofs of Claim allege a specific amount of liability. The aggregate alleged liability associated with these Proofs of Claim is more than $40 trillion (exclusive of one personal injury claim that asserted $100 trillion in alleged liability). Approximately 90% of Claims alleging liability arising out of or in connection with Opioid-Related Activities do not allege a specific amount of liability. The Debtors believe that any reasonable estimate, projection or valuation of their total liability and obligation to pay for Claims asserted against them, if they had the ability to pay those Claims outside of these Chapter 11 Cases, exceeds by many multiples the total value of all assets of their Estates, including but not limited to contributions from third parties and the full face value of all of Purdue's insurance. The Debtors have structured the Plan on the basis of this understanding, and the Confirmation Order shall include a finding consistent with this understanding.

(ii) The Plan, including the explanation set forth in the Disclosure Statement, and the Plan Documents shall be deemed a motion to approve the Plan Settlements, including the Shareholder Settlements, and the good faith full and final comprehensive compromise and settlement of all of the Claims,

Interests and controversies described in Section 5.2(a) of the Plan pursuant to Bankruptcy Rule 9019, and entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Plan Settlements under section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, as well as a finding by the Bankruptcy Court that the Plan Settlements are fair, equitable, reasonable and in the best interests of the Debtors and their Estates.

(iii) The Plan, the Plan Settlement, the Plan Documents (including the Creditor Trust Documents), the Shareholder Settlements and the Confirmation Order constitute a good faith full and final comprehensive compromise and settlement of all Claims, Interests and controversies described in the Plan based upon the unique circumstances of these Chapter 11 Cases (such as the total distributable value available, the unique facts and circumstances relating to these Debtors and the need for an accelerated resolution without additional avoidable litigation) such that (i) none of the foregoing documents (including the provisions contained in Section 5.9 of the Plan), nor any materials used in furtherance of Plan confirmation (including, but not limited to, the Disclosure Statement, and any notes related to, and drafts of, such documents and materials), may be offered into evidence, deemed an admission, used as precedent or used by any party or Person in any context whatsoever beyond the purposes of the Plan, in any other litigation or proceeding, except as necessary, and as admissible in such context, to enforce their terms and to evidence the terms of the Plan and the Plan Documents before the Bankruptcy Court or any other court of competent jurisdiction and (ii) any obligation by any party, in furtherance of such compromise and settlement, to not exercise rights that might be otherwise available to such party shall be understood to be an obligation solely in connection with this specific compromise and settlement and to be inapplicable in the absence of such compromise and settlement. The Plan, the Plan Settlement, the Plan Documents and the Confirmation Order will be binding as to the matters and issues described therein, but will not be binding with respect to similar matters or issues that might arise in any other litigation or proceeding in which none of the Debtors or any other Protected Party is a party; provided that such litigation or proceeding is not to enforce or evidence the terms of the Plan, the Plan Settlement, the Plan Documents, the Shareholder Settlements or the Confirmation Order. Any Person's support of, or position or action taken in connection with, the Plan, the Plan Settlement, the Plan Documents, the Shareholder Settlements and the Confirmation Order may differ from such Person's position or testimony in any other litigation or proceeding not in connection with these Chapter 11 Cases. Further, and, as all parties to the Mediation agreed, the Plan Settlement is not intended to serve as an example for, or represent the parties' respective positions or views concerning, any other chapter 11 cases relating to opioids, nor shall

it be used as precedent by any Person or party in any other such chapter 11 cases or in any other proceeding, situation or litigation.

(iv) The "allocation" of dollars between the Shareholder Direct Settlement Portion of any Distribution and the Estate Distributions is part of an overall compromise and settlement under Bankruptcy Rule 9019 between the Mediation Parties, including the Debtors, the Creditors' Committee, the Shareholder Payment Parties, and all creditors and creditor groups that are Mediation Parties, and upon confirmation of the Plan will be deemed to be a settlement between the Debtors, the Creditors' Committee, the Supporting Claimants and the Shareholder Payment Parties in which, among other things, the Shareholder Payment Parties are providing up to $6.5 billion in consideration over 15 years.[~~120~~114] The "allocation" is intended by the Shareholder Payment Parties and the other Mediation Parties to, among other things, facilitate the distribution of proceeds for opioid abatement, victim compensation, and other permitted uses under the Plan, and otherwise. All such parties, including but not limited to the Shareholder Payment Parties, Sackler Parties, the Debtors, the Ad Hoc Committee and the States AG Negotiating Group, including each member of such groups, has agreed that neither the settlement amount nor the "allocation" (including any allocation between the Shareholder Payment Party of payment responsibility) reflects any concession or agreement by any party as to the strength, validity, merits, collectability, amount, or otherwise of the Shareholder Released Estate Claims or of the Shareholder Released Direct Claims or any defenses to the Shareholder Released Estate Claims or the Shareholder Released Direct Claims, and if for whatever reason the agreement in principle is not consummated, neither the settlement amount nor the "allocation" shall be cited or used by the Debtors, the Creditors' Committee, the Supporting Claimants or the Shareholder Payment Parties (or the Released Parties) – or any party to the Shareholder Settlements or any other Mediation Party – for any purpose whatsoever in any pleading or proceeding wherever or whenever. Further, no party to the compromise and settlement will be bound by the Plan or the agreement set forth in this provision (other than as set forth in Section 5.2(d) of the Plan) with regard to what it may state in a pleading, court hearing, proceeding, or otherwise about the strength, validity, merits, collectability, amount, or otherwise of the Shareholder Released Estate Claims or of the Shareholder Released Direct Claims, or any defenses

[~~120~~114] In accordance with Section 2.01(g) of the Master Shareholder Settlement Agreement (and as more fully described therein), A-Side Payment Group 8's $345 million payment obligation shall be prepaid in an amount equal to $225,677,259.42, unless pre-paid on the Effective Date in the amount of $218 million, representing the agreed-upon present value on the Effective Date. If A-Side Payment Group 8 elects to defer payment of up to $35 million on the Effective Date, A-Side Payment Group 8 shall pay the MDT up to $17.5 million due on each of the fifth and sixth payment dates plus 4.5% interest (i.e. which would aggregate to $225,677,259.42), and the other A-Side Payment Groups' shall pay up to $35 million on the Effective Date and their payment obligations on the fifth and sixth payment dates shall be reciprocally reduced.

thereto, including, without limitation, in any pleading filed in connection with the Shareholder Settlements and the Plan. This paragraph shall be binding forever upon all parties from the earlier of (i) the time that this agreement in principle is reached and (ii) the time that Section 5.2(d) of the Plan is made publicly available (on the Bankruptcy Court docket or otherwise), regardless of whether a settlement including that represented in the Plan is consummated, and shall be specifically enforceable by the Bankruptcy Court (with no cap on damages that may be awarded).[~~121~~115] Section 5.2(d) of the Plan is non-severable from the overall compromise and settlement, and is an integral part of the Plan. Section 5.2(d) of the Plan is specifically subject to Federal Rule of Evidence 408 and analogous state provisions barring the use of settlement offers and communications to prove the validity or amount of disputed claim.[~~122~~116]

(v) **Private Entity Settlements.**

(1) On the Effective Date, the Private Creditor Trusts shall receive their respective Initial Private Creditor Trust Distributions and their respective MDT Private Claims; *provided* that with respect to Private Creditor Trusts that are the subject of Opt-Out Class Action Settlements, if, as of the Effective Date, the applicable Opt-Out Class Action Settlement has not been consummated, the Shareholder Direct Settlement Portion of the Initial Private Creditor Trust Distribution (exclusive of amounts that would constitute Direct Claim Settlement Retained Payment Amounts under the applicable Opt-Out Class Action Settlement, to the extent known) for such Private Creditor Trust shall be placed by the Shareholder Payment Parties into a third-party interest bearing escrow in accordance with the Master Shareholder Settlement Agreement (the "**Class Action Escrow Accounts**"). If any such Opt-Out Class Action Settlement is consummated on or prior to tenth (10th) Business Day immediately preceding the second (2nd) SSA Payment Date, then all amounts due to the members of the relevant Class under such Opt-Out Class Action Settlement, amounts held in the applicable Class Action Escrow Account shall be distributed to the corresponding Private Creditor Trust, other than the applicable Direct Claim Settlement Retained Payment Amounts, if any, which shall be released to, or at the direction of, the Shareholder Payment Parties. If any Opt-Out Class Action Settlement is not consummated by the tenth (10th) Business Day immediately preceding the second (2nd) SSA Payment Date,

[~~121~~115] This sentence shall not apply to the States.

[~~122~~116] While all parties understand that the Plan is not enforceable until confirmation, all Mediation Parties have agreed to be bound by this provision as of March 18, 2025.

amounts held in the applicable Class Action Escrow Account shall be promptly released to, or at the direction of, the Shareholder Payment Parties. If such Opt-Out Class Action Settlement is consummated after such release from the Class Action Escrow Account to, or at the direction of, the Shareholder Payment Parties, each Shareholder Payment Party shall pay to the applicable Private Creditor Trust such amounts due and payable by it within ten (10) Business Days of delivery to the Sackler Parties' Representative of notice of such Opt-Out Class Action Settlement having been consummated, pending final payment from the Shareholder Released Parties.

(2) **U.S. Federal Income Tax Matters Relating to the Class Action Escrow Accounts.** Each of the Class Action Escrow Accounts are intended to be treated and shall be reported as a separate qualified settlement fund within the meaning of Treasury Regulations section 1.468B-1 for U.S. federal income tax purposes and shall be treated consistently for state and local tax purposes. The Master Shareholder Settlement Agreement provides that the applicable Shareholder Payment Party shall timely elect pursuant to Treasury Regulations Section 1.468B-1(k) (and any applicable state and local income tax purposes), to treat each of the Class Action Escrow Accounts as a "grantor trust," all of which is owned, for federal and applicable state and local income tax purposes only, by such Shareholder Payment Party, and that such Shareholder Payment Party shall maintain such election and shall not revoke such election without the prior written consent of the Master Disbursement Trust.

The following assumes that the Class Action Escrow Accounts are treated as grantor trusts. All parties (including the Shareholder Payment Parties, the Debtors, the Plan Administration Trustee, each applicable Creditor Trustee, the MDT Trustees and Holders of Non-Participating Claims) shall be required to report for tax purposes in a manner consistent with the foregoing. Such person as is designated in the Confirmation Order or the escrow agreement governing each of the Class Action Escrow Accounts shall be the "administrator" of each of the Class Action Escrow Accounts. The Master Shareholder Settlement Agreement provides that the applicable Shareholder Payment Party shall take into account all items of income, gain, loss, deduction and credit (including capital gains and losses) recognized by or otherwise attributable to each Class Action Escrow Account for U.S. federal (and any applicable state or local) income tax purposes on its tax returns. The applicable administrator may request an expedited determination of taxes of any of the Class Action Escrow Accounts under section 505(b) of the Bankruptcy Code for all returns, if any,

filed for, or on behalf of, the Class Action Escrow Accounts for all taxable periods through the dissolution of the Class Action Escrow Accounts. Nothing in Section 5.2(e)(ii) of the Plan shall be deemed to determine, expand or contract the jurisdiction of the Bankruptcy Court under section 505 of the Bankruptcy Code.

(3) Notwithstanding anything to the contrary in the Master Shareholder Settlement Agreement or the Governmental Entity Shareholder Direct Settlement Agreement, the Master Disbursement Trust shall have an obligation under the Plan to distribute to the PI Trust, on account of the MDT PI Claim, (A) on a first priority basis, the first $50 million of proceeds, payments, and benefits (including, but not limited to, the MDT Insurance Proceeds) of (I) any MDT Causes of Action (other than those Retained Causes of Action relating to or necessary to enforce the MDT Shareholder Rights) and (II) the MDT Insurance Rights (assets described in clauses (I) and (II), collectively, the "**Subject MDT Assets**"), and (B) in the absence of payment in full of such $50 million prior to the second anniversary of the Effective Date from proceeds, payments, and benefits of the Subject MDT Assets, the remaining unpaid amount thereof (which may be the entire amount) in full in cash on the first Scheduled MDT Distribution Date following such second anniversary of the Effective Date from MDT Transferred Assets or the proceeds thereof other than the Subject MDT Assets on a priority basis in accordance with Section 5.2(g) of the Plan (the payment obligations described in clauses (A) and (B), the "PI **Trust Obligation**").[~~123~~117]

(4) Until such time as the PI Trust Obligation has been satisfied in full in accordance with Section 5.2 of the Plan:

(A) the Master Disbursement Trust shall not (I) permit a Lien or other encumbrance to attach to the Subject MDT Assets or (II) incur any Claim (including any Channeled Claim) or otherwise grant any right of payment in respect of the Subject MDT Assets, in each case, senior to the PI Trust Obligation;

(B) the Master Disbursement Trust shall afford the PI Trustee (or its designated representative) with periodic reporting as

[~~123~~117] For the avoidance of doubt, to the extent the PI Trust Obligation has not been paid in full by the second anniversary of the Effective Date in accordance with Section 5.2(e) of the Plan, the priority of the PI Trust Obligation shall only be second to the funding of the Replenishment Transfer with Cash and cash equivalents that are Shareholder Estate Settlement Distributions, but not, for the avoidance of doubt, second with respect to application of the Total Direct Settlement Amount under the Governmental Entity Shareholder Direct Settlement Agreement.

contemplated by Section 5.6(f)(v) of the Plan and subject to Section 5.6(f)(iv) of the Plan;

(C) none of the protections with respect to the PI Trust Obligation in Section 5.2(e) of the Plan nor the priority afforded to the PI Trust Obligation in Section 5.2(g) of the Plan shall be modified or eliminated from the MDT Agreement, the Master Shareholder Settlement Agreement, or the Governmental Entity Shareholder Direct Settlement Agreement, solely to the extent applicable, without the written consent of the PI Trustee; and

(D) the PI Trustee reserves all legal and equitable rights under the Plan, the Confirmation Order, and federal and common law with respect to the PI Trust Obligation.

(5) Solely to the extent the PI Trust Obligation has not been paid in full by the second anniversary of the Effective Date in accordance with Section 5.2(e)(iii) of the Plan, the Master Disbursement Trust shall thereafter reserve amounts from the Total Direct Settlement Amount under the Governmental Entity Shareholder Direct Settlement Agreement, as needed, to satisfy the PI Trust Obligation.

(6) In the event the PI Trust Obligation is not satisfied in full by the first Scheduled MDT Distribution Date following the second anniversary of the Effective Date in accordance with Section 5.2 of the Plan, the PI Trustee shall be entitled to seek enforcement of the PI Trust Obligation by motion to enforce the Plan filed with the Bankruptcy Court, which shall be heard on an expedited basis subject to the Bankruptcy Court's availability, and the PI Trustee may seek legal and/or equitable remedies available under applicable law, including, but not limited to, specific performance, disgorgement, and/or damages against any successor of the Debtors or their Estates, including the Master Disbursement Trust.

(vi) **Non-Federal Public Entity Settlements.**[~~124~~118]

(1) On the Effective Date, the Governmental Remediation Trust and the Tribe Trust shall receive their respective Initial Public Creditor Trust Distributions, and the Governmental Remediation Trust and the Tribe Trust shall receive their respective MDT Interests. The MDT Interests shall entitle the Governmental Remediation Trust

[~~124~~118] Any characterization of the Public School Claims in ~~this~~the Plan as a "Private" claimant or "Public" claimant is for administrative convenience only, and is not intended to, nor may it be construed as, having any significance for any other purpose.

and the Tribe Trust to the payments from the Master Disbursement Trust and other benefits set forth below.

(A) Subject to Section 5.2(g) of the Plan, on each MDT Distribution Date, the Master Disbursement Trust shall make Public Creditor Trust Distributions from all MDT Distributable Value in accordance with Section 5.2(f)(i)(B) of the Plan.

(B) All Public Creditor Trust Distributions to the Governmental Remediation Trust and/or the Tribe Trust shall be allocated between the Governmental Remediation Trust and the Tribe Trust as follows, in each case, as calculated before accounting for any amounts payable pursuant to Section 5.9 of the Plan: (I) with respect to the Estate Distributions, (X) 96.7% to the Governmental Remediation Trust and (Y) 3.3% to the Tribe Trust; and (II) with respect to the Shareholder Direct Settlement Portion, (X) 96.7% of the Maximum Governmental Direct Settlement Amount on the payment dates indicated therein to the Governmental Remediation Trust, subject to, and payable in accordance with, the terms of the Governmental Entity Shareholder Direct Settlement Agreement, and (Y) 3.3% of the Maximum Governmental Direct Settlement Amount on the payment dates indicated therein to the Tribe Trust, subject to, and payable in accordance with, the terms of the Tribe Trust Agreement.

(C) All Public Creditor Trust Distributions to the Governmental Remediation Trust shall be further allocated between States and Subdivisions in accordance with the Governmental Remediation Trust Documents. The allocation of the applicable Shareholder Direct Settlement Portion to Subdivisions who become Initial Participating Subdivisions may be higher than Later Joining Subdivisions (each as defined in and as more fully described in the Governmental Entity Shareholder Direct Settlement Agreement). Subdivisions located in Oklahoma shall be entitled to participate in the Governmental Entity Shareholder Direct Settlement as though Oklahoma was a Settling State. Subdivisions in Non-Settling States and Subdivisions which previously litigated and resolved their claims against the Debtors and/or Shareholder Released Parties shall not be eligible to be Participating Subdivisions unless and until, in the case of the Subdivisions located in Non-Settling States, a Subdivision's corresponding State becomes a Settling State. For the avoidance of doubt, each

Non-Settling Subdivision shall be entitled to receive Estate Distributions pursuant to Section 7.7 of the Plan upon Allowance of its Claim in accordance with Sections 7.6 or 7.9 of the Plan.

(D) Oklahoma Litigating Political Subdivisions will receive Oklahoma's allocation, which allocation amount has already been reduced by $12.5 million that the State of Oklahoma set aside in accordance with the Oklahoma Political Subdivisions Opioid Abatement Grants Act (the "**Act**") for distribution to Oklahoma subdivisions pursuant to Oklahoma's settlement with the Shareholder Released Parties and the Debtors (the "**Prepetition Oklahoma Settlement**"). The Oklahoma subdivision allocation is set forth in Exhibit F of the Plan and will be administered as agreed between the State of Oklahoma and the Oklahoma Litigating Political Subdivisions. Any release requirements contained in the Prepetition Oklahoma Settlement that are a condition for a Subdivision to participate in the Purdue Oklahoma Subdivision Fund shall be waived by the Debtors and Shareholder Payment Parties such that the Oklahoma Litigating Political Subdivisions may participate in both the Purdue Oklahoma Subdivision Fund and receive distributions from the Governmental Remediation Trust. The Debtors and Shareholder Payment Parties also waive any requirement in the Prepetition Oklahoma Settlement that funds not distributed by the Purdue Oklahoma Subdivision Fund within a certain amount of time will revert to the Foundation or the National Center for Addiction Studies and Treatment established pursuant to the Prepetition Oklahoma Settlement, and acknowledge that the entire Purdue Oklahoma Subdivision Fund shall be distributed to Oklahoma subdivisions. Oklahoma's allocation shall be paid from the Governmental Remediation Trust to a settlement fund established for the benefit of the Oklahoma Litigating Political Subdivisions. Distributions from such settlement fund to the Oklahoma Litigating Political Subdivisions shall be made in accordance with the ratios set forth in Exhibit F of the Plan. The Oklahoma Litigating Political Subdivisions shall either hire an administrator for the funds from the Remediation Trust Account or receive the funds directly from the Governmental Remediation Trust. The administrator may be reasonably compensated by the Governmental Remediation Trust to perform its administrative function, but not to exceed 5% of the money distributed to Oklahoma

Litigating Political Subdivisions by the Governmental Remediation Trust.

(2) On the Effective Date, the Public School Trust shall receive the Initial Public Schools Distribution (less any required payments to the Common Benefit Fund and/or in respect of attorneys' fees and expenses of the Public School District Claimants in accordance with Section 5.9(d) and (i) of the Plan) and the MDT Public School Districts Claim. On account of the MDT Public School Districts Claim, the Master Disbursement Trust shall pay to benefit the Public School Trust: (i) $7.5 million on the first anniversary of the Effective Date *less* the applicable Direct Claim Settlement Retained Payment Amount (the "**Second Public Schools Distribution**"), and (ii) $7.5 million on the second anniversary of the Effective Date less the applicable Direct Claim Settlement Retained Payment Amount (the "**Third Public Schools Distribution**").

(vii) **MDT Priority Waterfall**. On each MDT Distribution Date, all Cash and cash equivalents of the Master Disbursement Trust shall be applied as follows: (i) *first*, to fund any Replenishment Transfer solely to the extent such Cash and cash equivalents are Shareholder Estate Settlement Distributions; (ii) *second*, to fund the PI Trust Obligation in accordance with Section 5.2(e)(iii) of the Plan; (iii) *third*, to fund the MDT Operating Reserve in an amount determined by the MDT Trustees; (iv) *fourth*, to the extent there are outstanding amounts then due on account of the MDT Claims, to pay the MDT Claims; (v) *fifth*, to reimburse the applicable Public Creditor Trust for any Shareholder Direct Settlement Portion previously applied in respect of adjustments implemented in accordance with Section 5.2(e)(~~iv~~v) of the Plan and (vi) *sixth*, as Public Creditor Trust Distributions in respect of the MDT Interests; *provided*, *however*, that, except to the extent expressly set forth in Exhibit M to the Governmental Entity Shareholder Direct Settlement Agreement, payments received by the Master Disbursement Trust: (A) on account of the Governmental Entity Shareholder Direct Settlement shall be immediately transferred to the Governmental Remediation Trust and (B) on account of the Tribal Shareholder Direct Settlement Agreement shall be immediately transferred to the Tribe Trust, and the amounts in (A) and (B) shall not be used to fund a Replenishment Transfer to fund the MDT Operating Reserve or pay the MDT Claims.

(viii) **Shareholder Settlements**. On or before the Effective Date, the Debtors, the Shareholder Payment Parties and the Settling Creditors shall enter into the Shareholder Settlement Agreements. Pursuant to the Public Entity Settlements, the Private Entity Settlements, the Shareholder Settlement Agreements and the Plan, in exchange for, among other things, the Shareholder Settlement Releases and the Channeling Injunction, as set

forth in Sections 10.6, 10.7, and 10.8 of the Plan, and the other agreements set forth in the Shareholder Settlement Agreements, (i) the Shareholder Payment Parties shall pay the applicable Shareholder Settlement Amount on the dates and pursuant to the terms set forth in the applicable Shareholder Settlement Agreements, (ii) the Shareholder Claims shall be deemed released on the Effective Date pursuant to Section 4.15 of the Plan, (iii) the MDT Shareholder Insurance Rights shall be transferred to the Master Disbursement Trust in accordance with Section 5.6(j) of the Plan; (iv) the Shareholder Payment Parties have agreed to support the Plan and (v) the Shareholder Payment Parties have provided the other agreements and consideration set forth in the applicable Shareholder Settlement Agreement, in each case, as more fully set forth in, and subject to the terms and conditions of, the Shareholder Settlement Agreement. The Master Disbursement Trust shall distribute all proceeds of the MDT Shareholder Rights, including each applicable Shareholder Settlement Amount, in accordance with the Plan, including Section 5.2(e)-(g) of the Plan.

(ix) **United States-PI Claimant Medical Expense Claim Settlement.** The United States-PI Claimant Medical Expense Claim Settlement is as follows:

(1) On the Effective Date of the Plan, the PI Trust shall be deemed, without further action of the Bankruptcy Court or the PI Trust, to have irrevocably assigned to the United States the PI Trust's right to receive $26 million from the Master Disbursement Trust, which amount shall be paid by the Debtors, the Master Disbursement Trust, or the PI Trust, as applicable, to the United States in the following installments: (x) $13 million to be paid on the Effective Date, consisting of (A) $12,164,100 otherwise distributable to the PI Trust from the Initial Non-NAS PI Distribution and (B) $835,900 otherwise distributable to the PI Trust from the Initial NAS PI Distribution, and (y) $13 million (the "**Second Medical Expense Claim Settlement Payment**"), consisting of (I) 93.57% of the first $13 million otherwise distributable to the PI Trust pursuant to Section 5.2(e)(iii) of the Plan, and (II) the NAS Medical Expense Claim Settlement Reserve Amount, which Second Medical Expense Claim Settlement Payment shall be paid to the United States on a proportionate basis from the amounts described in clauses (I) and (II), as and when amounts are payable to the PI Trust pursuant to Section 5.2(e)(iii) of the Plan. For the avoidance of doubt, in no event shall (A) the stated amount of the Initial PI Trust Distribution or amounts payable pursuant to Section 5.2(e)(iii) of the Plan be altered in a manner that would reduce the aggregate amount to be paid to the United States pursuant to Section 5.2(i)(i) of the Plan, (B) the aggregate amount paid to the United States pursuant to Section 5.2(i)(i) of the Plan

exceed $26 million, or (C) the United States' claim against the Master Disbursement Trust arising from the assignment described in Section 5.2(i)(i) of the Plan be released until the United States has received payments thereof aggregating to $26 million. The United States shall have the right to enforce the obligations set forth in Section 5.2(i)(i) of the Plan notwithstanding the United States-PI Claimant Medical Expense Claim Releases.

(2) Notwithstanding Section 10.19 of the Plan, as of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, the PI Trust, each Holder of a PI Claim and, in respect of each of the PI Trust and each Holder of a PI Claim, its respective agents, representatives, heirs, successors and assigns, in their respective capacities as such, shall, without any further action by the Bankruptcy Court, be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released by each Holder of a United States-PI Claimant Medical Expense Claim of all United States-PI Claimant Medical Expense Claims and all Causes of Action based on or relating to, or in any manner arising from, in whole or in part, the United States-PI Claimant Medical Expense Claim Settlement (other than a Cause of Action to enforce the United States-PI Claimant Medical Expense Claim Settlement, including, but not limited to, the release set forth in Section 5.2 (i)(iii) of the Plan) that each Holder of a United States-PI Claimant Medical Expense Claim has asserted or could assert on its own behalf or on behalf of another Person or party, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), against the PI Trust, a Holder of a PI Claim, Distributions to Holders of PI Claims pursuant to the PI TDP or under the Plan and, in respect of each of the PI Trust and each Holder of a PI Claim, its respective agents, representatives, heirs, successors and assigns, in their respective capacities as such; provided, however, that, if a Holder of a PI Claim commences a legal action against a Holder of a United States-PI Claimant Medical Expense Claim challenging all or any portion of the United States-PI Claimant Medical Expense Claim Settlement, then, from and after the commencement of such legal action, the United States-PI Claimant Medical Expense Claim Release shall be void ab initio solely with respect to such Holder of a PI Claim, and the heirs, successors and assigns of such Holder of a PI Claim, in their capacities as such, and not with respect to any other Person or party, including, but not limited to, the PI Trust, counsel to such Holder of a PI Claim and, in respect of each of the PI Trust and such counsel, its respective agents, representatives, heirs, successors and assigns, in their respective capacities as such;

provided further that no such legal action against a Holder of a United States-PI Claimant Medical Expense Claim shall impair or reduce the amount that the United States shall receive pursuant to Section 5.2(i)(i) of the Plan. Nothing in Section 5.2(i)(ii) of the Plan creates any rights of a Holder of a PI Claim to sue the United States or any of its agencies, including a Holder of a United States-PI Claimant Medical Expense Claim, and the United States and its agencies reserve all rights and defenses in that regard; and nothing in this paragraph is or shall be deemed a waiver of any applicable sovereign immunity with respect to any legal action against the United States or any of its agencies challenging all or any portion of the United States-PI Claimant Medical Expense Claim Settlement brought by a Holder of a PI Claim or the heirs, successors or assigns of such Holder of a PI Claim, in their capacities as such.

(3) As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, each Holder of a United States-PI Claimant Medical Expense Claim shall, without any further action by the Bankruptcy Court, be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released by the PI Trust and its agents, representatives, successors and assigns, in their respective capacities as such, of all Causes of Action based on or relating to, or in any manner arising from, in whole or in part, the United States-PI Claimant Medical Expense Claim Settlement (other than a Cause of Action to enforce the United States-PI Claimant Medical Expense Claim Settlement, including, but not limited to, any United States-PI Claimant Medical Expense Claim Release) that the PI Trust has asserted or could assert on its own behalf or on behalf of another Person or party, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), against a Holder of a United States-PI Claimant Medical Expense Claim and, in respect of each Holder of a United States-PI Claimant Medical Expense Claim, its respective agents, representatives, successors and assigns, in their respective capacities as such.

(4) The payments made to the United States pursuant to Section 5.2(i)(i) of the Plan are a prepayment by the PI Trust of amounts that would otherwise be payable by certain Holders of PI Claims to Holders of United States-PI Claimant Medical Expense Claims upon receipt by such Holders of PI Claims of Distributions pursuant to the PI TDP and under the Plan. Such prepayment shall be borne equitably by such Holders of PI Claims in the form of a

reduction in the Distributions otherwise payable to such Holders of PI Claims pursuant to the PI TDP.

(5) The United States Department of Defense, Defense Health Agency (in respect of the TRICARE Program) submits to the jurisdiction of the Bankruptcy Court for purposes of the United States-PI Claimant Medical Expense Claim Settlement, including, but not limited to, the United States-PI Claimant Medical Expense Claim Releases.

(6) The United States Department of Health and Human Services, on its own behalf and on behalf of its component agencies, which are the Centers for Medicare & Medicaid Services and the Indian Health Service on behalf of its federally-operated programs; the United States Department of Defense, Defense Health Agency (in respect of the TRICARE Program); and the United States Department of Veterans Affairs submit to the exclusive jurisdiction of the Bankruptcy Court for purposes of any proceeding in respect of the interpretation or enforcement of the United States-PI Claimant Medical Expense Claim Settlement, including, but not limited to, the United States-PI Claimant Medical Expense Claim Releases.

(x) **Individual Settlement Agreements**. Each of the Settling States, Participating Subdivisions, the Master Disbursement Trust, and the Debtors shall not enter into any side letter or separate agreement with any Sackler Family Member that grants more favorable terms or benefits, when taken as a whole, to such Sackler Family Member's Shareholder Family Group than those set forth in the Plan and the Shareholder Settlement Agreements.

3. The Plan Administration Trust

(i) **Establishment and Purpose of Plan Administration Trust.** On or before the Effective Date, the Debtors shall take all necessary steps to form the Plan Administration Trust in accordance with the Plan and the PAT Agreement. The Plan Administration Trust shall be established for the purposes described in the Plan and any others more fully described in the PAT Agreement, shall have no objective to continue or engage in the conduct of trade or business and shall be subject to the jurisdiction of the Bankruptcy Court. The Plan Administration Trust shall, in each case in accordance with the Plan and the PAT Agreement:

(1) hold, manage, sell and invest the PAT Assets for the benefit of Holders of Allowed Claims (other than Channeled Claims and Federal Government Unsecured Claims);

(2) administer, process, resolve and liquidate Claims (other than Channeled Claims and Federal Government Unsecured Claims), including through the prosecution and resolution of objections to Disputed Avrio General Unsecured Claims, Disputed Adlon General Unsecured Claims or Disputed Other General Unsecured Claims;

(3) hold and maintain the PAT Reserves and the PAT Distribution Account and maintain the Professional Fee Escrow Account and the account described in Section 5.3(e) of the Plan; and

(4) make Distributions to Holders of Allowed Claims (other than Channeled Claims and Federal Government Unsecured Claims) and other payments from the Plan Administration Trust, the Professional Fee Escrow Account and the account described in Section 5.3(e) of the Plan.

(ii) **Vesting of the PAT Assets in the Plan Administration Trust**. The Plan Administration Trust shall consist of the PAT Assets. On the Effective Date, the PAT Assets shall vest in the Plan Administration Trust, free and clear of all Claims, Interests, Liens, other encumbrances and liabilities of any kind.

(iii) **Appointment and Role of the Plan Administration Trustee**. The Plan Administration Trustee shall be an existing employee of the Debtors selected by the Debtors in their sole discretion or another individual selected by the Debtors with the consent of the Creditors' Committee and the Governmental Consent Parties (which consent shall not be unreasonably withheld, conditioned or delayed). The identity and compensation of the Plan Administration Trustee shall be disclosed in the Plan Supplement. The appointment of the Plan Administration Trustee shall be approved in the Confirmation Order, and such appointment shall be effective as of the Effective Date. In accordance with the PAT Agreement, the Plan Administration Trustee shall serve in such capacity through the earlier of (x) the date that the Plan Administration Trust is dissolved in accordance with the PAT Agreement and (y) the date the Plan Administration Trustee resigns, is terminated or is otherwise unable to serve for any reason. In furtherance of and consistent with the purpose of the Plan Administration Trust and the Plan, the Plan Administration Trustee shall:

(1) have the power and authority to perform all functions on behalf of the Plan Administration Trust;

(2) undertake all administrative responsibilities as are provided in the Plan and the PAT Agreement, including filing the final monthly operating report (for the month in which the Effective Date occurs)

and all subsequent quarterly operating reports and administering the closure of the Chapter 11 Cases, which reports shall be delivered to the Master Disbursement Trust;

(3) be responsible for all decisions and duties with respect to the Plan Administration Trust and the PAT Assets; and

(4) take such other actions as the Plan Administration Trust determines to be necessary or desirable to carry out the purposes of the Plan, *provided* that such authority shall be subject to Section 5.4 and Section 5.6 of ~~this~~the Plan, and nothing herein or in any Plan Supplement document shall grant the Plan Administration Trust any rights with respect to NewCo or its operations or the Master Disbursement Trust or its operations.

(iv) **Funding of the Wind-Up Reserve; Costs and Expenses of the Plan Administration Trust**. On the Effective Date, the Debtors shall establish and fund the Wind-Up Reserve, which shall vest in the Plan Administration Trust and be held and maintained by the Plan Administration Trustee. In the event of any shortfall of funding in the Wind-Up Reserve, NewCo shall be obligated to satisfy any such deficiency, subject to the consent (not to be unreasonably withheld) of the NewCo Managers and the MDT Trustees (which obligation shall be assumed by NewCo and any successor to NewCo's business). The costs and expenses of the Plan Administration Trust, including the compensation, fees and expenses of the Plan Administration Trustee and its retained professionals, shall be paid out of the Wind-Up Reserve. The Plan Administration Trustee shall be entitled to reasonable compensation, in an amount to be determined by the Debtors, subject to the consent (not to be unreasonably withheld, conditioned or delayed) of the Creditors' Committee and the Governmental Consent Parties, and to retain and reasonably compensate counsel and other professionals, including any professional who represented parties in interest, including the Debtors, in the Chapter 11 Cases, to assist in its duties as Plan Administration Trustee on such terms as the Plan Administration Trustee deems appropriate without Bankruptcy Court approval, subject to the provisions of the PAT Agreement.

(v) **Attorneys' Fees and Expenses of Directors, Officers, Employees and Agents**.

(1) The Plan Administration Trust will promptly pay, as and when incurred after the Effective Date and before its sixth (6th) anniversary, the reasonable actual attorneys' fees and related out-of-pocket expenses incurred (A) by (x) any current or former director or officer, in each case entitled to indemnification, advancement and/or reimbursement by the Debtors in such

capacity or (y) any current or former employee of the Debtors, in the case of both (x) and (y) other than any (i) Sackler Family Member, (ii) Excluded Party, or (iii) Shareholder Released Party that (a) is entitled to access the SOR or any other reserves established under the Plan or the Settlement or (b) actually has the applicable fees paid from the SOR or any other reserves established under the Plan or the Settlement, and (B) in connection with such individual's cooperation with, or in connection with the defense of such individual with respect to, any investigation, prosecution and/or litigation involving conduct relating to the Debtors or the Debtors' business or property or any defense of ~~this~~the Plan, including its Releases and Channeling Injunction, *provided* that the scope of this section with respect to any individual shall not apply to fees and expenses incurred in connection with any criminal investigation of which such individual is the target or any criminal prosecution of such individual~~)~~.

(2) On or before the Effective Date, the Debtors will establish and fund a segregated account in the amount of $5 million, which shall be held and maintained by the Plan Administration Trustee to fund the foregoing payment obligations. If, at any time, the balance in such segregated account falls below $2 million, NewCo (or, at any time after a sale of all or substantially all Assets of or Interests in NewCo or if NewCo is otherwise unable to do so, the Master Disbursement Trust) shall replenish such account so that amounts in the account are not less than $5 million, provided that (x) the aggregate amount deposited into such account (including the initial deposit) shall not exceed $25 million, and (y) on the sixth (6th) anniversary of the Effective Date, any funds remaining in such account shall be released to the Master Disbursement Trust, and NewCo's (and the Master Disbursement Trust's contingent) funding obligations with respect to such account will terminate.

(3) Notwithstanding the foregoing, the Plan Administration Trust will not pay (A) any amounts that are reimbursed from any applicable insurance policies, or (B) any otherwise reimbursable amounts incurred by any individual who (i) is found by a court of competent jurisdiction to have engaged in gross negligence, willful misconduct, any criminal act, or actual or intentional fraud, in each case relating to the Debtors or the Debtors' business or property, (ii) does not provide an appropriate undertaking consistent with the undertakings required for indemnification during the pendency of the Chapter 11 Cases, (iii) has at any time prior to the Effective Date refused or does at any time after the Effective Date refuse to testify based on a claim of privilege against self-incrimination in any proceeding relating to the Debtors or the Debtors' business or

property, (iv) does not cooperate with reasonable requests by the MDT in connection with the pursuit of any MDT Causes of Action or (v) is at any time indicted for a felony relating to the Debtors or the Debtors' business or property (provided, however, that if such individual is found to be not guilty of such felony, such indictment is dismissed or such individual is otherwise exonerated, then such expenses shall be promptly paid).

(4) In addition to the foregoing, (i) on the Effective Date, any MDT Insurance Collateral in excess of the face amount of Mangrove Risk Solutions Bermuda Ltd (formerly known as Isosceles Insurance Ltd.) policy number PPLP-01/2019 and all interest accrued as of the Effective Date on the MDT Insurance Collateral associated with each of Mangrove Risk Solutions Bermuda Ltd (formerly known as Isosceles Insurance Ltd.) policy number PPLP-02/2019 and the Columbia Casualty Product Liabilities Insurance Policies shall be released to the Master Disbursement Trust, (ii) following the Effective Date, interest accrued on MDT Insurance Collateral associated with each of the Mangrove Risk Solutions Bermuda Ltd (formerly known as Isosceles Insurance Ltd.) policy number PPLP-01/2019 and the Columbia Casualty Product Liabilities Insurance Policies shall be swept quarterly and distributed to the Master Disbursement Trust, (iii) no later than the expiration of the policy or the sixth (6th) anniversary of the Effective Date, all MDT Insurance Collateral associated with the Mangrove Risk Solutions Bermuda Ltd (formerly known as Isosceles Insurance Ltd.) policy number PPLP-01/2019 will be released to the Master Disbursement Trust, subject to the terms of such policy and (iv) following the Effective Date, any MDT Insurance Collateral associated with any other insurance policies of NewCo will be released to the Master Disbursement Trust promptly upon such MDT Insurance Collateral being released by the applicable insurer, provided it is not necessary to support renewed policies of NewCo of similar scope. The Plan Administration Trust shall, on a quarterly basis, provide NewCo and the Master Disbursement Trust with a report of any amounts paid or billed pursuant to this section during the prior quarter. All parties covered by Section 5.3(e) of the Plan shall be deemed to release any claim against any MDT Insurance Policy.

(vi) **Institution and Maintenance of Legal and Other Proceedings**. As of the date upon which the Plan Administration Trust is established, the Plan Administration Trust shall be empowered to initiate, prosecute, defend and resolve all legal actions and other proceedings related to any Asset, liability or responsibility of the Plan Administration Trust. Such legal actions and other proceedings shall be limited solely to those required for the purposes of reconciling, administering and defending against Claims

(other than Channeled Claims) and the other responsibilities of the Plan Administration Trust. The Plan Administration Trust shall be empowered to initiate, prosecute, defend and resolve all such actions in the name of the Debtors or their Estates, in each case if deemed necessary or appropriate by the Plan Administration Trustee. The Plan Administration Trust shall be responsible for the payment of all damages, awards, judgments, settlements, expenses, costs, fees and other charges incurred subsequent to the date upon which the Plan Administration Trust is established arising from, or associated with, any legal action or other proceeding brought pursuant to the foregoing. For the avoidance of doubt, the Plan Administration Trust, pursuant to section 1123(b)(3)(B) of the Bankruptcy Code and applicable state corporate law, is appointed as the successor-in-interest to, and representative of, the Debtors and their Estates for the retention, enforcement, settlement or adjustment of Claims against the Debtors (other than the Channeled Claims). For the further avoidance of doubt, neither the Plan Administration Trust nor the Plan Administration Trustee shall be vested with the rights to pursue any MDT Insurance Rights or MDT Insurance Collateral.

(vii) **U.S. Federal Income Tax Matters Relating to Plan Administration Trust**. The Plan Administration Trust is intended to be treated as a trust described in IRC sections 661 through 664 and the regulations promulgated thereunder (a "complex trust"). The PAT Disputed Claims Reserves are intended to be treated as part of the Plan Administration Trust and not as separate taxable entities. All parties (including the Shareholder Payment Parties, the Debtors, the Plan Administration Trustee, each applicable Creditor Trustee, the MDT Trustees and Holders of Non-Participating Claims and other Disputed Claims) shall be required to report for tax purposes in a manner consistent with the foregoing. The Plan Administration Trustee shall file (or cause to be filed) such statements, returns, or disclosures relating to the Plan Administration Trust as are required by any Governmental Unit, including IRS Form 1041, IRS Form 1041-ES, and IRS Schedule K-1. The Plan Administration Trustee shall be responsible for payment, out of the PAT Assets, of any taxes imposed on the Plan Administration Trust or the PAT Assets, including, without limitation, estimated and annual U.S. federal income taxes. The Plan Administration Trustee shall be responsible for payment, out of the assets of each of the PAT Disputed Claims Reserves, of any taxes imposed on the applicable PAT Disputed Claims Reserve or its assets. The Plan Administration Trustee may request an expedited determination of taxes of the Plan Administration Trust under section 505(b) of the Bankruptcy Code for all returns filed for, or on behalf of, the Plan Administration Trust for all taxable periods through the dissolution of the Plan Administration Trust. Nothing in Section 5.3(g) of the Plan shall be deemed to determine, expand or contract the jurisdiction of the Bankruptcy Court under section 505 of the Bankruptcy Code.

(viii) **Dissolution, Release of Reserves and Residual Value**. The Plan Administration Trust shall be dissolved and the Plan Administration Trustee shall be discharged from its duties with respect to the Plan Administration Trust upon completion of its duties as set forth in the Plan and satisfaction of the purposes of the Plan Administration Trust as set forth in the Plan and the PAT Agreement, which, for the avoidance of doubt, shall be no earlier than the later of (i) the PPLP Dissolution Date and (ii) the date on which (A) all Disputed Claims (other than Non-Participating Channeled Claims) have been resolved, (B) all PAT Assets have been liquidated and (C) all Distributions and other payments required to be made by the Plan Administration Trustee under the Plan and the PAT Agreement have been made, unless dissolution on an earlier date is authorized pursuant to a Final Order of the Bankruptcy Court. Any Cash or cash equivalents in the Plan Administration Trust remaining upon dissolution of the Plan Administration Trust, including any Surplus Reserve Cash remaining in the PAT Reserves, shall be distributed in accordance with Section 5.14(b) of the Plan.

(ix) **Exculpation and Indemnification of the Plan Administration Trustee**. To the maximum extent permitted by applicable law, the Plan Administration Trustee shall not have or incur any liability for actions taken or omitted in its capacity as the Plan Administration Trustee, or on behalf of the Plan Administration Trust, except those acts found by Final Order to be arising out of its willful misconduct, bad faith, gross negligence or fraud, and shall be entitled to indemnification, advancement and reimbursement for reasonable fees and expenses in defending any and all of its actions or inactions in its capacity as the Plan Administration Trustee, or on behalf of the Plan Administration Trust, and for any other liabilities, losses, damages, claims, costs and expenses arising out of or due to the implementation or administration of the Plan or the PAT Agreement, in each case, except for any actions or inactions found by Final Order to be arising out of its willful misconduct, bad faith, gross negligence or fraud. Any valid indemnification claim of the Plan Administration Trustee shall be satisfied from the Wind-Up Reserve.

4. NewCo

(i) **Establishment and Ownership of NewCo**. On or before the Effective Date, NewCo and any Subsidiaries of NewCo shall be formed in accordance with the Plan and the NewCo Operating Agreement. Upon completion of the Restructuring Transactions, the Foundation shall hold the NewCo Interest, representing 100% of the voting and economic Interests in NewCo.

(ii) **Purpose of NewCo**. From and after the Effective Date, NewCo shall operate the NewCo Transferred Assets in accordance with the terms of the NewCo Operating Agreement, and subject to the NewCo Operating

Injunction and the NewCo Governance Covenants set forth in the Confirmation Order. NewCo shall be operated in a responsible and sustainable manner, balancing (i) the interests of its stakeholders to fund and provide abatement of the opioid crisis, (ii) effective deployment of its assets to address the opioid crisis and (iii) the interests of those materially affected by its conduct. In connection with any action of NewCo, all elements of NewCo's purpose as set forth in Section 5.4(b) of the Plan shall be taken into account, and NewCo shall not be required (and the NewCo Managers shall not be required to cause NewCo) to maximize NewCo's or NewCo's subsidiaries' sales or profits.

(iii) **Vesting of the NewCo Transferred Assets in NewCo**. On or prior to the Effective Date, pursuant to the Plan and in accordance with the NewCo Transfer Agreement, the NewCo Transferred Assets, including the Initial NewCo Cash, shall be transferred to and vest in NewCo or one or more Subsidiaries of NewCo, in each case free and clear of all Claims, Interests, Liens, other encumbrances and liabilities of any kind; *provided* that NewCo shall comply with its obligations under the Plan, including NewCo's obligation to distribute directly to the Governmental Remediation Trust, the Tribe Trust and the Foundation the NewCo Distributable Cash in accordance with the Plan and to satisfy any deficiency of funding in the Wind-Up Reserve subject to the consent (not to be unreasonably withheld) of the NewCo Managers and the MDT Trustees (which obligation shall be assumed by NewCo and any successor to NewCo's business) and NewCo shall assume the Assumed Liabilities. Except as described in the foregoing sentence, NewCo shall have no liability for, and the NewCo Transferred Assets shall vest in NewCo free and clear of, any prepetition and postpetition Causes of Action of any kind, in each case that have been or could have been asserted against the Debtors, their Estates or their property (including, but not limited to, Claims based on successor liability) based on any acts or omissions prior to the Effective Date.

(iv) **NewCo Managers.**

(1) Appointment. The board of managers of NewCo will consist of five (5) NewCo Managers, each with experience in one or more of the following areas: pharmaceuticals, public policy (including public health policy), law enforcement, ethics and compliance, finance, audit, general business and/or corporate governance issues. The initial NewCo Managers shall be disinterested and independent, and shall be selected by the Settling States with the consent (not to be unreasonably withheld) of the Ad Hoc Committee and in consultation with the Debtors and the Creditors' Committee, and pursuant to a selection process that is reasonably acceptable to the Debtors; *provided* that the DOJ shall have the right, in its discretion, to observe such selection process. The

identity of the initial NewCo Managers shall be included in the Plan Supplement. The appointment of the initial NewCo Managers shall be approved in the Confirmation Order, and such appointment shall be effective as of the Effective Date.

(2) Responsibilities. The NewCo Managers shall, among other things, (A) determine appropriate expenditure levels for commercial operations and the Public Health Initiatives of NewCo, and (B) make all decisions with respect to NewCo operations (including, for the avoidance of doubt, to effectuate a Disposition Event (as defined in the NewCo Operating Agreement)), taking into account the public interest and NewCo's purpose; provided, in each of clauses (A) and (B) above, any such actions of the NewCo Managers shall be subject to oversight by the Foundation.

(v) **NewCo Distributable Cash**. On an annual basis following the Effective Date, NewCo shall pay (i) 96.7% of the Governmental NewCo Distributable Cash directly to the Governmental Remediation Trust, (ii) 3.3% of the Governmental NewCo Distributable Cash directly to the Tribe Trust and (iii) the Foundation Distributable Cash directly to the Foundation. The obligation to pay the Governmental NewCo Distributable Cash in accordance with Section 5.4(e) of the Plan shall be otherwise documented in an agreement to be negotiated between NewCo, the Governmental Remediation Trust and the Tribe Trust.

(vi) **NewCo Insurance**. On or prior to the Effective Date, the Debtors shall fund an upfront premium payment from Effective Date Cash to purchase insurance required and appropriate for the business needs of NewCo, including liability and other insurance for NewCo, including, without limitation, product liability insurance and directors' and officers' liability insurance for the NewCo Managers, officers and other authorized agents, in an amount and on terms acceptable to the Debtors and the Governmental Consent Parties.

(vii) **NewCo Operating Injunction and NewCo Governance Covenants**. The Confirmation Order will provide for the issuance of the NewCo Operating Injunction and the NewCo Governance Covenants. Any purchaser of NewCo's opioid business shall remain subject to the NewCo Operating Injunction and the NewCo Governance Covenants.

(viii) **NewCo Monitor**. The Confirmation Order will provide for the appointment of the NewCo Monitor. The initial NewCo Monitor shall be the Purdue Monitor in place as of the Effective Date or otherwise selected by the Governmental Consent Parties with the consent of the Debtors, and in consultation with the Creditors' Committee. The identity of the NewCo Monitor shall be disclosed in the Plan Supplement. The NewCo Monitor shall be responsible for reviewing NewCo's compliance with the NewCo

Operating Injunction. NewCo and its professionals and representatives, including the NewCo Managers, shall cooperate and reasonably respond to requests by the NewCo Monitor in the performance of its responsibilities, including reasonable requests for access to relevant books and records of NewCo. In furtherance of the responsibilities of the NewCo Monitor, the NewCo Monitor shall be authorized to seek relief from the Bankruptcy Court to the extent necessary to carry out its obligations under the Plan. The NewCo Monitor shall prepare and publish quarterly reports regarding the matters for which the NewCo Monitor is responsible, including NewCo's compliance with the NewCo Operating Injunction. All compensation, costs and fees of the NewCo Monitor and any professionals retained by the NewCo Monitor shall be paid by NewCo.

(ix) **U.S. Federal Income Tax Matters Relating to NewCo**. The NewCo Managers shall cause NewCo to make a timely election to be treated as a corporation for U.S. federal income tax purposes effective as of the date immediately succeeding the Effective Date by the deadline for making such election. NewCo shall be responsible for filing all tax returns of NewCo and the payment, out of the Assets of NewCo, of any taxes due by or imposed on NewCo or NewCo Transferred Assets, including, without limitation, estimated and annual U.S. federal income taxes.

(x) **Exculpation and Indemnification of the NewCo Managers**. To the maximum extent permitted by applicable law, no NewCo Manager shall have or incur any liability for actions taken or omitted in his or her capacity as a NewCo Manager, or on behalf of NewCo, except those acts found by Final Order to be arising out of his or her willful misconduct, bad faith or fraud, and shall be entitled to indemnification, advancement and reimbursement for reasonable fees and expenses in defending any and all actions or inactions in his or her capacity as a NewCo Manager, or on behalf of NewCo, except for any actions or inactions found by Final Order to be arising out of his or her willful misconduct, bad faith or fraud. Any valid indemnification claim of any NewCo Manager shall be satisfied by NewCo.

5. Foundation.

(i) **Establishment and Ownership of the Foundation**. On or before the Effective Date, the Foundation shall be formed in accordance with the terms of the Plan and the Foundation Bylaws.

(ii) **Appointment of the Foundation Trustees**. The board of trustees of the Foundation will consist of three (3) Foundation Trustees, each of whom shall be disinterested and independent, provided that one (but no more than one) Creditor Trustee of the Master Disbursement Trust may serve as a Foundation Trustee; provided further that any action taken by such individual in his or her capacity as Foundation Trustee shall not be subject

to the fiduciary duties of such individual in his or her capacity as a Creditor Trustee of the Master Disbursement Trust. The initial Foundation Trustees shall be selected by the Settling States with the consent (not to be unreasonably withheld) of the Ad Hoc Committee and in consultation with the Debtors and the Creditors' Committee, and pursuant to a selection process that is reasonably acceptable to the Debtors; *provided* that the DOJ shall have the right, in its discretion, to observe such selection process. The identity of the initial Foundation Trustees shall be included in the Plan Supplement. The appointment of the initial Foundation Trustees shall be approved in the Confirmation Order, and such appointment shall be effective as of the Effective Date.

(iii) **Foundation D&O Insurance and Indemnification**. On or prior to the Effective Date, the Debtors shall fund an upfront premium payment from Effective Date Cash to purchase directors' and officers' liability insurance for the Foundation Trustees in an amount and on terms acceptable to the Debtors and the Governmental Consent Parties.

(iv) **U.S. Federal Income Tax Matters Relating to the Foundation.** The Foundation Trustees shall cause the Foundation to (A) be formed as a corporation and (B) be organized as a corporation that is intended to be treated as an exempt organization under IRC section 501(c)(4) for U.S. federal and applicable state and local income tax purposes.

(v) **Exculpation and Indemnification of the Foundation Trustees**. To the maximum extent permitted by applicable law, no Foundation Trustee shall have or incur any liability for actions taken or omitted in his or her capacity as a Foundation Trustee, or on behalf of NewCo, except those acts found by Final Order to be arising out of his or her willful misconduct, bad faith or fraud, and shall be entitled to indemnification, advancement and reimbursement for reasonable fees and expenses in defending any and all actions or inactions in his or her capacity as a Foundation Trustee, or on behalf of NewCo, except for any actions or inactions found by Final Order to be arising out of his or her willful misconduct, bad faith or fraud. Any valid indemnification claim of any Foundation Trustee shall be satisfied by the Foundation.

6. Master Disbursement Trust

(i) **Establishment and Purpose of the Master Disbursement Trust**. On or before the Effective Date, the Debtors shall take all necessary steps to establish the Master Disbursement Trust in accordance with the Plan and the MDT Agreement. The Master Disbursement Trust shall be established for the purposes described in the Plan and any other purposes more fully described in the MDT Agreement and shall be subject to the jurisdiction

of the Bankruptcy Court. The Master Disbursement Trust shall, in each case in accordance with the Plan and the MDT Agreement:

(1) hold, manage, sell, invest and distribute the MDT Transferred Assets for the benefit of the MDT Beneficiaries in accordance with the Private Entity Settlements and the Public Entity Settlements;

(2) enforce, pursue, prosecute, compromise and/or settle the MDT Causes of Action, the MDT Insurance Rights and the MDT Shareholder Rights, including monitoring and enforcing the Shareholder Settlement Agreements;

(3) make payments in satisfaction of the MDT Claims;

(4) make Public Creditor Trust Distributions from MDT Distributable Value;

(5) hold and administer the Special Operating Reserve; and

(6) serve as administrative agent with respect to the Released Claims Reserves.

(ii) **Vesting of the MDT Transferred Assets in the Master Disbursement Trust.** The corpus of the Master Disbursement Trust shall consist of the MDT Transferred Assets. On the Effective Date, pursuant to the Plan and in accordance with the MDT Agreement, the MDT Transferred Assets shall be irrevocably transferred to and vest in the Master Disbursement Trust free and clear of all Claims, Interests, Liens, other encumbrances and liabilities of any kind; *provided* that, to the extent certain Assets comprising the MDT Transferred Assets are not known or identified as of the Effective Date, such Assets shall automatically, and without further act or deed, be transferred to and vest in the Master Disbursement Trust upon the discovery or identification thereof, including, with respect to the Surplus Reserve Cash, in accordance with Section 5.14(c) of the Plan. The Master Disbursement Trust shall have no liability for any prepetition or postpetition Causes of Action of any kind, in each case that have been or could have been asserted against the Debtors, their Estates or their property (including, but not limited to, Claims based on successor liability) based on any acts or omissions prior to the Effective Date, except as expressly set forth in the Plan and the MDT Agreement; *provided* that the Master Disbursement Trust will assume the Channeled Claims solely for the purpose of effectuating the Master TDP in accordance with Section 5.6(g) of the Plan and issue the MDT Claims and MDT Interests in accordance with the Public Entity Settlements and the Private Entity Settlements. From and after the Effective Date, all proceeds of the MDT Transferred Assets, including without limitation, amounts paid by Insurance Companies under the MDT Insurance Policies and amounts paid

under the Master Shareholder Settlement Agreement, shall be paid to the Master Disbursement Trust to be applied in accordance with the MDT Priority Waterfall and the MDT Agreement.

(iii) **Funding of the Master Disbursement Trust**. The Master Disbursement Trust shall be funded with the proceeds of the MDT Transferred Assets.

(iv) **Appointment and Role of the MDT Trustees**. The board of trustees of the Master Disbursement Trust will consist of three (3) MDT Trustees with relevant experience. The MDT Trustees shall be disinterested and independent; *provided*, *however*, that such requirements shall not preclude any professional who represented parties in interest from serving as MDT Trustee nor any firm in which an MDT Trustee holds a financial interest from serving as a professional for the Master Disbursement Trust based solely on such previous representations. At least one (1) initial MDT Trustee shall be selected by the Settling States that have attorneys general from the Democratic Party, and at least one (1) initial MDT Trustee shall be selected by the Settling States that have attorneys general from the Republican Party, and such MDT Trustees shall select the third MDT Trustee (the "**Settling States MDT Trustees**"); *provided* that notwithstanding the above, in each case, each MDT Trustee shall be appointed with the consent of the Ad Hoc Committee in consultation with the MSGE Group and the Debtors, and the DOJ shall have the right, in its discretion, to observe such selection process. The identity of the initial MDT Trustees shall be disclosed in the Plan Supplement. The appointment of the initial MDT Trustees shall be approved in the Confirmation Order, and such appointment shall be effective as of the Effective Date. Each Settling States MDT Trustee may be removed and replaced at any time by the unanimous vote of the MDT Advisory Council Representatives from the same political party as such Settling States that selected such Settling States MDT Trustee. In furtherance of and consistent with the purpose of the Master Disbursement Trust and the Plan, the MDT Trustees shall:

(1) have the power and authority to perform all functions on behalf of the Master Disbursement Trust;

(2) have the power and authority to perform all functions necessary to operate the Master Disbursement Trust, including, but not limited to, hiring employees or financial, tax, legal, or other necessary professionals to achieve the Master Disbursement Trust's objectives;

(3) be responsible for all decisions and duties with respect to the Master Disbursement Trust and the MDT Transferred Assets; and

(4) in all circumstances and at all times, act in a fiduciary capacity for the benefit and in the best interests of the MDT Beneficiaries, in furtherance of the purpose of the Master Disbursement Trust, and in accordance with the Plan, including Section 5.6(f) of the Plan, and the MDT Agreement.

(v) **Appointment and Role of the MDT Advisory Council.** There shall be an MDT Advisory Council established under the MDT Agreement that will consist of a total of seven (7) representatives (the "**MDT Advisory Council Representatives**," and each an "**MDT Advisory Council Representative**"), selected in the following manner: (i) two (2) representatives shall be selected by the representatives of Settling States that have a state attorney general from the Democratic Party; (ii) two (2) representatives shall be selected by the representatives of Settling States that have a state attorney general from the Republican Party, and (iii) these four (4) MDT Advisory Council Representatives shall select the fifth MDT Advisory Council Representative. In addition, one (1) MDT Advisory Council Representative shall be selected by the MDL Plaintiffs' Executive Committee and one (1) MDT Advisory Council Representative shall be selected by the MSGE Group. Notwithstanding anything in the foregoing to the contrary, in each case, each MDT Advisory Council Representative shall be appointed with the consent of the Ad Hoc Committee. The Master Disbursement Trust shall regularly report to the MDT Advisory Council with respect to the operations and activities of the Master Disbursement Trust and the handling of all payments and Distributions made from the Master Disbursement Trust to the extent set forth in the MDT Agreement.

(vi) **Obligations of the MDT Trustees**. The MDT Trustees shall take into account the interests of, and owe fiduciary duties to, each of the MDT Beneficiaries in making all decisions on behalf of the Master Disbursement Trust. In furtherance thereof:

(1) in the event of a Specified Breach (as defined in the Master Shareholder Settlement Agreement), the MDT Trustees will take into account the remaining rights of the Holders of MDT Claims as well as the interests of the Holders of MDT Interests in formulating and exercising appropriate remedies as they relate to the Shareholder Payment Parties and the Shareholder Release Snapback Parties, but shall in all events, to the extent there are obligations remaining to the Private Creditor Trusts upon such default, seek to utilize all other available sources of assets (including by first utilizing commercially reasonable efforts to pursue a Payment Remedy (as defined in the Master Shareholder Settlement Agreement) before electing to pursue a Shareholder Release Remedy) to pay all outstanding amounts owed to the Holders of MDT Claims then-due or to be paid in the future from

amounts due from such Breaching Shareholder Family Group until such outstanding amounts have been paid in full;

(2) the Master Disbursement Trust shall provide no less than ten (10) Business Days' advance written notice (unless urgent circumstances require less notice) to each MDT Beneficiary of any material action proposed to be taken in respect of the MDT Shareholder Rights, including any exercise of remedies under the Shareholder Settlement Agreements or the commencement or settlement of any litigation against any Shareholder Payment Party or Shareholder Release Snapback Party;

(3) to the extent there are any disputes raised by any MDT Beneficiary regarding the operation of the Master Disbursement Trust or the actions of the MDT Trustees (including, without limitation, any action related to the MDT Shareholder Rights), (A) any MDT Beneficiary shall have the right to seek resolution by the Bankruptcy Court of such a dispute, including seeking to enjoin any disputed action by the Master Disbursement Trust, and all MDT Trustees and MDT Beneficiaries shall have the right to be heard with regard to any such dispute, including by filing objections, declarations, statements in support or other pleadings (including with supporting evidence) or providing witness testimony at any hearing and (B) the Bankruptcy Court shall have exclusive jurisdiction to hear and resolve any such disputes, and shall be authorized to order appropriate relief (subject to the provisions of Section 5.6(f) of the Plan) and make a determination in an expedited manner, and in all events, shall make such a decision within thirty (30) days from the request for relief;

(4) upon the payment in full in Cash of any MDT Claim, the holder of such MDT Claim shall immediately cease to be an MDT Beneficiary for all purposes under the MDT Agreement, and the MDT Trustees shall have no further fiduciary duties to such holder, and such holder shall have no further rights to commence or participate in any action relating to the operations of the Master Disbursement Trust or the actions of the MDT Trustees;

(5) the Master Disbursement Trust shall (A) provide reasonable reporting to each of the other Creditor Trusts that hold MDT Claims regarding the MDT Trustees' activities at least every four (4) months (both cumulatively and in the period just ended), including with regard to the MDT Shareholder Rights (or any reporting received), any insurance proceedings, assets (including the value thereof), expenditures, distributions and forward-looking projections (subject to appropriate limitations to be agreed by the Debtors, the Governmental Consent Parties and the Creditors'

Committee), (B) make themselves reasonably available in addition to holding at least one (1) call every four (4) months for the other Creditor Trustees to answer questions of such other Creditor Trustees relating to the Master Disbursement Trust's activities, (C) provide each Private Creditor Trust and the Public School Trust with quarterly reporting regarding Litigation Costs (as defined in the Master Shareholder Settlement Agreement) and other items relating to litigation claims pertaining to such Creditor Trusts' applicable Creditor category as well as all other Creditor categories, and (D) provide the PI Trust with the information, consultation rights and notice as required pursuant to Section 5.2(e) of the Plan. Notwithstanding anything in the foregoing to the contrary, the Master Disbursement Trust shall not be required to provide any reporting to any Creditor Trust to which the Master Disbursement Trust's duties cease pursuant to Section 5.6(f)(iv) of the Plan;

(6) the MDT Trustees shall be obligated to comply with the terms of the Plan, including Section 5.6(f) of the Plan, and the MDT Agreement; and

(7) in the event of any inconsistency between the terms of Section 5.6(f) of the Plan and any other provision of the Plan or the MDT Agreement, the terms of Section 5.6(f) of the Plan shall govern unless the MDT Trustees and the Creditor Trustees for each of the Creditor Trusts mutually agree.

(vii) **Assumption of Channeled Claims and Master TDP**. As of the Effective Date, any and all liability of the Debtors and the other Protected Parties for any and all Channeled Claims shall automatically, and without further act, deed or court order, be channeled to and assumed by the Master Disbursement Trust solely for the purpose of effectuating the Master TDP, pursuant to which each Channeled Claim shall either be automatically channeled to and assumed exclusively by a Creditor Trust or otherwise Disallowed and released in full. All Channeled Claims channeled to a Creditor Trust in accordance with the Master TDP shall be administered and resolved solely pursuant to, and solely to the extent provided in, the applicable Creditor Trust TDP for such Creditor Trust. Distributions, in accordance with the applicable Creditor Trust TDP, from the Creditor Trust to which a Channeled Claim is channeled, in accordance with the Master TDP, shall be the sole source of recovery, if any, in respect of such Channeled Claim, and the Holder of such Channeled Claim shall have no other or further recourse to the Protected Parties, including the Master Disbursement Trust. All Channeled Claims that are Disallowed and released and not channeled to a Creditor Trust in accordance with the Master TDP shall have no recourse to any Protected Party, including the Master Disbursement Trust. For the avoidance of doubt, in no event shall

any Channeled Claim have any recourse to the Assets of the Master Disbursement Trust. In furtherance of the foregoing, the Master Disbursement Trust, subject to and only to the extent provided in the MDT Documents, shall have all defenses, cross-claims, offsets and recoupments regarding the Channeled Claims that the Debtors, the Released Parties and the Shareholder Released Parties, as applicable, have, or would have had, under applicable law, but solely to the extent consistent with the MDT Documents and the Plan; *provided* that, subject to Section 10.8(c) of the Plan, no such Claims, defenses or rights may be asserted against any Protected Party; and *provided*, *further*, that all such defenses, cross-claims, offsets and recoupments regarding any Channeled Claim that is channeled to a Creditor Trust in accordance with the Master TDP shall be transferred to such Creditor Trust with such Channeled Claim, at which point, the Master Disbursement Trust shall no longer have such defenses, cross-claims, offsets and recoupments regarding such Channeled Claim. For the avoidance of doubt, nothing in Section 5.6(g) of the Plan shall limit or affect the transfer of the MDT Insurance Rights.

(viii) **MDT Operating Expenses.** On the Effective Date, the Debtors shall establish and fund the MDT Operating Reserve, which shall vest in the Master Disbursement Trust in accordance with Section 5.6(b) of the Plan and be held and maintained by the MDT Trustees. Periodically, until the dissolution of the Master Disbursement Trust, the MDT Trustees will replenish the MDT Operating Reserve from Cash held or received by the Master Disbursement Trust to the extent deemed necessary by the MDT Trustees to satisfy and pay estimated future MDT Operating Expenses; provided, however, that subject only to Section 5.2(g) of the Plan, payments received by the Master Disbursement Trust on account of the Governmental Entity Shareholder Direct Settlement shall be immediately transferred to the Governmental Remediation Trust and shall not be used to fund a Replenishment Transfer or the MDT Operating Reserve, and shall not be used to pay the MDT Claims. The MDT Trustees shall create and maintain an annual budget of MDT Operating Expenses, which shall be reviewed by, and reasonably acceptable to, the MDT Advisory Council. All MDT Operating Expenses shall be satisfied and paid from the MDT Operating Reserve. The MDT Trustees shall be entitled to reasonable compensation and to retain and reasonably compensate counsel and other professionals, including any professional who represented parties in interest in the Chapter 11 Cases, to assist in the duties of the Master Disbursement Trust on such terms as the MDT Trustees deem appropriate without Bankruptcy Court approval, subject to the provisions of the MDT Agreement. The initial compensation of the MDT Trustees shall be reasonably acceptable to the Debtors and the Governmental Consent Parties, and thereafter shall be subject to the annual budgets prepared by the MDT Trustees.

(ix) **Transfer of the MDT Insurance Rights.** In furtherance of the transfer of the MDT Transferred Assets to the Master Disbursement Trust and in accordance with the MDT Agreement, on the Effective Date, the Debtors shall irrevocably transfer, grant and assign to the Master Disbursement Trust, and the Master Disbursement Trust shall receive and accept, any and all of the MDT Causes of Action and MDT Insurance Rights. To the extent any Insurance Company would be obligated in respect of any MDT Insurance Policy to pay any Channeled Claim on behalf of one or more of the Debtors, the Debtors shall transfer and assign to the Master Disbursement Trust the right to enforce such Insurance Company's obligation. The foregoing transfer shall be (i) free and clear of all encumbrances and Causes of Action of any nature whatsoever, (ii) made to the maximum extent possible under applicable law, (iii) absolute and without requirement of any further action by the Debtors, the Liquidating Debtors, the Plan Administration Trust, the Master Disbursement Trust, the Bankruptcy Court or any other Person, and (iv) governed by, and construed in accordance with, the Bankruptcy Code and the other applicable laws governing the applicable MDT Insurance Policies. Notwithstanding the foregoing, the Master Disbursement Trust shall become and remain liable in full for and shall satisfy, to the extent required under applicable law, any prospective premiums, deductibles, self-insured retentions and any other amounts or obligations arising in any way out of the receipt of payment from an Insurance Company in respect of the MDT Insurance Rights; *provided* that, for the avoidance of doubt, the Master Disbursement Trust will not be required to pay premiums or any other amounts for Purdue Insurance Policies that are not MDT Insurance Policies. The transfer of the MDT Insurance Rights contemplated in Section 5.6(i) of the Plan is not an assignment of any insurance policy itself. The Confirmation Order shall contain findings reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties related to or necessary to preserve all MDT Insurance Rights.

(x) **Transfer of MDT Shareholder Insurance Rights**. On the Effective Date, in consideration of the Shareholder Releases, the Shareholder Released Parties shall irrevocably transfer, grant, and assign to the Master Disbursement Trust, and the Master Disbursement Trust shall receive and accept, any and all MDT Shareholder Insurance Rights. Each Shareholder Released Party shall be deemed to have irrevocably transferred, granted, and assigned to the Master Disbursement Trust any and all MDT Shareholder Insurance Rights without further action and without further consideration to such Shareholder Released Party. Pursuant to the Plan, the foregoing transfer shall be (i) free and clear of all encumbrances and Causes of Action of any nature whatsoever, (ii) made to the maximum extent possible under applicable law, (iii) absolute and without requirement of any further action by the Shareholder Released Parties, the Debtors, the Liquidating Debtors, the Plan Administration Trust, the

Master Disbursement Trust, the Bankruptcy Court or any other Person, and (iv) governed by, and construed in accordance with, the Bankruptcy Code and the other applicable laws governing the MDT Shareholder Insurance Rights. The transfer of the MDT Shareholder Insurance Rights is not an assignment of any insurance policy itself. For the avoidance of doubt, the transfer of the MDT Shareholder Insurance Rights is in addition to the other obligations of the Shareholder Released Parties set forth in the Plan. The Shareholder Released Parties will make best efforts to provide the Master Disbursement Trust access to information and copies of documents that are reasonably necessary to preserve, secure, or obtain the benefit of the MDT Shareholder Insurance Rights, and will comply in all respects with the Plan to preserve, secure, or obtain the benefit of the MDT Shareholder Insurance Rights, including but not limited to the obligations set forth in Section 8.8(b) of the Plan. The Confirmation Order shall contain findings reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties related to or necessary to preserve all MDT Shareholder Insurance Rights. Notwithstanding the foregoing in this paragraph, to the extent that (y) a Shareholder Released Party has, prior to the Effective Date, provided notice of a Claim under a Reserved MDT Insurance Policy under which a Shareholder Released Party is covered and (z) such Claim is not one for which such Shareholder Released Party receives the benefit of the Shareholder Releases (a "**Retained Shareholder Insurance Claim**"), such Shareholder Released Party shall not be deemed to have irrevocably transferred, granted, and assigned to the Master Disbursement Trust the Retained Shareholder Insurance Claim, and such Shareholder Released Party shall be entitled to pursue any such Retained Shareholder Insurance Claim prior to and after the Effective Date; provided that, notwithstanding the foregoing, with respect to the Retained Shareholder Insurance Claims, each Shareholder Released Party, in consideration of the Shareholder Releases, (A) will confer and fully cooperate with the Master Disbursement Trust in connection with the settlement of all claims or rights under such MDT Insurance Policy, including the Retained Shareholder Insurance Claims, and including but not limited to as set forth in Section 8.8(b)(i) of the Plan, and (B) in the event the Master Disbursement Trust has obtained settlement terms that it deems acceptable in its sole discretion, and such settlement terms include a settlement of any Retained Shareholder Insurance Claim, each Shareholder Released Party with rights under such Retained Shareholder Insurance Claim shall be deemed to consent to the release of any claims or rights held by such Shareholder Released Party against and under such MDT Insurance Policy, with the same effect as if such Shareholder Released Party had executed such settlement agreement, and without further consideration to such Shareholder Released Party from the insurance settlement proceeds or otherwise in respect of such settlement. After the Effective Date, no Shareholder Released Party shall be entitled to submit a claim under any MDT Insurance Policy (with the

exception of a current or former director, officer, manager, authorized agent or employee that is not a Sackler Family Member, but solely to the extent such individual has a right to submit a claim after the Effective Date pursuant to Section 8.8(b)(ii) of the Plan).

(xi) **Shareholder Insurance Release**. On the Effective Date, in consideration of the Shareholder Releases, all Sackler Family Members shall irrevocably, fully and forever release and discharge any obligation to indemnify and/or to defend the Sackler Family Members under the Isosceles Insurance Ltd. policy number PPLP-01/2019 for any Claim or loss of any type or nature whatsoever, whether known or unknown. The Sackler Family Members hereby surrender all rights, interest in and Claim to any benefit under the Isosceles Insurance Ltd. policy number PPLP-01/2019, and acknowledge that (i) all rights, interest in and Claim to any benefit they may have under the Isosceles Insurance Ltd. policy number PPLP-01/2019 are fully terminated on the Effective Date; and (ii) after the Effective Date, the Sackler Family Members will not receive and cannot claim any further benefits under the Isosceles Insurance Ltd. policy number PPLP-01/2019 for any time period and shall have no rights whatsoever under or relating to the Isosceles Insurance Ltd. policy number PPLP-01/2019.

(xii) **Institution and Maintenance of Legal and Other Proceedings**. As of the date upon which the Master Disbursement Trust is established, the Master Disbursement Trust shall be empowered to initiate, prosecute, defend and resolve all legal actions and other proceedings related to any Asset, liability or responsibility of the Master Disbursement Trust, including in respect of the MDT Causes of Action, the MDT Insurance Rights and the MDT Shareholder Rights. Such legal actions and other proceedings shall be limited solely to those required for the purposes of satisfying the responsibilities of the Master Disbursement Trust, including in respect of the MDT Causes of Action, the MDT Insurance Rights and the MDT Shareholder Rights. The Master Disbursement Trust shall be empowered to initiate, prosecute, defend and resolve all such actions in the name of the Debtors or their Estates, in each case if deemed necessary or appropriate by the MDT Trustees. The Master Disbursement Trust shall be responsible for the payment of all damages, awards, judgments, settlements, expenses, costs, fees and other charges incurred subsequent to the date upon which the Master Disbursement Trust is established arising from, or associated with, any legal action or other proceeding brought pursuant to the foregoing.

(xiii) **U.S. Federal Income Tax Matters Relating to the Master Disbursement Trust**. The Master Disbursement Trust is intended to be treated, and shall be reported, as a "qualified settlement fund," and the receipt of (i) any MDT Transferred Assets (and any other amounts received by the Master Disbursement Trust pursuant to the Plan) that are

treated as amounts transferred to the Master Disbursement Trust for purposes of Treasury Regulations section 1.468B-2(b)(1) and (ii) the proceeds received in respect of any MDT Transferred Assets (and any other amounts received by the Master Disbursement Trust pursuant to the Plan) that are not described in clause (i) above (including, without limitation, proceeds received in respect of the MDT Shareholder Rights) by the Master Disbursement Trust are intended to be treated as amounts transferred by, or on behalf of, a "transferor" to a "qualified settlement fund," within the meaning of Treasury Regulations section 1.468B-1 for U.S. federal income tax purposes and shall be treated consistently for state and local tax purposes, to the extent applicable. All parties (including, without limitation, the Shareholder Payment Parties, Holders of Claims against or Interests in the Debtors, the Related Parties of such Holders, the Debtors, the Creditor Trusts, the Creditor Trustees, the MDT Trustees and the Master Disbursement Trust) shall report consistently with the foregoing for all applicable tax reporting purposes. An MDT Trustee shall be the "administrator," within the meaning of Treasury Regulations section 1.468B-2(k)(3), of the Master Disbursement Trust. The administrator of the Master Disbursement Trust shall be responsible for filing all tax returns required to be filed by or on behalf of the Master Disbursement Trust and the payment, out of the Assets of the Master Disbursement Trust, of any taxes due by or imposed on the Master Disbursement Trust. The MDT Trustees may request an expedited determination under section 505(b) of the Bankruptcy Code for all tax returns filed by or on behalf of the Master Disbursement Trust for all taxable periods through the dissolution of the Master Disbursement Trust. Nothing in Section 5.6(m) of the Plan shall be deemed to determine, expand or contract the jurisdiction of the Bankruptcy Court under section 505 of the Bankruptcy Code.

(xiv) **Distributions from the Master Disbursement Trust Free and Clear**. All Distributions made by the Master Disbursement Trust to the MDT Beneficiaries shall be made in accordance with the notice provisions of the Shareholder Settlement Agreements, as applicable, and in the absence of applicable notice provisions therein to the applicable Creditor Trust, as directed in writing by the corresponding trustees, on no less than ten (10) Business Days' notice to all MDT Beneficiaries; *provided* that such advance notice requirements shall not be required for the Initial Private Creditor Trust Distributions, Initial Public Creditor Trust Distributions or the Initial Public Schools Distribution. Such Distributions thereafter shall become the property of such MDT Beneficiary, free and clear of all Claims, Liens or other recourse or encumbrances, and shall not be subject to attachment, disgorgement or recoupment by any Person. Such distributions to each Creditor Trust shall become the property of such Creditor Trust, and shall be used for the administration (including the payment of Creditor Trust Operating Expenses) of such Creditor Trust, to make Distributions on account of Channeled Claims channeled to such

Creditor Trust in accordance with the applicable Creditor Trust TDP and for such other purposes as may be specifically set forth in the applicable Creditor Trust Documents.

(xv) D**issolution, Release of Reserves and Residual Value**. The Master Disbursement Trust shall be dissolved and the MDT Trustees shall be discharged from their respective duties with respect to the Master Disbursement Trust upon completion of their duties as set forth in the Plan and the MDT Agreement, which, for the avoidance of doubt, shall be no earlier than the date on which (i) all Assets held by the Master Disbursement Trust, including the MDT Transferred Assets, have been liquidated and (ii) all payments and other distributions required to be made from the Master Disbursement Trust under the Plan and the MDT Agreement have been made, including payment in full in Cash of all MDT Claims, unless dissolution on an earlier date is authorized pursuant to a Final Order of the Bankruptcy Court. Upon dissolution of the Master Disbursement Trust, any Cash remaining in the MDT Operating Reserve or otherwise held by the Master Disbursement Trust shall be distributed in accordance with the MDT Priority Waterfall and the MDT Agreement; *provided* that, in the event the Master Disbursement Trust is dissolved prior to the payment in full in Cash of all MDT Claims, all outstanding amounts under such MDT Claims shall be deemed due and payable for purposes of the distribution of such remaining Cash pursuant to the MDT Priority Waterfall. Subject to the foregoing sentences, the Master Disbursement Trust shall be dissolved at such time as the MDT Trustees determine that the administration of any remaining assets of the Master Disbursement Trust is not likely to yield sufficient additional proceeds to justify further pursuit.

(xvi) **Exculpation and Indemnification of the MDT Trustee and the MDT Advisory Council Representatives**. To the maximum extent permitted by applicable law, each of the MDT Trustees, and MDT Advisory Council Representatives shall not have or incur any liability for actions taken or omitted in his or her capacity as an MDT Trustee or MDT Advisory Council Representative, or on behalf of the Master Disbursement Trust, except those acts found by Final Order to be arising out of his or her willful misconduct, bad faith, gross negligence or fraud, and shall be entitled to indemnification, advancement and reimbursement for reasonable fees and expenses in defending any and all of his or her actions or inactions in his or her capacity as an MDT Trustee or MDT Advisory Council Representative, or on behalf of the Master Disbursement Trust, and for any other liabilities, losses, damages, claims, costs and expenses arising out of or due to the implementation or administration of the Plan or the MDT Agreement, in each case, except for any actions or inactions found by Final Order to be arising out of his or her willful misconduct, bad faith, gross negligence or fraud. Any valid indemnification claim of the

MDT Trustees or the MDT Advisory Council Representatives shall be satisfied from the MDT Operating Reserve.

*7. **Special Operating Reserve; Released Claims Reserves.***

(i) Establishment of Special Operating Reserve and Released Claims Reserves.

(1) On or before the Effective Date, the Debtors shall establish the Special Operating Reserve which shall vest in the Master Disbursement Trust in accordance with Section 5.6(b) of the Plan and be held and maintained by the Master Disbursement Trust. The Special Operating Reserve shall be funded initially in the aggregate amount of $200 million by withholding, in each case from Shareholder Estate Settlement Distributions, (a) $20 million from the Initial Private Creditor Trust Distributions and the Initial Public Schools Distribution and (b) $180 million from the Initial Public Creditor Trust Distributions (the "**SOR Holdback**"). The Master Disbursement Trust, as administrative agent, shall facilitate the releases from the Special Operating Reserve in accordance with terms and consent procedures set forth in Exhibit N to the Master Shareholder Settlement Agreement.

(2) On the Effective Date, each Creditor Trust shall establish the Released Claims Reserves and, once amounts are funded from the corresponding Creditor Trust PRA Non-Participating Claims Reserves in accordance with Section 7.8(b) of the Plan or Section 7.8(c) of the Plan, as applicable, be otherwise held and maintained by such Creditor Trust with the Master Disbursement Trust serving as administrative agent with respect thereto. The Master Disbursement Trust, as administrative agent, shall facilitate the releases from the Released Claims Reserves in accordance with terms and consent procedures set forth in Exhibit N to the Master Shareholder Settlement Agreement.

(ii) **Reversion of Special Operating Reserve and Released Claims Reserves.** Subject in all respects to the Master Shareholder Settlement Agreement, on the First Reversion Date, (A) one third (1/3) of the balance of each of the Special Operating Reserve and each Released Claims Reserves will be released to the Master Disbursement Trust or the applicable Creditor Trust, respectively, after completion of all requirements set forth in the Master Shareholder Settlement Agreement and (B) Replenishment Transfers shall cease.

(1) Unless and until Material Litigation is commenced or continued prior to any of the times set forth below against any Shareholder Released Party after the First Reversion Date, then:

(A) Upon the first anniversary of the First Reversion Date, if and only if no Material Litigation is or has been pending for the prior thirty (30) days, fifty percent (50%) of each of the remaining balance of the Released Claims Reserves and Special Operating Reserves will be released to the applicable Creditor Trust or the Master Disbursement Trust, respectively;

(B) Upon the second anniversary of the First Reversion Date, if and only if no Material Litigation is or has been pending for the prior thirty (30) days, fifty percent (50%) of each of the remaining balance of the Released Claims Reserves and Special Operating Reserve will be released to the applicable Creditor Trust or the Master Disbursement Trust, respectively; and

(C) Thereafter, upon the date when no litigation is or has been pending for the prior thirty (30) days, the remaining balance of each of the Released Claims Reserves and Special Operating Reserve will be released to the applicable Creditor Trust or the Master Disbursement Trust, respectively.

(2) Upon a Suspension Event:

(A) All releases from the Released Claims Reserves and Special Operating Reserve described in Section 5.7(b)(i) of the Plan shall cease; and

(B) If the Material Litigation is of the type referenced in clause (1)(a) of the definition of "Material Litigation" in the Master Shareholder Settlement Agreement (i.e., any litigation by a Material Litigant against Shareholder Released Parties regarding Covered Conduct) or clause (2) thereof (500 or more separate lawsuits (i.e., not aggregated and not in a class) pending against Shareholder Released Parties concerning Covered Conduct being pursued by non-Material Litigants), the Master Disbursement Trust shall resume Replenishment Transfers pursuant to Section 5.7(b)(i) of the Plan.

(C) Following a Suspension Event, a new First Reversion Date shall occur on the next date when no Material Litigation is

or has been pending for thirty (30) days. The Sackler Parties' Representative shall report the occurrence of a new First Reversion Date to the Master Disbursement Trust in accordance with Section 7(b)(v)(B) of Exhibit N the Master Shareholder Settlement Agreement. On such new First Reversion Date or as soon as reasonably practicable thereafter, Replenishment Transfers shall cease and one third (1/3) of the balance of each of the Special Operating Reserve and Released Claims Reserves will be released to the Master Disbursement Trust and/or the applicable Creditor Trust, respectively, in accordance with Section 5.7(b)(iii) of the Plan, after completion of all requirements set forth in Exhibit N to the Master Shareholder Settlement Agreement.

Thereafter:

(D) Upon the first anniversary of the First Reversion Date, if and only if no Material Litigation is or has been pending for the prior thirty (30) days, one half (1/2) of the remaining balance of each of the Special Operating Reserve will be released to the Master Disbursement Trust and Released Claims Reserves will be released to the applicable Creditor Trust;

(E) Upon the second anniversary of the First Reversion Date, if and only if no Material Litigation is or has been pending for the prior thirty (30) days, one half (1/2) of the remaining balance of each of the Special Operating Reserve will be released to the Master Disbursement Trust and Released Claims Reserves will be released to the applicable Creditor Trust; and

(F) Thereafter, upon the date when no litigation against any of the Shareholder Released Parties with respect to Covered Conduct is or has been pending for the prior thirty (30) days, the remaining balance of each of the Special Operating Reserve will be released to the Master Disbursement Trust and Released Claims Reserves will be released to the applicable Creditor Trust;

provided, that if money remains in the Released Claims Reserves or the Special Operating Reserve after the twelfth (12th) SSA Payment Date, then:

(G) All remaining funds in the Released Claims Reserves will be released to the applicable Creditor Trust no later than

thirty (30) days after the first date that no Material Litigation against any of the Shareholder Released Parties with respect to Covered Conduct is pending.

(H) All but $25 million of the remaining funds in the Special Operating Reserve will be released to the Master Disbursement Trust for the benefit of the applicable Creditor Trust(s) no later than six (6) months after the first date that no Material Litigation against any of the Shareholder Released Parties with respect to Covered Conduct is pending; and all funds remaining in the Special Operating Reserve from the $25 million described in clause (H) of this proviso will be released to the Master Disbursement Trust for distribution to the Creditor Trusts pursuant to Section 5.7(b)(iii) no later than six (6) months after the first date that no litigation against any of the Shareholder Released Parties with respect to Covered Conduct is pending.

(3) Master Disbursement Trust shall first allocate all reversion funds received from the Special Operating Reserve to the Private Creditor Trusts in proportion to their respective SOR Holdback until they have received a cumulative amount of such reversion funds equal to the Private Claimants' Priority Reversion.

(4) If by the ninth (9th) SSA Payment Date the Master Disbursement Trust has not made allocations to the Private Creditor Trusts pursuant to Section 5.7(b)(iii) of the Plan in an amount equal to the Private Claimants' Priority Reversion, then the Special Operating Reserve shall release funds to the Master Disbursement Trust for distribution to the Private Creditor Trusts on the ninth (9th) SSA Payment Date in an amount equal to the shortfall. Upon a release from the Special Operating Reserve to the Master Disbursement Trust pursuant to Sections 5.7(b)(i)(C), 5.7(b)(ii)(C) of the Plan, the Master Disbursement Trust will allocate $200,000 immediately prior to such release to the Private Creditor Trusts.

(iii) **U.S. Federal Income Tax Matters Relating to the Special Operating Reserve and Released Claims Reserves.** The Special Operating Reserve and each of the Released Claims Reserves are intended to be treated and shall be reported as separate qualified settlement funds within the meaning of Treasury Regulations section 1.468B-1 for U.S. federal income tax purposes and shall be treated consistently for state and local tax purposes. The Master Shareholder Settlement Agreement provides that PRA L.P. shall timely elect pursuant to Treasury Regulations Section 1.468B-1(k) (and any applicable state and local income tax purposes), to treat the Special Operating Reserve and each of the Released Claims Reserves as a

"grantor trust," all of which is owned, for federal and applicable state and local income tax purposes only, by PRA L.P., and that PRA L.P. shall maintain such election and shall not revoke such election without the prior written consent of the Master Disbursement Trust and/or the applicable Creditor Trusts, and Section 5.7(c) of the Plan assumes that is the case. All parties (including the Shareholder Payment Parties, the Debtors, the Plan Administration Trustee, each applicable Creditor Trustee, the MDT Trustees and Holders of Non-Participating Claims) shall be required to report for tax purposes in a manner consistent with the foregoing. An MDT Trustee shall be the "administrator" of the Special Operating Reserve. The Creditor Trustee corresponding to the Creditor Trust that holds each Released Claims Reserve shall be the "administrator" of each such Released Claims Reserve. The Master Shareholder Settlement Agreement provides that PRA L.P. shall take into account all items of income, gain, loss, deduction and credit (including capital gains and losses) recognized by or otherwise attributable to the Special Operating Reserve and each Released Claims Reserve for U.S. federal (and any applicable state or local) income tax purposes on its tax returns. An MDT Trustee or a Creditor Trustee, as applicable, may request an expedited determination of taxes of the Special Operating Reserve or any of the Released Claims Reserves, as applicable, under section 505(b) of the Bankruptcy Code for all returns, if any, filed for, or on behalf of, the Special Operating Reserve or Released Claims Reserves for all taxable periods through the dissolution of the Special Operating Reserve or Released Claims Reserve, as applicable. Nothing in Section 5.7(c) of the Plan shall be deemed to determine, expand or contract the jurisdiction of the Bankruptcy Court under section 505 of the Bankruptcy Code.

8. Creditor Trusts

(i) **Establishment and Purpose of the Creditor Trusts**. The Confirmation Order shall endorse and direct, to the extent not already established, the establishment of the Creditor Trusts on or prior to the Effective Date in accordance with the terms of the respective Creditor Trust Documents. The Creditor Trusts shall be independent from the Holders of Claims against the Debtors and shall be subject to the exclusive jurisdiction of the Bankruptcy Court (other than as specifically set forth in the Creditor Trust Documents). The Creditor Trusts shall be established for the purposes described in the Plan and any other purposes more fully described in the Creditor Trust Documents. Each Creditor Trust shall, in each case, in accordance with the Plan, the Confirmation Order and the applicable Creditor Trust Documents:

(1) hold, manage and invest all funds and other Assets received by such Creditor Trust from the Debtors and the Master Disbursement Trust, as applicable (including, with respect to the Public Creditor

Trusts, the MDT Interests), in each case, for the benefit of the beneficiaries of such Creditor Trust;

(2) hold and maintain the Creditor Trust Operating Reserve of such Creditor Trust;

(3) administer, process, resolve and liquidate Channeled Claims, including Non-Participating Channeled Claims, applicable to such Creditor Trust, in each case as provided in the applicable Creditor Trust Documents;

(4) establish and administer the applicable Creditor Trust Non-Participating Claims Reserves;

(5) establish and administer the applicable Released Claims Reserves; and

(6) exercise rights over any proposed use of funds in the applicable Released Claims Reserve held in such Creditor Trust to the extent set forth in Exhibit N and Exhibit Z to the Master Shareholder Settlement Agreement.

(ii) **Role of the Creditor Trustees**. In furtherance of and consistent with the purposes of the Creditor Trusts and the Plan, the Creditor Trustees shall have the power and authority to perform all functions on behalf of the respective Creditor Trusts, subject to the Creditor Trust Documents for such Creditor Trusts. The Creditor Trustees shall undertake all administrative responsibilities as are provided in the Plan and the applicable Creditor Trust Documents. The Creditor Trustees shall be responsible for all decisions and duties with respect to the respective Creditor Trusts, subject to the Creditor Trust Documents for such Creditor Trusts. In all circumstances, each Creditor Trustee shall be independent and disinterested and, in its capacity as a Creditor Trustee, shall act in the best interests of the beneficiaries of such Creditor Trust, in furtherance of the purpose of such Creditor Trust and in accordance with the Plan and the applicable Creditor Trust Documents. In accordance with the Creditor Trust Documents, each Creditor Trustee shall serve in such capacity through the earlier of (x) the date that the applicable Creditor Trust is dissolved in accordance with the applicable Creditor Trust Documents and (y) the date such Creditor Trustee resigns, is terminated or is otherwise unable to serve for any reason.

(iii) **Appointment of the Creditor Trustees and Creditor Trust Overseers**. In furtherance of and consistent with the purposes of the Creditor Trusts and the Plan, the Creditor Trust Documents for each of the Creditor Trusts shall provide for the appointment of the Creditor Trustees and, if applicable, Creditor Trust Overseers for each of the Creditor Trusts. The

identity of the initial Creditor Trustees and the initial Creditor Trust Overseers shall be as disclosed in the Plan Supplement as of the date hereof, or shall otherwise be:

(1) with respect to the Governmental Remediation Trust, selected in accordance with the terms of the Governmental Remediation Trust Documents;

(2) with respect to the Tribe Trust, selected by the Native American Tribe Group with the consent of the Debtors (which consent shall not be unreasonably withheld, delayed or denied);

(3) with respect to each of the following Private Creditor Trusts, selected as follows: (A) with respect to the TPP Trust, by the Third-Party Payor Group, (B) with respect to the Healthcare Provider Trust, by the Ad Hoc Group of Hospitals, (C) with respect to the ERP Trust, by the ERP Trustee (and, for the avoidance of doubt, the Creditor Trustee and/or Creditor Trust Overseer for the ERP Trust may be the ERP Trustee) and (D) with respect to the PI Trust, by the Ad Hoc Group of Individual Victims; and

(4) with respect to the Public School Trust, by the Public School District Claimants.

(iv) **PI Trust Distributions**.

(1) The PI Trust shall, in accordance with the Plan, the Confirmation Order and the PI Trust Documents, make Distributions on account of Allowed PI Channeled Claims to Holders of such Allowed PI Channeled Claims, subject to the PI Trust Deductions and Holdbacks, which Distributions may be made directly (i) to the Holder of the PI Claim (if pro se), or (ii) to counsel for the Holder of the PI Claim by (A) payment to the respective counsel's client trust account or by sending a check to the respective counsel's address that is payable jointly to such counsel and the Holder of the PI Claim, or (B) payment to the Sub-Qualified Settlement Fund for such counsel. The PI Trust shall establish the PI Trust NAS Fund and the PI Trust Non-NAS Fund, and shall deposit (i) the NAS PI Portion into the PI Trust NAS Fund and (ii) the Non-NAS PI Portion into the PI Trust Non-NAS Fund, in each case, periodically as funds are received by the PI Trust. The PI Trust shall make Distributions on account of Allowed NAS PI Channeled Claims solely from the PI Trust NAS Fund in accordance with the NAS PI TDP, and shall make Distributions on account of Allowed Non-NAS PI Channeled Claims solely from the PI Trust Non-NAS Fund in accordance with the Non-NAS PI

TDP, in each case, subject to the PI Trust Deductions and Holdbacks. The PI Trust shall reserve the NAS Medical Expense Claim Settlement Reserve Amount, which shall be paid to the United States in accordance with Section 5.2(i)(i) of the Plan.

(2) Subject to the terms of the PI Trust Documents, checks or digital payments issued by the PI Trust directly to Holders of PI Claims shall be null and void if not negotiated or claimed, respectively, within 180 calendar days from and after the date of issuance thereof, unless, in each case, the PI Claims Administrator determines, in its sole discretion, there was good cause for any Holder's failure to do so. After such 180-calendar-day period, the relevant PI Claim (and any Claim for reissuance of the original check or digital payment) shall be automatically discharged and forever barred and all title to and all beneficial interests in the cash represented by any such non-negotiated check or unclaimed digital payment shall revert to the PI Trust and may be redistributed by the PI Trust in accordance with the terms of the Plan and the PI Trust Documents.

(3) Except as otherwise set forth in Section 5.8(d)(iv) of the Plan, (A) the PI Trust shall have no obligation to reserve or set aside any funds for PI Claims that may be transmitted by Kroll to the PI Trust more than fourteen (14) days after the Effective Date, and (B) the PI Trust shall be fully released and discharged from any liability or responsibility with respect to any PI Claims not affirmatively identified and delivered to the PI Trust by Kroll within fourteen (14) days following the Effective Date.

(4) To the extent that there are any proofs of claim filed by Holders of PI Claims on or before the Effective Date that are not provided to the PI Trust within fourteen (14) days of the Effective Date, Kroll shall indemnify the PI Trust solely for any amounts owing to such Holder (not to exceed $15,000 per Holder) to the extent that at the time such Holder of a PI Claim seeks payment from the PI Trust, the PI Trust does not have funds and does not reasonably expect to receive funds to pay such Holder (and, for the avoidance of doubt, the PI Trust shall not be required to reserve any amounts for such payments, except as otherwise described in the Plan). For purposes of this provision, and consistent with the PI Trust Agreement and the PI TDP, the PI Trust shall be permitted to use uncashed checks or unclaimed digital payments available pursuant to Section 5.8(d)(ii) to satisfy the amount (if any) owing to such Holder of a PI Claim and the PI Trust shall be required to exhaust such uncashed checks or unclaimed digital payments and any other available funds prior to seeking indemnification from Kroll. Further, and for the avoidance of doubt, if the claim of any Holder

of a PI Claim that filed a proof of claim as of the Bar Date is wrongly placed in a different Class under the Plan, and is later moved to Class 10(a) or Class 10(b) after the Effective Date and such Holder is entitled to any Distribution under the PI Trust, Kroll shall not be responsible for any indemnification of such Claim, and the PI Trust shall reserve $1,000,000 for distribution to such Holders. For the avoidance of doubt, except as otherwise expressly set forth in Section 5.8(d)(iv) of the Plan, nothing in Section 5.8(d) shall limit or otherwise modify the scope of the exculpation and releases granted to Kroll under ~~this~~the Plan, including pursuant to Sections 10.6(a), 10.6(b) and 10.12 of the Plan.

(v) **Rights of the Creditor Trustee for the TPP Trust under the LRP Agreement**. Pursuant to and in accordance with the LRP Agreement, the Creditor Trustee for the TPP Trust shall have the right (i) to inquire periodically with the Creditor Trustee for the PI Trust, the claims administrator appointed in respect of the PI Trust and the escrow agent for the TPP LRP Escrow Account as to whether the TPP LRP Escrow Account has been properly funded and payments therefrom are being made to the LRP Participating TPPs as required under the LRP Agreement, and to request evidence of the same and (ii) to seek entry of an order by the Bankruptcy Court enforcing the LRP Agreement, including the obligations to provide such information and evidence, in the event the Creditor Trustee for the TPP Trust reasonably believes that the TPP LRP Escrow Account has not been properly funded as required by the LRP Agreement, payments have not been made to LRP Participating TPPs as required by the LRP Agreement, and/or any of the Creditor Trustee for the PI Trust, the claims administrator appointed in respect of the PI Trust and the escrow agent for the TPP LRP Escrow Account is not responding to reasonable requests by the Creditor Trustee for the TPP Trust for such information and evidence.

(vi) **Assumption of Obligations and Liabilities**. In furtherance of the purposes of the Plan and the Creditor Trusts, pursuant to the Master TDP and subject to the applicable Creditor Trust Documents, each Creditor Trust shall (i) expressly assume sole and exclusive responsibility and liability for (A) the Channeled Claims channeled to such Creditor Trust in accordance with the Master TDP and (B) all Creditor Trust Operating Expenses of such Creditor Trust and (ii) have (A) the rights provided to such Creditor Trust in accordance with the Private Entity Settlements and Public Entity Settlements and (B) all defenses, cross-claims, offsets and recoupments regarding such Channeled Claims that the Debtors, the Released Parties and the Shareholder Released Parties, as applicable, have, or would have had, under applicable law, but solely to the extent consistent with the applicable Creditor Trust Documents and the Plan;

provided that no such Claims, defenses or rights may be asserted against any Protected Party.

(vii) **Administration of Channeled Claims and Creditor Trust TDPs**. Pursuant to the Master TDP, (1) all Non-Federal Domestic Governmental Channeled Claims will be administered by the Governmental Remediation Trust and resolved in accordance with, and to the extent provided in, the Governmental Remediation Trust Documents, (2) all Tribe Channeled Claims will be administered by the Tribe Trust and resolved in accordance with, and to the extent provided in, the Tribe TDP, (3) all Third-Party Payor Channeled Claims will be administered by the TPP Trust and resolved in accordance with, and to the extent provided in, the TPP TDP, (4) all Healthcare Provider Channeled Claims will be administered by the Healthcare Provider Trust and resolved in accordance with, and to the extent provided in, the Healthcare Provider TDP, (5) all Public School Channeled Claims will be administered by the Public School Trust and resolved in accordance with, and to the extent provided in, the Public School TDP, (6) all ER Physician Channeled Claims will be administered by the ERP Trust and resolved in accordance with, and to the extent provided in, the ERP TDP, and (7) all PI Channeled Claims will be administered by the PI Trust and resolved in accordance with, and to the extent provided in, the PI TDP. Each of the Creditor Trusts shall be funded in accordance with the Public Entity Settlements and the Private Entity Settlements, as applicable. The Creditor Trust shall, in accordance with, and to the extent provided in, the applicable Creditor Trust Documents and/or the Creditor Trust TDPs, (y) determine the eligibility, amount and Allowance (if applicable) of such Channeled Claims; and (z) make all determinations with respect to Distributions to be made by the respective Creditor Trusts. The foregoing determinations by the Creditor Trusts shall be final and binding, and shall not be subject to any challenge or review of any kind, by any court or other Person, except as set forth in the Creditor Trust TDPs. Distributions by the Creditor Trusts shall be the sole source of recovery, if any, in respect of Channeled Claims, and Holders of Channeled Claims shall have no other or further recourse to the Protected Parties; *provided* that the foregoing shall not diminish, or otherwise alter, the rights of LRP Participating TPPs under the LRP Agreement or the rights of non-LRP Participating TPPs at law.

(viii) **Trust Reporting Obligations.** Each of the Creditor Trusts shall be required to provide (i) any periodic forwarding, not more frequently than every three months, of applicable bank statements with respect to the Released Claims Reserves and Claims Reserves, or, (ii) solely at the applicable trustee's election, such other reporting as provides the Master Disbursement Trust with substantially similar relevant information as appears in such bank statements, in each case, which the applicable trustee may redact (or cause to be redacted) to exclude information that it considers not reasonably necessary for the Master Disbursement Trust to

provide information with respect to the Released Claims Reserves and Claims Reserves.

(ix) **Institution and Maintenance of Legal and Other Proceedings**. As of the date upon which each Creditor Trust is established, such Creditor Trust shall be empowered to initiate, prosecute, defend and resolve all legal actions and other proceedings related to any Asset, liability or responsibility of such Creditor Trust. Such legal actions and other proceedings shall be limited solely to those required for purposes of reconciling, administering or defending against the Channeled Claims channeled to such Creditor Trust and for enforcing the rights of such Creditor Trust under the Plan and the Plan Documents (including the rights of the Creditor Trustee for the TPP Trust specifically enumerated in the LRP Agreement). Each Creditor Trust shall be empowered to initiate, prosecute, defend and resolve all such actions in the name of the Debtors or their Estates, in each case if deemed necessary by the applicable Creditor Trustee to fulfill the purposes for which such Creditor Trust was created. Each Creditor Trust shall be responsible for the payment of all damages, awards, judgments, settlements, expenses, costs, fees and other charges incurred subsequent to the date upon which such Creditor Trust is established arising from, or associated with, any legal action or other proceeding brought pursuant to the foregoing. For the avoidance of doubt, each Creditor Trust, pursuant to section 1123(b)(3)(B) of the Bankruptcy Code and applicable state corporate law, is appointed as the successor-in-interest to, and representative of, the Debtors and their Estates for the retention, enforcement, settlement or adjustment of the applicable Channeled Claims channeled to such Creditor Trust.

(x) **Creditor Trust Operating Expenses**. The Creditor Trustees shall be entitled to reasonable compensation and to retain and reasonably compensate counsel and other professionals to assist in their duties without Bankruptcy Court approval, subject to the provisions of the applicable Creditor Trust Documents. Creditor Trust Operating Expenses of each Creditor Trust shall be satisfied and paid from such Creditor Trust's Creditor Trust Operating Reserve in accordance with the applicable Creditor Trust Documents. Periodically, until the dissolution of a Creditor Trust, the applicable Creditor Trustee will replenish the Creditor Trust Operating Reserve from Cash held or received by such Creditor Trust to the extent deemed necessary by such Creditor Trustee to satisfy and pay estimated future Creditor Trust Operating Expenses in accordance with the Creditor Trust Documents.

(xi) **U.S. Federal Income Tax Matters Relating to the Creditor Trusts and Sub-Qualified Settlement Funds**. Each Creditor Trust (other than any Tribe Trust entity that is formed as a legal entity other than a trust) and each Sub-Qualified Settlement Fund is intended to be treated, and shall be reported, as a "qualified settlement fund," and the Initial Private Creditor

Trust Distributions, distributions on account of the MDT Private Claims, Public Creditor Trust Distributions, Initial Public Schools Distribution, distributions on account of the MDT Public School Districts Claim, the right to receive Governmental NewCo Distributable Cash, distributions from the PI Trust to a Sub-Qualified Settlement Fund and any other amounts received pursuant to the Plan, as applicable, made to the applicable Creditor Trust or Sub-Qualified Settlement Fund are intended to be treated as amounts transferred by, or on behalf of, a "transferor" to a "qualified settlement fund," within the meaning of Treasury Regulations section 1.468B-1 for U.S. federal income tax purposes and shall be treated consistently for state and local tax purposes to the extent applicable. All parties (including, without limitation, the Shareholder Payment Parties, Holders of Claims against or Interests in the Debtors, the Related Parties of such Holders, the Debtors, the Creditor Trusts, the Creditor Trustees, the MDT Trustees and the Master Disbursement Trust) will be required to report consistently with the foregoing for all applicable tax reporting purposes. A Creditor Trustee from each relevant Creditor Trust shall be the "administrator" within the meaning of Treasury Regulations section 1.468B-2(k)(3) of the applicable Creditor Trust, and the order establishing each Sub-Qualified Settlement Fund shall identify the administrator for each such Sub-Qualified Settlement Fund. The administrator of each such Creditor Trust or Sub-Qualified Settlement Fund shall be responsible for filing all tax returns required to be filed by or on behalf of the applicable Creditor Trust or Sub-Qualified Settlement Fund and the payment, out of the assets of such Creditor Trust or Sub-Qualified Settlement Fund, of any taxes due by or imposed on such Creditor Trust or Sub-Qualified Settlement Fund. Each Creditor Trustee and any administrator of a Sub-Qualified Settlement Fund may request an expedited determination of taxes under section 505(b) of the Bankruptcy Code for all tax returns filed by or on behalf of the applicable Creditor Trust or Sub-Qualified Settlement Fund for all taxable periods through the dissolution of such Creditor Trust or Sub-Qualified Settlement Fund. Nothing in Section 5.8(k) of the Plan shall be deemed to determine, expand or contract the jurisdiction of the Bankruptcy Court under section 505 of the Bankruptcy Code.

(xii) **Exculpation and Indemnification of the Creditor Trustees and the Creditor Trust Overseers.** To the maximum extent permitted by applicable law, each of the Creditor Trustees and Creditor Trust Overseers shall not have or incur any liability for actions taken or omitted in his or her capacity as a Creditor Trustee or Creditor Trust Overseer, or on behalf of the applicable Creditor Trust, except those acts found by Final Order to be arising out of his or her willful misconduct, bad faith, gross negligence or fraud, and shall be entitled to indemnification, advancement and reimbursement for reasonable fees and expenses in defending any and all of his or her actions or inactions in his or her capacity as a Creditor Trustee or Creditor Trust Overseer, or on behalf of the applicable Creditor

Trusts, and for any other liabilities, losses, damages, claims, costs and expenses arising out of or due to the implementation or administration of the Plan or the applicable Creditor Trust Documents, in each case, except for any actions or inactions found by Final Order to be arising out of his or her willful misconduct, bad faith, gross negligence or fraud. Any valid indemnification claim of any of the Creditor Trustees or Creditor Trust Overseers shall be satisfied from the respective Creditor Trusts.

(xiii) Dissolution of the Creditor Trusts. Each Creditor Trust shall be dissolved and the applicable Creditor Trustee shall be discharged from its duties with respect to such Creditor Trust upon completion of its duties and the satisfaction of the purposes of the Creditor Trust as set forth in the Plan and the applicable Creditor Trust Documents.

9. Attorneys' Fees and Costs[125]

(1) **Local Government ~~Costs and Expenses~~Fees**. On the Effective Date, the Local Government ~~Costs and Expenses~~Fee Fund shall be established for the payment of ~~certain~~costs and expenses (including attorneys' fees ~~and costs~~) of Holders of Non-Federal Domestic Governmental Channeled Claims (other than States) subject to the terms set forth ~~in the Plan~~herein, other than amounts paid pursuant to the AHC Reimbursement Agreement Assumption Order~~,~~ or the MSGE Group Reimbursement Order ~~or any other Order of the Bankruptcy Court~~.

(A) The Local Government ~~Costs and Expenses~~Fees Fund shall be funded beginning on the second MDT Distribution Date (the "**Initial LG ~~Costs~~Fund Funding Date**") and continuing on each Scheduled MDT Distribution Date thereafter, from periodic distributions in an amount equal to ~~[~~8.5~~]~~% of ~~the~~all Distributions made on account of Non-Federal Domestic Governmental Channeled Claims, excluding (A) any Distributions relating to MDT Insurance Proceeds and proceeds of MDT Causes of Action, which will be subject to subsection (ii) below, and (B) any amounts distributed on account of such Non-Federal Domestic Governmental Channeled Claims on the Effective Date, but including, for the avoidance of doubt, any Distributions on account of amounts payable under the Governmental Entity Shareholder Direct Settlement ~~(other than such Distributions~~beginning on the ~~Effective~~second MDT Distribution Date~~)~~; *provided* that the amount to be distributed to the Local Government ~~Costs and Expenses~~Fee Fund pursuant to this subsection shall not

[125] ~~[**NTD:** Subject to ongoing review.]~~

exceed $~~[~~370~~]~~ million in the aggregate (the "**Aggregate LG ~~Cost~~Fund Cap**"); *provided, further* that amounts funded pursuant to Section 5.9(a) of the Plan shall be allocated and applied ~~solely~~ in accordance with Exhibit R to the Governmental ~~Entity Shareholder Direct Settlement for the benefit of counsel to Subdivisions constituting Prior Litigating Subdivisions (as defined in the Governmental Entity Shareholder Direct~~Entities Settlement Agreement~~) as of the Petition Date~~, in each case, as follows:

(A) ~~(i)~~ $4 million annually for a maximum of five (5) years (plus ~~[~~4.25%~~]~~ of any Distribution constituting a Settlement Prepayment (as defined under the Master Shareholder Settlement Agreement)), to the "Cost Fund~~,~~" ~~as defined in Exhibit R,~~ established in the MDL Proceeding, not to exceed $20 million in the aggregate~~, and~~ ;

(B) ~~(ii)~~ for any additional amounts (~~A~~I) ~~[~~40%~~]~~ to the "Contingency Fee Fund~~,~~" ~~as defined in Exhibit R,~~ established in the MDL Proceeding (which fund is to be managed by the fee panel appointed in connection with the MDL Proceeding), not to exceed $140 million on account of Distributions to Non-Federal Domestic Governmental Channeled Claims other than as set forth in (ii) hereof, and (~~iii~~II) ~~[~~60%~~]~~ to the "Common Benefit [Fee] Fund~~,~~" ~~as defined in Exhibit R,~~ established in the MDL Proceeding, not to exceed $210 million in the aggregate~~; provided further,~~ on account of Distributions to Non-Federal Domestic Governmental Channeled Claims other than as set forth in (ii) hereof; and;

(C) as consideration for the settlement between holders of certain public and private Claims regarding Special Operating Reserves, timing of payment and allocation matters, the Local Government ~~Costs and Expenses~~Fee Fund shall also be funded ~~with, and allocated solely in accordance with Exhibit R,~~, on or after the Initial LG Fund Funding Date, from Distributions made on account of Non-Federal Domestic Governmental Channeled Claims (as qualified in Section 5.9(a)(i) of the Plan) (i) in an amount equal to ~~[8.5]% of (i) the incremental $80 million of Initial Private Creditor Trust Distributions (provided that funding of the Local Government Costs and Expenses Fund with respect to such distributions shall not be made until the Initial LG Costs Funding Date); and (ii) up to $20 million of amounts payable in respect of (A) the Private Claimants' Priority Reversion and (B) the other amounts contemplated to be paid under [Section 5.05(e)] of the Master Shareholder Settlement Agreement, in each case, that become payable to the Private Creditor Trusts in accordance with the Master Shareholder Settlement Agreement,~~ $6.8 million[119] and (ii) up to $1.7 million,[120] which amounts shall be subject in each case to the Aggregate LG ~~Cost~~Fund Cap~~.~~;

(B) In addition to the amounts described in subsection (i) above, the Local Government ~~Costs and Expenses~~Fee Fund shall be funded~~, and allocated solely in accordance with Exhibit R,~~ on or after the Initial LG ~~Costs~~Fund Funding Date with ~~an~~ additional ~~amount~~amounts equal to (I) 12.4% of the MDT Insurance Proceeds which amounts, if any, shall be deposited into an account designated by the MDL Plaintiffs' Executive Committee for the benefit of the "Common Benefit [Fee] Fund" established in the MDL Proceeding~~, and as described in Exhibit R, and~~ (MDL Dkt. No. 4428, May 9, 2022) to be paid as directed by the MDL

[119] Such amount is equal to 8.5% of $80 million.

[120] To be calculated as 8.5% of amounts up to $20 million received by the Private Creditor Trusts in accordance with the Master Shareholder Settlement Agreement (and due when such amounts are received by the Private Creditor Trusts) in respect of (A) the Private Claimants' Priority Reversion and (B) the other amounts contemplated to be paid under Section 4(e) of Exhibit N to the Master Shareholder Settlement Agreement. For the avoidance of doubt, all of the consideration that is to be paid as part of Section 5.9(a)(i)(C) of the Plan shall be paid from Distributions made on account of Non-Federal Domestic Governmental Channeled Claims, and not from Distributions made to Private Creditor Trusts or the Public School Trust.

PEC Co-Leads in accordance with direction from the MDL Fee Panel and the MDL Court, and (II) 12.4% of the proceeds of any MDT Causes of Action[121] which amounts, if any, shall be allocated and applied in accordance with Exhibit R to the Governmental Entities Settlement Agreement, (A) 40% to the "Contingency Fee Fund" established in the MDL Proceeding, and (B) 60% to the "Common Benefit [Fee] Fund" established in the MDL Proceeding; and all such amounts shall be incremental to, and not otherwise count against, the Aggregate LG ~~Cost~~Fund Cap; *provided*, for the avoidance of doubt, such funded amounts shall not be considered "Distributions" for the purpose of subsection (i) above; *provided, further*, such amounts ~~shall be subject, to the prior payment in full of the MDT PI Claim pursuant to and in accordance with~~in Section ~~5.2~~5.9(~~e~~a)(i) and (ii) of the Plan shall be subject to Sections 5.2(e)(iii) and 5.2(g) of the Plan, as applicable.

(C) Payments from the Local Government ~~Costs and Expenses~~Fee Fund shall be ~~[~~administered in accordance with Exhibit R to the Governmental ~~Entity Shareholder Direct~~Entities Settlement Agreement and be~~]~~[126] the exclusive means of payment from the Public Creditor Trusts for costs and expenses (including attorneys' fees) of any Holder of a Non-Federal Domestic Governmental Channeled Claim (other than a State) or any attorney therefor, other than (i) amounts paid or to be paid from the Public Creditor Trusts in accordance with existing agreements, contracts or statutes setting forth the allocation and uses of abatement funds or backstop fee arrangements between States and their Subdivisions; and (ii) amounts paid in accordance with the order of the MDL Court establishing the Common Benefit Fund; *provided*, *however*, nothing in Section 5.9(a)(iii) of the Plan ~~[~~or Exhibit R to the Governmental Entity ~~Shareholder Direct~~ Settlement~~]~~ Agreement shall override the payment obligations contemplated by Section 5.9(a)(i) ~~of the Plan~~.

(D) ~~[~~Except as otherwise agreed in writing by the MSGE Group and the MDL Plaintiffs' Executive Committee, the MSGE Fee Allocation Agreement shall be and remain fully

[121] For the avoidance of doubt, to the extent any Cause of Action that would have otherwise become an MDT Cause of Action is settled and paid pre-Effective Date, the provisions of this section shall apply to the settlement amounts for any such Cause of Action.

~~[126] [**NTD**: Subject to ongoing review.]~~

enforceable and shall apply to the Local Government ~~Costs and Expenses~~Fee Fund~~]~~; *provided* that the costs associated with the arbitration process contemplated under the MSGE Fee Allocation Agreement shall not be paid by the Debtors, their Estates or any Creditor Trust.

(2) **State Costs and Expenses**. On the Effective Date, the State Expenses Fund shall be established for the payment of expenses (including attorneys' fees) of the States (including any ad hoc group thereof), other than amounts already paid, or any amounts paid or payable under the AHC Reimbursement Agreement Assumption Order, the MSGE Group Reimbursement Order, or any other Order of the Bankruptcy Court; *provided* that the State Expenses Fund shall be funded beginning on the second MDT Distribution Date and continuing on each Scheduled MDT Distribution Date thereafter. The State Expenses Fund shall be funded from periodic distributions in an amount equal to 4.5% of the Distributions made on account of Non-Federal Domestic Governmental Channeled Claims, excluding any amounts distributed on account of such Non-Federal Domestic Governmental Channeled Claims on the Effective Date, but including (a) any Distributions on account of amounts payable under the Governmental Entity Shareholder Direct Settlement beginning on the second MDT Distribution Date, and (b) any Distributions relating to MDT Insurance Proceeds and proceeds of MDT Causes of Action; *provided* that such amount shall not exceed $200 million in the aggregate (the "**Aggregate State Expenses Cap**"); *provided* that such amounts in Section 5.9(b) of the Plan shall be subject to Sections 5.2(e)(iii) and 5.2(g) of the Plan, as applicable. Amounts funded pursuant to Section 5.9(b) of the Plan shall be allocated and applied in accordance with Exhibit S to the Governmental Entities Settlement Agreement.

(3) ~~(2)~~ **Tribe Costs and Expenses**. On the Effective Date, the ~~[~~Tribe Attorney Fee Fund~~]~~ shall be established for the payment of certain attorneys' fees and costs of tribal attorneys for Holders of Tribe Channeled Claims, subject to the terms set forth herein. The Tribe Attorney Fee Fund shall be funded from periodic distributions in an amount equal to 8.5% of the Distributions made on account of the Tribe Channeled Claims including (i) any amounts distributed on account of such Tribe Channeled Claims on the Effective Date and (ii) any Distributions on account of amounts payable to Tribes by the Estate or pursuant to the Tribe Direct Shareholder Settlement, except that in the case of periodic distributions made on account of Tribe Channeled Claims relating to MDT Insurance Proceeds or MDT Causes of Action (including third-party claims) recovered by the Estate, the Tribe Attorney Fee Fund shall be funded in an amount equal to 12.4% of such Distributions,[~~127~~122] provided that from all

[~~127~~122] For the avoidance of doubt, to the extent any Cause of Action that would have otherwise become an MDT Cause of Action is settled and paid pre-Effective Date, the provisions of this subsection shall apply to the settlement amounts for any such Cause of Action.

such amounts, (i) $100,000 shall be set aside for reimbursement of costs of such tribal attorneys and (ii) for any additional amounts in excess of the amount set aside for costs (A) 40% shall be paid to the "Tribal Contingency Fee Fund" established in the MDL Proceeding for the payment of contingency fees and costs for tribal attorneys, and (B) 60% shall be paid to the "Common Benefit Fee Fund" established in the MDL Proceeding. The Tribe Attorney Fee Fund shall be administered ~~by the Tribe Trust. Amounts funded pursuant to Section 5.9(d) of the Plan shall be allocated and applied~~ in accordance with ~~Exhibit R to the Governmental Entity Shareholder~~the Tribal Direct Settlement Agreement.

~~(3) **State Costs and Expenses**. On the Effective Date, the State Expenses Fund shall be established for the payment of expenses (including attorneys' fees) of the States (including any ad hoc group thereof), other than amounts already paid, or any amounts paid or payable under the AHC Reimbursement Agreement Assumption Order, the MSGE Group Reimbursement Order or any other Order of the Bankruptcy Court; *provided* that the State Expenses Fund shall be funded beginning on the second MDT Distribution Date and continuing on each Scheduled MDT Distribution Date thereafter. The State Expenses Fund shall be funded from periodic distributions in an amount equal to [4.5]% of the Distributions made on account of Non-Federal Domestic Governmental Channeled Claims, excluding any amounts distributed on account of such Non-Federal Domestic Governmental Channeled Claims on the Effective Date, but including (a) any Distributions on account of amounts payable under the Governmental Entity Shareholder Direct Settlement (other than such Distributions on the Effective Date), and (b) any Distributions relating to MDT Insurance Proceeds; *provided* that such amount shall not exceed $[200][128]million in the aggregate (the "**Aggregate State Expenses Cap**"). For the avoidance of doubt, in no event shall any of the provisions of Sections 5.9(a) or (c) of the Plan, [Exhibit R to the Governmental Entity Shareholder Direct Settlement] [or any order of the MDL Court (including the order establishing the Common Benefit Fund)] have any effect on the Distributions made to Holders of Claims in Classes [_____] (or the rights of any of their attorneys to receive payment) other than the recognition of the priority of Section 5.2(e)(ii) of the Plan in such provisions.[129]~~

For the avoidance of doubt, in no event shall (i) any of the provisions of Section 5.9(a)-(c) of this Plan, other than the recognition of the priority of Section 5.2(e)(iii) of this Plan in such provisions, or (ii) any of the

~~[128] [**NTD**: subject to ongoing review.]~~

~~[129] For the avoidance of doubt, no order of the MDL Court establishing the Common Benefit Fund will have any effect on any Private Claimant or its counsel, nor will the MDL Court have jurisdiction to interpret, decide, hear disputes, or enforce any provision of or regarding the Plan or the Confirmation Order [or any of the agreements or documents related thereto].~~

provisions of Exhibit R to the Governmental Entity Shareholder Direct Settlement Agreement, have any effect on the Holders (including any Distributions to such Holders) of Claims in Classes 6-10 (or the rights of any of their attorneys to receive payment in full pursuant to their fee contracts, or the rights of any attorneys to any ad hoc group to receive payment pursuant to the rest of Section 5.9 of the Plan, or the rights of any attorneys to any opt-out class actions to receive payment in accordance with any of their class action documents), except to the extent expressly set forth in Section 5.9(d) hereof.[123]

(4) **Common Benefit Fund Assessments.** On the Effective Date, the following assessments shall be made to the ~~account directed in Exhibit [●], which is the~~ Common Benefit Fund established by the MDL Court (the "**Common Benefit Fund**") (MDL Dkt. No. 4428, May 9, 2022): (i) 5% of ~~each Distribution~~the gross distributions made ~~by~~to the Private Creditor Trusts~~, and (i) 5% of the Initial Public Schools' Distribution. Assessments from the~~ (after accounting for any Reserves) on account of Estate Distributions, to be distributed to the Common Benefit Fund when claimants receive distributions from such Private Creditor Trusts, (ii) 5% of the gross distributions made to the Private Creditor Trusts ~~shall be paid [on periodic schedules for each~~(after accounting for any Retained Payments or Reserves) on account of the Direct Claims Shareholder Settlements, including for the avoidance of doubt amounts paid to Private Creditor ~~Trust acceptable to the Governmental Consent Parties, the Ad Hoc Group of Hospitals, the Third-Party Payor Group, the NAS Committee and the Ad Hoc Group of Individual Victims,] as applicable~~Trusts pursuant to the Opt-Out Class Action Settlements, and (iii) 5% of the gross distributions to the Public Schools Trust (after accounting for any Retained Payments or Reserves, as applicable), *provided* that, for the avoidance of doubt, to the extent any amounts are distributed from the Reserves to the Private Creditor Trusts or the Public Schools Trust or their beneficiaries, the assessments set forth in Section 5.9(d) of the Plan shall be applied to the gross amounts of such distributions. The assessments payable by the Public School Trust shall be deducted from and paid at the time of the fee award described in Section 5.9(i)(ii) ~~of the Plan~~. All assessments ~~of 5% of each Distribution~~ made by the Private Creditor Trusts shall be transferred to and distributed in accordance with the order of the MDL Court establishing the Common Benefit Fund. To the extent a Holder of a ~~Healthcare Provider~~Hospital Channeled Claim, a Third-Party Payor Channeled Claim, an NAS PI

[123] Further, the MDL Court shall not have jurisdiction to interpret, decide, hear disputes, or enforce any provision of or regarding this Plan, the Confirmation Order, or any of the Opt-Out Class Actions of any of the Private Claimants related to this Plan, nor any of the agreements or documents related thereto, nor will this Plan or Exhibit R to the Governmental Entity Settlement Agreement be construed to grant the MDL Court jurisdiction over such claimants, their counsel, or counsel to any ad hoc group of such claimants, in each case in their capacity as such, that the MDL Court does not otherwise have.

Channeled Claim ~~or~~, a Non-NAS PI Channeled Claim, or an ERP Channeled Claim (or any ad hoc group consisting of Holders of any of the foregoing) has retained counsel through a contingency fee arrangement, any contingency fees owed to such contingency counsel payable from Distributions under the Plan shall be reduced by the full amount payable under Section 5.9(d) of the Plan.[~~130~~124] However, the applicable Holder and its counsel, in their sole discretion, may agree that an amount up to but not exceeding ~~40%~~2/5 of the amount payable under Section 5.9(~~a~~d) of the Plan (i.e., the 5% referenced in (i) and (ii) above) may be applied to the reimbursement of actual costs and expenses incurred by such Holder's counsel, in which case such agreed cost-reimbursement amount shall not reduce the contingency fee amounts payable to such counsel. For the avoidance of doubt, notwithstanding anything herein or in Exhibit R to the Governmental Entities Settlement Agreement to the contrary, the assessments set forth in this subparagraph, including for the avoidance of doubt the assessment on distributions made to Private Creditor Trusts and the Public Schools Trust pursuant to each of the Opt-Out Class Action Settlements, shall not be subject to modification or increase by the Bankruptcy Court or the MDL Court. For the avoidance of doubt, none of the Debtors, the Ad Hoc Committee, the MSGE Group, or the MDL Plaintiffs Executive Committee shall be permitted to agree to any reduced or less restrictive terms concerning the 5% Common Benefit Fund assessment (or its implementation) provided under any portion of Section 5.9(d) of the Plan (or any portion of Section 5.9) for any of the Ad Hoc Group of Hospitals, the ERP Trustee, the Third-Party Payor Group, the NAS Committee, the Ad Hoc Group of Individual Victims, or the Public School Districts, absent (with regard to the Debtors, the Ad Hoc Committee, or the MSGE Group) the express written consent of the MDL Plaintiffs Executive Committee; *provided* that if any such agreement is made, then such modification shall apply to each of such groups, *mutatis mutandis*.

(5) **Healthcare Provider Costs and Expenses**. On the Effective Date, the ~~Healthcare Provider~~Hospital Attorney Fee Fund shall be established for the payment of attorneys' fees and costs of the Ad Hoc Group of Hospitals with respect to Healthcare Provider Channeled Claims. The ~~Healthcare Provider~~Hospital Attorney Fee Fund shall be funded with (i) 20% of each Estate Distribution[125] made by the Healthcare Provider Trust to Holders of

[~~130~~124] For the avoidance of doubt, any amount payable to counsel to the Ad Hoc Group of Individual Victims or the Ad Hoc Group of NAS Children on an hourly basis (including incremental amounts in consideration of deferring payment of hourly fees) shall not constitute a "contingency fee," and the agreement in respect thereof shall not constitute a "contingency fee arrangement," in each case for purposes of Section 5.9 of the Plan.

[125] For clarity, all legal fees in respect of settlement proceeds from the Hospital Shareholder Direct Settlement Portion shall be determined by the U.S. District Court for the District of New Mexico; counsel for the Ad Hoc Group of Hospitals will seek allowance and payment of a contingent fee (which is presently anticipated to be one-third of such proceeds, plus expenses), *provided*, that nothing herein shall impact the assessments being made to the Common Benefit Fund pursuant to section 5.9(d).

Healthcare Provider Channeled Claims that have not retained (or are not part of an ad hoc group that has retained), on or before the General Bar Date as reflected in a timely filed Proof of Claim or representation to the Healthcare Provider Trust in accordance with the Healthcare Provider TDP, separate counsel through an individual contingency fee arrangement *less* (ii) the amount of such Distributions payable to the Common Benefit Fund under Section 5.9(d). The ~~Healthcare Provider~~Hospital Attorney Fee Fund shall be administered by the Healthcare Provider Trust on terms acceptable to the Ad Hoc Group of Hospitals.

(6) **Ratepayer Costs and Expenses**. In the event that the Ratepayer Mediation Participants Stipulation has been entered into on or prior to the Effective Date, on the Effective Date or as soon as reasonably practicable thereafter, the attorneys' fees of the Ratepayer Mediation Participants shall be paid from Effective Date Cash in an amount ~~not~~equal to ~~exceed~~ $1.4 million.

(7) **ERP Costs and Expenses.** The ERP Trust shall pay or reimburse, as applicable, the compensation, costs and expenses of professionals that represented or advised the ERP Trustee in connection with the Chapter 11 Cases, to the extent provided for in the ERP Trust Documents.

(8) ~~**Holder of the**~~ **PI** ~~**Claims**~~**Claimant Costs and Expenses**

(A) Debtors shall pay the reasonable and documented fees and expenses of the Ad Hoc Group of Individual Victims subject to the entry of a Final Order granting the Ad Hoc Group of Individual Victims' request for allowance of such fees and expenses under section 503(b) of the Bankruptcy Code, which request shall be supported by the Debtors and the Creditors' Committee and considered at the Confirmation Hearing. In the event such a Final Order is (i) not entered or (ii) entered allowing fees and expenses in an amount less than reasonable and documented fees and expenses requested, then (A) the PI Trustee shall pay or reimburse, as applicable, the reasonable and documented fees and expenses of professionals that represented or advised the Ad Hoc Group of Individual Victims in connection with the Chapter 11 Cases, as and to the extent provided in the PI Trust Agreement and subject to Bankruptcy Court approval of such fees and expenses as provided in the Confirmation Order and (B) such fees and expenses paid or reimbursed, as applicable, by the PI Trust shall be deducted from Distributions from the PI Trust Non-NAS Fund to Holders of Allowed Non-NAS PI Channeled Claims pursuant to the PI Trust Documents.

(B) The PI Trustee shall pay or reimburse, as applicable, the reasonable and documented fees and expenses of professionals that represented or advised the NAS Committee in connection with the Chapter 11 Cases, as and to the extent provided in the PI Trust Agreement and subject to Bankruptcy Court approval of such fees and expenses as provided in the Confirmation Order. Such compensation, costs and fees paid or reimbursed, as applicable, by the PI Trust shall be deducted from Distributions from the PI Trust NAS Fund to Holders of Allowed NAS PI Channeled Claims and pursuant to the PI Trust Documents. Nothing in Section 5.9 of the Plan shall impair or otherwise affect any fee contract that is not a contingency fee contract between the Ad Hoc Group of Individual Victims and its professionals, or between the NAS Committee and its professionals. For the avoidance of doubt, the reasonable costs and expense of the NAS Committee's professionals shall be paid in accordance with the applicable contingency fee agreements.

(9) **Public ~~Schools~~School Districts' Costs and Expenses**. ~~From~~ Notwithstanding any other provision in this document, the Public School District Claimants' putative class counsel and other professionals that represented or advised the Public School District Claimants shall be paid or reimbursed, as applicable, reasonable fees and costs as follows, provided that the aggregate amount of such payments and/or reimbursements, when added to the amount payable by the Public School Trust to the Common Benefit Fund under Section 5.9(d) and Section 5.9(i) of the Plan, shall not exceed 25% of the sum of the Initial Public Schools Distribution, the Second Public ~~School Trust shall~~Schools Distribution and the Third Public Schools Distribution:

(A) ~~dedicate an~~From the distributions made to benefit the Public School Trust on account of the Estate Distributions, the amount of $500,000 shall be reserved for payment or reimbursement, as applicable, of the out-of-pocket litigation expenses~~, such as for special bankruptcy counsel and~~ (including expert fees and expenses~~, of~~) of special bankruptcy counsel and/or other professionals that represented or advised the Public School District Claimants to be computed based upon reasonable hourly rates and costs incurred, and not to include any premium to reasonable hourly rates, ~~and~~ subject to Bankruptcy Court approval of such litigation expenses as provided in the Confirmation Order; ~~and~~

(B) ~~pay or reimburse, as applicable, the reasonable attorneys' fees and litigation costs of~~From the remaining distributions made to benefit the Public School Trust on account of the Estate Distributions, the Public School District Claimants' putative class counsel shall be paid or reimbursed, as applicable, reasonable attorneys' fees and litigation costs in an amount to be determined by mediator Ken Feinberg ~~(which amount is not to exceed such class counsel's contractual contingency fee of 25% of the Initial Public Schools Distribution)~~ subject to Bankruptcy Court approval of such litigation expenses as provided in the Confirmation Order, less ~~the~~an amount ~~payable~~equal to 5% of the gross distributions made to benefit the Public School Trust on account of Estate Distributions (after accounting for any Reserves) which shall be contributed as assessments to the Common Benefit Fund ~~under Section 5.9(d) of the Plan.~~; and

(C) From the Shareholder Direct Settlement Portion with respect to the Public School Channeled Claims, the Public School District Claimants' putative class counsel shall be paid or reimbursed, as applicable, reasonable attorneys' fees and litigation costs in an amount to be determined by the U.S. District Court Judge of the District Court where the proposed public schools class action settlement is filed, less an amount equal to 5% of the gross distributions made to benefit the Public School Trust on account of the Public School District Shareholder Direct Settlement (after accounting for any Retained Payments or Reserves),which shall be contributed as assessments to the Common Benefit Fund.

(10) **No Impairment of Contingency Fee Contracts; No Further Assessment**. Except as expressly set forth in Section 5.9 of the Plan, nothing in the Plan shall impair or otherwise affect any contingency fee contract between any Holder of a Claim (or any ad hoc group of Holders of Claims) and such Holder's (or ad hoc group's) counsel, nor shall it impair or otherwise affect any fees awarded as part of any class action settlement (except as otherwise provided herein, including as set forth below). In this regard, the payment of the assessments described in Section 5.9 of the Plan shall be the only payment that such Holders (or their counsel) who receive Distributions under and in accordance with the applicable Private Creditor Trust or the Public Schools Trust shall ever have to make to the Common Benefit Fund solely with respect to amounts distributed under ~~the~~this Plan, and amounts distributed pursuant to the Plan to such Holders or payments to such Holders' attorneys in respect thereof shall not be subject to any further or other common benefit or

similar assessments. For the avoidance of doubt, the parties agree that a common benefit fund assessment of the same type and amount (and subject to the same restrictions) as set forth herein will be applied to the Class Action Settlements, and that such assessment will be the only assessment applied to such Class Action Settlements, and no other provision of this Plan, any Direct Claims Settlement agreement, or any other document will have any force or effect on such Class Action Settlement (nor will the MDL Court have any jurisdiction over any such settlements).

10. Transferability of Distribution Rights

Any right to receive a Distribution or other payment from the Plan Administration Trust (including any PAT Distribution Account or PAT Reserve), a Creditor Trust or the Master Disbursement Trust shall not be evidenced by any certificate, security, receipt or in any other form or manner whatsoever, except on the books and records of the Plan Administration Trust (as maintained by the Plan Administration Trustee), the applicable Creditor Trust (as maintained by the applicable Creditor Trustees) or the Master Disbursement Trust (as maintained by the MDT Trustees), as applicable. Further, any right to receive a Distribution or other payment from the Plan Administration Trust (including any PAT Distribution Account or PAT Reserve), a Creditor Trust or the Master Disbursement Trust shall be nontransferable and nonassignable except by will, intestate, succession or operation of law or as otherwise provided in the Plan, the applicable Creditor Trust Documents, Governmental Entity Shareholder Direct Settlement Agreement or the MDT Agreement. Any rights to receive a Distribution or other payment from the Plan Administration Trust (including any PAT Distribution Account or PAT Reserve), a Creditor Trust or the Master Disbursement Trust shall not constitute "securities" and shall not be registered pursuant to the Securities Act. If it is determined that such rights constitute "securities," the exemption provisions of section 1145(a)(1) of the Bankruptcy Code would be satisfied and such securities would be exempt from registration.

11. Insurance Neutrality

Nothing in the Plan, the Plan Documents or the Confirmation Order shall alter, supplement, change, decrease or modify the terms (including conditions, limitations and/or exclusions) of the Purdue Insurance Policies, including the MDT Insurance Policies; provided that, notwithstanding anything in the foregoing to the contrary, the enforceability and applicability of the terms (including conditions, limitations and/or exclusions) of the Purdue Insurance Policies, including the MDT Insurance Policies, and thus the rights or obligations of any of the Insurance Companies, the Debtors and the applicable post-Effective Date Entities, including the Master Disbursement Trust, arising out of or under any Purdue Insurance Policy, including any MDT Insurance Policy, whether before or after the Effective Date, are subject to the Bankruptcy Code and applicable law (including any actions or obligations of the Debtors thereunder), the terms of the Plan and the Plan Documents, the Confirmation Order (including the findings contained therein or issued in conjunction therewith, including but not limited to any findings pursuant to Sections 5.2 and 5.6(i) of the Plan) and, to the extent the Insurance Companies have or had adequate notice from any source, any other ruling made or order entered by the Bankruptcy Court whether prior to or after the Confirmation Date. For the avoidance of

doubt, nothing contained in the Plan, the Plan Documents or the Confirmation Order shall operate to require any Insurance Company to pay under any Purdue Insurance Policy the liability of any Person that was not an insured prior to the Petition Date.

12. Transfer of Books and Records; Cooperation; Privilege

(i) **Transfer of Books and Records to NewCo and the Plan Administration Trust**. Except with respect to Excluded Assets, all documents, books and records of the Debtors shall be transferred and assigned to NewCo on or prior to the Effective Date pursuant to the NewCo Transfer Agreement; *provided* that, from and after the date of such transfer, the Plan Administration Trustee shall have the right to retain copies of all transferred documents, books and records and NewCo shall permit the Plan Administration Trustee and its counsel and representatives to have full access to such transferred documents, books and records. All documents, books and records of the Debtors that are Excluded Assets shall be transferred and assigned to the Plan Administration Trust; *provided* that, except for the Excluded Privileged Materials, NewCo shall receive copies of all documents, books and records of the Debtors that are Excluded Assets. Any documents transferred under Section 5.12(a) of the Plan that are documents that were produced to the Debtors by Shareholder Released Parties in connection with Purdue Legal Matters shall continue to remain subject to the terms of the Protective Order and any order of the Bankruptcy Court or provision of the Plan affording confidentiality protections to such documents, unless such documents are included in the Public Document Repository in accordance with the Plan and the Master Shareholder Settlement Agreement.

(ii) **Cooperation with the Master Disbursement Trust and the Creditor Trusts**. On the Effective Date or as soon as reasonably practicable thereafter, the Debtors shall transfer and assign, or cause to be transferred and assigned, (i) to the MDT Trustees, (A) copies of all MDT Insurance Policies, (B) information and copies of documents, including books and records of the Debtors that reasonably relate to (I) any Claims previously noticed, tendered or submitted or paid by any Insurance Company under the MDT Insurance Policies and (II) any MDT Causes of Action, and (C) other information and copies of all other documents, including books and records of the Debtors that are reasonably necessary to preserve, secure or obtain the benefit of the MDT Insurance Rights, pursue the MDT Causes of Action or liquidate any other MDT Transferred Assets and (ii) to each Creditor Trust, a copy of the Proofs of Claims for Channeled Claims channeled to such Creditor Trust. Subject to Section 5.12(c) of the Plan, the materials to be provided pursuant to Section 5.12(b) of the Plan include those in the possession of the Debtors' current and former insurance coverage counsel. On and after the Effective Date, the Plan Administration Trustee and NewCo may maintain their respective documents, books and records in accordance with their respective

document retention policies set forth in the PAT Agreement and the NewCo Operating Agreement, respectively. Prior to the Effective Date, the Debtors shall use reasonable best efforts to provide the Creditors' Committee and the Governmental Consent Parties reasonable access to current employees and professionals of the Debtors (including insurance brokers) with knowledge concerning the information and documents to be provided to the Master Disbursement Trust under Section 5.12(b) of the Plan, and, after the Effective Date, NewCo shall use best efforts to provide the Master Disbursement Trust reasonable access to employees and professionals of NewCo with knowledge concerning such information and documents and to facilitate access to former employees and professionals of the Debtors (including insurance brokers). The Plan Administration Trustee and NewCo shall respond to reasonable requests of (x) the MDT Trustees for information and documents related to the MDT Insurance Rights, the MDT Causes of Action or otherwise, in each case to the extent reasonably necessary for the administration of the Master Disbursement Trust, and (y) each Creditor Trustee for information and documents relating to the applicable Channeled Claims or otherwise, in each case to the extent reasonably necessary for the administration of the applicable Creditor Trust. In the event of any dispute between the MDT Trustees and NewCo regarding the delivery of information or documents requested pursuant to clause (x) of the foregoing sentence, the MDT Trustees shall have the right to request intervention by the Foundation Trustees to resolve any such dispute.

(iii) **Privilege**. The transfer or assignment of information and copies of documents, including books and records, in accordance with Section 5.12 of the Plan, shall not result in the destruction or waiver of any applicable Privileges. On the Effective Date, all Privileges in connection with the information or documents transferred in accordance with Section 5.12 of the Plan shall be transferred to, and vest exclusively in, NewCo, the MDT Trustees, the Plan Administration Trustee and the Creditor Trustees in accordance herewith. Further, with respect to the transfer of Privileges to the MDT Trustees and the Creditor Trustees, such Privileges shall (i) be transferred to such MDT Trustees and Creditor Trustees for the purpose of enabling such Persons to perform their respective duties as set forth in the Plan or in the MDT Agreement or the applicable Creditor Trust Documents and for no other reason, (ii) vest solely in the MDT Trustees and the Creditor Trustees and not in the Master Disbursement Trust or the Creditor Trusts, or any other committee or subcomponent of the Master Disbursement Trust or the Creditor Trusts, or any other Person (including counsel and other professionals) who is (or has been engaged by, represents or has represented) any Holder of a Claim against or Interest in the Debtors or any Person that alleges or may allege a Claim, directly or indirectly, relating to or arising out of the Debtors' Products or operations and (iii) be preserved and not waived as a result of such transfer. For the avoidance of doubt, any such transfer shall have no effect on any right,

Claim or Privilege of any Person other than the Debtors. No information subject to a Privilege shall be disclosed or communicated by the MDT Trustees or the Creditor Trustees (x) to any Person not entitled to receive such information, including for the avoidance of doubt any Person (including counsel and other professionals) who is (or has been engaged by, represents or has represented) any Holder of a Claim against or Interest in the Debtors or any Person that alleges or may allege a Claim, directly or indirectly, relating to or arising out of the Debtors' Products or operations or (y) for any reason or in any manner other than as necessary for such Persons to perform their respective duties as set forth in the Plan or in the MDT Documents or the applicable Creditor Trust Documents. Notwithstanding the foregoing, nothing in the Plan shall preclude the MDT Trustees from providing information or documents received pursuant to Section 5.12 of the Plan to any Insurance Company as necessary to preserve, secure or obtain the benefit of the MDT Insurance Rights.

13. Public Document Repository

(i) **Summary**. The document disclosure program provided in the Plan will lead to the public disclosure of the most significant documents about Purdue, the Sackler family and the opioid crisis, including video depositions and millions of documents that Purdue produced in investigations and litigation over the past two decades. In addition, it will lead to the public disclosure of millions of documents not previously available to the public, including documents not previously produced in any investigation or litigation and certain privileged documents from the years when Purdue developed and promoted OxyContin, as identified below. The document disclosure program and Public Document Repository will be conducted in a way to maximize public confidence and public access and will set a new standard for transparency.

(ii) **DOJ Repository Obligation**. The Debtors bear sole responsibility for complying with the DOJ document repository obligation set forth in the Plea Agreement ("**DOJ Repository Obligation**"), and the DOJ Repository Obligation is not modified by the Plan. Similarly, the Debtors' satisfaction of the DOJ Repository Obligation shall not diminish the additional commitment to disclosure provided by the Plan. Instead, the public shall receive the full benefit of both, and the Public Document Repository shall contain the full set of documents that the Debtors have agreed to host under the DOJ Repository Obligation.

(iii) **Disclosure Oversight Board**. As described further below, the disclosure program provided in the Plan shall be overseen by the DOB created on the Confirmation Date, consisting of up to four (4) representatives appointed by each of the Ad Hoc Committee, the Creditors' Committee, the States AG Negotiating Group and the MSGE Group and one (1) representative

appointed by the Native American Tribe Group. No current or former director, officer, employee or attorney of the Debtors shall serve on the DOB or oversee the disclosure program.

(iv) **Purdue Legal Matters**. As described further below, important material for the disclosure program is contained in documents that the Debtors preserved, collected, logged and produced in connection with investigations and litigation about Purdue's opioid business. Many non-privileged documents were produced in those matters, and many privileged documents were identified and logged. Section 5.13 of the Plan provides for the disclosure of many documents from the Purdue Legal Matters, which is a broad set of investigations and litigation defined in the Plan.

(v) **Disclosure Program Budget**. As described further in the Plan, the disclosure program is designed to avoid unnecessary expense, including by employing an unpaid volunteer oversight board and by using negotiated agreements to avoid the need for litigation. The disclosure program shall be funded in an aggregate amount of $39 million, which shall be paid in the following installments: (i) $2 million on the Effective Date, (ii) $10 million on the second Scheduled MDT Distribution Date, (iii) $10 million on the third Scheduled MDT Distribution Date, (iv) $8.5 million on the fourth Scheduled MDT Distribution Date and (v) $8.5 million on the fifth Scheduled MDT Distribution Date (collectively, the "**Disclosure Program Budget**"). The Disclosure Program Budget shall be spent at the direction of the DOB. In addition, as provided in the Plan, Domestic Governmental Entities may elect (but are not required) to direct portions of their distributions to the Public Document Repository under terms provided in the Plan. Moreover, the DOB shall be permitted, but not required, to coordinate its work on this disclosure program with the work of state Attorneys General on related disclosures in the opioid industry, in a manner that reduces the costs and increases the benefits of this disclosure program. Finally, to make efficient use of the knowledge and expertise of the Debtors and their professionals, the Plan provides for significant materials to be collected by the Effective Date, or as soon as reasonably practicable thereafter, as described further below. For the avoidance of doubt, the Public Document Repository shall not be owned, held, administered or operated by the DOB, the Master Disbursement Trust or any Creditor Trust; the role of the DOB is to develop and oversee a temporary program to set up the appropriate Public Document Repository and achieve the goals of the disclosure program.

(vi) **Access Materials**

(1) Subject to the Protected Information review, as described in Section 5.13(o) of the Plan, the Debtors, the Plan Administration Trust, or any entity or law firm designated by the Debtors or the

Plan Administration Trust to assist in that review, shall provide the DOB access to a set of non-privileged materials for the purpose of accomplishing the Public Document Repository (collectively, the "**Access Materials**") on a rolling basis following the Effective Date. These Access Materials shall include:

(A) all transcripts and audio or video recordings of depositions taken in the Purdue Legal Matters, together with the exhibits to those depositions;

(B) all documents produced by the Debtors in the Purdue Legal Matters (which comprise more than thirteen million documents and more than one hundred million pages);

(C) the non-privileged documents from the Relativity Database (as defined in the Plan) (which are estimated to comprise more than twenty million additional documents beyond those produced in the Purdue Legal Matters);

(D) all privilege logs regarding documents withheld by the Debtors in the Purdue Legal Matters; and

(E) documents obtained during the Chapter 11 Cases by the NAS Committee regarding clinical and pre-clinical studies conducted by the Debtors or other companies associated with the Sackler Family Members.

(2) The Debtors, the Plan Administration Trust, or any entity or law firm designated by the Debtors or the Plan Administration Trust, will use their best efforts to complete the review of Protected Information and production of the Access Materials no later than 12 months after the Effective Date. Following entry of the Confirmation Order, the Debtors shall pay Wiggin and Dana LLP $5 million as a retainer on account of Wiggin and Dana LLP's fees and expenses in connection with the review of Protected Information as contemplated pursuant to Section 5.13(o) of the Plan. Upon its completion of such review, Wiggin and Dana LLP shall refund any unused portion of the $5 million to the Master Disbursement Trust concurrent with the final release of Access Materials to the DOB.

(3) All documents containing information that is redacted as described in Section 5.13(o) of the Plan, and not included in the Access Materials provided to the DOB, will be provided to the Plan Administration Trust. The Plan Administration Trust will retain these materials for the period described in Section 5.13(aa) of the Plan.

(vii) **Debtors' Relativity Database**. In the course of the Purdue Legal Matters, the Debtors collected a significant set of documents that are stored in a Relativity database (the "**Relativity Database**"). This collection includes files from more than two hundred custodians who played important roles at Purdue, including every Sackler Family Member who sat on the board or worked at the company. It also includes non-custodial documents, such as collections from electronic drives and paper archives. The custodial and non-custodial documents collected for the Relativity Database are from files that Purdue has preserved pursuant to broad document preservation policies in place for over twenty years, including from an email archive containing emails dating to the 1990s. Pursuant to the terms provided in Section 5.13 of the Plan, materials from the Relativity Database created before February 2018 will be available for the disclosure program as described in Section 5.13 of the Plan.

(viii) **Additional Collections**. On or before the Effective Date, the DOB will identify to the Debtors the additional custodians whose documents should be collected, to the extent possible, from the email archive and other preserved files, and the Debtors will load those files into the Relativity Database for inclusion as Access Materials or Sequestered Materials, as applicable.

(ix) **Sequestered Materials**. On the Effective Date, or as soon as reasonably practicable thereafter, the Debtors shall provide the Plan Administration Trust with certain Privileged documents, described below, collected by the Debtors during the course of the Purdue Legal Matters and stored in the Relativity Database ("**Sequestered Materials**"), to be preserved for access by the DOB. The provision of the Sequestered Materials to the Plan Administration Trust shall not constitute a waiver of any applicable privileges, and, for clarity, no waiver of any applicable Privilege shall occur prior to the Sequestration Date (as defined in the Plan). The Sequestered Materials are estimated to include hundreds of thousands of documents. To leverage efficiencies, the Debtors' current document review teams with experience reviewing Purdue's documents for privilege will screen and review, as necessary, all documents currently in the Relativity Database for Privilege, attorney work product, confidentiality, the Health Insurance Portability and Accountability Act or similar state or federal statute and critical business information before turning over documents as Access Materials or as Sequestered Materials. The DOB will aid the Debtors' document review team in setting parameters and search terms to effectuate accurate screening and review. The DOB may, confidentially and subject to privilege, request and be provided with information, and, as necessary, an appropriate, expert-aided statistically valid sampling of the relevant documents or other methodologies to aid in the foregoing review under an appropriate protective order and non-waiver agreement.

(1) Subject to the Sequestration Date, the Debtors agree to waive attorney client and work product privilege over documents created before May 1, 2014 ("**Cutoff Date**") that fall within the following categories:

(A) Marketing materials, promotional materials and sales strategies. This will include, for example, legal advice on: marketing and promotional materials as part of the medical, regulatory, legal review process and other reviews of statements in promotional and marketing materials to ensure consistency with a product's labeling and legal requirements; sales training materials (such as how to instruct the sales team on what they can and cannot say about the products); review of all call notes and whether statements on sales calls were appropriate; call planning; and sales bulletins. For the avoidance of doubt, "sales strategies" in this paragraph includes documents related to (I) medical liaisons, (II) continuing medical education, (III) the evolve to excellence program, (IV) Purdue's interactions with medical advocacy groups, and (V) legal advice regarding the performance, selection, retention, management and compensation of personnel in sales and marketing;

(B) Materials reflecting legal advice on submissions to the FDA and compliance with FDA regulations. This will include, for example, advice on the decision to reformulate OxyContin, advice on interactions and communications with FDA and advice on FDA requirements;

(C) Legal advice regarding distributions to or for the benefit of the Sackler Family Members;

(D) Legal advice regarding the organization or function of the board of directors;

(E) Legal advice regarding grants, gifts and other payments with respect to naming rights of Purdue and the Sackler Parties;

(F) Legal advice regarding the performance, selection, retention, management and compensation of the CEO of Purdue Pharma;

(G) Legal advice regarding Purdue's interactions with state licensing boards and the federation of state medical boards;

(H) Legal advice regarding Purdue's interactions with key opinion leaders, advisory boards and treatment guidance;

(I) Legal advice regarding advocacy before the United States Congress or a state legislative branch with respect to (i) any opioid product sold by Purdue, including OxyContin, or (ii) any public policies regarding the availability and accessibility of opioid products;

(J) Employment records and files created before the Cutoff Date pertaining to employment terminations or disciplinary actions related to opioid sales and marketing, including documents created before the Cutoff Date pertaining to internal investigations of personnel related to marketing of opioids, in all cases subject to applicable federal and state privacy and similar laws with respect to employees and with any redactions necessary to comply therewith;

(K) To the extent provided during the time period while the corporate integrity agreement was in effect, legal advice regarding compliance with the corporate integrity agreement entered into between Purdue and the DOJ Office of the Inspector General of the U.S. Department of Health and Human Services;

(L) Legal advice regarding compliance with the consent judgments entered into between Purdue, the Debtors and the State Attorneys General and other state representatives in 2007;

(M) Legal advice to Purdue's public relations department regarding the promotion, sales, or distribution of Purdue's opioid products, including but not limited to their safety, efficacy, addictive properties, or availability of opioid products; and

(N) Legal advice to Purdue's compliance department regarding the organizational structure of the compliance department, including its processes for implementing order monitoring systems, suspicious order monitoring programs, and abuse deterrence and detection programs.

(2) Subject to the Sequestration Date, below, the Debtors agree to waive attorney client and work product privilege over the following categories of documents:

(A) Documents reflecting law department reviews of, and decisions regarding, ~~healthcare~~health care providers and

pharmacies pursuant to Purdue's abuse and diversion detection, order monitoring system and suspicious order monitoring programs, which will have been or will be provided to the DOJ under a June 2019 non-waiver agreement;

(B) Documents created before February 2018 reflecting legal review, analysis and advice with respect to advice received from McKinsey & Company, Publicis Groupe S.A., Publicis Health, LLC, Razorfish Health, Publicis Health Media, LLC, Publicis Touchpoint Solutions, Inc., or Verilogue, Inc. related to the sale and marketing of opioids; and

(C) Documents created before June 30, 2017 reflecting legal review, analysis and advice with respect to Practice Fusion.

(3) To the extent documents subject to any of the foregoing waivers were previously logged on a privilege log in a Purdue Legal Matter, the Debtors shall provide the DOB with amended privilege logs that indicate the entries being produced pursuant to these waivers. For the avoidance of doubt, Privileged communications (during the applicable time periods set forth in Section 5.13(i)(i) and (ii) of the Plan) about interactions with the media with respect to subject matters that are otherwise waived in the Plan are included in such waivers.

(4) Nothing in the Plan shall waive any third-party privilege or other rights, whether arising from a joint defense agreement, common interest privilege or otherwise, to which any document described in Section 5.13(i)(i) and (ii) of the Plan is subject and which the Debtors do not have authority to waive. The Debtors will provide the DOB with privilege logs reflecting documents subject to such third-party privileges and rights that are identified in the course of identifying and compiling the Sequestered Materials. No documents subject to such third-party privileges and rights shall be included in the Public Document Repository, absent appropriate resolution of such third parties' rights and privileges. Further, no waiver of Privilege described in the Plan shall be construed as subject matter waiver. Subject to the foregoing, the Debtors, the Creditors' Committee, and the Governmental Consent Parties shall work together in good faith to ensure that all documents consistent with the Sequestered Material categories shall be available to the DOB for potential inclusion in the Public Document Repository in accordance with Section 5.13 of the Plan.

(x) **Protection of the Privilege**. For the avoidance of doubt, the Debtors do not waive any Privilege and do not agree to provide as Sequestered Materials for the Public Document Repository any Privileged documents or communications not otherwise identified in Section 5.13(i)(i) and (ii) of the Plan. Such Privileged documents and communications not otherwise identified in Section 5.13(i)(i) and (ii) of the Plan shall be removed from the Relativity Database and separately preserved, and shall not be eligible for the Public Document Repository at any time. All Privileged documents removed from the Relativity Database, and not included in the Sequestered Materials described above, will be provided to the Plan Administration Trust, separately from the Sequestered Materials. The Plan Administration Trust will retain these materials for the period described in Section 5.13(aa) of the Plan. For clarity, except for the Sequestered Materials identified in Sections 5.13(i)(i) and (ii) of the Plan, the Debtors shall not intentionally provide the Master Disbursement Trust or the DOB with access to any documents or content of documents that are Privileged. In the event that the Debtors inadvertently provide the Master Disbursement Trust or the DOB with access to Privileged documents except for those documents identified in Sections 5.13(i)(i) and (ii) of the Plan, that inadvertent provision shall not operate as a waiver of the Privilege, and, upon discovery, the DOB and/or the Master Disbursement Trust, as applicable, must promptly take steps to return the documents to the Plan Administration Trust or destroy such documents.

(xi) **Sequestration Date**. On the date that is the earlier of (i) six years after the Effective Date and (ii) the date no Material Litigation is or has been pending for the prior six months, including the pendency of any appeals, the Plan Administration Trust shall deliver the Sequestered Materials to the Host Institution (the "**Sequestration Date**"). Those materials shall be made available for assessment by the DOB and disclosure in the Public Document Repository, subject to the other provisions of Section 5.13 of the Plan.

(xii) **Responsibilities of the DOB**. The DOB shall be responsible for:

(1) accomplishing prompt, broad, permanent, public disclosure of millions of the Debtors' documents via the Public Document Repository in accordance with Section 5.13 of the Plan to allow the public to examine the Debtors' role in the opioid crisis;

(2) engaging with survivors, advocates, journalists, scholars, policymakers and others to ensure that the disclosure program serves the public;

(3) directing the use of the Disclosure Program Budget;

(4) maintaining protections for Protected Information, as described in Section 5.13 of the Plan;

(5) establishing procedures for resolution of challenges to the redaction or disclosure of information, as described in Section 5.13 of the Plan;

(6) overseeing the Host Institution's implementation of the disclosure program;

(7) coordinating, as appropriate, the disclosure of documents from other producing parties or non-parties in opioid cases whose confidential information is included in the Access Materials, including by discussing inclusion of Access Materials containing such third-party confidential information;

(8) ensuring the long-term sustainability and success of the disclosure program; and

(9) retaining and overseeing staff, counsel, or such other resources as are necessary and appropriate to accomplish the DOB's responsibilities under Section 5.13 of the Plan.

(xiii) **Host Institutions**. The host institution(s) shall be selected by the Governmental Consent Parties and the Creditors' Committee (the "**Host Institutions**"). The Host Institution will be responsible for hosting and maintaining the Public Document Repository in perpetuity, including but not limited to: maintaining control and security over documents in the Public Document Repository; providing an accessible user interface; and providing clear and transparent explanations of its procedures to the public. Subject to restrictions and oversight imposed by the DOB, the Host Institution may employ appropriate resources to accomplish its responsibilities, including but not limited to the use of permanent university employees, temporary employees, contractors and vendor services. Commensurate with the large responsibilities assigned to the Host Institution, and subject to the decisions and oversight of the DOB and the requirements of the Plan, much of the Disclosure Program Budget may be directed to the Host Institution to fund the accomplishment of its responsibilities. As soon as practicable, the Debtors shall meet with the Host Institutions to agree upon the processes to be used by the Debtors to prepare the documents for delivery to DOB, including, for example, protocols, methodologies and technical specifications.

(xiv) **Prompt Disclosure**. In keeping with the importance of the matter, the DOB shall dedicate its best efforts to ensure prompt disclosure and shall seek to ensure that the public receives substantial disclosure at least every calendar quarter. The DOB shall prioritize prompt disclosure of the

transcripts and audio and video recordings of depositions taken in the Purdue Legal Matters, together with the exhibits to those depositions. The Debtors will prioritize prompt production of the documents that Debtors have agreed to host pursuant to the DOJ Repository Obligation for immediate inclusion in the Public Document Repository for the sake of efficiency and cost savings.

(xv) **Redaction of Protected Information**

(1) The Debtors, the Plan Administration Trust, a successor entity to the Plan Administration Trust, or any entity or law firm designated by the Debtors or the Plan Administration Trust, shall implement appropriate procedures to protect the following information ("**Protected Information**") by redacting Protected Information in documents before they are provided to the DOB or disclosed to the public in the Public Document Repository and by promptly catching and correcting errors if Protected Information is disclosed. Protected Information is (i) any information protected from disclosure by the Health Insurance Portability and Accountability Act or similar state or federal statute; (ii) Social Security or tax identification numbers; (iii) personal financial account numbers; (iv) passport numbers and drivers' license numbers; (v) home addresses, personal email addresses, residential addresses, and personal phone numbers, including mobile phone numbers; (vi) information subject to confidentiality or trade secret rights of third parties that Debtors are without authority to abrogate; (vii) information subject to current Trade Secrets protection; (viii) information regarding individuals that is of a purely personal nature and does not pertain to the Debtors' opioid business or related practices; and (ix) other personally identifiable information otherwise protected by law. For the avoidance of doubt, Protected Information that should be redacted in a written document shall also be redacted in audio or video, such as deposition recordings.

(2) The Plan Administration Trust must provide to the DOB a redaction log identifying the basis for the redaction with sufficient detail to allow assessment of the redaction's merits. The States AG Negotiating Group and Debtors will discuss and agree upon a robust audit process sufficient for the DOB to verify the Debtors' redactions are consistent with the final Plan, and the DOB's designee(s) and/or any auditors designated by the DOB will be given access to unredacted documents for this purpose subject to confidential safeguards to be agreed upon.

(3) The Debtors and the Plan Administration Trust will prioritize the review of certain documents and custodians at the DOB's request.

(4) **Trade Secret**. A 'trade secret' is information, including a formula, pattern, compilation, program, device, method, technique or process, that (i) derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure and use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Information reflecting opioid sales or promotional strategies, tactics, targeting, or data, or internal communications regarding sales or promotion of opioids will not be considered subject to trade secret protection unless the information is or contains specifically enumerated categories of Debtors' Information subject to trade secret protection set forth in Section 5.13(o)(v) of the Plan, and then only such information will be redacted.

(5) **Debtors' Information Subject to Current Trade Secrets Protection**. The following Debtor documents will be subject to trade secret protection: (i) documents that contain Debtors' trade secrets regarding (a) ANDA/NDA information that is not publicly available or is redacted in FDA filings, including development reports, batch records, and inspections, provided the redacted information contains trade secrets, and (b) Debtors' proprietary models, including the Rebate Return Model and the License & Supply Analysis Model; and (ii) documents dated less than ten (10) years before the disclosure that contain Debtors' trade secrets regarding: (a) Internal Cost of Goods Sold (COGS), including elements and calculations used to calculate COGS such as raw material sourcing, pricing, internal overhead, and capacity allocations, (b) Return on Rebate Model Data Output, and (c) License & Supply Analysis Model Data Output, including COGS, demand data, and gross-to-net information. Only the information subject to trade secrets protection will be redacted. Information reflecting opioid sales or promotional strategies, tactics, targeting, or data, or internal communications related to sales or promotion of opioids will not be considered subject to trade secret protection unless the information is or contains the narrow categories in this section, and then only the information subject to current trade secrets protection will be redacted.

(xvi) **Limits on Redaction**. There shall be no redaction of: (i) names of the Debtors' directors, officers, employees, agents, attorneys or consultants or of prescribers or of officials or employees of a government agency, or (ii) email addresses at the "pharma.com" or "purduepharma.com" domain.

(xvii) **Notice to Third Parties**. Debtors shall provide notice to third parties, consistent with such third-party agreements, whose trade secrets or confidential information may appear in documents which are to be provided to the DOB.

(xviii) **Inadvertent Release of Privileged or Protected Information**. Notwithstanding anything else in the Plan, the Public Document Repository shall not contain or disclose any documents or content of documents that are Privileged, except for those documents identified in Sections 5.13(i)(i) and (ii) of the Plan that are eligible for the Public Document Repository, or any Protected Information. Inadvertent disclosure of Privileged documents in the Public Document Repository does not operate as a waiver of Privilege, and, upon discovery, any Privileged documents shall be promptly removed from the Public Document Repository. The DOB will establish a procedure that permits any party or member of the public to identify or challenge the disclosure of any potentially Protected Information placed in the Public Document Repository. The DOB will cause any document identified through this process to be immediately removed from the Public Document Repository pending review. Any disagreements regarding whether such material is Protected Information shall be resolved by the Special Master.

(xix) **Special Master**. Shortly after the Confirmation Date, the Debtors shall file an appropriate motion asking the Bankruptcy Court or the United States District Court for the Southern District of New York to select and appoint a disclosure oversight Special Master. The Special Master's qualifications shall include former service as a judicial officer, whether as a state or federal judge, and no current or former director, officer, employee or attorney of the Debtors, the Sackler Family Members, the Creditors' Committee, or the Governmental Consent Parties shall be eligible to be appointed as the Special Master, counsel or staff working under the Special Master, *provided* that prior work for a Governmental Consent Party that was completed prior to 2015 shall not preclude the appointment of a Special Master. The Special Master will adjudicate all privilege and related disputes. The Special Master's reasonable hourly fees and expenses shall be paid out of the Disclosure Program Budget except as the Special Master orders otherwise upon finding that a party advanced an argument that was frivolous, harassing or in bad faith.

(1) **Selection of Special Master**. The selection of the Special Master shall be made by the Bankruptcy Court; *provided* that the Bankruptcy Court may consider a recommendation made jointly by the Debtors, the Sackler Family Members, the Creditors Committee, and the Governmental Consent Parties. For the purposes of determining if there is to be a joint recommendation, five (5) Business Days after the Confirmation Date, the parties ((x) the Debtors, (y) the Creditors' Committee, the Governmental

Consent Parties and (z) the Sackler Family Members) each shall exchange a list of up to five (5) names as recommendations for the role of Special Master. The Debtors thereafter shall make a motion to the Bankruptcy Court to select a Special Master. If there are names in common on the exchanged lists, the Debtors' motion shall be limited to any name or names that are common to all such parties' lists. If there is no name common to each of the three lists, the Debtors' motion will ask the Bankruptcy Court, in its discretion, to select a Special Master.

(2) **Disclosure Challenges**: To the extent that the DOB seeks to (A) challenge the Debtors' assertion of Privilege with respect to any documents withheld or redacted from production in the Purdue Legal Matters, or excluded by the Debtors from the Access Materials, or (B) disclose any Protected Information in the Public Document Repository, such efforts shall be subject to review by the Special Master, who shall have final say regarding whether (y) the DOB should be provided with such materials, and (z) such materials shall be protected from public disclosure.

(3) **Timing of Challenges**: All challenges to the redaction or withholding of documents from the Public Document Repository, including with regard to the Privilege and to Protected Information, including challenges brought by either the DOB or members of the public, shall be brought within the later of (A) one (1) year of the Effective Date and (B) one (1) year from when the document or information at issue is first withheld from the Public Document Repository by redaction or logging.

(4) **Counsel for Challenges**: On or shortly after the Effective Date, the Debtors, the Governmental Consent Parties, and the Creditors' Committee shall agree to appoint a law firm to defend Privilege and Protected Information assertions against challenges ("**Defense Counsel**"); *provided, however*, that if the Debtors, the Governmental Consent Parties, and the Creditors' Committee are unable to reach an agreement regarding the identity of Defense Counsel, the Bankruptcy Court shall appoint the Defense Counsel. Third parties shall represent themselves before the Special Master and shall bear their own costs.

(5) **Procedure for Challenges**: Any party seeking to initiate a challenge to the Privilege or Protected Information designation of a document or information in a document or any other challenge to the inclusion or exclusion of documents in the Public Document Repository (the "**Petitioner**") must first, as a condition precedent to any such challenge, meet and confer with the relevant defense counsel by serving a written statement of the specific material

being disputed and the reasons for disputing each such material. If the meet and confer does not resolve the dispute, then the Petitioner shall submit a brief to the Special Master arguing why each individual document at issue should not be considered Privileged or Protected Information or should otherwise be included or excluded. Once a challenge has been submitted, the Special Master shall set a briefing schedule, permitting defense counsel no fewer than twenty-one (21) days to respond to the challenge, which may include in camera submissions in response. At the discretion of the Special Master, the briefing schedule may also include supplemental submissions, oral argument or other procedures the Special Master deems necessary to reach a determination. The Special Master shall then evaluate and decide the challenge based upon existing legal precedent of federal law within the U.S. Court of Appeals for the Second Circuit, and shall be empowered to determine whether such materials are subject to a valid claim of Privilege or otherwise constitute Protected Information or should have otherwise been included or excluded, but shall not be empowered to waive any Privilege ever asserted by the Debtors with respect to the Purdue Legal Matters or with respect to the Access Materials or the Sequestered Materials. If the Petitioner does not prevail, then the Special Master shall have the discretion to shift to the Petitioner some or all of the reasonable legal expense of Defense Counsel, whose reasonable fees and expenses shall otherwise be paid for by the Disclosure Program Budget. If the Special Master determines that the challenge was frivolous, harassing, needlessly increasing costs or expenses, or otherwise brought for an improper purpose, then the Special Master shall shift to the Petitioner some or all of the reasonable legal expense of Defense Counsel. For avoidance of doubt, any materials determined by the Special Master to be Privileged or to contain Protected Information shall not be included in the Public Document Repository.

(6) Pending resolution of a challenge asserting a document was improperly disclosed, the Host Institution shall remove or redact each identified, challenged document.

(xx) **Materials Produced by Shareholder Released Parties**. The Public Document Repository shall include all Sackler Family Members' documents that were produced in the Chapter 11 Cases and that relate to the manufacturing, sale or marketing of opioids in the United States, the Debtors' alleged role or liability in connection with the opioid crisis or the regulatory approval of any opioid product sold in the United States by the Debtors, but subject to appropriate exclusions for documents covered by the attorney-client and work product privileges and certain confidential information (including exclusions for information and documents related

to the finances, financing activities, taxes and tax filings, investments and third party business and advisory relationships of the Shareholder Released Parties).

(1) The Special Master appointed in accordance with Section 5.13(s) of the Plan shall resolve disputes regarding whether certain documents or information is required to be included in the document repository by the Sackler Family Members.

(2) The Sackler Family Members shall have the right to claw back documents that they were entitled to exclude in accordance with this provision but inadvertently produced to the Public Document Repository, and such inadvertent production shall not operate as a waiver of rights. The Special Master shall resolve any disputes between Sackler Family Members, the Governmental Consent Parties, and the DOB concerning the exercise of clawback rights.

(3) For the avoidance of doubt, "Sackler Family Members' documents" refer only to documents in the Sackler Family Members' possession, custody or control. Section 5.13(t) of the Plan does not refer to documents including or involving Sackler Family Members that are in the Debtors' possession, custody or control.

(xxi) **Release of Confidentiality Rights by Parties Receiving Releases**. With regard to the disclosure of information in the Public Document Repository as authorized by Section 5.13 of the Plan, the protections provided to Released Parties and Shareholder Released Parties shall be limited to the protections provided by the Plan. To the extent that Released Parties and Shareholder Released Parties possess rights to confidentiality beyond those provided in the Plan (for example, a contractual confidentiality provision) or the Direct Claims Shareholder Settlement Agreements, those rights are waived to facilitate this disclosure program in exchange for the benefit of the releases provided to the Released Parties and Shareholder Released Parties by the Plan.

(xxii) **DOJ Settlement Communications**. Communications between the Debtors and DOJ regarding settlement or cooperation between 2015 and the final, non-appealable conclusion of *U.S. v. Purdue Pharma L.P.*, Case 2:20-cr-01028-MCA (D.N.J.) shall be protected from disclosure to the Master Disbursement Trust and the DOB and shall not be included in the Public Document Repository, nor shall any internal Debtor documents reflecting such communications or the strategy for such communications. The Debtors shall implement this exclusion when creating the set of Sequestered Materials.

(xxiii) **Documents Produced By Certain Financial Institutions**. The disclosure program shall not include the documents produced by financial institutions pursuant to the examination authorized by the Bankruptcy Court at D.I. 1143. For the avoidance of doubt, if the same information also appears in a second source that is subject to disclosure (e.g., a deposition exhibit), then the information in that second source is subject to disclosure.

(xxiv) **Active Vendor Contracts**. The Public Document Repository shall not disclose the NewCo's active vendor contracts or expired contracts that would reveal the sum and substance of active contracts.

(xxv) **Exculpation and Indemnification of DOB members and Host Institution**. To the maximum extent permitted by applicable law, the DOB members, whenever appointed, and the Host Institution shall not have or incur any liability for actions taken or omitted in his or her capacity as a DOB member, or on behalf of the DOB, except those acts found to be arising out of his or her willful misconduct, bad faith, gross negligence or fraud, and shall be entitled to indemnification, advancement and reimbursement for reasonable fees and expenses in defending any and all of his or her actions or inactions in his or her capacity as a DOB member, except for any actions or inactions found to be arising out of his or her willful misconduct, bad faith, gross negligence or fraud. Any valid indemnification claim of any of the DOB members shall be satisfied from the Disclosure Program Budget.

(xxvi) **Reports**. On each of the first five anniversaries of the Effective Date, the DOB shall publish a public report describing the activities of the disclosure program, the use of any funds expended, and any funds committed for future use.

(xxvii) **Wind Down**. In or after one year following the Sequestration Date, the DOB shall wind itself down. If appropriate to facilitate the long-term success of the Public Document Repository, the DOB may arrange for another long-lived institution, such as one or more Attorneys General Offices, to interact with the Host Institution after the DOB is wound down (e.g., by receiving reports). Upon the wind down of the DOB, (i) the Host Institution shall be responsible for the permanent maintenance of the Public Document Repository; *provided* that, for avoidance of doubt, the access to the Access Materials and the Sequestered Materials granted to the DOB herein shall not be transferred to any successor institution other than the Host Institution and (ii) any Access Materials or Sequestered Materials in the possession of the DOB but not included in the Public Document Repository, for any reason, shall be, at NewCo's election, delivered to NewCo or destroyed or, if all or substantially all of the Assets of or Interests in NewCo have been sold, destroyed or delivered to Defense Counsel. Within ninety (90) days of the announcement of the dissolution of the Plan Administration Trust, the Plan Administration

Trust shall use commercially reasonable efforts to return Privileged and Protected Information materials to Defense Counsel who shall retain the materials in a segregated client file.

(xxviii) **Master Disbursement Trust.** For the avoidance of doubt, nothing in Section 5.13 of the Plan limits the rights of the Master Disbursement Trust, subject to and in accordance with Section 5.12 of the Plan, to access or use Privileged documents, including Excluded Privileged Materials, in connection with any potential or actual Causes of Action, including, among other things, any potential or actual Causes of Action contemplated by or that may result from, the Shareholder Settlement Agreement, including, without limitation, with respect to a Cause of Action against a Shareholder Release Snapback Party upon the filing of a Notice of Shareholder Release Snapback.

14. Effective Date Cash; Surplus Reserved Cash

(i) **Effective Date Fixed Payments**. On the Effective Date, Effective Date Cash shall be used to fund (i) the Professional Fee Escrow Account in an amount necessary to satisfy Professional Fee Claims in accordance with Section 2.1(b) of the Plan, (ii) the Priority Claims Reserve in an amount necessary to satisfy estimated Allowed Administrative Claims (other than Professional Fee Claims and the DOJ Forfeiture Judgment Claim), Allowed Secured Claims and Allowed Priority Claims, (iii) the Claims Reserves in accordance with Section 7.2 of the Plan, (iv) the Disputed Cure Claims Reserve in accordance with Section 8.2(d) of the Plan, (v) the Wind-Up Reserve in accordance with Section 5.3(d) of the Plan, (vi) the MDT Operating Reserve in accordance with Section 5.6(f) of the Plan, (vii) the Special Operating Reserve in accordance with Section 5.7(a) of the Plan, (viii) the Initial NewCo Cash in accordance with Section 5.4(c) of the Plan, (ix) the applicable PAT Distribution Account in the amounts necessary to make Distributions required in accordance with Article IV of the Plan in respect of Allowed Adlon General Unsecured Claims, Allowed Avrio General Unsecured Claims, and Allowed Other General Unsecured Claims, each to the extent Allowed as of the Effective Date, (x) the Initial Private Creditor Trust Distributions, (xi) the Initial Federal Government Distribution, (xii) the Initial Public Schools Distribution, (xiii) amounts required to establish the Public Document Repository in accordance with Section 5.13 of the Plan, (xiv) the upfront insurance premium payments and other amounts in accordance with Sections 5.3(e), 5.4(f) and 5.5(c) of the Plan and (xv) any other amounts required to be paid on the Effective Date pursuant to the Plan. No later than five (5) Business Days prior to the Effective Date, the Debtors shall provide notice to the Creditors' Committee and the Governmental Consent Parties of the then-current estimated amount of Effective Date Cash and all amounts described in Section 5.14(a) of the Plan, and shall promptly notify the Creditors' Committee and the Governmental Consent Parties of any changes to such

estimations prior to the Effective Date. Any objection by the Creditors' Committee or the Governmental Consent Parties with respect to the Debtors' proposed amount of funding of any PAT Reserve shall be resolved by the Bankruptcy Court.

(ii) **Initial Public Creditor Trust Distributions.** On the Effective Date, all Effective Date Cash remaining after the satisfaction of all amounts described in the foregoing paragraph (a) shall be used to make the Initial Governmental Remediation Trust Distribution and the Initial Tribe Trust Distribution.

(iii) **Surplus Reserved Cash**. Prior to the dissolution of the Plan Administration Trust, the Plan Administration Trustee shall determine, on each six (6)-month anniversary of the Effective Date, whether the amounts available in any PAT Reserve exceed the amounts necessary to satisfy the purpose for which such reserves were established. If the Plan Administration Trustee determines that a surplus exists in any PAT Reserve as of the date of such determination, such Surplus Reserve Cash shall be (i) *first*, used to satisfy any funding deficiency in any other PAT Reserve and (ii) *second*, with respect to any amounts not used to satisfy any such funding deficiency in another PAT Reserve, transferred to the Master Disbursement Trust in accordance with the MDT Agreement. All Cash and cash equivalents of the Plan Administration Trust remaining upon the dissolution of the Plan Administration Trust, including any remaining Surplus Reserve Cash in the PAT Reserves, shall be transferred to the Master Disbursement Trust in accordance with the MDT Agreement.

15. Corporate Action

(i) **Dissolution of Boards of the Debtors**. As of the Effective Date, the respective boards of directors and managers, as applicable, of each of the Debtors shall be terminated and dissolved and the members of each of the boards of directors and managers, as applicable, of the Debtors shall be deemed to have resigned.

(ii) **Continued Existence of the Liquidating Debtors**. Each of the Debtors, other than the Transferred Debtors, shall continue to exist as a Liquidating Debtor after the Effective Date in accordance with the laws of the state under which such Debtor was formed and pursuant to its certificate of incorporation, bylaws, articles of formation, operating agreement, and other organizational documents, as applicable, in effect prior to the Effective Date, except to the extent such organizational documents are amended under the Plan, for the limited purposes of liquidating all of the Assets of such Debtor's Estate and making distributions in accordance with the Plan. From and after the Effective Date, except as set forth in the Plan, the Liquidating Debtors (i) for all purposes shall be deemed to have

withdrawn their business operations from any state in which the Liquidating Debtors were previously conducting, or are registered or licensed to conduct, their business operations, and shall not be required to file any document, pay any sum, or take any other action in order to effectuate such withdrawal, (ii) shall be deemed to have canceled pursuant to the Plan all PPI Interests and, as of the PPLP Dissolution Date, all PPLP Interests, and (iii) shall not be liable in any manner to any taxing authority for franchise, business, license or similar taxes accruing on or after the Effective Date.

(iii) **Appointment of the PPLP Liquidator as the Sole Representative for the Liquidating Debtors**. On the Effective Date, the PPLP Liquidator shall be appointed as the sole director and sole officer of the Liquidating Debtors, and shall succeed to the powers of the Liquidating Debtors' general partners, directors and officers. From and after the Effective Date, the PPLP Liquidator shall be the sole representative of, and shall act for, the Liquidating Debtors and administer the winding up and dissolution of the Liquidating Debtors. The PPLP Liquidator shall act for the Liquidating Debtors in the same fiduciary capacity as applicable to a board of directors and officers, subject to the provisions hereof (and all certificates of formation, partnership agreements, operating agreements, membership agreements and related documents are deemed amended by the Plan to permit and authorize the same). Any fees and expenses incurred by the PPLP Liquidator shall be paid by the Plan Administration Trustee from the Wind-Up Reserve.

(iv) **Merger; Dissolution; Consolidation of the Liquidating Debtors**. On or after the date(s) upon which the Plan Administration Trust is established, the Liquidating Debtors or the PPLP Liquidator may, subject to the terms of the Plan, cause any or all of the Liquidating Debtors to be merged into one or more of the Liquidating Debtors, dissolved or otherwise consolidated and engage in any other transaction in furtherance of the Plan. Notwithstanding the foregoing, upon the dissolution of each Liquidating Debtor by the PPLP Liquidator after the completion of the acts required of such Liquidating Debtor pursuant to the Plan, such Liquidating Debtor shall be deemed dissolved for all purposes without the necessity for any other or further actions to be taken by or on behalf of such Liquidating Debtor; *provided*, *however*, that each Liquidating Debtor or the PPLP Liquidator, as applicable, shall file with the office of the Secretary of State, or other appropriate office for the state of its organization, a certificate of cancellation or dissolution.

(v) **Charter and Bylaws**. To the extent necessary or appropriate, the charters, by-laws and other organizational documents of the Debtors shall be amended, or amended and restated as necessary, in a manner consistent

with section 1123(a)(6) of the Bankruptcy Code, if applicable, and the terms of the Plan.

(vi) **No Further Action**. Each of the matters provided for under the Plan involving the corporate structure of the Debtors or the Plan Administration Trust, or corporate action to be taken by or required of the Debtors, shall, as of the Effective Date, be deemed to have occurred (unless contemplated under the Plan to occur before or after the Effective Date) and be effective as provided in the Plan, and shall be authorized and approved in all respects without any requirement of further action by any Person, including, but not limited to, the Plan Administration Trustee, the PPLP Liquidator, Holders of Claims against or Interests in the Debtors or directors or officers of the Debtors.

(vii) **Effectuating Documents**. Prior to or after the Effective Date, any appropriate officer of the Debtors or the PPLP Liquidator, as applicable, shall be authorized to execute, deliver, file or record such contracts, instruments, releases, indentures and other agreements or documents, and to take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

(viii) **Exculpation and Indemnification of the PPLP Liquidator**. To the maximum extent permitted by applicable law, the PPLP Liquidator shall not have or incur any liability for actions taken or omitted in its capacity as the PPLP Liquidator, except those acts found by Final Order to be arising out of its willful misconduct, bad faith, gross negligence, or fraud, and shall be entitled to indemnification, advancement and reimbursement for reasonable fees and expenses in defending any and all of its actions or inactions in its capacity as the PPLP Liquidator, except for any actions or inactions found by Final Order to be arising out of its willful misconduct, bad faith, gross negligence or fraud. Any valid indemnification claim of the PPLP Liquidator shall be satisfied from the Wind-Up Reserve.

16. Cancellation of Notes, Interests, Instruments, Certificates and Other Documents

Except as otherwise provided in the Plan, on and after the Effective Date, all PPLP Interests and PPI Interests and all notes, instruments, certificates, agreements, indentures, mortgages, security documents and other documents evidencing Claims against or Interests in the Debtors or obligations of the Debtors or the Liquidating Debtors, as applicable, thereunder or in any way related to the foregoing shall be deemed canceled, satisfied in full and of no further force or effect without any need for further action or approval of the Bankruptcy Court.

17. Closing of Chapter 11 Cases

After a Debtor's Estate has been fully administered, the Plan Administration Trustee shall seek authority from the Bankruptcy Court to close the applicable Chapter 11 Case in accordance with the Bankruptcy Code and Bankruptcy Rules.

E. Distributions

1. Distributions Generally

Except as otherwise provided in the Plan or the PAT Agreement, all Distributions in respect of Allowed Claims, other than Channeled Claims, shall be made by the Disbursing Agent, or such other Persons designated by the Plan, in accordance with the terms of the Plan, including Article VI of the Plan. Except with respect to Sections 6.17, 6.20, and 6.21 of the Plan, Article VI of the Plan shall not apply to Channeled Claims.

2. Distributions on the Effective Date

On the Effective Date or as soon as reasonably practicable thereafter, the Disbursing Agent shall make Distributions (a) from the Priority Claims Reserve in respect of Allowed Administrative Claims, Allowed Secured Claims and Allowed Priority Claims, each in an amount and to the extent Allowed as of the Effective Date, and (b) from the PAT Distribution Account in respect of Allowed Avrio General Unsecured Claims and Allowed Adlon General Unsecured Claims, each in an amount required in accordance with Article VI of the Plan and solely to the extent Allowed as of the Effective Date.

3. Date of Distributions

In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

4. Disbursing Agent

The Disbursing Agent shall be deemed to hold all property to be distributed under the Plan in trust for the Persons entitled to receive the same. The Disbursing Agent shall not hold an economic or beneficial interest in the property to be distributed under the Plan. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties.

5. Rights and Powers of Disbursing Agent

The Disbursing Agent shall be empowered to (a) effect all actions and execute all agreements, instruments and other documents necessary to perform its duties under the Plan, (b) make all Distributions contemplated by the Plan, (c) employ professionals to represent it with respect to its responsibilities and (d) exercise such other powers as may be vested in the

Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions of the Plan.

The Disbursing Agent shall only be required to act and make Distributions in accordance with the terms of the Plan and the PAT Agreement, and shall have no (x) liability for actions taken in accordance with the Plan and the PAT Agreement or in reliance upon information provided to it in accordance with the Plan or (y) obligation or liability in respect of any Channeled Claims or for Distributions under the Plan to any party who does not hold an Allowed Claim administered by the Plan Administration Trust at the time of Distribution or who does not otherwise comply with the terms of the Plan; *provided, however*, that the foregoing shall not affect the liability that otherwise would result from any such act or omission to the extent such act or omission is determined by a Final Order to have constituted willful misconduct, gross negligence, intentional fraud or criminal conduct of any such Person.

6. Expenses of Disbursement Agent

Any reasonable fees and expenses incurred by the Disbursing Agent on or after the Effective Date shall be paid in Cash by the Plan Administration Trustee from the Wind-Up Reserve.

7. Delivery of Distributions

Subject to Bankruptcy Rule 9010, the Disbursing Agent shall make all Distributions to any Holder of an Allowed Claim at the address of such Holder (a) as set forth on the Schedules filed with the Bankruptcy Court or (b) on the books and records of the Debtors or their agents, unless the Disbursing Agent has been notified in writing of a change of address, including, without limitation, by filing of a Proof of Claim by such Holder that contains an address for such Holder that is different than the address of such Holder as set forth in the Schedules or on such books and records of the Debtors.

8. Undeliverable and Unclaimed Distributions

In the event that any Distribution to any Holder of an Allowed Claim is returned as undeliverable, no Distribution to such Holder shall be made unless and until the Disbursing Agent has been notified of the then-current address of such Holder, at which time or as soon as reasonably practicable thereafter such Distribution shall be made to such Holder without interest; *provided*, *however*, that all Distributions made by the Disbursing Agent that are unclaimed for a period of six (6) months after the Distribution thereof shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and shall revest in the Plan Administration Trust, and any entitlement of any Holder of any Claims to such Distributions shall be extinguished and forever barred.

9. Distribution Record Date

As of the close of business on the Distribution Record Date, the Claims register shall be closed. The Disbursing Agent shall have no obligation to recognize any transfer of any such Claims occurring after the close of business on the Distribution Record Date and shall instead be

entitled to recognize and deal, for all purposes under the Plan, with only those Holders of record as of the close of business on the Distribution Record Date.

10. Manner of Payment under Plan

At the option of the Disbursing Agent, any Cash payment to be made pursuant to the Plan may be made by a check or wire transfer or as otherwise required or provided in the PAT Agreement.

11. Minimum Cash Distributions

The Disbursing Agent shall not be required to make any Distributions of Cash in an amount less than $100, or such lower amount as determined by the Disbursing Agent in accordance with the PAT Agreement, to any Holder of an Allowed Claim; provided, however, that if any Distribution is not made pursuant to Section 6.11 of the Plan, such Distribution shall be added to any subsequent Distribution to be made on behalf of such Holder's Allowed Claims. The Disbursing Agent shall not be required to make any final Distribution of Cash in an amount less than $25 to any Holder of an Allowed Claim. If the amount of any final Distribution to any Holder of Allowed Claims would be $25 or less, then such Distribution shall be made available for Distribution to all Holders of Allowed Claims in the same Class receiving final Distributions of at least $25.

12. Setoffs and Recoupment

Subject to Section 2.1 and Sections 10.5 through 10.13 of the Plan, the Disbursing Agent may, but shall not be required to, set off against or recoup from any Claim against the Debtors, and from any payments to be made pursuant to the Plan with respect to such Claim, any Claims of any nature whatsoever (to the extent permitted by applicable law) that the Debtors or the Plan Administration Trust, as applicable, may have against the Holder of such Claim, but neither the failure to do so nor the allowance of any Claim under the Plan shall constitute a waiver or release by the Debtors or the Plan Administration Trust of any such Claim it may have against such Holder.

13. Claims Paid or Payable by Third Parties

The Plan Administration Trustee shall reduce in full a Claim against the Debtors, and such Claim shall be Disallowed without a Claims objection having to be filed and without any further notice to or action, order or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from any Person that is not a Debtor. Subject to the last sentence of this paragraph, to the extent a Holder of a Claim against the Debtors receives a Distribution on account of such Claim and receives payment from a Person that is not a Debtor on account of such Claim, such Holder shall, within fourteen (14) days of receipt thereof, repay or return the Distribution to the Plan Administration Trust to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such Distribution under the Plan. The failure of such Holder to timely repay or return such Distribution shall result in the Holder

owing the Debtors annualized interest at the federal judgment rate on such amount owed for each Business Day after the fourteen (14)-day grace period specified above until the amount is repaid.

14. Distributions after Effective Date

Distributions made after the Effective Date to Holders of Non-Participating Channeled Claims and other Disputed Claims that are not Allowed Claims as of the Effective Date, but which later become Allowed Claims, shall be deemed to have been made on the Effective Date (except for U.S. federal income tax purposes).

15. No Postpetition Interest and Penalties on Claims

Unless otherwise provided for in the Plan or the Confirmation Order or required by the Bankruptcy Code, no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date or to penalties on any Claim. Any such interest or penalty component of any such Claims, if Allowed, shall be paid only in accordance with section 726(b) of the Bankruptcy Code.

16. Allocation of Distributions between Principal and Interest

To the extent that any Allowed Claim is based upon any obligation or instrument that is treated for U.S. federal income tax purposes as indebtedness of any Debtor or any other Person and is entitled to accrued but unpaid interest thereon, it is intended, subject to applicable law, that such Distribution shall be allocated first to the principal amount of the Allowed Claim (as determined for U.S. federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Allowed Claim, to accrued but unpaid interest.

17. No Constructive Receipt

No Holder of Claims shall be treated as receiving a Distribution for U.S. federal income tax purposes except to the extent such Holder is entitled to receive such Distribution directly under the Plan (or such Distribution is made in satisfaction of an obligation of such Holder). All parties (including, without limitation, Holders of Claims against or Interests in the Debtors, the Related Parties of such Holders, the Debtors, the Master Disbursement Trust, the MDT Trustees and the Creditor Trusts) shall report consistently with the foregoing for U.S. federal income tax purposes.

18. No Distribution in Excess of Amount of Allowed Claim

Notwithstanding anything to the contrary in the Plan, no Holder of an Allowed Claim shall receive, on account of such Allowed Claim, Distributions in excess of the Allowed amount of such Claim when combined with amounts received by such Holder from other sources.

19. Satisfaction of Claims

Unless otherwise provided in the Plan, the Distributions and deliveries to be made on account of Allowed Claims under the Plan shall, in the aggregate, be in complete and final satisfaction, settlement and discharge of, and exchange for, such Allowed Claims. The

Distributions and deliveries to be made on account of Claims under the Plan shall additionally be in consideration of the release and discharge of any and all Released Claims and Shareholder Released Claims related to or arising from such Claims.

20. Withholding and Reporting Requirements

(i) **Withholding Rights**. In connection with the Plan, and all instruments or Interests issued in connection therewith and in consideration thereof, any party issuing any instrument or Interest or making any Distribution or other payment described in the Plan shall comply with all applicable withholding and reporting requirements imposed by any U.S. federal, state or local or foreign taxing authority, and all Distributions pursuant to the Plan and all related agreements shall be subject to any such withholding or reporting requirements to the extent required under applicable law. In the case of a non-Cash Distribution that is subject to withholding, the distributing party may withhold a portion of such distributed property equal in value to the tax to the extent required to be withheld, and either (i) sell such withheld property to generate Cash necessary to pay over the withholding tax (or reimburse the distributing party for any advance payment of the withholding tax), or (ii) pay the withholding tax using its own funds and retain such withheld property. Any amounts withheld pursuant to Section 6.20(a) of the Plan and properly remitted to the applicable Governmental Unit shall be deemed to have been distributed to, and received by, the applicable recipient for all purposes of the Plan. In the event that any Person issues any instrument or Interest or makes any non-Cash Distribution or other payment pursuant to the Plan that is subject to withholding tax and such issuing or distributing party has not sold such withheld property to generate Cash to pay the withholding tax, or paid the withholding tax using its own funds and retained such withheld property as described above, such issuing or distributing party has the right, but not the obligation, to not make a Distribution or other payment until such Holder or other recipient has made arrangements reasonably satisfactory to such issuing or distributing party for payment of any such tax obligations, after which such issuing or distributing party shall return to such Holder or other recipient the portion of the property previously withheld.

(ii) **Forms**. Any party entitled to receive any Cash or other property under the Plan shall, upon request, deliver to the Disbursing Agent, the Master Disbursement Trust, the applicable Creditor Trust, NewCo, the Foundation or such other Person designated by the Plan Administration Trustee (which Person shall subsequently deliver to the Disbursing Agent any applicable IRS Form W-8 or Form W-9 or other forms or documents received), as applicable, a properly executed IRS Form W-9 or Form W-8, as applicable, and any other forms or documents reasonably requested by such party, to reduce or eliminate any withholding required by any U.S. federal, state, local or foreign taxing authority. Except as otherwise provided in the Creditor Trust Documents, as applicable, if any such

request is made by such party in accordance with the foregoing, and the Holder fails to comply before the date that is three hundred sixty-five (365) calendar days after the request is made, the amount of such Distribution shall irrevocably revert to the Plan Administration Trust, the Master Disbursement Trust, the applicable Creditor Trust, NewCo or the Foundation, as applicable, and any Claim with respect to such Distribution shall be discharged and forever barred from assertion against such party or its property.

(iii) **Tax Liability**. Notwithstanding Section 6.20(a) of the Plan, each Holder of a Claim or other Person that receives or is to receive a Distribution pursuant to the Plan shall have the sole and exclusive responsibility for the satisfaction and payment (to the extent not withheld from such Distribution pursuant to Section 6.20(a) of the Plan) of any tax obligations imposed on such Holder by any Governmental Unit, including income, withholding and other tax obligations, on account of such Distribution.

21. Post-Confirmation Claims

Except as otherwise provided in the applicable Creditor Trust TDP, in the event a Person seeks payment at any time on account of a Channeled Claim as to which no Proof of Claim was filed before the Bar Date and/or for which no motion seeking leave or order granting leave to file a late Proof of Claim was filed or entered before the Confirmation Date, or as to which no Proof of Claim was required to be filed, such Person shall not be entitled to any payment or distribution on account of such Channeled Claim unless such Channeled Claim is held by a Settling Creditor. If such Channeled Claim is held by a Settling Creditor, such Person shall be entitled to seek to recover on such Channeled Claim solely from the Creditor Trust to which such Channeled Claim is or was channeled pursuant to the Master TDP, as determined by the Bankruptcy Court, and any such recovery shall be solely in accordance with and to the extent provided in the Creditor Trust TDP for such Creditor Trust. After the Effective Date, in addition to the Person seeking to assert such Channeled Claim and any Person against which such Channeled Claim is purportedly asserted, only the MDT Trustees, the Creditor Trustees and NewCo shall have standing to participate in any action before the Bankruptcy Court ~~[~~(or, in the event that such actions are heard before another tribunal, before such tribunal)~~]~~ in respect of the foregoing. For the avoidance of doubt, nothing in this paragraph is intended or shall be construed to enlarge, amend or modify the provisions of the Bar Date Order, nor is anything in this paragraph intended to derogate from, modify or amend the terms and conditions of any Creditor Trust TDP or the Master TDP or the rights of any MDT Trustee, Creditor Trustee or claims administrator for any Creditor Trust.

F. Procedures for Non-Participating Channeled Claims and Other Disputed Claims

1. Procedures for Non-Participating Channeled Claims and other Disputed Claims Generally

Except as otherwise provided in the Plan, the PAT Agreement, or the Creditor Trust Documents, all Claims against the Debtors that are Non-Participating Channeled Claims or

otherwise Disputed as of the Effective Date shall be subject to the claims resolution procedures set forth in the Plan, including Article VII of the Plan. Any Distributions on account of Non-Participating Channeled Claims or other Disputed Claims shall be reserved pending the completion of the Claims resolution process in Article VII of the Plan.

2. Non-Participating Claims Reserves; PAT Disputed Claims Reserves

(i) **Establishment**. On the Effective Date, or as soon as reasonably practicable thereafter, the Plan Administration Trustee and each applicable Creditor Trustee shall, consistent with and subject to section 1123(a)(4) of the Bankruptcy Code, with respect to each applicable Class of Claims against the Debtors, establish the PAT Disputed Claims Reserves or the applicable Non-Participating Claims Reserve(s) for such Class.

(ii) **Funding of PAT Disputed Claims Reserves**. The PAT Disputed Claims Reserves shall be funded on the Effective Date with Effective Date Cash in an amount determined by the Debtors and reasonably acceptable to the Creditors' Committee, the Governmental Consent Parties and, solely with respect to amounts funded on account of Disputed Other General Unsecured Claims, the Sackler Parties' Representative. Following establishment of the PAT Disputed Claims Reserves, the Plan Administration Trustee shall administer the applicable PAT Disputed Claims Reserve, in each case taking into account any changes in the projected distributions to Holders of the applicable Disputed Claims.

(iii) **Funding of Creditor Trust Non-Participating Claims Reserves**. With respect to the Creditor Trust Non-Participating Claims Reserves other than the Class 4 Non-Participating Claims Reserves, (i) each Creditor Trust PRA Non-Participating Claims Reserve and each Select Private Creditor Trust Non-Participating Claims Reserve will be funded on the Effective Date, and from time to time on or after the Effective Date, by the PRA Estate Distributions to which the Holders of the Non-Participating Channeled Claims in such Class would be entitled should their Claims be Allowed Claims pursuant to the applicable Creditor Trust TDP, and (ii) each Creditor Trust Non-PRA Non-Participating Claims Reserve will be funded from time to time after the Effective Date, in an amount equal to the Non-PRA Estate Distributions to which the Holders of the Non-Participating Channeled Claims in such Class would be entitled should their Claims be Allowed Claims pursuant to the applicable Creditor Trust TDP, in each case as determined by the applicable Creditor Trustee and reasonably acceptable to the Debtors, the Creditors' Committee, the Governmental Consent Parties ~~[~~and the Sackler Parties' Representative~~]~~, and (i) with respect to the Class 5 Non-Participating Claims Reserves, the Native American Tribe Group, (ii) with respect to the Class 6 Non-Participating Claims Reserve, the Public School District Claimants, (iii) with respect to the Class 7 Non-Participating Claims Reserve, the Ad Hoc Group of Hospitals, (iv) with respect to the Class 8 Non-Participating

Claims Reserve, the Third-Party Payor Group, (v) with respect to the Class 9 Non-Participating Claims Reserve, the ERP Trustee, (vi) with respect to the Class 10(a) Non-Participating Claims Reserve, the NAS Committee, and (vii) with respect to the Class 10(b) Non-Participating Claims Reserves, the Ad Hoc Group of Individual Victims.

(iv) **Funding of Class 4 Non-Participating Claims Reserves**. The Class 4 PRA Non-Participating Claims Reserve shall be funded with the Non-Settling States Holdback Distributions and the Non-Settling Subdivisions Holdback Distributions, in each case, that are PRA Estate Distributions, and the Class 4 Non-PRA Non-Participating Claims Reserve shall be funded with the Non-Settling States Holdback Distributions and the Non-Settling Subdivisions Holdback Distributions, in each case, that are Non-PRA Estate Distributions in accordance with the following requirements:

(1) In the event that a State is a Non-Settling State on the Effective Date, then such State and each Subdivision of such State that has filed a Proof of Claim will be deemed to hold a Non-Participating Channeled Claim, and (A) a Non-Settling States Holdback Distribution on account of such State and each such Subdivision, that is a PRA Estate Distribution shall be deposited in the Class 4 Creditor Trust PRA Non-Participating Claims Reserve and (B) a Non-Settling States Holdback Distribution on account of such State and each such Subdivision, that is a Non-PRA Estate Distribution shall be deposited in the Class 4 Creditor Trust Non-PRA Non-Participating Claims Reserve. The Non-Settling States Holdback Distribution for the benefit of such Non-Settling State shall be equal to such State's share of Estate Distributions based on the interstate allocation as further described in Governmental Remediation Trust Documents. Any Non-Settling State's share shall be subdivided generally in accordance with the default state-subdivision allocation set forth in the Governmental Entity Shareholder Direct Settlement Agreement as if there was no applicable state-subdivision agreement. The portion of a Non-Settling State's share allocated to its Subdivisions who filed Proofs of Claim shall be further subdivided based on the applicable subdivision metrics developed by the MDL Plaintiffs' Executive Committee.

(2) Subject to Section 7.2(d)(iii) of the Plan, in the event that a State is a Settling State, but one or more of its Subdivisions that filed Proofs of Claim are not Participating Subdivisions, then the amount of the total PRA Estate Distributions and Non-PRA Estate Distributions allocated to such State shall be reduced by an amount equal to the share that a Non-Settling Subdivision would have received under (A) the intrastate allocation agreement that exists

between that Settling State and its Subdivisions (if an intrastate allocation agreement exists), (B) the intrastate allocation statute (if an intrastate allocation statute exists), or (C) the default state-subdivision allocation set forth in the Governmental Entity Shareholder Direct Settlement Agreement (if no intrastate allocation agreement or statute exists), with the Non-Settling Subdivision's share calculated based on the applicable subdivision metrics developed by the MDL Plaintiffs' Executive Committee, with the amounts of such reductions deposited, (X) in the case of PRA Estate Distributions, in the Class 4 PRA Non-Participating Claims Reserve and (Y) in the case of Non-PRA Estate Distributions, in the Class 4 Non-PRA Non-Participating Claims Reserve. Non-Settling Subdivisions that have filed Proofs of Claim and whose Claims are or may be Allowed may be entitled to different allocations of Estate Distributions upon such Subdivision becoming a Participating Subdivision.

(3) In the event a Non-Settling Subdivision is located in a Settling State that has a statutory bar against such Non-Settling Subdivision pursuing a Released Claim, such Creditor Trust shall not be required to reserve any amount on account of the Non-Participating Non-Federal Domestic Governmental Claim held by such Non-Settling Subdivision.

(4) The Class 4 PRA Non-Participating Claims Reserve shall be funded over time from each PRA Estate Distribution and the Class 4 Non-PRA Non-Participating Claims Reserve shall be funded over time from each Non-PRA Estate Distribution, in each case, on account of each such Class 4 Non-Participating Channeled Claim, as applicable, including such amount(s) payable on account of Attorneys' Fees under Section 5.9 of the Plan.

(v) **U.S. Federal Income Tax Matters Relating to the Creditor Trust Non-PRA Non-Participating Claims Reserves**. Each Creditor Trust Non-PRA Non-Participating Claims Reserve is intended to be treated and shall be reported as an account of the corresponding Creditor Trust, and not as an entity separate from the corresponding Creditor Trust, for U.S. federal income tax purposes, and shall be treated consistently for state and local tax purposes, to the extent applicable. All parties (including the Shareholder Payment Parties, the Debtors, the MDT Trustees, the Plan Administration Trustee, each applicable Creditor Trustee, and Holders of Non-Participating Claims and other Disputed Claims) shall be required to report for tax purposes in a manner consistent with the foregoing. Each applicable Creditor Trustee shall be responsible for payment, out of the assets of the applicable Creditor Trust Non-PRA Non-Participating Claims

Reserve, of any taxes imposed on the applicable Creditor Trust Non-PRA Non-Participating Claims Reserve or its assets.

(vi) **U.S. Federal Income Tax Matters Relating to the Creditor Trust PRA Non-Participating Claims Reserves and the Select Private Creditor Trust Non-Participating Claims Reserves.** Each Creditor Trust PRA Non-Participating Claims Reserve and each Select Private Creditor Trust Non-Participating Claims Reserve is intended to be treated and shall be reported as a qualified settlement fund within the meaning of Treasury Regulations section 1.468B-1 for U.S. federal income tax purposes and shall be treated consistently for state and local tax purposes. The Master Shareholder Settlement Agreement provides that PRA L.P. shall timely elect, pursuant to Treasury Regulations Section 1.468B-1(k) (and any applicable state and local income tax purposes), to treat each Creditor Trust PRA Non-Participating Claims Reserve and each Select Private Creditor Trust Non-Participating Claims Reserve as a "grantor trust," all of which is owned, for federal and applicable state and local income tax purposes only, by PRA L.P., and that PRA L.P. shall maintain such elections and shall not revoke any of such elections without the prior written consent of the Master Disbursement Trust and the applicable Creditor Trust(s), and Section 7.2(f) of the Plan assumes that is the case. All parties (including the Shareholder Payment Parties, the Debtors, the Plan Administration Trustee, each applicable Creditor Trustee, the MDT Trustees, and Holders of Non-Participating Claims and other Disputed Claims) shall be required to report for tax purposes in a manner consistent with the foregoing. The applicable Creditor Trustee shall be the "administrator" of each Creditor Trust PRA Non-Participating Claims Reserve and each Select Private Creditor Trust Non-Participating Claims Reserve. The Master Shareholder Settlement Agreement provides that PRA L.P. shall take into account all items of income, gain, loss, deduction and credit (including capital gains and losses) recognized by or otherwise attributable to each of the Creditor Trust PRA Non-Participating Claims Reserves and each of the Select Private Creditor Trust Non-Participating Claims Reserve for U.S. federal (and any applicable state or local) income tax purposes on its tax returns. The applicable Creditor Trustee may request an expedited determination of taxes of a Creditor Trust PRA Non-Participating Claims Reserve or a Select Private Creditor Trust Non-Participating Claims Reserve, as applicable, under section 505(b) of the Bankruptcy Code for all returns, if any, filed for, or on behalf of, the Creditor Trust PRA Non-Participating Claims Reserve or Select Private Creditor Trust Non-Participating Claims Reserve for all taxable periods through the dissolution of the Creditor Trust PRA Non-Participating Claims Reserve or Select Private Creditor Trust Non-Participating Claims Reserve, as applicable. Nothing in Section 7.2(f) of the Plan shall be deemed to determine, expand or contract the jurisdiction of the Bankruptcy Court under section 505 of the Bankruptcy Code.

3. Claim Objections

(i) **Prior to Effective Date**. Prior to the Effective Date, objections to Claims against the Debtors may be interposed and prosecuted by the Debtors and any other party in interest, including, for the avoidance of doubt, any Shareholder Released Party; *provided*, that no Shareholder Released Party shall interpose any objection to a Claim held by a Settling Creditor.

(ii) **PAT Disputed Claims Reserves**. On or after the Effective Date, except as otherwise provided in the Plan or the PAT Agreement, objections to Avrio General Unsecured Claims, Adlon General Unsecured Claims, and Other General Unsecured Claims against the Debtors may be interposed and prosecuted only by the Plan Administration Trustee, provided that with respect to Disputed Other GUC Litigation Claims, such objections may be interposed and prosecuted by any other party in interest, including, for the avoidance of doubt, any Shareholder Released Party. Any objections to Avrio General Unsecured Claims, Adlon General Unsecured Claims, and Other General Unsecured Claims shall be served on the applicable Holders of such Claims and filed with the Bankruptcy Court (A) on or before one hundred eighty (180) days following the later of (i) the Effective Date and (ii) the date that a Proof of Claim is filed or amended or a Claim is otherwise asserted or amended in writing by or on behalf of the Holder of such Claim or (B) on such later date as may be fixed by the Bankruptcy Court (including upon request by a party in interest, including, for the avoidance of doubt, any Shareholder Released Party).

(iii) **Objections to Non-Participating Channeled Claims**. On or after the Effective Date, except as otherwise provided in the Plan or the applicable Creditor Trust Documents, objections to Non-Participating Channeled Claims may be interposed and prosecuted by the Master Disbursement Trust and any other party in interest, including, for the avoidance of doubt, the applicable Creditor Trustee or any Shareholder Released Party, and the Bankruptcy Court shall retain exclusive jurisdiction to the greatest extent permitted by applicable law to hear and determine such objections.

(iv) **Proceedings on Objections to Creditor Trust Channeled Claims other than in Class 4.** In connection with any objection to a Non-Participating Channeled Claim other than a Non-Participating Channeled Claim in Class 4, any judgment entered (i) as to the validity of such Claim shall constitute a binding determination that such Claim is either Allowed or Disallowed; and (ii) as to the amount of such Claim shall not be binding for purposes of Distribution, which shall instead be determined in accordance with Section 7.7(b) of the Plan and the applicable Creditor Trust Documents. The Bankruptcy Court (or any other court of competent jurisdiction in connection with such an objection) may, at its discretion,

decline to enter any judgment as to the amount of a Non-Participating Channeled Claim.

(v) **Proceedings on Objections to Creditor Trust Channeled Claims in Class 4**. In connection with any objection to a Non-Participating Channeled Claim in Class 4, any judgment entered (i) as to the validity of such Claim shall constitute a binding determination that such claim is either Allowed or Disallowed; and (ii) shall not determine the amount of such Claim for purposes of Distribution, which shall instead be determined in accordance with Section 7.7(c) of the Plan. The Bankruptcy Court (or any other court of competent jurisdiction in connection with such an objection) may, at its discretion, decline to enter any judgment as to the amount of a Non-Participating Channeled Claim.

(vi) **Omnibus Objections to Non-Participating Channeled Claims**. On or after the Effective Date, notwithstanding anything to the contrary in Bankruptcy Rule 3007, any party in interest, including, for the avoidance of doubt, the Creditor Trustee for the applicable Creditor Trust or any Shareholder Released Party, may object to more than one Non-Participating Channeled Claim consistent with the *Omnibus Claims Objection Procedures Approved in the Bankruptcy Court's Corrected Order Approving (I) Omnibus Claims Objection Procedures, (II) Omnibus Claims Settlement Procedures and (III) Omnibus Claims Hearing Procedures* [D.I. 2878] (the "**Omnibus Claims Objection Order**") as if (solely for purposes of such procedures) such party in interest were the Debtors. Any such omnibus objection shall be governed by the Omnibus Claims Hearing Procedures set forth in the Omnibus Claims Objection Order.

(vii) **Joint Hearings on Common Issues of Law or Fact**. To the extent that multiple pending objections to Non-Participating Channeled Claims in the same Class (including when brought as an omnibus objection pursuant to Section 7.3(f) of the Plan) raise common issues of law or fact, including for the avoidance of doubt issues of fact as to the Debtors' or other parties' alleged conduct, the Bankruptcy Court may, to the extent practicable and consistent with applicable law, schedule joint hearings in respect of such common issues, including joint evidentiary hearings as to issues of fact. For the avoidance of doubt, Section 7.3(g) of the Plan shall apply notwithstanding differences in the law governing Non-Participating Channeled Claims to which Section 7.3(g) of the Plan applies.

4. No Distribution Pending Allowance.

Except as otherwise expressly provided in the Plan or the PAT Agreement, if any portion of any Claim in any Class in the Plan, including any Avrio General Unsecured Claims, Adlon General Unsecured Claims, or Other General Unsecured Claims is Disputed or Non-Participating, no payment or Distribution provided under the Plan shall be made on account

of such Claim unless and until such Disputed Claim or Non-Participating Claim becomes an Allowed Claim.

5. Estimation of Claims.

Subject in all respects to Section 7.12 of the Plan, the Debtors (before the Effective Date), and the Plan Administration Trustee (on or after the Effective Date), or any party in interest (including, for the avoidance of doubt, any Shareholder Released Party) may, at any time, request that the Bankruptcy Court estimate, pursuant to section 502(c) of the Bankruptcy Code, any Disputed Avrio General Unsecured Claims, Disputed Adlon General Unsecured Claims or Disputed Other General Unsecured Claims that the Bankruptcy Court has jurisdiction to estimate in accordance with the Bankruptcy Code or other applicable law, regardless of whether an objection was previously filed with the Bankruptcy Court with respect to such Claim, or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any such Claim at any time during litigation concerning any objection to any such Claim, including during the pendency of any appeal relating to any such objection. If the Bankruptcy Court estimates such a Disputed Claim, such estimated amount shall constitute either the Allowed amount of such Claim, the amount used to determine the PAT Disputed Claims Reserves or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If such estimated amount constitutes a maximum limitation on such Claim, the Plan Administration Trustee or any party in interest (including, for the avoidance of doubt, any Shareholder Released Party) may elect to pursue any supplemental proceeding to object to any ultimate Distribution on account of such Claim.

6. Resolution of Claims.

Subject in all respects to Section 7.12 of the Plan, and except as expressly provided in the Plan, the PAT Agreement, the applicable Creditor Trust Documents, or any order entered by the Bankruptcy Court before the Effective Date, including the Confirmation Order, the MDT Trustees, the Plan Administration Trustee and each applicable Creditor Trustee shall have and retain any and all rights and defenses held by the Debtors with respect to any Claim against the Debtors as of the Petition Date, and, subject in all respects to Section 7.12 of the Plan, shall have the authority to compromise, settle, otherwise resolve or withdraw any objections to such Claims and to compromise, settle or otherwise resolve any Non-Participating Channeled Claims and other Disputed Claims without approval of the Bankruptcy Court; *provided, however*, that no Non-Participating Channeled Claim or other Disputed Claim may be resolved as contemplated in Section 7.6 of the Plan without the consent of the corresponding Creditor Trustee or Plan Administration Trustee, as applicable. Subject to the applicable Creditor Trust Documents, if the Master Disbursement Trust, the Plan Administration Trustee or the applicable Creditor Trustee, as applicable, and a Holder of a Non-Participating Channeled Claim or other Disputed Claim are unable to reach a settlement on the Non-Participating Channeled Claim or other Disputed Claim within two (2) years of the Effective Date, such Non-Participating Channeled Claim or other Disputed Claim shall be submitted to the Bankruptcy Court for resolution consistent with Article VII of the Plan. For the avoidance of doubt, nothing in Section 7.6 of the Plan shall (i) alter the processes for determining Distributions to the Holders of Allowed Channeled Claims set forth in

the Plan, any order of the Bankruptcy Court, and the applicable Creditor Trust Documents or (ii) limit the rights and obligations of the Creditor Trustees in connection with such processes.

*7. **Distribution After Allowance.***

(i) **PAT Disputed Claims Reserves**. In accordance with the PAT Agreement, on the first PAT Distribution Date following the date on which a Disputed Avrio General Unsecured Claim, Disputed Adlon General Unsecured Claim or Disputed Other General Unsecured Claim becomes an Allowed Claim, the Disbursing Agent shall remit to the respective PAT Distribution Account, for Distribution to the Holder of such Allowed Claim, the Cash or cash equivalents retained in the applicable PAT Disputed Claims Reserve in an amount equal to any amount that would have been distributed to the Holder of such Claim from the Effective Date through and including the PAT Distribution Date if such Claim had been Allowed as of the Effective Date, net of any costs and expenses, including taxes (if any), of or related to the applicable PAT Disputed Claims Reserve. Each Holder of a Disputed Avrio General Unsecured Claim, Disputed Adlon General Unsecured Claim and Disputed Other General Unsecured Claim that ultimately becomes an Allowed Claim shall have recourse only to the undistributed Cash held in the applicable PAT Disputed Claims Reserve for satisfaction of such Holders' Allowed Claim and shall have no recourse against any Protected Party or any Assets previously distributed on account of any Allowed Claim. No distribution from a PAT Disputed Claims Reserve or otherwise shall be made on account of any Disputed Claim unless such Disputed Claim is Allowed by a Final Order.

(ii) **Creditor Trust Non-Participating Claims Reserves**. With respect to the Creditor Trust Non-Participating Claims Reserves other than the Class 4 Non-Participating Claims Reserves, in accordance with the applicable Creditor Trust Documents, following the date on which a Non-Participating Channeled Claim becomes an Allowed Claim, each applicable Creditor Trust shall distribute to the Holder of such Allowed Claim the Cash or cash equivalents retained in the applicable Creditor Trust Non-Participating Claims Reserve(s) in an amount equal to any Estate Distribution amount that would have been distributed to the Holder of such Claim from the Effective Date through and including the applicable distribution date if such Claim had been Allowed as of the Effective Date pursuant to the applicable Creditor Trust TDP, net of any costs and expenses, including taxes (if any), of or related to the applicable Non-Participating Claims Reserve, and shall be entitled to receive its pro rata share of Estate Distributions as a Holder of an Allowed Claim in its applicable Class if and when such distribution is made, pursuant to the applicable Creditor Trust TDP. For the avoidance of doubt, nothing herein shall entitle the Holder of a Non-Participating Claim, regardless of Allowance, to any share of the Shareholder Direct Settlement Portion.

Each Holder of a Non-Participating Channeled Claim that ultimately becomes an Allowed Claim shall have no recourse against any Protected Party or any Assets previously distributed on account of any Allowed Claim.

(iii) **Class 4 Non-Participating Claims Reserve**. Upon the Allowance of a Non-Participating Channeled Claim in Class 4, (i) the Governmental Remediation Trust shall distribute from the Class 4 Non-Participating Claims Reserves to the holder of such Allowed Claim an amount equal to the Estate Distribution the Holder of such Claim would have received if such Claim was an Allowed Class 4 Claim on the Effective Date, less (A) any costs, expenses, and fees (including taxes, if any) of or related to the Class 4 Non-Participating Claims Reserves and (B) any costs, expenses, and fees incurred by the Governmental Remediation Trust, the Master Disbursement Trust, the Debtors, or any Released Party (to the extent not already claimed or paid to or on behalf of any Released Party out of the Direct Claim Settlement Retained Payment Amounts or the Special Operating Reserve) arising out of, in relation to, or in connection with litigating or in any way resolving any objection to that Class 4 Claim, and (ii) the Holders of such Claim shall be entitled to receive further Estate Distributions pursuant to Article VI of the Plan.

8. Disallowance of Non-Participating Channeled Claims and Other Disputed Claims.

(i) **PAT Disputed Claims Reserves.** Upon Disallowance of a Disputed Avrio General Unsecured Claim, Disputed Adlon General Unsecured Claim or Disputed Other General Unsecured Claim, in whole or in part, the Plan Administration Trustee shall (i) first, reallocate all amounts reserved for distribution on account of such Disallowed Claim or the Disallowed portion thereof (the "**Disallowed Claim Distribution**") to Holders of then Allowed and Disputed Claims in the applicable Class and (ii) second, distribute the Disallowed Claim Distribution that has been so reallocated to each Holder of an Allowed Claim in such Class and allocate to the PAT Disputed Claims Reserve for such Class, *pro rata*, in accordance with clause (i) of this sentence.

(ii) **Creditor Trust Non-Participating Claims Reserves**. Upon Disallowance of a Non-Participating Channeled Claim other than with respect to any Non-Participating Channeled Claims in Class 4: (i) any amounts held in the applicable Creditor Trust PRA Non-Participating Claims Reserve or the applicable Select Private Creditor Trust Non-Participating Claims Reserve on account of such Non-Participating Channeled Claim shall be transferred by the applicable Creditor Trustee from the applicable Creditor Trust PRA Non-Participating Claims Reserve or the applicable Select Private Creditor Trust Non-Participating Claims Reserve directly to the corresponding Released Claims Reserve and any

future Distribution that would have been funded to the applicable Creditor Trust PRA Non-Participating Claims Reserve or the applicable Select Private Creditor Trust Non-Participating Claims Reserve on account of such Non-Participating Channeled Claim shall be funded directly to the applicable Released Claims Reserve, and (ii) any amounts held in the applicable Creditor Trust Non-PRA Non-Participating Claims Reserve on account of such Non-Participating Channeled Claim shall be released to the applicable Creditor Trust for distribution pursuant to the applicable Creditor Trust Documents.

(iii) **Class 4 Non-Participating Claims Reserve.** In the event a Non-Participating Channeled Claim in Class 4 is Disallowed: (i) the amount reserved on account of such Claim in the Class 4 PRA Non-Participating Claims Reserve shall be released to the corresponding Released Claims Reserve, and any future Distribution that would have been funded to the Class 4 PRA Non-Participating Claims Reserve on account of such Non-Participating Non-Federal Domestic Governmental Channeled Claim shall be funded directly to the Released Claim Reserve established in the Governmental Remediation Trust, and (ii) the amount reserved on account of such Claim in the Class 4 Non-PRA Non-Participating Claims Reserve shall be released to the Governmental Remediation Trust for distribution pursuant to the Governmental Remediation Trust Documents.

(iv) **Released Claims Reserves**. All amounts funded to the Released Claims Reserves in accordance with Section 7.8 of the Plan shall be administered in accordance with the terms of the Master Shareholder Settlement Agreement, including Article 5 and Exhibit N.

9. Allowance of Non-Participating Channeled Claims

(i) If no objection is affirmatively raised to the Allowance of a Non-Participating Channeled Claim (other than a Non-Participating Channeled Claim in Classes 10(a) or 10(b)) within two (2) years of the Effective Date, such claim shall be deemed Allowed and the holder thereof shall be entitled to the Estate Distribution allocated to such Channeled Claim under the applicable TDP. If no objection is affirmatively raised to the Allowance of a Non-Participating Channeled Claim in Classes 10(a) or 10(b) within eighteen (18) months of the Effective Date, such claim shall be deemed Allowed and the holder thereof shall be entitled to the Estate Distribution allocated to such Channeled Claim (if any) under the applicable TDP. Notwithstanding the foregoing, (i) any Allowance pursuant to Section 7.9(a) of the Plan shall not constitute a determination as to the merits of such Non-Participating Channeled Claim and shall not be used as a basis to assert the merits of such Non-Participating Channeled Claim in any forum, and (ii) any Non-Participating Channeled Claim that is Allowed (pursuant to Section

7.9 of the Plan or otherwise) shall still be subject to, and shall only receive a distribution pursuant to, the applicable TDP.

(ii) For the purposes of Allowance of any Non-Participating Channeled Claim that is not otherwise Disallowed in accordance with the Plan, such Channeled Claim shall be deemed an Allowed Claim (i) pursuant to a settlement or other resolution in accordance with Section 7.6 of the Plan, (ii) pursuant to Section 7.9(a) of the Plan, or (iii) upon entry of a Final Order finding that such Holder has a valid, compensable Channeled Claim, regardless of the allowed amount of such Channeled Claim (and, for the avoidance of doubt, such Holder shall not be required to litigate the allowed amount of its Allowed Claim). Other than as expressly contemplated by the applicable trust distribution procedures, any judgment entered as to the amount of a Non-Participating Channeled Claim shall not be binding for purposes of Distribution, which shall instead be determined in accordance with Sections 7.7(b) and (c) of the Plan. The Bankruptcy Court (or any other court of competent jurisdiction in connection with such an objection) may, at its discretion, decline to enter any judgment as to the amount of a Non-Participating Channeled Claim.

10. Claims Resolution Procedures Cumulative

All of the objection, estimation, settlement and resolution procedures set forth in the Plan with respect to Claims against the Debtors are intended to be cumulative and not exclusive of one another. Claims against the Debtors may be established and subsequently settled, compromised, withdrawn or resolved in accordance with the Plan by any mechanism approved by the Bankruptcy Court.

11. No Postpetition Interest or Penalties on Non-Participating Channeled Claims and other Disputed Claims

Unless otherwise specifically provided for in the Plan or the Confirmation Order or required by applicable bankruptcy law, no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date or to any penalties on any Claim. Interest and penalties shall not accrue or be paid upon any Non-Participating Channeled Claim or other Disputed Claim with respect to the period from the Effective Date to the date a Distribution is made thereon, or on and after such Non-Participating Channeled Claim or other Disputed Claim becomes an Allowed Claim.

12. Shareholder Rights Regarding Settlement and Estimation of Claims

In consideration of certain compromises made under the Shareholder Settlements, notwithstanding anything to the contrary contained in the Plan, the Confirmation Order, or the other Plan Documents, neither the Debtors, the reorganized Debtors, the Estates, the Plan Administration Trust, the Plan Administration Trustee, any of the Creditor Trusts, any of the Creditor Trustees, nor any representative or successor of any of the foregoing shall be permitted to settle or seek to estimate any Non-Participating Channeled Claim or other Disputed Claim

absent the express written consent of the Sackler Parties' Representative, not to be unreasonably withheld, solely to the extent that such settlement or estimation of any such Non-Participating Channeled Claim or other Disputed Claim could be reasonably expected to adversely impact any Shareholder Released Party's defense against or resolution of any claims or Causes of Action asserted or potentially asserted against any Shareholder Released Party that would have been released pursuant to the Shareholder Direct Claims Release had the Persons asserting or potentially asserting such claims or Causes of Action been Settling Creditors (including because admissions of fact or showings of evidentiary support requisite to effectuation of such settlement or estimation could adversely impact the legal defenses of any Shareholder Released Party); *provided* that no such consent shall be required to the extent that (a) such settlement or estimation of such Non-Participating Channeled Claim or other Disputed Claim is sought in an amount not exceeding $1,000,000, (b) such settlement or estimation of such Non-Participating Channeled Claim or other Disputed Claim would include no non-monetary conditions on the part of any Debtor, any reorganized Debtor, any Estate, the Plan Administration Trust, the Plan Administration Trustee, any Creditor Trust, any Creditor Trustee, or any representative or successor of any of the foregoing, and (c) the total aggregate amount of Non-Participating Channeled Claims or other Disputed Claims or formerly Non-Participating Channeled Claims or other Disputed Claims that have been settled or estimated do not exceed $10,000,000. Whether or not the Debtors, the reorganized Debtors, the Estates, the Plan Administration Trust, the Plan Administration Trustee, any of the Creditor Trusts, any of the Creditor Trustees, or any representative or successor of any of the foregoing settles or estimates (or seeks to settle or estimate) any Non-Participating Channeled Claim or other Disputed Claim, in no event shall any Shareholder Released Parties be considered the privies of any of the foregoing for purposes of preclusion principles or otherwise. For the avoidance of doubt, nothing in Section 7.12 of the Plan gives, or is intended to give, any party any consent rights over any determinations made by any Creditor Trustee with regard to the appropriate amount that any Holder of an Allowed Claim is entitled to receive from the applicable Creditor Trust TDP.

G. Executory Contracts and Unexpired Leases.

1. Assumption and Rejection of Executory Contracts and Unexpired Leases

(i) As of and subject to the occurrence of the Effective Date, all executory contracts and unexpired leases to which any Debtor is a party, subject to the terms of Section 8.4 of the Plan, shall be deemed assumed by the applicable Debtor and, except with respect to any contract or lease held by a Transferred Debtor, assigned to NewCo or its designee, except for any executory contract or unexpired lease that (i) has previously been assumed or rejected pursuant to a Final Order of the Bankruptcy Court, (ii) is specifically identified on the Schedule of Rejected Contracts, (iii) is the subject of a separate assumption or rejection motion filed by the Debtors under section 365 of the Bankruptcy Code pending on the Confirmation Date, (iv) is the subject of a pending Contract Dispute or (v) is being otherwise treated pursuant to the Plan. The Debtors reserve the right to modify the treatment of any particular executory contract or unexpired lease pursuant to the Plan with the reasonable consent to the Governmental Consent Parties. Furthermore, notwithstanding anything to

the contrary in the Plan, the Debtors may alter, amend, modify or supplement the Schedule of Rejected Contracts and assume, assume and assign or reject executory contracts and unexpired leases at any time prior to the Effective Date or, with respect to any executory contract or unexpired lease subject to a Contract Dispute that is resolved after the Effective Date, within thirty (30) days following entry of a Final Order of the Bankruptcy Court resolving such Contract Dispute.

(ii) Subject to the occurrence of the Effective Date, the payment of any applicable Cure Amount and the resolution of any Contract Dispute, the entry of the Confirmation Order shall constitute approval of the rejections, assumptions and assumptions and assignments provided for in the Plan pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Unless otherwise indicated in the Plan or provided in a separate order of the Bankruptcy Court, rejections, assumptions and assumptions and assignments of executory contracts and unexpired leases pursuant to the Solicitation Procedures Order and the Plan are effective as of the Effective Date. Each executory contract and unexpired lease assumed pursuant to the Plan or by order of the Bankruptcy Court shall vest in and be fully enforceable by the applicable Debtor or NewCo, in each case in accordance with its terms, except as modified by the provisions of the Plan, any order of the Bankruptcy Court authorizing and providing for its assumption, or applicable law.

(iii) Unless otherwise provided in the Plan (including Section 8.4 of the Plan) or by separate order of the Bankruptcy Court, each executory contract or unexpired lease that is assumed or assumed and assigned shall include any and all modifications, amendments, supplements, restatements or other agreements made directly or indirectly by any agreement, instrument or other document that in any manner affects such executory contract or unexpired lease, without regard to whether such agreement, instrument or other document is listed in an Assumption Notice.

(iv) Except as otherwise expressly set forth on an Assumption Notice, any contracts, engagement letters, retention agreements, and similar arrangements, in each case between the Debtors and any attorneys, accountants, financial advisors, investment bankers or similar professionals, representatives or advisors, shall not be treated under the Plan as executory contracts subject to assumption, assumption and assignment, or rejection. Counterparties to any such contracts, engagement letters, retention agreements and similar arrangements were required to file Proofs of Claim by the General Bar Date, and any Allowed Claims relating thereto shall be treated as Other General Unsecured Claims or Co-Defendant Claims, as applicable.

2. Determination of Contract Disputes and Deemed Consent

(i) The Debtors shall serve Assumption Notices in accordance with the Solicitation Procedures Order. If a counterparty to an executory contract or unexpired lease receives an Assumption Notice, but such executory contract or unexpired lease is not listed therein, the proposed Cure Amount for such executory contract or unexpired lease shall be deemed to be zero dollars ($0).

(ii) Any counterparty to an executory contract or unexpired lease shall have the time prescribed in the Solicitation Procedures Order to object to (i) the Cure Amount identified on the Assumption Notice, (ii) adequate assurance of future performance by the applicable Debtor, NewCo or its assignee (within the meaning of section 365 of the Bankruptcy Code) and (iii) any other matter pertaining to assumption or assumption and assignment of such executory contract or unexpired lease on the terms set forth in the Plan and such Assumption Notice.

(iii) To the extent a Contract Dispute is asserted in an objection filed in accordance with the procedures set forth in the Assumption Notice, such Contract Dispute shall be heard by the Bankruptcy Court at the Confirmation Hearing. Following resolution of a Contract Dispute by Final Order of the Bankruptcy Court, the applicable executory contract or unexpired lease shall be deemed assumed or assumed and assigned effective as of the Effective Date, subject to the Debtors' right to reject such executory contract or unexpired lease at any time prior to the Effective Date or, if any Contract Dispute is resolved after the Effective Date, within thirty (30) days following entry of such Final Order of the Bankruptcy Court resolving the applicable Contract Dispute.

(iv) To the extent a Contract Dispute has not been resolved prior to the Effective Date, the Debtors shall establish the Disputed Cure Claims Reserve. Any amounts in the Disputed Cure Claims Reserve remaining after the resolution of all Disputed Cure Claims and the payment of all Cure Amounts with respect to Allowed Cure Claims for contracts and leases to be assumed or assumed and assigned shall be applied in accordance with Section 5.14(c) of the Plan.

(v) To the extent an objection is not timely filed and properly served on the Debtors with respect to a Contract Dispute, then the counterparty to the applicable contract or lease shall be deemed to have assented to (i) the Cure Amount proposed by the Debtors and (ii) the assumption or assumption and assignment of such contract or lease on the terms set forth in the Plan and the Assumption Notice, notwithstanding any provision of the applicable contract or lease that (A) prohibits, restricts or conditions the transfer or assignment of such contract or lease or (B) terminates or permits the termination of such contract or lease as a result of any direct or

indirect transfer or assignment of the rights of the Debtors under such contract or lease or a change in the ownership or control as contemplated by the Plan, and shall forever be barred and enjoined from asserting such objection against the Debtors or terminating or modifying such contract or lease on account of transactions contemplated by the Plan.

(vi) With respect to payment of any Cure Amounts or resolution of Contract Disputes, none of the Debtors, the Plan Administration Trustee, NewCo or any Transferred Debtor shall have any obligation to recognize or deal with any party other than the non-Debtor party to the applicable executory contract or unexpired lease, even if such non-Debtor party has sold, assigned or otherwise transferred its Cure Claim.

3. Payments Related to Assumption of Contracts and Leases

(i) Subject to resolution of any Contract Dispute, any Cure Claim shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Plan Administration Trust from the Priority Claims Reserve or the Disputed Cure Claims Reserve, as applicable, or NewCo in the ordinary course of business upon assumption thereof.

(ii) Assumption or assumption and assignment of any executory contract or unexpired lease pursuant to the Plan, or otherwise, shall result in the full release and satisfaction of any Claims or defaults, subject to satisfaction of the Cure Amount, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed executory contract or unexpired lease at any time before the effective date of assumption or assumption and assignment. Any Proofs of Claim filed with respect to an executory contract or unexpired lease that has been assumed shall be deemed Disallowed and expunged, without further notice, or action, order or approval of the Bankruptcy Court or any other Person.

4. Co-Defendant Contracts

Except as otherwise provided in the Plan or agreed by any counterparty and the Debtors (with the consent (not to be unreasonably withheld, conditioned or delayed) of the Governmental Consent Parties, and after consultation with the Creditors' Committee), the assumption of any contract or lease under the Plan shall (a) release any Causes of Action on account of any and all terms or provisions of such contract or lease solely to the extent such terms or provisions create an obligation of any party thereto (or any assignee thereof), or give rise to a right in favor of any non-Debtor under any MDT Insurance Policy or any other insurance policy of any Protected Party, for the indemnification or reimbursement of any Person for costs, losses, damages, fees, expenses or any other amounts whatsoever relating to or arising from any actual or potential opioid-related litigation or dispute, whether accrued or unaccrued, asserted or unasserted, existing or hereinafter arising, based on or relating to, or in any manner arising from, in whole or

in part, Opioid-Related Activities or other conduct occurring prior to the Effective Date; and (b) constitute a release by each party of each other counterparty (and any assignee thereof or successor thereto) and by each non-Debtor party of all Insurance Companies, in each case, from any and all Causes of Action and other rights of recovery arising under or relating to such indemnification and reimbursement rights to the extent relating to any conduct occurring prior to the Effective Date, and an agreement by each non-Debtor counterparty to release any and all Co-Defendant Claims held by such party and to channel, in accordance with the Channeling Injunction, all Channeled Claims arising under or relating to such contract, including any such Claims that might otherwise be elevated to administrative status through assumption of such contract or lease. On the Effective Date, (x) all Co-Defendant Claims arising under or related to any such assumed or assumed and assigned contract or lease shall be released and discharged with no consideration on account thereof, and all Proofs of Claim in respect thereof shall be deemed expunged, without further notice, or action, order or approval of the Bankruptcy Court or any other Person and (y) all Channeled Claims arising under or related to any such assumed or assumed and assigned contract or lease shall be channeled in accordance with the Channeling Injunction. For the avoidance of doubt, unless otherwise agreed by the counterparty to any assumed or assumed and assigned contract or lease, the foregoing shall not release or otherwise modify any term or provision of such contract or lease to the extent of any indemnification or reimbursement rights (i) accruing after the Effective Date for conduct occurring after the Effective Date, (ii) for any amounts, if any, due to a Co-Defendant as a result of the New York Opioid Stewardship Act (2018 N.Y. Sess. Laws, ch. 57, pt. NN 7 (codified at N.Y. Pub. Health Law § 3323 and N.Y. State Fin. Law § 97-aaaaa)) or (iii) for any Co-Defendant Surviving Pre-Effective Date Claim. Notwithstanding the release, satisfaction, expungement and extinguishment of Co-Defendant Claims, a Co-Defendant retains its Co-Defendant Defensive Rights, which include the ability to recover from Persons that are not Protected Parties or from any insurance policies that are not Purdue Insurance Policies or other insurance policies of Protected Parties. The counterparty to such contract or lease and all other applicable Persons shall be bound by the terms set forth in Section 8.4 of the Plan.

5. Rejection Claims

In the event that the rejection of an executory contract or unexpired lease by any of the Debtors in the Plan results in damages to the other party or parties to such contract or lease, any Claim for such damages shall be forever barred and shall not be enforceable against the Debtors or their Estates, properties or interests in property, unless a Proof of Claim is filed with the Bankruptcy Court and served upon the Debtors no later than thirty (30) days after the entry of the order of the Bankruptcy Court (including the Confirmation Order) authorizing the rejection of such executory contract or unexpired lease. Any such Claim shall be classified in accordance with the classification of Claims set forth in Article III of the Plan, including that any such Claims that constitute Co-Defendant Claims shall be classified as such. The Confirmation Order shall constitute the Bankruptcy Court's authorization of the rejection of all the leases and contracts identified in the Schedule of Rejected Contracts.

6. Compensation and Benefit Plans

Except with respect to any Benefit Plans for which the Debtors have received approval of the Bankruptcy Court to reject or terminate on or before the Effective Date or that are subject to

a pending motion to reject or terminate as of the Confirmation Hearing, all Benefit Plans shall be deemed to be, and shall be treated as, executory contracts under the Plan pursuant to sections 365 and 1123 of the Bankruptcy Code and shall be assumed by applicable Debtors and, unless held by a Transferred Debtor, assigned to NewCo (or one of its Subsidiaries).

7. Purdue Pension Plan

The Purdue Pension Plan has approximately 3,200 participants. PPLP is the contributing sponsor of the Purdue Pension Plan. The Debtors that are members of the contributing sponsor's controlled-group within the meaning of 29 U.S.C. §§ 1301(a)(13), (14) are jointly and severally liable with respect to the Purdue Pension Plan. Further, any non-debtor members of the contributing sponsor's controlled-group are also jointly and severally liable with respect to the Purdue Pension Plan.

On or prior to the Effective Date, the Debtors shall have commenced a standard termination of the Purdue Pension Plan pursuant to 29 U.S.C. § 1341 and any standard termination costs, other liabilities, or obligations remaining thereunder as of the Effective Date shall be assumed and payable by NewCo.

NewCo or its wholly owned subsidiary will assume the Purdue Pension Plan to the extent the standard termination and PBGC audit, pursuant to 29 U.S.C. § 1303, has not been completed for the Purdue Pension Plan prior to the Effective Date. Specifically, upon the Effective Date, NewCo or its wholly owned subsidiary shall be deemed to have assumed the Purdue Pension Plan (to the extent the standard termination and PBGC audit has not been completed prior to the Effective Date) and all liabilities and assets thereunder and shall comply with all applicable statutory provisions of ERISA and the IRC, including, but not limited to, satisfying the minimum funding standards pursuant to 26 U.S.C. §§ 412, 430, and 29 U.S.C. §§1082, 1083; paying the PBGC premiums in accordance with 29 U.S.C. §§ 1306 and 1307; administering the Purdue Pension Plan in accordance with its terms and the provisions of ERISA and the IRC, and completing the standard termination under 29 U.S.C. § 1341 (and NewCo reserves all rights thereunder).

Notwithstanding any provision in the Plan to the contrary, no provision contained in the Plan, the Confirmation Order, the Bankruptcy Code (including section 1141 thereof), or any other document filed in the Debtors' bankruptcy cases shall be construed as discharging, releasing, exculpating or relieving any Person (other than the Liquidating Debtors) from any fiduciary duties or liabilities under Title I of ERISA with respect to the Purdue Pension Plan. PBGC and the Purdue Pension Plan shall not be enjoined or precluded from enforcing such fiduciary duties or liabilities under Title I of ERISA as a result of any of the provisions of the Plan, the Confirmation Order, the Bankruptcy Code or any other document filed in the Debtors' bankruptcy cases. The PBGC and the Debtors agree that all Proofs of Claim filed by the PBGC shall be deemed to be withdrawn, with prejudice, as of the Effective Date.

8. Insurance Policies

Notwithstanding anything to the contrary in the Plan, the Plan Documents, the Disclosure Statement or the Confirmation Order:

(i) nothing in the Plan, the Plan Documents, the Disclosure Statement or the Confirmation Order shall terminate or otherwise reduce the coverage under any D&O Insurance Policy with respect to conduct occurring on or prior to the Effective Date, and, after the Effective Date, all directors, officers, managers, authorized agents and employees of the Debtors who served in such capacity at any time prior to the Effective Date shall be entitled to the full benefits of any applicable D&O Insurance Policy for the full term of such policy, including but not limited to any extension of coverage after the end of such policy period if an extended reporting period has been purchased, in accordance with the terms thereof, subject to (i) any release or assignment of rights by certain Shareholder Released Parties pursuant to the Shareholder Settlements and (ii) with respect to D&O Insurance Policies that are MDT Insurance Policies, the provisions of paragraph (b) of Section 8.8 of the Plan.

(ii) after the Effective Date, in consideration of the Estate Releases and Shareholder Releases in favor of each Released Party and Shareholder Released Party that is an individual insured under any MDT Insurance Policy:

(1) each such Released Party or Shareholder Released Party (A) will fully cooperate with the Master Disbursement Trust in connection with the settlement of claims or rights under such MDT Insurance Policy, including but not limited to as set forth in Section 8.8(b)(i) of the Plan, and (B) shall be deemed to consent to the release of any claims or rights held by such Released Party or Shareholder Released Party against and under such MDT Insurance Policy in the event that the Master Disbursement Trust has otherwise obtained settlement terms that it deems acceptable in its sole discretion with the same effect as if such Released Party or Shareholder Released Party had executed such settlement agreement, and without further consideration to such Released Party or Shareholder Released Party from the insurance settlement proceeds or otherwise in respect of such settlement;

(2) no such Released Party or Shareholder Released Party (other than a Sackler Family Member) that was a director, officer, manager, authorized agent or employee of the Debtors who served in such capacity at any time prior to the Petition Date shall be entitled to submit a claim under any MDT Insurance Policy for anything other than reimbursement of attorneys' fees and related expenses incurred in connection with such individual's cooperation with, or in connection with the defense of such individual with respect to, any investigation, prosecution and/or litigation involving conduct relating to the Debtors or the Debtors' business or property or any defense of the Releases or the Channeling Injunction; and

(3) no such Shareholder Released Party (other than a current or former director, officer, manager, authorized agent or employee that is not a Sackler Family Member, each of whom is subject to paragraph (ii) of Section 8.8(b) of the Plan) shall be entitled to submit a claim under any MDT Insurance Policy other than in accordance with the Shareholder Settlements.

(iii) on and after the Effective Date, all Purdue Insurance Policies (other than the MDT Insurance Policies) shall be deemed to be, and shall be treated as, executory contracts under the Plan, and shall be assumed pursuant to sections 105 and 365 of the Bankruptcy Code by the applicable Debtor, and such Purdue Insurance Policies shall vest, and/or the Purdue Insurance Rights (other than the MDT Insurance Rights) associated therewith shall vest, as applicable, in NewCo, the applicable Transferred Debtor or the Plan Administration Trust, as applicable, in accordance with the NewCo Transfer Agreement and the PAT Agreement and continue in full force and effect in accordance with their respective terms such that the applicable recipients of the Purdue Insurance Policies (other than the MDT Insurance Policies) and the Purdue Insurance Rights (other than the MDT Insurance Rights) shall become and remain liable in full for and shall satisfy, to the extent required under applicable law, any prospective premiums, deductibles, self-insured retentions and any other amounts or obligations arising in any way out of the receipt of payment from an Insurance Company in respect of the Purdue Insurance Policies (other than the MDT Insurance Policies); and

(iv) solely with respect to Purdue Insurance Policies that are not MDT Insurance Policies, the automatic stay of section 362(a) of the Bankruptcy Code and the injunctions set forth in the Plan, if and to the extent applicable, shall be deemed lifted without further order of this Bankruptcy Court, solely to permit (i) claimants with valid workers' compensation claims or direct action claims against Insurance Companies under applicable non-bankruptcy law to proceed with their claims; and (ii) Insurance Companies to administer, handle, defend, settle and/or pay, in the ordinary course of business and without further order of this Bankruptcy Court, (A) workers' compensation claims, (B) claims where a claimant asserts a direct claim against an Insurance Company under applicable non-bankruptcy law, or an order has been entered by this Bankruptcy Court granting a claimant relief from the automatic stay or the injunctions set forth in the Plan to proceed with its claim, and (C) all costs in relation to each of the foregoing.

9. Reservation of Rights

(i) Neither the exclusion nor the inclusion by the Debtors of any contract or lease on any exhibit, schedule or other annex to the Plan or in the Plan Supplement, nor anything contained in the Plan, shall constitute an

admission by the Debtors that any such contract or lease is or is not an executory contract or unexpired lease or that the Debtors have any liability thereunder.

(ii) Except as explicitly provided in the Plan, nothing in the Plan shall waive, excuse, limit, diminish or otherwise alter any of the Estate Causes of Action under any executory or non-executory contract or unexpired lease.

(iii) Nothing in the Plan shall increase, augment or add to any of the duties, obligations, responsibilities or liabilities of the Debtors under any executory or non-executory contract or unexpired or expired lease, including the Purdue Insurance Policies.

(iv) If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of its assumption under the Plan, the Debtors shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease.

H. Conditions Precedent to the Occurrence of the Effective Date

1. Conditions Precedent to Effective Date

The Effective Date shall not occur unless all of the following conditions precedent have been satisfied:

(i) the Confirmation Order shall have been entered by the Bankruptcy Court, and shall not be subject to any stay and shall not have been modified or vacated on appeal;

(ii) the Plan Documents shall have been approved of or accepted by all applicable Persons in accordance with the respective consent rights under the Plan, and shall have been filed, executed and delivered, as applicable, and the conditions precedent contained therein shall have been satisfied or waived in accordance with the terms thereof, except with respect to such conditions that by their terms shall be satisfied substantially simultaneously with or after consummation of the Plan;

(iii) the DOJ Resolution (including, for the avoidance of doubt, the entry of a judgment of conviction in strict accordance with the Plea Agreement and the payment in full of the DOJ Forfeiture Payment) shall have been consummated or will be consummated substantially simultaneously with consummation of the Plan;

(iv) the NewCo Operating Agreement shall have been executed and shall be in compliance with the DOJ Resolution, the NewCo Transferred Assets shall have vested in NewCo (or one or more of its Subsidiaries) in accordance

with the NewCo Transfer Agreement and the NewCo Managers shall have been appointed;

(v) the MDT Agreement shall have been executed, the MDT Transferred Assets shall have vested, or will vest simultaneously with the consummation of the Plan, in the Master Disbursement Trust in accordance therewith and the MDT Trustees shall have been appointed;

(vi) the Creditor Trust Documents shall have been executed and the Creditor Trustees shall have been appointed;

(vii) the Public Entity Settlements other than the Public School District Shareholder Direct Settlement shall have been consummated or will be consummated substantially simultaneously with consummation of the Plan, including (i) the payment in full of the Initial Public Creditor Trust Distributions and (ii) the issuance of the MDT Interests to the Public Creditor Trusts;

(viii) the Foundation Bylaws shall have been adopted, the Foundation Trustees shall have been appointed and the NewCo Interest shall have been issued, or will be issued simultaneously with consummation of the Plan to the Foundation;

(ix) the Private Entity Settlements other than the Opt-Out Class Action Settlements shall have been consummated or will be consummated substantially simultaneously with consummation of the Plan, including: (i) with respect to the Creditor Trusts that are not the subject of Opt-Out Class Actions, the payment in full of the Initial Private Creditor Trust Distributions to such Creditor Trusts, (ii) the issuance of the MDT Claims (in the case of Creditor Trusts that are the subject of Opt-Out Class Actions, to the extent that the applicable Opt-Out Class Action Settlement has been consummated) and (iii) the execution of any Plan Documents required to be executed in connection with the foregoing;

(x) with respect to the Creditor Trusts that are the subject of Opt-Out Class Actions, payment in full of the Initial Private Creditor Trust Distributions to such Creditor Trusts, or, to the extent that the applicable Opt-Out Class Action Settlement has not been consummated, the placement of the Shareholder Direct Settlement Portion of the Initial Private Creditor Trust Distributions for such Creditor Trusts into the applicable Class Action Escrow Account;

(xi) each Shareholder Settlement Agreement other than the Opt-Out Class Action Settlements shall have been executed and all amounts required to be paid thereunder on the Effective Date shall have been received, and all of the conditions precedent to the effectiveness of each Shareholder Settlement Agreement other than the Opt-Out Class Action Settlements

shall have been satisfied or waived in accordance with the terms of such Shareholder Settlement Agreement;

(xii) the Ratepayer Mediation Participants Stipulation shall have been approved by a Final Order of the Bankruptcy Court;

(xiii) the PAT Agreement shall have been executed, the PAT Assets shall have vested, or will vest simultaneously with the consummation of the Plan, in the Plan Administration Trust in accordance therewith and the Plan Administration Trustee shall have been appointed;

(xiv) each of the PAT Reserves, the Claims Reserves, the Professional Fee Escrow Account the Special Operating Reserve and the PAT Distribution Accounts shall have been fully funded, or will be funded simultaneously with the consummation of the Plan, and each of the other payments and Distributions of Effective Date Cash described in Sections 5.14(a) and (b) of the Plan shall have been made or will be made substantially simultaneously with consummation of the Plan;

(xv) the Debtors shall have obtained all authorizations, consents, regulatory approvals, rulings and documents that are necessary to implement and effectuate the Plan;

(xvi) all Professional Fee Claims shall have been paid in full or amounts sufficient to pay such Claims after the Effective Date shall have been placed in the Professional Fee Escrow Account, or shall be otherwise contained in a professional fee retainer, pending approval by the Bankruptcy Court;

(xvii) the Debtors shall have implemented the Restructuring Transactions, or shall implement the Restructuring Transactions simultaneously with the consummation of the Plan, in a manner consistent in all material respects with the Plan;

(xviii) the Bankruptcy Court shall have confirmed that the Bankruptcy Code authorizes the transfer and vesting of the MDT Transferred Assets, notwithstanding any terms of the Purdue Insurance Policies or provisions of non-bankruptcy law that any Insurance Company may otherwise argue prohibits such transfer and vesting;

(xix) the DOB shall have been appointed in accordance with Section 5.13(c) of the Plan;

(xx) all Liens granted as contemplated by the Plan and any documents included in the Plan Supplement shall have been approved by the Bankruptcy Court;

(xxi) the Debtors shall have Effective Date Cash sufficient to pay the effective date fixed payments as provided in Section 5.14(a) of the Plan in full in cash; and

(xxii) all other actions, documents and agreements necessary to implement and effectuate the Plan shall have been effected or executed.

2. Waiver of Conditions Precedent

Each of the conditions precedent to the occurrence of the Effective Date (other than the condition precedent set forth in Section 9.1(i) of the Plan) may be waived by the Debtors; provided that (a) with respect to any condition precedent, the waiver of which would materially and adversely affect the entitlements of any Class of Claims (or any Creditor Trust to which such Claims shall be channeled) represented by any of the Supporting Claimants, the waiver of such condition precedent shall also require the consent (not to be unreasonably withheld, conditioned or delayed) of the applicable Supporting Claimants representing such materially and adversely affected Class of Claims, it being understood that the waiver of the condition precedent set forth in Section 9.1(i) of the Plan materially and adversely affects the Class of Claims and the Creditor Trust entitled to the applicable Initial Private Creditor Trust Distribution and/or MDT Claim, (b) the waiver of the conditions precedent set forth in Sections 9.1(a), (b) (solely with respect to any Plan Document over which the Creditors' Committee has a consent right set forth in the Plan), (e), (f), (i), (j), (k), (l), (m), (n), (p) (solely with respect to Professional Fee Claims by Professional Persons retained by the Creditors' Committee), (q), (r), (s), and (u) of the Plan shall also require the consent of the Creditors' Committee (which consent shall not be unreasonably withheld, delayed or conditioned), (c) the waiver of the conditions precedent set forth in Sections 9.1(a), (b) (solely with respect to any Plan Document over which the Governmental Consent Parties have a consent right set forth in the Plan), (d), (e), (f), (g), (i), (n), (q), (r), (s), and (u) of the Plan shall also require the consent of the Governmental Consent Parties (which consent shall not be unreasonably withheld, delayed or conditioned) and (d) the waiver of the conditions precedent set forth in Sections 9.1(a), (b) (solely with respect to any Plan Document over which the Sackler Parties' Representative has a consent right set forth in the Master Shareholder Settlement Agreement), (e), (g), (i), (j), (k), (m), (n) and (q) of the Plan shall also require the consent of the Sackler Parties' Representative (which consent shall not be unreasonably withheld, delayed or conditioned).

3. Frustration of Conditions Precedent

Notwithstanding anything to the contrary in the Plan, if the failure to satisfy any condition precedent to the Effective Date set forth in Section 9.1 of the Plan was primarily caused by the action of any party (or such party's failure to act), then (i) such party's consent shall not be required for the Debtors' waiver of such condition and (ii) such party shall not be entitled to prevent or delay the Effective Date by asserting that such condition has not been satisfied.

I. Effect of Confirmation

1. Binding Effect

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, and subject to the occurrence of the Effective Date, on and after the entry of the Confirmation Order, the provisions of the Plan and the Plan Documents shall bind every Holder of a Claim against or Interest in any Debtor and every Holder of a Channeled Claim and inure to the benefit of, and be binding on, any such Holder's respective successors and assigns, regardless of whether any Claim or Interest of such Holder is Impaired under the Plan or whether such Holder has accepted the Plan.

2. Discharge of Claims against and Interests in the Debtors

Upon the Effective Date and in consideration of the Distributions to be made under the Plan, except as otherwise provided in the Plan or in the Confirmation Order, each Holder (as well as any trustee or agent on behalf of such Holder) of a Claim or Interest and any successor, assign and affiliate of such Holder shall be deemed to have forever waived, released and discharged the Debtors (other than the Liquidating Debtors), to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Interests, rights and liabilities that arose prior to the Effective Date. Except as otherwise provided in the Plan, upon the Effective Date, all such Holders of Claims against or Interests in the Debtors, and their successors, assigns and affiliates, shall be forever precluded and enjoined, pursuant to sections 105, 524 and 1141 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against, or terminated Interest in, any Debtor. Pursuant to section 1141(d)(3) of the Bankruptcy Code, confirmation of the Plan will not discharge the Liquidating Debtors; *provided* that, upon confirmation of the Plan and the occurrence of the Effective Date, Holders of Claims against and Interests in the Debtors may not seek or receive any payment or other Distribution from, or seek recourse against, the Debtors or their Estates or, to the extent set forth in the Plan, any other Protected Party, except as expressly provided in the Plan. The Co-Defendant Defensive Rights shall not be waived, released or discharged and all Co-Defendant Defensive Rights are preserved, as provided in Section 10.18 of the Plan.

3. Pre-Confirmation Injunctions, Stays, Stipulations and Discovery Orders

(i) Unless otherwise provided in the Plan, all injunctions and stays arising under or entered during the Chapter 11 Cases, whether under section 105 or 362 of the Bankruptcy Code or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

(ii) Notwithstanding paragraph (a) of Section 10.3 of the Plan, on the Effective Date, without further action by or order of the Bankruptcy Court:

(1) any and all obligations of the Shareholder Released Parties arising under the Case Stipulation shall terminate and the Case Stipulation shall be withdrawn, vacated and superseded by the Confirmation

Order solely with respect to paragraphs 15, 17, 19, 22 and 25 of the Case Stipulation, and solely as such paragraphs apply to any Shareholder Released Party; provided that, for the avoidance of doubt, the terms of such paragraphs shall continue in full force and effect with respect to all other parties (if applicable), and all other provisions of the Case Stipulation shall remain in full force and effect, in each case, unless otherwise provided by the Plan;

(2) any and all obligations of any Shareholder Released Party arising under paragraph I of the voluntary injunction set forth in Appendix I to the Preliminary Injunction (and any predecessors or successors of the Preliminary Injunction) shall terminate, and the Preliminary Injunction shall be withdrawn, vacated and superseded by the Confirmation Order solely with respect to paragraph I of the voluntary injunction set forth in Appendix I; provided that, for the avoidance of doubt, all other provisions of the Preliminary Injunction shall remain in full force and effect, unless otherwise provided by the Plan; and

(3) any and all obligations of any Person arising under any subpoenas issued pursuant to any of Order Pursuant to Federal Rules of Bankruptcy Procedure 2004 and 9016 Authorizing Examination of Third Parties [D.I. 992] (as amended by the Amended Order Pursuant to Federal Rules of Bankruptcy Procedure 2004 and 9016 Authorizing Examination of Third Parties [D.I. 1008]), the Order Pursuant to Rules 2004 and 9016 of the Federal Rules of Bankruptcy Procedure Authorizing Examinations of Certain Financial Institutions [D.I. 1143], the Order Pursuant to Federal Rules of Bankruptcy Procedure 2004 and 9016 Authorizing Examinations of and Document Production by Third Parties [D.I. 1340] and the Order Pursuant to Federal Rules of Bankruptcy Procedure 2004 and 9016 Authorizing Examination of Certain Former Debtor Executives, Separately Represented Debtor Personnel, and Norton Rose Fulbright Pursuant to Federal Rules of Bankruptcy Procedure 2004 and 9006 [D.I. 1788] shall terminate.

(iii) Any and all information shared or produced by any Shareholder Released Party pursuant to the agreements or orders referenced in the foregoing paragraph (b) of Section 10.3 of the Plan, including any such information also shared with Persons not party to the Case Stipulation shall remain subject to the confidentiality terms under which it was shared, including any information that was designated under the Protective Order (or confidentiality agreement that was superseded by the Protective Order), which such information shall remain confidential under the terms of the Protective Order unless such information, materials or documents are included in the Public Document Repository in accordance with the Plan and the Master Shareholder Settlement Agreement. Names or other

identifying information of investments or specific third-party counterparties or advisors with whom or with which a Shareholder Released Party has or had a third-party investment, advisory or business relationship that was disclosed in documents or information produced by a Shareholder Released Party and designated Outside Professional Eyes Only Information under the Protective Order shall retain such designation and be protected accordingly.

(iv) Except as provided in the PI TDP, nothing in the Plan shall either (i) excuse any Person from compliance with any legislative, judicial or administrative subpoena, any civil investigative demand or any request for information made in the course of a government investigation; or (ii) limit any right of any Person with respect to compliance with any legislative, judicial or administrative subpoena, any civil investigative demand or any request for information made in the course of a government investigation.

4. Injunction against Interference with Plan

Subject to Section 12.4 of the Plan, upon entry of the Confirmation Order, all Holders of Claims against or Interests in the Debtors, Holders of Channeled Claims, Releasing Parties, Released Parties, Shareholder Released Parties and other parties in interests shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan and the Plan Documents. Section 10.4 of the Plan shall be included in the Confirmation Order.

5. Plan Injunction

(i) Except as otherwise provided in the Plan or in the Confirmation Order, as of the entry of the Confirmation Order but subject to the occurrence of the Effective Date, all Persons who have held, hold or may hold Claims against or Interests in the Debtors are, with respect to any such Claim or Interest, permanently enjoined after the entry of the Confirmation Order from: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting, directly or indirectly, a Debtor or an Estate or the property of any of the foregoing, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this clause (i) or any property of any such transferee or successor; (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree or order against a Debtor or an Estate or its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this clause (ii) or any property of any such transferee or successor; (iii) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against a Debtor or an Estate or any of its property, or any direct or

indirect transferee of any property of, or successor in interest to, any of the foregoing Persons mentioned in this clause (iv) or any property of any such transferee or successor; (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan; and (vi) commencing or continuing, in any manner or in any place, any action that does not comply, or is inconsistent, with the provisions of the Plan; *provided, however*, that nothing contained in the Plan shall preclude such Persons who have held, hold or may hold Claims against or Interests in a Debtor or an Estate from exercising their rights, or obtaining benefits, pursuant to, and consistent with, the terms of the Plan and the Plan Documents.

(ii) All Persons, including all governmental, tax and regulatory authorities, lenders, trade creditors, dealers, customers, employees, litigation claimants and other creditors holding Claims, Liens, Interests, charges, encumbrances and other interests of any kind or nature whatsoever, including rights or Claims based on any successor or transferee liability, against or in a Debtor, the NewCo Transferred Assets, the MDT Transferred Assets or the PAT Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or noncontingent, known or unknown), arising under or out of, in connection with, or in any way relating to the Debtors, the NewCo Transferred Assets, the MDT Transferred Assets, the PAT Assets, the operation of the NewCo Transferred Assets prior to the Effective Date or the Restructuring Transactions are forever barred, estopped and permanently enjoined from asserting against the Released Parties, their respective successors and assigns, their property, the NewCo Transferred Assets, the MDT Transferred Assets or the PAT Assets, any Released Claim or any other Cause of Action the assertion of which does not comply with or is inconsistent with the provisions of the Plan, including, without limitation, by: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting, directly or indirectly, a Released Party, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this clause (i) or any property of any such transferee or successor; (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree or order against a Released Party, or any direct or indirect transferee of any property of, or direct or indirect successor-in-interest to, any of the foregoing Persons mentioned in this clause (i) or any property of any such transferee or successor; (iii) creating, perfecting or otherwise enforcing any encumbrance of any kind or asserting any Released Claims in any manner, directly or indirectly, against a Released Party or any of its property, or any direct or indirect transferee of any property of, or successor in interest to, any of the

foregoing Persons mentioned in this clause (iii) or any property of any such transferee or successor; (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan; and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan.

6. Releases

(i) Releases by Debtors.

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, including, without limitation, the service of the Released Parties before and during the Chapter 11 Cases to facilitate the reorganization of the Debtors and the implementation of the Restructuring Transactions, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released by the Debtors and their Estates from any and all Causes of Action, including any derivative claims asserted or assertible by or on behalf of any Debtor or any of their Estates and including any claims that any Debtor or any of their Estates, or that any other Person or party claiming under or through any Debtor or any of their Estates, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Debtor or any of their Estates or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, based on or relating to, or in any manner arising from, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date (including the Debtors' Opioid-Related Activities, manufacture, marketing and sale of Products, interaction with regulators concerning Opioid-Related Activities or Products, and involvement in the subject matter of the Pending Opioid Actions, and the past, present or future use or misuse of any opioid by a Releasing Party), (ii) the Estates or (iii) the Chapter 11 Cases. The Debtors, the Plan Administration Trust, the Master Disbursement Trust, the Creditor Trusts, NewCo, the Foundation and any other newly-formed Persons that shall be continuing the Debtors' businesses after the Effective Date shall be bound, to the same extent the Debtors are bound, by the Releases set forth in Section 10.6(a) of the Plan.

Notwithstanding anything in the Plan to the contrary, (x) nothing in the Plan shall release any Excluded Claim and (y) nothing in Section 10.6(a) of the Plan shall (A) release any contractual Estate Cause of Action or any Estate Cause of Action that is commercial in nature and, in each case, unrelated to either the Chapter 11 Cases or the subject matter of the Pending Opioid Actions; *provided* that, with respect to the Settling Co-Defendants, only Estate Surviving Pre-Effective Date Claims shall be retained and not released, (B) release any Estate Cause of Action against a Holder of a Claim against a Debtor, to the extent such Estate Cause of Action is necessary for the administration and resolution of such Claim solely in accordance with the Plan, *provided*, *however*, that the foregoing shall not apply to any Holder of a Co-Defendant Claim solely with respect to such Co-Defendant Claim,

(C) be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements, or (D) release any Claim or right to disgorge, recoup or recover compensation under the orders authorizing the Key Employee Plans or the orders with respect to the *Motion of Debtors for Entry of an Order Authorizing (I) Debtors to (A) Pay Pre-Petition Wages, Salaries, Employee Benefits and Other Compensation and (B) Maintain Employee Benefits Programs and Pay Related Administrative Obligations, (II) Employees and Retirees to Proceed with Outstanding Workers' Compensation Claims and (III) Financial Institutions to Honor and Process Related Checks and Transfers* [D.I. 6].

(ii) Releases by Releasing Parties.

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, including, without limitation, the service of the Released Parties before and during the Chapter 11 Cases to facilitate the reorganization of the Debtors and the implementation of the Restructuring Transactions, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released by the Releasing Parties from any and all Causes of Action, including, without limitation, any Estate Cause of Action and any claims that any Releasing Party, or that any other Person or party claiming under or through any Releasing Party, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Releasing Party or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, (A) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (ii) the Estates, (iii) the Chapter 11 Cases, or (iv) Covered Conduct and (B) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor.

Without limiting the foregoing: (A) the foregoing releases include any Cause of Action of a Releasing Party that has been or may be asserted against any Released Party, by such Releasing Party (whether or not such party has brought such action or proceeding) in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) (x) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (I) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (II) the Estates, (III) the Chapter 11 Cases, or (IV) Covered Conduct and (y) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor; and (B) the parties intend that these releases (including the term "Released Claims") be broad and interpreted so as to give the Released Parties the broadest possible release of any liability relating in any way to the Released Claims.

For the avoidance of doubt and notwithstanding anything to the contrary in the Plan or the Confirmation Order, the releases set forth in Section 10.6(b) of the Plan, and all references to "Releasing Parties" as used in the Plan shall not apply to (i) Holders of Claims who do not opt-in to the releases through their applicable ballots, (ii) Holders of Claims whose releases will be governed solely and exclusively by a Direct Claims Shareholder Settlement Agreement and (iii) Holders of Non-Federal Domestic Governmental Claims, whose releases shall be governed solely and exclusively by the Governmental Entity Shareholder Direct Settlement Agreement.[~~131~~126] For the avoidance of doubt and notwithstanding anything to the contrary in the Plan, none of the releases, injunctions, or other terms contained in the Plan or the Confirmation Order shall expand, limit, alter, or otherwise affect any releases, waivers, or disclaimers of liability or other terms contained in any of the Direct Claims Shareholder Settlement Agreements.

To the extent that, on or after the Effective Date, any Releasing Party 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 Releasing Party will include (or in the case of a Non-Party Settlement that is part of a Chapter 11 Plan, will take reasonable best efforts to 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 Released Parties substantially equivalent to that required from the Shareholder Released Parties in Section 10.7(b)(ii)(A) of the Plan, or a release from such Non-Released Party in favor of the Released Parties (in a form equivalent to Section 10.6(b)) of the Plan of any Claim-Over. Each Releasing Party 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 and the Released Parties.

Notwithstanding anything in the Plan to the contrary, (x) nothing in the Plan shall release any Excluded Claim; (y) Co-Defendants (including, for the avoidance of doubt, Settling Co-Defendants) shall not be Released Parties for purposes of Section 10.6(b) of the Plan; and (z) nothing in Section 10.6(b) of the Plan shall (A) release any Non-Opioid Excluded Claims, (B) release any Estate Cause of Action against a Holder of a Claim against a Debtor, to the extent such Estate Cause of Action is necessary for the administration and resolution of such Claim solely in accordance with the Plan, *provided*, *however*, that the foregoing shall not apply to any Holder of a Co-Defendant Claim solely with respect to such Co-Defendant Claim, or (C) be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan,

[~~131~~126] **The Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, remain subject to ongoing negotiations. The releases in the Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, may differ from those provided for in Section 10.6(b) of the Plan. The rights of all parties to the Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, are fully reserved.**

the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements.

Notwithstanding anything in the Plan to the contrary, but subject to the MDT Insurer Injunction and the Settling MDT Insurer Injunction, the Debtors shall not be released from liability for any Claim (other than any Co-Defendant Claim) that is or may be covered by any Purdue Insurance Policy; *provided* that recovery for any such Claim, including by way of settlement or judgment, shall be limited to the available proceeds of such Purdue Insurance Policy (and any extra-contractual liability of the Insurance Companies with respect to the Purdue Insurance Policies), and no Person or party shall execute, garnish or otherwise attempt to collect any such recovery from any assets other than the available proceeds of the Purdue Insurance Policies. The Debtors shall be released automatically from a Claim described in this paragraph upon the earlier of (x) the abandonment of such Claim and (y) such a release being given as part of a settlement or resolution of such Claim, and shall be released automatically from all Claims described in this paragraph upon the exhaustion of the available proceeds of the Purdue Insurance Policies (notwithstanding the nonoccurrence of either event described in the foregoing clauses (x) and (y)).

(iii) Releases by Debtors of Holders of Claims.

As of the Effective Date, all Holders of Channeled Claims (excluding, in all respects, any Excluded Party, Shareholder Release Snapback Party or MDT Insurer) are hereby released by the Debtors and their Estates from any and all Causes of Action for any Claim in connection with, or arising out of, (i) the administration of the Chapter 11 Cases; the negotiation and pursuit of the Restructuring Transactions, the Plan, the Master Disbursement Trust, the Creditor Trusts (including the trust distribution procedures and the other Creditor Trust Documents) and the solicitation of votes with respect to, and confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan and the property to be distributed under the Plan; and the wind-up and dissolution of the Liquidating Debtors and the transactions in furtherance of any of the foregoing or (ii) such Holder's participation in the Pending Opioid Actions. The Debtors, the Plan Administration Trust, the Master Disbursement Trust, the Creditor Trusts, NewCo, the Foundation and any other newly-formed Persons that shall be continuing the Debtors' businesses after the Effective Date shall be bound, to the same extent the Debtors are bound, by the Releases set forth in Section 10.6(c) of the Plan.

As of the Effective Date, all Holders of PI Channeled Claims (excluding, in all respects, any Excluded Party, Shareholder Release Snapback Party or MDT Insurer) are hereby released by the Debtors and their Estates from any and all Causes of Action for any Claim in connection with, or arising out of, (i) the Debtors, as such Entities existed prior to or after the Petition Date (including the Debtors' Opioid-Related Activities, manufacture, marketing and sale of Products, interaction with regulators concerning Opioid-Related Activities or Products, and involvement in the subject matter of the Pending Opioid Actions, and the past, present or future use or misuse of any opioid by a Releasing Party), (ii) the Estates or (iii) the Chapter 11 Cases, including, in each case, without limitation, any

act, conduct, omission, event, transaction, occurrence, injury, damage, or continuing condition in any way relating to the foregoing.

Notwithstanding anything in the Plan to the contrary, (x) nothing in the Plan shall release any Excluded Claim and (y) nothing in Section 10.6(c) of the Plan shall (A) release any contractual Estate Cause of Action or any Estate Cause of Action that is commercial in nature and, in each case, unrelated to either the Chapter 11 Cases or the subject matter of the Pending Opioid Actions, *provided* that, with respect to the Settling Co-Defendants, only Estate Surviving Pre-Effective Date Claims shall be retained and not released, (B) release any Estate Cause of Action against a Holder of a Claim against a Debtor, to the extent such Estate Cause of Action is necessary for the administration and resolution of such Claim solely in accordance with the Plan, *provided*, *however*, that the foregoing shall not apply to any Holder of a Co-Defendant Claim solely with respect to such Co-Defendant Claim, (C) release any claim or right arising in the ordinary course of the Debtors' or NewCo's business, including, without limitation, any such claim with respect to taxes or (D) be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements.

7. Shareholder Releases

(i) **Releases by Debtors.**

(1) **As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Shareholder Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released, subject to clause (z) of the last paragraph of Section 10.7(a) of the Plan, by the Debtors and their Estates from any and all Causes of Action, including any Estate Causes of Action asserted or assertible by or on behalf of any Debtor or any of their Estates and including any claims that any Debtor or any of their Estates, or that any other Person or party claiming under or through any Debtor or any of their Estates, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Debtor or any of their Estates or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, based on or relating to, or in any manner arising from, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date (including the Debtors' Opioid-Related Activities, manufacture, marketing and sale of Products, interaction with**

regulators concerning Opioid-Related Activities or Products, and involvement in the subject matter of the Pending Opioid Actions, and the past, present or future use or misuse of any opioid by a Releasing Party), (ii) the Estates or (iii) the Chapter 11 Cases. The Debtors, the Plan Administration Trust, the Master Disbursement Trust, the Creditor Trusts, NewCo, the Foundation and any other newly-formed Persons that shall be continuing the Debtors' businesses after the Effective Date shall be bound, to the same extent the Debtors are bound, by the Shareholder Releases set forth in Section 10.7(a) of the Plan.

(2) **To the extent that, on or after the Effective Date, any Debtor Party 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 Debtor Party will include (or in the case of a Non-Party Settlement that is part of a Chapter 11 Plan, will take reasonable best efforts to 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 substantially equivalent to that required from the Shareholder Released Parties in Section 10.7(b)(ii)(A) of the Plan, or a release from such Non-Released Party in favor of the Shareholder Released Parties (in a form equivalent to Section 10.7(b)) of the Plan of any Claim-Over. Each Debtor Party 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.**

(3) **In the event that (x) any Debtor Party, after the Effective Date, either (i) obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Party that does not contain a prohibition like that described in Section 10.7(a)(ii) of the Plan; (ii) files a Non-Party Covered Conduct Claim against a Non-Released Party in bankruptcy and such Debtor Party does not use reasonable best efforts to obtain a prohibition/release like that described in Section 10.7(a)(ii) of the Plan; or (iii) enters into a Non-Party Settlement without a prohibition/release like that described in Section 10.7(a)(ii) of the Plan, and (y) such Non-Released Party asserts a Claim-Over against a Shareholder Released Party, the Shareholder Released Party shall be relieved of the prohibition**

in Section 10.7(b)(ii)(B) of the Plan with respect to that Non-Released Party and that Debtor Party 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 than the amounts owed under the Plan and the Master Shareholder Settlement Agreement by Shareholder Payment Groups:

(A) **The Sackler Parties' Representative shall notify that Debtor Party 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, whichever is later;**

(B) **The Sackler Parties' Representative and that Debtor Party 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 Shareholder Payment Groups under Plan and the Master Shareholder Settlement Agreement;**

(C) **That Debtor Party and the Sackler Parties' Representative shall take steps sufficient and permissible under the law of the state of the Debtor Party 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 Shareholder Payment Groups under Plan and the Master Shareholder Settlement 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 that Releasing Party, in response to any claim filed in litigation or arbitration;**

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

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

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

(E) **Credits to Shareholder Payment Groups under ~~this~~the Plan and the Master Shareholder Settlement Agreement to reduce the overall amounts to be paid under Plan and the Master Shareholder Settlement Agreement such that they are held harmless from the Claim-Over; and**

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

(D) **To the extent the preconditions for Section 10.7(b)(ii)(C) of the Plan to apply are satisfied, the actions taken pursuant to paragraph (III) must, in combination, ensure that Shareholder Payment Groups are not required to pay more with respect to Covered Conduct than the amounts owed by them to such Debtor Party under the Plan and the Master Shareholder Settlement Agreement.**

(4) **Each Debtor and each Estate will not transfer any Cause of Action and no Person shall prosecute any such Cause of Action on any Debtor's or Estate's behalf, in each case unless such**

transferee or Person has agreed to comply with Sections 10.7(a)(ii) and (iii) of the Plan.

(5) **Notwithstanding anything in the Plan to the contrary, (x) nothing in the Plan shall release any Excluded Claim; (y) nothing in Section 10.7(a) of the Plan shall be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements and the Separation Agreements; and (z) upon the filing of a Notice of Shareholder Release Snapback, (A) the Shareholder Releases set forth in Section 10.7(a) of the Plan shall be entirely null and void, revoked and invalidated, as of the Effective Date, with respect to all members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties, (B) the *status quo ante* shall be restored in all respects for the Debtors and the Master Disbursement Trust with respect to the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties, and (C) the Master Disbursement Trust shall be deemed to have received and accepted all of the rights with respect to any member of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties, in each case, that the Debtors and their Estates had prior to the Effective Date and that the Master Disbursement Trust would have pursuant to the transfer of the MDT Shareholder Rights to the Master Disbursement Trust if the Shareholder Releases of Section 10.7(a) of the Plan had never been granted, which rights the Debtors and their Estates shall be deemed to have irrevocably transferred, granted and assigned to the Master Disbursement Trust; *provided* that, for the avoidance of doubt, notwithstanding the nullification, voiding, revocation and invalidation pursuant to the foregoing clause (A), the Shareholder Releases shall continue in effect for, and shall be fully enforceable by and for the benefit of, all other Shareholder Released Parties other than the Breaching Shareholder Family Group and the Designated Shareholder Released Parties.**

(ii) Releases by Releasing Parties.

(i) As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Shareholder Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released, subject to clause (y) of the last paragraph of Section 10.7(b) of the Plan, by the Releasing Parties from any and all Causes of Action, including, without limitation, any Estate Cause of Action and any claims that any Releasing Party, or that any other Person or party claiming under or through any Releasing Party, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Releasing Party or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, (A) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (ii) the Estates, (iii) the Chapter 11 Cases, or (iv) Covered Conduct and (B) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor.

Without limiting the foregoing: (A) the foregoing releases include any Cause of Action of a Releasing Party that has been or may be asserted against any Shareholder Released Party, by such Releasing Party (whether or not such party has brought such action or proceeding) in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) (x) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (I) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (II) the Estates, (III) the Chapter 11 Cases, or (IV) Covered Conduct and (y) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor; and (B) the parties intend that these releases (including the term "Shareholder Released Claims") be broad and interpreted so as to give the Shareholder Released Parties the broadest possible release of any liability relating in any way to the Shareholder Released Claims.

For the avoidance of doubt and notwithstanding anything to the contrary in the Plan or the Confirmation Order, the releases set forth in Section 10.7(b) of the Plan, and all references to "Releasing Parties" as used in the Plan, shall not apply to (i) Holders of Claims who do not opt-in to the releases through their applicable ballots, (ii) Holders of Claims whose releases will be governed solely and exclusively by a Direct Claims Shareholder Settlement Agreement and (iii) Holders of Non-Federal Domestic Governmental Claims, whose releases shall be governed solely and exclusively by the Governmental Entity Shareholder Direct Settlement Agreement.~~132~~127 For the avoidance of doubt and notwithstanding anything to the contrary in the Plan, none of the releases, injunctions, or other terms contained in the Plan or the Confirmation Order shall expand, limit, alter, or otherwise affect any releases, waivers, or disclaimers of liability or other terms contained in any of the Direct Claims Shareholder Settlement Agreements.

(ii) (A) No Shareholder Released Party shall seek to recover for amounts paid under Master Shareholder Settlement Agreement and the Plan 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.

(B) To the extent that, on or after the Effective Date, any Releasing Party 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 Releasing Party will include (or in the case of a Non-Party Settlement that is part of a Chapter 11 Plan, will take reasonable best efforts to 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 substantially equivalent to that required from the Shareholder Released Parties in Section 10.7(b)(ii)(A) of the Plan, or a release from such Non-Released Party in favor of the Shareholder Released Parties (in a form equivalent to Section 10.7(b) of the Plan) of any Claim-Over. Each Releasing Party 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.

~~132~~127 **The Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, remain subject to ongoing negotiations. The releases in the Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, may differ from those provided for in Section 10.7 of the Plan. The rights of all parties to the Direct Claims Shareholder Settlement Agreements, including the Governmental Entity Shareholder Direct Settlement Agreement, are fully reserved.**

(C) In the event that (x) any Releasing Party, after the Effective Date, either (i) obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Party that does not contain a prohibition like that described in Section 10.7(b)(ii)(B) of the Plan; (ii) files a Non-Party Covered Conduct Claim against a Non-Released Party in bankruptcy and such Releasing Party does not use reasonable best efforts to obtain a prohibition/release like that described in Section 10.7(b)(~~iii~~ii)(B); or (iii) enters into a Non-Party Settlement without a prohibition/release like that described in Section 10.7(b)(ii)(B) of the Plan, and (y) such Non-Released Party asserts a Claim-Over against a Shareholder Released Party, the Shareholder Released Party shall be relieved of the prohibition in Section 10.7(b)(ii)(B) of the Plan with respect to that Non-Released Party and that Releasing Party 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 than the amounts owed under the Plan and the Master Shareholder Settlement Agreement by Shareholder Payment Groups:

(i) **The Sackler Parties' Representative shall notify that Releasing Party 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, whichever is later;**

(ii) **The Sackler Parties' Representative and that Releasing Party 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 Shareholder Payment Groups under Plan and the Master Shareholder Settlement Agreement;**

(iii) **That Releasing Party and the Sackler Parties' Representative shall take steps sufficient and permissible under the law of the state of the Releasing Party 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 Shareholder Payment Groups under Plan and the Master Shareholder Settlement Agreement. Such steps may include, where permissible:**

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

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

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

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

(4) **Credits to Shareholder Payment Groups under the Plan and the Master Shareholder Settlement Agreement to reduce the overall amounts to be paid under Plan and the Master Shareholder Settlement Agreement such that they are held harmless from the Claim-Over; and**

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

(iv) **To the extent the preconditions for Section 10.7(b)(ii)(C) of the Plan to apply are satisfied, the actions taken pursuant to paragraph (III) must, in combination, ensure that Shareholder Payment Groups are not required to pay more with respect to Covered Conduct than the amounts owed by them to such Releasing Party under the Plan and the Master Shareholder Settlement Agreement.**

(D) To the extent that the Claim-Over is based on a contractual indemnity, the obligations under Section 10.7(b)(ii)(C) of the Plan 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-Released Party asserts a Claim-Over arising out of contractual indemnity against it.

(iii) Notwithstanding anything in the Plan to the contrary, (x) nothing in Section 10.7(b) of the Plan shall (A) release any Excluded Claims or (B) be construed to impair in any way the rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements and (y) upon the filing of a Notice of Shareholder Release Snapback, (A) the Shareholder Releases set forth in Section 10.7(b) of the Plan shall be entirely null and void, revoked and invalidated, as of the Effective Date, with respect to all members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties and (B) the status quo ante shall be restored in all respects for the Releasing Parties with respect to the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties; provided that, for the avoidance of doubt, notwithstanding the nullification, voiding, revocation and invalidation pursuant to the foregoing clause (A), the Shareholder Releases shall continue in effect for, and shall be fully enforceable by and for the benefit of, all other Shareholder Released Parties other than the Breaching Shareholder Family Group and the Designated Shareholder Released Parties.

(iii) Releases by Shareholder Released Parties.

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Reciprocal Releasees shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released, subject to clause (z) of the last paragraph of Section 10.7(c) of the Plan, by the Shareholder Released Parties from any and all Causes of Action, including any derivative claims asserted or assertible by or on behalf of the Debtors or their Estates and including any claims that any Shareholder Released Party, or that any other Person or party claiming under or through any Shareholder Released Party, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Shareholder Released Party or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, based on or relating to, or in any manner arising from, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date (including the Debtors' Opioid-Related Activities, manufacture, marketing and sale of Products, interaction with regulators concerning Opioid-Related Activities or Products, and involvement in the subject matter of the Pending Opioid Actions, and the past, present or future use or misuse of any opioid by a Releasing Party), (ii) the Estates or (iii) the Chapter 11 Cases.

Notwithstanding anything in the Plan to the contrary, (x) nothing in the Plan shall release any Excluded Claim; (y) nothing in Section 10.7(c) of the Plan shall be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreements, and the Separation Agreement, and including the rights of any Shareholder Released Party that is a current or former director, officer or employee of the Debtors but is not a Sackler Family Member

relating to plan treatment of any Claims held by such party; and (z) upon the filing of a Notice of Shareholder Release Snapback and the commencement or continuation of any action or proceeding against a member of a Breaching Shareholder Family Group or a Designated Shareholder Released Party by any Reciprocal Releasee, (A) the releases set forth in Section 10.7(c) of the Plan of any Reciprocal Releasee that has commenced or continued any such action shall be entirely null and void, revoked and invalidated, as of the Effective Date, with respect to the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties and (B) the *status quo ante* shall be restored in all respects for the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties with respect to any Reciprocal Releasee that has commenced or continued any such litigation; *provided* that, for the avoidance of doubt, notwithstanding the nullification, voiding, revocation and invalidation pursuant to the foregoing clause (A), the releases set forth in Section 10.7(c) of the Plan shall continue in effect for, and shall be fully enforceable by and for the benefit of, all other Reciprocal Releasees, and shall be binding on, and enforceable against, all other Shareholder Released Parties, including any members of the Breaching Shareholder Family Group with respect to any Reciprocal Releasee that has not commenced any such litigation.

8. Channeling Injunction

In order to supplement the injunctive effect of the Plan Injunction, the Estate Releases and the Shareholder Releases set forth in Sections 10.5, 10.6 and 10.7 of the Plan, the Confirmation Order shall provide for the following permanent injunction to take effect as of the Effective Date:

(i) Terms. In order to preserve and promote the settlements contemplated by and provided for in the Plan and to supplement, where necessary, the injunctive effect of the Plan Injunction, the Estate Releases and the Shareholder Releases described in Sections 10.5, 10.6 and 10.7 of the Plan, and pursuant to the exercise of the equitable jurisdiction and power of the Bankruptcy Court under section 105(a) of the Bankruptcy Code, all Persons that have held or asserted, that hold or assert or that may in the future hold or assert any Channeled Claim shall be permanently and forever stayed, restrained and enjoined from taking any action for the purpose of directly or indirectly collecting, recovering or receiving payments, satisfaction, recovery or judgment of any form from or against any Protected Party with respect to any Channeled Claim, including:

(1) commencing, conducting or continuing, in any manner, whether directly or indirectly, any suit, action or other proceeding, in each case, of any kind, character or nature, in any forum in any jurisdiction with respect to any Channeled Claims, against or affecting any Protected Party, or any property or interests in property of any Protected Party with respect to any Channeled Claims;

(2) enforcing, levying, attaching, collecting or otherwise recovering, by any means or in any manner, either directly or indirectly, any judgment, award, decree or other order against any Protected Party or against the property of any Protected Party with respect to any Channeled Claims;

(3) creating, perfecting or enforcing, by any means or in any manner, whether directly or indirectly, any Lien of any kind against any Protected Party or the property of any Protected Party with respect to any Channeled Claims;

(4) asserting or accomplishing any setoff, right of subrogation, indemnity, contribution or recoupment of any kind, whether directly or indirectly, in respect of any obligation due to any Protected Party or against the property of any Protected Party with respect to any Channeled Claims; and

(5) taking any act, by any means or in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan Documents, with respect to any Channeled Claims.

(ii) **Reservations**. Notwithstanding anything to the contrary in Section 10.8 of the Plan or the Confirmation Order, this Channeling Injunction shall not stay, restrain, bar or enjoin:

(1) the rights of Holders of Channeled Claims to the treatment afforded them under the Plan and the Plan Documents, including the rights of Holders of Channeled Claims to assert such Channeled Claims solely in accordance with Section 6.21 of the Plan, the Master TDP and the Creditor Trust TDPs, in each case whether or not there are funds to make Distributions in respect of such Channeled Claims and whether or not such rights entitle such Holders to any Distributions;

(2) the rights of Persons to assert any claim, debt, litigation or liability for payment of Creditor Trust Operating Expenses solely against the applicable Creditor Trust;

(3) the rights of Persons to assert any claim, debt or litigation against any Excluded Party;

(4) the rights of the Master Disbursement Trust to pursue and enforce the MDT Shareholder Rights, the MDT Insurance Rights and the MDT Causes of Action;

(5) the rights of the parties to the LRP Agreement to enforce the terms thereof in accordance with the Plan;

(6) the Creditor Trusts from enforcing their respective rights against the Master Disbursement Trust under the Plan and the MDT Documents; or

(7) the Master Disbursement Trust and the Plan Administration Trust from enforcing its rights against NewCo under the Plan.

(iii) **Notice of Shareholder Release Snapback**. Upon the filing of a Notice of Shareholder Release Snapback, the Channeling Injunction shall terminate, be rescinded and have no application, without further order of the Bankruptcy Court, to any suit, action or other proceeding, in each case, of any kind, character or nature, brought against any member of the Breaching Shareholder Family Group and any Designated Shareholder Released Party; *provided*, *however*, that the extension of time provided by Section 10.9(a) of the Plan shall continue in effect in accordance with its terms; *provided further* that, for the avoidance of doubt, notwithstanding the termination and rescission pursuant to Section 10.8(c) of the Plan, the Channeling Injunction shall continue in effect for, and shall be fully enforceable by and for the benefit of, all other Protected Parties, including all other Shareholder Released Parties, other than the Breaching Shareholder Family Group and the Designated Shareholder Released Parties; and *provided further* that, in the event of the filing of a Notice of Shareholder Release Snapback, any determination made in the claims resolution process in accordance with Section ~~F.6~~7.6 of the Plan will not be binding against any party.

(iv) **Modifications**. Except as expressly set forth in paragraph (c) of Section 10.8 of the Plan, there can be no modification, dissolution or termination of the Channeling Injunction, which shall be a permanent injunction.

(v) **Non-Limitation of Channeling Injunction**. Except as expressly set forth in paragraphs (b) and (c) of Section 10.8 of the Plan, nothing in the Plan, the MDT Documents or the Creditor Trust Documents shall be construed in any way to limit the scope, enforceability or effectiveness of the Channeling Injunction issued in connection with the Plan.

(vi) Bankruptcy Rule 3016 Compliance. The Debtors' compliance with the requirements of Bankruptcy Rule 3016 shall not constitute an admission that the Plan provides for an injunction against conduct not otherwise enjoined under the Bankruptcy Code.

9. Tolling of Shareholder Released Claims; Violations of Shareholder Releases and Channeling Injunction.

(i) **Tolling of Shareholder Released Claims**. If applicable law, an order in any proceeding or an agreement fixes a period for commencing or continuing an action or proceeding based on a Shareholder Released Claim and such Shareholder Released Claim is released pursuant to the Shareholder Releases or such action or proceeding is enjoined by the Channeling Injunction, then such period does not expire with respect to such Shareholder Released Claim with respect to the Master Disbursement Trust (or the MDT Trustees) or the Releasing Parties until the latest of (i) the end of such period; (ii) with respect to the applicable Shareholder Family Group and any Designated Shareholder Released Party, two hundred twenty-five (225) days after the filing of a Notice of Shareholder Release Snapback with respect to such Shareholder Family Group; (iii) with respect to the applicable Shareholder Family Group and any Designated Shareholder Released Party, when such Shareholder Family Group fulfills its payment obligations under the Shareholder Settlement Agreements; and (iv) with respect to the applicable Shareholder Released Party that is a Subsidiary (as defined in the Master Shareholder Settlement Agreement) of a Shareholder Payment Party, two hundred twenty-five (225) days after the reinstatement of any Estate Cause of Action against such Shareholder Released Party pursuant to Section 10.19 of the Plan.

(ii) **Violations of Shareholder Releases and Channeling Injunction**. In the event that any Person takes any action that a Shareholder Released Party believes violates the Shareholder Releases or Channeling Injunction as it applies to any Shareholder Released Party, such Shareholder Released Party shall be entitled to make an emergency application to the Bankruptcy Court for relief, and may proceed by contested matter rather than by adversary proceeding. The Bankruptcy Court shall have jurisdiction and authority to enter final orders in connection with any dispute over whether an action violates the Shareholder Releases or Channeling Injunction. Upon determining that a violation of the Shareholder Releases or Channeling Injunction has occurred, the Bankruptcy Court, in its discretion, may award any appropriate relief against such violating Person, including, but not limited to, (i) disgorgement from the violating Person of any funds, assets or other value received, directly or indirectly, pursuant to the Plan or Plan Documents (including fees and expenses paid pursuant to the Plan or Plan Documents on account of legal or other advisory services rendered to or for the benefit of the violating Person); (ii) the termination of any rights of the violating Person to receive any funds, assets or other value pursuant to the Plan or Plan Documents; (iii) the reduction of any payments owed by any Shareholder Released Parties under the Shareholder Settlement Agreements to the violating Person in an amount equal to the amount of disgorgement ordered from, or the reduction of future payments ordered to

be made to, or on account of, the violating Person (subject to the right of the violating Person to request that any amounts actually disgorged from such violating Person offset any reduction of future payments ordered to be made to, or on account of, such violating Person); (iv) an admonition, reprimand or censure of, or citation of contempt by, the violating Person and its counsel; (v) a fine or penalty paid into the Bankruptcy Court; (vi) a bond or other security in an amount equal to any financial obligation ordered by the Bankruptcy Court in respect of the violation; (vii) an appropriate sanction on any attorney or law firm responsible for the violation; (viii) injunctive relief to prevent future violations by the Person or its counsel; and (ix) attorney and other professional fees incurred by any Shareholder Released Party arising from the violation. The provision of any one form of relief shall not preclude the provision of any other form of relief.

10. MDT Insurer Injunction.

(i) **Terms**. In accordance with section 105(a) of the Bankruptcy Code, upon the occurrence of the Effective Date, all Persons that have held or asserted, that hold or assert or that may in the future hold or assert any Claim based on, arising under or attributable to an MDT Insurance Policy shall be, and hereby are, permanently stayed, restrained and enjoined from taking any action for the purpose of directly or indirectly collecting, recovering or receiving payment or recovery on account of any such Claim based on, arising under or attributable to an MDT Insurance Policy from or against any MDT Insurer, including:

(1) commencing, conducting or continuing, in any manner, any action or other proceeding of any kind (including an arbitration or other form of alternate dispute resolution) against any MDT Insurer, or against the property of any MDT Insurer, on account of any Claim based on, arising under or attributable to an MDT Insurance Policy;

(2) enforcing, attaching, levying, collecting or otherwise recovering, by any manner or means, any judgment, award, decree or other order against any MDT Insurer, or against the property of any MDT Insurer, on account of any Claim based on, arising under or attributable to an MDT Insurance Policy;

(3) creating, perfecting or enforcing in any manner any Lien of any kind against any MDT Insurer, or against the property of any MDT Insurer, on account of any Claim based on, arising under or attributable to an MDT Insurance Policy;

(4) asserting or accomplishing any setoff, right of subrogation, indemnity, contribution or recoupment of any kind, whether

directly or indirectly, against any obligation due to any MDT Insurer, or against the property of any MDT Insurer, on account of any Claim based on, arising under or attributable to an MDT Insurance Policy; and

(5) taking any act, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan applicable to any Claim based on, arising under or attributable to an MDT Insurance Policy.

(ii) **Reservations**. The provisions of this MDT Insurer Injunction shall not preclude the Master Disbursement Trust from pursuing any Claim based on, arising under or attributable to an MDT Insurance Policy, or any other claim that may exist under any MDT Insurance Policy against any MDT Insurer, or enjoin the rights of the Master Disbursement Trust to prosecute any action based on or arising from the MDT Insurance Policies or the rights of the Master Disbursement Trust to assert any claim, debt, obligation, cause of action or liability for payment against an MDT Insurer based on or arising from the MDT Insurance Policies. The provisions of this MDT Insurer Injunction are not issued for the benefit of any MDT Insurer, and no such insurer is a third-party beneficiary of this MDT Insurer Injunction. This MDT Insurer Injunction shall not enjoin, impair or affect (i) any claims between or among MDT Insurers that are not Settling MDT Insurers; (ii) the rights of current and former directors, officers, employees and authorized agents of the Debtors that are not Sackler Family Members that are preserved under the Plan; or (iii) the terms of the Master Shareholder Settlement Agreement with respect to the MDT Shareholder Insurance Rights. For the avoidance of doubt, with respect to a Person that purports to be insured under any MDT Insurance Policy, the MDT Insurer Injunction shall enjoin only derivative claims and rights. Nothing in the Plan shall determine whether any Claim or right under any MDT Insurance Policy is either derivative or direct, or otherwise would be disallowed or subordinated under the Bankruptcy Code, which determination shall be made, as necessary, to the extent such Claim or right is not otherwise released under the Plan, in accordance with applicable law.

(iii) **Modifications**. To the extent the MDT Trustees make a good faith determination that some or all of the MDT Insurance Proceeds are substantially unrecoverable by the Master Disbursement Trust, the Master Disbursement Trust shall have the sole and exclusive authority at any time, upon written notice to any affected MDT Insurer, to terminate, reduce or limit the scope of this MDT Insurer Injunction with respect to any MDT Insurer; provided that any termination, reduction, or limitation of the MDT Insurer Injunction (A) shall apply in the same manner to all

beneficiaries of the Creditor Trusts that are MDT Beneficiaries and (B) shall comply with any procedures set forth in the MDT Agreement.

(iv) **Non-Limitation of MDT Insurer Injunction**. Except as set forth in paragraphs (b) and (c) of Section 10.10 of the Plan, nothing in the Plan, the MDT Documents or the Creditor Trust Documents shall be construed in any way to limit the scope, enforceability or effectiveness of the MDT Insurer Injunction issued in connection with the Plan.

11. Settling MDT Insurer Injunction.

(i) **Terms**. In accordance with section 105(a) of the Bankruptcy Code, upon the occurrence of the Effective Date, all Persons that have held or asserted, that hold or assert or that may in the future hold or assert any Claim based on, arising under or attributable to an MDT Insurance Policy shall be, and hereby are, permanently stayed, restrained and enjoined from taking any action for the purpose of directly or indirectly collecting, recovering or receiving payment or recovery on account of any such Claim based on, arising under or attributable to an MDT Insurance Policy from or against any Settling MDT Insurer, solely to the extent that such Settling MDT Insurer has been released from such Claim under such MDT Insurance Policy pursuant to an MDT Insurance Settlement, including:

(1) commencing, conducting or continuing, in any manner any action or other proceeding of any kind (including an arbitration or other form of alternate dispute resolution) against any such Settling MDT Insurer, or against the property of such Settling MDT Insurer, on account of such Claim based on, arising under or attributable to such MDT Insurance Policy;

(2) enforcing, attaching, levying, collecting or otherwise recovering, by any manner or means, any judgment, award, decree or other order against any such Settling MDT Insurer, or against the property of such Settling MDT Insurer, on account of such Claim based on, arising under or attributable to such MDT Insurance Policy;

(3) creating, perfecting or enforcing in any manner any Lien of any kind against any such Settling MDT Insurer, or against the property of such Settling MDT Insurer, on account of such Claim based on, arising under or attributable to such MDT Insurance Policy;

(4) asserting or accomplishing any setoff, right of subrogation, indemnity, contribution or recoupment of any kind, whether directly or indirectly, against any obligation due to any such Settling MDT Insurer, or against the property of such Settling

MDT Insurer, on account of such Claim based on, arising under or attributable to such MDT Insurance Policy; and

(5) taking any act, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan applicable to such Claim based on, arising under or attributable to such MDT Insurance Policy.

(ii) **Reduction of Insurance Judgments**. Any right, Claim or cause of action that an Insurance Company may have been entitled to assert against any Settling MDT Insurer but for the Settling MDT Insurer Injunction, if any such right, Claim or cause of action exists under applicable non-bankruptcy law, shall become a right, Claim or cause of action solely as a setoff claim against the Master Disbursement Trust and not against or in the name of the Settling MDT Insurer in question. Any such right, Claim or cause of action to which an Insurance Company may be entitled shall be solely in the form of a setoff against any recovery of the Master Disbursement Trust from that Insurance Company, and under no circumstances shall that Insurance Company receive an affirmative recovery of funds from the Master Disbursement Trust or any Settling MDT Insurer for such right, Claim or cause of action. In determining the amount of any setoff, the Master Disbursement Trust may assert any legal or equitable rights the Settling MDT Insurer would have had with respect to any right, Claim or cause of action.

(iii) **Modifications**. There can be no modification, dissolution or termination of the Settling MDT Insurer Injunction, which shall be a permanent injunction.

(iv) **Non-Limitation of Settling MDT Insurer Injunction**. Except as set forth in paragraphs (b) and (c) of Section 10.11 of the Plan, nothing in the Plan, the MDT Documents or the Creditor Trust Documents shall be construed in any way to limit the scope, enforceability or effectiveness of the Settling MDT Insurer Injunction issued in connection with the Plan.

12. Exculpation

To the maximum extent permitted by applicable law, no Exculpated Party shall have or incur, and each Exculpated Party is hereby released and exculpated from: any Cause of Action for any Claim in connection with, or arising out of, the administration of the Chapter 11 Cases; the negotiation and pursuit of the Disclosure Statement (including any information provided, or statements made, in the Disclosure Statement or omitted therefrom), the Restructuring Transactions, the Plan, the Master Disbursement Trust (including the Master TDP and the MDT Agreement), the Creditor Trusts (including the Creditor Trust TDPs and the other Creditor Trust Documents) and the solicitation of votes for, and confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan and the property to be distributed under the Plan; and the wind-up and dissolution of the Liquidating Debtors and the

transactions in furtherance of any of the foregoing, in each case other than Causes of Action arising out of, or related to, any act or omission of an Exculpated Party that is a criminal act or constitutes fraud, gross negligence or willful misconduct. This exculpation shall be in addition to, and not in limitation of, all other Releases, indemnities, exculpations and any other applicable law or rules protecting such Exculpated Parties from liability. For the avoidance of doubt, Section 10.12 of the Plan shall not exculpate or release any Exculpated Party with respect to any act or omission of such Exculpated Party prior to the Effective Date that is later found to be a criminal act or to constitute fraud, gross negligence or willful misconduct, including findings after the Effective Date. Notwithstanding anything in the Plan to the contrary, nothing in the Plan shall release any Causes of Action that may be asserted against any Excluded Party.

13. Injunction Related to Releases and Exculpation

To the maximum extent permitted under applicable law, the Confirmation Order shall permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively or otherwise, of any Causes of Action released pursuant to the Plan, including, without limitation, the Causes of Action released or exculpated in the Plan and with respect to any Claims, Interests, Liens, other encumbrances or liabilities that are subject to Sections 5.3(b), 5.4(c), or 5.6(b) of the Plan (but, for the avoidance of doubt, excluding any Excluded Claims).

14. Subordinated Claims

The allowance, classification and treatment of all Claims and Interests and the respective Distributions and treatments in respect thereof under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with contractual, legal and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, sections 509(c), 510(a), 510(b) or 510(c) of the Bankruptcy Code or otherwise. Pursuant to sections 509(c) and 510 of the Bankruptcy Code or otherwise, the Debtors reserve the right to reclassify any Allowed Claim or Allowed Interest in accordance with any contractual, legal or equitable subordination relating thereto.

15. Preservation of Causes of Action and Reservation of Rights

As of the Effective Date, (a) the Master Disbursement Trust shall have the right to prosecute any and all MDT Causes of Action, (b) the Plan Administration Trust shall have the right to prosecute any and all Retained Causes of Action relating to and necessary for the administration of Claims against the Debtors (other than Channeled Claims) or the other responsibilities of the Plan Administration Trustee in accordance with the PAT Agreement, (c) each Creditor Trust shall have the right to prosecute any and all Retained Causes of Action relating to and necessary for the administration of the applicable Channeled Claims in accordance with the applicable Creditor Trust TDP and (d) NewCo shall have the right to prosecute any and all Retained Causes of Action constituting NewCo Transferred Assets. Pursuant to section 1123(b) of the Bankruptcy Code, except as expressly provided in Sections 10.5 through 10.13 of the Plan, nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any Causes of Action that the Debtors had immediately before the Effective Date on behalf of the Estates or of themselves in accordance with any provision of the Bankruptcy Code or any applicable nonbankruptcy law, including but

not limited to any actions specifically enumerated in the Schedule of Retained Causes of Action. Subject to Sections 10.5 through 10.13 of the Plan, all such Causes of Action shall be transferred to the Master Disbursement Trust, the Plan Administration Trust, the applicable Creditor Trust or NewCo, as applicable, which shall have, retain, reserve and be entitled to assert all such Causes of Action in accordance with the Plan as fully as if the Chapter 11 Cases had not been commenced, and all of the Debtors' legal and equitable rights with respect to any Claim or Interest may be asserted after the Effective Date to the same extent as if the Chapter 11 Cases had not been commenced.

16. Ipso Facto and Similar Provisions Ineffective

Any term of any policy, contract or other obligation applicable to a Debtor shall be void and of no further force or effect with respect to any Debtor to the extent such policy, contract, or other obligation is conditioned on, creates an obligation of any Debtor as a result of, or gives rise to a right of any Person based on any of the following: (a) the insolvency or financial condition of a Debtor; (b) the commencement of the Chapter 11 Cases; (c) the confirmation or consummation of the Plan, including any change of control that shall occur as a result of such consummation; or (d) the Restructuring Transactions.

17. No Successor Liability

Except as otherwise expressly provided in the Plan and the Confirmation Order, each of NewCo, the Foundation, the Master Disbursement Trust, the Plan Administration Trust and the Creditor Trusts (a) is not, and shall not be deemed to assume, agree to perform, pay or otherwise have any responsibilities for any liabilities or obligations of the Debtors or any other Person relating to or arising out of the operations or the Assets of the Debtors on or prior to the Effective Date, (b) is not, and shall not be, a successor to the Debtors by reason of any theory of law or equity or responsible for the knowledge or conduct of any Debtor prior to the Effective Date and (c) shall not have any successor or transferee liability of any kind or character.

18. Co-Defendant Defensive Rights.

Except as provided in the MDT Insurer Injunction, the Settling MDT Insurer Injunction or clause (ii) of the penultimate sentence of Section 10.18 of the Plan, notwithstanding anything to the contrary in Article X of the Plan or in the Plan as it currently exists or as it might be further amended, the Confirmation Order or any order entered in connection with the Plan (or the Plan as amended) (or any such order, as amended, modified or supplemented), or any supplement to the Plan (or the Plan as amended), nothing contained in the Plan or any of the foregoing documents or orders (including, without limitation, the classification, treatment, allowance, disallowance, release, bar, injunction, Channeling Injunction or any other provision of the Plan or the Plan as amended with respect to, impacting, affecting, modifying, limiting, subordinating, impairing, in any respect, a Co-Defendant Claim), will release, bar, enjoin, impair, alter, modify, amend, limit, prohibit, restrict, reduce, improve or enhance any Co-Defendant Defensive Rights of any Holder of a Co-Defendant Claim or Excluded Party as such rights exist or might in the future exist under applicable non-bankruptcy law. Nothing in the Plan, any of the Plan Documents or in the Confirmation Order shall preclude, operate to or have the effect of, impairing any Holder of a Co-Defendant Claim or Excluded Party from asserting in any

proceeding any and all Co-Defendant Defensive Rights that it has or may have under applicable law. Nothing in the Plan, any of the Plan Documents or the Confirmation Order shall be deemed to waive any Co-Defendant Defensive Rights, and nothing in the Chapter 11 Cases, the Plan, any of the Plan Documents or the Confirmation Order may be used as evidence of any determination regarding any Co-Defendant Defensive Rights, and under no circumstances shall any Person be permitted to assert issue preclusion or claim preclusion, waiver, estoppel or consent in response to the assertion of any Co-Defendant Defensive Rights. Section 10.18 of the Plan shall be included in the Confirmation Order. Co-Defendant Defensive Rights (i) may be used to offset, set-off, recoup, allocate or apportion fault, liability, or damages, or seek judgment reduction or otherwise defend against any Cause of Action brought by any Person against the Holder of any Co-Defendant Claim or the Excluded Party based in whole or in part on Opioid-Related Activities and (ii) shall in no case be used to seek or obtain any affirmative monetary recovery from any Protected Party or any Asset of any Protected Party (including from any Purdue Insurance Policy or any other insurance policy of a Protected Party) on account of any Released Claim or Shareholder Released Claim. The foregoing does not constitute a release of any Co-Defendant's Class 14 Claim or any other Excluded Party's Class 11(c) Claim.

19. Reinstatement of Certain Shareholder Released Claims

As set forth in the Shareholder Settlement Agreements, if any Shareholder Released Party that is a Subsidiary (as defined in the Master Shareholder Settlement Agreement) of a Shareholder Payment Party voluntarily or involuntarily becomes subject to an insolvency, bankruptcy, reorganization, winding-up, administration, dissolution, composition or similar proceeding, upon election by notice from the Sackler Parties' Representative, with the consent of the Master Disbursement Trust, any Estate Causes of Action against such Shareholder Released Party that were previously held by the Debtors and that were released pursuant to Section 10.7(a) of the Plan shall be reinstated in full (and the Shareholder Release provided under Section 10.7(a) of the Plan shall be deemed null and void with respect thereto, and the Channeling Injunction shall terminate, be rescinded and have no application with respect thereto) and the Master Disbursement Trust, in its sole discretion and upon receipt of an advance for fees and expenses provided by the Shareholder Released Parties in an amount determined by the Master Disbursement Trust in its sole discretion (which advance shall be repaid to the extent not used), shall utilize commercially reasonable efforts to maximize the value of any such Estate Causes of Action in such insolvency or liquidation proceeding, and any recovery shall be treated in accordance with the terms as set forth in the Shareholder Settlement Agreements.

20. Special Provisions for United States

(i) to the United States, notwithstanding anything contained in the Plan or Confirmation Order to the contrary (except Section 5.2(i) of the Plan and in respect of the United States-PI Claimant Medical Expense Claim Settlement), including but not limited to this Article X, nothing in the Plan or Confirmation Order (except Section 5.2(i) of the Plan and in respect of the United States-PI Claimant Medical Expense Claim Settlement) shall:

(1) limit or expand the scope of discharge, release or injunction permitted to debtors under the Bankruptcy Code. The discharge,

release, and injunction provisions contained in the Plan and Confirmation Order are not intended and shall not be construed to bar the United States from, subsequent to the Confirmation Order, pursuing any police or regulatory action, or any criminal action;

(2) discharge, release, exculpate, impair or otherwise preclude: (A) any liability to the United States that is not a "claim" within the meaning of section 101(5) of the Bankruptcy Code; (B) any Claim of the United States arising on or after the Effective Date; (C) any liability of the Debtors under police or regulatory statutes or regulations to the United States as the owner, lessor, lessee or operator of property that such Entity owns, operates or leases after the Effective Date; or (D) any liability to the United States, including but not limited to any liabilities arising under the IRC, the environmental laws, the criminal laws, the civil laws or common law, of any Person, including any Released Parties, Shareholder Released Parties or any Exculpated Parties, in each case, other than the Debtors; *provided, however*, that the foregoing shall not (x) limit the scope of discharge granted to the Debtors under sections 524 and 1141 of the Bankruptcy Code, (y) diminish the scope of any exculpation to which any Person is entitled under section 1125(e) of the Bankruptcy Code or (z) change the treatment of the DOJ Forfeiture Judgment Claim pursuant to Section 2.3 of the Plan or the treatment of the Federal Government Unsecured Claims pursuant to Section 4.3 of the Plan;

(3) enjoin or otherwise bar the United States from asserting or enforcing, outside the Bankruptcy Court, any liability described in the preceding clause (2); *provided, however*, that the non-bankruptcy rights and defenses of all Persons with respect to (A)-(D) in clause (2) are likewise fully preserved;

(4) affect any valid right of setoff or recoupment of the United States against any of the Debtors; *provided, however*, that the rights and defenses of the Debtors with respect thereto are fully preserved (other than any rights or defenses based on language in the Plan or the Confirmation Order that may extinguish setoff or recoupment rights);

(5) divest any court, commission or tribunal of jurisdiction to determine whether any liabilities asserted by the United States are discharged or otherwise barred by the Confirmation Order, the Plan or the Bankruptcy Code; *provided, however*, that the Bankruptcy Court shall retain jurisdiction as set forth in and pursuant to the terms of the Plan to the extent permitted by law; or

(6) be deemed to (A) determine the tax liability of any Person, including but not limited to the Debtors, (B) have determined the federal tax treatment of any item, distribution or Entity, including the federal tax consequences of the Plan or Confirmation Order, or (C) expressly expand or diminish the jurisdiction of the Bankruptcy Court to make determinations as to federal tax liability and federal tax treatment under the Bankruptcy Code and 28 U.S.C. §§ 157, 1334.

For the avoidance of doubt, the Channeling Injunction set forth in Section 10.8 of the Plan does not apply to the rights and causes of action protected by Section 10.20 of the Plan.

(ii) Notwithstanding anything to the contrary in the Plan, nothing in the Plan, the Confirmation Order, the Shareholder Settlement Agreements or any other document filed in connection with the Plan shall release claims held by the United States of America against the Shareholder Released Parties; *provided* that, for the avoidance of doubt, nothing in the Plan, Confirmation Order, the Shareholder Settlement Agreements or any other document filed in connection with the Plan shall limit the releases contained in the Settlement Agreement between the United States of America and Purdue Pharma L.P., executed on October 21, 2020, or the Settlement Agreement between the United States of America and Dr. Richard Sackler, David Sackler, Mortimer D.A. Sackler, Kathe Sackler, and the Estate of Jonathan Sackler, executed on October 21, 2020.

(iii) Several of the Debtors are parties to the various following agreements with the Secretary of the Department of Health and Human Services under which the Debtors owe rebates to third parties:

(1) The Medicare Coverage Gap Discount Program Agreement is established under 42 U.S.C. §§ 1395w-l14A, 1395w-153 and is required should manufacturers wish to have coverage for their products under Medicare Part D. Under the Medicare Coverage Gap Discount Program Agreement, manufacturers agree to reimburse Medicare Part D plan sponsors for certain Coverage Gap discounts the plans provide to Medicare beneficiaries in the Part D coverage gap. The Centers for Medicare & Medicaid Services require that a new entity that seeks to assume a Medicare Coverage Gap Discount Program Agreement enter into a novation agreement with the Centers for Medicare & Medicaid Services with respect to the transfer of such agreement. The Debtors that have entered into Medicare Coverage Gap Discount Program Agreements with the Secretary are: Purdue Pharma L.P. (P1180) and Rhodes Pharmaceuticals L.P. (P1281);

(2) The Medicaid Drug Rebate Program, established under section 1927 of the Social Security Act, requires manufacturers to enter

into National Drug Rebate Agreements with the Secretary for the coverage and payment of a manufacturer's covered outpatient drugs. Under the Medicaid Drug Rebate Program, if a manufacturer has entered into and has in effect a National Drug Rebate Agreement, Medicaid covers and pays for all of the drugs of that manufacturer dispensed and paid for under the state plan, and in return manufacturers pay applicable rebates to the states. The Debtors that have National Drug Rebate Agreements and the labeler codes associated with the National Drug Rebate Agreements are as follows: Rhodes Pharmaceuticals L.P. (42858), Purdue Pharma L.P. (59011), and Adlon Therapeutics L.P. (72912);

(3) Manufacturers with National Drug Rebate Agreements must also comply with the Drug Pricing Program under section 340B of the Public Health Service Act, 42 U.S.C. § 256b, and have Pharmaceutical Pricing Agreements with the Secretary of the Department of Health and Human Services. Under the Pharmaceutical Pricing Agreements, manufacturers agree to charge a price for covered outpatient drugs that will not exceed the average manufacturer price decreased by a rebate percentage. The Debtors that have Pharmaceutical Pricing Agreements and the labeler codes associated with such agreements are as follows: Rhodes Pharmaceuticals L.P. (42858), Purdue Pharma L.P. (59011), and Adlon Therapeutics L.P. (72912); and

(4) The Medicare Coverage Gap Discount Program Agreements, the Medicaid National Drug Rebate Agreements and the Pharmaceutical Pricing Agreements identified above provide that, in the event of a transfer of ownership, such agreements are automatically assigned to the new owner and all terms and conditions of such agreements remain in effect as to the new owner. Accordingly, notwithstanding anything contained in the Plan or the Confirmation Order which may be to the contrary, the Debtors shall assume such agreements pursuant to section 365 of the Bankruptcy Code, and upon the Effective Date, the Medicare Coverage Gap Discount Program Agreements, the Medicaid National Drug Rebate Agreements and the Pharmaceutical Pricing Agreements identified above shall be assigned to NewCo. NewCo, as the new owner, will assume the obligations of the Debtors who are parties under such agreements from and after the Effective Date, and to fully perform all the duties and responsibilities that exist under such agreements in accordance with their terms, including the payment of discounts owed to Part D Plan sponsors or payment of rebates owed to states and wholesalers for quarters prior to the Effective Date. For the avoidance of doubt, NewCo shall be liable for any outstanding rebates or discounts owed to

third parties (and any applicable interest thereon) arising prior to the Effective Date, as well as any penalties associated with noncompliance by the Debtors with the Medicare Coverage Gap Discount Program Agreements, the Medicaid National Drug Rebate Agreements and the Pharmaceutical Pricing Agreements identified above prior to the Effective Date.

(iv) Notwithstanding anything to the contrary in the Plan, nothing in the Plan, the Confirmation Order, the Shareholder Settlement Agreements or any other document filed in connection with the Plan shall bind the United States in any application of statutory, or associated regulatory, authority grounded in Title 19 of the Social Security Act, 42 U.S.C. § 1396-1 et seq. (the "**Medicaid Program**") or in section 1115 of Title 11 of the Social Security Act. The United States is neither enjoined nor in any way prejudiced in seeking recovery of any funds owed to the United States under the Medicaid Program.

J. Retention of Jurisdiction

1. Retention of Jurisdiction

(i) The Bankruptcy Court shall retain exclusive jurisdiction of all matters arising under, arising out of or related to the Chapter 11 Cases and the Plan pursuant to, and for the purposes of, sections 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following purposes:

(1) to hear and determine applications for the assumption or rejection of executory contracts and unexpired leases and any Disputed Cure Claims or Disputed Claims in respect of rejection damages resulting therefrom;

(2) to hear and determine any motions, adversary proceedings, applications, contested matters and other litigated matters pending on, or commenced after, entry of the Confirmation Order;

(3) to hear and resolve any disputes arising from or related to (A) any orders of the Bankruptcy Court still in effect granting relief under Bankruptcy Rule 2004 or (B) any protective orders entered by the Bankruptcy Court in connection with the foregoing (including the Protective Order);

(4) to ensure that Distributions to Holders of Allowed Claims are accomplished as provided in the Plan and the Confirmation Order;

(5) to consider Claims or the allowance, classification, priority, compromise, estimation or payment of any Claim, including any Administrative Claim or, solely to the extent provided in the

Master TDP and/or the applicable Creditor Trust TDP, any Channeled Claim;

(6) to enter, implement or enforce such orders as may be appropriate in the event that the Confirmation Order is, for any reason, stayed, reversed, revoked, modified or vacated;

(7) to issue and enforce injunctions, enter and implement other orders and take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation, implementation or enforcement of the Plan, the Confirmation Order or any other order of the Bankruptcy Court;

(8) to hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code to remedy any defect or omission or reconcile any inconsistency in the Plan, the Disclosure Statement or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(9) to hear and determine all Professional Fee Claims;

(10) to resolve disputes concerning any reserves with respect to Non-Participating Channeled Claims and other Disputed Claims or the administration thereof;

(11) to hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Plan, the Confirmation Order, any transactions or payments in furtherance of the Plan or the Confirmation Order or any agreement, instrument or other document governing, or related to, any of the foregoing, including the Plan Documents;

(12) to take any action and issue such orders, including any such action or orders as may be necessary after entry of the Confirmation Order or the occurrence of the Effective Date, as may be necessary to construe, enforce, implement, execute and consummate the Plan, including any release (including, but not limited to, the United States-PI Claimant Medical Expense Claim Releases), exculpation or injunction provisions set forth in the Plan, or to maintain the integrity of the Plan following the occurrence of the Effective Date;

(13) to hear and determine any other matters related to the Chapter 11 Cases and not inconsistent with the Bankruptcy Code or title 28 of the United States Code;

(14) to hear, determine and resolve disputes arising in connection with the interpretation, implementation or enforcement of the Plan or Confirmation Order;

(15) to resolve any disputes concerning whether a Person had sufficient notice of the Chapter 11 Cases, the Disclosure Statement, any solicitation conducted in connection with the Chapter 11 Cases, any Bar Date established in the Chapter 11 Cases or any deadline for responding or objecting to a Cure Amount, in each case, for the purpose of determining whether a Claim or Interest is discharged under the Plan or for any other purpose;

(16) to hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Shareholder Settlement Agreements, the Public Entity Settlements and the Private Entity Settlements;

(17) to hear and determine disputes arising in connection with the MDT Claims or operations of the Master Disbursement Trust or the actions of the MDT Trustees;

(18) to hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Creditor Trust Documents, and to hear and determine disputes concerning violations of the Confirmation Order or the use of funds from the Creditor Trusts in a manner inconsistent with the applicable Creditor Trust Documents; provided that, with respect to the Governmental Remediation Trust and the Tribe Trust, such jurisdiction shall be concurrent and not exclusive to the extent set forth in the Governmental Remediation Trust Documents and the Tribe Trust Documents, respectively, as in effect on the Effective Date;

(19) to hear and resolve any disputes arising from or related to (A) Liens, collateral, or other forms of credit protections that are granted or otherwise effected pursuant to the Shareholder Settlement Agreements, the Public Entity Settlements and the Private Entity Settlements or (B) any other attempt by any Person to seek orders of attachment, Liens, or collateral involving any Assets, in full or in part, of the Shareholder Released Parties;

(20) to determine such other matters, and for such other purposes, as may be provided in the Confirmation Order;

(21) to hear and determine all matters relating to the Plan Settlements, to the extent permitted under applicable law; and

(22) to enter a final decree closing each of the Chapter 11 Cases.

(ii) The Bankruptcy Court shall retain concurrent, rather than exclusive, jurisdiction of all matters arising under, arising out of or related to the Chapter 11 Cases and the Plan to, among other things, hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code (including the expedited determination of taxes under section 505(b) of the Bankruptcy Code), and to hear and resolve or recommend resolution of disputes related to the MDT Insurance Rights.

(iii) Notwithstanding anything in Article XI of the Plan to the contrary, the resolution of Channeled Claims against the Debtors and the forum in which such resolution shall be determined shall be governed by, and in accordance with, Section 6.21 of the Plan, the Master TDP and the Creditor Trust TDPs, if applicable.

(iv) By consenting to the treatment provided by the Plan or otherwise supporting the Plan, no State or Tribe shall be construed to have waived any claim of Sovereign Immunity that it may have in any other action or proceeding, including any action or proceeding occurring after the Effective Date.

(v) Nothing in Article XI of the Plan shall be construed to alter the jurisdiction of a court in which an Opt-Out Class Action is pending or was adjudicated in respect of such Opt-Out Class Action.

(vi) As of the earlier of the Effective Date or the expiration of the Preliminary Injunction, all Persons are permanently enjoined from commencing, conducting, or continuing, directly or indirectly, any litigation or prosecution of an Estate Cause of Action (including in any proceeding in a judicial, arbitral, administrative, or other forum). Any Person seeking to commence, conduct, or continue litigation or prosecution of a Cause of Action against a Shareholder Released Party or a Released Party may, but is not required to, seek a prior determination in the Bankruptcy Court that a Cause of Action is not an Estate Cause of Action. If any Person commences, conducts or continues litigation or prosecution of such Cause of Action without a prior determination by the Bankruptcy Court, the Person against which such Cause of Action was asserted, and the Master Disbursement Trust or NewCo, shall be entitled to make an emergency application to the Bankruptcy Court for a determination that such Cause of Action is an Estate Cause of Action and that the injunction in Section 11.1(f) of the Plan has been violated. In either event, the determination whether or not a Cause of Action is an Estate Cause of Action shall be based on an appropriate evidentiary record, and the only Persons with standing to be heard shall be: (i) the Person seeking to bring such Cause of Action; (ii) the Person or entity against which such Cause of Action would

be or has been brought; or (iii) the Debtors, the Creditors' Committee, the PAT, each Governmental Consent Party, the Master Disbursement Trust or NewCo. Upon determining that a violation of the injunction has occurred, damages may be awarded in the amount of attorneys' fees and other litigation costs and expenses incurred by the Person against which the Estate Cause of Action was brought or who is otherwise seeking to enforce the injunction, including in connection with litigation or prosecution of the Estate Cause of Action and in connection with enforcing the injunction in Section 11.1(f) of the Plan subject to the discretion of the Bankruptcy Court. Without limiting the foregoing, the Bankruptcy Court, in its discretion, also may award any additional appropriate relief against a violating Person and may award any sanctions against any other Person engaging in otherwise sanctionable conduct in connection with the enforcement of the injunction in Section 11.1(f) of the Plan.

K. Miscellaneous Provisions

1. Exemption from Certain Transfer Taxes

To the maximum extent permitted pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property under the Plan pursuant to (a) the issuance, distribution, transfer or exchange of any debt, equity security or other interest in the Debtors, (b) the Restructuring Transactions, (c) the creation, modification, consolidation, termination, refinancing and/or recording of any mortgage, deed of trust or other security interest, or the securing of additional indebtedness by such or other means, or (d) the making, assignment, recording or surrender of any lease or sublease, or the making, delivery or recording of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan, including any deeds, bills of sale or other assignments or instruments of transfer, or assignments executed in connection with any disposition of Assets contemplated by the Plan (including transfers of Assets to and by the Debtors, the Plan Administration Trust, NewCo, the Foundation, the Master Disbursement Trust and the Creditor Trusts) shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles tax, transfer tax (including real estate transfer tax), mortgage tax or mortgage recording tax, sales or use tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee or other similar tax or governmental assessment, and the appropriate federal, state, provincial or local government officials or agents shall forego collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

2. Dates of Actions to Implement Plan

In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day but shall be deemed to have been completed as of the required date.

3. Amendments

(i) **Plan Modifications**. ~~This~~The Plan may be amended, modified or supplemented by the Debtors in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law, without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as otherwise ordered by the Bankruptcy Court; *provided* that (i) any such amendment, modification or supplement shall be reasonably acceptable to the Governmental Consent Parties; *provided further* that any such amendment, modification or supplement that expands the scope of the Releases or modifies any provision relating to the MDT Insurance Policies (including the scope thereof) or the transfer of the MDT Insurance Rights shall be acceptable to the Governmental Consent Parties, (ii) any such amendment, modification or supplement shall be reasonably acceptable to the Creditors' Committee to the extent that it (A) relates to the MDT Insurance Rights, (B) modifies Section 5.9 of the Plan as it relates to payment of the attorneys' fees and costs of Holders of Healthcare Provider Claims, Third-Party Payor Claims, or PI Claims, the Ad Hoc Group of Individual Victims, the Ratepayer Mediation Participants or the NAS Committee, (C) modifies the Creditors' Committee's consent rights under the Plan, (D) expands the scope of the Releases or (E) materially and adversely affects the treatment of Holders of Healthcare Provider Claims, Third-Party Payor Claims, PI Claims, ER Physician Claims or Other General Unsecured Claims (it being understood that (x) any reduction in the amount of any Initial Private Creditor Trust Distribution, the PI Trust Obligation or any Private Creditor Trust's MDT Claim, (y) any elimination of any consent rights in favor of such Holders or (z) any modification to Section 5.2, 5.6, or 5.7 of the Plan to the extent such modification relates to the Master Disbursement Trust or a Private Creditor Trust shall constitute such a material and adverse effect), and (iii) any such amendment, modification or supplement shall be acceptable to the Sackler Parties' Representative with respect to the Specified Shareholder Provisions and, to the extent set forth in the Master Shareholder Settlement Agreement, reasonably acceptable to the Sackler Parties' Representative with respect to modification of terms relating to the rights, obligations, or interests of the Shareholder Released Parties; *provided* that solely with respect to the Creditor Trust Documents, such consent shall only apply to the extent set forth in the Master Shareholder Settlement Agreement. In addition, after the Confirmation Date, as long as such action does not materially and adversely affect the treatment of Holders of Allowed Claims pursuant to ~~this~~the Plan, the Debtors may remedy any defect or omission or reconcile any inconsistencies in ~~this~~the Plan or the Confirmation Order with respect to such matters as may be necessary to carry out the purposes or effects of ~~this~~the Plan, and any Holder of a Claim or Interest that has accepted ~~this~~the Plan shall be

deemed to have accepted ~~this~~the Plan as amended, modified or supplemented.

(iii) Certain Technical Amendments. Prior to the Effective Date, the Debtors may make appropriate technical adjustments and modifications to the Plan without further order or approval of the Bankruptcy Court; *provided*, *however*, that such technical adjustments and modifications do not adversely affect in a material way the treatment of Holders of Claims and Interests under the Plan.

4. Revocation or Withdrawal of Plan

The Debtors reserve the right to revoke or withdraw the Plan prior to the Effective Date as to any or all of the Debtors; *provided* that each Debtor shall be entitled to revoke the Plan only in full and not in part. If, with respect to a Debtor, the Plan has been revoked or withdrawn prior to the Effective Date, or if confirmation or the occurrence of the Effective Date as to such Debtor does not occur on the Effective Date, then, with respect to such Debtor: (a) the Plan and the Plan Documents shall be null and void in all respects; (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount any Claim or Interest or Class of Claims or Interests), assumption or rejection of executory contracts and unexpired leases effected by the Plan and any document or agreement executed pursuant to the Plan (including the Plan Documents) shall be deemed null and void; and (c) nothing contained in the Plan shall (i) constitute a waiver or release of any Claim by or against, or any Interest in, such Debtor or any other Person, (ii) prejudice in any manner the rights of such Debtor or any other Person, or (iii) constitute an admission of any sort by any Debtor or any other Person; provided that any provisions under the Shareholder Settlement Agreements that are expressly contemplated to survive revocation or reversal of the Plan shall survive.

5. Payment of Statutory Fees

All fees payable under section 1930 of chapter 123 of title 28 of the United States Code shall be paid on or before the Effective Date by the Debtors. After the Effective Date, the Plan Administration Trust shall assume liability for and shall pay, or cause to be paid, any and all quarterly fees owed to the U.S. Trustee when due in accordance with applicable law, and shall continue to file, or cause to be filed, with the Bankruptcy Court quarterly reports to show the calculation of such fees for the Debtors' Estates. Each of the Debtors shall remain obligated to pay quarterly fees to the U.S. Trustee until such Debtor's Chapter 11 Case is closed, dismissed or converted to a case under chapter 7 of the Bankruptcy Code.

6. Severability

(i) Notwithstanding anything else contained in the Plan, (i) the Plan provisions effectuating the Releases provided by the Debtors, their Estates, and the Releasing Parties and the Channeling Injunction (A) are integrated with and integral to all other provisions of the Master Shareholder Settlement Agreement, the Plan and the Plan Documents, (B) are not and shall not be severable from the remainder of the Master

Shareholder Settlement Agreement, the Plan or the Plan Documents and (C) shall not be excised or modified other than in accordance with the Plan and the Master Shareholder Settlement Agreement and (ii) if the Plan provisions effectuating the Releases provided by the Debtors, their Estates, and the Releasing Parties and the Channeling Injunction are deemed null, void, illegal or unenforceable, then the terms, provisions, covenants and restrictions of the Master Shareholder Settlement Agreement and the Plan shall be void and shall not remain in force or effect, except as specifically and expressly stated otherwise in the Master Shareholder Settlement Agreement or the Plan, or as specifically and expressly agreed in writing by all parties to the Master Shareholder Settlement Agreement.

(ii) If, prior to entry of the Confirmation Order, any term or provision of the Plan that is not related to the Master Shareholder Settlement Agreement or the Releases provided by the Debtors, their Estates, and the Releasing Parties and the Channeling Injunction is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation by the Bankruptcy Court, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with Section 12.6 of the Plan, is valid and enforceable pursuant to its terms.

(iii) The impact of any modification, reversal, or vacatur of the Confirmation Order, the Plan, or the Shareholder Settlements following the Effective Date will be governed by the Master Shareholder Settlement Agreement.

7. Governing Law

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent that a Plan Document provides otherwise, the rights, duties and obligations arising under the Plan and the Plan Documents shall be governed by, and construed and enforced in accordance with, the internal laws of the State of New York, without giving effect to the principles of conflicts of laws thereof (other than section 5-1401 and section 5-1402 of the New York General Obligations Law).

8. Immediate Binding Effect

Subject only to Bankruptcy Rules 3020(e), 6004(h) and 7062, as applicable, upon the occurrence of the Effective Date, the terms of the Plan and the Plan Documents shall be immediately effective and enforceable and deemed binding upon and inure to the benefit of the Debtors, the other Protected Parties, all Holders of Claims against or Interests in the Debtors, all Holders of Channeled Claims, all Releasing Parties and each of their respective successors and assigns.

9. Successors and Assigns

The rights, benefits and obligations of any Person named or referred to **in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrat**or, successor or permitted assign, if any, of each such Person.

10. Entire Agreement

On the Effective Date, the Plan, the Plan Supplement and the Confirmation Order shall supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings and representations concerning such documents, all of which have become merged and integrated into the Plan.

11. Computing Time

In computing any period of time prescribed or permitted by the Plan, unless otherwise set forth in the Plan or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

12. Exhibits to Plan

All exhibits, schedules, supplements and appendices to the Plan (including the Plan Supplement) are incorporated into and are part of the Plan as if set forth in full in the Plan.

13. Notices

All notices, requests and demands to or upon the Debtors shall be in writing (including by facsimile transmission) and, unless otherwise provided the Plan, shall be deemed to have been duly given or made only when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

DAVIS POLK & WARDWELL LLP
450 Lexington Avenue
New York, New York 10017
Attn: Marshall S. Huebner, Benjamin S. Kaminetzky, Eli J. Vonnegut, Christopher S. Robertson, Joshua Y. Sturm and Abraham Bane.

Counsel to the Debtors
and Debtors in Possession

After the occurrence of the Effective Date, the Plan Administration Trustee shall have authority to send a notice to Entities providing that, to continue to receive documents pursuant to Bankruptcy Rule 2002, such Entities must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002; *provided*, *however*, that the U.S. Trustee need not file such a renewed request and shall continue to receive documents without any further action being necessary. After the occurrence of the Effective Date, the Debtors and the Plan Administration Trustee are authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to the U.S. Trustee and those Entities that have filed such renewed requests.

14. Dissolution of the Creditors' Committee

On the Effective Date, the Creditors' Committee will dissolve; provided, however, that following the Effective Date, the Creditors' Committee shall continue in existence and have standing and a right to be heard for the following limited purposes: (a) applications, and any relief related thereto, for compensation by Professional Persons and requests for allowance of fees and/or expenses under section 503(b) of the Bankruptcy Code, (b) any appeals of, or related to, the Confirmation Order or (c) any other appeal to which the Creditors' Committee is a party. Upon the dissolution of the Creditors' Committee, the Creditors' Committee, each of its members (including each officer, director, employee or agent thereof) and its respective Professional Persons will cease to have any duty, obligation or responsibility arising from, or related to, the Chapter 11 Cases and shall be released and discharged from all rights and duties from, or related to, the Chapter 11 Cases.

15. Reservation of Rights

Except as otherwise provided in the Plan, the Plan shall be of no force or effect unless the Bankruptcy Court enters the Confirmation Order. None of the filing of the Plan, any statement or provisions of the Plan or the taking of any action by the Debtors with respect to the Plan shall be, or deemed to be, an admission or waiver of any rights of the Debtors with respect to any Claim or Interest prior to the Effective Date.

ARTICLE V

VOTING REQUIREMENTS; ACCEPTANCE AND CONFIRMATION OF THE PLAN

A. General

The following is a brief summary of the confirmation process for the Plan. Individuals, partnerships, corporations, joint ventures, trusts, governmental units and Native American Tribes holding a prepetition Claim or interest (an "**Interest**") as defined in section 101(16) of the Bankruptcy Code against the Debtors (such holders of Claims or Interests, "**Holders of Claims or Interests**") are encouraged to review the relevant provisions of the Bankruptcy Code and/or consult their own attorneys.

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a confirmation hearing. Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of the Plan.

Section 1129 of the Bankruptcy Code requires that, in order to confirm the Plan, the Bankruptcy Court must make a series of findings concerning the Plan and the Debtors, including that (i) the Plan has classified Claims in a permissible manner; (ii) the Plan complies with applicable provisions of the Bankruptcy Code; (iii) the Plan has been proposed in good faith and not by any means forbidden by law; (iv) the disclosure required by section 1125 of the Bankruptcy Code has been made; (v) the Plan has been accepted by the requisite votes of holders of Claims (except to the extent that cramdown is available under section 1129(b) of the Bankruptcy Code); (vi) the Plan is feasible and confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors unless such liquidation or reorganization is proposed in the Plan; (vii) the Plan is in the "best interests" of all holders of Claims in an impaired Class by providing to such holders on account of their Claims property of a value, as of the Effective Date, that is not less than the amount that such holders would receive or retain in a chapter 7 liquidation, unless each holder of a Claim in such Class has accepted the Plan; and (viii) all fees payable under section 1930 of chapter 123 of title 28 of the United States Code shall be paid on or before the Effective Date by the Debtors. After the Effective Date, the Plan Administration Trust shall assume liability for and shall pay, or cause to be paid, any and all quarterly fees owed to the U.S. Trustee when due in accordance with applicable law, and shall continue to file, or cause to be filed, with the Bankruptcy Court quarterly reports to show the calculation of such fees for the Debtors' Estates. Each of the Debtors shall remain obligated to pay quarterly fees to the U.S. Trustee until such Debtor's Chapter 11 Case is closed, dismissed or converted to a case under chapter 7 of the Bankruptcy Code. The Debtors believe that the Plan satisfies section 1129 of the Bankruptcy Code.

B. Parties in Interest Entitled to Vote

Pursuant to the Bankruptcy Code, only Classes of Claims that are "impaired" (as defined in section 1124 of the Bankruptcy Code) under the Plan are entitled to vote to accept or reject the Plan. A Class is impaired if the legal, equitable, or contractual rights to which the Claims of that Class entitled the holders of such Claims are modified, other than by curing defaults and reinstating the Claims. Classes that are not impaired are not entitled to vote on the Plan and are conclusively presumed to have accepted the Plan. In addition, Classes that receive no distributions under the Plan are not entitled to vote on the Plan and are deemed to have rejected the Plan.

C. Classes Impaired and Entitled to Vote Under the Plan

The following table designates the Classes of Claims against and Interests in the Debtors and specifies which Classes are (i) Impaired and Unimpaired under the Plan, (ii) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code, and (iii) deemed to accept or reject the Plan:

Class	Type of Claim or Interest	Impairment	Entitled to Vote
Class 1	Secured Claims	Unimpaired	No (Presumed to Accept)

Class 2	Other Priority Claims	Unimpaired	No (Presumed to Accept)
Class 3	Federal Government Unsecured Claims	Impaired	Yes
Class 4	Non-Federal Domestic Governmental Claims	Impaired	Yes
Class 5	Tribe Claims	Impaired	Yes
Class 6	Public School Claims	Impaired	Yes
Class 7	Healthcare Provider Claims	Impaired	Yes
Class 8	Third-Party Payor Claims	Impaired	Yes
Class 9	ER Physician Claims	Impaired	Yes
Class 10(a)	NAS PI Claims	Impaired	Yes
Class 10(b)	Non-NAS PI Claims	Impaired	Yes
Class 11(a)	Avrio General Unsecured Claims	Unimpaired	No (Presumed to Accept)
Class 11(b)	Adlon General Unsecured Claims	Unimpaired	No (Presumed to Accept)
Class 11(c)	Other General Unsecured Claims	Impaired	Yes
Class 12	Intercompany Claims	Unimpaired or Impaired	No (Presumed to Accept or Deemed to Reject)
Class 13	Shareholder Claims	Impaired	No (Deemed to Reject)
Class 14	Co-Defendant Claims	Impaired	No (Deemed to Reject)
Class 15	Other Subordinated Claims	Impaired	No (Deemed to Reject)
Class 16	PPLP Interests	Impaired	No (Deemed to Reject)
Class 17	PPI Interests	Impaired	No (Deemed to Reject)
Class 18	Intercompany Interests	Unimpaired or Impaired	No (Presumed to Accept or Deemed to Reject)

In general, if a Claim or Interest is unimpaired under a plan, section 1126(f) of the Bankruptcy Code deems the holder of such Claim or Interest to have accepted the plan, and thus, the holders of Claims in such unimpaired Classes are not entitled to vote on the plan. Because Classes 1, 2, 11(a) and 11(b) are unimpaired under the Plan, the holders of Claims and Interests in these Classes are not entitled to vote.

In general, if the holder of an impaired Claim or impaired Interest will not receive any distribution under a plan in respect of such Claim or Interest, section 1126(g) of the Bankruptcy Code deems the holder of such Claim or Interest to have rejected the plan, and thus the holders of Claims in such Classes are not entitled to vote on the plan. The holders of Claims and Interests in Classes 13, 14, 15, 16, and 17 are conclusively presumed to have rejected the Plan and are therefore not entitled to vote.

Holders of Interests in Classes 12 and 18 are either conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code or are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Accordingly, such Holders are not entitled to vote to accept or reject the Plan.

D. Voting Procedures and Requirements

The Bankruptcy Court can confirm the Plan only if it determines that the Plan complies with the technical requirements of chapter 11 of the Bankruptcy Code. One of these technical requirements is that the Bankruptcy Court find, among other things, that the Plan has been accepted by the requisite votes of all Classes of impaired Claims and Interests unless approval will be sought under section 1129(b) of the Bankruptcy Code in spite of the nonacceptance by one or more such Classes.

If you have any questions about (i) the procedures for voting your Claim or with respect to the packet of materials that you have received or (ii) the amount of your Claim, please contact the Debtors' Solicitation Agent at (844) 217-0912 (domestic toll-free) or (347) 859-8093 (if calling from outside the United States or Canada). If you wish to obtain (at no charge) an additional copy of the Plan, this Disclosure Statement, or other solicitation documents, you can obtain them from the Debtors' Solicitation Agent by:
(a.) calling (844) 217-0912 (U.S./Canada, toll-free) or +1 (347) 859-8093 (international, toll);
(b.) visiting the Debtors' restructuring website at: https://restructuring.ra.kroll.com/purduepharma/;
(c.) writing to Purdue Pharma Ballot Processing, c/o Kroll Restructuring Administration LLC, 850 Third Avenue, Suite 412, Brooklyn, NY 11232; and/or (d.) emailing purduepharmainfo@kroll.com (with a reference to "Purdue Pharma Solicitation Inquiry" in the subject line) and request paper copies of the corresponding materials.

1. Ballots

Pursuant to Bankruptcy Rule 3017(c), May 12, 2025 shall be the record date for purposes of determining which holders of Claims are entitled to receive solicitation packages and, where applicable, vote on the Plan (the "**Voting Record Date**"). Accordingly, only holders of record as of the Initial Voting Record Date that are otherwise entitled to vote under the Plan.

In voting for or against the Plan, please use (i) only the Ballot sent to you with this Disclosure Statement or (ii) the online electronic ballot portal. If you are a holder of a Claim in Classes 3, 4, 5, 6, 7, 8, 9, 10(a), 10(b) and 11(c) and did not receive a Ballot, if your Ballot is damaged or lost or if you have any questions concerning voting procedures, please contact your attorney or the Solicitation Agent at (844) 217-0912 (U.S./Canada, toll-free) or +1 (347) 859-8093 (international, toll) or by email at purduepharmaballots@kroll.com (with a reference to "Purdue Pharma Solicitation Inquiry" in the subject line), as applicable.

In addition, the Debtors intend to seek approval for an attorney representing four or more holders of Claims in certain Classes to submit the votes of such clients through a single master ballot (a "**Master Ballot**") so long as such attorney follows specified procedures associated therewith. An attorney electing to utilize such procedure will be required to collect and record the votes of such clients through customary and accepted practices, or obtain authority to procedurally cast such clients' votes. If your attorney has indicated that your vote will be submitted by Master Ballot, but you prefer to vote by means of an individual Ballot, you may contact the Solicitation Agent at (844) 217-0912 (U.S./Canada, toll-free) or +1 (347) 859-8093

(international, toll) or by email at purduepharmaballots@kroll.com (with a reference to "Purdue Pharma Solicitation Inquiry" in the subject line).

2. Submitting Ballots

If you are entitled to vote to accept or reject the Plan, you should read carefully, complete and submit your Ballot in accordance with the instructions below.

For your vote to be counted, your Ballot (or the Master Ballot including your vote) must be properly completed, signed, and returned so that it is actually received by the Solicitation Agent, Kroll Restructuring Administration LLC, by no later than the Voting Deadline (as defined in the Solicitation Order), unless such time is extended in writing by the Debtors. If your Ballot (or the Master Ballot including your vote) is not received by the Solicitation Agent on or before the Voting Deadline, and such Voting Deadline is not extended by the Debtors as noted above, your vote will not be counted. Ballots must be delivered to the Solicitation Agent at the appropriate address listed below:

If by E-Ballot:	**If by standard mail, overnight courier or hand delivery:**
Visit https://restructuring.ra.kroll.com/purduepharma and click on the "Submit E-Ballot" link.	Purdue Pharma Ballot Processing c/o Kroll Restructuring Administration LLC 850 Third Avenue, Suite 412 Brooklyn, NY 11232
For your E-Ballot log-in credentials and further detail, please see your Ballot.	If you plan to hand deliver your Ballot to Kroll's office, please email purduepharmaballots@kroll.com at least twenty-four (24) hours in advance to arrange delivery.

Ballots will not be accepted by telecopy, facsimile, email, or other electronic means of transmission (other than by E-Ballot). Furthermore, Master Ballots may only be submitted to the Solicitation through the E-Ballot portal referenced above.

The method of delivery of Ballots to the Solicitation Agent is at the risk of each holder of a Claim, and such delivery will be deemed made only when the original Ballot (or Master Ballot including your vote) is actually received by the Solicitation Agent. In all cases, sufficient time should be allowed to assure timely delivery. Any unsigned Ballot will not be counted in determining the acceptance or rejection of the Plan; *provided* that a Ballot or Master Ballot cast via the Solicitation Agent's online "E-Balloting" portal or pursuant to the solicitation procedures will be deemed signed. No Ballot should be sent to the Debtors, the Debtors' agents (other than the Solicitation Agent), or the Debtors' financial or legal advisors, and if so sent, and not otherwise properly and timely delivered to the Solicitation Agent, will not be counted. If no holders of Claims in a particular Class that is entitled to vote on the Plan vote to accept or reject the Plan, then such Class shall be deemed to accept the Plan.

If you are a holder of a Claim in Classes 6, 7, 8, 9 or 10 and are represented by an attorney who represents four or more clients that may hold Claims in Classes 6, 7, 8, 9 or 10, you may be eligible to have your attorney vote to accept or reject the Plan on your behalf via Master Ballot. In such case, your attorney will be required to collect and record your vote through

customary and accepted practices, or obtain authority to procedurally cast your vote. In the event that your attorney votes to accept or reject the Plan on your behalf via Master Ballot and you also submit an individual ballot to accept or reject the Plan, your individual ballot will control over any duplicate vote on the Master Ballot.

3. Voting of Disputed Claims

The Plan shall provide that if any party in interest with appropriate standing has filed an objection to a Claim (such claim, a "**Disputed Claim**"), such Disputed Claim is temporarily disallowed, except as otherwise provided in a stipulation, settlement, or other agreement filed by the Debtors or as ordered by the Court prior to or concurrent with entry of an order confirming the Plan, including pursuant to an order on any motion with the Court for an order pursuant to Bankruptcy Rule 3018(a) temporarily allowing such claim for voting purposes filed regarding such Claim that is timely filed pursuant to procedures established by the Bankruptcy Court; *provided* that if the objection seeks to reclassify or reduce the allowed amount of such Claim, then such Claim is temporarily allowed for voting purposes in the reduced amount and/or as reclassified, except as otherwise provided in a stipulation, settlement, or other agreement filed by the Debtors or as may be otherwise ordered by the Court prior to or concurrent with entry of an order confirming the Plan.

E. Acceptance of the Plan

As a condition to confirmation of the Plan, the Bankruptcy Code requires that each class of impaired claims vote to accept a plan, except under certain circumstances. *See* "*Confirmation Without Necessary Acceptances; Cramdown*" below. A class of claims or interests that is unimpaired under a plan is deemed to have accepted the plan and, therefore, solicitation of acceptances with respect to such class is not required. A class is impaired unless the plan (i) leaves unaltered the legal, equitable, and contractual rights to which the claim or interest entitles the holder of such claim or interest or (ii) cures any default, reinstates the original terms of the obligation, and does not otherwise alter the legal, equitable, or contractual rights to which the claim or interest entitles the holder of such claim or interest.

Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by an impaired class as acceptance by holders of at least two-thirds in dollar amount and more than one-half in number of claims in that class. Only those holders that are eligible to vote and that actually vote to accept or reject the plan are counted for purposes of determining whether these dollar and number thresholds are met. Thus, a class of claims will have voted to accept a plan only if two-thirds in amount and a majority in number that actually vote cast their ballots in favor of acceptance. Under section 1126(d) of the Bankruptcy Code, a class of interests has accepted a plan if holders of such interests holding at least two-thirds in amount that actually vote have voted to accept the plan. Holders of claims or interests who fail to vote are not counted as either accepting or rejecting a plan.

In addition to this voting requirement, section 1129 of the Bankruptcy Code requires that a plan be accepted by each holder of a claim or interest in an impaired class or that the plan otherwise be found by a court to be in the best interests of each holder of a claim or interest in such class. *See* "Best Interests Test" below. Moreover, each impaired class must accept the plan

for the plan to be confirmed without application of the "fair and equitable" and "unfair discrimination" tests set forth in section 1129(b) of the Bankruptcy Code discussed below. *See* "*Confirmation Without Necessary Acceptances; Cramdown*" below.

F. Confirmation Without Necessary Acceptances; Cramdown

In the event that any impaired class of claims or interests does not accept a plan, a debtor nevertheless may move for confirmation of the plan. A plan may be confirmed, even if it is not accepted by all impaired classes, if the plan has been accepted by at least one impaired class of claims and the plan meets the "cramdown" requirements set forth in section 1129(b) of the Bankruptcy Code. Section 1129(b) of the Bankruptcy Code requires that a court find that a plan (i) "does not discriminate unfairly" and (ii) is "fair and equitable," with respect to each non-accepting impaired class of claims or interests. Here, because holders of Claims and Interests in Classes 13, 14, 15, 16, and 17 are deemed to reject the Plan, the Debtors will seek confirmation of the Plan from the Bankruptcy Court by satisfying the "cramdown" requirements set forth in section 1129(b) of the Bankruptcy Code. The Debtors believe that such requirements are satisfied, as no holder of a Claim or Interest junior to those in Classes 13, 14, 15, 16, and 17 will receive any property under the Plan.

A plan "does not discriminate unfairly" if (i) the legal rights of a non-accepting class are treated in a manner that is consistent with the treatment of other classes whose legal rights are similar to those of the non-accepting class and (ii) no class receives payments in excess of that which it is legally entitled to receive for its claims or interests. The Debtors believe that, under the Plan, all impaired Classes of Claims and Interests are treated in a manner that is consistent with the treatment of other Classes of Claims and Interests that are similarly situated, if any, and no class of Claims or Interests will receive payments or property with an aggregate value greater than the aggregate value of the Allowed Claims or Allowed Interests in such Class. Accordingly, the Debtors believe that the Plan does not discriminate unfairly as to any impaired Class of Claims or Interests.

The Bankruptcy Code provides a non-exclusive definition of the phrase "fair and equitable." In order to determine whether a plan is "fair and equitable," the Bankruptcy Code establishes "cramdown" tests for secured creditors, unsecured creditors, and equity holders, as follows:

1. Secured Creditors. Either (i) each impaired secured creditor retains its liens securing its secured claim and receives on account of its secured claim deferred Cash payments having a present value equal to the amount of its allowed secured claim, (ii) each impaired secured creditor realizes the "indubitable equivalent" of its allowed secured claim, or (iii) subject to section 363(k) of the Bankruptcy Code, the property securing the claim is sold free and clear of liens, with such liens to attach to the proceeds of the sale and the treatment of such liens on proceeds to be as provided in clause (i) or (ii) above.

2. Unsecured Creditors. Either (i) each impaired unsecured creditor receives or retains under the plan property of a value equal to the amount of its allowed claim or (ii) the holders of claims and interests that are junior to the claims of the dissenting class will not receive any property under the plan.

3. Equity Interests. Either (i) each holder of an equity interest will receive or retain under the plan property of a value equal to the greatest of the fixed liquidation preference to which such holder is entitled, the fixed redemption price to which such holder is entitled or the value of the interest or (ii) the holder of an interest that is junior to the non-accepting class will not receive or retain any property under the plan.

As discussed above, the Debtors believe that the distributions provided under the Plan satisfy the "fair and equitable" standard, where required.

AS EXPLAINED ABOVE, THE BANKRUPTCY CODE CONTAINS PROVISIONS FOR CONFIRMATION OF A PLAN EVEN IF IT IS NOT ACCEPTED BY ALL CLASSES. THESE SO-CALLED "CRAMDOWN" PROVISIONS ARE SET FORTH IN SECTION 1129(B) OF THE BANKRUPTCY CODE, WHICH PROVIDES THAT A PLAN CAN BE CONFIRMED EVEN IF IT HAS NOT BEEN ACCEPTED BY ALL IMPAIRED CLASSES OF CLAIMS AND INTERESTS AS LONG AS, AMONG OTHER THINGS, AT LEAST ONE IMPAIRED CLASS OF NON-INSIDER CLAIMS HAS VOTED TO ACCEPT THE PLAN.

G. Classification

The Bankruptcy Code requires that, for purposes of treatment and voting, a chapter 11 plan divide the different claims (excluding administrative claims) against, and equity interests in, a debtor into separate classes based upon their legal nature. Pursuant to section 1122 of the Bankruptcy Code, a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class. The Debtors believe that the Plan classifies all Claims and Interests in compliance with the provisions of the Bankruptcy Code because valid business, factual and legal reasons exist for separately classifying the various Classes of Claims and Interests created under the Plan. Accordingly, the classification of Claims and Interests in the Plan complies with section 1122 of the Bankruptcy Code.

ARTICLE VI

FEASIBILITY AND BEST INTERESTS OF CREDITORS

A. Best Interests Test

As noted above, even if a plan is accepted by the holders of each class of claims and interests, the Bankruptcy Code requires a court to determine that such plan is in the best interests of all holders of claims or interests that are impaired by that plan and that have not accepted the plan. The "best interests" test (the "**Best Interests Test**"), as set forth in section 1129(a)(7) of the Bankruptcy Code, requires a court to find either that all members of an impaired class of claims or interests have accepted the plan or that the plan will provide a member who has not accepted the plan with a recovery of property of a value, as of the effective date of the Plan, that is not less than the amount that such holder would recover if the debtor were liquidated under chapter 7 of the Bankruptcy Code.

To calculate the probable distribution to holders of each impaired class of claims and interests if the debtor were liquidated under chapter 7, a court must first determine the aggregate dollar amount that would be generated from a debtor's assets if its chapter 11 cases were converted to chapter 7 cases under the Bankruptcy Code. To determine if a plan is in the best interests of each impaired class, the present value of the distributions from the proceeds of a liquidation of the debtor's unencumbered assets and properties, after subtracting the amounts attributable to the costs, expenses and administrative claims associated with a chapter 7 liquidation, must be compared with the value offered to such impaired classes under the plan. If the hypothetical liquidation distribution to holders of claims or interests in any impaired class is greater than the distributions to be received by such parties under the plan, then such plan is not in the best interests of the holders of claims or interests in such impaired class.[~~133~~128]

B. Liquidation Analysis

Amounts that a holder of Claims or Interests in an impaired class would receive in a hypothetical chapter 7 liquidation are discussed in the liquidation analysis of the Debtors prepared by the Debtors' management with the assistance of its advisors (the "**Liquidation Analysis**"), which is attached hereto as **Appendix C**.

As described in the Liquidation Analysis, underlying the analysis are a number of estimates and assumptions that, although developed and considered reasonable by the Debtors' management and advisors, are inherently subject to significant uncertainties and contingencies beyond the control of the Debtors and their management. The Liquidation Analysis is based on assumptions with regard to liquidation decisions and circumstances that are subject to change.

[~~133~~128] To the extent relevant for purposes of the Best Interest Test, the Liquidation Analysis assumes that, in a chapter 7 scenario, Holders of Claims and Interests and other non-Debtor Persons would retain their direct claims, if any, against the Shareholder Released Parties. Section III.AA(2)(ii)(c) above contains a discussion of the value of such claims in a chapter 7 scenario.

Accordingly, the values reflected in the Liquidation Analysis might not be realized if the Debtors were, in fact, to undergo a liquidation.

This Liquidation Analysis is solely for the purposes of (i) providing "adequate information" under section 1125 of the Bankruptcy Code to enable the holders of Claims and Interests entitled to vote under the Plan to make an informed judgment about the Plan and (ii) providing the Bankruptcy Court with appropriate support for the satisfaction of the "Best Interests Test" pursuant to section 1129(a)(7) of the Bankruptcy Code, and should not be used or relied upon for any other purpose, including the purchase or sale of securities of, or Claims or Interests in, the Debtors or any of their affiliates.

The Debtors do not intend to and do not undertake any obligation to update or otherwise revise the Liquidation Analysis to reflect events or circumstances existing or arising after the date the Liquidation Analysis is initially filed or to reflect the occurrence of unanticipated events. Therefore, the Liquidation Analysis may not be relied upon as a guarantee or other assurance of the actual results that will occur.

In deciding whether to vote to accept or reject the Plan, holders of Claims must make their own determinations as to the reasonableness of any assumptions underlying the Liquidation Analysis and the reliability of the Liquidation Analysis.

C. Application of the Best Interests Test

The Debtors believe that, based on the Liquidation Analysis, the Plan satisfies the Best Interests Test. As the Plan and the Liquidation Analysis attached hereto as **Appendix C** indicate, Confirmation of the Plan will provide each holder of an Allowed Claim in an impaired class with an equal or greater recovery than the value of any distributions if the Chapter 11 Cases were converted to cases under chapter 7 of the Bankruptcy Code.

D. Feasibility

Section 1129(a)(11) of the Bankruptcy Code requires, as a condition to the confirmation of the Plan ("**Confirmation**"), that the Bankruptcy Court finds that Confirmation is not likely to be followed by the liquidation of the Debtors or the need for further financial reorganization, unless such liquidation is contemplated by the Plan. For purposes of demonstrating that the Plan meets this "feasibility" standard, the Debtors' management has prepared the financial projections, as set forth in **Appendix D** (the "**Financial Projections**").

The Debtors have prepared the Financial Projections solely for the purpose of providing "adequate information" under section 1125 of the Bankruptcy Code to enable the holders of Claims entitled to vote under the Plan to make an informed judgment about the Plan and should not be used or relied upon for any other purpose, including the purchase or sale of securities of, or Claims or Interests in, the Debtors.

In addition to the cautionary notes contained elsewhere in this Disclosure Statement and in the Financial Projections, it is underscored that the Debtors make no representation as to the accuracy of the Financial Projections or their or NewCo's ability to achieve the projected results. Many of the assumptions on which the Financial Projections are based are subject to significant

uncertainties. Inevitably, some assumptions will not materialize, and unanticipated events and circumstances may affect the financial results. Therefore, the actual results achieved throughout the Projection Period (as defined in the Financial Projections) may vary from the Financial Projections, and the variations may be material. All holders of Claims in the impaired classes are urged to examine carefully all of the assumptions on which the Financial Projections are based in connection with their evaluation of, and voting on, the Plan.

Based upon the Financial Projections, the Debtors believe that they will be able to make all distributions and payments under the Plan and that confirmation of the Plan is not likely to be followed by liquidation of NewCo or the need for further restructuring.

ARTICLE VII

SECURITIES LAW MATTERS

This Disclosure Statement was not approved by the SEC or any state regulatory authority. Neither the SEC nor any state regulatory authority has passed upon the accuracy or adequacy of this Disclosure Statement, or the exhibits or statements contained herein, and any representation to the contrary is unlawful.

The Plan provides for the offer, issuance, and distribution of interests in the Creditor Trusts and the Master Disbursement Trust (collectively, the "**Trust Interests**"). The Debtors believe any and all Trust Interests and the right to receive distributions on account of the Trust Interests will not constitute "securities" as defined in section 2(a)(1) of the Securities Act, section 101(49) of the Bankruptcy Code, and applicable state and local securities laws, and will be exempt from registration under the Securities Act, all rules and regulations promulgated thereunder, and any applicable state or local securities laws and regulations. The Trust Interests will not be evidenced by any certificate, security, receipt, or in any other form or manner whatsoever, except as maintained on the books and records of the applicable trust. Further, the Trust Interests shall not be listed for trading on any national securities exchange.

If it is determined that the Trust Interests, the right to receive distributions on account of Trust Interests constitute "securities," the Debtors believe that the issuance and distribution of the Trust Interests satisfies the requirements of section 1145(a)(1) of the Bankruptcy Code and are, therefore, exempt from registration under the Securities Act and state and local securities laws.

To the extent the Trust Interests, the right to receive distributions on account of Trust Interests are determined to be "securities" that do not satisfy the requirements of section 1145(a)(1) of the Bankruptcy Code, the Debtors believe that such interests are issuable without registration under the Securities Act under section 4(a)(2) of the Securities Act. Section 4(a)(2) of the Securities Act provides that the issuance of securities by an issuer in transactions not involving any public offering are exempt from registration under the Securities Act.

ARTICLE VIII

CERTAIN RISK FACTORS TO BE CONSIDERED PRIOR TO VOTING

THE PLAN AND ITS IMPLEMENTATION ARE SUBJECT TO CERTAIN RISKS, INCLUDING, BUT NOT LIMITED TO, THE RISK FACTORS SET FORTH BELOW. HOLDERS OF CLAIMS WHO ARE ENTITLED TO VOTE ON THE PLAN SHOULD READ AND CAREFULLY CONSIDER THE RISK FACTORS, AS WELL AS THE OTHER INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT AND THE DOCUMENTS DELIVERED TOGETHER HEREWITH REFERRED TO OR INCORPORATED BY REFERENCE HEREIN, BEFORE DECIDING WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN. THESE FACTORS SHOULD NOT, HOWEVER, BE REGARDED AS CONSTITUTING THE ONLY RISKS INVOLVED IN CONNECTION WITH THE PLAN AND ITS IMPLEMENTATION.

A. Risks Associated with the Bankruptcy Process

1. Plan Confirmation

The Debtors can make no assurances that the conditions to confirmation of the Plan will be satisfied or waived or that they will receive the requisite acceptances to confirm the Plan. Further, if the requisite acceptances are not received, the Debtors may seek to accomplish an alternative chapter 11 plan and obtain acceptances to an alternative plan for the Debtors, or otherwise, that may not have the support of the holders of Claims and/or may be required to liquidate these Estates under chapter 7 or 11 of the Bankruptcy Code. There can be no assurance that the terms of any such alternative restructuring arrangement or plan would be similar to or as favorable to Creditors as those proposed in the Plan.

Even if the Debtors receive the requisite acceptances, there is no assurance that the Bankruptcy Court will confirm the Plan. Even if the Bankruptcy Court determined that the Disclosure Statement and the balloting procedures and results were appropriate, the Bankruptcy Court could still decline to confirm the Plan if it found that any of the statutory requirements for confirmation had not been met. Moreover, there can be no assurance that modifications to the Plan will not be required for confirmation or that such modifications would not necessitate the resolicitation of votes. If the Plan is not confirmed, it is unclear what distributions holders of Claims ultimately would receive with respect to their Claims in a subsequent plan.

2. Potential Appeals of Confirmation Order

If the Confirmation Order is entered, certain parties may appeal such Order. Any appealing party may seek a stay of judgment with respect to the Confirmation Order, which, if granted by the Bankruptcy Court or the district court with appellate jurisdiction with respect to the Confirmation Order, would maintain the status quo that has existed during the Chapter 11 Cases while an appeal remains pending. Absent the grant of a stay pending appeal (or if applicable conditions to the grant of such a stay, which could include a requirement to post a supersedeas bond, are not satisfied), the Debtors and other parties will have the authority to execute upon and enforce the Confirmation Order so long as the Confirmation Order has not

been reversed on appeal. Accordingly, absent a stay pending appeal, the Effective Date may occur, subject to the terms and conditions precedent in the Plan, and the Plan may be substantially consummated during the pendency of the appeal. Upon substantial consummation of the Plan, any appeal of the Confirmation Order may become equitably moot. *See, e.g.*, *In re Chateaugay Corp.*, 10 F.3d 944 (2d Cir. 1993). If any appeal is found not to be equitably moot in its entirety and confirmation of the Plan is reversed on appeal, the form of available relief and the impact of such relief on the post-Effective Date structure contemplated by the Plan is difficult to predict, but such relief could potentially have a materially adverse impact on the timing or amount of distributions contemplated under the Plan.

3. Objections to Classification of Claims

Section 1122 of the Bankruptcy Code requires that the Plan classify Claims against, and Interests in, the Debtors. The Bankruptcy Code also provides that the Plan may place a Claim or Interest in a particular Class only if such Claim or Interest is substantially similar to the other Claims or Interests of such Class. The Debtors believe that all Claims and Interests have been appropriately classified in the Plan.

To the extent that the Bankruptcy Court finds that a different classification is required for the Plan to be confirmed, the Debtors would seek (i) to modify the Plan to provide for whatever classification might be required for confirmation and (ii) to use the acceptances received from any holder of Claims pursuant to this solicitation for the purpose of obtaining the approval of the Class or Classes of which such holder ultimately is deemed to be a member. Any such reclassification of Claims, although subject to the notice and hearing requirements of the Bankruptcy Code, could adversely affect the Class in which such holder was initially a member, or any other Class under the Plan, by changing the composition of such Class and the vote required for approval of the Plan. There can be no assurance that the Bankruptcy Court, after finding that a classification was inappropriate and requiring a reclassification, would approve the Plan based upon such reclassification. Except to the extent that modification of classification in the Plan requires resolicitation, the Debtors will, in accordance with the Bankruptcy Code and the Bankruptcy Rules, seek a determination by the Bankruptcy Court that acceptance of the Plan by any holder of Claims pursuant to this solicitation will constitute a consent to the Plan's treatment of such holder, regardless of the Class as to which such holder is ultimately deemed to be a member.

4. Failure to Consummate the Plan

As of the date of this Disclosure Statement, there can be no assurance that the conditions to consummation of the Plan will be satisfied or waived. Accordingly, even if the Plan is confirmed by the Bankruptcy Court, there can be no assurance that the Plan will be consummated and the restructuring completed.

5. The Chapter 11 Cases May Be Converted to Cases under Chapter 7 of the Bankruptcy Code

If the Bankruptcy Court finds that it would be in the best interest of creditors and/or the debtor in a chapter 11 case, the Bankruptcy Court may convert a chapter 11 bankruptcy case to a

case under chapter 7 of the Bankruptcy Code. In such event, a chapter 7 trustee would be appointed or elected to liquidate the debtor's assets for distribution in accordance with the priorities established by the Bankruptcy Code. The Debtors believe that liquidation under chapter 7 would result in significantly smaller distributions being made to creditors than those provided for in a chapter 11 plan because of (i) the likelihood that the assets would have to be sold or otherwise disposed of in a disorderly fashion over a short period of time, rather than reorganizing or selling the business as a going concern at a later time in a controlled manner, (ii) additional administrative expenses involved in the appointment of a chapter 7 trustee, and (iii) additional expenses and Claims, some of which would be entitled to priority, that would be generated during the liquidation, including Claims resulting from the rejection of unexpired leases and other executory contracts in connection with cessation of operations.

6. Risk of Delayed Confirmation or Effective Date

Although the Debtors expect that the Plan will be confirmed on or shortly after the Confirmation Hearing scheduled for November 10, 2025 at 10:00 a.m. (Prevailing Eastern Time), there is a risk that confirmation of the Plan will be delayed. The occurrence of the Effective Date is subject to the receipt of all authorizations, consents, regulatory approvals, rulings and documents that are necessary to implement and effectuate the Plan. The governmental approval process could take substantial time after confirmation of the Plan. Any delay in the governmental approval processes, or the failure to obtain such approvals, could prolong the Chapter 11 Cases (or result in a liquidation of the Debtors), and reduce recoveries available to creditors.

7. Plan Releases, Injunctions and Exculpations May Not Be Approved

There can be no assurance that the Plan releases, injunctions and exculpations as provided in Article X of the Plan, will be granted. Failure of the Bankruptcy Court to grant such relief may result in a plan of reorganization that differs from the Plan or the Plan not being confirmed.

8. Channeling Injunction

The Channeling Injunction, which, among other things, bars all persons that have held or asserted, or that hold or assert Channeled Claims or any Released Claims arising out of or related thereto against the Released Parties, is a necessary element of the Plan. There is no guarantee that the validity and enforceability of the Channeling Injunction or the application of the Channeling Injunction to the Channeled Claims and Released Claims arising out of or related thereto will not be challenged, either before or after Confirmation of the Plan.

9. Insurance Neutrality Provisions

Certain of Debtors' insurers assert that the language in Section 5.11 of the Plan, titled "Insurance Neutrality," does not adequately protect their rights. They have proposed alternative insurance neutrality language to the Debtors, which is filed at D.I. 2710, Exhibit A, in Case No. 19-23649. Those insurers contend that the language they have proposed is consistent with language in other plans of reorganization that have been confirmed, and confirmation orders that

have been entered, in this district, and they further contend that this Court, or a court on appeal, may require that such language be included within the Plan as a condition to confirmation.

10. Credit Risk Attendant to Settlement of Claims Against the Sackler Parties

The Shareholder Settlement Agreements will provide for the Sackler Parties to remit up to $7.0 billion over fifteen years to the Master Disbursement Trust. The Sackler Payment Parties will provide collateral and other forms of credit support to secure the Required Settlement Payments and other obligations of the Sackler Parties under the Shareholder Settlement Agreements, as more fully set forth in the Credit Support Annexes to the Master Shareholder Settlement Agreement. Remedies for breach of the Shareholder Settlement Agreements may include, without limitation, acceleration of the unpaid and unfunded obligations of the defaulting Sackler Parties, voiding the Shareholder Releases provided pursuant to the Plan and Shareholder Settlement Agreements, foreclosure by the Master Disbursement Trust on the collateral provided under the Shareholder Settlement Agreements, enforcement of confessions of judgment by the applicable Sackler Parties admitting the obligations that have come due, and certain other remedies to be mutually agreed. However, some or all of the Sackler Parties may fail to make such payments in whole or in part (or fail to make timely payments) notwithstanding the satisfaction of all conditions to payment in the Shareholder Settlement Agreements and the covenants contained therein. Such an event presents a credit risk to the Master Disbursement Trust and, to the extent the Master Disbursement Trust is not able to collect such unpaid amounts through the enforcement of remedies under the Shareholder Settlement Agreements, could prevent the Master Disbursement Trust from making required or anticipated payments to the Creditor Trusts. Moreover, Required Settlement Payments may be made into escrow or paused, depending on whether the Confirmation Order is modified, reversed or vacated in a manner that materially and adversely affects the rights, interests, or obligations of certain key stakeholders. As such, to the extent the Confirmation Order is modified, reversed or vacated, payments to the Master Disbursement Trust under the Shareholder Settlement Agreements may be deferred and, to the extent the Confirmation Order is not reinstated, the Master Disbursement Trust may not receive payments and previously received amounts may be credited (or amounts held in escrow may be returned) to the Sackler Parties under the Shareholder Settlement Agreements.

11. Recovery on Account of Other General Unsecured Claims Depends on the Aggregate Amount of Allowed Other General Unsecured Claims

The Debtors estimate that, following completion of Claims litigation and related matters, the Other General Unsecured Claim Cash will exceed the aggregate amount of Allowed Other General Unsecured Claims. This estimate is based on certain assumptions based on a variety of factors. Should these underlying assumptions prove incorrect, the actual Allowed Other General Unsecured Claims may differ from the Debtors' estimates, and such differences could be material. Because distributions to Holders of Other General Unsecured Claims are linked to the value of Allowed Other General Unsecured Claims, any material increase in the amount of Allowed Other General Unsecured Claims in excess of the Other General Unsecured Claim Cash would materially reduce the recovery to Holders of Other General Unsecured Claims under the Plan.

12. Recoveries on Account of Federal Government Unsecured Claims May Impact the Amount of Distributions Made to the Governmental Remediation Trust and the Tribe Trust

Under the terms of the Plan, residual value after satisfying other obligations under the Plan will effectively ultimately be distributed to the Governmental Remediation Trust and the Tribe Trust, in the proportions determined pursuant to the Plan. As a result, the amount of distributions to the Governmental Remediation Trust and the Tribe Trust are linked to, *inter alia*, the amount of distributions on account of the Allowed Federal Government Unsecured Claims. The amount of distributions on account of the Allowed Federal Government Unsecured Claims remains to be agreed with the Holders of such Claims or to be determined pursuant to the Plan. The amount of such distribution that is ultimately made will reduce the amount of distributions to the Governmental Remediation Trust and the Tribe Trust.

B. Risks Associated with the Debtors' and NewCo's Business Operations and Financial Condition

1. NewCo May Not Be Able to Achieve Its Projected Financial Results

Actual financial results may differ materially from the Financial Projections. If the Debtors and/or NewCo do not achieve projected revenue or cash flow levels, NewCo may lack sufficient liquidity to continue operating its business consistent with the Financial Projections after the Effective Date. The Financial Projections represent management's view based on currently known facts and hypothetical assumptions about their future operations; they do not guarantee NewCo's future financial performance.

2. NewCo's Effective Tax Rate May Vary From Projections

The Financial Projections include assumptions as to NewCo's effective tax rate in future years. This assumed tax rate may be higher or lower than NewCo's actual tax rate, which will vary depending upon available tax deductions and changes in statutory tax rates.

3. The Financial Projections Are Subject to Inherent Uncertainty Due to the Numerous Assumptions upon Which They Are Based

The Financial Projections are based on numerous assumptions including, without limitation, the timing, confirmation and consummation of the Plan in accordance with its terms, the anticipated future performance of the Debtors and NewCo, general business and economic conditions, and other matters, many of which are beyond the control of the Debtors and some or all of which may not materialize. Particular uncertainties with respect to the Debtors' operations and financial results arise from the risks and uncertainties relating to, among other things, the following: changes in the demand for the Debtors' pharmaceutical products; legislation and regulations relating to the pharmaceutical industry; operational, permit, and labor factors; fluctuations in the amount of cash the Debtors generate from operations; and numerous other matters of national, regional and global scale, including those of a political, economic, business, competitive, or regulatory nature. Because the actual results achieved throughout the periods

covered by the Financial Projections may vary from the projected results, the Financial Projections should not be relied upon as an assurance of the actual results that will occur.

Except with respect to the Financial Projections and except as otherwise specifically and expressly stated herein, this Disclosure Statement does not reflect any events that might occur subsequent to the date hereof. Such events could have a material impact on the information contained in this Disclosure Statement. Neither the Debtors nor NewCo intend to update the Financial Projections. The Financial Projections, therefore, may not reflect the impact of any subsequent events not already accounted for in the assumptions underlying the Financial Projections.

4. The Debtors Will Be Subject to the Risks and Uncertainties Associated with the Chapter 11 Cases

For the duration of the Chapter 11 Cases, the Debtors' ability to operate, develop and execute a business plan, and continue as a going concern, will be subject to the risks and uncertainties associated with bankruptcy. These risks include the following: (i) the ability to develop, confirm and consummate the Plan and transactions contemplated thereunder; (ii) the ability to obtain Bankruptcy Court approval with respect to motions filed in the Chapter 11 Cases from time to time; (iii) the ability to maintain relationships with suppliers, vendors, service providers, customers, employees and other third parties; (iv) the ability to maintain contracts that are critical to the Debtors' operations; (v) the ability of third parties to seek and obtain Bankruptcy Court approval to terminate contracts and other agreements with the Debtors; (vi) the ability of third parties to seek and obtain Bankruptcy Court approval to terminate or shorten the exclusivity period for the Debtors to propose and confirm a chapter 11 plan, to appoint a chapter 11 trustee, or to convert the Chapter 11 Cases to chapter 7 proceedings; and (vii) the actions and decisions of the Debtors' creditors and other third parties who have interests in the Chapter 11 Cases that may be inconsistent with the Debtors' plans.

These risks and uncertainties could affect the Debtors' businesses and operations in various ways. For example, negative events associated with the Chapter 11 Cases could adversely affect the Debtors' relationships with suppliers, service providers, customers, employees and other third parties, which in turn could adversely affect the Debtors' operations and financial condition. Also, the Debtors will need the prior approval of the Bankruptcy Court for transactions outside the ordinary course of businesses, which may limit the Debtors' ability to respond timely to certain events or take advantage of certain opportunities. Because of the risks and uncertainties associated with the Chapter 11 Cases, the Debtors cannot accurately predict or quantify the ultimate impact of events that occur during the Chapter 11 Cases that may be inconsistent with the Debtors' plans.

5. Certain Claims May Not Be Discharged and May Have a Material Adverse Effect on the Debtors' Financial Condition and Results of Operations

The Bankruptcy Code provides that the confirmation of a plan of reorganization discharges a debtor from substantially all debts arising prior to confirmation. With few exceptions, all Claims that arise prior to the Debtors' filing of their petitions or before confirmation of the plan of reorganization (i) would be subject to compromise and/or treatment

under the plan of reorganization, and/or (ii) would be discharged and/or released in accordance with the terms of the plan of reorganization. Any Claims not ultimately discharged or released through a plan of reorganization could be asserted against NewCo and may have an adverse effect on NewCo's financial condition and results of operations.

6. Regulatory Risk

As a manufacturer of controlled substances and prescription products, the Debtors are subject to regulatory oversight by numerous governmental entities. For example, the Debtors must comply with laws, regulations, guidance documents and standards promulgated by the FDA, the DEA, the Department of Health and Human Services (including its Office of Inspector General), the Center for Medicare and Medicaid Services ("**CMS**"), the Environmental Protection Agency, state boards of pharmacy, and state controlled substance authorities. In particular, the Debtors interact with the FDA on a regular basis in connection with, among other things, new drug applications, abbreviated new drug applications and monitoring of production facilities. The Debtors regularly interact with the DEA in connection with controlled substance facility registrations and obtaining quota to manufacture controlled substances. The Debtors also interact with state agencies regarding their manufacturing and selling of controlled substances and pharmaceutical products and the licenses required to engage in these activities. The Debtors are also subject to healthcare fraud and abuse laws, such as the Federal Anti-Kickback Statute, the Federal False Claims Act, and state equivalents thereof.

- If the Debtors fail to comply with applicable federal and state laws and regulations, the Debtors could face substantial enforcement actions, including civil, criminal and administrative penalties including product seizures or injunctions, damages, fines and exclusion from federal or state healthcare programs, and their financial condition and operations could be adversely affected. Although compliance programs can mitigate the risk of investigation and prosecution for violations of these laws, the risks cannot be entirely eliminated. In addition, in order to operate their businesses, the Debtors are required to maintain licenses under the laws of various states, which may be impacted by the DOJ Resolution.

Moreover, continued compliance with prevailing laws and regulations imposes significant financial and operational costs on the Debtors, including because these laws and regulations are subject to ongoing government review and interpretation, which can result in shifts in review protocol, government interpretation, and government implementation. Additionally, governments and regulators may modify existing laws or regulations or impose new ones, which may increase the Debtors' costs of compliance significantly. All of these factors can have material impacts on the Debtors' businesses.

7. The Debtors' Revenues Are Highly Dependent on Medicare, Medicaid, and Commercial Payor Payment Rates

The Debtors' ability to generate revenue relies on the prescribing of their medicines which are reimbursed by commercial managed care and government managed Medicare and Medicaid programs. The Debtors provide discounts and rebates to participating managed care

organizations and federal and/or state governments to maintain patient access to their medications. The future revenue of the debtors is highly dependent on the continued formulary coverage from these entities.

Payment rates for Medicaid reimbursable products are set by law and regulation and are therefore beyond the Debtors' ability to control. Prevailing reimbursement for the Debtors' products could be significantly reduced in the future, materially impairing the Debtors' revenue. For example, pursuant to the Debtors' national rebate agreement with the Department of Health and Human Services, Medicaid covers a number of the Debtors' products under a designated rebate program. In accordance with this program, the Debtors are also required to comply with the United States Department of Health and Human Services' 340B Drug Pricing Program (the "**340B Program**"). Moreover, certain products sold by the Debtors could cease to be reimbursed by Medicaid at all. More generally, ongoing healthcare reform efforts, including efforts to curb the costs of prescription medications, also may impact the Debtors' revenues in the future.

The Debtors business also critically relies on contractual agreements with private third party payors, such as insurance companies or pharmacy benefit managers and with the federal government. The Debtors have entered into several contracts with private insurers with commercial and/or Medicare Part D business lines and with the CMS to cover certain of their products, pursuant to which the Debtors agreed to pay the private insurers or their representatives which administer the program or CMS certain rebates related to these programs. Rebate rates required by these payors could change materially depending on a variety of factors, including regulatory changes and cost pressures affecting the commercial payors' own businesses. In particular, commercial payors are highly cost sensitive as a result of the rising cost of healthcare and other macroeconomic factors and may pressure the Debtors to accept higher rebate rates as a result. The future revenues of the debtors is highly dependent on the private commercial payers maintaining the Debtors products on their list of drugs that are given formulary coverage. If formulary coverage is lost it is unlikely to be regained in the future by the debtors.

Additionally, based on its agreement with CMS for Medicaid and relevant statutes, the Debtors must also comply with the Department of Veterans Affairs Federal Supply Schedule, which requires the Debtors to make their products available to federal agencies such as, but not limited to, the Department of Veterans Affairs, Department of Defense, the Coast Guard, Federal Bureau of Prisons and the Public Health Service at deeply discounted prices (collectively, the "**Federal Supply Schedule Programs**"). Because the price the Debtors charge under the Federal Supply Schedule is lower than the wholesale acquisition cost (a base price set by the Debtors in their sole discretion and adjusted from time to time), wholesalers charge back the Debtors for the difference ("**FSS Chargebacks**"). The deeply discounted prices at which the Debtors make their products available under the Federal Supply Schedule Programs (and the resulting FSS Chargebacks owed by the Debtors) are subject to change materially based on the FSS set by the Department of Veterans Affairs, which may adjust such prices based on the rising cost of healthcare and other macroeconomic factors. Failure to comply with the Federal Supply Schedule Programs may result in substantial fines and penalties and exclusion from other federal programs, which would diminish the Debtors' customer base as well as harm the Debtors' relationship with wholesalers.

All of the foregoing may materially impact the Debtors' performance in ways that may be difficult to predict or mitigate.

8. The Debtors' Revenues Are Highly Dependent on Wholesale Distribution Channels

The Debtors' primary channel for sale of prescription products is through wholesalers (collectively, the "**Distributors**") who distribute these products to retail drugstores, pharmacies, hospitals, long-term care and other mail, retail and non-retail institutions in the United States. These buyers, in turn, dispense these products to patients. If the Distributors refuse to do business with NewCo due to the rejection of their contracts or otherwise, NewCo would lose access to its primary channel for sale of prescription products, which would likely have a material adverse impact on its operations and revenues and make sale of NewCo at a future date more difficult. Although Purdue Pharma and Rhodes together have 40 different customer/distributors for their products, Cardinal, McKesson, and Cencora (formerly Amerisource Bergen) generally account for over 90 percent of their gross sales.

9. The Debtors' Intellectual Property May Be Misappropriated or the Debtors May Be Subject to Infringement Claims

The Debtors rely on intellectual property rights, including licensing arrangements and third-party nondisclosure and assignment agreements, to conduct their businesses. The Debtors' failure to adequately maintain and protect its intellectual property could materially affect the Debtors' intellectual property rights. The Debtors' intellectual property rights could be challenged, invalidated or circumvented by others and may be insufficient in scope and strength to meaningfully protect the Debtors. While the Debtors attempt to protect their intellectual property rights, the Debtors cannot guarantee that they will be successful in defending such rights against third parties who may infringe upon them. Similarly, it is possible that third parties will make claims of infringement against the Debtors, and there is no guarantee that the Debtors will successfully defend or otherwise resolve such claims. Any such claims, even if meritless, could disrupt or impose significant costs on the Debtors' businesses.

C. Miscellaneous Risk Factors and Disclaimers

1. The Financial Information Is Based on the Debtors' Books and Records and, Unless Otherwise Stated, No Audit Was Performed

In preparing this Disclosure Statement, the Debtors relied on financial data derived from their books and records that was available at the time of such preparation. Although the Debtors have used their reasonable business judgment to assure the accuracy of the financial information provided in this Disclosure Statement, and while the Debtors believe that such financial information fairly reflects their financial condition, the Debtors are unable to warrant or represent that the financial information contained in this Disclosure Statement (or any information in any of the exhibits to the Disclosure Statement) is without inaccuracies.

2. Certain Tax Considerations

There are a number of material income tax considerations, risks and uncertainties associated with the consummation of the Plan. Holders of Claims and other interested parties should read carefully the discussion in "*Certain U.S. Federal Income Tax Consequences of the Plan*" below.

3. No Legal or Tax Advice Is Provided by This Disclosure Statement

This Disclosure Statement is not legal advice to any person or Entity. The contents of this Disclosure Statement should not be construed as legal, business or tax advice. Each reader should consult its own legal counsel and accountant with regard to any legal, tax and other matters concerning its Claim. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote to accept or reject the Plan or whether to object to Confirmation.

4. No Admissions Made

The information and statements contained in this Disclosure Statement will neither (i) constitute an admission of any fact or liability by any Entity (including the Debtors) nor (ii) be deemed evidence of the tax or other legal effects of the Plan on the Debtors, NewCo, Holders of Allowed Claims or Interests, or any other parties in interest.

5. Failure to Identify Litigation Claims or Projected Objections

No reliance should be placed on the fact that a particular litigation claim or projected objection to a particular Claim is, or is not, identified in this Disclosure Statement. The Debtors may seek to investigate, file, and prosecute Claims and may object to Claims after Confirmation and Consummation of the Plan, irrespective of whether this Disclosure Statement identifies such Claims or objections to Claims.

6. Information Was Provided by the Debtors and Was Relied Upon by the Debtors' Advisors

Counsel to and other advisors retained by the Debtors have relied upon information provided by the Debtors in connection with the preparation of this Disclosure Statement. Although counsel to and other advisors retained by the Debtors have performed certain limited due diligence in connection with the preparation of this Disclosure Statement and the exhibits to the Disclosure Statement, they have not independently verified the information contained in this Disclosure Statement or the information in the exhibits to the Disclosure Statement.

7. The Debtors Have No Duty to Update

The statements contained in this Disclosure Statement are made by the Debtors as of the date hereof, unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has not been a change in the information set forth herein since that date. While the Debtors have used their reasonable business judgment so that the information provided in this Disclosure Statement and in the Plan is as accurate as possible, the

Debtors nonetheless cannot, and do not, confirm the current accuracy of all statements appearing in this Disclosure Statement. Further, although the Debtors may subsequently update the information in this Disclosure Statement, the Debtors have no affirmative duty to do so unless ordered to do so by the Bankruptcy Court.

8. No Representations Outside This Disclosure Statement Are Authorized

No representations concerning or relating to the Debtors, the Chapter 11 Cases, or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code, other than as set forth in this Disclosure Statement. Any representations or inducements made to secure voting Holders' acceptance or rejection of the Plan that are other than as contained in, or included with, this Disclosure Statement, should not be relied upon by voting Holders in arriving at their decision. Voting Holders should promptly report unauthorized representations or inducements to counsel to the Debtors and the Office of the United States Trustee for the Southern District of New York.

ARTICLE IX

CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

A. General

The following discussion summarizes certain material U.S. federal income tax consequences of the implementation of the Plan to the Debtors and to certain U.S. Holders of Claims. This summary does not address the federal income tax consequences to: (i) Holders of Claims who are deemed to have rejected the Plan in accordance with the provisions of section 1126(g) of the Bankruptcy Code; (ii) Holders whose Claims are Unimpaired; (iii) Holders of Federal Government Unsecured Claims; or (iv) purchasers of Claims following the Effective Date. This summary does not discuss the U.S. federal income tax consequences of the Direct Claims Shareholder Settlements or the receipt of any payments in respect thereof.

This summary is based on the IRC, existing and proposed Treasury Regulations, judicial decisions, and published administrative rules and pronouncements of the IRS as in effect on the date of this Disclosure Statement, all of which are subject to change, possibly on a retroactive basis. Any such change could significantly affect the U.S. federal income tax consequences described below. Many of the tax consequences described herein are uncertain. As of the date of this Disclosure Statement, no opinion of counsel or ruling from the IRS has been requested with respect to any of the tax aspects of the Plan. The Plan is not conditioned upon the request for or receipt of a private letter ruling from the IRS. There is no assurance that the IRS would not take a contrary position as to the federal income tax consequences described herein and that a court would not uphold such a position.

This discussion does not address non-U.S., state, local, or territorial tax consequences of the Plan, nor does it purport to address the U.S. federal income tax consequences of the Plan that may be relevant to special classes of taxpayers (e.g., small business investment companies, regulated investment companies, real estate investment trusts, banks and certain other financial institutions, insurance companies, retirement plans, individual retirement accounts and other tax-deferred accounts, persons that are, or hold Claims through, S corporations, partnerships or

other pass-through entities for U.S. federal income tax purposes, persons whose functional currency is not the U.S. dollar, persons who are residents of or otherwise subject to taxation by a U.S. territory or persons who use the accrual method of accounting and report income on an "applicable financial statement" within the meaning of IRC section 451). In addition, this discussion does not address any alternative minimum tax, the "Medicare" tax on unearned income, the Foreign Account Tax Compliance Act, or U.S. federal taxes other than income taxes. This discussion does not address the U.S. federal income tax consequences of the Plan to non-U.S. Holders. Non-U.S. Holders should consult their own tax advisors with respect to the tax consequences of the Plan applicable to them.

As used herein, the term "**U.S. Holder**" means a beneficial owner of a Claim that is for U.S. federal income tax purposes: (i) an individual who is a citizen or resident of the United States; (ii) a corporation, or other entity taxable as a corporation for U.S. federal income tax purposes, created or organized in or under the laws of the United States, any state thereof or the District of Columbia; (iii) an estate the income of which is subject to U.S. federal income taxation regardless of its source; (iv) a trust, if a court within the United States is able to exercise primary jurisdiction over its administration and one or more U.S. persons have authority to control all of its substantial decisions, or if the trust has a valid election in effect under applicable Treasury Regulations to be treated as a U.S. person; (v) the government of the United States, any state, political subdivision or territory thereof or the District of Columbia; or (vi) any Tribe. As used herein, the term "**non-U.S. Holder**" means a beneficial owner of a Claim that is not a U.S. Holder or a partnership (or other entity or arrangement treated as a partnership or other pass-through entity for U.S. federal income tax purposes).

If a partnership or other entity or arrangement treated as a partnership for U.S. federal income tax purposes holds Claims, the tax treatment of a partner in such partnership generally will depend upon the status of the partner and the activities of the partnership. ***Partners in such a partnership holding any Claims should consult their own tax advisors.***

THE FOLLOWING SUMMARY IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR TAX PLANNING OR FOR ADVICE BASED UPON THE PARTICULAR CIRCUMSTANCES PERTAINING TO A HOLDER OF A CLAIM. EACH HOLDER OF A CLAIM IS URGED TO CONSULT ITS OWN TAX ADVISORS FOR THE U.S. FEDERAL, STATE, LOCAL AND NON-U.S. INCOME AND OTHER TAX CONSEQUENCES APPLICABLE TO IT UNDER THE PLAN.

B. Consequences to the Debtors

PPLP and most of its subsidiaries are entities that are disregarded as separate from their owners for U.S. federal income tax purposes. Accordingly, the U.S. federal income tax consequences arising under the Plan in respect of PPLP and most of its subsidiaries generally will not be recognized by a Debtor, but will instead be recognized by PPLP's parent, PRA L.P., which is not a Debtor. Because PRA L.P. is treated as a partnership for U.S. federal income tax purposes, the tax consequences arising under the Plan in respect of PPLP and most of its subsidiaries generally are expected to be borne by the beneficial owners of PRA L.P. In addition, certain Debtors are direct or indirect subsidiaries of PPLP and are treated as partnerships for U.S. federal income tax purposes. The U.S. federal income tax consequences of

consummating the Plan with respect to such Debtors generally are expected to be recognized by PRA L.P. and generally borne by the beneficial owners of PRA L.P. Finally, certain Debtors (including PPI) are subject to tax as corporations for U.S. federal income tax purposes and may recognize tax consequences resulting from the consummation of the Plan, as discussed below.

The Plan provides that, on the Effective Date, the Debtors will enter into the Restructuring Transactions. Additional information regarding these transactions will be provided in the Restructuring Steps Memorandum. The tax consequences of the Restructuring Transactions to PPLP and any of its subsidiaries that are disregarded as separate from PRA L.P. are expected to be recognized by PRA L.P. and generally borne by the beneficial owners of PRA L.P. The tax consequences of the Restructuring Transactions to a Debtor that is treated as a corporation for U.S. federal income tax purposes will depend on whether the Debtor is a Transferred Debtor. If a corporate Debtor is a Transferred Debtor, it is generally not expected to transfer its assets that are NewCo Transferred Assets in the Restructuring Transactions and therefore is not expected to recognize any gain or loss with respect to those assets. The transfer by a corporate Debtor that is a Transferred Debtor of any NewCo Transferred Assets or any other assets that is recognized for U.S. federal income tax purposes is expected to generally be taxable, and such Debtor may recognize gain or loss with respect to those assets, if any. If a corporate Debtor is not a Transferred Debtor, the transfer of any of its assets that is recognized for U.S. federal income tax purposes is expected to generally be taxable, and such Debtor may recognize gain or loss with respect to those assets. Any gain or loss upon a taxable transfer by a Debtor of an asset is equal to the difference between the fair market value of the transferred asset and the Debtor's tax basis in such asset. Tax on the resulting gain, if any, may be reduced by the Debtor's available tax attributes or deductions, if any.

C. Consequences to Holders of Certain Claims

1. Holders of Allowed Non-Federal Domestic Governmental Channeled Claims and Allowed Tribe Channeled Claims (Classes 4 and 5)

The Plan provides that: (i) on the Effective Date, in full and final satisfaction, settlement, release and discharge of the Debtors' obligations in respect of the Non-Federal Domestic Governmental Claims and Tribe Claims, (a) with respect to the Non-Federal Domestic Governmental Claims, the Governmental Remediation Trust shall receive the Initial Governmental Remediation Trust Distribution, the MDT Governmental Remediation Trust Interest and the right to receive 96.7% of the Governmental NewCo Distributable Cash pursuant to Section 5.4(e) of the Plan, and (b) with respect to the Tribe Claims, the Tribe Trust shall receive the Initial Tribe Trust Distribution, the MDT Tribe Interest, and the right to receive 3.3% of the Governmental NewCo Distributable Cash pursuant to Section 5.4(e) of the Plan; and (ii) as of the Effective Date, any and all liability of the Debtors and the other Protected Parties for any and all Non-Federal Domestic Governmental Channeled Claims and Tribe Channeled Claims shall be channeled exclusively to and assumed by the Governmental Remediation Trust and the Tribe Trust, respectively, without further act, deed or court order. For discussion of the tax treatment of the Governmental Remediation Trust and the Tribe Trust, see *"—D. Tax Treatment of NewCo, the Foundation, the Master Disbursement Trust and the Creditor*

Trusts—4. Governmental Remediation Trust" and "*—D. Tax Treatment of NewCo, the Foundation, the Master Disbursement Trust and the Creditor Trusts—5. Tribe Trust*."

The Debtors understand that each U.S. Holder of an Allowed Non-Federal Domestic Governmental Channeled Claim or an Allowed Tribe Channeled Claim is either (i) the government of a U.S. state, territory, the District of Columbia or political subdivision of any of the foregoing, or (ii) a Tribe. The Debtors expect that such holders will not be subject to U.S. federal income tax in respect of the Restructuring Transactions or any subsequent Distributions from the Governmental Remediation Trust or the Tribe Trust.

2. Holders of Allowed Public School Claims (Class 6)

The Plan provides that: (i) on the Effective Date, in full and final satisfaction, settlement, release and discharge of the Debtors' obligations in respect of the Public School Claims, the Public School Trust shall receive (a) the Initial Public Schools Distribution (less any required payments to the Common Benefit Fund and/or in respect of attorneys' fees and expenses of the Public School District Claimants in accordance with Sections 5.9(d) and 5.9(i) of the Plan) (b) the MDT Public School Districts Claim; and (ii) as of the Effective Date, any and all liability of the Debtors and the other Protected Parties for any and all Public School Channeled Claims shall be channeled exclusively to and assumed by the Public School Trust without further act, deed or court order and shall be exclusively satisfied by payments from the Public School Trust. The Plan further provides that the Public School Trust is intended to be treated as a "qualified settlement fund" for U.S. federal income tax purposes and that no Holder of Claims shall be treated as receiving a distribution for U.S. federal income tax purposes except to the extent such Holder is entitled to receive that distribution directly under the Plan or such distribution is made in satisfaction of an obligation of such Holder.

The Debtors understand that each U.S. Holder of an Allowed Public School Claim is a political subdivision of the government of a U.S. state, territory, or the District of Columbia. The Debtors expect that such Holders will not be subject to U.S. federal income tax in respect of the Restructuring Transactions or any subsequent Distributions from the Public School Trust or any required payments to the Common Benefit Fund or in respect of attorneys' fees and expenses.

For a discussion of the tax treatment of the Public School Trust, see "*—D. Tax Treatment of NewCo, the Foundation, the Master Disbursement Trust and the Creditor Trusts—6. Public School Trust*," below.

3. Holders of Allowed Healthcare Provider Channeled Claims (Class 7)

The Plan provides that: (i) on the Effective Date, in full and final satisfaction, settlement, release and discharge of the Debtors' obligations in respect of the Healthcare Provider Claims, the Healthcare Provider Trust shall receive (a) the Initial Healthcare Provider Trust Distribution and (b) the MDT Healthcare Provider Claim; and (ii) as of the Effective Date, any and all liability of the Debtors and the other Protected Parties for any and all Healthcare Provider Channeled Claims shall be channeled exclusively to and assumed by the Healthcare Provider Trust without further act, deed or court order and shall be exclusively satisfied by payments from

the Healthcare Provider Trust. The Plan further provides that a portion of each Distribution from the Healthcare Provider Trust will be paid to the Common Benefit Fund. The Plan further provides that the Healthcare Provider Trust is intended to be treated as a "qualified settlement fund" for U.S. federal income tax purposes and that no Holder of a Claim shall be treated as receiving a distribution for U.S. federal income tax purposes except to the extent such Holder is entitled to receive that distribution directly under the Plan or such distribution is made in satisfaction of an obligation of such Holder.

Accordingly, assuming this treatment is respected for U.S. federal income tax purposes, a U.S. Holder of an Allowed Healthcare Provider Channeled Claim generally is not expected to be treated as receiving a distribution from the Healthcare Provider Trust unless and until the Holder is entitled to receive that distribution directly (or a distribution is made in satisfaction of an obligation of such Holder, including the portion of the distribution to such Holder that is paid to the Common Benefit Fund), and any amounts received or treated as received by a U.S. Holder of an Allowed Healthcare Provider Channeled Claim from the Healthcare Provider Trust generally are expected to be treated by such Holder as if received directly from PRA L.P. or another Sackler party. The U.S. federal income tax consequences to a U.S. Holder of an Allowed Healthcare Provider Channeled Claim—including whether such Holder may have income or loss on account of distributions it receives in respect of the Claim or payments made in satisfaction of obligations of such Holder (including obligations to pay attorney fees and the portion of the distributions to such Holder that is paid to the Common Benefit Fund) or whether such Holder may be entitled to claim a deduction on account of a distribution that satisfied an obligation of such Holder—generally will depend upon the nature and origin of the Claim and the particular circumstances applicable to such Holder, including whether the Holder has previously claimed deductions or losses for U.S. federal income tax purposes with respect to such Claim. Because the tax consequences under the Plan relevant to U.S. Holders of Allowed Healthcare Provider Channeled Claims will depend on facts particular to each Holder, all U.S. Holders of Allowed Healthcare Provider Channeled Claims are urged to consult their own tax advisors as to their proper tax treatment under the Plan in light of their particular facts and circumstances.

For a discussion of the tax treatment of the Healthcare Provider Trust, see "*—D. Tax Treatment of NewCo, the Foundation, the Master Disbursement Trust and the Creditor Trusts—7. Healthcare Provider Trust*," below.

4. Holders of Allowed Third-Party Payor Channeled Claims (Class 8)

The Plan provides that: (i) on the Effective Date, in full and final satisfaction, settlement, release and discharge of the Debtors' obligations in respect of the Third-Party Payor Claims, the TPP Trust shall receive (a) the Initial TPP Distribution and (b) the MDT TPP Claim; and (ii) as of the Effective Date, any and all liability of the Debtors and the other Protected Parties for any and all Third-Party Payor Channeled Claims shall be channeled exclusively to and assumed by the TPP Trust without further act, deed or court order and shall be exclusively satisfied by payments from the TPP Trust. The Plan further provides that a portion of each Distribution from the TPP Trust will be paid to the Common Benefit Fund. The Plan further provides that the TPP Trust is intended to be treated as a "qualified settlement fund" for U.S. federal income tax purposes and that no Holder of a Claim shall be treated as receiving a distribution for U.S. federal income tax purposes except to the extent such Holder is entitled to receive that

distribution directly under the Plan or such Distribution is made in satisfaction of an obligation of such Holder. The Plan further provides that certain Holders of Third-Party Payor Channeled Claims will be eligible to receive payments from the TPP LRP Escrow Account pursuant to the LRP Agreement.

Accordingly, assuming this treatment is respected for U.S. federal income tax purposes, with respect to a U.S. Holder of an Allowed Third-Party Payor Channeled Claim's distribution from the TPP Trust, such Holder generally is not expected to be treated as receiving a distribution from the TPP Trust unless and until the Holder is entitled to receive that distribution directly (or a distribution is made in satisfaction of an obligation of such Holder, including the portion of the distribution to such Holder that is paid to the Common Benefit Fund), and any amounts received or treated as received by a U.S. Holder of an Allowed Third-Party Payor Channeled Claim from the TPP Trust generally are expected to be treated by such Holder as if received directly from PRA L.P. or another Sackler Party. The U.S. federal income tax consequences to a U.S. Holder of an Allowed Third-Party Payor Channeled Claim for such Holder's distribution from the TPP Trust— including whether such Holder may have income or loss on account of distributions it receives in respect of the Claim or payments made in satisfaction of obligations of such Holder (including obligations to pay attorney fees and the portion of the distributions to such Holder that is paid to the Common Benefit Fund) or may be entitled to claim a deduction on account of a distribution that satisfied an obligation of such Holder—generally will depend upon the nature and origin of the Claim and the particular circumstances applicable to such Holder, including whether the Holder has previously claimed deductions or losses for U.S. federal income tax purposes with respect to such Claim. The tax treatment of amounts paid to U.S. Holders of an Allowed Third-Party Payor Channeled Claim pursuant to the LRP Agreement will depend in part on circumstances relevant to the nature of such Holder's underlying lien. Because the tax consequences under the Plan relevant to U.S. Holders of Allowed Third-Party Payor Channeled Claims will depend on facts particular to each Holder, all U.S. Holders of Allowed Third-Party Payor Channeled Claims are urged to consult their own tax advisors as to their proper tax treatment under the Plan in light of their particular facts and circumstances.

For discussion of the tax treatment of the TPP Trust, see "*—D. Tax Treatment of NewCo, the Foundation, the Master Disbursement Trust and the Creditor Trusts—8. TPP Trust*," below.

5. Holders of Allowed ER Physician Channeled Claims (Class 9)

The Plan provides that: (i) on the Effective Date, in full and final satisfaction, settlement, release and discharge of the Debtors' obligations in respect of the ER Physician Claims, the ERP Trust shall receive (a) the Initial ERP Trust Distribution and (b) the MDT ERP Claim; and (ii) as of the Effective Date, any and all liability of the Debtors and the other Protected Parties for any and all ER Physician Channeled Claims shall be channeled exclusively to and assumed by the ERP Trust without further act, deed or court order and shall be exclusively satisfied by payments from the ERP Trust. The Plan further provides that a portion of each Distribution from the ERP Trust will be paid to the Common Benefit Fund. The Plan further provides that the ERP Trust is intended to be treated as a "qualified settlement fund" for U.S. federal income tax purposes and that no Holder of Claims shall be treated as receiving a distribution for U.S. federal income tax

purposes except to the extent such Holder is entitled to receive that distribution directly under the Plan or such distribution is made in satisfaction of an obligation of such Holder.

Accordingly, assuming this treatment is respected for U.S. federal income tax purposes, a U.S. Holder of an Allowed ER Physician Channeled Claim generally is not expected to be treated as receiving a distribution from the ERP Trust unless and until the Holder is entitled to receive that distribution directly (or a distribution is made in satisfaction of an obligation of such Holder, including the portion of the distribution to such Holder that is paid to the Common Benefit Fund), and any amounts treated as received by a U.S. Holder of an Allowed ER Physician Channeled Claim from the ERP Trust generally are expected to be treated by such Holder as if received directly from PRA L.P. or another Sackler Party. The U.S. federal income tax consequences to a U.S. Holder of an Allowed ER Physician Channeled Claim—including whether such Holder may have income or loss on account of distributions it receives in respect of the Claim or payments made in satisfaction of obligations of such Holder (including obligations to pay attorney fees and the portion of the distributions to such Holder that is paid to the Common Benefit Fund) or whether such Holder may be entitled to claim a deduction on account of a distribution that satisfied an obligation of such Holder—generally will depend upon the nature and origin of the Claim and the particular circumstances applicable to such Holder, including whether the Holder has previously claimed deductions or losses for U.S. federal income tax purposes with respect to such Claim. Because the tax consequences under the Plan relevant to U.S. Holders of Allowed ER Physician Channeled Claims will depend on facts particular to each Holder, all U.S. Holders of Allowed ER Physician Channeled Claims are urged to consult their own tax advisors as to their proper tax treatment under the Plan in light of their particular facts and circumstances.

For a discussion of the tax treatment of the ERP Trust, see "*—D. Tax Treatment of NewCo, the Foundation, the Master Disbursement Trust and the Creditor Trusts—9. ERP Trust*," below.

6. Holders of Allowed PI Channeled Claims (Classes 10(a) and 10(b))

The Plan provides that: (i) on the Effective Date, in full and final satisfaction, settlement, release and discharge of the Debtors' obligations in respect of the PI Claims, the PI Trust shall receive (a) the Initial PI Trust Distribution, and (b) the MDT PI Claim; (ii) as of the Effective Date, any and all liability of the Debtors and the other Protected Parties for any and all PI Channeled Claims shall be channeled exclusively to and assumed by the PI Trust without further act, deed or court order and shall be exclusively satisfied by payments from the PI Trust; and (iii)(a) distributions in respect of NAS PI Channeled Claims shall be exclusively in the form of distributions from the PI Trust NAS Fund or a Sub-Qualified Settlement Fund to Holders of Allowed NAS PI Channeled Claims and (b) distributions in respect of Non-NAS PI Channeled Claims shall be exclusively in the form of Distributions from the PI Trust Non-NAS Fund or a Sub-Qualified Settlement Fund to Holders of Allowed Non-NAS PI Channeled Claims. The Plan further provides that the PI Trust and any Sub-Qualified Settlement Fund are intended to be treated as "qualified settlement funds" for U.S. federal income tax purposes and that no Holder of a Claim shall be treated as receiving a distribution for U.S. federal income tax purposes except to the extent such Holder is entitled to receive that distribution directly under the Plan or such distribution is made in satisfaction of an obligation of such Holder. The Plan further provides

that LRP Participating TPPs will be eligible to receive payments from the TPP LRP Escrow Account pursuant to the LRP Agreement in respect of certain claims they may hold against Holders of PI Claims and Distributions to Holders of PI Claims. The Plan further provides that a portion of each Distribution from the PI Trust will be paid to the Common Benefit Fund.

Accordingly, assuming this treatment is respected for U.S. federal income tax purposes, a U.S. Holder of an Allowed PI Channeled Claim generally is not expected to be treated as receiving a distribution from the PI Trust or a Sub-Qualified Settlement Fund unless and until the Holder is entitled to receive that distribution directly (or a distribution is made in satisfaction of an obligation of such Holder, including the portion of the distribution to such Holder that is paid to the Common Benefit Fund). In the case of a U.S. Holder of an Allowed PI Channeled Claim who is a minor under applicable law for whom the PI Trust or a Sub-Qualified Settlement Fund places funds in an account, whether the Holder is treated as receiving a distribution from the PI Trust or a Sub-Qualified Settlement Fund at the time the funds are placed in such account, and whether the Holder (or an eligible parent of the Holder that elects to recognize the income in lieu of the Holder) will be required to recognize income in respect of any interest or other amounts earned by the account, will depend on the terms of that account. Any amounts received or treated as received by a U.S. Holder of an Allowed PI Channeled Claim from the PI Trust or a Sub-Qualified Settlement Fund generally are expected to be treated by such Holder as if received directly from PRA L.P. or another Sackler Party. The U.S. federal income tax consequences to a U.S. Holder of an Allowed PI Channeled Claim—including (i) whether such Holder may have income or loss on account of distributions it receives in respect of the Claim or payments made in satisfaction of obligations of such Holder (including any obligation to pay attorney fees), the portion of the distributions to such Holder that is paid to the Common Benefit Fund, or any obligation relating to payments to Participating Third-Party Payors pursuant to the LRP Agreement, (ii) for a U.S. Holder of a PI Channeled Claim who is a minor, the consequences to the Holder if the PI Trust or a Sub-Qualified Settlement Fund places funds in an account for the Holder, or (iii) whether such Holder may be entitled to claim a deduction on account of a distribution that satisfied an obligation of such Holder—generally will depend upon the nature and origin of the Claim and the particular circumstances applicable to such Holder. Amounts received or treated as received by a U.S. Holder of an Allowed PI Channeled Claim generally are not expected to be taxable to such Holder for U.S. federal income tax purposes to the extent they represent payment for damages (other than punitive damages) received on account of personal physical injuries or physical sickness, within the meaning of IRC section 104. However, to the extent such payments are attributable to medical expense deductions allowed under IRC section 213 for a prior taxable year, such payments are expected to be taxable as ordinary income to the U.S. Holder. To the extent a payment from the PI Trust or a Sub-Qualified Settlement Fund is treated as a payment on account of damages in respect of a Claim other than for personal physical injury or physical sickness, whether the payment will be includable in the gross income of the Holder will depend upon the nature and origin of the Claim and the particular circumstances applicable to the Holder, including whether the Holder has previously claimed deductions or losses for U.S. federal income tax purposes with respect to such Claim. Because the tax consequences under the Plan relevant to U.S. Holders of Allowed PI Channeled Claims will depend on facts particular to each Holder, all U.S. Holders of Allowed PI Channeled Claims are urged to consult their own tax advisors as to their proper tax treatment under their particular facts and circumstances.

For a discussion of the U.S. federal income tax treatment of the PI Trust and any Sub-Qualified Settlement Funds, see "*—D. Tax Treatment of NewCo, the Foundation, the Master Disbursement Trust and the Creditor Trusts—10. PI Trust and Sub-Qualified Settlement Funds*" below.

7. Holders of Allowed Other General Unsecured Claims (Class 11(c))

All Other General Unsecured Claims are Disputed. The Plan provides that, except to the extent a Holder of an Allowed Other General Unsecured Claim and the Debtor against which such Claim is asserted agree to different treatment, after the Effective Date upon the Allowance of such Claim in accordance with Article VII of the Plan, each Holder of an Allowed Other General Unsecured Claim shall receive, on account of such Allowed Claim, such Holder's Pro Rata Share of the Other General Unsecured Claim Cash, up to payment in full of such Allowed Claim. The receipt of Cash (or a distribution made in satisfaction of an obligation of such Holder) by a U.S. Holder of an Allowed Other General Unsecured Claim is expected to be treated as a taxable exchange of such Holder's Claim for Cash. Accordingly, such Holder generally will recognize gain or loss equal to the difference between (i) the Cash received (or deemed received) in exchange for the Claim and (ii) the Holder's adjusted tax basis, if any, in the Claim. The character of such gain or loss as capital gain or loss or as ordinary income or loss will be determined by a number of factors, including the tax status of the Holder, whether the Claim constitutes a capital asset in the hands of the Holder, whether the Claim was purchased at a discount, whether and to what extent the Claim became worthless in a prior tax year and whether and to what extent the Holder has previously claimed a bad debt deduction with respect to its Claim. The deductibility of capital losses is subject to limitations.

If any portion of the Cash received (or deemed received) by a U.S. Holder of an Allowed Other General Unsecured Claim is treated as being received in satisfaction of accrued interest, such amount is expected to be taxable to the U.S. Holder as ordinary interest income (if not previously included in the U.S. Holder's gross income under the Holder's normal method of accounting). Conversely, a U.S. Holder generally will recognize a deductible loss to the extent any accrued interest was previously included in its gross income and is not paid in full. Such loss may be ordinary, but the tax law is unclear on this point.

The Plan provides that it is intended, subject to applicable law, that distributions with respect to an Allowed Other General Unsecured Claim that is treated as a debt instrument for U.S. federal income tax purposes will be allocated first to the principal portion of such Claim (as determined for U.S. federal income tax purposes) and, thereafter, to the remaining portion of such Claim, if any. However, there is no assurance that such allocation would be respected by the IRS for U.S. federal income tax purposes. U.S. Holders of such Claims are urged to consult their own tax advisors regarding the allocation of consideration received (or deemed received) under the Plan, as well as the deductibility of any accrued but unpaid interest and the character of any loss claimed with respect to accrued but unpaid interest previously included in gross income for U.S. federal income tax purposes.

D. Tax Treatment of NewCo, the Foundation, the Master Disbursement Trust and the Creditor Trusts

1. NewCo

The Plan provides that the NewCo Managers shall cause NewCo to timely elect to be treated as a corporation for U.S. federal income tax purposes effective as of the date immediately succeeding the Effective Date. Consequently, NewCo will be subject to corporate-level federal income tax (currently at a rate of 21%) on its net income (including any income earned by an entity disregarded as separate from NewCo).

As discussed above at "*—B. Consequences to the Debtors*," the Restructuring Transactions are expected to be treated as taxable asset transfers. As a result, NewCo is expected to have an initial tax basis in the assets it acquires from the Debtors (including any such assets acquired by any entity disregarded as separate from NewCo) equal to their respective fair market values as of the Effective Date and will generally be entitled to deductions for amortization and depreciation with respect to its tax basis in certain of its assets, including patents and other intangible property.

Any Transferred Debtors that are treated as corporations for U.S. federal income tax purposes will generally be subject to tax in the same manner as NewCo except they generally will have the same tax basis in their assets as they had before the Effective Date.

2. Foundation

The Plan provides that the Foundation is intended to be formed as a corporation and treated as an exempt organization under IRC section 501(c)(4) for U.S. federal income tax purposes, and the following discussion assumes that this treatment is respected.

The Foundation generally will not be subject to U.S. federal income tax on its net income. However, the Foundation may be subject to U.S. federal income tax on any unrelated business taxable income ("**UBTI**") it realizes, depending on how it is treated for U.S. federal income tax purposes. UBTI is equal to the gross income derived from any unrelated trade or business regularly carried on by an exempt organization, less certain allowable deductions that are directly connected with the carrying on of such trade or business. However, UBTI generally excludes certain specified types of income, including interest, dividends or gains from the sale, exchange or other disposition of property other than inventory or property held primarily for sale to customers in the ordinary course of a trade or business. The Foundation is not expected to realize any UBTI as a result of holding the NewCo Interest or receiving Foundation Distributable Cash, but it is possible that the Foundation could recognize UBTI as a result of other activities or certain types of investments that it may enter into after the Effective Date. To the extent that the Foundation is subject to tax on UBTI, any UBTI derived by the Foundation would be subject to corporate-level federal income tax (currently at a rate of 21%).

3. Master Disbursement Trust

The Plan provides that the Master Disbursement Trust is intended to be treated as a "qualified settlement fund" for U.S. federal income tax purposes, and the following discussion

assumes that this treatment is respected. The Plan further provides that all parties (including, without limitation, the Shareholder Payment Parties, Holders of Claims against or Interests in the Debtors, the Related Parties of such Holders, the Debtors, the Creditor Trusts, the Creditor Trustees, the Foundation, the MDT Trustees and the Master Disbursement Trust) will be required to treat the Master Disbursement Trust as a qualified settlement fund for all applicable tax reporting purposes.

A qualified settlement fund is subject to entity-level tax under generally applicable U.S. federal income tax principles at the maximum federal income tax rate applicable to trusts and estates (currently 37%, increasing to 39.6% beginning in 2026). The determination of taxable income of qualified settlement funds for U.S. federal income tax purposes is subject to certain exceptions, including: (i) any amounts transferred by or on behalf of the transferors to the qualified settlement fund to resolve or satisfy a liability for which the transferor is liable and the qualified settlement fund is established will generally be excluded from the qualified settlement fund's income, other than dividends on stock of a transferor (or a related person of the transferor), interest on debt of a transferor (or a related person of the transferor) or payments in compensation for late or delayed transfers, (ii) any distribution of property by the qualified settlement fund generally will result in the recognition of gain or loss in an amount equal to the difference between the fair market value of the property on the date of disposition and the qualified settlement fund's adjusted tax basis in such property, and (iii) only limited, specified deductions will be permitted, including deductions for administrative costs and state and local taxes incurred by the qualified settlement fund, and excluding any deductions that would generally be allowable to a corporation or partnership for expenses incurred in the course of a taxpayer's trade or business. In general, the adjusted tax basis of property received (or treated as received for U.S. federal income tax purposes) by a qualified settlement fund from a transferor will be the fair market value of such property at the time of receipt.

While it is not free from doubt, the Master Disbursement Trust is not expected to recognize income in respect of the Shareholder Settlement Agreements other than in respect of any payments in compensation for late or delayed transfers due thereunder.

The Master Disbursement Trust's administrator will be required to file tax returns on behalf of the Master Disbursement Trust and will be responsible for causing the Master Disbursement Trust to pay any taxes imposed upon the Master Disbursement Trust.

4. Governmental Remediation Trust

The Plan provides that the Governmental Remediation Trust is intended to be treated as a qualified settlement fund, and the following discussion assumes that this treatment is respected. The Plan further provides that all parties (including, without limitation, the Shareholder Payment Parties, Holders of Claims against or Interests in the Debtors, the Related Parties of such Holders, the Debtors, the Creditor Trusts, the Creditor Trustees, the Foundation, the MDT Trustees and the Master Disbursement Trust) will be required to treat the Governmental Remediation Trust as a qualified settlement fund for all applicable tax reporting purposes.

The Governmental Remediation Trust may seek guidance upon which it may rely from the IRS that all or a portion of its income is exempt from U.S. federal income tax. The Plan is

not conditioned on the receipt of such guidance, and it is possible that no such guidance will be sought or obtained.

Regardless of whether the Governmental Remediation Trust's income qualifies for an exemption from U.S. federal income tax, the Governmental Remediation Trust is not expected to be subject to U.S. federal income tax on its receipt of distributions from the Master Disbursement Trust. The receipt of Governmental NewCo Distributable Cash by the Governmental Remediation Trust may be subject to tax to the extent not treated as a return of capital for U.S. federal income tax purposes, unless the Governmental Remediation Trust's income qualifies for exemption from tax. If the Governmental Remediation Trust qualifies for tax-exempt status, its income may generally be exempt from U.S. federal income tax; however, depending on the exemption for which it qualifies, it may be subject to tax on UBTI and may be subject to certain excise taxes. To the extent that Governmental Remediation Trust's income does not qualify for exemption from U.S. federal income tax, Governmental Remediation Trust would be subject to tax on such income in a manner substantially similar to that described above with respect to the Master Disbursement Trust (see "*—3. Master Disbursement Trust*").

The Governmental Remediation Trust Administrator will be required to file any required tax returns on behalf of the Governmental Remediation Trust and will be responsible for causing the Governmental Remediation Trust to pay any taxes imposed upon the Governmental Remediation Trust. The Debtors express no view as to whether the Governmental Remediation Trust may qualify for an exemption from U.S. federal income tax, and the Governmental Remediation Trust should consult its tax advisor regarding whether it may qualify for an exemption from U.S. federal income tax and the tax consequences to it under the Plan.

5. Tribe Trust

The Plan provides that any Tribe Trust entity that is formed as a trust is intended to be treated as a qualified settlement fund for U.S. federal income tax purposes, and the following discussion assumes that this treatment is respected. The Plan further provides that all parties (including, without limitation, the Shareholder Payment Parties, Holders of Claims against or Interests in the Debtors, the Related Parties of such Holders, the Debtors, the Creditor Trusts, the Creditor Trustees, the Foundation, the MDT Trustees and the Master Disbursement Trust) will be required to treat such an entity as a qualified settlement fund for all applicable tax reporting purposes.

Whether such a Tribe Trust qualifies for tax-exempt status will depend on facts particular to such Tribe Trust and its Tribe TDP. Regardless of whether such Tribe Trust's income qualifies for an exemption from U.S. federal income tax, such Tribe Trust is not expected to be subject to U.S. federal income tax on its receipt of distributions from the Master Disbursement Trust. If such Tribe Trust does not qualify for an exemption from federal income tax, it generally is otherwise expected to be taxed in a manner substantially similar to the treatment described above with respect to the Master Disbursement Trust (see "*—3. Master Disbursement Trust*"). However, the receipt of Governmental NewCo Distributable Cash by such a Tribe Trust may be subject to tax to the extent not treated as a return of capital for U.S. federal income tax purposes. If the Tribe Trust qualifies for tax-exempt status, all income it realizes will be exempt from U.S. federal income tax, generally including any income attributable to the receipt of

Governmental NewCo Distributable Cash, except for UBTI (which would be subject to tax as described above under "*—2. Foundation*"), but the Tribe Trust may be subject to certain excise taxes. The Debtors express no view as to whether any Tribe Trust entity may qualify for an exemption from U.S. federal income tax, and the Tribe Trust should consult its tax advisor regarding whether it may qualify for an exemption from U.S. federal income tax and the tax consequences to it under the Plan.

Such an entity's administrator will be required to file tax returns on behalf of such trust and will be responsible for causing such trust to pay any taxes imposed upon it. Such an entity should consult its own tax advisors regarding its treatment for U.S. federal income tax purposes, including whether such a Tribe Trust may qualify for tax-exempt status based on facts particular to such a Tribe Trust and its Tribe TDP.

This discussion does not address the U.S. federal income tax treatment of a Tribe Trust entity that is not formed as a trust, if any. The tax treatment of such an entity will depend upon the terms of the relevant Tribe Trust Documents, which shall be consistent with Articles I through XII of the Plan and otherwise acceptable to the Debtors and the Native American Tribe Group and reasonably acceptable to the Creditors' Committee and the Governmental Consent Parties, and which shall be filed by the Debtors with the Plan Supplement.

6. Public School Trust

The Plan provides that the Public School Trust is intended to be treated as a qualified settlement fund for U.S. federal income tax purposes, and the following discussion assumes that this treatment is respected. The Plan further provides that all parties (including, without limitation, the Shareholder Payment Parties, Holders of Claims against or Interests in the Debtors, the Related Parties of such Holders, the Debtors, the Creditor Trusts, the Creditor Trustees, the Foundation, the MDT Trustees and the Master Disbursement Trust) will be required to treat the Public School Trust as a qualified settlement fund for all applicable tax reporting purposes.

Whether the Public School Trust qualifies for tax-exempt status will depend on facts particular to the Public School Trust and the Public School TDP. Regardless of whether the Public School Trust's income qualifies for an exemption from U.S. federal income tax, the Public School Trust is not expected to be subject to U.S. federal income tax on its receipt of distributions from the Master Disbursement Trust. If the Public School Trust does not qualify for an exemption from federal income tax, it generally is otherwise expected to be subject to tax in a manner substantially similar to the treatment described above with respect to the Master Disbursement Trust (see "*—3. Master Disbursement Trust*"). If the Public School Trust qualifies for tax-exempt status, all income it realizes will be exempt from U.S. federal income tax; however, depending on the exemption for which it qualifies, it may be subject to tax on UBTI and may be subject to certain excise taxes. The Public School Trust's administrator will be required to file any required tax returns on behalf of the Public School Trust and will be responsible for causing the Public School Trust to pay all taxes, if any, imposed upon the Public School Trust. The Debtors express no view as to whether the Public School Trust may qualify for an exemption from U.S. federal income tax, and the Public School Trust should consult its

tax advisor regarding whether it may qualify for an exemption from U.S. federal income tax and the tax consequences to it under the Plan.

7. Healthcare Provider Trust

The Plan provides that the Healthcare Provider Trust is intended to be treated as a qualified settlement fund for U.S. federal income tax purposes, and the following discussion assumes that this treatment is respected. The Plan further provides that all parties (including, without limitation, the Shareholder Payment Parties, Holders of Claims against or Interests in the Debtors, the Related Parties of such Holders, the Debtors, the Creditor Trusts, the Creditor Trustees, the Foundation, the MDT Trustees and the Master Disbursement Trust) will be required to treat the Healthcare Provider Trust as a qualified settlement fund for all applicable tax reporting purposes.

Whether the Healthcare Provider Trust qualifies for tax-exempt status will depend on facts particular to the Healthcare Provider Trust and the Healthcare Provider TDP. Regardless of whether the Healthcare Provider Trust's income qualifies for an exemption from U.S. federal income tax, the Healthcare Provider Trust is not expected to be subject to U.S. federal income tax on its receipt of distributions from the Master Disbursement Trust. If the Healthcare Provider Trust does not qualify for such an exemption, it generally is otherwise expected to be taxed in a manner substantially similar to the treatment described above with respect to the Master Disbursement Trust (see "*—3. Master Disbursement Trust*"). If the Healthcare Provider Trust qualifies for tax-exempt status, all income it realizes will be exempt from U.S. federal income tax, except for UBTI (which would be subject to tax as described above under "*—2. Foundation*"), but the Healthcare Provider Trust may be subject to certain excise taxes. The Healthcare Provider Trust's administrator will be required to file tax returns on behalf of the Healthcare Provider Trust and will be responsible for causing the Healthcare Provider Trust to pay all taxes, if any, imposed upon the Healthcare Provider Trust. The Debtors express no view as to whether the Healthcare Provider Trust may qualify for an exemption from U.S. federal income tax, and the Healthcare Provider Trust should consult its tax advisor regarding whether it may qualify for an exemption from U.S. federal income tax and the tax consequences to it under the Plan.

8. TPP Trust

The Plan provides that the TPP Trust is intended to be treated as a qualified settlement fund for U.S. federal income tax purposes, and the following discussion assumes that this treatment is respected. The Plan further provides that all parties (including, without limitation, the Shareholder Payment Parties, Holders of Claims against or Interests in the Debtors, the Related Parties of such Holders, the Debtors, the Creditor Trusts, the Creditor Trustees, the Foundation, the MDT Trustees and the Master Disbursement Trust) will be required to treat the TPP Trust as a qualified settlement fund for all applicable tax reporting purposes.

Whether the TPP Trust qualifies for tax-exempt status will depend on facts particular to the TPP Trust and the TPP TDP. Regardless of whether the TPP Trust's income qualifies for an exemption from U.S. federal income tax, the TPP Trust is not expected to be subject to U.S. federal income tax on its receipt of distributions from the Master Disbursement Trust. If the TPP

Trust does not qualify for such an exemption, it generally is otherwise expected to be taxed in a manner substantially similar to the treatment described above with respect to the Master Disbursement Trust (see "*—3. Master Disbursement Trust*"). If the TPP Trust qualifies for tax-exempt status, all income it realizes will be exempt from U.S. federal income tax, except for UBTI (which would be subject to tax as described above under "*—2. Foundation*"), but the TPP Trust may be subject to certain excise taxes. The TPP Trust's administrator will be required to file tax returns on behalf of the TPP Trust and will be responsible for causing the TPP Trust to pay all taxes, if any, imposed upon the TPP Trust. The Debtors express no view as to whether the TPP Trust may qualify for an exemption from U.S. federal income tax, and the TPP Trust should consult its tax advisor regarding whether it may qualify for an exemption from U.S. federal income tax and the tax consequences to it under the Plan.

9. ERP Trust

The Plan provides that the ERP Trust is intended to be treated as a qualified settlement fund for U.S. federal income tax purposes, and the following discussion assumes that this treatment is respected. The Plan further provides that all parties (including, without limitation, the Shareholder Payment Parties, Holders of Claims against or Interests in the Debtors, the Related Parties of such Holders, the Debtors, the Creditor Trusts, the Creditor Trustees, the Foundation, the MDT Trustees and the Master Disbursement Trust) will be required to treat the ERP Trust as a qualified settlement fund for all applicable tax reporting purposes.

Whether the ERP Trust qualifies for tax-exempt status will depend on facts particular to the ERP Trust and the ERP TDP. Regardless of whether the ERP Trust's income qualifies for an exemption from U.S. federal income tax, the ERP Trust is not expected to be subject to U.S. federal income tax on its receipt of distributions from the Master Disbursement Trust. If the ERP Trust does not qualify for such an exemption, it generally is otherwise expected to be taxed in a manner substantially similar to the treatment described above with respect to the Master Disbursement Trust (see "*—3. Master Disbursement Trust*"). If the ERP Trust qualifies for tax-exempt status, all income it realizes will be exempt from U.S. federal income tax, except for UBTI (as described above under "*—2. Foundation*"), but the ERP Trust may be subject to certain excise taxes. The ERP Trust's administrator will be required to file tax returns on behalf of the ERP Trust and will be responsible for causing the ERP Trust to pay all taxes, if any, imposed upon the ERP Trust. The Debtors express no view as to whether the ERP Trust may qualify for an exemption from U.S. federal income tax, and the ERP Trust should consult its tax advisor regarding whether it may qualify for an exemption from U.S. federal income tax and the tax consequences to it under the Plan.

10. PI Trust and Sub-Qualified Settlement Funds

The Plan provides that the PI Trust and each Sub-Qualified Settlement Fund are intended to be treated as separate qualified settlement funds for U.S. federal income tax purposes, and the following discussion assumes that this treatment is respected. The Plan further provides that all parties (including, without limitation, the Shareholder Payment Parties, Holders of Claims against or Interests in the Debtors, the Related Parties of such Holders, the Debtors, the Creditor Trusts, the Creditor Trustees, the administrators of each Sub-Qualified Settlement Fund, the Foundation, the MDT Trustees and the Master Disbursement Trust) will be required to treat the

PI Trust and each Sub-Qualified Settlement Fund as separate qualified settlement funds for all applicable tax reporting purposes.

The PI Trust is not expected to be subject to U.S. federal income tax on the receipt of distributions from the Master Disbursement Trust. The PI Trust generally is otherwise expected to be subject to tax in a manner substantially similar to the treatment described above with respect to the Master Disbursement Trust (see "*—3. Master Disbursement Trust*"). The PI Trust is expected to be treated for U.S. federal income tax purposes as the owner of the TPP LRP Escrow Account, and, accordingly, the PI Trust is expected to recognize as taxable income any income earned by the TPP LRP Escrow Account. The PI Trust's administrator will be required to file tax returns on behalf of the PI Trust and will be responsible for causing the PI Trust to pay all taxes, if any, imposed upon the PI Trust.

The Sub-Qualified Settlement Funds are not expected to be subject to U.S. federal income tax on the receipt of distributions from the PI Trust. The Sub-Qualified Settlement Funds generally are otherwise expected to be subject to tax in a manner substantially similar to the treatment described above with respect to the Master Disbursement Trust (see "*—3. Master Disbursement Trust*"). Each Sub-Qualified Settlement Fund's administrator will be required to file all tax returns on behalf of the applicable Sub-Qualified Settlement Fund and will be responsible for causing the Sub-Qualified Settlement Fund to pay all taxes, if any, imposed upon the applicable Sub-Qualified Settlement Fund.

11. Plan Administration Trust

The Plan provides that the Plan Administration Trust will be established for purposes described in the Plan and PAT Agreement, including to: (i) hold, manage, sell, invest and distribute the PAT Assets for the benefit of Holders of Allowed Claims (other than Channeled Claims and Federal Government Unsecured Claims); (ii) administer, process, resolve and liquidate Claims (other than Channeled Claims and Federal Government Unsecured Claims), including through the prosecution and resolution of objections to Disputed Avrio General Unsecured Claims, Disputed Adlon General Unsecured Claims or Disputed Other General Unsecured Claims; (iii) hold and maintain the PAT Reserves and the PAT Distribution Account and maintain the Professional Fee Escrow Account and the account described in Section 5.3(e) of the Plan; and (iv) make Distributions to Holders of Allowed Claims (other than Channeled Claims and Federal Government Unsecured Claims) and other payments from the Plan Administration Trust, the Professional Fee Escrow Account and the account described in Section 5.3(e) of the Plan. The Plan provides (i) that the Plan Administration Trust is intended to be treated as a trust described in IRC sections 661 through 664 and the applicable Treasury Regulations (a "complex trust") and (ii) that the PAT Disputed Claims Reserves are intended to be treated as part of the Plan Administration Trust and not as separate taxable entities, and the following discussion assumes that this treatment is respected.

A complex trust is treated as a separate entity for U.S. federal income tax purposes that is taxable in accordance with Subchapter J of Chapter 1 of Subtitle A of the IRC, including sections 661 through 664. Any net income earned by a complex trust is generally subject to tax (currently at a top marginal tax rate of 37%, increasing to 39.6% beginning in 2026). In computing its net income, a complex trust is generally allowed a deduction equal to the lesser of

(i) the trust's distributable net income (as determined for U.S. federal income tax purposes) for the taxable year and (ii) the sum of the amounts of income required to be distributed to beneficiaries for the taxable year and other amounts properly paid or credited (or deemed paid or credited) for the taxable year. A distribution is includible in the beneficiary's gross income in the year of receipt or deemed distribution by the trust, unless previously included in the beneficiary's income under such beneficiary's applicable method of accounting. It is expected that the Master Disbursement Trust will be treated as the only beneficiary of the Plan Administration Trust and thus distributions to the Master Disbursement Trust may be subject to these rules. The Plan Administration Trustee will file all tax returns of the Plan Administration Trust and will be responsible for causing the Plan Administration Trust to pay all taxes imposed upon the Plan Administration Trust.

No opinion of counsel or ruling from the IRS has been requested by the Debtors or Plan Administration Trustee concerning the tax status of Plan Administration Trust. Accordingly, there can be no assurance that the IRS would not take a contrary position.

E. Tax Treatment of the Claims Reserves, the Released Claims Reserves and the Special Operating Reserve

1. Creditor Trust Non-PRA Non-Participating Claims Reserves

The Plan provides that each of the Creditor Trust Non-PRA Non-Participating Claims Reserves are intended to be treated and shall be reported as an account of the corresponding Creditor Trust and not as an entity separate from the corresponding Creditor Trust for U.S. federal income tax purposes and, to the extent permitted under applicable law, for state and local tax purposes. If this treatment is respected, any income accruing to a Creditor Trust Non-PRA Non-Participating Claims Reserve will be subject to tax as described above with respect to the applicable Creditor Trust.

The Debtors express no view, and no opinion of counsel or ruling from the IRS has been requested by the Debtors concerning the tax status of any of the Creditor Trust Non-PRA Non-Participating Claims Reserves. Accordingly, there can be no assurance that the IRS would not take a contrary position. If any Creditor Trust Non-PRA Non-Participating Claims Reserve is not respected as an account of the corresponding Creditor Trust for U.S. federal income tax purposes, such Claims Reserve may be treated as and subject to tax in a manner substantially similar to the treatment described above with respect to the applicable Creditor Trust.

2. Creditor Trust PRA Non-Participating Claims Reserves and Select Private Creditor Trust Non-Participating Claims Reserves

The Plan provides that each Creditor Trust PRA Non-Participating Claims Reserve and each Select Private Creditor Trust Non-Participating Claims Reserve is intended to be treated and shall be reported as a qualified settlement fund for U.S. federal income tax purposes. The Plan provides that PRA L.P. will elect to treat each Creditor Trust PRA Non-Participating Claims Reserve and each Select Private Creditor Trust Non-Participating Claims Reserve as a "grantor trust" pursuant to Section 1.468B-1(k) of the Treasury Regulations, for U.S. federal income tax purposes and, to the extent permitted under applicable law, for state and local tax

purposes, as to which PRA L.P. is the sole grantor, owner and transferor, and that PRA L.P. will not revoke such election. The following discussion assumes that PRA L.P. makes such election and that this treatment is respected.

As grantor trusts, the Creditor Trust PRA Non-Participating Claims Reserves and the Select Private Creditor Trust Non-Participating Claims Reserves are not subject to U.S. federal income tax. Instead, PRA L.P. is treated as the owner of the assets of each Creditor Trust PRA Non-Participating Claims Reserve and each Select Private Creditor Trust Non-Participating Claims Reserve and takes into account all items of income, gain, loss, deduction, and credit (including capital gains and losses) recognized or otherwise attributable to the Creditor Trust PRA Non-Participating Claims Reserves and the Select Private Creditor Trust Non-Participating Claims Reserves in accordance with Treasury Regulations Section 1.671-4 for purposes of computing its (or its direct or indirect owners') income tax liability. In addition, distributions from the Creditor Trust PRA Non-Participating Claims Reserves and from the Select Private Creditor Trust will be treated for U.S. federal income tax purposes as if paid directly by PRA L.P. PRA L.P. is responsible for reporting such items of income, gain, loss, deduction and credit on its income tax return.

The Debtors express no view, and no opinion of counsel or ruling from the IRS has been requested by the Debtors or PRA L.P. concerning the tax status of any of the Creditor Trust PRA Non-Participating Claims Reserves or the Select Private Creditor Trust Non-Participating Claims Reserves. Accordingly, there can be no assurance that the IRS would not take a contrary position. If any Creditor Trust PRA Non-Participating Claims Reserve or any Select Private Creditor Trust Non-Participating Claims Reserve is not respected as a grantor trust as to which PRA L.P. is treated as the sole grantor, owner and transferor for U.S. federal income tax purposes or PRA L.P. does not properly make an election to have any Creditor Trust PRA Non-Participating Claims Reserve or any Select Private Creditor Trust Non-Participating Claims Reserve be so treated, such Creditor Trust PRA Non-Participating Claims Reserve or such Select Private Creditor Trust Non-Participating Claims Reserve, as applicable, may (i) be treated as a qualified settlement fund and subject to tax in a manner substantially similar to the treatment described above with respect to the applicable Creditor Trust or (ii) be disregarded as separate from the Creditor Trust that holds such Creditor Trust PRA Non-Participating Claims Reserve or such Select Private Creditor Trust Non-Participating Claims Reserve, as applicable.

3. Released Claims Reserves

The Plan provides that each Released Claims Reserve is intended to be treated and shall be reported as a qualified settlement fund for U.S. federal income tax purposes. The Plan provides that PRA L.P. will elect to treat each Released Claims Reserve as a "grantor trust" pursuant to Section 1.468B-1(k) of the Treasury Regulations, for U.S. federal income tax purposes and, to the extent permitted under applicable law, for state and local tax purposes, as to which PRA L.P. is the sole grantor, owner and transferor, and that PRA L.P. will not revoke such election. The following discussion assumes that the above is followed and that this treatment is respected.

As grantor trusts, the Released Claims Reserves are not subject to U.S. federal income tax. Instead, PRA L.P. is treated as the owner of the assets of each Released Claims Reserve and

takes into account all items of income, gain, loss, deduction, and credit (including capital gains and losses) recognized or otherwise attributable to the Released Claims Reserves in accordance with Section 1.671-4 of the Treasury Regulations for purposes of computing its (or its direct or indirect owners') income tax liability. In addition, distributions from the Released Claims Reserves will be treated for U.S. federal income tax purposes as if paid directly by PRA L.P. PRA L.P. is responsible for reporting such items of income, gain, loss, deduction and credit on its income tax return.

The Debtors express no view, and no opinion of counsel or ruling from the IRS has been requested by the Debtors or PRA L.P. concerning the tax status of any of the Released Claims Reserves. Accordingly, there can be no assurance that the IRS would not take a contrary position. If any Released Claims Reserve is not respected as a grantor trust as to which PRA L.P. is treated as the sole owner, grantor and transferor for U.S. federal income tax purposes or PRA L.P. does not properly make an election to have any Released Claims Reserves be so treated, such Released Claims Reserve may (i) be treated as a qualified settlement fund and subject to tax in a manner substantially similar to the treatment described above with respect to the applicable Creditor Trust or (ii) be disregarded as separate from the Creditor Trust that holds such Released Claims Reserve.

4. Special Operating Reserve

The Plan provides that the Special Operating Reserve is intended to be treated and shall be reported as a qualified settlement fund for U.S. federal income tax purposes. The Plan provides that PRA L.P. will elect to treat the Special Operating Reserve as a "grantor trust" pursuant to Section 1.468B-1(k) of the Treasury Regulations, for U.S. federal income tax purposes and, to the extent permitted under applicable law, for state and local tax purposes, as to which PRA L.P. is the sole grantor, owner and transferor, and that PRA L.P. will not revoke such election. The following discussion assumes that the above is followed and that this treatment is respected.

As a grantor trust, the Special Operating Reserve is not subject to U.S. federal income tax. Instead, PRA L.P. is treated as the owner of the assets of the Special Operating Reserve and takes into account all items of income, gain, loss, deduction, and credit (including capital gains and losses) recognized or otherwise attributable to the Special Operating Reserve in accordance with Section 1.671-4 of the Treasury Regulations for purposes of computing its (or its direct or indirect owners') income tax liability. In addition, distributions from the Special Operating Reserve will be treated for U.S. federal income tax purposes as if paid directly by PRA L.P. PRA L.P. is responsible for reporting such items of income, gain, loss, deduction and credit on its income tax return.

The Debtors express no view, and no opinion of counsel or ruling from the IRS has been requested by the Debtors or PRA L.P. concerning the tax status of the Special Operating Reserve. Accordingly, there can be no assurance that the IRS would not take a contrary position. If the Special Operating Reserve is not respected as a grantor trust as to which PRA L.P. is treated as the sole grantor, owner and transferor for U.S. federal income tax purposes or PRA L.P. does not properly make an election to have the Special Operating Reserve be so treated, the Special Operating Reserve may (i) be treated as a qualified settlement fund and subject to tax in

a manner substantially similar to the treatment described above with respect to the Master Disbursement Trust (see "*—3. Master Disbursement Trust*") or (ii) be disregarded as separate from the Master Disbursement Trust.

F. Withholding on Distributions and Information Reporting

Information reporting requirements may apply to distributions or payments, including payments of interest, if any, pursuant to the Plan and the Shareholder Settlement Agreements. All distributions to Holders of Claims under the Plan and the Shareholder Settlement Agreements are subject to any applicable tax withholding. Under U.S. federal income tax law, interest, dividends and other reportable payments to U.S. Holders may, under certain circumstances, be subject to "backup withholding" at the then-applicable withholding rate (currently 24%). Backup withholding generally applies if the holder: (i) fails to furnish its social security number or other taxpayer identification number; (ii) furnishes an incorrect taxpayer identification number; (iii) fails to properly report interest or dividends; or (iv) under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the tax identification number provided is its correct number and that it is not subject to backup withholding. Backup withholding is not an additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of tax by timely filing an appropriate claim for refund with the IRS (generally, a U.S. federal income tax return). Certain persons are exempt from backup withholding and information reporting, including governments of U.S. states or political subdivisions thereof and non-U.S. governments and, in certain circumstances, corporations and financial institutions. Holders of Claims are urged to consult their own tax advisors regarding the potential for and applicable law governing backup and other tax withholding and information reporting in connection with the transactions contemplated by the Plan.

In addition, Treasury Regulations generally require disclosure by a taxpayer on its U.S. federal income tax return of certain types of transactions in which the taxpayer participated, including, among other types of transactions, certain transactions that result in the taxpayer's claiming a loss in excess of specified thresholds. U.S. Holders are urged to consult their tax advisors regarding these regulations and whether the transactions contemplated by the Plan would be subject to these regulations and require disclosure on the U.S. Holders' tax returns.

G. Importance of Obtaining Professional Advice

THE FOREGOING DISCUSSION OF CERTAIN MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS IS FOR GENERAL INFORMATION ONLY AND IS NOT TAX ADVICE. HOLDERS SHOULD CONSULT THEIR OWN TAX ADVISORS REGARDING THE U.S. FEDERAL INCOME TAX CONSEQUENCES TO THEM OF THE CONSUMMATION OF THE PLAN DESCRIBED HEREIN, AS WELL AS OTHER APPLICABLE TAX CONSEQUENCES, INCLUDING ANY TAX CONSEQUENCES ARISING UNDER STATE, LOCAL OR NON-U.S. TAX LAWS. NEITHER THE DEBTORS NOR THEIR PROFESSIONALS WILL HAVE ANY LIABILITY TO ANY PERSON ARISING FROM OR RELATED TO THE U.S.

FEDERAL, STATE, LOCAL, NON-U.S. OR ANY OTHER TAX CONSEQUENCES OF THE PLAN OR THE FOREGOING DISCUSSION.

ARTICLE X

RECOMMENDATION

[The Debtors believe that confirmation and consummation of the Plan are in the best interests of the Debtors, their Estates and their creditors. The Plan provides for an equitable distribution to holders of Claims. The Debtors believe that any alternative to confirmation of the Plan, such as liquidation under chapter 7 of the Bankruptcy Code, could result in significant delay, litigation and additional costs, as well as a reduction in the distributions to holders of Claims in certain Classes. ***Consequently, the Debtors, the States AG Negotiating Group, the Ad Hoc Committee, the MSGE Group, the Native American Tribes Group, the Ad Hoc Group of Individual Victims, the Ad Hoc Group of Hospitals, the ER Physicians, the Third-Party Payor Group, the Ratepayer Mediation Participants, the NAS Committee, and the Public School District Claimants urge all eligible holders of impaired Claims to: (i) vote to ACCEPT the Plan; (ii) grant the Third-Party Releases; and (iii) complete and submit their Ballots so that they will be RECEIVED by the Solicitation Agent on or before the Voting Deadline.***]

Dated: ~~June 20~~July 1, 2025

By: */s/ Keith Darragh*
Name: Keith Darragh
Title: Authorized Signatory

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
PURDUE PRODUCTS L.P.
PURDUE PHARMACEUTICAL
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
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Move To	20
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Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	935

EXHIBIT K

Subdivision Participation and Release Form

Governmental Entity:	City of Santa Fe	State: New Mexico
Authorized Official:	Mayor Alan Webber	
Address 1:	200 Lincoln Avenue	
Address 2:		
City, State, Zip:	Santa Fe, New Mexico	
Phone:	505-955-6590	
Email:	mayor@santafenm.gov	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to that certain Governmental Entity & Shareholder Direct Settlement Agreement accompanying this participation form (the "*Agreement*")[1], and acting through the undersigned authorized official, hereby elects to participate in the Agreement, grant the releases set forth below, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Agreement, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Agreement and become a Participating Subdivision as provided therein.

2. The Governmental Entity shall promptly after the Effective Date, and prior to the filing of the Consent Judgment, dismiss with prejudice any Shareholder Released Claims and Released Claims that it has filed. With respect to any Shareholder Released Claims and Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs' Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice substantially in the form found at https://nationalopioidsettlement.com.

3. The Governmental Entity agrees to the terms of the Agreement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the Agreement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning following the Effective Date.

5. The Governmental Entity agrees to use any monies it receives through the Agreement solely for the purposes provided therein.

6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as and to the extent provided in, and for resolving disputes to the extent provided in, the

[1] Capitalized terms used in this Exhibit K but not otherwise defined in this Exhibit K have the meanings given to them in the Agreement or, if not defined in the Agreement, the Master Settlement Agreement.

Agreement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the Agreement.

7. The Governmental Entity has the right to enforce the Agreement as provided therein.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Agreement, including without limitation all provisions of Article 10 (Release), and along with all departments, agencies, divisions, boards, commissions, 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, and any other entity identified in the definition of Subdivision Releasor, to the maximum extent of its authority, for good and valuable consideration, the adequacy of which is hereby confirmed, the Shareholder Released Parties and Released Parties are, as of the Effective Date, hereby released and forever discharged by the Governmental Entity and its Subdivision Releasors from: any and all Causes of Action, including, without limitation, any Estate Cause of Action and any claims that the Governmental Entity or its Subdivision Releasors would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively), notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, (A) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (ii) the Estates, (iii) the Chapter 11 Cases, or (iv) Covered Conduct and (B) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor (each such release, as it pertains to the Shareholder Released Parties, the "Shareholder Released Claims", and as it pertains to the Released Parties other than the Shareholder Released Parties, the "Released Claims"). For the avoidance of doubt and without limiting the foregoing: the Shareholder Released Claims and Released Claims include any Cause of Action that has been or may be asserted against any Shareholder Released Party or Released Party by the Governmental Entity or its Subdivision Releasors (whether or not such party has brought such action or proceeding) in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) (A) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (ii) the Estates, (iii) the Chapter 11 Cases, or (iv) Covered Conduct and (B) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor.

9. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Shareholder Released Claims or Released Claims against any Shareholder Released Party or Released Party in any forum whatsoever, subject in all respects to Section 9.02 of the Master Settlement Agreement. The releases provided for herein (including the term "Shareholder Released

Claims" and "Released Claims") are intended by the Governmental Entity and its Subdivision Releasors to be broad and shall be interpreted so as to give the Shareholder Released Parties and Released Parties the broadest possible release of any liability relating in any way to Shareholder Released Claims and Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Agreement shall be a complete bar to any Shareholder Released Claim and Released Claims.

10. To the maximum extent of the Governmental Entity's power, the Shareholder Released Parties and the Released Parties are, as of the Effective Date, hereby released and discharged from any and all Shareholder Released Claims and Released Claims of the Subdivision Releasors.

11. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Agreement.

12. In connection with the releases provided for in the Agreement, each Governmental Entity 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:

    > **General Release; extent.** A general release does not extend to claims 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 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 or such other Claims released pursuant to this release, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Shareholder Released Claims or such other Claims released pursuant to this 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 Governmental Entities' decision to participate in the Agreement.

13. Nothing herein is intended to modify in any way the terms of the Agreement, to which Governmental Entity hereby agrees. To the extent any portion of this Participation and Release Form not relating to the release of, or bar against, liability is interpreted differently from the Agreement in any respect, the Agreement controls.

14. Notwithstanding anything to the contrary herein or in the Agreement, (x) nothing herein shall (A) release any Excluded Claims or (B) be construed to impair in any way the rights and obligations of any Person under the Agreement; and (y) the Releases set forth herein shall be subject to being deemed void to the extent set forth in Section 9.02 of the Master Settlement Agreement.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

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New York, New York 10017
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Counsel to the Debtors
and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	**Chapter 11**
PURDUE PHARMA L.P., *et al.*,	**Case No. 19-23649 (SHL)**
Debtors.[1]	**(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*

[1] 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*

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Counsel to the Debtors
and Debtors in Possession

Exhibit A

Governmental Entity Settlement Agreement

GOVERNMENTAL ENTITY

& SHAREHOLDER

DIRECT SETTLEMENT AGREEMENT[1]

BY AND AMONG

[●]

[_____], 2025

[1] **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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[2] 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 owning 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[3]) 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.

[3] 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. [4] 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).

[4] 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.

"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 (90th) 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].[5]

"Opioid Remediation" means care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures[6] 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

[5] Provisions related to Oklahoma Subdivisions are further addressed in Exhibit H.

[6] 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, triozolam, 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[7] 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

[7] 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. 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.[8] 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

[8] 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 (3rd) 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 (7th) 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[9]

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.

[9] [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[10] 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

[10] Note to Draft: There needs to be accounting for 12.4% in attorneys' fees (either elsewhere or in the Plan) that the Plan will say 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 (30th) 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[11]	**Incentive Payment B Eligibility Percentage**

[11] 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.

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:

Percentage of Relevant Subdivision Population that is Incentive C Eligible Population [12]	**Incentive Payment C Eligibility Percentage**
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%

[12] 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.[13] 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

[13] 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.[14] 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.

[14] 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.[15] 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

[15] 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[16]. 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.[17] 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

[16] NTD: States discussing moving "Exhibit R" out of GESA and into MSA or Plan.

[17] 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.[18] 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.

[18] 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 Setting 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.[19]

Section 13.22 Modification, Amendment, Alteration. Between [●][20]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.

[20] 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[21]

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.[22]

(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*

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

[22] 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;[23] *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*

[23] 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;[24] *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

[24] 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.

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	**Chapter 11**
PURDUE PHARMA L.P., *et al.*,	**Case No. 19-23649 (SHL)**
Debtors.[1]	**(Jointly Administered)**

NOTICE OF FILING OF PLAN SUPPLEMENT PURSUANT TO THE THIRTEENTH AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION OF PURDUE PHARMA L.P. AND ITS AFFILIATED DEBTORS

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*

[1] 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 the Plan and Disclosure Statement contemplate the submission of certain documents (or forms thereof), schedules, and exhibits (the "**Plan Supplement**").

PLEASE TAKE FURTHER NOTICE that the Debtors hereby file the following Plan Supplement document:

Exhibit A Master Shareholder Settlement Agreement

PLEASE TAKE FURTHER NOTICE that the Master Shareholder Settlement Agreement is being filed without its associated exhibits and appendices.

PLEASE TAKE FURTHER NOTICE that the forms of documents contained in the Plan Supplement are integral to, and are considered part of, the Plan. If the Plan is confirmed, the documents contained in the Plan Supplement will be approved by the Bankruptcy Court pursuant to the order confirming the Plan.

PLEASE TAKE FURTHER NOTICE that the Debtors reserve the right, pursuant to the terms and conditions set forth in the Plan and in the Master Shareholder Settlement Agreement, to alter, amend, modify, or supplement any document in the Plan Supplement (including any exhibits or appendices attached thereto); provided that if any document in the Plan Supplement is altered, amended, modified, or supplemented in any material respect prior to the hearing to confirm the Plan, the Debtors will file a blackline of such document with the Bankruptcy Court.

PLEASE TAKE FURTHER NOTICE that copies of the Plan Supplement, the Plan, and the Disclosure Statement may be obtained free of charge by visiting the website of Prime Clerk LLC at https://restructuring.primeclerk.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.

PLEASE TAKE FURTHER NOTICE that a hearing to consider the adequacy of the information contained in the Disclosure Statement for Thirteenth Amended Plan (the "**Disclosure Statement Hearing**") is scheduled for **June 18, 2025, at 10:00 a.m. (prevailing Eastern Time)**

before the Honorable Sean H. Lane, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601 (the "**Bankruptcy Court**").

Dated: June 17, 2025
New York, New York

DAVIS POLK & WARDWELL LLP

By: */s/ Eli J. Vonnegut*

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Exhibit A

Master Shareholder Settlement Agreement

MASTER SETTLEMENT AGREEMENT

BY AND AMONG

THE MASTER DISBURSEMENT TRUST,

EACH OF THE PARTIES LISTED ON EXHIBIT A HERETO,

EACH OF THE PARTIES LISTED ON EXHIBIT B HERETO,

THE SACKLER PARTIES' REPRESENTATIVE

AND

PRA L.P.

[_____], 2025

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[1] NTD: All exhibits and annexes to be in form and substance satisfactory to all parties.

MASTER SETTLEMENT AGREEMENT

THIS MASTER SETTLEMENT AGREEMENT (together with the Credit Support Annexes and all other exhibits and annexes hereto (as defined below), this "Agreement"), dated as of [____], 2025 (the "Agreement Effective Date"), is entered into by and among (i) the MDT (as defined below), (ii) the Sackler Parties (as defined below), (iii) each of the parties listed on Exhibit B hereto (collectively, the "Debtors"), (iv) solely for purposes of Article 4 (Tax Matters), Section 2.01(d) (Payments by Beacon Trust), Section 2.01(e) (Payments by 74A Trust (as defined below)) and Section 8.03 (Consent to Cancellation of PPLP Interests and De Minimis PRALP Interests), PRA L.P. (as defined below), and (v) the Sackler Parties' Representative (as defined below, and, together with PRA L.P., the MDT and the Sackler Parties, the "Parties" and each, a "Party").

RECITALS

WHEREAS, on September 15, 2019, the Debtors each filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), thereby commencing the chapter 11 cases that are currently pending and jointly administered by the Bankruptcy Court under the caption *In re Purdue Pharma L.P., et al.*, Case No. 19-23649 (SHL) (the "Bankruptcy Cases");

WHEREAS, in furtherance of this Agreement, the Debtors filed a plan of reorganization D.I. 7306 on March 18, 2025 and related disclosure statement D.I. 7307 on March 19, 2025 in the Bankruptcy Cases, both of which will be amended from time to time;

WHEREAS, for the purposes of this Agreement, the Sackler Parties are included in distinct Payment Groups (as defined below) as set forth on Exhibit A;

WHEREAS, for the purposes of this Agreement, certain of the Shareholder Released Parties (as defined below) are included in distinct Family Groups (as defined below) as set forth on Exhibit C, each of which corresponds to a specific Payment Group as set forth on Exhibit C;

WHEREAS, in furtherance of the settlement of the Shareholder Released Claims against the Shareholder Released Parties as contemplated and effectuated pursuant to the Plan (as defined below) and each of the Settlement Agreements (as defined below) (such settlements contemplated and effectuated pursuant to the Plan and each of the Settlement Agreements, collectively the "Settlement"), the B-Side Payment Groups (as defined below) and the A-Side Payment Groups (as defined below) have agreed to pay the Settlement Amount (as defined below) to the MDT, subject to the terms of this Agreement;

WHEREAS, in furtherance of the Settlement, each A-Side Payment Party (as defined below) agrees to pay, or cause to be paid, on a joint and several basis (subject to the terms and limitations set forth herein) among the A-Side Payment Parties within such A-Side Payment Party's A-Side Payment Group, but on a several and not joint basis as among A-Side Payment Groups, their respective portion of the Settlement Payment Obligations and any other Payment Obligations incurred by such A-Side Payment Party's A-Side Payment Group, subject to the terms of this Agreement;

WHEREAS, in furtherance of the Settlement, each B-Side Payment Party (as defined below) agrees to pay, or cause to be paid, on a joint and several basis (subject to the terms and limitations set forth herein) among the B-Side Payment Parties within such B-Side Payment Party's B-Side Payment Group, but on a several and not joint basis as among B-Side Payment Groups, their respective portion of the Settlement Payment Obligations and any other Payment Obligations incurred by such B-Side Payment Party's B-Side Payment Group, subject to the terms of this Agreement;

WHEREAS, in furtherance of the Settlement, each IAC Payment Party agrees to pay, or cause to be paid, its share of the IAC Sale Bonus Payment (as defined below) to the MDT as and when required by this Agreement;

WHEREAS, pursuant to the terms of this Agreement, the Settlement Amount shall include both Estate Payments (as defined below) and Direct Payments (as defined below);

WHEREAS, certain Sackler Parties that are IAC Payment Parties (as defined below) hold interests, directly or indirectly, in the IACs (as defined below) set forth on Exhibit E-1;

WHEREAS, in furtherance of the Settlement, each of the IAC Payment Parties agrees to use commercially reasonable best efforts to sell or cause to be sold, in one or more transactions, all of the issued and outstanding equity interests in each IAC (other than Purdue Canada) and/or the assets of each IAC (other than Purdue Canada) on or prior to the seventh (7th) anniversary of the Settlement Effective Date, subject to this Agreement;

WHEREAS, certain Sackler Parties hold interests, directly or indirectly, in Purdue Pharma L.P. ("PPLP Interests") and Purdue Pharma Inc. ("PPI Interests"), and Purdue Pharma Inc. holds certain de minimis interests in Pharmaceutical Research Associates L.P. ("De Minimis PRALP Interests");

WHEREAS, in furtherance of the Settlement, the Sackler Parties agree, subject to the terms and conditions of this Agreement, to the deemed surrender, cancellation, and/or redemption of the PPLP Interests pursuant to the Plan and that the direct and indirect holders thereof shall not receive or retain any property under the Plan on account of the PPLP Interests;

WHEREAS, in furtherance of the Settlement, the Sackler Parties agree, subject to the terms and conditions of this Agreement, to the deemed surrender, cancellation, and/or redemption of the PPI Interests and De Minimis PRALP Interests pursuant to the Plan and that (i) Purdue Pharma Inc. shall not receive or retain any property under the Plan on account of the De Minimis PRALP Interests and (ii) the direct and indirect holders of Purdue Pharma Inc. shall not receive or retain any property under the Plan on account of the PPI Interests;

WHEREAS, in furtherance of the Settlement, the Sackler Parties agree to the treatment of the MDT Shareholder Insurance Rights (as defined below) on the terms and conditions set forth in the Plan;

WHEREAS, in furtherance of the Settlement, the Family Members have agreed to not seek, request or permit any new naming rights with respect to charitable or similar donations to organizations, subject to the terms and conditions of this Agreement and the Confirmation Order (as defined below); and

WHEREAS, in furtherance of the Settlement, certain of the Sackler Parties have agreed to grant a security interest in and Lien (as defined below) on certain of their assets to secure the obligations of certain Payment Parties under this Agreement as more fully set forth below in this Agreement (including each of Annex A, Annex B, Annex C, Annex D, Annex E and Annex F attached hereto (individually, a "Credit Support Annex" and, collectively, the "Credit Support Annexes"), which such Credit Support Annexes are hereby incorporated by reference herein) and the Collateral Documents (as defined below).

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE 1.
DEFINITIONS

Section 1.01 Definitions.

(a) As used in this Agreement, the following terms have the following meanings:

"11.17 Assuring Party" means the Assuring Parties indicated by an asterisk ("*") on Exhibit K.

"74A Trust" has the meaning set forth in Section 2.01(e).

"A-Side General Obligors" means each A-Side Payment Party designated as such on Exhibit A.

"A-Side IAC Payment Party" means each Party designated as an "A-Side IAC Payment Party" on Exhibit A.

"A-Side Payment Date Obligation" means, in respect of each A-Side Payment Group as of any given Payment Date, the amount such A-Side Payment Group is obligated to pay on such Payment Date pursuant to this Agreement.

"A-Side Payment Group" means each of the eight (8) Payment Groups, each of which comprises A-Side Payment Parties, designated as such on Exhibit A.

"A-Side Payment Group 8 Representative" means such Person as is designated in writing by A-Side Payment Group 8 from time to time.

"A-Side Payment Party" means a Party designated as an "A-Side Payment Party" on Exhibit A; *provided* that, the Parties designated as A-Side Payment Parties on Exhibit A in respect of the A-Side Payment Group 8 shall not be deemed A-Side Payment Parties for purposes of Section 5.01(c) (with respect to the funding and reimbursement obligations described therein), or Section 5.02(b) (with respect to the funding and reimbursement obligations described therein); *provided* further, the foregoing will not limit any requirement to fund a portion of any Estate Payment due from the Parties designated as A-Side Payment Parties on Exhibit A in respect of the A-Side Payment Group 8 into the Reserve(s), Released Claims Reserve(s) and/or the Special Operating Reserve. For the avoidance of doubt, each of the A-Side General Obligors and A-Side IAC Payment Parties is an A-Side Payment Party.

"Actual Taxes" means, with respect to an IAC Payment Party, an amount equal to the actual cash Tax liability of such IAC Payment Party, its Subsidiaries, or its direct or indirect equityholders or beneficiaries payable with respect to income and gain recognized by or allocated to such Person from an IAC, a Sale or an IAC Distribution, without duplication and taking into account any tax benefits arising under this Agreement and the Plan calculated on a with and without basis, including, for the avoidance of doubt, any deduction that may be available to such Payment Party under Section 162(a) that is not disallowed by Section 162(f) of the Code and the deductibility or creditability, as applicable, of local, state and non-U.S. income Taxes.

"Ad Hoc Committee" has the meaning set forth in the Plan.

"Advance Amount" has the meaning set forth in Section 2.01(l).

"Advance Payment Date" has the meaning set forth in Section 2.01(l).

"Advance Payment Notice" has the meaning set forth in Section 2.01(l).

"Advance Settlement Payment" has the meaning set forth in Section 2.01(l).

"Advance Target Date" has the meaning set forth in Section 2.01(l).

"Advisors" means any nationally recognized investment banking firms and/or such other nationally recognized third-party financial advisors as may be engaged by a Sackler Party, an Affiliate thereof or an IAC to advise such Sackler Party, such Affiliate thereof or IAC and/or other Sackler Parties, their Affiliates or IACs in connection with the Sales.

"Affected Parties" has the meaning set forth in Section 2.04(b)(i).

"Affiliate" means, with respect to any Person, any other Person directly or indirectly Controlling, Controlled by, or under common Control with such Person.

"Agreement" has the meaning set forth in the preamble.

"Agreement Effective Date" has the meaning set forth in the preamble.

"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 J, 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.

"Allowed" has the meaning set forth in the Plan.

"Appeal" has the meaning set forth in Section 2.05(a).

"Appeals Account" means an interest-bearing escrow account maintained by an independent third-party in connection with the Agreement.

"Appellate Decision" has the meaning set forth in Section 2.04(b).

"Approved Financial Advisor" means an independent financial advisor from the list set forth on Exhibit O.

"Assuring Parties" means (i) the Possible Refunding Trusts of each Trust, (ii) the Power Holders of each Trust and of the JDS Estate, (iii) the Required Interested Persons of the JDS Estate and each Trust (other than each A-Side Payment Party which is a Trust that has received Court Approval and has a Jersey (Channel Islands) Jurisdiction of Administration and no non-Jersey (Channel Islands) trustee), and (iv) the persons not otherwise included in the foregoing clauses (ii) and (iii) who are Beneficiary Interested Persons of any Trust or the JDS Estate.

"Authorized Action" has the meaning set forth in Section 11.07(c).

"B-Side Payment Date Obligation" means, in respect of each B-Side Payment Group as of any given Payment Date, the amount such B-Side Payment Group is obligated to pay on such Payment Date pursuant to this Agreement.

"B-Side IAC Payment Party" means a Party designated as a "B-Side IAC Payment Party" on Exhibit A. Each B-Side IAC Payment Party is a member of the applicable B-Side Payment Group described on Exhibit A.

"B-Side Payment Group" means any of the two (2) groups, each of which is comprised of B-Side Payment Parties, as set forth on Exhibit A.

"B-Side Payment Party" means a Party designated as a "B-Side Payment Party" on Exhibit A. For the avoidance of doubt, each of the B-Side IAC Payment Parties is a "B-Side Payment Party".

"Bankruptcy Cases" has the meaning set forth in the recitals.

"Bankruptcy Code" has the meaning set forth in the recitals.

"Bankruptcy Court" has the meaning set forth in the recitals.

"Bankruptcy Matters" means bankruptcy, insolvency, reorganization, fraudulent conveyance, arrangement, moratorium or other Laws relating to or affecting the rights of creditors generally.

"Base Payment" means (i) the portion of any payment identified as a base payment under the applicable Settlement Agreement, and (ii) to the extent not so identified in a Settlement Agreement, any similar base payment in a Settlement Agreement.

"Beneficiary Interested Person" means, at any time with respect to a Trust and the JDS Estate, each surviving spouse and descendant (including adoptees) of Mortimer Sackler or Raymond Sackler, and the spouses of any such descendant, to whom, or for whose use, income or principal of such Sackler Party may or is required to be distributed, excluding any Excluded Beneficiary and any person who would at such time be eligible or entitled to receive such a distribution only after the initial or further exercise of a power of appointment or other power to add beneficiaries but, for the avoidance of doubt, including contingent takers in default of the exercise of a power of appointment.

"Breach" shall mean a Specified Breach or a Non-Specified Breach.

"Breach Fee" has the meaning set forth in Section 9.05.

"Breach Notice" has the meaning set forth in Section 9.02(a)(i).

"Breach Trigger" means any event or condition that, with the giving of any notice, the passage of time or both, and satisfaction of such other condition as set forth in Section 9.01, would be a Breach.

"Breaching Party" has the meaning set forth in Section 9.02(a)(i).

"Business Day" means any day other than a Saturday, a Sunday or any other day which is a federal holiday.

"Case Stipulation" has the meaning set forth in the Plan.

"Cash and Cash Equivalents" means cash and cash equivalents such as U.S. government treasury bills and any other financial instruments properly classified as cash equivalents under GAAP.

"Cause of Action" has the meaning set forth in the Plan.

"Challenge" has the meaning set forth in Section 9.01(e).

"Channeling Injunction" has the meaning set forth in the Plan.

"Claim" has the meaning set forth in the Plan.

"Code" means the Internal Revenue Code of 1986, as amended (including any successor statute).

"Collateral" means the IAC Collateral and all other "Collateral" (or similar or equivalent term) as defined in any Credit Support Annex or in any Collateral Document (including any IAC Collateral Document) and shall include all assets and property, whether real, personal or mixed, whether now owned or hereafter acquired and wherever located, in each case, with respect to which a Lien is granted (or required, intended or purported to be granted) as security for any Obligation pursuant to this Agreement (including the Credit Support Annexes) or any Collateral Document, including all proceeds and products thereof.

"Collateral Documents" means, collectively, the IAC Collateral Documents, the Security Documents as defined under each of the Credit Support Annexes, this Agreement (to the extent it provides or purports to provide the grant of a security interest in and Lien on the Collateral), the Collateral Trust and Intercreditor Agreement, and all other security agreements, pledge agreements and other instruments and documents, and each of the amendments, modifications and supplements thereto, executed and delivered pursuant to this Agreement (including the Credit Support Annexes) or otherwise in order to grant or purport to grant a Lien on any assets to secure the Obligations or under which rights or remedies with respect to such Liens are governed.

"Collateral Trust and Intercreditor Agreement" means that certain Collateral Trust and Intercreditor Agreement dated as of [●] among the MDT, and [●], as collateral trustee.

"Common B-Side Payment Party" has the meaning set forth in Section 2.01(f)(iii).

"Compensatory Restitution Amount" means the aggregate amount paid or incurred by or on behalf of any Payment Party hereunder for Opioid Remediation, and does not include any amounts paid as attorneys' fees and costs pursuant to Section 5.9(a) and Section 5.9(b) of the Plan or otherwise identified as being used to pay attorneys' fees, investigation costs or litigation costs of a government or governmental entity in the reporting contemplated by Section 4.01(f)(ii), which shall be up to the amount of the total amount of the Settlement Payment.

"Confession of Judgment" has the meaning set forth in Section 11.05(a) and in the Credit Support Annexes.

"Confirmation Hearing" has the meaning set forth in the Plan.

"Confirmation Order" means an order entered by the Bankruptcy Court confirming the Plan and providing related relief.

"Consent" means any approval, consent, ratification, permission, waiver or authorization (including any permit).

"Consent Person" has the meaning set forth in Section 7.01(e).

"Contract" means any contract, agreement, indenture, note, bond, loan, license, instrument, lease, commitment, plan or other arrangement, whether oral or written.

"Control" means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise, and the terms "Controlling" and "Controlled by" have correlative meanings to the foregoing.

"Court Approval" has the meaning set forth in Section 7.02(b).

"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.

"Credit Support Annex" and "Credit Support Annexes" have the meanings set forth in the recitals.

"Creditors' Committee" has the meaning set forth in the Plan.

"Creditor Trust" has the meaning set forth in the Plan.

"Creditor Trust Documents" has the meaning set forth in the Plan.

"Creditor Trust Non-Participating Claims Reserves" has the meaning set forth in the Plan, and refer to such accounts established under Section 5.01(a).

"Creditor Trust TDPs" has the meaning set forth in the Plan.

"Crossover Member" means a Payment Party that is a member of more than one Payment Group other than a Payment Party identified as a "Fourth Tier Obligor" in the Credit Support Annexes.

"Debtors" has the meaning set forth in the preamble.

"Definitive Documents" means this Agreement, the Plan, the Disclosure Statement, the Disclosure Statement Order, any other solicitation materials in respect of the Plan, the Settlement Agreements, the Collateral Documents, the Confessions of Judgment, the Further Assurances Undertakings, the Separation Agreements and any documentation establishing or governing the Document Repository, and (a) prior to the Settlement Effective Date, all other documentation or any portion thereof relating to the implementation of the Settlement or Plan, solely to the extent it could reasonably be expected to adversely impact the rights

or interests of any Family Member under the Settlement and (b) after the Settlement Effective Date, any amendments, supplements, or modifications to any of the foregoing documents described in clause (a) solely to the extent it could reasonably be expected to materially and adversely impact the rights or interests of any Family Member under the Settlement.

"De Minimis Payment Party" means the Sackler Parties set forth on Exhibit U; *provided* that if any Sackler Party transfers any assets or property to a De Minimis Payment Party on or after [March 31, 2021], the De Minimis Payment Party that receives such assets or property shall not, from and after the date of receipt, constitute a De Minimis Payment Party.

"De Minimis PRALP Interests" has the meaning set forth in the recitals.

"Designated Release Remedy Event" shall be deemed to have occurred if the remedy described in Section 9.02(a)(ii)(B) is available in respect of a Specified Breach (or Specified Breaches) by any Payment Group.

"Designated Shareholder Released Parties" means the parties set forth on Exhibit T, *provided* that (i) if any Designated Shareholder Released Party is an officer, director, trustee or protector with respect to trusts or trust companies of Family Groups that are not Breaching Parties, such Designated Release Remedy Event shall not include such Designated Shareholder Released Party in their capacities as officers, directors, trustees or protectors of such trusts or trust companies that are not part of the Family Groups of the Breaching Parties and no recourse may be had against any such trusts or trust companies, and (ii) the Designated Shareholder Released Parties shall not include the estate of any natural person and the Designated Release Remedy Event shall not apply (or shall cease to continue to apply) to any person on Exhibit T who has become deceased, *provided* that, for the avoidance of doubt, nothing herein shall prevent the estate of any such natural person from cooperating with the MDT with respect to any discovery process with respect to any litigation or similar proceeding related to the Debtors' Opioid-Related Activities.

"Designated State" means New York.

"Direct Appeal" has the meaning set forth in Section 2.05(a).

"Direct Payments" has the meaning set forth in Section 2.01(a)(iv).

"Direct Released Claims" means Causes of Action released by the Direct Releases.

"Direct Releases" means (i) the Shareholder Releases other than the Estate Release; and (ii) the releases of the Released Parties set forth in Section 10.6(b) of the Plan and in the applicable Settlement Agreements.

"Disallowed" has the meaning set forth in the Plan.

"Disclosure Statement" means the disclosure statement and other solicitation materials in respect of the Plan, as approved by the Bankruptcy Court, each in form and substance reasonably acceptable to the Governmental Consent Parties, the Creditors' Committee, and to the Sackler Parties solely with respect to the matters related to the Settlement, the Shareholder Releases and this Agreement. For the avoidance of doubt, the Sackler Parties agree that the approved disclosure statement filed at [●] on the docket of the Bankruptcy Cases is in form and substance acceptable to the Sackler Parties.

"Disclosure Statement Order" means the order entered by the Bankruptcy Court, in form and substance reasonably acceptable to the Sackler Parties solely with respect to the matters related to the

Settlement, the Shareholder Releases and this Agreement (a) approving the Disclosure Statement, (b) approving notice and other procedures for soliciting the Plan and (c) authorizing solicitation of the Plan. For the avoidance of doubt, the Sackler Parties agree that the order entered at Docket No. **[●]** on the docket of the Bankruptcy Cases is in form and substance acceptable to the Sackler Parties.

"Dispute Proceeding" has the meaning set forth in Section 9.02(a)(i).

"Disputed" has the meaning set forth in the Plan.

"Document Repository" means the document repository referenced in Section 11.15.

"DOJ Conviction Judgment Date" has the meaning set forth in the Plan.

"Early SHP Payments" has the meaning set forth in Section 2.01(g)(ii)

"Effective Date Cash" has the meaning set forth in the Plan.

"Eligible State" has the meaning set forth in the Governmental Entity & Shareholder Direct Settlement Agreement.

"Equity Interest" means, with respect to any Person, any and all stock, shares, interests, rights to purchase or acquire, warrants, options, participation interests or other equivalents (however designated, whether voting or nonvoting), of equity of such Person, including, if such Person is a partnership, partnership interests (whether general or limited), or if such Person is a limited liability company, membership interests, and any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of property or assets of, such issuing Person and whether or not such stock, shares, interests, rights to purchase or acquire, warrants, options, participations or other equivalents are outstanding on any date of determination.

"ER Physician" has the meaning set forth in the Plan.

"Estate Certification" means, with respect to the JDS Estate, a certification of the personal representative(s) thereof substantially in the form of Exhibit S, which includes a recent copy of the fiduciary probate certificate issued by the court having primary supervision of the administration of the decedent's estate.

"Estate Payments" means the amounts payable or paid on account of the settlement of the Estate Causes of Action pursuant to the Plan, and the amounts of which are as set forth on Exhibit M-2 hereto.

"Estate Released Claims" means the Estate Causes of Action released by the Estate Releases.

"Estate Releases" means the releases provided by the Debtors and their Estates pursuant to Section 10.7(a) of the Plan.

"Estates" has the meaning set forth in the Plan.

"Excess Net Proceeds" has the meaning set forth in Section 2.06(a).

["Excluded Beneficiary" means Samantha Hunt, the children of Samantha Hunt and the children of Kathe A. Sackler and any minor or other person under a legal disability.]

["Excluded Trusts" means the Trust Under Declaration of Trust No. 2 dated November 25, 1996 and Trust Under Declaration of Trust No. 1 dated November 25, 1996, each as referred to on Exhibit A.]

"Exhibit H-2 Entity" has the meaning set forth in Section 8.08.

"Expense Allocation Principles" means, with respect to fees, costs and expenses described in clause (i) of each of the definitions of "IAC Distribution Deductions" and "Sale Proceeds Deductions", that each IAC Payment Party shall receive an allocation of such fees, costs and expenses proportionate to such IAC Payment Party's share of the total Sale Proceeds or IAC Non-Tax Distributions received by all IAC Payment Parties (including, for the avoidance of doubt, amounts treated as actually received by an IAC Payment Party as described in clauses (x)(a)(iii)(A) through (x)(a)(iii)(C) or clauses (y)(a)(i) through (y)(a)(iii) of the definition of "Net Proceeds", as applicable).

"Family Group" means each of the groups comprised of Payment Parties and certain Shareholder Released Parties, which are designated as a "Family Group" as set forth on Exhibit C.

"Family Member" means any Payment Party or Shareholder Released Party in a Family Group as set forth on Exhibit C.

"Final Dispute Response Notice" has the meaning set forth in Section 2.07(c)(i).

"Final Order" has the meaning set forth in the Plan.

"Foundation" has the meaning set forth in the Plan.

"Fourth Tier Obligor" means a Payment Party identified as the "Fourth Tier Obligor" in the Credit Support Annexes.

"Funding Trust Appointment" means, with respect to a Funding Trust that provided all or any portion of the funding set forth in Section 10.01(a)(iv), an instrument by which the appointment in further trust of such Funding Trust's share of such funding of the Rosetta Trust was exercised.

"Funding Trusts" means the trusts for the benefit of beneficiaries including one or more beneficiaries of the Rosetta Trust bearing the names KAS 2010 Family Trust and KAS 2011 Family Trust governed by the laws of Jersey (Channel Islands).

"Further Assurances Undertaking" means, in the case of an Assuring Party with respect to a Trust that is part of the A-Side Payment Group, an undertaking of such Person substantially in form of Exhibit P-1 and, in the case of an Assuring Party with respect to the JDS Estate or a Trust that is part of the B-Side Payment Group, an undertaking of such Person substantially in the form of Exhibit P-2.

"GAAP" means generally accepted accounting principles in the United States applied on a consistent basis.

"General Unsecured Creditors" means holders of contingent litigation claimants in Class 11(c) of the Plan (as classified in the Plan).

"Governing Law Jurisdiction" means, with respect to a trust, the law or laws governing the ongoing operation of the trust under the terms of the documents constituting its current governing instruments, which law may vary as to particular matters such as with respect to administration, validity and construction.

"Governmental Authority" means any: (a) nation, state, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; or (c) governmental or quasi-governmental authority of any nature (including any governmental division, department, agency, commission, instrumentality, official, organization, unit, body or Person and any court or other tribunal and including any arbitrator and arbitration panel).

"Governmental Consent Parties" means (i) the States AG Negotiating Group, (ii) the Ad Hoc Committee, and (iii) the MSGE Group.

"Governmental Entity & Shareholder Direct Settlement Agreement" means that certain Settlement Agreement dated on or about the date hereof among the [Payment Parties, the Settling States, the MDT and Participating Subdivisions.]

"Grantor Trust Arrangement" means one or more escrow accounts in respect of each of which a timely election is made, pursuant to Treasury Regulations Section 1.468B-1(k), to be treated as a "*grantor trust*" of which the payor is the sole grantor and reports all items of income, gain, loss, deduction, or credit for federal and applicable state and local income tax purposes.

"Holder" has the meaning set forth in the Plan.

"Hospital" has the meaning set forth in the Plan.

"Hospital District" has the meaning set forth in the Plan.[2]

"IAC" means an entity or Person set forth on Exhibit E-1, as it may be amended from time to time in accordance herewith (including pursuant to Section 8.13).

"IAC Account" means, in each case, (i) a deposit account subject to an IAC Control Agreement or (ii) an escrow account subject to an IAC Escrow Agreement, in each case located in the U.S., Jersey or such other jurisdiction as reasonably acceptable to the MDT, and in which the proceeds of any Sale or any IAC Distribution shall be deposited and maintained pursuant to the terms of this Agreement and the IAC Collateral Documents.

"IAC Account Bank" means a financial institution in the U.S., Jersey or such other jurisdiction as acceptable to the MDT acting as a deposit bank or securities intermediary, as applicable, in respect of an IAC Account, which financial institution is reasonably acceptable to the MDT.

"IAC Asset" has the meaning set forth in Section 3.06(g).

"IAC Collateral" means all "Collateral" (or similar or equivalent term) as defined in any IAC Collateral Document and shall include all assets and property, whether real, personal or mixed, whether now owned or hereafter acquired and wherever located, in each case, with respect to which a Lien is granted (or required, intended or purported to be granted), as security for any Obligation of the Payment Groups that any IAC Payment Party is a member of, pursuant to this Agreement or any IAC Collateral Document, including all proceeds and products thereof.

"IAC Collateral Documents" means, collectively, the IAC Pledge and Security Agreements, the IAC Control Agreements, the IAC Escrow Agreements, the Credit Support Annexes (to the extent

[2] The term of Hospital District will be the same in the Plan as in the Governmental Entity & Shareholder Direct Settlement Agreement.

applicable) and all other agreements, instruments and documents that create, perfect or evidence, or are intended to create, perfect or evidence, Liens in the IAC Collateral to secure the payment in full when due of all Obligations of the IAC Payment Parties or under which the Secured Party's rights and remedies with respect to the IAC Collateral are governed, including any and all other security agreements, pledge agreements, loan agreements, notes, guarantees, pledges, powers of attorney, consents, assignments, contracts, fee letters, notices, financing statements and all other written matter whether heretofore, now, or hereafter executed by any IAC Payment Party or any other Person and delivered to the MDT or any other Secured Party for their benefit, in each case, as amended, extended, renewed, restated, refunded, replaced, refinanced, supplemented, modified or otherwise changed from time to time.

"IAC Control Agreement" means a control agreement in a form required by the applicable IAC Account Bank and otherwise in form and substance reasonably acceptable to the MDT executed by the applicable IAC Payment Party, the applicable Secured Party and the IAC Account Bank in respect of an IAC Account and pursuant to which (a) the Secured Party is granted control (as such term is described in Section 9-104 of the UCC or any similar concept under the laws of any jurisdiction outside the United States governing perfection) of such IAC Account and (b) the Secured Party's first-priority Lien on such IAC Account to secure the payment in full when due of all Obligations of the applicable IAC Payment Party is perfected.

"IAC Distribution" means any distribution of cash or other property or other Restricted Payments made by an IAC directly or indirectly to an IAC Holding Company, IAC Payment Party, or a Subsidiary of an IAC Payment Party, including, but not limited to, any IAC Tax Distribution and any IAC Non-Tax Distribution. For the avoidance of doubt, a distribution of Sale Proceeds shall not constitute an IAC Distribution.

"IAC Distribution Deductions" means, with respect to any IAC Non-Tax Distribution actually received by an IAC Payment Party, the sum of:

(i) without duplication and to the extent not previously applied in determining a Permitted Deduction, the following documented, out-of-pocket fees, costs and expenses incurred by any IAC Holding Company or any entity whose equity interests are held, directly or indirectly, by an IAC Holding Company (but, for the avoidance of doubt, not including fees, costs and expenses incurred by any IAC Payment Party or any Subsidiary of an IAC Payment Party (other than any IAC Holding Company or any entity whose equity interests are held, directly or indirectly, by an IAC Holding Company), in each case solely in the amounts allocated to such IAC Payment Party pursuant to the Expense Allocation Principles), solely to the extent such fees, costs and expenses are paid or payable to Third-Party Payees: (A) transfer Taxes incurred in connection with such IAC Non-Tax Distribution and (B) any IAC Distribution Expenses incurred in connection with such IAC Non-Tax Distribution; *plus*

(ii) without duplication and to the extent not previously applied in determining a Permitted Deduction, all amounts funded to any IAC by such IAC Payment Party or another Sackler Party on behalf of such IAC Payment Party (solely to the extent permitted by the relevant Credit Support Annexes, whether funded directly to the IAC or funded through one or more IAC Holding Companies and/or Subsidiaries of such IAC Payment Party) on or after the Agreement Effective Date (other than contributions that reduce the amount of IAC Non-Tax Distributions, as contemplated by the definition of "IAC Non-Tax Distribution"), including in the case of the A-Side IAC Payment Parties any amounts paid or deemed paid in respect of any loan made by an IAC for purposes of funding the Settlement Payment made pursuant to Section 2.01(g)(i)(A).

Notwithstanding the foregoing, IAC Distribution Deductions shall not include income Taxes or withholding Taxes.

"IAC Distribution Expenses" means all documented, out-of-pocket fees, charges, expenses, and other amounts (excluding Taxes) incurred in connection with an IAC Non-Tax Distribution.

"IAC Escrow Agreement" means an escrow agreement, in customary form and otherwise in form reasonably acceptable to the MDT, executed by the applicable IAC Payment Party, the applicable Secured Parties and the escrow agent in respect of an IAC Account, providing that amounts may be withdrawn by notice from the applicable IAC Payment Party (and not requiring notice or other approval of the applicable Secured Parties), *provided* that the applicable IAC Payment Party provides written notice to the MDT of such withdrawal, which notice shall include a certification from an IAC Payment Party that such withdrawal satisfies the conditions hereunder for a Permitted Withdrawal or is being used to pay Payment Obligations.

"IAC Holding Company" means any Person of which an IAC is a Subsidiary and which is jointly owned, directly or indirectly, by (i) one or more A-Side IAC Payment Parties and (ii) one or more B-Side IAC Payment Parties.

"IAC Incentive Compensation Arrangements" has the meaning set forth in Section 8.12.

"IAC Loans" means intercompany loans made by (x) on one hand, any IAC Payment Party or any Subsidiary of an IAC Payment Party (other than an IAC or an IAC Holding Company), to (y) on the other hand, any IAC or IAC Holding Company.

"IAC Non-Tax Distributions" means any cash distributions or other payments made by an IAC and received by an IAC Payment Party in respect of (a) its direct or indirect interest in any IAC or (b) repayment of an IAC Loan or Intercompany Loan to the extent such repayment was made with proceeds of an IAC Non-Tax Distribution (other than a Permitted Withdrawal), other than distributions of Sale Proceeds, IAC Tax Distributions or amounts owing to the Sackler Parties pursuant to Section 3.04; *provided* that no such distribution shall be considered an IAC Non-Tax Distribution unless and until the sixtieth (60th) calendar day following the receipt by such IAC Payment Party of such distribution; *provided, further*, that the amount of any Sackler Party's IAC Non-Tax Distribution shall be reduced (without duplication) by the amount of any cash contributions made by or on behalf of such Sackler Party's Payment Group to any IAC or IAC Holding Company during such sixty (60) calendar day period. To the extent any IAC Non-Tax Distributions made by an IAC (or the proceeds thereof) are used to repay an Intercompany Loan (including, for the avoidance of doubt, an Intercompany Loan between IAC Payment Parties), such amounts, to the extent received by an IAC Payment Party (as the payee with respect to such Intercompany Loan or in respect of its direct or indirect interests in a Subsidiary that is the payee with respect to such Intercompany Loan), shall be considered IAC Non-Tax Distributions only of the IAC Payment Party that is the payee (or whose Subsidiary is the payee) with respect to such Intercompany Loan.

"IAC Payment Party" means an A-Side IAC Payment Party or B-Side IAC Payment Party.

"IAC Pledge and Security Agreements" means the pledge and security agreements in respect of the IAC Pledged Shares.

"IAC Pledged Entities" means, collectively, the entities designated as "IAC Pledged Entities" on Exhibit F.

"IAC Pledged Shares" means, collectively, all Equity Interests of the IAC Pledged Entities now or hereafter owned by any IAC Pledgor, together in each case with (a) all certificates representing the same, (b) all Equity Interests representing a dividend on or a distribution or return of capital on or in respect of the IAC Pledged Shares, or resulting from a split-up, revision, reclassification or other like change of the IAC Pledged Shares or otherwise received in exchange therefor or in substitution thereof, and any warrants,

rights or options issued to the holders of, or otherwise in respect of, the IAC Pledged Shares, and (c) all Equity Interests of any successor entity in connection with merger, consolidation, amalgamation or similar transaction.

"IAC Pledgor" means each IAC Payment Party and each Subsidiary of an IAC Payment Party that grants a security interest in IAC Pledged Shares pursuant to Section 3.06.

"IAC Sale Bonus Payment" has the meaning set forth in Section 2.06(a).

"IAC Tax Distributions" means cash distributions received by an IAC Payment Party in respect of its interest in an IAC equal to (x) such IAC Payment Party's allocable share of net taxable income (as determined for U.S. federal income tax purposes) for any taxable period arising from such direct or indirect ownership of the IAC and its Subsidiaries *multiplied by* (y) the highest marginal U.S. federal, state, local and non-U.S. income and withholding tax rates for such taxable period applicable to a U.S. citizen who is a resident of the State of Connecticut, taking into account the character of the income and the deductibility of non-U.S. Taxes and state and local Taxes for U.S. federal income tax purposes; *provided*, that (i) IAC Tax Distributions may be calculated using a good faith estimate of the book net income of such IAC as reflected in such IAC's management accounts without adjustment for U.S. federal income tax purposes; (ii) IAC Tax Distributions may be paid in installments during or after the relevant taxable period; (iii) IAC Tax Distributions may be paid in respect of a prior taxable period to the extent insufficient IAC Tax Distributions were made by such IAC in such prior taxable period in respect of its net taxable income. If after the actual U.S. federal net taxable income in respect of an IAC is determined for a relevant taxable year or such actual U.S. federal net taxable income in respect of such IAC is redetermined in connection with an income tax audit or the filing of an amended income tax return, (a) the sum of all IAC Tax Distributions previously received by an IAC Payment Party in respect of its interest in such IAC for such taxable year and not previously recharacterized as an IAC Non-Tax Distribution exceeds (b) such IAC Payment Party's allocable share of such actual or redetermined net U.S. federal net taxable income in respect of such IAC for such taxable year multiplied by the tax rate described in clause (y) of this paragraph for such taxable year, then the excess of (a) over (b) shall be deemed an IAC Non-Tax Distribution made at the time of such determination.

"IACPP Efforts" means, with respect to an IAC Payment Party in reference to the applicable provisions in Article 3, that such IAC Payment Party shall, and shall cause each Subsidiary that it controls to, as necessary, (a) deliver written notice to the board of directors, board of managers or similar group, and to the chief executive officer (or person holding a similar position), in each case, of each IAC informing such Persons of such covenants and instructing such Persons to cause such IAC to comply, (b) with respect to any officer, director or other manager whose actions or failure to act has resulted in a violation of such covenant, which failure cannot be cured or has not been cured following reasonable notice and opportunity to cure, exercise such voting, approval, consent or similar rights of such IAC Payment Party or such controlled Subsidiary pursuant to the governing documents of such IAC in favor of the removal of such officer, director or other manager and (c) to the extent such IAC Payment Party or controlled Subsidiary has the right to call a meeting or solicit the consent of the equityholders of such IAC for the purpose of removing any officer, director or other manager described in the immediately preceding clause (b), exercise such right. For purposes of the foregoing, an IAC Payment Party "controls" a Subsidiary with respect to a specified action if, acting by itself (or indirectly through other Subsidiaries that it controls), such IAC Payment Party has the authority under applicable law and the governing documents of such Subsidiary, to cause such Subsidiary to take the relevant action.

"IFRS" means the International Financial Reporting Standards.

"Implementation Limitations" has the meaning set forth in Section 3.04.

"Incentive Payment" means (i) the portion of any payment identified as an "incentive payment" under the applicable Settlement Agreement, and (ii) to the extent not so expressly identified in a Settlement Agreement, any similar incentive payment in a Settlement Agreement.

"Indebtedness" of any Person means, as of any date of determination, all of the following: (i) all indebtedness of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person under finance or capital leases, (iv) all indebtedness of others with respect to obligations referred to in clauses (i) to (iii) above, guaranteed in any manner, directly or indirectly, by such Person, (v) all indebtedness of others with respect to obligations referred to in clauses (i) to (iv) above secured by a Lien on any asset owned by such Person (whether or not such indebtedness is assumed by, or is a personal obligation of, such Person); *provided* that the amount of such indebtedness will be the lesser of: (a) the fair market value of such asset at such date of determination and (b) the amount of such indebtedness of such other Person, and (vi) all net reimbursement obligations of such Person with respect to letters of credit, foreign currency sale agreements and bankers' acceptances, except such as are obtained by such Person to secure performance of obligations (other than for borrowed money or similar obligations).

"Initial Public Creditor Trust Distributions" has the meaning set forth in the Plan.

"Initial Private Creditor Trust Distributions" has the meaning set forth in the Plan.

"Insolvency Proceeding" has the meaning set forth in Section 9.08.

"Intercompany Loans" means intercompany loans made by: (x) (i) on one hand, any IAC Payment Party or any Subsidiary of an IAC Payment Party (other than an IAC or an IAC Holding Company), to (ii) any other IAC Payment Party or Subsidiary of an IAC Payment Party (other than an IAC or an IAC Holding Company); or (y) (i) on one hand, any IAC or IAC Holding Company to (ii) any other IAC or IAC Holding Company.

"IRS" means the United States Internal Revenue Service.

"JDS Estate" means the estate of Jonathan D. Sackler, deceased, on account of its personal representative(s) entering into this Agreement, in their capacity as such.

"Jersey" or "Jersey (Channel Islands)" means the Bailiwick of Jersey, Channel Islands.

"Jersey Administered Trust" means each Trust that is an A-Side Payment Party that has received Court Approval and has a Jersey (Channel Islands) Jurisdiction of Administration and no non-Jersey (Channel Islands) trustee.

"Jurisdiction of Administration" means with respect to a Trust or the JDS Estate, the principal situs of administration of such Trust or JDS Estate, whose court has primary supervision over the administration of the same.

"Law" means any federal, state, local, or foreign law, international or multinational ordinance, rule, statute or other requirement or provision having the force of law of any Governmental Authority.

"Lien" means, with respect to any property or asset (and/or any interest therein), any mortgage, lien, deed of trust, pledge, charge, security interest, collateral assignment, hypothecation, encumbrance or other adverse claim or interest of any kind in respect of such property or asset (or interest therein).

"Limited Joint and Several Allowed Claim" has the meaning set forth in Section 9.08.

"Litigation Costs" means the Shareholder Released Parties' litigation and settlement costs (and only such costs, to be apportioned as necessary) incurred after the Reference Date relating to Non-Released Claims, which costs shall include (i) reasonable expenses, reasonable attorney and other advisor fees and costs, (ii) settlement amounts (subject to Section 6 of Exhibit N), awards and judgments (solely to the extent of amounts that are or would otherwise be recoverable by applicable claimants without regard to such Shareholder Released Party's ability to access the Special Operating Reserve, *provided* that, for the avoidance of doubt, any amount actually paid by a Shareholder Released Party in respect of a judgment shall not be excluded from Litigation Costs due to this parenthetical), (iii) bonds, including surety bond obligations, amounts payable to collateralize surety bonds, and other costs and obligations associated with facilitating appeals of judgments (any Litigation Costs referred to in this clause (iii), "Appeal Bond Costs"), and (iv) indemnities, including, for purposes of clauses (i) through (iv), in respect of any participation in litigation or other administration of claims against the Debtors or their Estates. For the avoidance of doubt, Litigation Costs shall not include any costs relating to (i) litigation arising out of or related to the exercise or potential exercise of the Release Remedy, or litigation on account of claims previously released under the Shareholder Release that arises on account of the exercise of the Release Remedy in respect of the applicable Shareholder Released Parties, (ii) litigation amongst the Shareholder Released Parties, (iii) obtaining confirmation of the Plan, including any costs related to appeals of the Confirmation Order, or (iv) any litigation and settlement costs related to criminal proceedings (excluding any non-criminal component thereof). For the avoidance of doubt, Litigation Costs shall not include costs or expenses for objecting to proofs of claim of claimants who have not commenced action against one or more Shareholder Released Parties.

"Major Judgment" means a money judgment (a) for an amount that exceeds the ability of such Payment Party to pay such judgment (including, where applicable, with the proceeds of a permitted Restricted Payment under the applicable Collateral Documents), (b) that has not been paid by or on behalf of such Payment Party out of assets not subject to Collateral Documents or that have been released from the Collateral Documents pursuant to the terms thereof, (c) with respect to which there is a period of five (5) consecutive Business Days during which no stay of enforcement is in effect, (d) that is not covered by (i) independent third-party insurance or (ii) an enforceable indemnity), and (e) for which a judgment creditor is taking steps to enforce a judgment lien.

"Master Disbursement Trust" has the meaning set forth in the Plan. For the purposes of this Agreement, the Master Disbursement Trust may operate through its agents in accordance with its trust documents.

"Material Litigant" means any State; Tribe with a population or membership over 10,000; Primary Subdivision; Public School District with a K-12 student enrollment of at least 25,000 or .10% of a State's population, whichever is greater; Hospital Districts with at least 125 hospital beds in one or more hospitals rendering services in the district; Third-Party Payor that is obligated to reimburse or otherwise make payments on behalf of 50,000 or more insured persons; or other Subdivision with an aggregate population of 50,000 or more, calculated in accordance with the Governmental Entity & Shareholder Direct Settlement Agreement.

"Material Litigation" means, as of any date of determination, (i) any litigation by a Material Litigant against Shareholder Released Parties regarding Covered Conduct (A) that has survived a Threshold Motion, (B) in which a Threshold Motion is pending as of such date, or (C) that was filed within sixty (60) calendar days prior to such date; or (ii) 500 or more separate lawsuits (i.e., not aggregated and not in a class) pending against Shareholder Released Parties concerning Covered Conduct being pursued by non-Material Litigants.

"MDT" shall mean (i) prior to the Plan Effective Date, the Debtors and (ii) beginning on and following the Plan Effective Date, (A) for all purposes hereunder other than Section 2.05, the Master Disbursement Trust and (B) for purposes of Section 2.05, the Plan Administration Trust. For the purposes of this Agreement, the MDT may operate through its agents in accordance with its trust documents.

"MDT Advisory Council" has the meaning set forth in the Plan.

"MDT Operating Reserve" has the meaning set forth in the Plan.

"MDT Sale Period" has the meaning set forth in Section 3.07(b)(iii).

"MDT Segregated Account" means a segregated account of the MDT to be used in accordance with Section 2.07(c)(ii)(A)(ii).

"MDT Shareholder Insurance Rights" has the meaning set forth in the Plan.

"MDT/IAC Sale Notice Deadline" has the meaning set forth in Section 3.07(b).

"MDT/IAC Sale Process Notice" has the meaning set forth in Section 3.07(b).

"Mediation Parties" means the Debtors, the Creditors' Committee, the Ad Hoc Committee, the MSGE Group, the "Covered Parties," consisting of the Initial Covered Sackler Persons and the Additional Covered Sackler Persons (each as defined in the Amended and Restated Case Stipulation Among the Debtors, the Official Committee of Unsecured Creditors and Certain Related Parties [D.I. 518]), the Ad Hoc Group of Hospitals, the NAS Committee, the Ad Hoc Group of Individual Victims, the Third-Party Payors, the Public School District Claimants, the Ratepayer Mediation Participants, (each as defined in the Plan) and the States AG Negotiating Group.

"MSGE Group" has the meaning set forth in the Plan.

"National Arbitration Panel" has the meaning set forth in Section 11.13.

"Net Assets" means, with respect to any Person, as of any date of determination, the aggregate value of all assets of such Person, as of such date, less the aggregate amount of all liabilities of such Person (which liabilities shall exclude the Obligations owed by such Person under this Agreement), as of such date, as determined by an Approved Financial Advisor, which determination and valuation methodologies shall be made using methodologies consistent with those used to prepare the Net Asset Presentations.

"Net Asset Presentations" means the financial reports regarding the net assets of certain Sackler Parties produced pursuant to the Case Stipulation on or around [_____], as such financial reports may be updated from time to time, including reports filed at [D.I. 3448 and 3422] in connection with the Confirmation Hearing.

"Net Prepayment Amount" has the meaning set forth in Section 2.02(a).

"Net Proceeds" means, with respect to each IAC Payment Party:

(x) with respect to any Sale, (a) fifty-five percent (55%) of the Sale Proceeds actually received by such IAC Payment Party from such Sale including, for the avoidance of doubt, (i) any cash payments received by way of deferred payment pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, in each case only as and when received, (ii) any

cash proceeds received from the conversion of non-cash consideration received from any Sale and (iii) any fees or other amounts payable to any Sackler Party in connection with any Sale; *provided* that in determining the amount of Sale Proceeds actually received by such IAC Payment Party for purposes of this clause (x), the amount treated as actually received by an IAC Payment Party shall be calculated without duplication as though such IAC Payment Party's allocable portion of (A) any income Taxes or withholding Taxes imposed in respect of such Sale Proceeds on an IAC, IAC Holding Company or Subsidiary of an IAC Payment Party or IAC Holding Company, (B) any withholding Taxes imposed in respect of such Sale Proceeds on an IAC Payment Party, and (C) any amounts paid directly to any Third-Party Payee (rather than being paid to such IAC Payment "Party) in respect of Sale Proceeds Deductions described in clause (i) of the definition thereof directly related to the Sale of such IAC in accordance with Section 3.01(a)(iii) was, in each case, actually received by such IAC Payment Party, *less* (b) one hundred percent (100%) of any Sale Proceeds Deductions described in clause (ii) of the definition thereof of such IAC Payment Party, *less* (c) fifty-five percent (55%) of any Sale Proceeds Deductions described in clause (i) of the definition thereof directly related to the Sale of such IAC; and

(y) with respect to any IAC Non-Tax Distribution, (a) fifty-five percent (55%) (with respect to any IAC Non-Tax Distribution ultimately received by an IAC Payment Party from an IAC that is treated as a corporation for U.S. federal income tax purposes to the extent there has been, is and will be no IAC Tax Distribution with respect to such IAC Non-Tax Distribution) or 100% (with respect to any other IAC Non-Tax Distribution), of the aggregate amount of such IAC Non-Tax Distribution actually received by such IAC Payment Party; *provided* that in determining the amount of IAC Non-Tax Distributions actually received by such IAC Payment Party for purposes of this clause (y), the amount treated as actually received by an IAC Payment Party shall be calculated without duplication as though such IAC Payment Party's allocable portion of (i) any income Taxes or withholding Taxes imposed in respect of such IAC Non-Tax Distribution on an IAC, IAC Holding Company or Subsidiary of an IAC Payment Party or IAC Holding Company, (ii) any withholding Taxes imposed in respect of such IAC Non-Tax Distribution on an IAC Payment Party, and (iii) any amounts paid directly to any Third-Party Payee (rather than being paid to such IAC Payment Party) in respect of IAC Distribution Deductions described in clause (i) of the definition thereof directly related to such IAC Non-Tax Distributions in accordance with Section 3.01(a)(iii) was, in each case, actually received by such IAC Payment Party, *less* (b) one hundred percent (100%) of any IAC Distribution Deductions described in clause (ii) of the definition thereof of such IAC Payment Party, *less* (c) fifty-five percent (55%) of any IAC Distribution Deductions described in clause (i) of the definition thereof directly related to such IAC Non-Tax Distribution.

"NewCo" has the meaning set forth in the Plan.

"NewCo Transferred Assets" has the meaning set forth in the Plan.

"Nominal Prepayment Amount" has the meaning set forth in Section 2.02(a).

"Non-Participating" has the meaning set forth in the Plan.

"Non-Participating Channeled Claims" has the meaning set forth in the Plan.

"Non-Released Claims" means any Cause of Action held by any Relevant Claimant (in any capacity and regardless of whether such Person has been solicited to vote on the Plan or any Settlement or received notice of the Plan, the Settlements, or the Bankruptcy Cases) that would have been released under

the Prior Filed Plan if the Prior Filed Plan were in effect or (ii) is related to proof of claim objection litigation.

"Non-Settling Creditor" has the meaning set forth in the Plan.

"Non-Settling Private Claimant" means a Private Claimant that is a Non-Settling Creditor.

"Non-Specified Breach" has the meaning set forth in Section 9.01.

"Notices Addendum" has the meaning set forth in Section 11.01.

"Obligations" means obligations, covenants, liabilities and duties of the Sackler Parties (or any applicable Sackler Parties, as applicable) arising under this Agreement or the Definitive Documents, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, including, but not limited to, the applicable Payment Obligation(s) of such Sackler Party or Sackler Parties.

"Opinion of Counsel" means a customary written opinion in form and substance and from legal counsel reasonably acceptable to the MDT.

"Opioid Remediation" means care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures 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, (2) treat or mitigate opioid use or related disorders, or (3) mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic. Exhibit J-2 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.

"Opioid-Related Activities" has the meaning set forth in the Plan.

"Opt-Out Class Action Settlements" has the meaning set forth in the Plan.

"Original Jurisdiction of Creation" means, with respect to a trust, the original jurisdiction in which the trust was validity created upon the execution of the relevant trust organizational document and the original trustees receipt of the initial funding thereof in connection therewith, without giving effect to any express choice of law provision in the trust's governing instrument that the trust or its governing instrument is to be governed by the laws of another jurisdiction as to validity and construction.

"Other General Unsecured Claims" has the meaning set forth in the Plan.

"Other Parties" has the meaning set forth in Section 4.01(e).

"Participating Subdivision" has the meaning set forth in the Governmental Entity & Shareholder Direct Settlement Agreement.

"Party" and "Parties" have the meanings set forth in the preamble.

"PAT Disputed Claims Reserves" have the meanings set forth in the Plan.

"Payment Computations Dispute Notice" has the meaning set forth in Section 2.07(b)(ii).

"Payment Computations Notice" has the meaning set forth in Section 2.07(b)(i).

"Payment Date" means each date on which a payment is required to be made by a Payment Group pursuant to the terms of this Agreement. The initial Payment Date shall be the Settlement Effective Date, with each subsequent Payment Date occurring on the first Business Day of the month in which each anniversary of the Settlement Effective Date occurs, as set forth on Exhibit M.

"Payment Date Obligation" means, as of any given Payment Date (i) with respect to an A-Side Payment Group, its A-Side Payment Date Obligation and (ii) with respect to a B-Side Payment Group, its B-Side Payment Date Obligation.

"Payment Group" means each set of Payment Parties identified as a "Payment Group" on Exhibit A.

"RCR Top-Off Payment" has the meaning set forth in Exhibit N.

"SOR Top-Off Payment" has the meaning set forth in Exhibit N.

"Payment Party" means an A-Side Payment Party or a B-Side Payment Party; provided that, except for the A-Side General Obligors, the Parties designated as A-Side Payment Parties on Exhibit A in respect of the A-Side Payment Group 8 shall not be deemed Payment Parties for purposes of Section 5.01(c) (with respect to the funding and reimbursement obligations described therein), or Section 5.02(b) (with respect to the funding and reimbursement obligations described therein); *provided* further, the foregoing will not limit any requirement to fund a portion of any Estate Payment due from the Parties designated as A-Side Payment Parties on Exhibit A in respect of the A-Side Payment Group 8 into the Reserve(s), Released Claims Reserve(s) and/or the Special Operating Reserve.

"Payment Obligation" means (a) a Settlement Payment Obligation, (b) any obligation to make an IAC Sale Bonus Payment, (c) Breach Fees owed by any Sackler Party pursuant to this Agreement, (d) any reimbursement obligations of such Sackler Party or Sackler Parties for costs and expenses that are due and payable pursuant to this Agreement and (e) any RCR Top Off Payment and SOR Top Off Payment owed by any Sackler Party's Payment Group.

"Payment Remedy" has the meaning set forth in Section 9.02(a)(ii)(A)(1).

"Payors" has the meaning set forth in Section 4.01(a).

"Permitted Deductions" means IAC Distribution Deductions and Sale Proceeds Deductions.

"Permitted Withdrawals" means, without duplication and to the extent not previously applied in determining a Permitted Withdrawal:[3]

(i) with respect to an A-Side IAC Payment Party, (A) any amounts used to pay Actual Taxes, (B) any IAC Distribution Deductions described in clause (i) or (ii) of the definition thereof or any Sale Proceeds Deductions described in clause (i) or (ii) of the definition thereof and any similar expenses (other than any Taxes) incurred by or on behalf of any IAC Payment Party or any Subsidiary of an IAC Payment Party, (C) the costs (including legal, tax advisory and trustee costs and excluding any Taxes) of administering the IAC Payment Parties and their Subsidiaries, (D) the costs (including third-party legal and accounting fees and related expenses) of the A-Side Payment Parties of complying with this Agreement

[3] NTD: Sackler Parties to provide in connection with Credit Support Annex discussion. But to include at minimum tax payments and payment of contractual obligations (including indemnity payments and similar payments under IAC sale contracts). Subject to ongoing review.

and the Settlement, or (E) the third-party legal and accounting fees and related expenses incurred by PRA L.P. in respect of this Agreement (but not, for the avoidance of doubt, the costs of any judgment against PRA L.P.); *provided* that the aggregate Permitted Withdrawals that may be made by all A-Side IAC Payment Parties in respect of the third-party legal and accounting fees and related expenses described in this clause (E) shall be limited such total third-party legal and accounting fees and related expenses that are allocated to the A-Side Payment Groups; *provided further* that all Permitted Withdrawals pursuant to this clause (E) must be paid, dollar for dollar, to PRA L.P. (or any direct or indirect owner of PRA L.P., which owner shall promptly contribute the funds to PRA L.P., if such owner is a direct owner of PRA L.P., or, if such owner is an indirect owner of PRA L.P., to such owner's Subsidiaries until such funds are received by PRA L.P.) to be paid, dollar for dollar, to such third-party legal and accounting fees and related expenses, or (F) Litigation Costs of the A-Side Payment Parties up to an aggregate amount equal to the aggregate Retained Payment Amount of the A-Side Payment Parties as of such date (less any amount thereof previously utilized by such Payment Groups to pay Litigation Costs, RCR Top-Off Payments, or SOR Top-Off Payments); (G) any amounts required to be paid to A-Side Payment Group 8 from Sale Proceeds or IAC Non Tax Distributions pursuant to paragraph 8 of the term sheet dated December 18, 2024 titled Samantha Hunt Settlement (or any binding agreement among the applicable parties that is consistent in all material respects with such paragraph 8); and (H) any amount permitted to be withdrawn pursuant to the Credit Support Annex of the A-Side IAC Payment Party's Payment Group; and

(ii) with respect to a B-Side IAC Payment Party, any amount permitted to be withdrawn pursuant to the Credit Support Annex of the B-Side IAC Payment Party's Payment Group.

"Person" means an individual, trust, estate of a deceased individual, corporation, partnership, limited liability company, association or other entity or organization, including a Governmental Authority.

"Personal Injury Claimants" means any holder of a NAS PI Claim (as defined in the Plan) or a Non-NAS PI Claim (as defined in the Plan).

"Personal Injury Payments" means the amounts payable to Personal Injury Claimants pursuant to the direct settlement among the Sackler Parties and electing Personal Injury Claimants as contemplated by the Plan, the maximum amounts of which are as set forth on Exhibit M hereto.

"Plan" means the chapter 11 plan to be filed by the Debtors, including any schedules, annexes, exhibits and supplements thereto, as confirmed by the Bankruptcy Court.

"Plan Administration Trust" has the meaning set forth in the Plan.

"Plan Classes" means the "Classes" of claims or interests, as applicable, as defined in the Plan.

"Plan Documents" has the meaning set forth in the Plan.

"Plan Effective Date" means the effective date of the Plan.

"Possible Refunding Trust" means a trust that is not a Sackler Party over which a power was exercised to cause property of such trust having a cumulative aggregate value (based on the date of contribution value of each contribution) in excess of $500,000 to pass to a Sackler Party that is a Trust other than as part of a transaction intended to provide the holder of the power full and adequate consideration in exchange for the exercise of the power, excluding, however, any trust that has already terminated.

"Power Holder" means, with respect to any Trust, any Person (other than a trustee thereof acting in its capacity as such trustee) possessing any trust power, including protectors, whether held in a fiduciary

or non-fiduciary capacity or exercisable by such Person alone or only in conjunction with other Persons, with respect to any aspect of the administration or modification of such Trust, including powers to remove, replace or appoint trustees and protectors, to modify governing instruments and to consent to (or deny consent to) or direct others to take or refrain from taking any action relating to that aspect of administering or modifying such trust (including without limitation as referred to in Sections 4.06, 4.08 and 4.10 of Annexes A, C, D, E and F of this Agreement and Sections 4.03, 4.04 and 4.05 of Annex B of this Agreement), including any Consent Person.

"PPI Interests" has the meaning set forth in the recitals.

"PPLP Interests" has the meaning set forth in the recitals.

"PRA L.P." has the meaning set forth in Section 2.01(d).

"Prejudicial Impact" has the meaning set forth in Section 8.01.

"Preliminary Injunction" has the meaning set forth in the Plan.

"Preliminary Payment Determination" has the meaning set forth in Section 2.07(a)(i).

"Prepayment Date" has the meaning set forth in Section 2.02(a).

"Prepayment Escrow Account" means one or more escrow accounts for the benefit of the MDT established (i) in connection with Section 2.01(l)(iii) and/or (ii) in connection Section 2.02(c)(ii), in each case, out of which Settlement Payment Obligations shall be paid to the MDT if and to the extent the same become due and payable, and otherwise returned to the applicable Transferor funding such escrow account.

"Prepayment Notice" has the meaning set forth in Section 2.02(a).

"Primary Subdivision" has the meaning set forth in the Governmental Entity & Shareholder Direct Settlement Agreement.

"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 Filed Plan" means the twelfth amended joint chapter 11 plan of reorganization of Purdue Pharma L.P. and its affiliated debtors [D.I. 3726].

"Private Claimant MFN Representative" means a representative appointed by the Settling Private Claimants holding a majority of the value of all claims held by such Settling Private Claimants (the value of each such claim being determined on the basis of total amounts payable on account of such claim pursuant to the applicable Creditor Trust TDPs).

"Private Claimants" means each of the Hospitals, Public School Districts, ER Physicians, Third-Party Payor, and Personal Injury Claimants.

"Private Creditor Trusts" has the meaning set forth in the Plan.

"Proceeding" means any action, suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), hearing, inquiry, audit, examination or investigation commenced, brought, conducted or heard by or before, or otherwise involving, any court or other Governmental Authority.

"Products" has the meaning set forth in the Plan.

"Protected Party" has the meaning set forth in the Plan.

"Public School District" has the meaning set forth in the Plan.

"Public School District Claimants" has the meaning set forth in the Plan.

"Purchaser" has the meaning set forth in Section 3.01(a)(i).

"Purdue" means Purdue Pharma L.P.

"Purdue Canada" means Bard Pharmaceuticals (1990) Inc., Elvium Life Sciences GP Inc., Elvium Life Sciences Limited Partnership, Elvium ULC, Purdue Frederick Inc. (Canada), Purdue Pharma (Canada), Purdue Pharma Inc. (Canada), and Purdue Pharma ULC.

"QSF" means a "qualified settlement fund" within the meaning of Section 1.468B-1 et seq. of the QSF Regulations.

"QSF Regulations" means the Treasury Regulations promulgated under Section 468B of the Code.

"Ratepayer Mediation Participants Stipulation" has the meaning set forth in the Plan.

"Recovery" has the meaning set forth in Section 9.01(d).

"Reference Date" has the meaning set forth in the Governmental Entity & Shareholder Direct Settlement Agreement.

"Related Parties" means, as of any time of determination, any Person who is at such time (a) any member of a Family Group; (b) a current or former spouse, qualified domestic partner, stepparent, sibling of the whole or half-blood descendant (including adoptive relationships), stepchild or current or former spouse of any descendant (including adoptive relationships) of any of the Persons described in the preceding clause (a); (c) trusts for the benefit of any one or more of the Persons described in the preceding clauses (a) and (b); (d) any Person identified on Exhibit E-1 or E-2, any IAC Holding Company, any IAC Pledgor, any IAC Pledged Entity and any other Subsidiary of an IAC Payment Party (in each case so long as such Person continues to be Controlled by one or more Sackler Parties); (e) a current beneficiary, trustee or protector to any of the Persons described in the preceding clauses (a) and (c); (f) a current Controlling equity owner, principal, executive officer, director or other equivalent member of senior management to any of the Persons described in the preceding clauses (a) and (d), but in the case of clause (d) only with respect to IACs that are Controlled by one or more Sackler Parties; and (g) any entities directly or indirectly controlling, controlled by, or under common control with any of the Persons described in the preceding clauses (a) and (b).

"Related Party Transaction" has the meaning set forth in Section 3.03(a)(ii).

"Related Person" means, with respect to a Person, (i) such Person's predecessors, successors, assigns, Subsidiaries, Affiliates, managed accounts or funds, past, present and future officers, board members, directors, principals, agents, servants, independent contractors, co-promoters, third-party sales representatives, medical liaisons, members, partners (general or limited), managers, employees, subcontractors, agents, advisory board members, financial advisors, attorneys and legal representatives, accountants, investment bankers, consultants, representatives, management companies, fund advisors and other professionals and advisors, trusts (including trusts established for the benefit of such Person), trustees, protectors, beneficiaries, direct or indirect owners and/or equityholders, parents, transferees, heirs, executors, estates, nominees, administrators, and legatees, in each case in their respective capacities as such, and (ii) the Related Parties of each of the foregoing, in each case in their respective capacities as such. For the avoidance of doubt, the citizens and residents of a State shall not be deemed to be Related Parties of such State solely as a result of being citizens or residents of such State.

"Release Remedy" has the meaning set forth in Section 9.02(a)(ii)(B).

"Released Claims Reserves" has the meaning set forth in the Plan, and refers to such reserves as established under Section 5.01(b).

"Released Parties" has the meaning set forth in the Plan.

"Releasing Parties" has the meaning set forth in the Plan.

"Relevant Claimant" means any Person that is a (i) State, Subdivision or Tribe; (ii) holder of a Claim classified in Classes 7, 8, 9, 10(a), 10(b), or 11(c) of the Plan (regardless of whether such Person filed a proof of claim in the Bankruptcy Cases); (iii) Public School District; or (vi) holder of a Claim that would have been within the proposed classes of privately insured parties described in the Amended Verified Statement of Stevens & Lee, P.C. pursuant to Bankruptcy Rule 2019 [D.I. 333].

"Relevant Jersey Trust" means each A-Side Payment Party that is a Trust whose Governing Law Jurisdiction is or includes the law of Jersey (Channel Islands) and, in addition, each Funding Trust that funded the Rosetta Trust as set forth in Section 10.01(a)(iv).

"Relevant Parties" has the meaning set forth in Section 4.01(e).

"Remedies Forbearance Period" has the meaning set forth in Section 9.02(a)(i).

"Required Interested Persons" means, (i) at any time with respect to a Trust other than a Jersey Administered Trust, each Person (other than the settlor, if deceased, and the trustees of such Sackler Party if not also beneficiaries thereof) who would be required under the laws of the Jurisdiction of Administration of such Sackler Party to cause an agreement settling each matter described in WY Stat. § 4-10-111 (to the extent the same may be settled by agreement without court involvement under the laws of the Jurisdiction of Administration of such Sackler Party) to be binding on all beneficiaries (including for the avoidance of doubt after application of any applicable rules of virtual representation of minors and other beneficiaries), including beneficiaries not parties thereto, *provided* that an Excluded Beneficiary shall not be a Required Interested Person within the meaning of such term with respect to, but only with respect to, the Excluded Trusts and (ii) at any time with respect to the JDS Estate, each beneficiary thereof who is at that time entitled to receive a further distribution on account of their beneficial interests in the estate, including any unpaid legatee or residuary beneficiary thereof.

"Required SHP Emergence Payment" has the meaning set forth in Section 2.01(g)(i)(B).

"Reserve" and "Reserves" have the meanings set forth in Section 5.01(a).

"Restitution" has the meaning set forth in Section 4.01(a).

"Restricted Payment" means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest of any Person, or any payment (whether in cash, securities or other property) including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interest (including, but not limited to, the IAC Pledged Shares), or on account of any return of capital to such Person's shareholders, partners or members (or the equivalent Persons thereof).

"Restricted Person" has the meaning set forth in Section 8.08.

"Retained Interest" has the meaning set forth in Section 3.01(b).

"Retained Payment Amount" means, as of any Payment Date and for a given Payment Group, an amount equal to (i) the Payment Group's maximum payment amount for all Direct Payments (including any fee and cost fund payments) for that Payment Date as provided by Exhibit M less (ii) the total amount actually paid (or deemed paid) by the Payment Group on such Payment Date for all Direct Payments (including any fee and cost fund payments). When determining the total amount actually paid (or deemed paid) by a given Payment Group:

(a) *Prepayments*: For any Settlement Prepayment, the Nominal Prepayment Amount shall be deemed to be paid on the Target Payment Date (and not on the Prepayment Date). Except as otherwise provided for in Section 2.01(l), Section 2.02 or Section 2.03 of this Agreement, if the Payment Group's Nominal Prepayment Amount of such Settlement Prepayment exceeds the Payment Date Obligation it ultimately owes on the related Target Payment Date, the excess shall roll over to the next Payment Date and be applied toward that Settlement's next Payment Date Obligation.

(b) *Escrows:* All amounts paid on or about a Payment Date by or behalf of a Payment Group into an escrow account pursuant to this Agreement or any other Settlement Agreement shall be deemed to be actually paid by the Payment Group on such Payment Date, *provided* that if such amounts are returned from such escrow account to the relevant Payment Group, then such amounts shall no longer be deemed to be actually paid by such Payment Group on such Payment Date.

"Rosetta Trust" means the trust bearing that name governed by the laws of Jersey (Channel Islands) of which Stone Fiduciary Management Inc., a Wyoming corporation, is the trustee.

"Sackler Party" means a Payment Party or an IAC Payment Party; *provided* that the Parties designated as A-Side Payment Parties on Exhibit A in respect of the A-Side Payment Group 8 shall not be deemed Sackler Parties for purposes of Section 7.04, Section 7.05, Section 7.06, Section 7.07, Section 8.09, Section 8.13, Section 11.07, or Section 11.08 hereof.

"Sackler Parties' Representative" means Plerus AB LLC, a limited liability company organized under the laws of Delaware.

"Sackler Sale Period" has the meaning set forth in Section 3.01(a).

"Sale" means (i) any sale of an IAC Payment Party's direct and/or indirect Equity Interests (whether in whole or in part) in an IAC, (ii) any sale of all or substantially all of the assets of an IAC (including an orderly wind down, dissolution or restructuring) and (iii) any sale of assets or Equity Interests in connection with clauses (i) and (ii) above, in each case to a third party. Restructuring or dissolving or winding down an IAC will not, by itself, be considered a Sale of such IAC unless such restructuring causes any Equity Interest in, or material assets of, such IAC not to be held or controlled, directly or indirectly, by an IAC Payment Party in the Payment Groups that held or controlled, directly or indirectly, Equity Interest or material assets of such IAC immediately prior to such transaction.

"Sale Expenses" means all documented, out-of-pocket fees, charges, expenses, and other amounts (excluding Taxes) incurred in connection with presale restructuring of any IACs, the marketing of such IACs and general publicity and lobbying efforts in each case, incurred in connection with a Sale.

"Sale Obligations" has the meaning set forth in Section 3.05.

"Sale Proceeds" means the gross cash proceeds (a) of a Sale, including, in the event the assets of any IAC Payment Party, IAC Holding Company, IAC, or any other Subsidiary of an IAC Payment Party are sold as part of the same transaction or series of related transactions as a Sale, the gross cash proceeds from the sale of such assets or (b) received in connection with the repayment of an IAC Loan or Intercompany Loan to the extent such repayment was made with proceeds of a Sale (other than a Permitted Withdrawal) and without duplication to amounts included in the definition of "IAC Non-Tax Distributions", in each case of clauses (a) and (b), as calculated in U.S. dollars at the relevant spot exchange rate published by Bloomberg on any date on which such proceeds are deposited into an IAC Account or otherwise paid to the MDT. To the extent Sale Proceeds are used to repay an Intercompany Loan (including, for the avoidance of doubt, an Intercompany Loan between IAC Payment Parties), such Sale Proceeds shall be considered Sale Proceeds only of the IAC Payment Party that is the payee (or whose Subsidiary is the payee) with respect to such Intercompany Loan.

"Sale Proceeds Deductions" means, with respect to any Sale Proceeds actually received by an IAC Payment Party, the sum of:

(i) without duplication and to the extent not previously applied in determining a Permitted Deduction, the following documented, out-of-pocket fees, costs and expenses incurred by any IAC Holding Company or any entity whose equity interests are held, directly or indirectly, by an IAC Holding Company (but, for the avoidance of doubt, not including fees, costs and expenses incurred by any IAC Payment Party or any Subsidiary of an IAC Payment Party (other than any IAC Holding Company or any entity whose equity interests are held, directly or indirectly, by an IAC Holding Company), in each case solely in the amounts allocated to such IAC Payment Party pursuant to the Expense Allocation Principles), solely to the extent such fees, costs and expenses are paid or payable to Third-Party Payees: (A) transfer Taxes, legal and other fees and expenses incurred in connection with such Sale and (B) any Sale Expenses incurred in connection with such Sale, and (C) reimbursement amounts specified in Section 3.04 with respect to the Sale of any IAC; *plus*

(ii) without duplication and to the extent not previously applied in determining a Permitted Deduction, all amounts funded to any IAC by such IAC Payment Party or another Sackler Party on behalf of such IAC Payment Party (solely to the extent permitted by the relevant Credit Support Annexes, whether funded directly to the IAC or funded through one or more IAC Holding Companies and/or Subsidiaries of such IAC Payment Party) on or after the Agreement Effective Date (other than contributions that reduce the amount of IAC Non-Tax Distributions, as contemplated by the definition of "IAC Non-Tax Distribution"), including in the case of the A-Side IAC Payment Parties any amounts paid or deemed paid

in respect of any loan made by an IAC for purposes of funding the Settlement Payment made pursuant to Section 2.01(g)(i)(A).

Notwithstanding the foregoing, Sale Proceeds Deductions shall not include income Taxes or withholding Taxes. For the avoidance of doubt, Sale Proceeds Deductions shall not include the repayment of Intercompany Loans or IAC Loans funded directly or indirectly from Sale Proceeds.

"Second Circuit" means the United States Court of Appeals for the Second Circuit.

"Secondary Restricted Person" means (i) any child of a Restricted Person who is a natural person or, for Restricted Persons that are estates, any child of the deceased person associated with such estate, who is older than 18 years of age as of June 27, 2024 and (ii) any trusts of which any of the Persons in the foregoing clause (i) are beneficiaries and the trustees thereof (solely in their capacities as such), in each case to the extent such Person is not a Restricted Person.

"Secured Party" means each of (i) the MDT and each of its successors and permitted assigns and (ii) any agent, trustee or other representative or designee (including one or more Subsidiaries or other entities of the MDT formed to carry out its duties and obligations under the Definitive Documents) authorized or appointed to hold any security interest in or Lien on, or take possession or control of, any Collateral on behalf of and for the benefit of itself and any person described in clause (i) above.

"Separately Settling Payment Group" has the meaning set forth in Section 11.20.

"Separation Agreements" means the agreements entered into in accordance with this Agreement to govern continuing business and other commercial relationships among the Debtors, NewCo and other entities owned directly or indirectly by the Sackler Parties and to clarify and confirm such parties' respective rights under certain intellectual property rights.

"Settlement" has the meaning set forth in the recitals.

"Settlement Administrator" means the entity that annually determines and prepares the Payment Date Obligations and all reports and updates to be provided hereunder by the MDT to the Sackler Parties' Representative and the other specified Persons pursuant to Section 2.07. Prior to the Settlement Effective Date, the Sackler Parties' Representative and the MDT shall agree to (i) selection and removal processes for and the identity of the Settlement Administrator, (ii) a detailed description of the Settlement Administrator's duties and responsibilities, including the relationship of the Settlement Administrator to the MDT and (iii) a detailed mechanism for paying the Settlement Administrator's fees and costs (which payments shall not be additional obligations of the Sackler Parties), all of which shall be appended to this Agreement as Exhibit D.

"Settlement Agreements" means (a) this Agreement and (b) the settlement agreements being entered into on or about the date hereof among the [Sackler Parties] and various creditor groups, each of which is listed on Exhibit V, and "Settlement Agreement" means any individual settlement agreement listed on Exhibit V.

"Settlement Amount" means $6.5 billion, subject to adjustments as reflected on Exhibit M, in the Plan and elsewhere in this Agreement and any other Settlement Agreement.

"Settlement Effective Date" has the meaning set forth in Section 10.01(a).

"Settlement Payment Dispute Notice" has the meaning set forth in Section 2.07(a)(ii).

"Settlement Payment Obligations" means, for any Payment Party, such Payment Party's payment obligations with respect to Settlement Payments hereunder or under a Settlement Agreement, as applicable.

"Settlement Payments" has the meaning set forth in Section 2.01(a)(iv).

"Settlement Prepayment" has the meaning set forth in Section 2.02(a).

"Settling Creditor" has the meaning set forth in the Plan.

"Settling Party" means any Person providing a release under the Settlement.

"Settling Private Claimant" means a Private Claimant that is a Settling Creditor.

"Settling States" has the meaning set forth in the Governmental Entity & Shareholder Direct Settlement Agreement.

"Shareholder Released Claims" means any Cause of Action released pursuant to the Shareholder Releases.

"Shareholder Released Parties" has the meaning set forth in the Plan.

"Shareholder Releases" means any and all releases, waivers, or disclaimers of liability, standstill agreements, or other similar terms in favor of any of the Shareholder Released Parties contained in the Settlement, including the releases contained in Section 10.7(b) of the Plan.

"Special Operating Reserve" has the meaning set forth in Section 5.02(a).

"Specified Breach" has the meaning set forth in Section 9.01.

"Specified Breach Trigger" means a Breach Trigger with respect to a Specified Breach.

"Specified GUC Claims" means the claim of any holder that would have been classified in Plan Class 11(c) but for the fact that the holder of such claim has not filed a proof of claim.

"Specified Shareholder Provisions" means any provision of any Definitive Document: (i) covering the validity or scope, of the Shareholder Releases; (ii) covering the validity, scope, or application of the Special Operating Reserve; (iii) covering the administration of Claims, solely regarding provisions relating to settling or estimating any Disputed Claim, or having the effect of settling or estimating any Disputed Claim, in each case in a manner that is inconsistent with the consent right of the Sackler Parties' Representative as set forth in Section 7.12 of the Plan; (iv) describing any purported concessions or admissions of the Shareholder Released Parties or of Debtors' Estates solely to the extent it could reasonably be expected to impact the Shareholder Released Parties; or (v) altering or that has the effect of altering this Agreement, in the case of each of the foregoing clauses (i) through (iv), in a manner that otherwise materially and adversely affects the rights, obligations, or interests of the Shareholder Released Parties.

"States" means except for Oklahoma, all 50 states of the United States of America and the District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and U.S. Virgin Islands.

"States AG Negotiating Group" has the meaning set forth in the Plan.

"Subdivisions" has the meaning set forth in the Governmental Entity & Shareholder Direct Settlement Agreement.

"Subsidiary" means, with respect to any Person, a corporation, partnership, joint venture, limited liability company or other entity (i) of which a majority of the shares or securities or other equity or ownership interests having ordinary voting power for the election of directors, managers, or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time directly or indirectly beneficially owned by such Person, or (ii) the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person.

"Target Payment Date" has the meaning set forth in Section 2.02(a).

"Tax" or "Taxes" means all taxes, customs, duties, governmental fees or other like assessment or charge of any kind whatsoever, including all federal, state, local or foreign income, gross receipts, windfall profits, severance, property (real or personal), production, sales, use, value-added, ad valorem, license, excise, franchise, transfer, gains, escheat, mortgage recording, transportation, gross operating, capital, employment, unemployment, occupation, social security, pension plan, withholding or similar taxes, customs, duties, governmental or other like assessments or charges, together with any interest, repayment supplement, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

"Tax Advisor" means an accounting or law firm with expertise in the relevant jurisdiction engaged by a Sackler Party or an IAC to provide advice regarding the tax consequences of a Sale.

"Tax Matters" has the meaning set forth in Section 4.08.

"Tax Treatment" has the meaning set forth in Section 4.01(e).

"Third-Party Payee" means, with respect to any Sale or IAC Distribution, (a) any Tax authority or other regulatory authority to whom payments are required in connection with such transaction, (b) any contract counterparty that is not a Sackler Party or Related Party whose consent is required to complete such Sale or IAC Distribution, or who is entitled to a payment as a result of such Sale or IAC Distribution, (c) any legal, accounting, financial or other advisor or professional services company that is not a Sackler Party or Related Party that provides services in connection with such Sale or IAC Distribution, or (d) any Person (including any Sackler Party or any of their Affiliates) that advances payments to any Person described in clauses (a) through (c).

"Third-Party Payor" has the meaning set forth in the Plan.

"Third-Party Payor Payments" means the amounts payable to Third-Party Payors pursuant to the direct settlement among the Sackler Parties and electing Third-Party Payors as contemplated by the Plan, the maximum amounts of which are as set forth on Exhibit M hereto.

"Third-Party Released Claims" means any Cause of Action released pursuant to the Third-Party Releases, including, for the avoidance of doubt, the Shareholder Released Claims.

"Third-Party Releases" means any and all releases, waivers, or disclaimers of liability, standstill agreements, or other similar terms in favor of any of the Shareholder Released Parties or Released Parties contained in the Settlement, including the releases contained in Sections 10.6(b), 10.7(a) and 10.7(b) of 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.

"Tolled Claims" has the meaning set forth in Section 9.02(a)(ii)(B).

"Total Litigation Costs" means, as of any date and in respect of any Payment Group, the sum of all Litigation Costs incurred or accrued by or on behalf of such Payment Group through such date; *provided,* that total Litigation Costs related to Specified GUC Claims for all Payment Groups in the aggregate shall not exceed $50 million.

["Transferor" means, with respect to an applicable QSF, a person for U.S. federal income tax purposes that transfers (or on behalf of whom an insurer or other person transfers) money or property to the QSF to resolve or satisfy claims as described in the Treasury Regulations Section 1.468B-1(c)(2).]

"Treasury Regulations" means the regulations promulgated from time to time under the Code (including any successor regulations).

"Tribe" has the meaning set forth in the Plan.

"Tribe TDP" has the meaning set forth in the Plan.

"Tribe Trust" has the meaning set forth in the Plan.

"Trust Certification" means, with respect to a Trust, a certification of the trustees thereof substantially in the form of Exhibit Q.

"Trusts" means the trusts subject to the terms hereof being Sackler Parties as set forth on Exhibit R, on account of their respective trustees entering into this Agreement, in their capacity as such.

"Unsold IAC Notice" has the meaning set forth in Section 3.07(a).

Section 1.02 Interpretative Provisions.

(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 use of the word "or" shall not be exclusive.

(g) The word "will" shall be construed to have the same meaning and effect as the word "shall."

(h) 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.

(i) 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.

(j) Any reference in this Agreement to a "natural person" shall not, unless the context otherwise requires, be construed to include a personal representative or trustee that is a natural person acting solely in such person's capacity as a personal representative or trustee of a deceased individual's estate or a trust, respectively.

(k) Any reference in this Agreement to the rights and obligations of the estate of a deceased individual (including the JDS Estate) or a trust (including 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 (including the JDS Estate) and the trustees of those trusts (including the Trusts), respectively, in their capacity as such.

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

(m) 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.

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

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

(p) 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).

(q) Unless the context otherwise requires, references to Net Proceeds, Sale Proceeds or IAC Non-Tax Distributions "received by" or "actually received by" an IAC Payment Party, or to the "receipt" of Net Proceeds, Sale Proceeds or IAC Non-Tax Distributions by an IAC Payment Party shall include Net Proceeds, Sale Proceeds, or IAC Non-Tax Distributions that have been received by PRA L.P. and would be received by such IAC Payment Party in a pro rata distribution thereof by PRA L.P. to its equity holders.

(r) Any references to a "payment number" with respect to a Payment Group shall mean the corresponding sequential aggregate Settlement Payment to be made by such Payment Group as set forth on Exhibit M of the applicable Settlement Agreements.

(s) Any references to "scheduled" with respect to the maximum Payment Obligation of a Payment Group on a given Payment Date shall mean the corresponding amount, as set forth on Exhibit M of the applicable Settlement Agreements.

(t) Any references to Plan Effective Date and Settlement Effective Date shall refer to the same calendar date given that the Plan Effective Date and Settlement Effective Date are each conditioned on the occurrence of the other date, among other conditions. Each of the Plan Effective Date and Settlement Effective Date shall be the same date or such date shall be deemed to have not occurred.

(u) Any references to "joint and several", when referring to liabilities of Payment Parties within a Payment Group, shall have the meaning set forth in the Credit Support Annex applicable to such Payment Group, to the extent the phrase "joint and several" is defined therein.[4]

ARTICLE 2.
SETTLEMENT PAYMENTS

Section 2.01 Payment[5]

(a) Settlement Payments. The Payment Parties, the MDT, the Settling States, the Private Claimants and the General Unsecured Creditors each acknowledge and agree that notwithstanding anything to the contrary in this Agreement, including, but not limited to, the scope of the Third-Party Released Claims that each of the Payment Parties and the MDT have entered into this Agreement to avoid the delay, expense, inconvenience, and uncertainty of further litigation. Each Payment Party agrees that it shall, on a joint and several basis with the other Payment Parties within its Payment Group but on a several and not joint basis as among Payment Groups, pay or cause to be paid to the MDT, in the manner and at the times set forth herein, in each Settlement Agreement and in the Plan, and on the terms and conditions and subject to the limitations set forth herein and therein, (x) the amount payable with respect to the Estate Payments, the Third-Party Payor Payments, and the Personal Injury Payments, in each case, by each Payment Group, in connection with the Plan and (y) the amount payable by each Payment Group pursuant to each such Settlement Agreement.

(i) Notwithstanding anything to the contrary herein, the maximum scheduled payments in respect of the Settlement Amount required to be paid by each Payment Group on each Payment Date pursuant to the Plan and all Settlement Agreements, before the application of any

[4] NTD: Parties to discuss.

[5] Exhibit AA to contemplate one or more IACs will agree to make an estate payment simultaneous with the first payment which will reduce the amount Side A and Side B are obligated to pay the estate on the first payment date.

reductions or adjustments required by this Agreement, including those related to Non-Settling States (as defined in the Governmental Entity & Shareholder Direct Settlement Agreement) and before accounting for any prepayments, are set forth on Exhibit M. Specifically:

(A) Exhibit M-A: Titled "Maximum Payments by Payment Group Pursuant to the Plan and Related Direct Settlement Agreements Prior to Taking Account of the terms set forth in Section 2.01(g)", Exhibit M-A sets forth the maximum amounts payable by Payment Group by Payment Date prior to taking account of the terms set forth in Section 2.01(g). Exhibit M-A is not used to determine any payment obligation of any Payment Group.

(B) Exhibit M-B: Titled "Maximum Payments by Payment Group Pursuant to the Plan and Related Direct Settlement Agreements After Taking Account of the terms set forth in Section 2.01(g)", Exhibit M-B sets forth the maximum amount payable by Payment Group by Payment Date after taking account of the terms set forth in Section 2.01(g).

(C) Exhibit M-2: Titled "Maximum Payment Schedule", Exhibit M-2 sets forth, for each Payment Date and Payment Group, the Estate Payments and the maximum amounts payable under the Settlement Agreements. Amounts set forth on Exhibit M-2 reflect the adjustments related to the terms set forth in Section 2.01(g).

(D) The actual Payment Date Obligations of each Payment Party are subject to the adjustments set forth in this Agreement, in the other Settlement Agreements, and in the Plan, as applicable, including, in particular, reductions of such Payment Date Obligations pursuant to the provisions of the Governmental Entity & Shareholder Direct Settlement Agreement and the other Settlement Agreements to account for parties that do not join (e.g., unearned Incentive Payments) and increases to account for additional payments otherwise due (e.g., catch up payments for later-earned Incentive Payments, RCR Top-Off Payments and SOR Top-Off Payments). For the avoidance of doubt, the amounts set forth in Exhibit M-2 do not include Payment Obligations other than Settlement Payment Obligations (e.g., IAC Bonus Payments or Breach Fees, as applicable).

(ii) Payment in full of all Payment Obligations by Payment Parties under this Agreement shall constitute full and complete satisfaction of all Payment Obligations of the Payment Parties under the Plan and all Settlement Agreements.

(iii) If any amounts are funded by the Payment Parties into a Grantor Trust Arrangement with respect to any Opt-Out Class Action Settlement pursuant to Section 10.01(a)(xix), and the corresponding Opt-Out Class Action Settlement Agreement has been executed (and all amounts potentially payable thereunder have become due and payable under the terms of such Out Class Action Settlement Agreement, disregarding, for such purposes, requirements or conditions assessed on an individual basis with respect to Private Claimants that may receive consideration under such Opt-Out Class Action Settlement) on or prior to the tenth (10th) Business Day immediately preceding the second (2nd) Payment Date, then all amounts due to the members of the relevant Class under such Opt-Out Class Action Settlement shall be released to the applicable Private Creditor Trust and the balance, if any, of such Grantor Trust Arrangement in respect of such Opt-Out Class Action Settlement shall be promptly released to or at the direction of the applicable Payment Parties. If any amounts are funded by the Payment Parties into a Grantor Trust Arrangement with respect to any such Opt-Out Class Action Settlement pursuant to

Section 10.01(a)(xix), and the corresponding Opt-Out Class Action Settlement Agreement has not been executed (or otherwise if any amounts potentially payable thereunder have not become due and payable under the terms of such Out Class Action Settlement Agreement, disregarding, for such purposes, requirements or conditions assessed on an individual basis with respect to Private Claimants that may receive consideration under such Opt-Out Class Action Settlement) on or prior to the tenth (10th) Business Day immediately preceding the second (2nd) Payment Date, all amounts funded by the Payment Parties into a Grantor Trust Arrangement with respect to such Opt-Out Class Action Settlement pursuant to Section 10.01(a)(xix) shall be promptly released to or at the direction of the applicable Payment Parties. If such Opt-Out Class Action Settlement Agreement is executed after such release from such Grantor Trust Arrangement to or at the direction of the Payment Parties, each Payment Party shall pay to the applicable Private Creditor Trust such amounts due and payable by it within ten (10) Business Days of delivery to such Payment Party of notice that such amounts are due and payable. Additional terms and conditions of the Grantor Trust Arrangement, including with respect to interest earned on amounts funded into Grantor Trust Arrangements, reserves and disposition of funds, are set forth in Exhibit Z (and to the extent of any conflict between this Section 2.01(a)(iii) and Exhibit Z, Exhibit Z shall control).[6]

(iv) The amounts set forth on Exhibit M-2 excluding Estate Payments, are collectively referred to as the "Direct Payments". The Direct Payments, together with the Estate Payments, collectively constitute the "Settlement Payments".

(v) To the extent the applicable Private Creditor Trust has not been formed, or is otherwise not in a position to receive its portion of the Initial Private Creditor Trust Distributions, amounts owed to the corresponding Private Creditor Trusts on the Settlement Effective Date shall be funded to an escrow account maintained by a third-party escrow agent, and the parties shall cooperate in good faith to cause such funds to be released to the MDT for further payment to such Private Creditor Trusts as promptly as practicable following the satisfaction of any conditions to such release contemplated herein.

(b) Payment of A-Side Payment Date Obligations. With respect to each A-Side Payment Group, on each Payment Date,

(i) the A-Side General Obligors shall pay, or cause to be paid (on a joint and several basis with the other A-Side General Obligors) to the MDT, on behalf of the A-Side Payment Groups, the A-Side Payment Date Obligation of such A-Side Payment Groups by the applicable Payment Date;

(ii) the A-Side Payment Parties that are trusts (other than the A-Side General Obligors and "bare trusts") or other entities within each A-Side Payment Group shall pay, or cause to be paid (on a joint and several basis with the other remaining A-Side Payment Parties that are trusts or other entities within such A-Side Payment Group), to the MDT such A-Side Payment Group's A-

[6] Exhibit Z will provide that members of a class in an Opt-Out Class Action Settlement who do not "opt out" of the settlement (i.e., those who are bound by the releases contemplated thereby) will receive the actual interest generated on escrowed funds (net of tax distributions) from the Settlement Effective Date through the payment date, based on the escrow principal that correspond to the amounts finally determined to be payable to them. The Payment Party that is a party to the escrow agreement with respect to a Grantor Trust Escrow Account will select the investments made pursuant to such escrow agreement, which – investment shall consist of U.S. Treasuries and money market funds that invest in U.S. Treasuries. Any interest associated with amounts attributed to members of a class who "opt out" will be retained by the Payment Party that is a party to the escrow agreement with respect to such Grantor Trust Escrow Account.

Side Payment Date Obligation by the applicable Payment Date solely to the extent such A-Side Payment Date Obligation is not paid pursuant to clause (i); and

(iii) the A-Side Payment Parties that are natural persons or "Bare Trusts" within each A-Side Payment Group shall pay, or cause to be paid (on a joint and several basis with the other A-Side Payment Parties that are natural persons or "Bare Trusts" within such A-Side Payment Group), to the MDT such A-Side Payment Group's A-Side Payment Date Obligation by the applicable Payment Date solely to the extent such A-Side Payment Date Obligation is not paid pursuant to clause (i) or (ii);

provided that (1) no A-Side General Obligor shall have any obligation to make any payment pursuant to this Section 2.01 (and shall not be in Breach or otherwise have any liability to the MDT for the failure to make any payment) if and to the extent it does not have sufficient liquid assets (not including any amounts reserved in good faith for the payment of Taxes or any other Permitted Withdrawals applicable to such A-Side General Obligor) to do so; (2) no A-Side General Obligor shall have any obligation to make any payment in respect of A-Side Payment Group 8 other than the $133 million payment on the Settlement Effective Date contemplated by Section 2.01(g); and (3) nothing in this Section 2.01(b) shall limit the MDT's right to seek payment in full from any A-Side Payment Party of its A-Side Payment Date Obligation without any requirement to seek collection first from any A-Side General Obligor or any other A-Side Payment Party.

(c) Payment of B-Side Payment Date Obligations. With respect to each Payment Date, each B-Side Payment Group shall pay, or cause to be paid (on a joint and several basis among the members of such B-Side Payment Group, subject to Section 9.03), to the MDT its B-Side Payment Date Obligation by the applicable Payment Date.

(d) Payments by Beacon Trust. All payments by any A-Side Payment Group, except as otherwise designated, shall be made directly or indirectly to Beacon Trust (which received substantial distributions indirectly from Purdue) and contributed by Beacon Trust through intervening entities to Pharmaceutical Research Associates L.P. ("PRA L.P."), which shall make the required payments under this Section 2.01 to the MDT in accordance with Section 2.01(f) below. All such payments made directly or indirectly to Beacon Trust by any A-Side Payment Group shall be paid, dollar for dollar, to the MDT by PRA L.P.

(e) Payments by 74A Trust. All payments by any B-Side Payment Group, except as otherwise designated, shall be made directly or indirectly to the Trust formed under agreement of trust dated November 5, 1974 for the benefit of Beverly Sackler (the "74A Trust") (which received substantial distributions indirectly from Purdue) and contributed by the 74A Trust through intervening entities to PRA L.P., which shall make the required payments under this Section 2.01 to the MDT in accordance with Section 2.01(j) below. All such payments made directly or indirectly to the 74A Trust by any B-Side Payment Group shall be paid, dollar for dollar, to the MDT by PRA L.P.

(f) Allocation of Payments.

(i) For all purposes of this Agreement, (A) the first $133 million of any payment by the A-Side General Obligors on the Settlement Effective Date shall be deemed to have been made by A-Side Payment Group 8 (and not any other A-Side Payment Group) and (B) all other payments by an A-Side General Obligor (including any amount paid on the Settlement Effective Date in excess of $133 million, any amount paid on any other Payment Date, and any amount paid pursuant to Section 2.02) shall be deemed to have been made by each other A-Side Payment Group (excluding A-Side Payment Group 8) in an amount equal to the lesser of (i) one-seventh (1/7) of

such payment and (ii) such A-Side Payment Group's unpaid Settlement Payment Obligations, provided that if the unpaid Settlement Payment Obligations of any A-Side Payment Group (other than A-Side Payment Group 8) is zero or is reduced to zero by such allocation, then any unallocated portion of such payment by an A-Side General Obligor shall be deemed to have been made in equal proportion by each of the A-Side Payment Group(s) (other than A-Side Payment Group 8) whose unpaid Settlement Payment Obligations are greater than zero.

(ii) Any payment by a Payment Party that is a Crossover Member (other than any A-Side General Obligor or Common B-Side Payment Party), shall be deemed to have been made in equal amounts by each Payment Group of which such Crossover Member is a member.

(iii) For all purposes of this Agreement (including the definition of Settlement Payment Obligation), any payment by any B-Side Payment Party that is a member of more than one B-Side Payment Group (such B-Side Payment Party, a "Common B-Side Payment Party"), shall be deemed to have been made by each B-Side Payment Group, in an amount equal to the lesser of (A) one-half (1/2) of such payment and (B) such Payment Group's unpaid Settlement Payment Obligations; *provided* that if such payment is made by the 74A Trust as a result of a B-Side Payment Party's payment to the 74A Trust pursuant to Section 2.01(e), then, for so long as the 74A Trust is a Common B-Side Payment Party, such payment by the 74A Trust shall be deemed to have been made by the B-Side Payment Group in the amount such Payment Group paid to 74A Trust for such payment.

(g) A-Side Payment Group 8 Payments. Notwithstanding anything to the contrary in this Agreement or otherwise:

(i) On the Settlement Effective Date:

(A) A-Side General Obligors shall pay $133,000,000 to the MDT and such payment shall have been deemed to have been made by A-Side Payment Group 8; and

(B) A-Side Payment Group 8 shall pay $50 million to the MDT (the "Required SHP Emergence Payment").

(ii) On the fifth (5th) Payment Date, A-Side Payment Group 8 shall pay $20,869,075.51 to the MDT, subject to Section 2.01(g)(iv).

(iii) On the sixth (6th) Payment Date, A-Side Payment Group shall pay $21,808,183.91 to the MDT subject to Section 2.01(g)(iv).

(iv) A-Side Payment Group 8 shall have the option to prepay on the Settlement Effective Date, in whole or in part with at least sixty (60) calendar days prior written notice to the MDT, the Governmental Consent Parties, and the Sackler Parties' Representative, its payment obligations due on the fifth (5th) Payment Date and/or sixth (6th) Payment Date. The amount of any such prepayment shall be equal to the net present value of the nominal amounts otherwise payable by A-Side Payment Group 8 on the fifth (5th) Payment Date and sixth (6th) Payment Date, discounted at an annual rate of 4.5% to the Settlement Effective Date. Prepayment amounts shall be applied first to prepay all or a portion of the amount due on the sixth (6th) Payment Date, with any excess applied to the fifth (5th) Payment Date. Should A-Side Payment Group 8 elect to exercise this prepayment option in full, the amount related thereto to be paid on the Settlement Effective Date shall be $35,000,000.00, of which $17,500,000.00 shall be attributable to each of the fifth (5th) Payment Date and the sixth (6th) Payment Date. By way of example only, should A-Side Payment

Group 8 elect to exercise this prepayment option in part in the amount of $20,000,000.00, (x) $2,500,000.00 of such amount shall be attributable to the fifth (5th) Payment Date, and the remaining amount payable by A-Side Payment Group 8 on the fifth (5th) Payment Date (after application of the 4.5% discount rate described above) shall be $17,887,779.00, and (y) $17,500,000.00 of such amount shall be attributable to the sixth (6th) Payment Date, and no other amounts shall be payable by A-Side Payment Group 8 on the sixth (6th) Payment Date. For the avoidance of doubt, in no event shall any Payment Group other than A-Side Payment Group 8 be entitled to make any prepayments pursuant to this Section 2.01(g)(iv).

(v) If A-Side Payment Group 8 elects to exercise its prepayment option, then:

(A) The Settlement Payment Obligation of each A-Side Payment Group (other than A-Side Payment Group 8) due on the Settlement Effective Date shall be reduced by one-seventh (1/7th) of the amount of the prepayment by A-Side Payment Group 8; and

(B) The Settlement Payment Obligation due on fifth (5th) Payment Date or sixth (6th) Payment Date, as applicable, of each A-Side Payment Group (other than A-Side Payment Group 8) shall be increased by one-seventh (1/7th) of the nominal amount prepaid by A-Side Payment Group 8.

(vi) The total amounts in this section 2.01(g)(i) to (iv) are the agreed upon present value of A-Side Payment Group 8's total $345 million obligation. Each applicable Exhibit M will be revised to reflect the adjustments described in this Section 2.01(g).

(vii) The A-Side General Obligors and A-Side Payment Group 8 shall fund, at least five (5) Business Days prior to the Settlement Effective Date, the respective amounts payable by them pursuant to this Section 2.01(g) via escrow or a similar arrangement pursuant to which (A) each such amount will be released to the MDT on the Settlement Effective Date only upon receipt of all such amounts, and (B) if any of such amounts are not released to the MDT on or prior to the Settlement Effective Date, all amounts funded into such escrow or similar arrangement will be returned to the respective parties who funded such amounts. In the event that the amounts funded into such escrow or similar arrangement are returned to the respective parties who funded such amounts in accordance herewith, A-Side Payment Group 8 shall be deemed to no longer be a party or subject to this Agreement or any of its terms, and the parties will retain all of their respective rights, remedies and defenses under applicable laws. For the avoidance of doubt, it is agreed and understood that to the extent that the MDT does not receive all of the amounts set forth in Section 2.01(g)(i) on or prior to the Settlement Effective Date, this Section 2.01(g) (other than clause (B) of this Section 2.01(g)(vii)) shall be deemed null and void, and no further obligations shall exist between the parties hereto with respect thereto.

(viii) Except as provided in this Section 2.01(g), A-Side Payment Group 8 shall have no obligation to make any other Settlement Payments under this Agreement or otherwise. In addition, notwithstanding anything to the contrary in this Agreement or otherwise, A-Side Payment Group 8 shall not have any Retained Payment Amounts, and A-Side Payment Group 8 shall have no obligation to make any RCR Top-Off Payments, SOR Top-Off Payments, (i.e., on the basis that A-Side Payment Group 8 would not have Retained Payment Amounts) or IAC Sale Bonus Payments. In addition, in no event will the breach of this Agreement or any other Settlement Agreement by any of the A-Side Payment Groups other than A-Side Payment Group 8 have any impact on A-Side Payment Group 8 hereunder (including, without limitation, that the MDT shall not be entitled to exercise the Release Remedy against the Family Group of which the Payment Parties in A-Side

Payment Group 8 are members). The Parties agree that, notwithstanding anything to the contrary in this Agreement or otherwise, the allocation of the $133 million payment to A-Side Payment Group 8 pursuant to Section 2.01(g)(i)(A) above, and any other provisions in this Agreement relating thereto (including Section 9.02(a)(v)), do not create any obligation on the part of A-Side Payment Group 8 to pay such amount or any portion thereof, and that the failure by the A-Side General Obligors to pay any such amount shall not be a breach of this Agreement by A-Side Payment Group 8 or give rise to any remedies against A-Side Payment Group 8, other than the rights described in this Section 2.01(g).

(ix) The A-Side General Obligors shall have no obligation with respect to A-Side Payment Group 8 other than to make the payment referred to in Section 2.01(g)(i)(A). No member of any other A-Side Payment Group (other than the A-Side General Obligors) shall have any obligation or liability in respect of the obligations of the A-Side General Obligors set forth Section 2.01(g)(i)(A).

(h) Reserved.

(i) Except as provided in Section 9.03, (1) each Payment Party agrees that its obligations with respect to the Payment Obligations owed by its Payment Group, and such Payment Party's obligations arising as a result of its joint and several liability with each other Payment Party within its Payment Group as provided herein, shall be separate and distinct obligations, but all such obligations shall be primary obligations of each such Payment Party and (2) if a Specified Breach has occurred and is continuing with respect to any Payment Group and the MDT has elected to exercise the Payment Remedy in connection with such Specified Breach pursuant to Section 9.02, the MDT may, solely in accordance with Section 9.02 and subject to Section 9.03, proceed directly and at once, against any Payment Party within such Payment Group to collect and recover the full amount, or any portion of, such Payment Group's Settlement Payment Obligations, without first proceeding against any other Payment Party or any other Person, or against any Collateral securing the Settlement Payment Obligations of such Payment Group. Each Payment Party waives all suretyship defenses and consents and agrees that the MDT (and all other Secured Parties) shall be under no obligation to marshal any assets in favor of any Payment Group or against or in payment of any or all of the Settlement Payment Obligations.

(j) All payments made to the MDT pursuant to this Section 2.01 shall be made by wire transfer of immediately available funds to the account set forth on Exhibit G (or such other account(s) of the MDT as may be designated by the MDT to the Sackler Parties' Representative and A-Side Payment Group 8 Representative in accordance with Section 11.02 at least ten (10) Business Days prior to the applicable Payment Date). The Parties will determine appropriate funds flow mechanics to ensure timely receipt of funds.

(k) Other than as required by Section 2.06, (i) all payment and collateral obligations of any non-breaching Payment Group to the MDT hereunder shall terminate at such time when such Payment Group's Payment Obligations (excluding the IAC Sale Bonus Payment) hereunder, including any applicable RCR Top-Off Payment or a SOR Top-Off Payment, have been paid in full in cash (including as contemplated by Section 2.02) in accordance with the provisions hereof (regardless of whether another Payment Group is in Breach, including if such other Payment Group has not yet paid its Settlement Payment Obligations hereunder), and (ii) upon such payment in full of such non-breaching Payment Group's Payment Obligations (excluding the IAC Sale Bonus Payment), such Payment Group's Credit Support Annex and any related Collateral Documents with respect to the Payment Group and its Payment Parties shall terminate and all corresponding security interests shall be released, *provided*, that, notwithstanding the foregoing, any Collateral that constitutes IAC Collateral shall not be so discharged until the IAC Sale

Bonus Payment obligations (if any) of the IAC Payment Party who owns such IAC Collateral have either been satisfied in full or otherwise terminated pursuant to this Agreement.

(l) Each Payment Group may prepay in cash all or any portion of its Settlement Payment Obligations at nominal value at any time, without any discount applied (an "Advance Settlement Payment") by providing at least thirty (30) calendar days prior written notice to the MDT (an "Advance Payment Notice"). Any Advance Payment Notice shall be delivered by the Sackler Parties' Representative and shall specify: (i) the nominal amount of the Settlement Payment Obligation being prepaid by such Advance Settlement Payment (the "Advance Amount"), (ii) the Payment Date to which such Advance Amount shall be applied (such date, the "Advance Target Date") and (iii) the date on which the Advance Settlement Payment is expected to be made (the "Advance Payment Date"). On the Advance Payment Date, the Payment Group delivering the Advance Payment Notice shall pay the Advance Amount to the MDT. Following such payment, the Payment Group's Settlement Payment Obligation for the Advance Target Date shall be reduced by the Advance Amount (such reduction to be allocated between "base payments," "incentive payments" and any other payments (e.g., fees and costs) under the relevant Settlement(s) in accordance with the instructions in the Advance Payment Notice) and any applicable RCR Top-Off Payment or a SOR Top-Off Payment. A Payment Group's right to make Advance Settlement Payments shall be subject to the following limitations:

(i) the Advance Amount for an Advance Target Date shall not be larger than the anticipated Settlement Payment Obligation due on such Advance Target Date. The "anticipated Settlement Payment Obligation" for an Advance Target Date shall reflect the incentive levels earned by the settling parties as of the Advance Payment Date;

(ii) if a Payment Group has made an Advance Settlement Payment and the Advance Amount is ultimately less than its Settlement Payment Obligation due on the relevant Advance Target Date, the relevant Payment Group shall pay the remaining balance on the Advance Target Date as part of its Settlement Payment Obligation. Conversely, if the Advance Amount ultimately exceeds its Settlement Payment Obligation due on the Advance Target Date, the excess shall be credited to the Payment Group and applied to its next scheduled Settlement Payment Obligation(s) in direct chronological order, *provided* that if a Payment Group has prepaid all subsequent Payment Obligations and, as of the last Payment Date on which such Payment Group owes a payment, and such Payment Group has overpaid its Settlement Payment Obligations in respect of all subsequent prepaid Payment Dates (for such purposes, treating incentives that have been earned since the prior prepayments and incentives still eligible to be earned, in each case, as having been earned), then such overpayment shall be credited against the Settlement Payment Obligations of such Payment Group falling due on such last Payment Date. Any disputes concerning the accuracy of an overpayment shall be decided by fast track arbitration pursuant to Section 11.13; and

(iii) to the extent that such Payment Group prepays only a portion of such Settlement Payment Obligations due on a Payment Date, such Payment Group shall have (x) retained (i.e., not prepaid) the obligation to fund at least (i) $4 million with respect to a B-Side Payment Group and (ii) $1 million with respect to an A-Side Payment Group, in each case, of the Estate Payment due on such Payment Date in such prepayment or (y) on or prior to the last Payment Date on which such Payment Group owes a payment, placed into one or more Prepayment Escrow Accounts an amount equal to the maximum amount that may become payable by such Payment Group in respect of such future Settlement Payment Obligations, without discount; provided that in accordance with Exhibit Z, there shall be a separate Prepayment Escrow Account established with respect to each Transferor that makes a payment to such accounts on behalf of a Payment Group; provided, however, that in the event there are any additional Payment Obligations due on a given Payment Date in excess of the total amount in all of the Prepayment Escrow Accounts with respect to such

Payment Group, such amounts shall be paid in full by such Payment Group on such Payment Date, and any subsequent Payment Breach shall be subject at all times to all the remedies and other provisions of this Agreement, including the Payment Remedy and Release Remedy, irrespective of whether the breach is of an Estate Payment or a Direct Payment.

(m) From and after such time as a Payment Group has paid its applicable Payment Obligations in full (including pursuant to prepayments under this Section 2.01), such Payment Group shall forfeit all rights with respect to the Released Claims Reserves or Special Operating Reserve.

Section 2.02 Settlement Prepayments.

(a) Any Payment Group shall have the right, subject to the limitations set forth in this Section 2.02, to prepay all or a portion of any Settlement Payment included in its fourteenth (14th), fifteenth (15th) and/or sixteenth (16th) Settlement Payment Obligation in whole or in part, without premium or penalty (a "Settlement Prepayment") subject to this Section 2.02 by providing written notice to the MDT and the Settlement Administrator (a "Prepayment Notice") no more than forty-five (45) calendar days, and no less than thirty (30) calendar days, before the prepayment. Any Prepayment Notice shall be delivered by the Sackler Parties' Representative and shall specify: (a) the nominal amount of the Settlement Payment Obligation being prepaid by such Settlement Prepayment (the "Nominal Prepayment Amount"), (b) the Payment Date to which such Nominal Prepayment Amount shall be applied (such date, the "Target Payment Date"), (c) the date on which the Settlement Prepayment is expected to be made (the "Prepayment Date") and (d) the net present value of the Settlement Prepayment as of the Prepayment Date using a discount rate equal to the Prime Rate on the date of the Prepayment Notice plus 1.75%, consistent with the formula in Section 2.02(d) (such net present value amount, the "Net Prepayment Amount"). The right to make Settlement Prepayments shall commence on (x) with respect to the fourteenth (14th) Settlement Payment Obligation, the date the fifth (5th) Settlement Payment Obligation is due, (y) with respect to the fifteenth (15th) Settlement Payment Obligation, the date the fourth (4th) Settlement Payment Obligation is due, and (z) with respect to the sixteenth (16th) Settlement Payment Obligation, the date the third (3rd) Settlement Payment Obligation is due. Any prepayment described in this Section 2.02 can be made on or after the designated commencement date (e.g., a Payment Group can prepay all or any part of its designated share of its fourteenth (14th) Settlement Payment Obligation at any time on or after the date that the fifth (5th) Settlement Payment Obligation is due).

(b) On the Prepayment Date, the electing Payment Group shall pay the Net Prepayment Amount to the MDT. Following such payment, the Payment Group's Settlement Payment Obligation for the Target Payment Date shall be reduced by the Nominal Prepayment Amount (such reduction to be allocated between Estate Payments and Direct Payments in accordance with the instructions in the Prepayment Notice and, with respect to Direct Payments, shall be allocated ratably among Base Payments, Incentive Payments (to the extent known as of the Payment Date, to be payable on the Target Payment Date) and other payments (e.g., fees and costs). Exhibit M will be updated by the MDT to give effect to such reduction consistent with the Prepayment Notice, and going forward such updated schedule will be Exhibit M.

(c) A Payment Group's right to make Settlement Prepayments shall be subject to the following limitations:

(i) Each A-Side Payment Group and B-Side Payment Group shall only have the prepayment rights specified on Exhibit L. A Payment Group's total Nominal Prepayment Amount may not exceed the maximum specified for that Payment Group on Exhibit L, and its Nominal Prepayment Amount for any Payment Date may not exceed the corresponding maximum set for that Payment Group on that date on Exhibit L.

(ii) Prepayments may apply to Direct Payments, Estate Payments or both Direct Payments and Estate Payments according to the instructions of the Payment Group in its Prepayment Notice *provided* that, in the event as of the thirteenth (13th) Payment Date a Payment Group's Settlement Prepayments with respect to the fourteenth (14th), fifteenth (15th) or sixteenth (16th) Settlement Payment Obligation are insufficient to prepay the total Settlement Payment Obligation of such Payment Group on the applicable Target Payment Date (for such purposes, taking into account incentives that have been earned since the prior prepayments and treating incentives still eligible to be earned as having been earned), then such Payment Group shall have either (x) retained (i.e., not prepaid) the obligation to fund at least (i) $4 million with respect to a B-Side Payment Group and (ii) $1 million with respect to an A-Side Payment Group, in each case, of the Estate Payment due on such Payment Date in such Settlement Prepayment, or (y) on or prior to the thirteenth (13th) Payment Date, placed into a Prepayment Escrow Account an amount equal to the maximum amount that may become payable by such Payment Group in respect of such fourteenth (14th), fifteenth (15th) or sixteenth (16th) Settlement Payment Obligation, without discount; provided that in accordance with Exhibit Z, there shall be a separate Prepayment Escrow Account established with respect to each Transferor that makes a payment to such accounts on behalf of a Payment Group; provided, however, that in the event there are any additional Payment Obligations due on a given Payment Date in excess of the total amount in all of the Prepayment Escrow Accounts with respect to such Payment Group, such amounts shall be paid in full by such Payment Group on such Payment Date, and any subsequent Payment Breach shall be subject at all times to all the remedies and other provisions of this Agreement, including the Payment Remedy and Release Remedy, irrespective of whether the breach is of an Estate Payment or a Direct Payment.

(iii) The Nominal Prepayment Amount for a Target Payment Date shall not be larger than the anticipated Settlement Payment Obligation due on such Target Payment Date. The "anticipated Settlement Payment Obligation" for a Target Payment Date shall reflect the incentive levels earned by the settling parties as of the Prepayment Date and any offsets or adjustments known at that time pursuant to the terms of the relevant Settlement Agreement and the Plan.

(iv) If a Payment Group has made a Settlement Prepayment and the Nominal Prepayment Amount is ultimately less than its Settlement Payment Obligation due on the relevant Target Payment Date, the relevant Payment Group shall pay the remaining balance on the Target Payment Date as part of its Settlement Payment Obligation. Conversely, if the Nominal Prepayment Amount ultimately exceeds its Settlement Payment Obligation due on the Target Payment Date, the excess shall be credited to the Payment Group and applied to its subsequent scheduled Settlement Payment Obligation(s) in chronological order, starting with its next Settlement Payment Obligation due; *provided* that if as of the thirteenth (13th) Payment Date a Payment Group has overpaid its Settlement Payment Obligations in respect of all subsequent Payment Dates (for such purposes, taking into account incentives that have been earned since the prior prepayments and treating incentives still eligible to be earned as having been earned), then such overpayment shall be credited against the Settlement Payment Obligations of such Payment Group falling due on to the thirteenth (13th) Payment Date.

(d) The Net Prepayment Amount for a given Settlement Prepayment shall be determined by evaluating the following expression: Nominal Prepayment Amount of such Settlement Prepayment / ((1.0175 + the Prime Rate on the date of the Prepayment Notice expressed as a decimal) ^ ((the number of days between the Target Payment Date and the Prepayment Date) / 365)) where '/' denotes division and '^' denotes exponentiation.

(e) The MDT in consultation with the Settlement Administrator shall review each Prepayment Notice to determine the accuracy of all calculations included in the notice, and shall inform the relevant Payment Group of its determination within fifteen (15) calendar days of receiving the notice. Any disputes concerning the accuracy of such Prepayment Notice shall be decided by fast track arbitration pursuant to Section 11.13.

Section 2.03 Modification to Payments Obligations. The parties agree that following the Settlement Effective Date and payment by a Payment Group of all amounts payable by it in connection with the Settlement Effective Date and excluding the prepayment rights set forth in Section 2.01(l) and Section 2.02, which prepayment provisions shall be unaffected by this Section 2.03, any Payment Obligations of such Payment Group may be prepaid on terms and conditions agreed by the Master Disbursement Trust with the written consent of (i)) the Sackler Parties' Representative (except for any prepayment or other modification of any Payment Obligation of A-Side Payment Group 8), (ii) the A-Side Payment Group 8 Representative (solely in respect of any prepayment or other modification of any Payment Obligation of A-Side Payment Group 8), and (iii) the MDT Advisory Council acting by an affirmative vote of all five (5) state representatives on the MDT Advisory Council (i.e., four (4) representatives of Settling States and the one (1) representative selected by the four (4) representatives of Settling States).

Section 2.04 Payments Pending Appeals.

(a) If, on the Settlement Effective Date, an appeal of the Confirmation Order or any Settlement Agreement is pending but (x) such order or agreement has not been stayed and (y) the Plan, Confirmation Order or Settlement Agreement has not been modified by a court of competent jurisdiction in a manner that materially and adversely affects the rights, interests or obligations of the Payment Parties, the Debtors, the Creditors' Committee, the Settling Private Claimants, any Governmental Consent Party, the Settling States, the MDT, or the Shareholder Released Parties, the existence of such an appeal shall not be an impediment to the satisfaction of the conditions to the Settlement Effective Date set forth in Section 10.01 and the Sackler Parties shall make Settlement Effective Date payments under each Settlement Agreement and the Plan, subject to the terms hereof. If, after the Settlement Effective Date, an appeal of the Confirmation Order or any Settlement Agreement is pending but such order has not been vacated or reversed, the Sackler Parties shall make payments under each Settlement Agreement and the Plan, subject to the terms hereof.

(b) In the event that, following the Settlement Effective Date, a court of competent jurisdiction modifies, reverses or vacates the Confirmation Order or modifies the Plan, Confirmation Order, or the Settlement in a manner that materially and adversely affects the rights, interests, or obligations of the Payment Parties, the Debtors, the Creditors' Committee, the Settling Private Claimants, any Governmental Consent Party, the Settling States, the MDT, or the Shareholder Released Parties, (the "Appellate Decision"), all of the following shall apply:

(i) At the discretion of each of the Sackler Parties' Representative, the Debtors, the Creditors' Committee (if in existence), the Governmental Consent Parties, the MDT or the A-Side Payment Group 8 Representative (but in the case of the A-Side Payment Group 8 Representative, only if the rights, interests, or obligations of A-Side Payment Group 8 are materially and adversely affected in a manner that is disproportionate relative to the effects of such action on the rights, interests, or obligations of the other Payment Parties, taken as a whole), in each case, whose rights, interests, or obligations are materially and adversely affected by such court ruling (the "Affected Parties"), each such Affected Party, in good faith consultation with the other aforementioned parties, may: (A) seek to appeal such modification or vacatur, and/or (B) seek to modify the Plan, Confirmation Order, or the Settlement, as applicable, in a manner that is mutually acceptable to the relevant parties; provided that if the Sackler Parties Representative or A-Side Payment Group 8 Representative (as applicable) elects to pursue either option, each of the Debtors, the Creditors'

Committee (if in existence), the Governmental Consent Parties, and the MDT shall continue to comply with the terms of the Settlement and in accordance with this Section 2.04 while such option is being pursued unless a court of competent jurisdiction determines that such Sackler Parties Representative's or A-Side Payment Group 8 Representative's election is unreasonable under the circumstances taken as a whole. If (x) either option is pursued and (y) this Agreement is not otherwise terminated, all Payment Obligations of the Sackler Parties coming due thereafter under the Settlement Agreements or the Plan will be deposited in one or more Appeals Accounts by the applicable Transferor(s) on the date(s) provided for in this Agreement, in each case, without reduction, offset or reallocation as otherwise contemplated or permitted under this Agreement (including Exhibit N), provided that in accordance with Exhibit Z, there shall be a separate Appeals Account established with respect to each Transferor that makes a payment to such accounts on behalf of a Payment Group. No amounts shall be withdrawn from the Appeals Account for any purpose (including the funding of any Replenishment Transfer, provided that the Sackler Parties shall also not be required to make any RCR Top-Off Payments or SOR Top-Off Payments) other than in accordance with this Section 2.04. If the Plan, Confirmation Order, and/or the Settlement (as applicable) is later consummated or reinstated in its original form or in a fashion acceptable to the Affected Parties (the date of such consummation or reinstatement, the "Reinstatement Date"), any amounts deposited into the Appeals Account, including interest, will be remitted within fourteen (14) calendar days after such Reinstatement Date to the MDT to be distributed in accordance with the Plan and the applicable Settlement Agreement(s) as if the reversal or vacatur never occurred. In that event, the MDT shall make all Replenishment Transfers, and the relevant Payment Groups shall make all of their RCR Top-Off Payments and SOR Top-Off Payments, in each case to the extent such transfers and payments would have been required during the period the Appeals Account was funded. All such payments shall be made within ten (10) Business Days following the date the funds are remitted to the MDT. Amounts paid to Settling Parties and/or the MDT prior to the Appellate Decision (including the Special Operating Reserve and/or the Released Claims Reserves) shall continue to be available for use (including distribution) in accordance with the terms of the Agreement, the Settlement Agreements and the Plan then in existence prior to such Appellate Decision.

(ii) In connection with a determination to pursue (A) or (B) under Section 2.04(b)(i) above, the relevant parties shall cooperate in good faith to revise the Plan, Confirmation Order, or the Settlement and/or to pursue appeals (as appropriate) in a manner that materially maintains the spirit and substance of the Plan, Confirmation Order, and the Settlement, *provided* that, in connection therewith and so long as either option is being pursued: (A) following the Settlement Effective Date, all Estate Causes of Action against the Shareholder Released Parties otherwise released pursuant to the Plan shall continue to be exclusively controlled by the Master Disbursement Trust; (B) each Party shall continue to comply with the terms of the Settlement (as modified by this Section 2.04), including that any releases of the Shareholder Released Parties provided by claimants who have received any payment (including partial payment) of the obligations set forth in the Plan and applicable Settlement Agreement(s) shall remain in effect notwithstanding such reversal or vacatur, subject to any rights set forth in the applicable Settlement documentation, including any rights to terminate such releases (other than solely as a result of (I) the pursuit of an appeal as set forth in this Section 2.04 or (II) an Appellate Decision to the extent that it gives rise to the applicability of this Section 2.04(b) or Section 2.04(c)); (C) any tolling or tolling agreements provided by the Sackler Parties shall remain in full force and effect; (D) nothing herein shall prevent the parties from entering into private settlement(s) substantially similar to those set forth in the Plan and Settlement; (E) none of the Debtors, the MDT, or any other Settling Party shall seek from any Shareholder Released Party any additional payment amounts or other economic concessions beyond the aggregate amounts that are agreed in the Settlement (subject to applicable most-favored nations provisions, if any); (F) none of the Sackler Parties shall seek from any Settling

Party, the Debtors, or the MDT any economic concessions beyond what is agreed in the Settlement; (G) none of the Settling Parties, the Debtors, or the MDT shall accept any amounts or other economic concession beyond what they agreed to receive herein on account of any new settlement agreement with the Sackler Parties (other than in respect of applicable most-favored nations provisions, if any); and (H) the MDT and Settling Parties shall consent to modification of the Plan and Settlement so long as such modifications preserve the economic equivalent of the existing Plan and Settlement and do not materially and adversely affect their rights, interests and obligations under the Settlement; in case of clauses (A)-(H), subject to the following proviso, as applicable; provided, further, however, notwithstanding anything to the contrary contained herein, no party shall be required to consent to a modification of the Plan, Confirmation Order, or Settlement that is materially adverse to the rights, interests, or obligations taken as a whole of such party under the Plan or the Settlement.

(iii) If a court of competent jurisdiction modifies, reverses or vacates the Confirmation Order, the Plan, or the Settlement, as applicable, in a manner that materially and adversely affects the rights, interests, or obligations of (A) the Payment Parties, and the Sackler Party Representative or A-Side Payment Group 8 Representative (but in the case of the A-Side Payment Group 8 Representative, only if the rights, interests, or obligations of A-Side Payment Group 8 are materially and adversely affected in a manner that is disproportionate relative to the effects of such action on the rights, interests, or obligations of the other Payment Parties, taken as a whole) determines not to pursue the options set forth in subsection (b)(i) hereof, the Sackler Party Representative or A-Side Payment Group 8 Representative (as applicable) shall have the right to terminate this Agreement on thirty (30) calendar days written notice to all other parties, or (B) the MDT or the Governmental Consent Parties, if following the pursuit of an appeal, the Plan, Confirmation Order, or Settlement is not subsequently reinstated in original form and/or the parties are not otherwise able to reach an agreement in principle to revise the Plan, Confirmation Order, or Settlement in a manner that materially maintains the substance of the Plan, Confirmation Order, and Settlement or that is otherwise acceptable to the applicable parties within one-hundred twenty (120) calendar days (or such extended period as may be agreed to in writing by the (i) Master Disbursement Trust with the unanimous consent of the MDT Advisory Council; and (ii) the Sackler Party Representative), the MDT shall have the right to terminate this Agreement on thirty (30) calendar days written notice to all other parties.

(c) If, following reversal or vacatur of the Confirmation Order, the Plan, Confirmation Order, or Settlement is not subsequently reinstated in original form, and the parties fail to revise the Plan, Confirmation Order, or Settlement in a manner that materially maintains the spirit and substance of the Plan, Confirmation Order, and Settlement, or if this Agreement is terminated, then (i) any payments previously made to any Settling Party pursuant to the Plan or any Settlement Agreement (other than amounts returned in accordance with Section 2.04(c)(iv)) shall be credited against any future settlement agreement among the respective parties or judgment obtained by the Settling Parties against any Shareholder Released Party, (ii) the releases of the Shareholder Released Parties provided by the Estate and any releasing parties whose entitlements under the Plan and applicable Settlement Agreements are not paid in full (without regard to contingent amounts potentially payable from the Special Operating Reserve or any other reserve provided for under the Settlement) shall become null and void, (iii) notwithstanding termination of this Agreement or any Settlement Agreement or vacatur of the Confirmation Order, any releases of releasing parties that are, at any time prior to termination of this Agreement in accordance with its terms, paid the full amount that would be payable to such parties under the Settlement (without regard to any Appellate Decision or contingent amounts potentially payable from the Special Operating Reserve or any other reserve provided for under the Settlement) shall continue in effect unaltered and in perpetuity and no such releasing party shall seek or receive any additional recovery from any party on account of any Causes of Action that would constitute Shareholder Released Claims had the Settlement been fully in effect,

and (iv) any amounts, including interest, in the Appeals Accounts [shall be returned to the applicable Transferor][7] and any amounts, including interest, if any, in the Special Operating Reserve shall be paid to PRA L.P.

(d) This Section 2.04 of this Agreement shall be additionally incorporated into the Plan and each Settlement Agreement, *mutatis mutandis*, and survive any order by a court of competent jurisdiction that deems a provision of the Plan, Confirmation Order, Third-Party Releases, or Channeling Injunction to be null, void, illegal or unenforceable.

(e) Nothing in this Section 2.04 shall be construed to restrict any party's ability to appeal any decision of a court that reverses or vacates the Confirmation Order or modifies the Plan, Confirmation Order, or the Settlement in a manner that materially and adversely affects the rights or obligations of such party.

Section 2.05 Appeals; Motion to Stay.

(a) Direct Appeal. In the event the Confirmation Order is not entered by the United States District Court for the Southern District of New York in first instance, if any appeal is taken from the Confirmation Order that could result in vacatur, modification or reversal of the Confirmation Order with respect to the Shareholder Releases (any particular such appeal, the "Appeal"), the MDT, together with the Sackler Parties Representative, the Governmental Consent Parties, and the Creditors' Committee (if it is in existence), shall promptly request that all appellants and appellees with respect to the Appeal consent that the Appeal be certified for direct appeal to the Second Circuit (any particular such direct appeal, the "Direct Appeal") in accordance with 28 U.S.C. § 158(d)(2), and to certify jointly with the MDT, together with the Sackler Parties Representative, the Governmental Consent Parties, and the Creditors' Committee (if it is in existence), that at least one of either 28 U.S.C. § 158(d)(2)(A)(i), 28 U.S.C. § 158(d)(2)(A)(ii), or 28 U.S.C. § 158(d)(2)(A)(iii) applies with respect to the Appeal. The Sackler Parties agree to provide such consent. If such consent and joint certification cannot be obtained promptly with respect to all such appellants and appellees, the MDT, together with the Sackler Parties Representative, the Governmental Consent Parties, and the Creditors' Committee (if it is in existence), shall promptly request such consent with respect to a majority of such appellants and appellees to make a joint request for certification under 28 U.S.C. § 158(d)(2)(B)(ii). If such consent cannot be promptly obtained, the MDT, together with the Sackler Parties Representative, the Governmental Consent Parties, and the Creditors' Committee (if it is in existence), shall promptly make a motion to the Bankruptcy Court under 28 U.S.C. § 158(d)(2)(B)(i) requesting that the Appeal be certified for Direct Appeal. Upon receiving certification for the Direct Appeal, whether by the Bankruptcy Court order or otherwise, the MDT, together with the Sackler Parties Representative, the Governmental Consent Parties, and the Creditors' Committee (if it is in existence) shall immediately request, on an expedited basis, that the Second Circuit authorize the Direct Appeal.

(b) Expedited Appeal. Immediately after the filing of any Appeal, the MDT, together with the Sackler Parties Representative, the Governmental Consent Parties, and the Creditors' Committee (if it is in existence) shall (i) make a motion in the court then assigned to hear such Appeal, requesting that the Appeal be expedited on the fastest feasible schedule and (ii) seek to have such motion heard on an expedited basis.

(c) Motion to Stay. The MDT, together with the Sackler Parties Representative, the Debtors, and the Creditors' Committee (if it is in existence) shall challenge and object to (in the appropriate court) any motion by an applicable appellant for a stay of the Confirmation Order. The MDT, together with the Sackler Parties Representative, the Governmental Consent Parties, and the Creditors' Committee (if it is in existence) also shall request in the appropriate court that, if such challenge is unsuccessful or such objection

[7] **NTD:** To conform with the treatment of Appeals Account when determined and agreed to.

is overruled, that any stay of the Confirmation Order be conditioned on a bond or equivalent security sufficient to pay the costs and damages sustained or potentially to be sustained by all parties (including, for the avoidance of doubt, the Sackler Parties) that would or could be harmed as a result of such stay, as determined by the appropriate court.

Section 2.06 IAC Sale Bonus Payments.

(a) Subject to the terms of this Section 2.06, if the IAC Payment Parties have collectively received aggregate Net Proceeds in excess of $4.3 billion (any such excess, "Excess Net Proceeds"), then each IAC Payment Party that thereafter receives Excess Net Proceeds shall, within forty-five (45) calendar days of receipt (or as soon thereafter as legally permissible), pay, or cause to be paid, to the MDT an amount equal to 90% of such IAC Payment Party's Excess Net Proceeds so received (each such payment, an "IAC Sale Bonus Payment"). The obligation to pay the IAC Sale Bonus Payment shall be joint and several among IAC Payment Parties within each Payment Group (but several and not joint between the Payment Groups).

(b) The aggregate amount of IAC Sale Bonus Payments of the IAC Payment Parties shall not exceed $500 million. Each IAC Payment Party is solely responsible for making its own IAC Sale Bonus Payments as required under this Section 2.06 (*provided* that such obligation is not conditioned upon payment of the amounts by the other IAC Payment Parties), independent of the obligations of any other IAC Payment Party. Once an IAC Payment Party has made all of its required IAC Sale Bonus Payments, it shall have no further obligations under this Section 2.06.

(c) An IAC Payment Party's obligations set forth in this Section 2.06 shall terminate on the date that all interests of such IAC Payment Party in the IACs other than the Retained Interests being disposed of and the first to occur of either (i) any resulting IAC Sale Bonus Payment being paid in full to the MDT or (ii) no IAC Sale Bonus Payment is payable. Notwithstanding anything to the contrary in this Agreement or the Collateral Documents, the MDT's rights to any IAC Payment Party's IAC Sale Bonus Payment are limited to the IAC Payment Party's IAC Collateral, and the MDT's sole recourse with respect to each IAC Payment Party's failure to timely pay its IAC Sale Bonus Payment in full shall be to exercise remedies only with respect to that IAC Payment Party's IAC Collateral. Except as set forth in the last sentence of Section 2.06(a), no IAC Payment Party shall be liable for, and no IAC Payment Party's obligations shall be increased as a result of, any other IAC Payment Party's failure to make its IAC Sale Bonus Payment.

Section 2.07 Payment Date Calculations and Related Obligations.

(a) Preliminary Payment Determination.

(i) As soon as possible for each payment but not later than fifty (50) calendar days prior to the applicable Payment Date, the MDT shall give notice to the Sackler Parties' Representative, the A-Side Payment Group 8 Representative (only in the case of any payment to be made by A-Side Payment Group 8 on the fifth (5th) Payment Date and sixth (6th) Payment Date in accordance with this Agreement), any Settling State and the MDT Advisory Council of the following preliminary determinations regarding Payment Date Obligations (such notice, a "Preliminary Payment Determination"):

(A) The total Payment Date Obligations owed on the upcoming Payment Date, itemized by Settlement and by Payment Group, based on the status as of the date that is sixty (60) calendar days prior to such Payment Date. This includes a breakdown of the payments owed by each Payment Group under the Governmental Entity & Shareholder

Direct Settlement Agreement, along with a reasonable amount of supporting computational detail;

(B) The amount to be received by each Settling State, broken down by base payments and incentive payments, and the amount of fee payments, as set forth in the Governmental Entity & Shareholder Direct Settlement Agreement; and

(C) The amount, if any, of (i) RCR Top-Off Payments and (ii) SOR Top-Off Payments.

(ii) Dispute of Preliminary Payment Determination. Any of the Sackler Parties' Representative, the A-Side Payment Group 8 Representative (only in the case of any payment to be made by A-Side Payment Group 8 on the fifth (5th) Payment Date and sixth (6th) Payment Date in accordance with this Agreement), any Settling State or the MDT Advisory Council may dispute the relevant calculation set forth in the Preliminary Payment Determination by providing written notice to the MDT and the MDT Advisory Council, any affected Settling State, the Sackler Parties' Representative, and the A-Side Payment Group 8 Representative (as applicable) within twenty-one (21) calendar days of the notice provided by the MDT (a "Settlement Payment Dispute Notice"). Such disputing party's Settlement Payment Dispute Notice shall identify the nature of the dispute, the amount of money that is disputed, and the settling party (or parties) affected. 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 amounts provided in the calculations set forth in the Preliminary Payment Determination.

(b) Payment Computation Notice.

(i) On the thirtieth (30th) calendar day prior to the applicable Payment Date (or the next Business Day thereafter), the MDT shall provide a written notice (a "Payment Computations Notice") to the Sackler Parties' Representative, the A-Side Payment Group 8 Representative (only in the case of any payment to be made by A-Side Payment Group 8 on the fifth (5th) Payment Date and sixth (6th) Payment Dates in accordance with this Agreement), the MDT Advisory Council and any Settling State containing the following information for each Payment Group for the upcoming Payment Date, along with reasonable calculation details, in each case utilizing relevant data as of the date that is five (5) Business Days prior to the Payment Computations Notice due date except as otherwise specified below (capitalized terms in this Section 2.07 that are not defined in this Agreement are defined in Exhibit N):

(A) Retained Payment Amount, as reported in the most recent Litigation Cost Report pursuant to Exhibit N;

(B) Litigation Costs by Plan Class;

(C) Available Retained Payment Amount;

(D) Litigation Cost Shortfall (if any);

(E) The balances in the Released Claims Reserves by Plan Class as provided to the MDT by each of the Creditor Trusts or the Plan Administration Trust, as applicable, along with a summary of transactions affecting these balances since the prior report of such balances, in each case based on the account statements most recently received by the MDT;

(F) RCR Litigation Cost Advances by Plan Class;

(G) RCR Top-Off Payment by Plan Class;

(H) The balance in the Special Operating Reserve along with a summary of transactions affecting these balances since the prior report of such balances, based on the account statements most recently received by the MDT;

(I) SOR Litigation Cost Advance;

(J) SOR Top-Off Payment; and

(K) The net amount the MDT believes the Payment Group owes on the Payment Date, determined by reference to the Preliminary Payment Determination, regardless of any portion still subject to dispute, and reflecting any offsets described in Exhibit N.

(ii) The Sackler Parties' Representative, A-Side Payment Group 8 Representative (with respect to any purported amounts owed by or obligations of A-Side Payment Group 8), any Settling State or the MDT Advisory Council may submit a written dispute notice to the MDT regarding any amounts in the Payment Computations Notice within ten (10) Business Days of the notice provided by the MDT. This notice must include a reasonably detailed, good-faith calculation and the basis for the dispute (a "Payment Computations Dispute Notice"). If the Sackler Parties' Representative, A-Side Payment Group 8 Representative, any Settling State or the MDT Advisory Council does not provide a timely Payment Computations Dispute Notice, then the Payment Computations Notice is deemed accepted, and Payment Groups must pay their designated top-off payment, if any, on such applicable Payment Date (subject to any unresolved dispute concerning the Preliminary Payment Determination).

(c) Final Payment Amounts

(i) Any party that receives a Settlement Payment Dispute Notice or a Payment Computations Dispute Notice, may provide a written response to the MDT, the MDT Advisory Council, any affected Settling State, the Sackler Parties' Representative, or A-Side Payment Group 8 Representative, (i) in the case of a Settlement Payment Dispute Notice, within fourteen (14) calendar days; or (ii) in the case of a Payment Computations Dispute Notice within five (5) Business Days (each response a "Final Dispute Response Notice") that either:

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

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

If no party delivers a Final Dispute Response Notice timely, then the Settlement Payment Dispute Notice and Payment Computations Dispute Notice are deemed accepted for all purposes.

(ii) If a Final Dispute Response Notice is timely provided to the MDT, then

(A) The MDT shall provide written notice to the Sackler Parties' Representative (and A-Side Payment Group 8 Representative, if applicable) that describes any outstanding dispute as to the amount owed by each Payment Group to the MDT on the Payment Date. Such notice shall identify:

(1) All undisputed amounts to be paid by each Payment Group to the MDT on the Payment Date (taking into account any offset of undisputed amounts pursuant Exhibit N); and

(2) If a dispute is resolved between the notice and the Payment Date, the Payment Group must pay the full undisputed amount to the MDT on the Payment Date. If a dispute remains unresolved, all disputed payment amounts (if any) shall be paid by each Payment Group to the MDT Segregated Account on the Payment Date pending the dispute resolution set forth in Section 2.07(e). The MDT shall disburse all undisputed amounts to each Creditor Trust for further disbursement in accordance with its associated Settlement Agreement or Creditor Trust Document(s).

(B) The Sackler Parties' Representative shall notify the MDT of the account(s) to which any undisputed portion of a RCR Litigation Cost Advance and SOR Litigation Cost Advance should be transferred to cover any undisputed Litigation Cost Shortfall, along with the amount to be transferred to each such account.

(d) Annual Post-Payment Date Obligations.

(i) Upon receiving any payment from a Payment Group, the MDT shall promptly notify the Sackler Parties' Representative specifying (x) the amount received and (y) the aggregate payments received to date from the Payment Group (broken apart by Settlement).

(ii) Upon resolution of a dispute after the Payment Date, amounts related to that Payment Date shall be disbursed as follows:

(A) To the MDT if determined to be required payments, or

(B) To the applicable Payment Party, as designated by the Sackler Parties' Representative (or by the A-Side Payment Group 8 Representative, in the case of any dispute by A-Side Payment Group 8), if determined not to be required payments. However, if the returned funds result from an overpayment of Payment Date Obligations, the MDT shall first receive any incremental SOR Top-Off Payment or RCR Top-Off Payment that would have been payable by the Payment Group on the Payment Date had its Payment Date Obligation been correctly calculated. Any remaining funds shall be disbursed as prepayments in accordance with Section 2.01(l) and the instructions of the Sackler Parties' Representative. (or A-Side Payment Group 8 Representative, if applicable).

(e) Disputes. All calculations and disputes contemplated by this Section 2.07(e) shall be made in good faith. The parties shall work in good faith to resolve any disputes arising under this Agreement as promptly as reasonably practicable. Unless otherwise provided, if the dispute remains unresolved after five (5) Business Days, it shall be submitted to fast track arbitration pursuant to Section 11.13 for final resolution. Upon resolution of any dispute, the relevant parties shall promptly inform the MDT and the Sackler Parties' Representative (and the A-Side Payment Group 8 Representative, if the dispute involves or affects A-Side Payment Group 8 rights or obligations) of the outcome and any necessary adjustments

resulting from such resolution. MDT shall establish a segregated, interest-bearing account for any disputed amount and such amount shall be retained until such dispute is resolved.

ARTICLE 3.
SALE OF IACS

Section 3.01 Covenant to Sell.

(a) Subject to Section 3.01(b) and (c), and subject to Section 3.06, during the seven (7)-year period commencing on the Settlement Effective Date and following the expiration of the MDT Sale Period, if applicable (the "Sackler Sale Period"), which period may be extended by a written instrument duly executed by the MDT and the Sackler Parties' Representative, the IAC Payment Parties shall:

(i) use their commercially reasonable best efforts to sell or cause to be sold to one or more unaffiliated third parties (each, a "Purchaser"), through any transaction, series of related transactions or separate transactions, all or substantially all of (A) such IAC Payment Parties' respective direct and/or indirect Equity Interests in the IACs (excluding Purdue Canada) and/or (B) the assets of such IACs (excluding Purdue Canada);

(ii) use their commercially reasonable best efforts to take, or cause to be taken, all actions and do, or cause to be done, all things necessary, proper or advisable under Law to consummate each such Sale, including, without limitation, (A) proposing, negotiating, agreeing to, committing to and effecting the sale, divestiture, transfer, license or disposition of any businesses, product lines or assets of the IACs (excluding Purdue Canada) and (B) executing (or causing to be executed) purchase agreements or other certificates, instruments and other agreements required to consummate the proposed Sale of the IACs (excluding Purdue Canada); and

(iii) cause all Sale Proceeds that are received by an IAC, an IAC Holding Company, an IAC Payment Party or any other Subsidiary of an IAC Payment Party from each Sale to be:

(A) paid directly to a Tax authority to the extent used to satisfy a liability for any Tax imposed with respect to such Sale or the distribution of proceeds therefrom,

(B) paid, to the applicable Third-Party Payees on account of Sale expenses, or

(C) distributed or otherwise paid to one or more IAC Payment Parties (which may include a Person who agrees in writing to become bound by the obligations of an IAC Payment Party hereunder) or Subsidiaries of such IAC Payment Parties (in which case such Sale Proceeds shall be further distributed or paid to the parent entities of such Subsidiaries until they are actually received by an IAC Payment Party) and, upon receipt by such IAC Payment Parties of Sale Proceeds, deposited into an IAC Account in accordance with Section 3.06(c),

provided that with respect to this Section 3.01(a), in connection with any Sale, no such IAC, IAC Holding Company, IAC Payment Party, or any other Subsidiary of an IAC Payment Party shall be obligated to provide any indemnification other than (x) in respect of its representations and warranties relating to ownership and authority and (y) indemnification obligations that are limited by the amount of any escrows established for such purpose, which escrows shall be commercially reasonable in amount and duration.

(b) If and to the extent necessary to facilitate a Sale, an IAC Payment Party, IAC Holding Company, IAC, or any other Subsidiary of an IAC Payment Party shall be permitted to retain (i) in the case

of an asset sale, non-operating, administrative or otherwise *de minimis* assets that a buyer is unwilling to acquire and that the IAC Payment Parties have been unable to liquidate or transfer to another unaffiliated third party after the use of commercially reasonable best efforts, (ii) interests in assets subject to Implementation Limitations, in each case, the retention of which would not (x) materially adversely affect such IAC or (y) violate Section 8.08 of this Agreement and (iii) the Equity Interests of any IAC that has sold all of its assets (other than the assets referred to in the preceding clauses (i) and (ii)) (any assets or interests described in the preceding clauses (i) through (iii), a "Retained Interest"). For the avoidance of doubt, notwithstanding the retention of any Retained Interest, a Sale of all or substantially all assets or direct and/or indirect Equity Interests of the relevant IAC shall be deemed to have occurred for all purposes of this Agreement.

(c) The Sackler Parties' Representative shall be responsible for (i) the structuring of the Sales, including the tax structuring of any Sale, distribution of proceeds therefrom and the type of consideration to be received, taking into account tax efficiency considerations, (ii) the design and execution of one or more marketing processes to make or solicit offers to or from prospective Purchasers in respect of the IACs and their businesses, (iii) the preparation, negotiation and execution of the definitive documentation for the Sales and (iv) the consummation of the Sales.

Section 3.02 IAC Information Rights.

(a) The Sackler Parties' Representative shall provide, or shall cause to be provided, the following information to the MDT:

(i) (A) on a semi-annual basis, IAC income statements, balance sheets, cash flow statements and consolidated financial statements (including summary income statements for IACs by regions – i.e., China, Canada and the remaining regions) within thirty (30) calendar days following management's receipt of the same, (B) audited annual financial statements to the extent provided to IAC directors (annual financial statements to include disclosures on any significant litigation as required by applicable accounting principles; parties to agree on a reasonable template for semi-annual statements, reasonable confidentiality provisions and universe of recipients) and (C) on a quarterly basis, the IAC cash balance by IAC;

(ii) on an annual basis, a legal organization chart for the IACs along with a summary of (A) any changes to IAC Holding Company or any Subsidiary of an IAC Payment Party, and (B) any newly-formed entities, solely to the extent in clauses (A) and (B) within the ownership structure of the IACs;

(iii) copies of amendments, modifications or supplements to any collateral documents with respect to changes described above in the immediately preceding clause (ii), within sixty (60) calendar days of the relevant change;

(iv) upon the termination of any sale process related to the IACs, copies of any indications of interest and letters of intent, and any analyses prepared for the board of same (names of bidding parties may be redacted if required by executed confidentiality agreements); and

(v) within forty-five (45) calendar days after the end of each quarter, and within sixty (60) calendar days after the closing of each IAC sale, an internally-prepared report detailing all IAC gross sale proceeds and IAC Distributions (aggregating IAC Tax Distributions and IAC Non-Tax Distributions), and repayments of IAC Loans made by the IACs and actually received by IAC Payment Parties.

(b) On a semi-annual basis, the Sackler Parties' Representative shall make IAC management and the Advisors available for a teleconference with the MDT (such teleconference not to exceed two (2) hours). Prior to each teleconference, the Sackler Parties' Representative shall provide the MDT, no later than seven (7) calendar days in advance, with a written report that includes:

(i) for each sale process, anonymized summaries of significant events/milestones prior to such consultation and since the prior consultation, including the number of potential bidders who have done any of the following: (A) executed an NDA, (B) accessed the dataroom, (C) met with management, (D) submitted bids or other indications of interest, or (E) submitted final bids and delivered markups or other comments on definitive transaction documents;

(ii) on an anonymous basis any bona fide inquiries, as determined in the Sackler Parties' Representative's reasonable judgment, outside of a formal sale process;

(iii) assets under consideration being sold;

(iv) subject to redaction for confidentiality, copies of marketing materials provided to potential buyers in any sale process of the IACs; and

(v) commentary on the ongoing financial performance of the unsold IACs.

(c) Notwithstanding anything herein to the contrary, information shall only be provided pursuant to this Section 3.02 to the extent that the provision of such information is: (i) subject to confidentiality obligations pursuant to a mutually acceptable confidentiality agreement and (ii) in compliance with applicable Law and not in contravention of any confidentiality or similar obligations of the IACs or the IAC Payment Parties or their respective Subsidiaries are subject to; *provided* that, (x) if information is withheld under this clause (ii), a general description of the withheld information and the reason for its exclusion shall be provided and (y) no such confidentiality or similar obligations with respect to the information described in this Section 3.02 shall be entered into after the Settlement Effective Date outside the ordinary course without prior approval of the MDT (which shall not be unreasonably withheld).

Section 3.03 Other IAC-Related Covenants.

(a) The IAC Payment Parties covenant and agree that, with respect to each IAC directly or indirectly owned by the IAC Payment Parties in whole or in part, from the Settlement Effective Date until the consummation of the Sale of all or substantially all assets or direct and/or indirect Equity Interests in such IAC, except as expressly provided for herein or with the consent of the MDT (which shall not be unreasonably withheld), such IAC Payment Party will use IACPP Efforts to cause such IAC not to:

(i) enter into any material transaction or series of related transactions that would materially restrict the ability of such IAC to participate in a Sale (other than the renewal, amendment or modification of agreements in effect as of the Settlement Effective Date; *provided* that such renewal, amendment or modification is not more restrictive, taken as a whole, compared to the applicable agreement prior to such renewal, amendment or modification);

(ii) enter into any material transaction or series of related transactions between such IAC or any of its Subsidiaries on the one hand, and any Related Party (other than any IACs or their respective Subsidiaries, or any officers, directors or employees of any IACs or any Subsidiaries thereof (in their capacity as such)), on the other hand (each, a "Related Party Transaction"), except for a Related Party Transaction on terms no less favorable to such IAC than those that would reasonably have been obtained in a comparable transaction on an arm's-length basis with an

unrelated Person; *provided* that (A) with respect to any Related Party Transaction or series of Related Party Transactions involving aggregate consideration in excess of $5,000,000, such IAC has delivered to the MDT an officers' certificate or a written opinion by an Approved Financial Advisor certifying that such Related Party Transaction or series of Related Party Transactions complies with this covenant and (B) with respect to any Related Party Transaction or series of Related Party Transactions involving aggregate consideration in excess of $10,000,000, such IAC has delivered a written opinion by an Approved Financial Advisor certifying that such Related Party Transaction or series of Related Party Transactions complies with this covenant and has been approved by a majority of the disinterested members of the board of directors or equivalent governing body of such IAC, if any, and if such governing body does not exist, such IAC shall have obtained the written consent of the MDT with respect to such Related Party Transaction; *provided, further* that this subparagraph (ii) shall not restrict any IAC Distribution permitted hereunder, the renewal or extension of any financing arrangements on terms no less favorable in the aggregate to the borrower than those currently in place (except as required by applicable law, such as with respect to minimum interest rate requirements to be treated as indebtedness for Tax purposes), or any other transaction permitted hereunder (including transactions described in clause (ii) of the definitions of "Sale Proceeds Deductions" and "IAC Distribution Deductions," and in the definitions of "IAC Loans" and "Intercompany Loans") or in any of the IAC Collateral Documents;

(iii) take any action in violation of (A) any applicable Law or any material order, writ, injunction and decree of any Governmental Authority applicable to such IAC or to its business or property, to the extent such violation would be materially adverse to such IAC, or (B) the Confirmation Order;

(iv) declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, other than a Restricted Payment that constitutes a distribution of Sale Proceeds or an IAC Distribution with respect to the IAC Payment Parties and IAC Holding Companies and Subsidiaries of IAC Payment Parties that receive such Restricted Payment;

(v) transfer, or grant a Lien in respect of, any direct or indirect equity interests in any IAC, IAC Holding Company, or any other Subsidiary of an IAC, IAC Holding Company or IAC Payment Party that owns interests in IACs (directly or indirectly) other than (A) to another IAC Payment Party that is within the same Payment Group so long as the interests in each IAC held, directly or indirectly, by such IAC Payment Party continue to be IAC Pledged Entities or owned, directly or indirectly, by an IAC Pledged Entity, *provided*, such actions do not adversely affect the perfection or priority of the Secured Party's security interest in the IAC Pledged Shares, (B) in connection with and in furtherance of a Sale, or (C) to the MDT pursuant to the IAC Collateral Documents; or

(vi) amend, restate, supplement or otherwise modify or waive any of its organizational documents, in each case, to the extent the same would reasonably be expected to be material and adverse to the MDT or the ability of the IAC to be sold.

With respect to an IAC, if, at any time from the Settlement Effective Date until a Sale of all or substantially all assets or direct and/or indirect Equity Interests has been consummated with respect to such IAC in accordance with Section 3.01(a), such IAC is not or ceases to be Controlled by any IAC Payment Party but is Controlled by one or more other Sackler Parties, then each such Sackler Party shall use IACPP Efforts to cause such IAC to comply with this Section 3.03.

In the event any Sackler Party or Family Member receives consideration in any transaction with an IAC, IAC Holding Company, IAC Payment Party (or Subsidiary thereof) that is prohibited by this Section 3.03(a), such Sackler Party (or the Payment Parties in the Family Group of such Family Member) shall deposit such amount into one or more of their IAC Accounts, in which event no Breach with respect to this Section 3.03(a) shall have occurred in connection with such transaction, subject to the terms of Section 9.01(b) (and so long as such payment has been made within the applicable cure period under Section 9.01(b)).

(b) Notwithstanding anything in this Section 3.03 to the contrary, any IAC, IAC Holding Company, IAC Payment Party or any entity Controlled (whether individually or as a group) by one or more IAC Payment Parties may (x) take commercially reasonable steps to reorganize the business and/or ownership structure of such IAC to the extent desirable to facilitate a Sale, including engaging in any internal corporate restructuring, reorganization or similar transaction of the applicable IACs or IAC Holding Companies (whether by way of conversion, recapitalization, reorganization or exchange of equity interests of one or more IACs or into one or more corporations, limited liability companies, limited partnerships or other business entities); *provided* that the Sackler Parties' Representative shall use commercially reasonable efforts to consult with the Advisors and the Tax Advisor and take into account in good faith advice, including advice on tax efficiency considerations, received in connection with such consultation, prior to any material decisions being made in respect of the actions in the foregoing clause (x); *provided further* that (I) the resulting, surviving, or transferee Person is an IAC, IAC Holding Company or an entity Controlled (whether individually or as a group) by the same IAC Payment Parties (or by IAC Payment Parties within the same Payment Group as such IAC Payment Party) and is subject to the Sale Obligations hereunder and (II) the interests in each IAC held, directly or indirectly, by each IAC Payment Party continue to be IAC Pledged Entities or owned, directly or indirectly, by an IAC Pledged Entity, and (y) make payments to, or receive payments from, any other IAC, any IAC Holding Company or any Subsidiary of an IAC Holding Company (whether in the form of indebtedness or otherwise), and the IAC Payment Parties may cause any IAC under their Control to take such actions as they deem appropriate, including incurring indebtedness, or providing funds in the form of dividends, IAC Loans, Intercompany Loans or otherwise to another IAC, an IAC Holding Company or an IAC Payment Party, in each case, in order to satisfy the Obligations pursuant to this Agreement; *provided* that, with respect to the foregoing clauses (x) and (y), such actions shall only be permitted if (A) (I) such reorganized, newly-formed or transferee IAC is an entity wholly-owned (whether individually or as a group), directly or indirectly by the same IAC Payment Parties (or by Payment Parties within the same Payment Group as such IAC Payment Party) and an IAC Pledged Entity and (II) the interests in each IAC held, directly or indirectly, by each IAC Payment Party continue to be IAC Pledged Entities or owned, directly or indirectly, by an IAC Pledged Entity, (B) such actions do not result in a disproportionate change to a Payment Group's aggregate level of direct or indirect ownership interests in an IAC, relative to any other Payment Group and (C) such actions do not adversely affect the perfection or priority of the Secured Parties' security interest in the IAC Pledged Shares.

(c) Each IAC Payment Party shall cause all proceeds from any IAC Distribution that are received by an IAC, an IAC Holding Company, an IAC Payment Party or any other Subsidiary of an IAC Payment Party, to be:

(i) paid directly to a Tax authority to the extent used to satisfy a liability for any Tax imposed with respect to IAC Distribution,

(ii) paid, to the applicable Third-Party Payees, in respect of Sale expenses, or

(iii) distributed or otherwise paid to one or more IAC Payment Parties (which may include a Person who agrees in writing to become bound by the obligations of an IAC Payment Party hereunder) or Subsidiaries of such IAC Payment Parties (in which case such proceeds

shall be further distributed or paid to the parent entities of such Subsidiaries until they are actually received by an IAC Payment Party) and, upon the receipt by an IAC Payment Party of such proceeds, deposited into an IAC Account in accordance with Section 3.06(c).

Section 3.04 Implementation Limitations. The Sale Obligations of the IAC Payment Parties shall be subject to compliance with and may be limited by any applicable Laws (including the applicable Laws of any jurisdiction outside of the U.S. where any IAC Payment Parties, entities Controlled (whether individually or as a group) by one or more IAC Payment Parties, IACs or IAC Holding Companies are located and any fiduciary or other duties applicable under such Laws) (collectively, "Implementation Limitations"). In the event any Implementation Limitation prohibits, restricts, limits or conflicts with any of the obligations of the IAC Payment Parties to comply with the Sale Obligations, the IAC Payment Parties shall (and shall cause the IACs and their Subsidiaries to) use their commercially reasonable best efforts to seek any Consent from any applicable Governmental Authority or other Person required to eliminate any such prohibition, restriction, limitation or conflict, with any expenses related thereto deemed to be expenses incurred in connection with the Sale or prospective Sale of IACs for purposes of computing Net Proceeds; *provided* that no such Person shall be required to (i) compensate any Governmental Authority or other Person or (ii) offer or grant any accommodation (financial or otherwise) to any Governmental Authority or other Person to obtain any such Consent, but if any such compensation is made, any such action commenced or any such accommodation is granted, expenses in connection therewith shall be deemed to be expenses incurred in connection with the Sale or prospective Sale of IACs for purposes of computing Net Proceeds; *provided* that if, after the expiration of the Sale Period, the MDT takes any of the actions or otherwise makes a payment referenced in clause (i) or (ii) of this sentence, such payment of compensation, costs or expenses shall be repaid solely from proceeds of the relevant Sale prior to the application of any Sale Proceeds to the relevant Settlement Payment Obligations. Such compensation, costs and expenses, shall (x) be included in the calculation of Net Proceeds and (y) not be considered Payment Obligations hereunder, or obligations of any party to such Sale.

Section 3.05 Termination of Sale Obligations. All obligations of the IAC Payment Parties set forth in Section 3.01 through Section 3.04 and Section 3.07 (collectively, the "Sale Obligations") shall terminate when all interests of the Sackler Parties in the IACs other than the Retained Interests have been disposed of. For the avoidance of doubt, the obligations set forth in the other provisions of this Agreement shall not be affected by the termination of the Sale Obligations.

Section 3.06 Pledge of Shares; Collateral Account.

(a) Each IAC Payment Party, as collateral security for the payment in full when due of all Obligations of such IAC Payment Party, (i) shall grant a security interest in and Lien on the IAC Pledged Shares (and the proceeds and products thereof) held by such IAC Payment Party, and shall cause each Subsidiary of such IAC Payment Party that is an IAC Pledgor to grant a security interest in and Lien on the IAC Pledged Shares (and the proceeds and products thereof) held by each such Subsidiary to secure such Obligations, and (ii) shall grant a security interest in and Lien on each IAC Account (other than any IAC Account established in the name of the escrow agent in respect of such IAC Account and subject to an IAC Escrow Agreement) of such IAC Payment Party (and the proceeds and products thereof), in each case in favor of and for the benefit of the Secured Party pursuant to the terms and conditions of the IAC Collateral Documents.

(b) Each IAC Payment Party hereby agrees, and shall cause each of its Subsidiaries that are IAC Pledgors to agree, (i) to be bound by the terms of the IAC Collateral Documents applicable to it as the same may be in effect from time to time and (ii) to perform, or cause to be performed, its obligations thereunder in accordance therewith.

(c) Each IAC Payment Party shall promptly deposit and maintain on deposit at all times (subject to the provisions of this Section 3.06), all Sale Proceeds or IAC Distributions (and in the case of any A-Side IAC Payment Party or Subsidiary thereof, any refunds of Taxes previously paid to a Tax authority out of Sale Proceeds received by such A-Side IAC Payment Party or a Subsidiary thereof (in which case such refund shall be further distributed or paid to the parent entities of such Subsidiaries until it is actually received by an A-Side IAC Payment Party)) received by such IAC Payment Party in an IAC Account; *provided*, that (i) Permitted Withdrawals may be made by such IAC Payment Party pursuant to this Agreement; and (ii) such IAC Payment Party or its Subsidiary may (A) pay all or a portion of such Sale Proceeds or IAC Non-Tax Distributions to another IAC Payment Party for deposit in its IAC Account pursuant this Agreement or (B) make payments to Third-Party Payees or Tax authorities or to the MDT.

(d) Until the date on which the MDT has been paid all Payment Obligations of the Payment Group(s) of which such IAC Payment Party is a member (including by way of prepayment or other advance payment pursuant to Section 2.03), (i) such IAC Payment Party shall have no right of withdrawal from an IAC Account other than pursuant to Section 3.06(c); *provided* that, notwithstanding the provisions of this Section 3.06(d), if the remaining unpaid Settlement Payment Obligations of any Payment Group of which such IAC Payment Party is a member are $0, and no IAC Sale Bonus Payment is owed by such IAC Payment Party, then such IAC Payment Party shall have the right to withdraw from its IAC Account an amount equal to the product of (1) the total amount then held in such IAC Account *multiplied by* (2) a fraction, the numerator of which is the number of Payment Groups of which such IAC Payment Party is a member whose remaining unpaid Payment Obligations are $0 and the denominator of which is the total number of Payment Groups of which such IAC Payment Party is a member, and (ii) the funds on deposit in IAC Accounts shall be collateral security for the Obligations of the Payment Group(s) of which such IAC Payment Party is a member. In the event that, notwithstanding the provisions of this Section 3.06(d), any IAC Payment Party or any of its Subsidiaries receives any Sale Proceeds or IAC Distributions that are not otherwise permitted to be withdrawn from an IAC Account or are required to be deposited into an IAC Account, in each case pursuant to this Agreement, such Sale Proceeds or IAC Distribution shall be held in trust by such IAC Payment Party or such Subsidiary for the MDT, shall not be commingled with any of such Person's other funds or deposited in any account of such Person other than an IAC Account and shall be promptly deposited in the IAC Account pursuant to Section 3.06(c) hereof.

(e) Each IAC Payment Party shall promptly and duly take, execute, acknowledge and deliver, and shall cause each of its Subsidiaries that is an IAC Pledgor or IAC Pledged Entity to promptly and duly take, execute, acknowledge and deliver, all such further acts, documents and assurances as may from time to time be necessary or as the Secured Party may from time to time reasonably request in order to carry out the intent and purposes of this Article 3 in accordance with the IAC Collateral Documents, including all such actions to establish, create, preserve, protect, perfect, and maintain perfection of a first priority Lien on the IAC Collateral in favor of and for the benefit of the Secured Party (including IAC Collateral acquired after the date hereof) and to exercise any and all remedies in respect thereof.

(f) The IAC Collateral Documents shall provide that if an IAC Payment Party or any of its Subsidiaries becomes the direct or indirect owner of all or a portion of the Equity Interests of any IAC Pledged Entity, which Equity Interests have not previously been pledged pursuant to the IAC Collateral Documents, such IAC Payment Party shall promptly give notice of such acquisition to the Secured Party, and within sixty (60) calendar days (or such longer period as permitted by MDT, which permission shall not be unreasonably withheld) after the acquisition thereof (i) deliver or cause to be delivered to the Secured Party any certificates in respect of the Equity Interests of such IAC Pledged Entity, together with related transfer powers duly executed in blank, (ii) in the case of Equity Interests of such IAC Pledged Entity in the form of uncertificated securities, execute and deliver (or cause to be executed and delivered) uncertificated securities control agreements, (iii) execute and/or deliver (or cause to be executed and delivered) such other IAC Collateral Documents or amendments, modifications or supplements thereto, in

form and substance reasonably acceptable to the Secured Party, in order to maintain the validity and perfection of the security interests in such additional IAC Pledged Shares without lapse or change in priority and (iv) deliver proof of corporate (or comparable) action or incumbency of officers as any Secured Party shall reasonably request. If any IAC Payment Party or any of its Subsidiaries that is an IAC Pledgor or an IAC Pledged Entity (x) changes its legal name, (y) converts to a different form or to a different jurisdiction of organization or (z) changes the location of its chief executive office or principal place of business (or, if applicable, the location of the chief executive office, principal place of business or residence of any trustee of such IAC Payment Party or Subsidiary), such IAC Payment Party (A) shall promptly give notice to the Secured Party of such change describing such change, and (B) within sixty (60) calendar days (or such longer period as permitted by MDT, which permission shall not be unreasonably withheld) of such change shall execute and/or deliver (or cause its Subsidiaries to execute and deliver) such other IAC Collateral Documents and/or amendments, modifications or supplements to the IAC Collateral Documents, in form and substance reasonably acceptable to the Secured Party, in order to maintain the validity and perfection of the security interests in the relevant IAC Pledged Shares without change in priority.

(g) Until the date on which the MDT has been paid the Payment Obligations of the Payment Group(s) of which such IAC Payment Party is a member (including by way of prepayment or other advance payment pursuant to Section 2.03), no Restricted Payment of any asset owned by any IAC, any IAC Holding Company or any Subsidiary of an IAC or IAC Holding Company (such asset, an "IAC Asset") may be made by an IAC, IAC Holding Company or any Subsidiary of any of the foregoing, unless (i) such IAC Assets remain subject to the Sale Obligations or (ii) such Restricted Payment consists of Sale Proceeds or qualifies as an IAC Distribution; *provided*, that if such Restricted Payment is of IAC Pledged Shares, such Restricted Payment shall not affect the perfection or priority of the Liens in such IAC Pledged Shares granted in favor of the Secured Party. For the avoidance of doubt and notwithstanding anything to the contrary herein, (i) nothing in this paragraph limits or restricts any Person's ability to use, apply, or make distributions of, and the terms and conditions of Section 3.06(a), (b), (f) and this (g) and the IAC Collateral Documents shall not apply to, assets that are not IAC Assets or IAC Pledged Shares (to the extent such IAC Pledged Shares do not otherwise constitute IAC Assets) and (ii) nothing in this paragraph limits or otherwise modifies the definition of IAC Non-Tax Distributions.

Section 3.07 Failure to Sell IACs.

(a) If any IAC Payment Party has not completed the sale of all or substantially all of (A) its direct and/or indirect Equity Interests in all of the IACs and/or (B) the assets of each of the IACs on or prior to the expiration of the Sackler Sale Period (other than any Retained Interests), then the Sackler Parties' Representative shall provide written notice to the MDT (an "Unsold IAC Notice"). If an IAC Payment Party has not delivered an Unsold IAC Notice to the MDT on or prior to the expiration of the Sackler Sale Period, the MDT may request that such IAC Payment Party either (x) certify that it has completed the sale of all or substantially all of (A) its direct and/or indirect Equity Interests in all of the IACs and/or (B) the assets of each of the IACs on or prior to the expiration of the Sackler Sale Period (other than any Retained Interests) or (y) deliver an Unsold IAC Notice, and such IAC Payment Party shall promptly comply with such request.

(b) During the period beginning on the date of delivery of an Unsold IAC Notice to the MDT and ending on the 180th calendar day following the date of such delivery (the "MDT/IAC Sale Notice Deadline"), the MDT may notify the Sackler Parties' Representative that it intends to initiate a sale process with respect to the IAC(s) that are the subject of such Unsold IAC Notice (an "MDT/IAC Sale Process Notice"). If the MDT delivers an MDT/IAC Sale Process Notice to the Sackler Parties' Representative on or prior to the MDT/IAC Sale Notice Deadline, then:

(i) The Parties will determine the value of the applicable IAC(s) pursuant to the appraisal process set forth below:

(A) Each of (x) the MDT and (y) the IAC Payment Parties shall appoint an independent appraiser to complete a fair market value appraisal of the applicable IAC, which appointment shall include an instruction to the appraiser to exclude from the value of such IAC the effect of any actual or contingent liabilities related to pending, threatened or potential opioid-related litigation.

(B) If the value provided by the appraisals by each of the appraisers are within a fifteen percent (15%) variance of the other, the average of the two appraisals will be used. In the event that the appraisals are not within fifteen percent (15%) variance of each other, a third appraiser shall be jointly appointed by the MDT and the IAC Payment Parties and provided with the same direction with regard to potential opioid-related litigation as was provided to the initial appraisers, the median valuation from the three fair market value appraisals shall serve as the value of the applicable IAC(s).

(ii) The MDT shall have twenty-four (24) months from the delivery of the MDT/IAC Sale Process Notice to identify one or more buyers for a Sale of the IAC(s) referenced in the Unsold IAC Notice. In furtherance thereof, the MDT may direct the IAC Payment Parties to evaluate in good faith any proposed transaction involving the disposition of all or substantially all of the direct or indirect Equity Interests of such IAC or all or substantially all of its assets (excluding Retained Interests), as applicable. This may include directing the IAC Payment Parties to cooperate in an auction of the IAC Pledged Shares or any other direct or indirect Equity Interests in such IAC(s).

(iii) For a period of twenty-four (24) months following the delivery of such MDT/IAC Sale Process Notice (as the same may be extended in accordance with the terms below, the "MDT Sale Period"), each IAC Payment Party shall, and shall cause its relevant Affiliates to, take all actions reasonably necessary to comply with a good faith direction (if any) delivered by the MDT in furtherance of a Sale of such IAC, including entering into a binding Sale agreement; *provided*, the IAC Payment Parties shall not be obligated (and shall not be obligated to cause any IAC) to enter into any such Sale agreement with respect to such IAC unless (A) the Sale Proceeds from such Sale would be greater than 80% of the appraised value of such IAC as determined pursuant to Section 3.07(b)(i) and (B) such Sale agreement is otherwise on customary and reasonable terms, as reasonably determined by the Sackler Parties' Representative, and *provided, further*, that the MDT Sale Period may be extended for a period of twelve (12) months at the sole option of the MDT if at the time of the expiry of such MDT Sale Period, the MDT has received bona fide expressions of interest from third parties regarding a transaction involving the disposition of all or substantially all of the direct or indirect Equity Interests of such IAC or all or substantially all of its assets (excluding Retained Interests) that the MDT intends to pursue.

(c) If the MDT has not completed a Sale of the IAC(s) referenced in the Unsold IAC Notice by the end of the MDT Sale Period, and so long as a Sale is not otherwise pending consummation in accordance with binding transaction documents related thereto, then the rights of the MDT to conduct the sale process pursuant to Section 3.07(b) shall revert to the IAC Payment Parties, and the IAC Payment Parties shall continue to have the obligations set forth in Section 3.01(a), Section 3.01(b) and Section 3.01(c), subject to Section 3.04 (provided, the obligations set forth in Section 3.02, Section 3.03, Section 3.06, Section 3.07(a) and Section 3.07(b) shall terminate).

(d) THE REMEDIES SET FORTH IN THIS SECTION 3.07 ARE THE SOLE AND EXCLUSIVE REMEDIES OF THE MDT OR ANY PARTY TO ANY SETTLEMENT AGREEMENT WITH RESPECT TO ANY BREACH OR ALLEGED BREACH OF SECTION 3.01 OF THIS AGREEMENT. FOR THE AVOIDANCE OF DOUBT, THE MDT WAIVES ANY RIGHT TO ENFORCE THE OBLIGATIONS OF THE IAC PAYMENT PARTIES PURSUANT TO SECTION 3.01 WITH RESPECT TO ANY IAC PRIOR TO THE EXPIRATION OF THE SACKLER SALE PERIOD APPLICABLE TO SUCH IAC.

ARTICLE 4.
TAX MATTERS

Section 4.01 Restitution Payments.

(a) The Restitution Amounts (as defined in the following paragraph) paid in Cash and Cash Equivalents, in kind (by transfers of property) or otherwise, directly or indirectly, by, on behalf of, or at the direction of the Debtors, the IAC Payment Parties, or PRA L.P. or any of its direct or indirect interest holders (the "Payors") pursuant to the Plan and/or this Agreement are hereby, in each case, based on the origin of the liability and the nature and purpose of the payments (as more fully described in the Disclosure Statement, the Plan, the Governmental Remediation Trust and the Tribe TDP), identified as amounts paid for restitution, remediation or that are paid to come into compliance with any law which was violated, in accordance with Section 162(f)(2)(A)(ii) of the Code (and the applicable Treasury Regulations promulgated thereunder) (collectively, "Restitution"), in each case in relation to the damage done and Alleged Harms suffered in connection with or arising out of Opioid-Related Activities with respect to the Products, as more fully described in the Disclosure Statement, the Plan, the Governmental Remediation Trust and the Tribe TDP. Restitution Amounts are paid by or on behalf of the Payors in order to restore, in whole or in part, the MDT, the Settling States, the Participating Subdivisions, the Private Claimants, and persons to the same or substantially similar position or condition that they would be in had the MDT, the Settling States, the Participating Subdivisions, the Private Claimants, and persons not suffered the Alleged Harms. Nothing in this Agreement, the Plan, Confirmation Order or any documents submitted in connection with the Plan is a binding determination on the IRS regarding whether the amounts paid as described herein satisfy the requirements of Section 162(f)(2) of the Code or any other requirements of Section 162(f) of the Code and applicable Treasury Regulations.

(b) To the extent relevant for purposes of Section 162(f)(2)(A)(ii) of the Code, the term "Restitution Amounts" shall comprise (i) the payment or transfer pursuant to the Plan of the Initial Public Creditor Trust Distributions; the NewCo Transferred Assets; and the Plan Effective Date Cash transferred to fund the MDT Operating Reserve, (ii) the payments to be made to the MDT pursuant to this Agreement in the aggregate amount of $[●] plus any payments made pursuant to Section 2.06 and (iii) any other amounts paid or properties transferred to, or at the direction of, any government or governmental entity, pursuant to the Plan and/or this Agreement in relation to Opioid-Related Activities with respect to the Products and within the scope of Section 162(f) of the Code. The Restitution Amounts are less than or equal to the amount, in the aggregate, of the Alleged Harms allegedly suffered by the Settling States, the Participating Subdivisions, the Private Claimants and the General Unsecured Creditors; and the portion of the Restitution Amounts received by each of the Settling States, the Participating Subdivisions, the Private Claimants and the General Unsecured Creditors is less than or equal to the amount of the Alleged Harms allegedly suffered by the Settling States, the Participating Subdivisions, the Private Claimants and the General Unsecured Creditors.

(c) Notwithstanding the foregoing, (i) no amounts described in Section 5.9 of the Plan or reported in connection with Section 4.01(f)(ii) and paid in connection with the Plan and/or this Agreement as reimbursement for costs of any government investigation or litigation concerning the violation or

potential violation of any law, including attorney's fees, shall be treated as Restitution Amounts, (ii) neither the DOJ Forfeiture Payment, nor any amount paid to the United States pursuant to Section 4.3(b) of the Plan for Federal Government Unsecured Claims (Class 3), shall be treated as Restitution Amounts, (iii) no portion of the Settlement Payments constitutes the disgorgement of any allegedly ill-gotten gains; and (iv) no portion of the Settlement Payments is paid for, is in place of, or is properly characterized as the payment of any fine, penalty, punitive damages, or other punitive assessments. [All Restitution Amounts shall be used in accordance with the terms of the Plan, this Agreement and the Creditor Trust Documents, including for Opioid Remediation (as defined in the Governmental Remediation Trust and the Tribe TDP, as applicable), as more fully set forth in such documents.[8]]

(d) For purposes of this Section 4.01, (x) the amount of any payment made in Cash and Cash Equivalents shall be equal to the face amount of such Cash and Cash Equivalents, and the amount of any payment made through a transfer of other property shall be equal to the fair market value of such property as of the time of each such transfer; (y) the terms used in this Section 4.01 shall be interpreted in conformity with the meaning of such terms as used in Section 162(f) of the Code and the Treasury Regulations promulgated thereunder; and (z) the term "Plan" shall include the Plan, any other documents and agreements contemplated by the Plan, any other documents and agreements which are supplemental or ancillary to the Plan and any court order or judgment relating to the foregoing.

(e) For the avoidance of doubt, nothing in this Section 4.01 shall bind the IRS with respect to tax treatment, tax reporting or information reporting, and (i) no party other than PRA L.P., the IAC Payment Parties, the Shareholder Released Parties and their non-Debtor Related Persons and other Sackler Parties (collectively, the "Relevant Parties") shall be responsible for obtaining any Tax deductions or other Tax treatment claimed by any Relevant Party in connection any payments or transfers under this Agreement or the Plan, including all amounts intended to constitute Restitution (collectively the "Tax Treatment"), (ii) nothing in this Agreement shall impose on the Debtors, any Holder of an Allowed Claim, the MDT, any Creditor Trust, the Plan Administration Trust or any other entity created pursuant to the Plan (including without limitation Foundation, NewCo and their Subsidiaries), or any Related Person of any of the foregoing (collectively, the "Other Parties") any liability with respect to the Tax Treatment (including without limitation the failure of any Relevant Party to obtain such Tax Treatment) and (iii) none of the Other Parties shall have any obligation to indemnify, defend, or otherwise hold harmless any party with respect to any loss, denial, deferral, curtailment or impairment of such Tax Treatment or any related costs, interest or penalties, nor shall the failure of any party to obtain such Tax Treatment give rise to any right of any Relevant Party to any deduction, counterclaim, defense, recoupment or setoff with respect to any payments they are required to make pursuant to this Agreement or the Plan.

(f) Use of Settlement Payments.

(i) Other than with respect to Estate Payments allocated in accordance with Section 5.9(a) and (b) of the Plan, it is the intent of the Parties that the Estate Payments disbursed to Settling States and Participating Subdivisions be for Opioid Remediation, subject to exceptions that must be documented in accordance with Section 4.01(f)(ii). In no event may less than ninety-five (95%) of the Payment Groups' amount of such Estate Payments disbursed to Settling States and Participating Subdivisions over the entirety of all such Estate Payments (but not for any single Payment Date) be spent on Opioid Remediation.

(ii) While disfavored by the Parties, a Settling State or a Participating Subdivision set forth on Exhibit G to the Governmental Entity & Shareholder Direct Settlement Agreement may use monies from Estate Payments (excepting Estate Payments allocated in accordance with Section 5.9(a)

[8] NTD: subject to ongoing tax discussions.

and (b) of the Plan) 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 to the Governmental Entity & Shareholder Direct Settlement Agreement uses any monies from such Estate Payments for a purpose that does not qualify as Opioid Remediation, such Settling State or such Participating Subdivision 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; provided, however, that because such fees and costs are anticipated to be funded from Estate Payments and other sources, such reporting shall be provided on aggregate basis regardless of source. It is the intent of the Parties that the limited reporting duty contemplated under this Section shall be discharged by the public posting of such information. 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 Estate Payment amounts (excepting Estate Payments allocated in accordance with Section 5.9(a) and (b) of the Plan) not identified under this Section as used to pay attorneys' fees, investigation costs, or litigation costs shall be included in the Compensatory Restitution Amount and (ii) Participating Subdivisions not listed on Exhibit G to the Governmental Entity & Shareholder Direct Settlement Agreement may only use monies from such Estate Payments for purposes that qualify as Opioid Remediation.

Section 4.02 Settlement Payments. For the avoidance of doubt, all Parties agree that no Settlement Payments or portion thereof are "payments in compensation for late or delayed transfers" under Treasury Regulations Section 1.468B-2 and shall treat and report all such payments consistent with such characterization, unless otherwise required by applicable Law.

Section 4.03 Qualified Settlement Funds. All Parties agree to treat the Master Disbursement Trust, each Creditor Trust, and the Tribe Trust (other than any Tribe Trust entity that is formed as a legal entity other than a trust) QSFs, and all Parties shall report consistently with the foregoing for all applicable U.S. federal income or other Tax purposes. Accordingly, all parties acknowledge and agree notwithstanding anything to the contrary in this Agreement that (i) the Settlement Payments are intended to be treated as amounts transferred to a QSF by, or on behalf of, a Transferor to resolve or satisfy a liability for which the QSF is established, and (ii) the actual or deemed payment or reimbursement of an amount by MDT or any Creditor Trust, if any, is intended to be permitted hereunder solely for claims that are either of the same type as the claims for which MDT and the Creditor Trusts are established or of another type that arises from the same event or related series of events for which MDT and the Creditor Trusts are established within the meaning of QSF Regulations 1.468B-1(h)(2).

Section 4.04 Settlement Agreement. All Parties intend and agree that this Agreement shall be treated for all applicable Tax purposes as a contractual agreement to make payments in respect of an agreed settlement of claims. Breach Fees payable pursuant to Section 9.05 of this Agreement shall be treated for all applicable Tax purposes as a contractual late payment fee in respect of late or delayed transfer of payments due pursuant to this Agreement.

Section 4.05 Forms W-9. On or before the Settlement Effective Date, each of PRA L.P. and MDT shall provide the other with a properly completed and validly executed IRS Form W-9 (or any

successor form) certifying that it is exempt from U.S. federal backup withholding and U.S. federal income withholding tax. Each of PRA L.P. and the Master Disbursement Trust agrees that if the IRS Form W-9 (or any successor form) previously delivered expires or becomes obsolete or inaccurate in any respect, it shall promptly provide the other party with a properly completed and validly executed IRS Form W-9 (or any successor form).

Section 4.06 Intentionally Omitted.

Section 4.07 Tax Reporting. For U.S. federal income tax purposes, the relevant IAC Payment Party(ies) is intended to be treated as the owner of each IAC Account. All interest or other income earned in any IAC Account shall be properly reported to all relevant taxing authorities by the relevant IAC Payment Party(ies) as owner of the IAC Account for all tax purposes whether or not such income has been distributed during such year.

Section 4.08 Tax Cooperation.

(a) [Subject to the limitations set forth herein, upon the reasonable written request by the Sackler Parties' Representative or PRA LP to the MDT or the [Designated State], each of the MDT and 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 [4.01] 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 MDT and 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 MDT or 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 4.08 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 4.08 shall require the MDT, 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 or PRA LP made to the MDT or the [Designated State]; (iii) provide information or documents that have been previously provided to the Sackler Parties' Representative or PRA LP; (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 MDT, 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 MDT, the [Designated State], Settling State or Participating Subdivision shall inform the Sackler Parties' Representative, or PRA LP to the extent legally permissible, of the basis on which information was not provided. Other than with respect to Section 4.01(f)(ii), and notwithstanding anything else herein to the contrary, the MDT, the [Designated State], the Settling States and Participating Subdivisions shall have no obligation to trace funds received pursuant to this Agreement or the Governmental Entity & Shareholder Direct 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 4.08.

(d) Pursuant to 26 C.F.R. § 1.6050X-1(a) and (b), the Designated State, on behalf of the MDT and 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 to the Governmental Entity & Shareholder Direct Settlement Agreement 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 [4.01] and as set forth in Section [4.01(d)].

(e) Any form, return, amended return, or written statement filed or provided pursuant to Section [4.08(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 [4.08] other than an IRS Form 1098-F in the form attached as Exhibit U to the Governmental Entity & Shareholder Direct Settlement Agreement, the Designated State shall use reasonable best efforts to direct and ensure that the Appropriate Official provides to the Sackler Parties' Representative or PRA LP 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 or PRA LP 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 MDT, the Designated State, nor the Settling States make any warranty or representation to any Payment Party, the MDT, 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 MDT, the Designated State, or 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.][9]

[9] NTD: Subject to ongoing discussions.

Section 4.09 Private Trusts Reporting. Notwithstanding anything to the contrary herein or otherwise, none of the Private Creditor Trusts or the Public Schools Trust shall be required to provide any tax information or cooperation, or to assist in tax reporting or other tax compliance, to or for benefit of the Shareholder Released Parties or the Sackler Parties' Representative or otherwise hereunder in connection with tax matters, except for (a) periodic forwarding, not more frequently than every three months, of applicable bank statements, or, (b) solely at the applicable trustee's election, such other reporting as provides the Sackler Parties' Representative with substantially similar relevant information as appears in such bank statements, in each case, which the applicable trustee may redact (or cause to be redacted) to exclude information that it considers not reasonably necessary for the Shareholder Released Parties' tax reporting.[10]

ARTICLE 5.
RESERVES.

Section 5.01 PAT Disputed Claims Reserves, Creditor Trust Non-Participating Claims Reserves and Released Claims Reserves.

(a) On the Plan Effective Date, the Plan Administration Trust and each Creditor Trust shall establish the PAT Disputed Claims Reserves and Creditor Trust Non-Participating Claims Reserves (collectively, "Reserves" and each individual reserve, a "Reserve"), by funding amounts in accordance with Sections 7.2(b), 7.2(c) and 7.2(d) of the Plan, as applicable. Following the Plan Effective Date, additional amounts shall be funded to the Reserves in accordance with the terms of the Plan.[11]

(b) Following the Plan Effective Date, if any Disputed Claim or Non-Participating Claim becomes an Allowed Claim, then (A) the amount reserved for such formerly Disputed Claim or Non-Participating Claim (net of expenses incurred) shall be released from the relevant Reserve(s) and transferred in accordance with the terms of Sections 7.7(a), 7.7(b), and 7.7(c) of the Plan, as applicable, and (B) thereafter, amounts that would have been funded to such Reserve(s) with respect to such Disputed Claim or Non-Participating Claim shall instead be distributed in accordance with the terms of Sections 7.7(a), 7.7(b), and 7.7(c) of the Plan, with the Master Disbursement Trust serving as administrative agent in relation thereto, as applicable. If any Disputed Claim or Non-Participating Claim becomes a Disallowed Claim at any time, then: (A) any amount reserved for such Disputed Claim or Non-Participating Claim and funded to a Reserve from Settlement Payments shall be released from such Reserve, and transferred to the corresponding Released Claims Reserve, in accordance with Sections 7.8(a), 7.8(b), and 7.8(c) of the Plan, and (B) thereafter, amounts of Settlement Payments that would have been funded to a Reserve with respect to such Disputed or Non-Participating Claim shall instead be funded to the relevant Released Claims Reserve, as provided in the Plan. Amounts in a Reserve that were funded from sources other than Settlement Payments and any future such amounts shall be addressed in accordance with the Plan. On the Plan Effective Date (and thereafter to the extent reasonably practicable), all Reserve(s) shall be funded from Settlement Payments.

(c) Each Payment Group shall comply with the funding, reimbursement and reporting obligations with respect to the Released Claims Reserves and its associated Litigation Costs as set forth in Exhibit N, and in furtherance thereof may access the Released Claims Reserves for Litigation Costs related to a given Plan Class on the terms and subject to the conditions and limitations set forth in Exhibit N, other

[10] Subject to Sackler confirmation on remediation reporting for public school trust.

[11] NTD: Plan to be updated to ensure that MDT has access to reporting on the Non-Participating Channeled Claims Reserves and Released Claims Reserves.

than a Payment Group or Payment Party in respect of which a Specified Breach has occurred and is continuing.

(d) Amounts shall be released from the Released Claims Reserves at the times and in the amounts, subject to the terms and conditions, as provided in Exhibit N. Amounts released from the Released Claims Reserve to any Creditor Trust, including amounts initially funded by RCR Top Off Payments, if any, shall be distributed in the same manner as Estate Payments under the Settlement.

(e) For the avoidance of doubt, and notwithstanding anything to the contrary in this Section 5.01, Exhibit N, or elsewhere, none of the A-Side Payment Parties comprising A-Side Payment Group 8 shall have any funding or reimbursement obligations under this Section 5.01 or Exhibit N, except for their obligation to pay a portion of the Estate Payment on the Settlement Effective Date, the fifth (5th) Payment Date and the sixth (6th) Payment Date to the Reserve(s) and/or the Special Operating Reserve.

Section 5.02 Special Operating Reserve Initial Funding and Mechanics.

(a) On the Plan Effective Date, the MDT shall establish a separate segregated, interest-bearing escrow account (the "Special Operating Reserve") and fund the Special Operating Reserve with $200 million from Estate Payments made on the Plan Effective Date and, by withholding from distributions otherwise included in Estate Payments as follows: (A) $20 million from distributions to the Private Claimants,[12] and (B) $180 million from distributions to the non-federal governmental entities and tribes, in each case, as set forth in the Plan.

(b) On the terms and subject to the conditions and limitations set forth in Exhibit N:

(i) Each Payment Group shall comply with the funding, reimbursement and reporting obligations with respect to the Special Operating Reserve and associated Litigation Costs as set forth in Exhibit N, and in furtherance thereof may access the Special Operating Reserve if and to the extent its Litigation Costs exceed its Retained Payment Amount, other than a Payment Group or Payment Party in respect of which a Specified Breach has occurred and is continuing.

(ii) If a Payment Group withdraws funds from the Special Operating Reserve and its Retained Payment Amount subsequently exceeds its Litigation Costs, such Payment Group shall be obligated to top up the Special Operating Reserve, as set forth in Exhibit N.

(iii) As set forth in Exhibit N, on the second Payment Date and each Payment Date thereafter, until there has been reversion as contemplated by Exhibit N (x) if the balance in the Special Operating Reserve is less than $300 million, the MDT shall deposit out of Estate Payments made on such Payment Date additional amounts into the Special Operating Reserve to the extent necessary to increase the balance in the Special Operating Reserve to $300 million and (y) if the balance of the Special Operating Reserve is more than $300 million, the MDT may withdraw the excess and apply such Sweep Amount (as defined in Exhibit N) for the benefit of the [non-federal governmental entities and tribes] as set forth in Exhibit N.

(iv) Following the later of the sixth Payment Date and the date that no Material Litigation is pending, amounts will be released from the Special Operating Reserve as set forth in Exhibit N.

[12] NTD: The Plan to provide for amounts to come from each of the Private Claimants.

(c) Amounts released from the Special Operating Reserve to the MDT, including SOR Top Off Payments, if any, shall be distributed in the same manner as Estate Payments under the Settlement.

(d) So long as funds remain in the Special Operating Reserve that can be used by a 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 in the manner set forth in Exhibit N.

(e) The MDT and the Sackler Parties' Representative shall be subject to the notification, reporting and review rights and obligations in respect of matters relating to the Released Claims Reserves, the Special Operating Reserve, Retained Payment Amounts and Litigation Costs set forth in Exhibit N.

(f) In case of any conflict between the provisions herein and the provisions of Exhibit N, the provisions of Exhibit N shall control.

(g) For the avoidance of doubt, and notwithstanding anything to the contrary in this Section 5.02, Exhibit N, or elsewhere, none of the A-Side Payment Parties comprising A-Side Payment Group 8 shall have any funding or reimbursement obligations under this Section 5.02 or Exhibit N, except for their obligation to pay a portion of the Estate Payment, on the fifth (5th) Payment Date and/or sixth (6th) Payment Date, to the Reserve(s) and/or the Special Operating Reserve.

ARTICLE 6.
TERMINATION.

Section 6.01 Termination of Agreement. This Agreement shall terminate under the circumstances set forth on Exhibit I or Section 11.06(c).

ARTICLE 7.
REPRESENTATIONS AND WARRANTIES OF THE SACKLER PARTIES

The Sackler Parties' Representative (with respect to Section 7.07), and each Sackler Party (with respect to each Section in this Article 7 other than Section 7.07) represents and warrants (in each case, solely as to itself) to the MDT that, as of the Agreement Effective Date (*provided* that (i) any A-Side Payment Party that is a Trust governed in whole or in part by the law of Jersey (Channel Islands) makes such representation and warranty as of the date such A-Side Payment Party receives a Court Order applicable to it as described in Section 10.01(a)(viii) and (ii) the JDS Estate and any other Payment Party subject to Section 10.01(c) and Section 10.01(d) makes such representation and warranty as of the date it receives the court approval described in Section 10.01(c)), the Settlement Effective Date, and each anniversary of the Settlement Effective Date (in each case, except to the extent a representation or warranty is expressly made as of a specific date, in which case it is made only as of such date):

Section 7.01 Formation and Power.

(a) Each such Sackler Party that is not a Trust, decedent's estate or natural person, including a corporation, limited liability company or limited partnership, (i) is duly formed, validly existing and in good standing or the equivalent thereof (to the extent such concepts are recognized under applicable Law) under the Laws of its jurisdiction of formation, with full power and authority to enter into this Agreement and the Collateral Documents to which it is a party and perform all of its obligations hereunder and thereunder; *provided*, that solely with respect to any Trust subject to Section 10.01(c) and Section 10.01(d), such power and authority, solely as it relates to the guarantee of an estates obligations, shall be subject to the approval of the applicable court, (ii) is duly qualified and authorized to do business and in good standing or the equivalent thereof (to the extent such concepts are recognized under applicable Law) under the Laws of

each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification and (iii) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted; in the case of clauses (ii) and (iii), except as would not materially adversely affect the ability of such Sackler Party to enter into this Agreement or the Collateral Documents to which it is a party and perform its obligations hereunder or thereunder.

(b) Each such Sackler Party that is a Trust (i) was duly created under the laws of its Original Jurisdiction of Creation as set forth on Exhibit R, (ii) has its situs and principal place of administration, and validly exists under the laws of, its Jurisdiction of Administration as set forth on Exhibit R and (iii) is governed (taking into account any express provisions in its organizational documents) by the laws of its Governing Law Jurisdiction as set forth on Exhibit R. With respect to such Trust, Exhibit R sets forth a true and complete list of (A) its currently acting trustees, (B) its Power Holders, (C) its Required Interested Persons, (D) its Beneficiary Interested Persons and beneficiaries under a legal disability (with an accurate notation identifying each such beneficiary, if any, that is under a legal disability (e.g., is a minor) and the date of birth of any such individual under a legal disability who is not a minor and with minors identified by year of birth and familial relationship such as "Child # 1 of [Name], [year of birth]" and not by actual name) and (E) its Possible Refunding Trusts, if any. The information on Exhibit R related to the information regarding the Trusts described in this Section 7.01(b) may be amended by the Sackler Parties' Representative at any time and from time to time to reflect changes occurring with respect thereto after the date hereof, *provided* that notice and a copy of such amendment shall be provided promptly to the MDT, in which case the representation and warranty set forth above with respect to such Exhibit R shall be true and correct as of the date of such amendment.

(c) With respect to the Sackler Party that is the JDS Estate, the JDS Estate (i) has its situs and principal place of administration as set forth on Exhibit R, and (ii) has a governing instrument that was admitted to original probate, with permanent letters issuing to its personal representative(s), by the court set forth on Exhibit R. Exhibit R sets forth a true and complete list of (A) the JDS Estate's currently acting personal representatives, (B) the JDS Estate's Power Holders, (C) the JDS Estate's Required Interested Persons, and (D) the JDS Estate's Beneficiary Interested Persons and beneficiaries under a legal disability (with an accurate notation identifying each such beneficiary, if any, that is under a legal disability (e.g., is a minor) and the date of birth of any such beneficiary under a legal disability who is not a minor and with minors identified by year of birth and familial relationship such as "Child # 1 of [Name], [year of birth]" and not by actual name).

(d) In the case of a Sackler Party that is a Trust or the JDS Estate, the trustees of each Trust and the personal representatives of the JDS Estate (i) have been duly appointed and are validly acting as the trustees and personal representatives of each Trust and the JDS Estate, (ii) are resident and/or have their respective principal place of business as set forth on Exhibit R, (iii) in the case of trustees and personal representatives that are not individuals (x) are duly formed, validly existing and in good standing or the equivalent thereof (to the extent such concepts are recognized under applicable Law) under the Laws of their jurisdiction of formation, with full power and authority to act and exercise their powers and authorities as a trustee or personal representative of such Sackler Party, (y) are duly qualified and authorized to do business and in good standing or the equivalent thereof (to the extent such concepts are recognized under applicable Law) under the Laws of their jurisdiction of formation and each other jurisdiction where their acting as trustees or personal representatives of such Sackler Party requires such qualification, authorization and good standing (with respect to the administration of the Trust or the JDS Estate as currently conducted) and (z) have all requisite governmental licenses, authorizations, consents and approvals to operate its businesses (to the extent relevant to acting as a trustee, personal representative or otherwise join in the administration, of the Trust and the JDS Estate) as currently conducted; in the case of clauses (y) and (z), except as would not materially adversely affect the ability of such Sackler Party (or such trustee or personal representative in its own capacity on their behalf) to enter into this Agreement or the Collateral Documents

to which such Sackler Party is a party and perform its obligations hereunder and thereunder (if applicable), (iv) have all requisite power and authority in their own capacities acting on their own behalf to serve as trustees and personal representatives of such Sackler Party, and (v) have all requisite power and authority in their capacities as trustees and personal representatives of such Sackler Party to execute, deliver and perform such Sackler Party's obligations (which for the avoidance of doubt are the obligations of the trustees or personal representatives thereof in their capacities as trustees and personal representatives thereof) under this Agreement and the Collateral Documents to which such Sackler Party is a party.

(e) Except (i) to the extent investment discretion has been delegated to investment managers, and (ii) for contractual restrictions related to specific investments, each trustee of such Sackler Party that is a Trust and each personal representative of the JDS Estate (or, for the avoidance of doubt but subject to the proviso of this Section 7.01(e), in the case of a Trust with more than one trustee or if at the time of the making of this representation there shall be more than one personal representative of the JDS Estate, the trustees of such Trust and the personal representatives of the JDS Estate) has sole discretion, power and authority to manage and control the assets of the Trust and the JDS Estate, as applicable, for both investments and determinations of distributions, to sell, exchange, invest, reinvest, dispose of, or pledge the assets of the Trust and the JDS Estate, as applicable, including the IAC Pledged Shares and the other Collateral owned by such Person, and to incur debt and enter into agreements to pay or make binding guarantees, subject to the restrictions and qualifications (if any) set forth in the governing instruments of such Trust or the JDS Estate requiring the trustee or personal representative, as applicable, to obtain the consent of a protector or other Person (a "Consent Person"), which restrictions and qualifications (including the identity of all Consent Persons) are each listed on Exhibit Q, in order to take certain actions; *provided* that, for the avoidance of doubt, in the case of a Trust with more than one trustee whose Trust instrument confers any such discretion, power or authority on one or more but less than all of the trustees (or if at the time of the making of this representation there shall be more than one personal representative of the JDS Estate), the representation made in this Section 7.01(e) shall, insofar as such discretion, power or authority is concerned, be read to apply only to the trustee or trustees (or personal representative or representatives) having such discretion, power or authority.

Section 7.02 Authority; Enforceability

(a) The execution, delivery and performance of this Agreement and the Collateral Documents to which it is a party by each Sackler Party that is not a Trust, the JDS Estate or a natural person, including a corporation, limited liability company or limited partnership, and the consummation by such Sackler Party of the transactions contemplated hereby and thereby have been duly and validly authorized by all requisite corporate, limited liability company, partnership or other entity action by such Sackler Party, and no other proceedings on the part of such Sackler Party are necessary to authorize the execution, delivery or performance of this Agreement or the Collateral Documents to which it is a party by such Sackler Party. This Agreement and the Collateral Documents to which it is a party have been duly and validly executed and delivered by such Sackler Party, and this Agreement and the Collateral Documents to which it is a party constitute valid and binding obligations of such Sackler Party, enforceable against such Sackler Party in accordance with their terms, except as such enforceability may be limited by Bankruptcy Matters, or by general equitable principles.

(b) The execution, delivery and performance of this Agreement and the Collateral Documents to which it is a party by each Sackler Party that is a Trust or the JDS Estate and the consummation by such Sackler Party of the transactions contemplated hereby and thereby have been duly and validly authorized by all requisite trust or estate administration action, as applicable (including without limitation by any requisite action of any applicable Consent Person and approval by the Royal Court of Jersey (Channel Islands) ("Court Approval")) and no other proceedings on the part of such Sackler Party is necessary to authorize the execution, delivery or performance of this Agreement or the Collateral Documents to which

it is a party by such Sackler Party or any Consent Person. This Agreement and the Collateral Documents to which it is a party have been duly and validly executed and delivered by such Sackler Party, and this Agreement and the Collateral Documents to which it is a party constitute valid and binding obligations of such Sackler Party, enforceable against such Sackler Party in accordance with their terms, except as such enforceability may be limited by Bankruptcy Matters, or general equitable principles which, for the avoidance of doubt, do not include for these purposes any limitations for such purpose by reason of trustee or personal representative fiduciary duties, including duties of prudence and undivided loyalty.

(c) The execution, delivery and performance of this Agreement and the Collateral Documents to which it is a party by each Sackler Party that is a natural person have been duly and validly executed and delivered by such Sackler Party, and this Agreement and the Collateral Documents to which it is a party constitute valid and binding obligations of such Sackler Party, enforceable against such Sackler Party in accordance with their terms, except as such enforceability may be limited by Bankruptcy Matters, or by general equitable principles.

Section 7.03 No Contravention. Subject to the Implementation Limitations, the execution, delivery and performance of this Agreement and the Collateral Documents to which it is a party by each Sackler Party (including for the avoidance of doubt by the trustees of a Sackler Party that is a Trust) does not (a) contravene the terms of any such Sackler Party's organization documents (including trust documentation), (b) violate any Law, (c) violate any fiduciary duty owed to any Person, (d) violate any other agreement, instrument or trust or other restrictions to which such Sackler Party (or the trustees thereof in their capacities as such trustees) are subject or (e) violate or contravene any order or approval of any court or other governmental or judicial authority; in the case of clauses (b) through (e), except as would not materially adversely affect the ability of such Sackler Party (or the applicable trustee on their behalf) to enter into this Agreement or the Collateral Documents to which it is a party and perform its obligations hereunder and thereunder.

Section 7.04 Net Asset Reports. Except with respect to any projections, forecasts or other forward-looking information set forth therein, and subject to the qualifications, estimates and methodology set forth therein, (i) if such Sackler Party is an Initial Covered Sackler Person (as defined in the Case Stipulation), then the applicable Net Asset Presentations fairly present, in all material respects, the balance sheets of such Sackler Party as of the respective dates set forth therein, and (ii) if such Sackler Party is not an Initial Covered Sackler Person, then the additional balance sheet information provided to the Debtors and their advisors by Huron Consulting Group with respect to such Sackler Party and the other members of such Sackler Party's Family Group fairly presents, in all material respects, the balance sheets of such Persons as of the respective dates set forth therein.

Section 7.05 List of IACs. Each of the representations made in clauses (a) through (i) of this Section 7.05 is made by the members of each Payment Group, as of the date hereof, solely with respect to the members of their Family Group, and, any such representation made by the members of a particular Payment Group, to the extent necessary, assumes the accuracy of any corresponding representation made by any Sackler Party that is not a member of such Payment Group.

(a) Exhibit E-1 sets forth:

(i) a true and complete list of all non-U.S. (and certain U.S.) pharmaceutical companies that are operating companies Controlled, directly or indirectly, individually or acting together with other Sackler Parties or their Affiliates, by one or more Sackler Parties, other than those entities set forth on Exhibit E-2 (which for the avoidance of doubt, are not IACs for purposes of this Agreement); and

(ii) with respect to the A-Side IAC Payment Parties and the B-Side IAC Payment Parties, respectively, a true and complete list of all Subsidiaries of such A-Side IAC Payment Parties and B-Side IAC Payment Parties that directly or indirectly holds any common and preferred equity interests in any IAC (and with respect to each such Subsidiary that is not wholly owned by a single A-Side IAC Payment Party or B-Side IAC Payment Party, each other equity owner and the percentage interest thereof).

(b) Besides the IACs and the entities listed on Exhibit E-2, the members of each Payment Group are, solely with respect to the members of their Family Group, not aware of any other operating non-U.S. pharmaceutical headquartered company in which any of their members holds an equity interest in excess of 5% of such company's outstanding equity.

(c) All Equity Interests in each IAC that are owned, directly or indirectly by a member of a Family Group or any other Sackler Party are owned through one or more IAC Pledged Entities.

(d) All of the debt that has been provided directly or indirectly to an IAC or Subsidiary of an IAC by a Related Party of such IAC or Subsidiary of such IAC is ultimately owed, directly or indirectly, to the IAC Payment Parties.

(e) Except as set forth on Exhibit E-3, (i) the A-Side IAC Payment Parties directly or indirectly own 50% of the Equity Interests of the IACs and (ii) the B-Side IAC Payment Parties directly or indirectly own 50% of the Equity Interests of the IACs.

(f) Each IAC Pledgor is the record owner, and holds good and valid title to, the IAC Pledged Shares to be pledged by it pursuant to Section 3.06, free and clear of any and all Liens, and has not granted any option to purchase or agreed to sell any such IAC Pledged Shares to any third party. All Equity Interests in each IAC Pledged Entity are held directly by one or more IAC Pledgors and, collectively, the IAC Pledgors hold one hundred percent (100%) of the Equity Interests in the IAC Pledged Entities.

(g) The IAC Pledgors are comprised of all or certain of the IAC Payment Parties and their Subsidiaries.

(h) All loans owed by an IAC to a Sackler Party are either an Intercompany Loan or an IAC Loan.

(i) Any option to purchase any Equity Interests in an IAC held by any IAC Holding Company or any Subsidiary of an IAC Payment Party has been exercised.

Section 7.06 List of Assuring Parties. Exhibit K represents a true and complete list of each of the Assuring Parties included in such Sackler Party's Family Group as of the date hereof.

Section 7.07 IAC Incentive Compensation Arrangements. The IAC Incentive Compensation Arrangements are, and during the Sackler Sale Period will remain, in place.

ARTICLE 8.
COVENANTS

Section 8.01 Non-Circumvention. Each Sackler Party covenants and agrees that it shall not, and shall cause all Persons under its Control not to, intentionally take or fail to take any action a purpose or material effect of which is to avoid, circumvent, frustrate or impair the ability of any Sackler Party to satisfy its Obligations or other obligations under this Agreement or the Collateral Documents to which it is a party,

the enforcement thereof or the ability of the MDT to recover any unpaid Obligations (a "Prejudicial Impact"); *provided* that, notwithstanding the foregoing, any Sackler Party may (i) for the avoidance of doubt, take any action expressly permitted by this Agreement (including the Credit Support Annexes) or the Collateral Documents to which it is a party and (ii) undergo a conversion, recapitalization, reorganization, division, appointment in further trust, appointment of new trustees or personal representatives or exchange of securities into one or more corporations, limited liability companies, limited partnerships, trusts or other entities, or otherwise terminate or restructure and distribute its assets and liabilities (in whole or in part) to one or more other Sackler Parties, and such action shall not constitute a Prejudicial Impact, but only, in each case, to the extent that (A) the resulting entity or trust assumes the obligations of such Sackler Party in this Agreement pursuant to a joinder agreement in the form attached hereto as Exhibit W, (B) to the extent such Sackler Party has provided Collateral to the MDT or any other Secured Party pursuant to any Collateral Document, such conversion, recapitalization, reorganization, division, appointment, exchange or other transaction shall not have the effect of rendering any liens in favor of the MDT or any other Secured Party granted by such Sackler Party pursuant to any Collateral Document invalid, unenforceable or unperfected or adversely affect the priority thereof and any surviving or resulting trust or entity shall take any and all steps as are necessary to maintain the MDT's or such other Secured Party's perfected security interest (without lapse or change in priority) and also complies with all applicable limitations and requirements imposed under each Collateral Document to which such Sackler Party is a party, (C) the resulting entity or Trust is in the same Payment Group as its predecessor, or, in the case of a Crossover Member, the Crossover Member allocates its assets and liabilities proportionately among all Payment Groups it belongs to, (D) in the case of a Trust, each trustee and each Assuring Party that is a Power Holder of the continuing or resulting Trust shall have delivered to the MDT a Trust Certification and Further Assurances Undertaking, respectively, and (E) in the case of any change in the personal representatives of the JDS Estate, each personal representative and each Assuring Party that is a Power Holder of the JDS Estate shall have delivered to the MDT an Estate Certification and Further Assurances Undertaking, respectively.

Section 8.02 No Interference. Each Sackler Party hereby covenants and agrees that it will not, and shall cause all Persons under its Control not to, intentionally take any action that would in any material respect interfere with, delay, impede, postpone or frustrate the confirmation or consummation of the Plan and implementation of the transactions contemplated in this Agreement and under the Collateral Documents to which such Sackler Party is a party. Each Sackler Party further covenants and agrees to comply with the provisions of the Plan applicable to it.

Section 8.03 Consent to Cancellation of PPLP Interests and De Minimis PRALP Interests.

(a) PRA L.P. hereby agrees, subject to the terms and conditions of this Agreement, to the deemed surrender, cancellation and/or redemption of the PPLP Interests pursuant to the Plan and that the direct and indirect holders thereof shall not receive or retain any property under the Plan on account of the PPLP Interests.

(b) The Parties agree, subject to the terms and conditions of this Agreement, to the deemed surrender, cancellation and/or redemption of the PPI Interests and the De Minimis PRALP Interests (with any taxes of Purdue Pharma Inc. and any other after-tax costs to Purdue Pharma Inc. attributable to its De Minimis PRALP Interests and resulting from the transactions contemplated in the Plan and this Agreement including, for the avoidance of doubt, any sales of IACs, being borne by the Sackler Parties) pursuant to the Plan and that (i) Purdue Pharma Inc. shall not receive or retain any property under the Plan on account of the De Minimis PRALP Interests and (ii) the direct and indirect holders of Purdue Pharma Inc. shall not receive or retain any property under the Plan on account of the PPI Interests.

Section 8.04 MDT Shareholder Insurance Rights. The Sackler Parties agree to the treatment of the MDT Shareholder Insurance Rights on the terms and conditions set forth in the Plan.

Section 8.05 Naming Rights.

(a) Each Payment Party covenants and agrees that it shall not, and the Confirmation Order shall provide that each Family Member that is a member of the Payment Group to which such Payment Party is a member shall not seek, request, or permit any new naming rights for the "Sackler" name with respect to charitable or similar donations to organizations (irrespective of when such funds were donated or from what source) until the later to occur of (1) the date on which the remaining unpaid Payment Obligations of the Payment Groups that such Family Member is a member have been reduced to zero (accounting, in the case of an A-Side Payment Group, for the maximum amount the A-Side Payment Group may be liable for hereunder) and (2) the first date on which the IAC Payment Parties of such Payment Groups are no longer the owners or holders of any interest in any IAC (other than Retained Interests permitted by Section 3.01(b)); *provided* that at such time such Payment Party and its associated Payment Group and Family Members are in compliance with their obligations under Section 8.08. For the avoidance of doubt, nothing in this Section 8.05 or the Confirmation Order shall prohibit (x) any Payment Party or Family Member from making any charitable or similar donations or (y) the publication of the name of any Payment Party or Family Member making a charitable or similar donation in connection with such donation, provided such publication is not pursuant to a naming right.

(b) Each Payment Party further covenants and agrees that it shall, and the Confirmation Order shall provide that each Family Member that is a member of the Payment Group to which such Payment Party is a member shall, upon occurrence of the Plan Effective Date, allow any institution or organization in the United States that has provided naming rights to any such Payment Party or Family Member to remove the "Sackler" name from any applicable (i) physical facilities and (ii) academic, medical, and cultural programs, scholarships, endowments, and the like, subject to the following conditions: (A) such institution or organization shall provide the respective Payment Party or Family Member with forty-five (45) calendar days' confidential notice of its intention to remove the "Sackler" name; (B) if such institution or organization in its discretion determines that an announcement or other disclosure regarding the removal of the "Sackler" name is necessary, such announcement or disclosure shall include a statement that indicates that such removal is pursuant to an agreement reached in mediation in the Bankruptcy Cases; and (C) any statements issued by such institution or organization in connection with or substantially concurrent with such removal shall not disparage any Payment Party or Family Member, *provided* that nothing in this clause (C) shall restrict any academic or similar work at such institution or organization. For the avoidance of doubt, the removal rights provided in this Section 8.05(b) shall not limit any rights that any applicable institution or organization otherwise may have irrespective of this Agreement.

Section 8.06 Intentionally omitted.

Section 8.07 Notification of Breach. If any Party becomes aware that a Breach Trigger or Breach has occurred, such Party shall provide notice in accordance with Section 11.01 of this Agreement to all other Parties of the occurrence of such Breach Trigger or Breach within five (5) Business Days (for the avoidance of doubt, any such notice provided by the Sackler Parties' Representative shall constitute notice provided on behalf of all applicable Sackler Parties (other than any A-Side Payment Party that comprises A-Side Payment Group 8). Until the earlier of (i) the commencement of a Dispute Proceeding and (ii) the time at which the MDT is permitted to exercise remedies pursuant to Section 9.02(a) of this Agreement, the Parties shall not disclose any occurrence or notice of Breach Trigger or Breach except (a) to the other Parties, (b) to their respective representatives and advisors to whom the confidential nature of such information is also disclosed, (c) as required by applicable law, rule, regulation, or ethical requirement, or by any governmental, judicial, administrative, regulatory or quasi-regulatory body or

process or any self-regulatory organization or (d) as necessary, in the sole discretion of the MDT, to evaluate or consider enforcement of its rights and remedies in connection with such Breach Trigger or Breach or as necessary to notify potential affected parties as to the impact of such Breach Trigger or Breach on the MDT's abilities to fulfill its contractual or fiduciary duties (including its obligations under the Plan); *provided* that notice to potential affected parties shall not be through the making of a public announcement or public disclosure (whether by press release, social media posting or otherwise).

Section 8.08 Opioid Business. Each Person listed on Exhibit H-1 (each, a "Restricted Person") shall not, other than by way of ownership of the IACs (unless and to the extent such IAC is no longer owned (directly or indirectly) by such Person (other than Retained Interests)), engage directly or indirectly in the manufacturing or sale of opioids, *provided*, *however*, that this provision shall not prohibit: (a) any investment in any third-party investment vehicle that is not controlled by any Restricted Person(s) and that makes investment decisions over which such Restricted Person has no discretion; *provided* that it is not an express investment purpose or objective of such third-party investment vehicle to make investments in the opioid business or in entities engaged in the manufacturing or sale of opioids; (b) any investment in less than 5% of the equity of any Person; (c) investments in any Person for whom the researching, development, manufacturing, distribution or sale of opioids is incidental or does not constitute one of such Person's principle businesses or business segments (including, without limitation, the practice of medicine or engaging in academic research on opioids); (d) investments held by such Restricted Person on the Agreement Effective Date and identified on Exhibit H-2 (or received as proceeds from dispositions of such investments); (e) activities related to MN Consulting LLC (as identified on Exhibit H-2), including serving as a director or officer thereof, only for so long as any IAC Payment Party directly or indirectly owns an IAC, to the extent such activities would otherwise violate this Section 8.08; or (f) engaging in activities for which the researching, development, manufacturing, distribution or sale of opioids is incidental, including, without limitation, the practice of medicine or engaging in academic research on opioids. To the extent that any Restricted Person engages in dispositions, sales or other transfers in order to comply with this provision, such dispositions, sales or other transfers shall not be with Persons known to such Restricted Person to be Related Parties, *provided* that for the purposes of this provision, Related Parties shall not include any IAC, any IAC Holding Company or any IAC Pledged Entity that is as of the time of determination not still owned or controlled by any of the Sackler Parties. In the event a Restricted Person holds an investment or interest in a Person and such Person makes acquisitions or changes its business to cause such investment or the holding of such interest to be impermissible under this Section 8.08 but for this sentence, the holding of such interest or investment shall not be a violation of Section 8.08 so long as (i) such Restricted Person uses its commercially reasonable best efforts to dispose of all or a portion of such investment sufficient to cause it no longer to be impermissible within ninety (90) calendar days (in the case of marketable securities) or one-hundred and eighty (180) calendar days (in the case of non-marketable securities) of learning of the pertinent facts of such acquisitions or change in business, and (ii) such Restricted Person has disposed of all or a portion of such investment sufficient to cause it no longer to be impermissible hereunder prior to the second anniversary of learning of the pertinent facts of such acquisitions or change in business.

Each Restricted Person that has any ownership interest in any entity listed on Exhibit H-2 (except for MN Consulting LLC) (each, a "Exhibit H-2 Entity") shall (i) not actively participate in the ongoing management of any of the Exhibit H-2 Entities; (ii) not provide their consent (where required under the relevant documentation) to any action intended to lead to a material expansion of the opioid business of the Exhibit H-2 Entities; (iii) use commercially reasonable best efforts to explore exit options with regard to their investments in those of the Exhibit H-2 Entities the ownership of which would be prohibited by this Section 8.08 but for the fact that such entities are listed on Exhibit H-2; and (iv) at such time as applicable restrictions on their rights to exit their investments in the Exhibit H-2 Entities lapse, use their commercially reasonable best efforts to dispose of such investments, if and to the extent that their ownership of such entities would be prohibited by this Section 8.08 but for the fact that such entities are listed on Exhibit H--2.

Section 8.09 Additional Assuring Parties. The Sackler Parties shall use commercially reasonable best efforts to cause each Power Holder promptly to execute a Further Assurances Undertaking upon such Person becoming a new Power Holder with respect to any relevant power and promptly notify the MDT of any difficulties encountered in obtaining the same.

Section 8.10 Opinions of Counsel. If counsel to the Ad Hoc Committee or counsel to the Creditors' Committee seeks to secure any Opinions of Counsel as to (1) the enforceability of the security interests with respect to the Collateral granted by the applicable Payment Parties and the IAC Pledgors to the Secured Party pursuant to the Collateral Documents or (2) the perfection of the security interests with respect to the Collateral granted by the applicable Payment Parties and the IAC Pledgors to the Secured Party pursuant to the Collateral Documents, then the applicable Payment Parties and IAC Pledgors shall cooperate with the reasonable requests of such counsel related to the provision of such Opinions of Counsel, *provided* that such cooperation shall not be required if counsel to the applicable Sackler Party has provided the applicable Opinion of Counsel or has communicated to counsel to the Ad Hoc Committee and counsel to the Creditors' Committee that it will provide the applicable Opinion of Counsel (and such Opinion of Counsel is actually provided).

Section 8.11 Refunding. Each Trust hereby covenants and agrees that any property reverting or required to be refunded to such Trust by or from any other Trust shall be held by the trustees of such recipient Trust as a separate resulting trust that will remain subject to the transferring Trust's obligations under the Settlement Agreements as if still held by such transferring Trust (with the satisfaction of obligations due MDT having, with respect to such resulting trust and the property thereof, priority over all other obligations of the recipient Trust to the fullest extent permitted by applicable law), and to execute such further documents as the MDT may reasonably request to evidence and confirm the same.

Section 8.12 IAC Incentive Compensation. The IAC Payment Parties shall ensure that the IACs and/or their Affiliates and associated entities maintain incentive compensation arrangements designed to incentivize key individuals who, in the judgment of the Sackler Parties' Representative, are critical to the Sale of the IACs in accordance with this Agreement ("IAC Incentive Compensation Arrangements").

Section 8.13 Additional IACs. Each Sackler Party hereby covenants and agrees that, in the event there is an entity that is as of the Agreement Effective Date a non-U.S. pharmaceutical operating company Controlled, directly or indirectly, individually or acting together with other Sackler Parties or their Affiliates, by one or more Sackler Parties is not listed on Exhibit E-1 (other than those entities set forth on Exhibit E-2), the applicable Sackler Parties shall, within ninety (90) calendar days of becoming aware of any such entity and that it is not listed on Exhibit E-1, deliver to the Parties an amended Exhibit E-1 that includes such company and such company shall constitute an "IAC" for all purposes under this Agreement as of the date of such delivery. Each Sackler Party that owns (directly or indirectly) Equity Interests in such IAC, as may reasonably be requested by the MDT, shall become an IAC Payment Party under this Agreement and/or shall cause any of its Controlled Affiliates that own any Equity Interest in such IAC to become an IAC Payment Party under this Agreement (in each case to the extent it is not already an IAC Payment Party). Each such Sackler Party shall (or shall cause a Controlled Affiliate to) grant a security interest in an entity that directly or indirectly owns 100% of the Equity Interests of such IAC owned (directly or indirectly) by such Sackler Party to the MDT pursuant to Section 3.07. For the avoidance of doubt, any IAC Payment Party that becomes party to this Agreement subsequent to the Agreement Effective Date pursuant to this Section 8.13 shall be bound by, and subject to the terms of, this Agreement applicable to IAC Payment Parties (including with respect to such newly added IAC) as of the date an amended Exhibit E-1 is delivered to the Parties pursuant to this Section 8.13 (and any representations and warranties made pursuant to this Agreement shall be made as of the date of such delivery) and all references in this Agreement to "Agreement Effective Date" and "Settlement Effective Date" shall, with respect to any such new IAC Payment Party and IAC, be understood to be the date of such delivery.

Section 8.14 Intentionally omitted.

Section 8.15 Cooperation. In connection with any claims by [the MDT] related to matters that are the subject of the Shareholder Released Claims, if [the MDT] believes in good faith that one or more documents relevant to any such claim may exist that (a) are not available in the Document Repository and (b) may be in the possession of a Payment Party that is a Covered Party (as defined in the Amended and Restated Case Stipulation Among the Debtors, the Official Committee of Unsecured Creditors, and Certain Related Parties [D.I. No. 518]), then (x) [the MDT] may deliver a request to such Covered Party, which request shall include the name of each document requested in sufficient detail to identify it, and (y) such Covered Party shall (i) conduct a review of its records to ascertain whether such Covered Party possesses any document identified in a request made in accordance with the immediately preceding clause (x) and (ii) provide a copy of such document or documents to [the MDT] at [the MDT]'s sole cost and expense; provided that no Covered party shall be obligated to provide any document hereunder if doing so would result in the loss of any privilege for such Covered Party.

Section 8.16 Certain Matters related to Probate and Death of a Payment Party. The Sackler Parties' Representative shall provide written notice to the MDT: (i) upon the death of any Payment Party or when any such Payment Party's probate estate is accepting claims and (ii) upon any Sackler Party becoming aware, in each case promptly following any Sackler Party becoming aware of such matter that any Payment Party (or the estate of a Payment Party) is preparing or intending to distribute or transfer material assets to any Person in connection with such death or the death of any Family Member.

ARTICLE 9. BREACH AND REMEDIES

Section 9.01 Breach. The events described in this Section 9.01 shall, as specified herein, constitute a "Breach Trigger", "Specified Breach" or "Non-Specified Breach":

(a) Non-Payment. The Payment Parties in a Payment Group fail to pay when due all or any portion of (A) the Payment Obligations (excluding the IAC Sale Bonus Payment, but including any Payment Date Obligation) owed by such Payment Group pursuant to Article 2) or (B) any Breach Fee pursuant to Section 9.05, each of which, upon notice by the MDT to the Sackler Parties' Representative pursuant to Section 11.01, shall constitute a Specified Breach with respect to all the Payment Parties in such Payment Group. For the avoidance of doubt, no Specified Breach by any Payment Group under this Section 9.01(a) shall be a Specified Breach by any other Payment Group and no obligations of any Payment Group shall be affected by a Breach by any Payment Party pursuant to this Section 9.01(a), other than a Payment Party in such Payment Group. For the avoidance of doubt, there shall be no Breach Trigger associated with the Specified Breaches in this Section 9.01(a).

(b) IAC-Related Specified Breaches. Each of the following shall, upon notice by the MDT to the Sackler Parties' Representative pursuant to Section 11.01, constitute a Breach Trigger, and if such Breach Trigger continues for thirty (30) or more days (or such different period solely to the extent set forth in this Section 9.01(b)), shall constitute a Specified Breach (x) with respect to a Breach Trigger other than as described in Section 9.01(b)(i)(B), only with respect to the breaching IAC Payment Party and (y) with respect to a Breach Trigger described in Section 9.01(b)(i)(B, by all of the IAC Payment Parties in the Payment Group of which the breaching IAC Payment Party is a party pursuant to Section 2.06:

(i) Any IAC Payment Party fails to (A) deposit Sale Proceeds or IAC Distributions in an IAC Account pursuant to Section 3.06(c) or (B) pay when due all or any portion of any IAC Sale Bonus Payment it owes pursuant to Section 2.06; and

(ii) Any IAC Payment Party fails to perform or observe any term, covenant or agreement contained in Section 3.06(d), Section 3.06(e) or Section 3.06(f); *provided* that the Breach Trigger for this subparagraph shall constitute a Specified Breach if such Breach Trigger continues for sixty (60) or more days.

(c) Confessions of Judgment. Any Sackler Party fails to perform or observe any term, covenant or agreement contained in Section 11.05, which shall (i) with respect to the obligation to maintain regular renewals as necessary under applicable law of the Confessions of Judgment, constitute a Breach Trigger, and if such Breach Trigger continues for thirty (30) or more days, shall constitute a Specified Breach with respect to such Sackler Party (but not, for the avoidance of doubt, with respect to other Sackler Parties); and (ii) with respect to any other term, covenant or agreement contained in Section 11.05, constitute a Breach Trigger upon notice by the MDT to the Sackler Parties' Representative or A-Side Payment Group 8 Representative (as applicable) of such Breach Trigger, and if such Breach Trigger continues for thirty (30) or more days, shall constitute a Non-Specified Breach with respect to such Sackler Party (but not, for the avoidance of doubt, with respect to other Sackler Parties).

(d) Clawback of Payment. If the MDT, any Creditor Trust or any recipient of a distribution from a Creditor Trust is required in any Insolvency Proceeding or otherwise to disgorge, turn over or otherwise pay any amount to the estate of any Payment Party (or any trustee, receiver or similar Person therefor), because the payment of such amount was declared to be fraudulent or preferential in any respect or for any other reason, any amount (a "Recovery") to the estate of any Sackler Party (or any trustee, receiver or similar Person therefor), because the payment of such amount was declared to be fraudulent or preferential in any respect or for any other reason, whether received as proceeds of security, enforcement of any right of setoff or otherwise, and the MDT has not been made whole with respect to such amount, which, upon notice by the MDT to the Sackler Parties' Representative or A-Side Payment Group 8 Representative (as applicable) pursuant to Section 11.01, shall constitute a Breach Trigger, and which, if such Breach Trigger continues for thirty (30) or more days, shall constitute a Specified Breach with respect to the Payment Group that includes such Sackler Party.

(e) Contest of Validity of Agreement. If any Sackler Party, through a legal proceeding, (i) contests in writing the validity or enforceability of any provision of this Agreement or any Definitive Document (including in any judicial forum or by asserting that the Agreement or any Definitive Document to which such Sackler Party is a party does not constitute a valid or binding obligation of such Sackler Party), (ii) denies in writing that it has any further liability or obligation under the Agreement or any other Definitive Document (other than in accordance with its terms including as a result of payment in full of its Payment Group's Settlement Payment Obligations and all other Obligations), (iii) purports in writing to revoke or rescind the Agreement or the Collateral Documents to which it is a party or (iv) purports in writing to challenge the validity, enforceability or perfected nature of the liens created thereby (such actions set forth in clauses (i)-(iv), collectively, the "Challenges") which, upon notice by the MDT to the Sackler Parties' Representative or A-Side Payment Group 8 Representative (as applicable) pursuant to Section 11.01, and (x) such Challenge is not withdrawn or otherwise remedied within fifteen (15) calendar days of such notice, then such Challenge shall constitute a Specified Breach with respect to such Sackler Party and, (y) unless each other member of the related Payment Group of which such Sackler Party is a member delivers, within forty-five (45) calendar days of such notice, a written undertaking to the MDT that: (A) reaffirms its liability and obligations with respect to this Agreement and/or any Definitive Document which was the subject of the Challenge by the applicable Sackler Party; (B) disavows expressly the applicability of such Challenge to such other member; (C) agrees not to rely on such Challenge (or any resulting decision or judgment); and (D) confirms its obligations and commits to fully perform under this Agreement and the Definitive Documents to which it is a party, then such Challenge shall also constitute a Specified Breach with respect to each such member of the related Payment Group which fails to timely reaffirm and disavow the Challenge of the applicable Sackler Party in accordance with the terms of this Section 9.01(e).

(f) Invalidity and Enforceability of Agreement. If a court of competent jurisdiction, in a final judgment, determines that any Obligation of a Payment Party (including any successor trustees thereof) under this Agreement or the Collateral Documents (i) is not a valid or binding obligation of such Payment Party (or any successor trustee thereof) or (ii) is not enforceable against such Payment Party (or any successor trustee or property thereof) in accordance with its terms, in either case: (x) to the extent such judgment relates to a Payment Obligation of a Payment Party, upon notice by the MDT to the Sackler Parties' Representative or A-Side Payment Group 8 Representative (as applicable) pursuant to Section 11.01, such judgment shall constitute a Specified Breach with respect to such Payment Party, and unless each other member of the Payment Group of which such Payment Party is a member delivers, within thirty (30) calendar days of such notice, a written undertaking to the MDT that: (A) reaffirms its liability and obligations with respect to their Obligations, including as necessary and appropriate, to reformulate such Obligations to address infirmities identified by the judgment; (B) expressly disavows the applicability of such judgment to such other member; (C) agrees not to rely on such finding, judgement or decision; and (D) confirms its obligations and commits to fully perform its Obligations, such judgment shall also constitute a Specified Breach with respect to each such member of the related Payment Group which does not so reaffirm and disavow such judgment in accordance with this Section 9.01(f); and (y) to the extent such judgment relates to an Obligation other than a Payment Obligation, (i) the breach of which would be a Specified Breach, such judgment shall constitute a Specified Breach with respect to such Payment Party or (ii) the breach of which would be a Non-Specified Breach, such judgment shall constitute a Non-Specified Breach with respect to such Payment Party, and, in the case of either (y)(i) and (y)(ii), unless each other member of the related Payment Group reaffirms its liability and obligations with respect to this Agreement and/or the Collateral Documents which were the subject of such judgment in accordance with clauses (A)-(D) of this Section 9.01(f), within forty-five (45) calendar days of such notice, then such judgment shall constitute a Specified Breach or a Non-Specified Breach, respectively, with respect to each such member of the related Payment Group which does not so reaffirm and disavow such judgment in accordance with this Section 9.01(f).

(g) Collateral. Except as otherwise provided in this Agreement or any Collateral Document, including to the extent any such perfection is not required hereunder or thereunder, and except as the direct and exclusive result of an action or a failure to act on the part of the Secured Party (including the failure to maintain possession of certificates or instruments actually delivered to it representing securities or other possessory collateral pledged under the Collateral Documents or to file Uniform Commercial Code continuation statement), (i) except as set forth in clause (ii) of this Section 9.01(g), any Sackler Party's security interest and Lien on any of the Collateral purported to be created by any Collateral Document shall cease to be in full force and effect, or shall cease to give the Secured Party the Liens, rights, powers and privileges purported to be created and granted under such Collateral Document (including a valid, enforceable, perfected, first priority (except as otherwise expressly provided in this Agreement or such Collateral Document) security interest in and Lien on the Collateral thereunder in favor of the Secured Party), (ii) the Secured Party fails to have a validly perfected, first priority lien on and security interest in 100% of any Sackler Party's Equity Interests of the IAC Pledged Entities or (iii) it shall be asserted by or on behalf of any Sackler Party not to be, a valid, enforceable, perfected, first priority (except as otherwise expressly provided in this Agreement or such Collateral Document) security interest in or Lien on the Collateral covered thereby, which shall, upon notice by the MDT to the Sackler Parties' Representative or A-Side Payment Group 8 Representative (as applicable) pursuant to Section 11.01, constitute a Breach Trigger and which, if such Breach Trigger continues for thirty (30) or more days shall constitute a Specified Breach only with respect to such Sackler Party.

(h) Credit Support Annex Breaches. Each Breach Trigger, Specified Breach or Non-Specified Breach set forth in the Credit Support Annexes shall constitute a Breach Trigger, Specified Breach or Non-Specified Breach as expressly specified in and pursuant to the terms of the Credit Support Annexes.

(i) A-Side Payment Group 1 Cross-Breach. If any of A-Side Payment Group 5, A-Side Payment Group 6, A-Side Payment Group 7 (each of which includes the Fourth Tier Obligor as a member) breaches this Agreement in a manner that constitutes a Specified Breach, such breach shall also constitute a Specified Breach with respect to A-Side Payment Group 1.

(j) Breach of the Governmental Entity & Shareholder Direct Settlement Agreement. The occurrence of any events under Sections 13.04(d)(ii)(E)-(F) and 13.04(e)(ii)(E)-(F) of the Governmental Entity & Shareholder Direct Settlement Agreement shall be considered a "Specified Breach" under this Agreement and parties identified therein under the Governmental Entity & Shareholder Direct Settlement Agreement shall be permitted to exercise all remedies against the relevant Payment Party in accordance with this Article 9.

(k) Other Breaches. To the extent not enumerated in this Section 9.01 or otherwise under this Agreement as a Specified Breach (or Breach Trigger associated with a Specified Breach), any Sackler Party fails to perform or observe any term, covenant or agreement contained in this Agreement or any other Definitive Document on its part to be performed or observed, which, upon notice by the MDT to the Sackler Parties' Representative or A-Side Payment Group 8 Representative (as applicable) pursuant to Section 11.01, shall constitute a Breach Trigger, and which, if such Breach Trigger continues for thirty (30) or more days, shall constitute a Non-Specified Breach with respect to the Payment Group that includes such Sackler Party.

Section 9.02 Remedies

(a) Payment Group and Payment Party Breaches.

(i) Upon notice (such notice, a "Breach Notice") from the MDT of either a Specified Breach Trigger or a Specified Breach with respect to a Payment Group or, in the case of certain Specified Breaches as described in Section 9.01, a Payment Party (such Payment Group or Payment Party, as applicable, asserted to be in breach, the "Breaching Party"), the MDT shall forbear from exercising any and all remedies (including the Payment Remedy or the Release Remedy) with respect to such Breaching Party on account of such Breach Trigger or Specified Breach for a period of ten (10) Business Days following such Breach Notice, during which period such Breaching Party shall have the opportunity to contest in good faith that such Breach Trigger or Specified Breach, as applicable, has occurred pursuant to an expedited hearing in the Bankruptcy Court pursuant to Section 11.11(b) of this Agreement or otherwise (such proceeding brought pursuant to this paragraph (a), a "Dispute Proceeding"); *provided* that (A) the motion, application or other pleading filed with the Bankruptcy Court commencing such Dispute Proceeding includes a statement in writing that the Breaching Party believes in good faith that such Breach Trigger or Specified Breach has not occurred and the basis therefor, (B) the foregoing provision shall not apply, and shall not require MDT to forbear from exercising any and all remedies with respect to such Breaching Party, if such Dispute Proceedings are not brought within ten (10) Business Days following the Breach Notice (and the Remedies Forbearance Period shall be deemed to have expired after such ten (10) Business Day period if such Dispute Proceedings are not brought), (C) the sole issue that such Breaching Party may bring before the Bankruptcy Court in any such Dispute Proceeding is whether or not such Breach Trigger or Specified Breach has occurred and/or is continuing, (D) the MDT shall be entitled to contest before the Bankruptcy Court in any such Dispute Proceeding whether or not the Remedies Forbearance Period is applicable to the MDT due to the lack of a good faith dispute and (E) the Breaching Party shall seek to have the matters giving rise to the Dispute Proceeding heard on an emergency or expedited basis by the Bankruptcy Court (and all Sackler Parties party to the Dispute Proceeding hereby consent that the MDT shall also be entitled to seek such emergency or expedited hearing without further notice of any kind). If a Dispute Proceeding

has been brought before the Bankruptcy Court in accordance with the foregoing, the MDT shall further forbear from exercising any and all remedies (including the Payment Remedy or the Release Remedy) with respect to such Breaching Party on account of such Breach Trigger or Specified Breach until the later of (I) the end of the period specified by this Agreement during which the relevant Breach Trigger may be cured in accordance herewith before the occurrence of a corresponding Specified Breach, if applicable and (II) in the event the Bankruptcy Court determines in such Dispute Proceeding, after a good faith dispute, that a Breach Trigger or Specified Breach has occurred, ten (10) Business Days after the Bankruptcy Court has made its determination as to whether such Breach Trigger or Specified Breach has occurred. The forbearance periods described in this Section 9.02(a) shall be referred to herein as the "Remedies Forbearance Period". Notwithstanding anything to the contrary in this Section 9.02(a), the right to seek a Dispute Proceeding hereunder and the Remedies Forbearance Period shall not apply to (x) Specified Breaches referenced in Section 9.01(a) with respect to amounts that are not disputed in good faith pursuant to Section 2.07 and (y) Non-Specified Breaches (and Breach Triggers with respect thereto). For the avoidance of doubt, a Breaching Party shall not be permitted to bring a Dispute Proceeding with respect to a Specified Breach if a Dispute Proceeding has previously been brought with respect to a Breach Trigger that matured into such Specified Breach, except to the extent that the facts underlying such Specified Breach differ from those underlying such Breach Trigger. For the avoidance of doubt, the MDT may exercise its rights and remedies under Article 9 through a Secured Party or a designee (as appropriate), in its sole discretion.

(ii) If a Specified Breach has occurred and is continuing, then, to the extent applicable, following the expiration of the Remedies Forbearance Period and subject to the limitations set forth in Section 9.03 and the terms of the Collateral Trust and Intercreditor Agreement, with respect to each applicable Breaching Party, the MDT may:

(A) Option 1:

(1) Declare the Settlement Payment Obligations of the Payment Group of which the Breaching Party is a member to be immediately due and payable in whole by the Breaching Party, and thereupon the Settlement Payment Obligations or other Obligations, as applicable, so declared to be due and payable shall become due and payable immediately by the Breaching Party (the "Payment Remedy"), without presentment, demand, protest, or other notice of any kind, all of which are hereby waived by each Sackler Party; *provided*, that the MDT may, in its sole discretion, rescind any such declaration and its consequences if the rescission would not conflict with any judgment or decree (it being understood that no such rescission shall affect any subsequent Breach or impair any right or consequence thereto);

(2) The Secured Party shall have the right to foreclose on the Collateral securing the Obligations of the Breaching Party or liquidate or direct the liquidation of such Collateral in accordance with the applicable Collateral Documents and otherwise exercise remedies against such Collateral as provided in (and subject to) this Agreement (including the Credit Support Annexes) and the applicable Collateral Documents. Additionally, the MDT may pursue any other available remedy at law or in equity to collect the payment of the Settlement Payment Obligations and other Obligations, as applicable, and to the extent payable, of the applicable Payment Group from the Breaching Party or to enforce the

Breaching Party's performance under this Agreement and the Collateral Documents;

(3) The Breaching Party shall reimburse the Secured Party for all costs and out-of-pocket expenses incurred while the Breach Trigger or Specified Breach is continuing. Such reimbursement shall include (I) all costs and expenses incurred by the Secured Party related to any contest of such Breach Trigger or Breach, and (II) costs of collection and expenses, disbursements and advances of the Secured Party's agents, counsel, accountants and experts and all amounts due to the Secured Party under the Collateral Documents; and

(4) In the case of Specified Breach by a Breaching Party, such Breaching Party shall forfeit all rights pursuant to Section 2 of Exhibit N with respect to any Released Claims Reserve and the Special Operating Reserve;

or

(B) Option 2: If the Breaching Party is a Payment Party or a Payment Group, (1) declare the Shareholder Releases to be immediately void *ab initio* and of no further force or effect with respect to (I) if the Breaching Party is a Payment Party, such Payment Party or (II) if the Breaching Party is a Payment Group, or if the Breaching Party is a Payment Party whose Breach leads to a Specified Breach by the Payment Group as specified in this Agreement, or the Collateral Documents in each case and to the extent applicable, the Family Group of which the members of such Payment Group in Breach are members (it being understood for all purposes of this section that with respect to any such member of a Family Group that is an officer, director, trustee or protector with respect to trusts in the pertinent Family Group, such party is liable solely in their capacities as such) and, if a Designated Release Remedy Event has occurred, the Designated Shareholder Released Parties; whereupon; (2) the members of such Family Group and, if a Designated Release Remedy Event has occurred, the Designated Shareholder Released Parties, shall be deemed to not be Shareholder Released Parties under the Plan *nunc pro tunc* to the Plan Effective Date; (3) the *status quo ante* shall be restored with respect to the Shareholder Releases for the members of such Family Group, such Designated Shareholder Released Parties (if a Designated Release Remedy Event has occurred), the Debtors, the MDT, and each of the Releasing Parties (as defined in the Plan) with respect to the members of such Family Group and the Designated Shareholder Released Parties (if a Designated Release Remedy Event has occurred); (4) this Agreement and all related documents, including the Collateral Documents, shall be of no further force and effect with respect to such Family Group and, if a Designated Release Remedy Event has occurred, the Designated Shareholder Released Parties, except for any provisions thereof regarding reinstatement or any provisions contemplated to survive pursuant to Section 11.18 that shall survive indefinitely, *provided* that this Agreement and all related documents, including the Collateral Documents, and the Obligations thereunder (including the security interests under the Collateral Documents), shall be automatically reinstated in the event the Release Remedy or the related provisions of this Agreement are declared invalid, void or unenforceable; (5) for the avoidance of doubt, the Master Disbursement Trust and/or, if any Releasing

Parties' claims are not otherwise assignable to the Master Disbursement Trust, such Releasing Parties (solely for the benefit of the Master Disbursement Trust), shall be entitled to bring any claim or Cause of Action (on behalf of the Debtors and third parties subject to the Settlement) against such members of such Family Group and, if a Designated Release Remedy Event has occurred, the Designated Shareholder Released Parties as if the Shareholder Releases had never been granted; *provided* that, for the avoidance of doubt, the Shareholder Releases shall continue in effect for, and shall be fully enforceable by, all other Shareholder Released Parties (collectively, the "Release Remedy"); and (6) the Payment Group shall forfeit all rights pursuant to Section 2 of Exhibit N with respect to the Special Operating Reserve and any Released Claims Reserve. The rights exercised pursuant to Option 2 shall be applicable with respect to all claims against such Breaching Party that existed as of the Petition Date (as defined in the Plan), including without limitation, estate and third-party direct claims (the "Tolled Claims"), regardless of the allocation of payments of direct and estate claims among the Settlement Agreements. Such claims may be pursued by the Master Disbursement Trust and, if any Releasing Parties' claims are not otherwise assignable to the Master Disbursement Trust, such Releasing Parties (solely for the benefit of the Master Disbursement Trust). To effectuate the intent of this section, each of the Shareholder Released Parties and the other signatories hereto agree that (and the Confirmation Order shall also independently provide that) any and all periods for commencing or continuing any Tolled Claim, whether fixed by statute, agreement, order, or otherwise, shall not expire until the Payment Obligations are paid in full and no Shareholder Released Party shall assert otherwise in the litigation of any such Tolled Claim.[13]

(C) Cause the Breaching Party to forfeit all rights pursuant to Section 2 of Exhibit N with respect to the Special Operating Reserve and any Released Claims Reserve, regardless of whether the MDT exercises Option 1 or Option 2.

(iii) The MDT shall be entitled to elect to exercise the Payment Remedy and all other remedies set forth in Section 9.02(a)(ii)(A) or the Release Remedy and all other remedies set forth in Section 9.02(a)(ii)(A), but in no event shall the MDT be entitled to elect or exercise the Payment Remedy or any other remedy set forth in Section 9.02(a)(ii)(A) simultaneously with the Release Remedy. If the MDT elects the Payment Remedy (or other remedies set forth in Section 9.02(a)(ii)(A)), it shall not be prohibited from electing the Release Remedy (subject to Section 9.02(a)(iii)(A) below), but if the MDT elects the Release Remedy, it shall be prohibited from electing the Payment Remedy (or other remedies set forth in Section 9.02(a)(ii)(A)). The MDT's exercise of remedies shall also be subject to the following:

(A) Following the election of the Payment Remedy with respect to a Breaching Party, the MDT may, at any time, but only upon thirty (30) calendar days' prior written notice to the Sackler Parties' Representative or A-Side Payment Group 8 Representative (as applicable) (*provided* that during such period, the MDT shall be entitled to seek (without limitation) a temporary restraining order or similar relief enjoining the Breaching Party (and if the Breaching Party is a Payment Group all members of the corresponding Family Group) from taking actions with respect to any material amount of his, her or its property with the intent or material effect of frustrating the enforcement of the Shareholder Released Claims), elect to

[13] NTD: To be included in further assurances undertaking and trust certifications.

forgo any and all rights to exercise or continue to exercise the Payment Remedy with respect to such Breaching Party and to instead exercise the Release Remedy with respect to such Breaching Party (and if the Breaching Party is a Payment Group the members of the corresponding Family Group) of which the members of such Payment Group in Breach are members and, if a Designated Release Remedy Event has occurred, the Designated Shareholder Released Parties. For the avoidance of doubt, if the MDT exercises the Release Remedy in respect of a Family Group, any payments of the Settlement Payment Obligations, Breach Fee or any other Obligations made by or on behalf of a Family Group (including, without limitation, in connection with the exercise of a Payment Remedy) prior to the exercise of the Release Remedy shall not be returned to the Breaching Party, but such Breaching Party shall be entitled to credit (without duplication) any such amounts that were actually received by the MDT against future judgments related to litigation in connection with the exercise of the Release Remedy. For the avoidance of doubt, the MDT shall be permitted to elect the Release Remedy at the outset (without first electing the Payment Remedy), in which case, the thirty (30) day notice period above shall not apply.

(B) If, following the election of the Release Remedy with respect to a Family Group, any court of competent jurisdiction enters an order declaring the Release Remedy or the related provisions of this Agreement invalid, void or unenforceable with respect to such Family Group, the MDT's rights to exercise the Payment Remedy with respect to the Payment Group in Breach related to such Family Group pursuant to this Agreement and all related documents, including the Collateral Documents (and the liens granted therein), shall be automatically reinstated, and the MDT may exercise such Payment Remedy with respect to such Payment Group.

(iv) With respect to A-Side Payment Group 1 and A-Side Payment Group 7 (each of which includes Millennium Trust and Perelle Bay Trust as members), a Breach by any such Payment Group shall give rise to remedies in respect of, and the MDT shall be entitled to exercise any and all remedies (including the Payment Remedy or the Release Remedy) pursuant to Section 9.02 with respect to, Millennium Trust and Perelle Bay Trust in addition to all other Payment Parties within such Payment Group that are not Crossover Members; *provided* that the proceeds resulting from any such exercise of remedies shall be allocated ratably (i.e., 50/50) to A-Side Payment Group 1 and A-Side Payment Group 7, with the proceeds segregated and allocated to any breaching Payment Group being applied in accordance with Section 9.02(d) and any proceeds allocated to a non-breaching Payment Group being deposited into one or more escrow accounts of the Secured Party to secure the obligations of such non-breaching Payment Group; [provided that each such escrow account receives proceeds attributable to a single Transferor.][14]

(v) In the event the MDT is entitled to exercise remedies (including the Payment Remedy or the Release Remedy) pursuant to Section 9.02 with respect to any A-Side General Obligor, the proceeds resulting from any such exercise of remedies shall be segregated and shall be allocated (x) solely in the event that the $133 million payable on the Settlement Effective Date pursuant to Section 2.01(g) has not been paid, to A-Side Payment Group 8 until such amount has been paid and (y) in all other circumstances, ratably (i.e., one-seventh each) to each A-Side Payment Group other than A-Side Payment Group 8, with the proceeds allocated to any breaching such A-Side Payment Group being applied in accordance with Section 9.02(d) and the proceeds

[14] **NTD**: There needs to be a process to determine how this will occur.

allocated to the non-breaching Payment Groups being deposited into one or more escrow accounts of the Secured Party for the benefit of each A-Side Payment Groups that are not in Breach until the next Payment Date (or until the exercise of rights and remedies against such A-Side Payment Group if it subsequently is in Breach), at which time such amounts shall be applied against such A-Side Payment Group's obligations; [provided that each such escrow account receives proceeds attributable to a single Transferor.][15]

(vi) If a Non-Specified Breach has occurred and is continuing, the MDT shall have the right to seek any additional remedy available at law or equity, including specific performance, damages and/or default interest, and if appropriate, subject to the discretion of the Bankruptcy Court, sanctions.

(vii) The Confirmation Order shall provide that each Party is required to comply in good faith with the terms of this Agreement and applicable Collateral Documents to which it is party.

(b) Delay or Omission. A delay or omission by the MDT in exercising any right or remedy accruing upon a Breach shall not impair the right or remedy or constitute a waiver of or acquiescence in such Breach or any other Breach. Except as set forth in Section 9.02(a)(iii) above, no remedy is exclusive of any other remedy, and all remedies are cumulative.

(c) Waiver of Past Breaches. The MDT may waive an existing Breach and its consequences. When a Breach is waived, it is deemed cured and the MDT and the Sackler Party or Payment Group in Breach will be restored to its former positions and rights under this Agreement, but no such waiver shall extend to any subsequent or other Breach or impair any consequent right.

(d) Priorities. If a Breach has occurred, and the Secured Party collects any cash or property from the members of the Payment Group in Breach (including any Crossover Member that is a part of such Payment Group, but subject to Section 9.03), it shall apply the cash or property (upon conversion of the property to cash) in the following order: *first*, to the Secured Party for all costs out-of-pocket expenses incurred or made by it, including costs of collection and expenses, disbursements and advances of the Secured Party's agents, counsel, accountants and experts and all amounts due to the Secured Party under the relevant Collateral Documents and hereunder; *second*, to pay Breach Fees due hereunder; *third*, to pay the Payment Obligations of the relevant Payment Group to which the Breaching Party belongs pursuant to this Agreement; and *fourth*, with respect any remaining cash or property collected from (i) A-Side Payment Group 1 (including the Fourth Tier Obligor but excluding Millennium Trust and Perelle Bay Trust), to be deposited by the Secured Party into an escrow account to secure, on a pro rata basis, the Obligations of A-Side Payment Group 5, A-Side Payment Group 6 and A-Side Payment Group 7 and (ii) Millennium Trust and Perelle Bay Trust, to be deposited by the Secured Party into an escrow account to secure the Obligations of A-Side Payment Group 7.

(e) Application of Payment Shortfall. If a Payment Party fails to make a payment required to be made on a Payment Date, the MDT shall ratably reduce the amounts paid under each Settlement Agreement, such that the aggregate reductions equal the amount of the payment shortfall from such Payment Party. For the avoidance of doubt, the reductions made pursuant to this Section 9.02(e) shall not reduce the amount of the Settlement Payment owed by the applicable Payment Group and shall not affect any rights of the MDT related to such nonpayment pursuant to this Agreement.

Section 9.03 Certain Limitations. Notwithstanding anything to the contrary set forth herein, with respect to any A-Side General Obligor or any other Crossover Member (other than Millennium Trust

[15] **NTD**: There needs to be a process to determine how this will occur.

and Perelle Bay Trust), and any Payment Group that contains any such Crossover Member (including each A-Side Payment Group with respect to the A-Side General Obligors):

(a) No A-Side General Obligor shall have any liability or obligation in respect of any covenant or other obligation of any other Payment Party, but shall be liable only for the obligations specifically applicable to such A-Side General Obligor (excluding, for the avoidance of doubt, any such obligations that arise solely as a result of being included in a Payment Group but including, for the avoidance of doubt, its obligations as an A-Side General Obligor under Section 2.01(b)).

(b) A Breach by a Crossover Member (including any A-Side General Obligor, but excluding Millennium Trust and Perelle Bay Trust) shall not constitute a Breach by, or give rise to any remedies in respect of, any Payment Party other than such Crossover Member, and the MDT shall be entitled to exercise any and all remedies (including the Payment Remedy or the Release Remedy) pursuant to Section 9.02 solely with respect to such Crossover Member and not any other Payment Party or Family Group member as a result of such Breach by such Crossover Member.

(c) A Breach by any Payment Party that is not a Crossover Member (or a Breach by any Payment Group of which such Crossover Member is a member that is not the result of a Breach by such Crossover Member) shall not constitute a Breach by, or give rise to remedies in respect of, any Crossover Member (including any A-Side General Obligor but excluding Millennium Trust and Perelle Bay Trust). For the avoidance of doubt, upon any such Breach, the MDT shall be entitled to exercise any and all remedies (including the Payment Remedy or the Release Remedy) pursuant to Section 9.02 with respect to each Payment Party that is not a Crossover Member within the breaching Payment Party's Payment Group and, as applicable, the Designated Shareholder Released Parties.

(d) No A-Side General Obligor shall have any obligation in respect of any Breach Fee payable by any Payment Group (or by any other Payment Party), but shall be liable only for any Breach Fee payable in respect of a Breach by such A-Side General Obligor pursuant to Section 9.01.

Section 9.04 Trustee and Personal Representative Liability. The MDT agrees and acknowledges that certain of the Sackler Parties are trustees for the Trusts; that the trustees of such Trusts are entering into this Agreement solely in their capacities as trustees and not individually; any remedy, recourse or right of recovery against a Trust or the JDS Estate is limited to the assets of such Trust or the JDS Estate, as the case may be; and the trustees of such Trusts or personal representative of the JDS Estate shall have no personal liability hereunder except in the case of a trustee's or personal representative's own fraud or willful misconduct. For purposes of this Section 9.04, the term "willful misconduct" means action taken (or not taken) in bad faith and with actual knowledge that such action (or failure to act) is unlawful, prohibited or false and will be harmful to the MDT with respect to its rights or remedies under this Agreement.

Section 9.05 Breach Fee.

(a) In light of the impracticability and extreme difficulty of ascertaining actual damages, the Breaching Party shall pay a fee, as a liquidated damage, to the MDT on (i) the Settlement Payment Obligations and (ii) any other Payment Obligations (other than Breach Fee amounts) that are, in the case of this clause (ii), then due and owing by the Breaching Party, in each case in an amount equal to 10% per annum (a "Breach Fee"), which fee shall accrue from and after the date of the occurrence of a Specified Breach and be payable upon demand and shall continue until the earlier of the date (x) such Specified Breach is no longer continuing or (y) the Settlement Payment Obligations and all other Obligations (including accrued Breach Fees) have been paid; *provided* that:

(i) no Breach Fee shall accrue from and after the date of the occurrence of a Specified Breach or be payable in accordance with the foregoing if the Breaching Party has cured such Specified Breach prior to the expiration of the Remedies Forbearance Period;

(ii) if the Breaching Party initiates a Dispute Proceeding in accordance with Section 9.02(a), the Breaching Party shall reimburse the MDT for all legal fees and expenses incurred in connection with such Dispute Proceeding unless the Bankruptcy Court determines that a Specified Breach has not occurred; and

(iii) the Breaching Party acknowledges and agrees that if no Breach Fee is payable as a result of clause (A) of this proviso, the MDT may seek compensatory damages from the Breaching Party (either during a Dispute Proceeding or in a subsequent proceeding) in connection with such Specified Breach.

(b) For the avoidance of doubt:

(i) If the Breaching Party seeks to initiate a Dispute Proceeding in accordance with Section 9.02(a) and the Bankruptcy Court determines that there is not a good faith dispute with respect to the Specified Breach, (I) the Breach Fee shall accrue from and after the date of the occurrence of a Specified Breach and be payable upon demand and shall continue until the earlier of the date (x) such Specified Breach is no longer continuing or (y) the Settlement Payment Obligations and all the other Payment Obligations, including accrued Breach Fees, have been paid, and (II) the Breaching Party will reimburse the MDT for all legal fees and expenses incurred in connection with such Dispute Proceeding; and

(ii) if the Bankruptcy Court determines following a Dispute Proceeding in accordance with Section 9.02(a) that a Specified Breach has not occurred, no Breach Fee or any other amounts shall be owed or payable in connection therewith by the Breaching Party (and the Breaching Party shall not be required to reimburse the MDT for any legal fees or expenses incurred in connection with such Dispute Proceeding).

The foregoing computation shall be made on the basis of a year of 365 or 366 days, as the case may be.

Section 9.06 Reinstatement. In the event the MDT, any Creditor Trust or any recipient of a distribution from a Creditor Trust is required in any insolvency or liquidation proceeding or otherwise to disgorge, turn over or otherwise pay any Recovery as contemplated under Section 9.01(d) then the Settlement Payment Obligations shall be reinstated to the extent of such Recovery and deemed to be outstanding and the MDT shall be entitled to the benefits of this Agreement until the payment in full of the Settlement Payment Obligations with respect to such Recovery. If this Agreement and/or the Collateral Documents shall have been terminated prior to such Recovery, this Agreement and/or the Collateral Documents (and the Liens granted thereunder) shall be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto, until such time as such Recovery has been paid to the MDT pursuant to Section 9.01(e).

Section 9.07 Turnover. Except for any amounts paid to the [Private Claimants Trust] on the Settlement Effective Date, any and all distributions paid directly to any of the non-federal governmental entities or the private claimants by any of the Sackler Parties shall be received in trust for the benefit of all non-federal governmental entities and private claimants, and shall be segregated from other funds of such non-federal governmental entity or private claimant and shall be paid over to the MDT which shall be distributed in accordance with the terms of this Agreement.

Section 9.08 Special Provisions Regarding Insolvencies and Judgments

(a) If, except as part of any probate proceeding, (i) a Payment Party (other than a De Minimis Payment Party) files for or consents to any insolvency, bankruptcy, reorganization, winding-up, administration, insolvency-related dissolution, composition or similar proceeding under applicable law, (ii) a Payment Party appoints, applies for or consents to the appointment of any receiver, administrator, administrative receiver, trustee, custodian, conservator, liquidator, rehabilitator, judicial manager, provisional liquidator, administrator, receiver and manager, controller, monitor or similar officer for it or for all or any material part of its property in connection with an insolvency related event, (iii) an administrator, administrative receiver, trustee, custodian, conservator, liquidator, rehabilitator, judicial manager, provisional liquidator, administrator, receiver and manager, controller, monitor or similar officer is appointed in connection with an insolvency-related event without the application or consent of such Payment Party and the appointment is undischarged or unstayed for thirty (30) calendar days, or (iv) any insolvency, bankruptcy, reorganization, winding-up, administration, dissolution, composition or similar proceeding relating to any Payment Party or to all or a material part of its property is instituted without the consent of such Payment Party and continues undismissed or unstayed for thirty (30) calendar days (clauses (i)-(iv), collectively, "Insolvency Proceedings"), such event shall cause the total aggregate amount of Payment Obligations of such Payment Group to automatically become immediately due and payable in whole, and be deemed accelerated against such Payment Party (but not any other Payment Party in its Payment Group), in each case, without presentment, demand, protest or other notice of any kind, or any action by the Master Disbursement Trust, and claims for such amount may be asserted without reduction or adjustment in such Insolvency Proceeding on account of the Settlement Payment Obligations hereunder of other Payment Parties in such Payment Group, all of which are waived by each Payment Party hereby (for the avoidance of doubt, without limiting the application of Section 9.08(d);

(i) If any party files a motion pursuant to section 105(a) of the Bankruptcy Code (as defined in the Plan) or otherwise seeks to extend any injunction in such Insolvency Proceeding to enjoin any Sackler Party not party to the Insolvency Proceeding from performing under this Agreement and/or the MDT or Settling Parties from enforcing their rights against a Sackler Party not party to the Insolvency Proceeding under this Agreement, each member of the related Payment Group(s) shall be obligated to use reasonable best efforts: (A) to have such motion withdrawn or modified to permit enforcement of this Agreement in advance of any objection deadline or, (B) in the absence of the withdrawal or modification of the motion, to object to such motion on a timely basis. If, notwithstanding such foregoing efforts such motion is granted, each member of the related Payment Group(s) prospectively waives in connection herewith, and shall be obligated to use reasonable best efforts to retroactively waive following the granting of such motion, any and all benefits of any such injunction and to otherwise reaffirm the enforceability of the Agreement and related Definitive Documents within twenty (20) calendar days of the entry of such order. Each member of the related Payment Group(s) shall be further obligated to use reasonable best efforts to appeal any order granting the motion on a timely basis. If any member of the related Payment Group(s) fails (X) to object to the motion, (Y) to waive the benefits of the injunction and/or (Z) to pursue appeals in respect of the order granting such motion, in each case, as set forth in this Section 9.08(a)(i), such failure shall constitute a Specified Breach with respect to each such breaching Payment Party and shall cause the total aggregate amount of Payment Obligations of such Payment Group of such Payment Party as against such failing additional member(s), to automatically become immediately due and payable in whole, and be deemed accelerated, in each case, without presentment, demand, protest or other notice of any kind, or any action by the Master Disbursement Trust, and claims for such amount may be asserted without reduction or adjustment on account of the Payment Obligations hereunder of other Payment Parties in such Payment Group, all of which are waived by each Payment Party hereby (for the avoidance of doubt, without limiting the application of Section 9.08(d)).

(ii) In light of the Master Disbursement Trust's status as a secured creditor, the Master Disbursement Trust shall be entitled to seek and the Payment Party(ies) in such Insolvency Proceeding shall consent to, a traditional adequate protection package, including replacement liens, superpriority administrative expense claims and current payments of (A) Payment Obligations and (B) professional fees in such Insolvency Proceeding, as shall be further documented in the Credit Support Annexes. The Master Disbursement Trust shall be entitled to seek, and the Payment Party in such Insolvency Proceeding shall consent to, an additional Allowed Claim in such Insolvency Proceeding solely against such insolvent Payment Party for (i) reasonable and documented fees and expenses incurred in the enforcement of Master Disbursement Trust's rights under this Agreement in connection with such proceedings, which such Allowed Claim shall be payable consistent with the priorities set forth in Section 9.02(d) and (ii) the amount of then unpaid Settlement Payment Obligations for all other Payment Groups, determined for these purposes and solely for these purposes as though such Payment Party's Obligations were instead joint and several across all Payment Groups (the "Limited Deemed Joint and Several Allowed Claim"), and not solely within its Payment Group, in respect of the contingent potential for the Master Disbursement Trust to exercise the Release Remedy to otherwise facilitate the actual recovery in full of the Master Disbursement Trust from such Payment Party on account of the Settlement Payment Obligations of its Payment Group, with any Shareholder Release and Channeling Injunction for such Payment Party deemed modified, to the extent necessary and appropriate, to permit the assertion by the Master Disbursement Trust of such Claim in respect of direct and estate Causes of Action previously released by the Settling Parties; *provided, however*, that it shall be understood that for purposes of the Limited Deemed Joint and Several Allowed Claim, the Parties agree that: (x) the Limited Deemed Joint and Several Allowed Claim is reasonable in light of the potential Release Remedy and such an agreement on the liquidated amount of such Claim is the product of an arm's length transaction between sophisticated business people, ably represented by counsel; (y) there has been a course of conduct between Settling Parties and the Shareholder Released Parties giving specific consideration in this settlement for such agreement to permit the assertion and allowance of the Limited Deemed Joint and Several Allowed Claim; and (z) such Payment Party expressly acknowledges that its agreement to permit the assertion and allowance of the Limited Deemed Joint and Several Allowed Claim herein described is a material inducement to the Settling Parties; *provided, further, however*, the aggregate amounts recovered on account of such Limited Deemed Joint and Several Allowed Claim in excess of amounts otherwise owing under this Agreement by such Payment Party shall be paid directly to the applicable Payment Group or Payment Groups, if such Payment Party is a part of multiple Payment Groups. The Limited Deemed Joint and Several Allowed Claim and the related limited exception to the Shareholder Release is granted in lieu of, and to avoid any litigation with respect to, any Causes of Action (including contingent Causes of Action) that otherwise may be asserted in connection with any rights that exist on account of the potential Release Remedy against any applicable Payment Party subject to an Insolvency Proceeding, and such claim and exception is conditioned upon no Settling Party asserting any Causes of Action in such Insolvency Proceeding in connection with the Release Remedy, including asserting any argument on the merits of any Cause of Action subject to the Shareholder Releases.

(b) If any Payment Party is subject to a Major Judgment, then the full amount of the aggregate Payment Obligations of the Payment Group of such Payment Party shall, upon notice from the Master Disbursement Trust, be deemed accelerated and immediately due and payable in whole by such Payment Party (but only such Payment Party); provided that if at any subsequent time the Major Judgment no longer exists, then such aggregate Payment Obligations shall no longer be accelerated or immediately due and payable and such amounts shall instead by payable in accordance with the terms of this Agreement as if no such Major Judgment had existed.

(c) Reserved.

(d) Any amounts recovered by the Master Disbursement Trust in any Insolvency Proceeding of a Payment Party or any other proceeding of any type or nature in which claims of creditors of any Payment Party subject to a Major Judgment are determined or payment or distribution is made on account of such claims (including a foreclosure sale) shall be applied to prepay, in each case, without any discount, the Payment Obligations of such Payment Party's Payment Group or Payment Groups in direct order of maturity and on a dollar-for-dollar basis (with payments applied equally across Payment Groups if such Payment Party is a member of multiple Payment Groups).

Section 9.09 Effect of Acceleration. For the avoidance of doubt: (i) the acceleration of Payment Obligations pursuant to this Agreement as against a Payment Party but not all of other the Payment Parties in such Payment Party's Payment Group (whether as the result of (a) commencement of an Insolvency Proceedings, the occurrence of a Major Judgment or otherwise or (b) the exercise of remedies by the MDT following a Specified Breach) shall not result, on its own, in the acceleration of any Obligation as against any other Person, including other Payment Parties in the same Payment Group, and no other Person shall be obligated jointly or otherwise to satisfy such Payment Obligations on an accelerated basis or shall be in default for not satisfying all or any portion of the accelerated Payment Obligations until it would have been due if not accelerated in accordance with the terms of this Agreement; (ii) the exercise of the Payment Remedy against a Payment Party but not all the Payment Parties in such Payment Party's related Payment Group (whether the result of the occurrence of a Specified Breach, the occurrence of a Non-Specified Breach, the commencement of an Insolvency Proceeding, the occurrence of a Major Judgment or otherwise) shall not constitute, or form the basis for, on its own, a Specified Breach, a Non-Specified Breach, or an accelerated Obligation of any other Payment Party, a related Payment Group, or any other Person and (iii) the acceleration of Payment Obligations pursuant to this Agreement with respect to a Payment Group as opposed to an individual Payment Party as the result of the exercise of remedies by the MDT following a Specified Breach shall result in the acceleration of the Payment Obligations of such Payment Group against all of the Payment Parties in such Payment Group (subject to Section 9.03) and shall not, in and of itself, result in the acceleration of Payment Obligations against any other Payment Group.

ARTICLE 10.
CONDITIONS PRECEDENT

Section 10.01 Settlement Effective Date.

(a) The "Settlement Effective Date" shall be the first date on which each of the following conditions has been satisfied or waived by the Sackler Parties' Representative and the MDT, with the consent of the Governmental Consent Parties and the Creditors' Committee (which consent shall not be unreasonably withheld or delayed) (except with respect to the conditions in subparagraphs (iv), (vi), (viii)-(x), and (xii)-(xvii) in this Section 10.01(a)), which may be waived by the MDT in its sole discretion, with the consent of the Governmental Consent Parties and the Creditors' Committee (which consent shall not be unreasonably withheld or delayed), *provided* that should the MDT waive any such conditions with respect to a Sackler Party without the consent of the Sackler Parties' Representative (pursuant to this Section 10.01(a)), then in no event may the MDT (or any other Party) subsequently claim that there has been a Breach due to the failure of the Sackler Parties to satisfy any such condition or any matter related thereto:

(i) the Disclosure Statement Order (A) shall be in full force and effect and (B) shall not have been reversed, modified or stayed, or be subject to a motion to stay;

(ii) the Confirmation Order (A) shall be in full force and effect and (B) shall not have been reversed, modified or stayed, or be subject to a motion to stay;

(iii) the Definitive Documents shall have been executed and delivered by each of the parties thereto and are in form and substance acceptable to the Sackler Parties' Representative in accordance with Section 11.08, and to the other parties thereto in accordance with the consents set forth therein or in the Plan;

(iv) the Rosetta Trust shall have been funded by one or both of the Funding Trusts with Cash Equivalents (as defined in Annex B) in an amount not less than the Initial Collateral Account Amount (as defined in Annex B);

(v) the approval of the terms of this Agreement and the Settlement Agreements, and of the appointment in further trust of the funding of the Rosetta Trust by one or both of the Funding Trusts as set forth in Section 10.01(a)(iv) and the confirmation of the authority of the trustees of each A-Side Payment Party that is a Trust whose Governing Law Jurisdiction is or includes the law of Jersey (Channel Islands) to enter into and perform all obligations thereunder (including, but not limited to, all payment obligations, provision of security and disclosure of documents) by the Royal Court of Jersey (Channel Islands) in connection with a pleading to be brought before that court by each Relevant Jersey Trust and to which all beneficiaries required for the Royal Court of Jersey to issue an order binding on all trust beneficiaries thereof (including those not in attendance) are to be convened and shall have the ability/opportunity to object to the grant of such approval to the trustees of each such Relevant Jersey Trust;

(vi) the MDT shall have received a certificate executed by the trustees of the Rosetta Trust certifying which of the Funding Trusts provided all or any portion of the funding set forth in Section 10.01(a)(iv) and that attached thereto is a true and correct copy of the Funding Trust Appointment with respect to each such Funding Trust and that each such Funding Trust Appointment was consented to by all of the beneficiaries necessary under the laws of such Funding Trust's Jurisdiction of Administration to non-judicially settle an account of proceedings of the trustees thereof covering the exercise of the power of appointment referred to in Section 10.01(a)(v);

(vii) the Master Disbursement Trust has become party to and bound by this Agreement and has assumed all obligations of the MDT as provided in this Agreement;

(viii) the MDT shall have received a copy of the Court Order issued by the Royal Court of Jersey (Channel Islands) or an extract thereof verifying the approval and confirmation set out in Section 10.01(a)(v) above;

(ix) the MDT shall have received Opinions of Counsel regarding:

(A) The corporate and/or trustee authority of the Sackler Parties that are not natural persons to enter into this Agreement and the Collateral Documents except, with respect to any Trust, solely to the extent such authority is addressed to the reasonable satisfaction of the MDT in the Court Order received by the MDT pursuant to Section 10.01(a)(viii); and

(B) The corporate and/or trustee authority of the IAC Payment Parties that are not natural persons and the IAC Pledgors to enter into the IAC Collateral Documents;

(x) each of the Persons listed on Exhibit K shall have executed and delivered to the MDT a Further Assurances Undertaking substantially in the form of Exhibit P;

(xi) the Plan Effective Date shall occur substantially simultaneously with the occurrence of the Settlement Effective Date;

(xii) the MDT shall have received the payment of the first Settlement Payment from each Payment Group;

(xiii) the conditions precedent set forth in each of the Credit Support Annexes shall have been satisfied (or waived) in accordance therewith;

(xiv) the Trustees of each Sackler Party that is a Trust shall have provided a Trust Certification to the MDT substantially in the form of Exhibit Q;

(xv) the personal representative of the JDS Estate shall have provided an Estate Certification to the MDT substantially in the form of Exhibit S;

(xvi) each Restricted Person that is not a Sackler Party shall have delivered an agreement reasonably satisfactory to the MDT to the effect that such Restricted Person has agreed to abide by the covenant set forth in Section 8.09;

(xvii) each Secondary Restricted Person that is not a Sackler Party shall have delivered an agreement reasonably satisfactory to the MDT to the effect that such Secondary Restricted Person has agreed to abide by the covenant set forth on Exhibit H-3;

(xviii) each of the Settling States and Participating Subdivisions under the Governmental Entity & Shareholder Direct Settlement Agreement have delivered Third Party Releases and, concurrently with the Settlement Effective Date, such releases are effective;

(xix) with respect to each Opt-Out Class Action Settlement, (x) the applicable Settlement Agreement shall have been executed and all amounts required to be paid thereunder on the Settlement Effective Date shall have been paid, or (y) all amounts payable by the Payment Parties to the MDT and members of the corresponding Class pursuant to this Agreement (and under the Plan) on the Plan Effective Date shall have been funded by the Payment Parties into a Grantor Trust Arrangement in a manner reasonably acceptable to the Creditors' Committee;

(xx) other than the Opt-Out Class Action Settlements and this Agreement, each Settlement Agreement shall have been executed and all amounts required to be paid thereunder on the Settlement Effective Date shall have been received or will be funded simultaneously with the consummation of the Plan, and all of the conditions precedent to the effectiveness of each Settlement Agreement shall have been satisfied or waived in accordance with the terms of such Settlement Agreement;

(xxi) the Credit Support Annexes, Collateral, and Collateral Documents shall be in a form and manner that is acceptable to all Parties, the Governmental Consent Parties and the Creditors' Committee; and

(xxii) the Sacklers Parties' Representative, Governmental Consent Parties, the Debtors, and the Creditors' Committee shall have reached agreement with respect to the matters contemplated by Footnote 1 to Exhibit N.

(b) The obligations of each Party under this Agreement are subject to, and shall become effective upon, the occurrence of the Settlement Effective Date. Notwithstanding the foregoing sentence,

the following obligations (and only the following obligations) shall become effective upon the Agreement Effective Date (*provided* that the obligations of any A-Side Payment Party that is a Trust whose Governing Law Jurisdiction is or includes the law of Jersey (Channel Islands) shall become effective only on the date such A-Side Payment Party receives a Court Order applicable to it described in Section 10.01(a)(v)):

(i) the obligations set forth in Section 8.02 (No Interference), Section 8.07 (Notification of Breach), Section 8.08 (Opioid Business), and Section 8.10 (Opinions of Counsel);

(ii) each obligation expressly provided to be effective upon the Agreement Effective Date herein; and

(iii) the obligation of the Payment Parties to pay the first Settlement Payment Obligation on the Settlement Effective Date.

(c) [In addition to the conditions to the Settlement Effective Date set forth above, the Settlement Effective Date shall not occur until either (x) any Payment Party that is a decedent's estate, as well as any Payment Party that is a Trust that explicitly guarantees such estate's obligations, shall have secured final approval to the entry into and performance under the relevant Definitive Documents (including the consummation of the transactions contemplated thereby) by the applicable court, and any time period to lodge an initial appeal of such court's approval has expired without any such appeal being lodged, or if such an appeal is timely lodged, it has been denied or withdrawn or (y) the other Payment Parties of each applicable Payment Group shall have agreed with the MDT on alternative collateral accommodations acceptable to the MDT, the Governmental Consent Parties and the Creditors' Committee in their sole and absolute discretion. This condition may not be waived with respect to any Payment Party that is a decedent's estate, or Payment Party that is a Trust that explicitly guarantees such estate's obligations, without the prior written consent of the MDT, the Governmental Consent Parties and the Creditors' Committee. For the avoidance of doubt, none of the Sackler Parties' Representative or any Payment Party or any other member of a Family Group shall have any rights related to the waiver of this condition.]

(d) [For the avoidance of doubt, (i) any Payment Party that is a decedent's estate shall not be bound by the terms of this Agreement or the Definitive Documents until final approval has been granted by the applicable court as described in Section 10.01(c) and any time period to lodge an initial appeal of such court's approval has expired without any such appeal being lodged, or if such an appeal is timely lodged, it has been denied or withdrawn, and (ii) with respect to any Trust explicitly guaranteeing the Obligations of a Payment Party that is a decedent's estate, such guarantee shall not be binding on such Trust until final approval has been granted by the applicable court. Once such approvals are obtained, each such Payment Party shall be bound by this Agreement and the Definitive Documents.]

ARTICLE 11.
MISCELLANEOUS

Section 11.01 Notices. All notices, requests and other communications required or permitted under, or otherwise made in connection with, this Agreement, shall be in writing and shall be deemed to have been duly given (a) when delivered in person, (b) upon receipt after dispatch by registered or certified mail, postage prepaid, (c) on the next Business Day if transmitted by national overnight courier (with confirmation of delivery) or (d) on the date delivered if sent by email (with confirmation of delivery), in each case, addressed as provided in a separately provided addendum to this Agreement (the "Notices Addendum").

Notices and other communications sent shall be deemed to have been given when received unless otherwise provided in this Section 11.01; *provided* that if such notice or other communication is not received during the normal business hours of the recipient, such notice or communication shall be deemed to have been received at the opening of the business on the next Business Day for the recipient. Each of the Parties may change its notice address provided for in the Notices Addendum by notice to the other Parties hereto.

Section 11.02 Payments Received. Each payment made by or on behalf of the Payment Groups under this Agreement shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff (except as set forth in Exhibit N) and shall be made to the MDT to an account as the MDT may designate from time to time in U.S. dollars, and in immediately available funds by 11:59 p.m. (New York City time) on the date specified herein. Except as otherwise set forth herein, if any payment to be made by the Payment Groups would have come due on a day other than a Business Day, payment shall be due on the next following Business Day.

Section 11.03 Survival of Representations and Warranties. All representations and warranties made by a Sackler Party hereunder and in any other document delivered pursuant hereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof for so long as the Payment Obligations of the Payment Groups of which such Sackler Party is a member and any other amounts owed hereunder by such Payment Groups remain outstanding (accounting, in the case of an A-Side Payment Group, for the maximum amount the A-Side Payment Group may be liable for hereunder). Such representations and warranties have been or will be relied upon by each Party, regardless of any investigation made by any Party or on their behalf, and shall continue in full force and effect as long as any Payment Obligations of the Payment Groups of which such Sackler is a member and any other amounts owed hereunder by such Payment Groups remains outstanding (accounting, in the case of an A-Side Payment Group, for the maximum amount the A-Side Payment Group may be liable for hereunder).

Section 11.04 Remedies Cumulative; Specific Performance. Subject to Section 3.07, (a) the rights and remedies of the Parties shall be cumulative (and not alternative) and not exclusive of any rights, remedies, powers and privileges provided by Law, (b) the Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and (c) that the Parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement or to enforce specifically the performance of the terms and provisions of this Agreement in addition to any other remedy to which they are entitled at law or in equity, in each case without the requirement of posting any bond or other type of security. For avoidance of doubt, no failure of the MDT or Settling States under any provision of this Agreement or the Collateral Documents shall excuse performance by the Sackler Parties of their respective Obligations.

Section 11.05 Confession of Judgment.

(a) On or before the Settlement Effective Date, each Sackler Party shall execute and deliver a confession of judgment, in substantially the form attached hereto as Exhibit Y (each, a "Confession of Judgment") and agrees, from time to time upon written request by the MDT, to deliver all supplements (or if so required, new Confessions of Judgment) that the MDT determines are reasonably necessary to maintain the effectiveness and validity of any such Confession of Judgment. For the avoidance of doubt, such supplements or new Confessions of Judgment may be signed on behalf of a Sackler Party by a guardian, conservator or other Person duly appointed to represent such Sackler Party and empowered to execute a Confession of Judgment binding on such Sackler Party under all applicable Law. Notwithstanding the foregoing, if, on the Settlement Effective Date, A-Side Payment Group 8 funds all of the amounts payable by A-Side Payment Group 8 pursuant to Section 2.01(g) (i.e., $85,000,000) (including making prepayment in full, subject to appropriate discount as contemplated herein, of A-Side Payment

Group 8's Settlement Payment Obligations due on the fifth (5th) and sixth (6th) Payment Dates), no Sackler Party that is a member of A-Side Payment Group 8 shall be required hereby to deliver a Confession of Judgment.

(b) Each Sackler Party hereby irrevocably authorizes any attorney-at-law to, upon the occurrence of any Breach, appear for such Sackler Party in the Bankruptcy Court or other court of competent jurisdiction, admit the obligations of the Sackler Party that have come due and are in breach under this Agreement, and waive the issuing and service of process and confess judgment against such Sackler Party for the amount then due, together with costs of suit, and thereupon to waive all errors and all rights of appeal and stay of execution.

(c) Each confession of judgment executed and delivered under this Section 11.05(c) shall include submission by the executing Sackler Party to the personal jurisdiction of the court in which such confession of judgment is filed, but solely to the extent necessary to effectuate such confession of judgment, and shall otherwise preserve all defenses of such Sackler Party (including jurisdictional defenses) in litigation of any Cause of Action that is not a Shareholder Released Claim.

Section 11.06 Entire Agreement; Severability; Amendments and Waivers.

(a) This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior agreements and understandings, both oral and written, between the Parties with respect to the subject matter of this Agreement.

(b) Except as provided in Section 11.06(c), if any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other Governmental Authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such a determination, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

(c) Notwithstanding anything else contained in this Agreement or in the Plan or the Plan Documents, the Plan provisions effectuating the Third-Party Releases provided by the Debtors, their Estates, and the Releasing Parties and the Channeling Injunction, (i) are integrated with and integral to this Agreement and the Settlement, (ii) are not and shall not be severable from this Agreement, the Settlement, and those provisions of the Plan or the Plan Documents that do not relate to releases, and (iii) shall not be excised or modified other than in accordance with the Plan and this Agreement. If the Plan provisions effectuating the Third-Party Releases provided by the Debtors, their Estates, and the Releasing Parties and the Channeling Injunction are deemed null, void, illegal or unenforceable, then the terms, provisions, covenants, and restrictions of this Agreement shall be void and shall not remain in force or effect, except as specifically and expressly stated otherwise in this Agreement or the Plan, or as specifically and expressly agreed in writing by all Parties to this Agreement.

(d) No failure or delay by any Party in exercising any right, remedy, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

(e) Any provision of this Agreement or the exhibits hereto may be (i) amended only in a writing signed by the MDT, the Sackler Parties' Representative and the A-Side Payment Group 8

Representative (but in the case of the A-Side Payment Group 8 Representative, only (A) with respect to an increase or advancement of the Payment Obligations of A-Side Payment Group 8 or (B) if the effect of such amendment would materially and adversely affect the rights, interests, or obligations of the A-Side Payment Group 8 in a manner that would be disproportionate to the effect of such amendment on the other Payment Parties, taken as a whole), or (ii) waived only in a writing executed by the Person against which enforcement of such waiver is sought; *provided*, that the Sackler Parties' Representative shall act on behalf of the Sackler Parties in respect of any waiver under this clause (e) (unless the rights, interests, or obligations of A-Side Payment Group 8 are materially and adversely affected in a manner that is disproportionate relative to the effects of such waiver on the rights, interests, or obligations of the other Payment Parties, taken as a whole, in which case the A-Side Payment Group 8 Representative shall so act on behalf of A-Side Payment Group 8); and *provided, further*, that the Sackler Parties' Representative shall be permitted to, solely with the prior consent of the MDT (which shall be given or denied in its reasonable discretion with respect to administrative matters such as changes to exhibits and schedules hereto due to the passage of time and transactions permitted hereunder, but otherwise in its sole discretion), amend Exhibit A hereto at any time and from time to time, to add or remove Sackler Parties, including as a result of any Sackler Party that is a Trust splitting into separate trusts or combining with one or more other trusts or being distributed or appointed (in whole or in part) to another trust, the winding up of a Sackler Party that is a deceased individual's estate or replacing a Sackler Party that is an individual with his or her estate (subject to compliance with Section 11.09 in each case). No waiver of any provision hereunder or any breach thereof shall extend to or affect in any way any other provision or prior or subsequent breach. However, the MDT shall not unreasonably withhold or delay consent for a qualifying restructuring under Section 8.01.

Section 11.07 Sackler Parties' Representative.

(a) Designation. Subject to the terms and conditions of this Section 11.07, the Sackler Parties' Representative is hereby designated as the representative of the Sackler Parties with respect to the matters set forth in this Agreement, and solely to the extent set forth therein, the Collateral Documents and the other documents or agreements contemplated hereby or thereby to be performed by the Sackler Parties.

(b) Authority. By the approval of this Agreement, each of the Sackler Parties hereby irrevocably constitutes and appoints the Sackler Parties' Representative as the representative, agent, proxy and attorney-in-fact for each of the Sackler Parties for all purposes authorized under this Agreement, including the full power and authority on behalf of the Sackler Parties to (i) take all other actions to be taken by or on behalf of each Sackler Party (or the Sackler Parties collectively) in connection herewith and (ii) do each and every act and exercise any and all rights which each Sackler Party (or the Sackler Parties collectively) is permitted or required to do or exercise under this Agreement or any other agreement contemplated hereby. Each of the Sackler 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 Sackler Party. All decisions and actions by the Sackler Parties' Representative (to the extent authorized by this Agreement) shall be binding upon each of the Sackler Parties, and no Sackler Party shall have the right to object, dissent, protest or otherwise contest the same.

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

(d) Limitation of Liability. Each Sackler Party (including but not limited to each Sackler 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.

(f) Exclusion of A-Side Payment Group 8. For the avoidance of doubt, notwithstanding anything to the contrary in this Section 11.07 or otherwise in this Agreement, the Sackler Parties' Representative shall not (i) be the representative of A-Side Payment Group 8 or any A-Side Payment Party that comprises A-Side Payment Group 8, or (ii) be the attorney-in-fact of, have any authority to take any action or exercise any right on behalf of, consent to any action on behalf of, agree to any amendment of this Agreement on behalf of, or otherwise bind, A-Side Payment Group 8 or any A-Side Payment Party that comprises A-Side Payment Group 8. Instead, by the approval of this Agreement, A-Side Payment Group 8 hereby irrevocably constitutes and appoints the A-Side Payment Group 8 Representative as the representative, agent, proxy and attorney-in-fact for each of the A-Side Payment Parties comprising A-Side Payment Group 8 for all purposes authorized under this Agreement. In addition, wherever in this Agreement any notice, information or other communication is to be given to the Sackler Parties' Representative, the Parties agree that such notice, information or other communication shall instead or also be given to A-Side Payment Group 8 Representative to the extent that the same relates to or affects any of the rights or obligations of A-Side Payment Group 8 under this Agreement.

Section 11.08 Sackler Parties' Consent Rights.

(a) In addition to and in no instance limiting the consent rights of the Sackler Parties' Representative as otherwise set forth in this Agreement and/or in the Definitive Documents, the Definitive Documents shall be in form and substance acceptable to the Sackler Parties' Representative (i) in its sole discretion solely with respect to the Specified Shareholder Provisions and (ii) in its reasonable discretion with respect to all other matters outside the scope of the foregoing clause (i) solely with respect to those terms relating to the rights, obligations, or interests of the Shareholder Released Parties[; provided that the Sackler Parties' Representative's rights to consent to any provisions in the Creditor Trust Documents related to the administration of claims shall be limited to the rights set forth in the preceding subclause (i), and no additional rights shall accrue pursuant to subclause (ii)]. For the avoidance of doubt, the Sackler Parties agree that the Creditor Trust Documents filed at [●] on the docket of the Bankruptcy Cases is in form and substance acceptable to the Sackler Parties in accordance with this Section 11.08.

Section 11.09 Binding Effect; Third Party Beneficiaries; Assignment.

(a) The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns. No provision of this Agreement (including, without limitation, any right to access the Special Operating Reserve or Released Claims Reserves or receive any information related thereto) is intended to confer any rights, benefits, remedies, obligations or liabilities hereunder upon any Person other than the Parties hereto and their respective successors and assigns, except that the Creditors' Committee and Governmental Consent Parties shall be third-party beneficiaries of Section 2.01(g), Section 2.04, Section 8.10, Article 10 and Exhibit I, the Private Creditor Trusts and the Public Schools Trust shall be third-party beneficiaries of Section 4.09, and the Private Creditor Trust MFN Representative shall be a third-party beneficiary of Section 11.13 and Section 11.20, the Settling States shall be third-party beneficiaries under this Agreement with respect to Section 8.05 and Section 8.08 for purposes of enforcing any Breach thereof in the Bankruptcy Court or any appropriate state court), in each case, entitled to enforce the provisions thereof as if party hereto, as applicable.

(b) No Sackler Party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the MDT (*provided*, for the avoidance of doubt, any amendment to any other provision of this Agreement, including without limitation amendments to Exhibit F hereto to reflect changes not expressly contemplated by this Section 11.09, shall require the consent of the MDT). Any purported assignment of this Agreement in violation of this Section 11.09(b) shall be null and *void ab initio*. The MDT shall not unreasonably withhold or delay consent for any qualifying restructuring under Section 8.01.

Section 11.10 Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of New York (including in respect of the statute of limitations or other limitations period applicable to any claim, controversy or dispute hereunder), without giving effect to principles of conflicts of laws that would require the application of the laws of any other jurisdiction. For the avoidance of doubt, each of the MDT and the Debtors shall have the benefit in connection with any matter with respect to a Sackler Party that is a Trust arising from or related to this Agreement and the Collateral Documents of the most protective protections afforded third-parties dealing in good faith with trustees in their capacities as such in good faith reliance on representations made by them in their capacities as trustees under the internal laws of such Trust's Jurisdiction of Administration as set forth on Exhibit R, but giving effect to the extent they are even more protective, to the terms of such Trust's governing instrument and the effect of any choice of law provisions contained therein.

Section 11.11 Jurisdiction; Contested Matter.

(a) Except as otherwise set forth in this Agreement, the parties hereto agree that any Proceeding seeking to enforce any provision of, or based on a matter arising out of or in connection with, this Agreement shall be brought in the Bankruptcy Court, and each of the parties hereby irrevocably consents for such purpose to the jurisdiction of the Bankruptcy Court (and of the appropriate appellate courts therefrom) or, in the event Bankruptcy Court does not have or accept such jurisdiction, in any federal court sitting in the Southern District of New York and any appellate court therefrom or, in the event such federal court does not have or accept jurisdiction, a New York State court and any appellate court therefrom in any such Proceeding. Each of the parties hereto irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such Proceeding in any such court or that any such Proceeding brought in any such court has been brought in an inconvenient forum. Process in any such Proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided this Section 11.11(a) shall be deemed effective service of process on such party. For the avoidance of doubt, nothing in this Section 11.11(a) shall prevent any Party from initiating a Proceeding in any relevant jurisdiction to enforce any order, ruling or judgment of any of the courts above.

(b) The Parties agree that any Proceeding arising under, related to, or in connection with this Agreement, including any action seeking specific performance of any provision of this Agreement or declaratory judgment concerning this Agreement, shall be heard and determined by the Bankruptcy Court as a contested matter under Rule 9014 of the Federal Rules of Bankruptcy Procedure. With respect to such Proceeding, each Party agrees to (i) submit to the jurisdiction of the Bankruptcy Court, (ii) consent to the authority of the bankruptcy to enter Final Orders or judgments, and (iii) waive and not advance any argument that such dispute is or must be adjudicated as an adversary proceeding governed by Part VII of the Federal Rules of Bankruptcy Procedure or that the Bankruptcy Court is an improper or inconvenient forum or venue. Any party to such Proceeding shall be permitted to request that the Bankruptcy Court adjudicate such dispute on an expedited basis, and all other parties shall consent to such expedited adjudication. This Section 11.11(b) shall not apply to actions brought in connection with the exercise of the Release Remedy.

(c) Notwithstanding the foregoing, any disputes that relate to matters contemplated to be resolved in accordance with Article 6 of the Governmental Entity & Shareholder Direct Settlement Agreement, shall be resolved on the terms and conditions set forth in the Governmental Entity & Shareholder Direct Settlement Agreement.

Section 11.12 Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 11.13 Dispute Resolution.

(a) For purposes of any provision of this Agreement requiring "fast track arbitration", this Section 11.13 shall apply.

(b) 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, and the third arbitrator shall be agreed upon by the first two (2) arbitrators (the "National Arbitration Panel"); *provided* that if a panel is constituted on matters arising out of disputes primarily between the Sackler Parties' Representative (or any other Sackler Party) on the one hand and Private Claimants (or a trustee for the Private Creditor Trusts) on the other: (i) related to Section 11.20 where Private Claimants, any Private Creditor Trusts, or the Private Claimant MFN Representative are a party to the dispute, or (ii) related to Released Claims Reserves pursuant to Section 2(f) of Exhibit N where Private Claimants (or a trustee for one or more Private Creditor Trusts) are a party to the dispute then, (A) in lieu of an arbitrator being selected by the MDT, one arbitrator shall be selected by the Private Claimant MFN Representative; (B) accordingly, the third arbitrator shall be selected by the arbitrators chosen by the Private Claimant MFN Representative and the Sackler Parties' Representative; and (C) upon receipt of notice in accordance with Section 11.01, the MDT shall have the right, but not the obligation, to participate in such arbitration for the limited purpose of representing and asserting the rights of any other Holder that may be affected by the potential decision therein, upon demonstrating a potential interest in such dispute.] Other than in situations described in the immediately preceding proviso, 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, or otherwise requested, the retiring arbitrator shall be replaced by the party that selected him/her.

(c) 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 Panel shall make reasonable efforts to decide all contractual interpretation issues and payment calculation disputes 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.

(d) 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.

(e) The decisions of the National Arbitration Panel shall be binding on the Parties; provided, however, that consistent with principles of res judicata and collateral estoppel, the MDT, as a potential non-party to the dispute matters described in the proviso set forth in Section 11.13(b), shall not be bound, in unrelated disputes, by matters of contractual interpretation determined by such decisions that might otherwise affect such unrelated disputes.

(f) Each party shall bear its own costs in any arbitration or court proceeding arising under this Section 11.13. 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 the relevant counterparty from the MDT, the Settling States, the Private Claimants and the General Unsecured Creditors shall be split fifty percent (50%) by the relevant Payment Parties and fifty percent (50%) by the relevant counterparty from the MDT, the Settling States, the Private Claimants and the General Unsecured Creditors that are parties to the dispute.

(g) 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.

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

Section 11.14 Counterparts; Trustee of Multiple Trusts; Effectiveness. This Agreement may be signed in any number of counterparts, each of which shall be an original (subject to the last sentence in this Section 11.14), with the same effect as if the signatures thereto and hereto were upon the same instrument. To the extent any Sackler Party signs this agreement in his, her or its capacity as trustee (to the extent such Trusts are Sackler Parties) of a Trust, such signature shall be deemed to be in respect of all Trusts of which such Person is trustee. This Agreement shall become effective on the Agreement Effective Date upon execution by each of the Parties. The exchange of a fully executed Agreement (in counterparts or otherwise) by electronic transmission in .PDF format or by facsimile shall be sufficient to bind the parties to the terms and conditions of this Agreement, subject to the provisions of Article 10.

Section 11.15 Document Repository. The Sackler Parties agree to participate in the public document repository to be established pursuant to the Plan on the terms and conditions set forth in the Plan.

Section 11.16 Defense of Third-Party Releases. If any Person initiates, pursues, or prosecutes in any United States forum any civil proceeding, claim, or Cause of Action of any kind whatsoever against any Shareholder Released Party, in violation of the Third-Party Releases or based on an allegation that the Third-Party Releases do not apply to such Shareholder Released Party or Released Party with respect to such proceeding, claim, or Cause of Action (and the Shareholder Released Party has a reasonable basis to believe that the Third-Party Releases do apply with respect to such proceeding, claim or Causes of Action), including by making a request for leave under Section 11.01(e) of the Plan that the applicable Shareholder Released Party or Released Party has a reasonable basis to challenge, then the MDT shall appear in the relevant United States forum as soon as reasonably practicable after any Shareholder Released Party has provided notice to the MDT of such proceeding, claim, or Cause of Action and shall use commercially reasonable best efforts, based on the advice of the MDT's legal counsel, to assist the applicable Shareholder Released Party or Released Party and its counsel with their enforcement of the provisions of this Agreement (which may include, for example and if appropriate under the applicable facts and circumstances, filing motions, pleadings, briefs, or other documents or papers; advancing arguments or positions; seeking available relief or remedies; supporting any arguments and any requests for a determination that such proceeding, claim, or Cause of Action is covered and barred by the Third-Party Releases; and taking other actions reasonably necessary and appropriate consistent with applicable Law to enforce the provisions of this Agreement), and the costs of doing so shall be borne exclusively by the MDT. For the avoidance of doubt, any Shareholder Released Party or Released Party that is determined by a court of competent jurisdiction not to be covered by the Third-Party Releases with respect to any civil proceeding, claim, or Cause of Action shall retain, or shall have restored, all associated defenses, cross-claims, counterclaims, third-party claims, offsets and recoupments under applicable law that were, or would otherwise have been, transferred to the MDT or subsequently transferred to any Creditor Trust in accordance with [Section 5.6(g)

of the Plan] and [Section 10 of the Master TDP] (as included in the Plan Documents) for the purposes of such civil proceeding, claim, or Cause of Action; *provided* that (i) no such defenses, claims or rights may be asserted by any Person, directly or indirectly, to seek or obtain any affirmative monetary recovery from any such Protected Party, unless such Protected Party is the Person initiating, pursuing, or prosecuting the applicable civil proceeding, claim, or Cause of Action and (ii) nothing in the foregoing shall limit or affect the transfer of the MDT Shareholder Insurance Rights to the MDT under [Section 5.6(j) of the Plan].

Notwithstanding anything to the contrary herein, (a) nothing in this Section 11.16 shall require the MDT to appear or participate in any proceeding, or pursue any strategy or advance any argument or position, to the extent the MDT determines in good faith, based on advice of its legal counsel, that the claim or Cause of Action that is the subject of such proceeding is not being advanced in violation of the Third-Party Releases, or such argument, position or strategy is not legally justifiable or correct (including that it is not consistent with ethical obligations of its legal counsel (other than any ethical obligation related to a conflict of interest of such counsel)); and (b) nothing in this Section 11.16 shall require the MDT to take any further action in respect of any claim or Cause of Action following a determination by a court of competent jurisdiction that such claim or Cause of Action is not in violation of the Third-Party Releases (or any other determination in a proceeding under Section 11.01(e) of the Plan that is adverse to the Shareholder Released Parties) or the Released Parties.

Section 11.17 Certain Shareholder Released Party Insolvencies. Notwithstanding the Plan or anything to the contrary in this Agreement, if any 11.17 Assuring Party or Subsidiary of a Payment Party], in each case, other than a Payment Party, who received a Shareholder Release, (i) is subject to an unpaid judgment on account of liability for Causes of Action that would have been released had the respective plaintiff been a Settling Party and (ii) voluntarily or involuntarily becomes subject to an Insolvency Proceeding, then such Shareholder Release Party's Shareholder Release shall be modified and the Channeling Injunction solely as relates to such Shareholder Release shall be lifted, in each case, solely to the minimum extent necessary to facilitate the assertion, solely in such proceeding, by the Master Disbursement Trust of Claims on account of the estate and direct Causes of Action against such Shareholder Released Party that were previously held by the Settling Parties for (i) fees and expenses incurred in the enforcement of Master Disbursement Trust's rights under this Agreement in connection with such proceeding (and, in any such proceedings, the Master Disbursement Trust may seek such fees and expenses to be paid currently (with such claim to be afforded status as a superpriority administrative expense), which such Allowed Claim shall be payable consistent with the priorities set forth in Section 9.02(d)) and (ii) the amount of then unpaid Settlement Payment Obligations for all Payment Groups (the "Non-Payment Party Deemed Allowed Claim") in respect of the potential for the Master Disbursement Trust to exercise the Release Remedy to otherwise facilitate the actual recovery in full of the Master Disbursement Trust from such party on account of the Settlement Payment Obligations of the Payment Group(s) associated with the Family Group(s) of which it is a member; *provided, further, however,* the aggregate amounts recovered on account of any such Non-Payment Party Deemed Allowed Claim in excess of amounts otherwise owing under this Agreement by the Payment Group(s) associated with the Family Group(s) of which such party is a member shall be paid directly to the applicable Payment Group or Payment Groups (if such Payment Party is a part of multiple Payment Groups). The Non-Payment Party Deemed Allowed Claim and the related limited exception to the Shareholder Release is being agreed in lieu of, and to avoid any litigation with respect to, any Causes of Action (including contingent Causes of Action) that otherwise may be asserted in connection with any rights that exist on account of the potential Release Remedy against any applicable party subject to an Insolvency Proceeding, and the agreement to such claim and exception is conditioned upon no Settling Party asserting any Causes of Action in such Insolvency Proceeding in connection with the Release Remedy, including asserting any argument on the merits of any Cause of Action subject to the Shareholder Releases.

Section 11.18 Survival. Notwithstanding anything to the contrary in this Agreement, Section 2.01(f)(i) and Section 2.01(f)(iii), shall survive termination of this Agreement solely as between the Sackler Parties and shall continue in full force and effect for the benefit of the applicable Parties in accordance with the terms hereof.

Section 11.19 Acknowledgment. The "allocation" of settlement amounts on account of Estate Releases, on the one hand, and the Direct Release, on the other, is part of an overall compromise and settlement under Bankruptcy Rule 9019 between the Debtors, the Creditors' Committee, all creditor groups that are Mediation Parties, and the Sackler Parties, and, upon confirmation of the Plan will be deemed to be a settlement between the Debtors, the Creditors' Committee, all creditor groups that are Mediation Parties, and the Sackler Parties in which, among other things, the Sackler Parties are providing the Settlement Payments in consideration over fifteen (15) years. The "allocation" is intended by the Sackler Parties and the other Mediation Parties, among other things, to facilitate the distribution of proceeds for opioid abatement, victim compensation, and other permitted uses under the Plan and otherwise. All parties, including the public side claimants and the Sackler Parties (as well as the Shareholder Released Parties), agree that neither the amount of the Settlement Payments nor the "allocation" (including any allocation between the Sackler Parties of the payment responsibility) reflects any concession or agreement by any party as to the strength, validity, merits, collectability, amount, or otherwise, of the Estate Released Claims or of the Direct Released Claims or any defenses to the Estate Released Claims or the Direct Released Claims, and that if for whatever reason the agreement in principle is not consummated, neither the amount of the Settlement Payments nor the "allocation" shall be cited or used by the Debtors, the Creditors' Committee, all creditor groups that are Mediation Parties, or the Sackler Parties (or the Shareholder Released Parties) – or any party hereto – for any purpose whatsoever in any pleading or proceeding wherever or whenever. Further, all parties hereto agree that no party hereto will be bound by this Agreement (other than as set forth in this paragraph and in the last sentence of each of Section 9.08(a) and Section 11.17) with regard to what it may state in a pleading, court hearing, proceeding or otherwise about the strength, validity, merits, collectability, amount, or otherwise, of the Estate Released Claims or of the Direct Released Claims, or any defenses thereto, including, without limitation, in any pleading filed in connection with this Agreement or the Plan. In addition, all parties hereto agree that this paragraph shall be binding forever upon all parties from March 18, 2025, regardless of whether this Agreement becomes effective or any other settlement is consummated, and shall be specifically enforceable by the Bankruptcy Court (with no cap on damages that may be awarded).[16] All parties agree that this provision is non-severable from the overall compromise and settlement, and is an integral part hereof. This paragraph is specifically subject to Federal Rule of Evidence 408 and analogous state provisions barring the use of settlement offers and communications to prove the validity or amount of disputed claims.

Section 11.20 Most Favored Nation Provisions. If (x) a Private Claimant MFN Representative has been appointed and has notified the Sackler Parties' Representative of such appointment and (y) a Payment Party or Payment Parties within a Payment Group (a "Separately Settling Payment Group") enters into a settlement agreement with any Non-Settling Private Claimant that resolves a Cause of Action similar in scope to those released by a Settling Private Claimant under this Agreement on overall payment terms that are more favorable to the Non-Settling Private Claimant on a net present value basis (calculated with a 7.0% discount rate, discounted back to the date of the first payment) than the overall payment terms the Non-Settling Private Claimant would have received under this Agreement based on the same level of participation, the Private Claimant MFN Representative shall have thirty (30) calendar days after receiving notice of such settlement to review, pursuant to Section 11.20(b), of the overall payment terms of this Agreement solely concerning that Separately Settling Payment Group and the Non-Settling Private Claimant agreement, pursuant to clauses (a) through (f) below. This review allows such Private Claimant

[16] This sentence shall not apply to the States.

MFN Representative to obtain overall payment terms at least as favorable as those secured by the Non-Settling Private Claimant, solely with respect to the Separately Settling Payment Group. "Overall payment terms" include consideration of all payment terms of both agreements, including, but not limited to, the amount, timing, and any conditions or contingencies of payments. Any changes to a Separately Settling Payment Group's overall payment terms shall not adversely affect any other Payment Group.

(a) For any settlement involving Shareholder Released Claims entered into with a Non-Settling Private Claimant, the Separately Settling Payment Group shall provide the MDT (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 shall promptly distribute a copy to the Private Claimant MFN Representative, which notice shall start the thirty (30) day review period.

(b) In the event that a Private Claimant MFN Representative believes that the overall payment terms of an agreement by a Separately Settling Payment Group with a Non-Settling Private Claimant are more favorable to the Non-Settling Private Claimant as set forth in Section 11.20(a), the Private Claimant MFN Representative and the Separately Settling Payment Group shall engage in the following process:

(i) Within sixty (60) calendar days of the date on which the MDT provides a settlement agreement or consent judgment to the Private Claimant MFN Representative, the Private Claimant MFN Representative 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 to the [Settling Private Claimants] that are, on an overall basis, as favorable as those obtained by the Non-Settling Private Claimant 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 Private Claimant MFN Representative's belief that it is entitled to a revision of the Agreement.

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

(iii) In the event the Private Claimant MFN Representative and the Separately Settling Payment Group do not reach agreement as to the application of this Section 11.20(b), the Private Claimant MFN Representative may, at the sole cost of the Settling Private Claimant(s) and the separately Payment Group, petition the National Arbitration Panel to seek a ruling from the National Arbitration Panel as to the applicability of this Section 11.20(b), *provided* that the Private Claimant MFN Representative may seek such review only if at least [___] Settling Private Claimants co-sign the petition. The National Arbitration Panel shall consider submissions and argument by the parties pursuant to the procedures set forth in Section 2.07(e)].

(iv) The Private Claimant MFN Representative and Non-Settling Private Claimant(s) 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 Private Claimant agreement so that such Private Claimant MFN Representative may obtain, with respect to the Separately Settling Payment Group, overall payment terms at least as favorable as those obtained by such Non-Settling Private Claimant. A copy of the Panel's decision shall be promptly shared with the Sackler Parties' Representative.

(c) [This Section 11.20(c) does not apply to, and there is no ability of any Settling Private Claimant to seek or obtain revision of this Agreement based on, any agreement with a Shareholder Released

Party that is entered into with a Non-Settling Private Claimant after: (a) either the earlier of (i) after the close of expert discovery or (ii) after 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 Private Claimant, *provided* that, where, in order to complete a settlement, a Non-Settling Private Claimant and the Released Party jointly request an adjournment of the scheduled start date of a trial within ninety (90) calendar days of that date, this exception will take account of such adjournment; or (b) a Non-Settling Private Claimant that has obtained any court order or judicial determination that grants judgment (in whole or in part) against any Released Party in the Non-Settling Private Claimant's case. The National Arbitration Panel shall have no power to review agreements that satisfy any of the conditions described in this paragraph.]

(d) [This Section 11.20 does not apply to, and there is no ability of any Settling Private Claimant to seek or obtain revision of this Agreement based on, any agreement between a Shareholder Released Party and federally recognized tribes, Non-Participating Subdivisions (as defined in the Governmental Entity & Shareholder Direct Settlement Agreement), Non-Settling States (as defined in the Governmental Entity & Shareholder Direct Settlement Agreement), Non-Participating Special Districts (as defined in the Governmental Entity & Shareholder Direct Settlement Agreement) or [●].]

(e) This Section 11.20 will not apply to any agreement entered into more than eighteen (18) months after the Plan Effective Date.

(f) This Section 11.20 may be waived by the Private Claimant MFN Representative.

Section 11.21 Debtor Asset Sales. The Debtors shall not sell or otherwise dispose of any of their assets (other than in the ordinary course) at any time on or before the Settlement Effective Date without the written consent of the Sackler Parties' Representative unless such asset sale or other disposition would not impose tax costs or liabilities on, or otherwise adversely impact, any Shareholder Released Party. This Section 11.21 shall be effective as of the Agreement Effective Date.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first written above.

[MDT]

By: _____
Name:
Title:

[Sackler Parties' Representative]

By: _____
Name:
Title:

[Sackler Party 1]

By: _____
Name:
Title:

[Sackler Party 2]

By: _____
Name:
Title:

[Sackler Party 3]

By: _____
Name:
Title:

[Debtor 1]

By: _____
Name:
Title:

[Debtor 2]

By: _____
Name:
Title:

[Debtor 3]

By: _____
Name:
Title:

EXHIBIT K

Secondary Manufacturers' Combined Subdivision Participation and Release Form ("Combined Participation Form")

Governmental Entity: City of Santa Fe		State: New Mexico
Authorized Official:	Mayor Alan Webber	
Address 1:	200 Lincoln Avenue	
Address 2:		
City, State, Zip:	Santa Fe, NM, 87501	
Phone:	505-955-6590	
Email:	mayor@santafenm.gov	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to each of the settlements which are listed in paragraph 1 below (each a "Secondary Manufacturer's Settlement" and collectively, "the Secondary Manufacturers' Settlements"), and acting through the undersigned authorized official, hereby elects to participate in each of the Secondary Manufacturers' Settlements, release all Released Claims against all Released Entities in each of the Secondary Manufacturers' Settlements, and agrees as follows.

1. The Participating Entity hereby elects to participate in each of the following Secondary Manufacturers' Settlements as a Participating Entity:

   a. Settlement Agreement for Alvogen, Inc. dated April 4, 2025.
   b. Settlement Agreement for Apotex Corp. dated April 4, 2025.
   c. Settlement Agreement for Amneal Pharmaceuticals LLC dated April 4, 2025.
   d. Settlement Agreement for Hikma Pharmaceuticals USA Inc. dated April 4, 2025.
   e. Settlement Agreement for Indivior Inc. dated April 4, 2025.
   f. Settlement Agreement for Viatris Inc. ("Mylan") dated April 4, 2025.
   g. Settlement Agreement for Sun Pharmaceutical Industries, Inc. dated April 4, 2025.
   h. Settlement Agreement for Zydus Pharmaceuticals (USA) Inc. dated April 4, 2025.

2. The Governmental Entity is aware of and has reviewed each of the Secondary Manufacturers' Settlements, understands that all capitalized terms not defined in this Combined Participation Form have the meanings defined in each of the Secondary Manufacturers' Settlements, and agrees that by executing this Combined Participation Form, the Governmental Entity elects to participate in each of the Secondary Manufacturers' Settlements and become a Participating Subdivision as provided in each of the Secondary Manufacturers' Settlements.

3. The Governmental Entity shall promptly, and in any event no later than 14 days after the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed against any Released Entity in each of the Secondary Manufacturers' Settlements. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity

authorizes the Plaintiffs' Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice for each of the manufacturers listed in paragraph 1 above substantially in the form found at *https://nationalopioidsettlement.com/additional-settlements/.*

4. The Governmental Entity agrees to the terms of each of the Secondary Manufacturers' Settlements pertaining to Participating Subdivisions as defined therein.

5. By agreeing to the terms of each of the Secondary Manufacturers' Settlements and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.

6. The Governmental Entity agrees to use any monies it receives through each of the Secondary Manufacturers' Settlements solely for the purposes provided therein.

7. The Governmental Entity submits to the jurisdiction of the court and agrees to follow the process for resolving any disputes related to each Secondary Manufacturer's Settlement as described in each of the Secondary Manufacturers' Settlements.[1]

8. The Governmental Entity has the right to enforce each of the Secondary Manufacturers' Settlements as provided therein.

9. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in each of the Secondary Manufacturers' Settlements, including without limitation all provisions related to release of any claims,[2] and along with all departments, agencies, divisions, boards, commissions, 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, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in each of the Secondary Manufacturers' Settlements in any forum whatsoever. The releases provided for in each of the Secondary Manufacturers' Settlements are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities in each of the Secondary Manufacturers' Settlements the broadest possible bar against any liability relating in any

[1] *See* Settlement Agreement for Alvogen, Inc. Section VII.F.2; Settlement Agreement for Apotex Corp. Section VII.F.2; Settlement Agreement for Amneal Pharmaceuticals LLC Section VII.F.2; Settlement Agreement for Hikma Pharmaceuticals USA Inc. Section VII.F.2; Settlement Agreement for Indivior Section VI.F.2; Settlement Agreement for Mylan Section VI.F.2; Settlement Agreement for Sun Pharmaceutical Industries, Inc. Section VII.F.2; Settlement Agreement for Zydus Pharmaceuticals (USA) Inc. Section VII.F.2.

[2] *See* Settlement Agreement for Alvogen, Inc. Section XI; Settlement Agreement for Amneal Pharmaceuticals LLC Section X; Settlement Agreement for Apotex Corp. Section XI; Settlement Agreement for Hikma Pharmaceuticals USA Inc. Section XI; Settlement Agreement for Indivior Section X; Settlement Agreement for Mylan Section X; Settlement Agreement for Sun Pharmaceutical Industries, Inc. Section XI; Settlement Agreement for Zydus Pharmaceuticals (USA) Inc. Section XI.

way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. Each of the Secondary Manufacturers' Settlements shall be a complete bar to any Released Claim against that manufacturer's Released Entities.

10. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in each of the Secondary Manufacturers' Settlements.

11. In connection with the releases provided for in each of the Secondary Manufacturers' Settlements, each Governmental Entity 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:

> **General Release; extent.** A general release does not extend to claims 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 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 Released Claims in each of the Secondary Manufacturers' Settlements, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims 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 Governmental Entities' decision to participate in each of the Secondary Manufacturers' Settlements.

12. The Governmental Entity understands and acknowledges that each of the Secondary Manufacturers' Settlements is an independent agreement with its own terms and conditions. Nothing herein is intended to modify in any way the terms of any of the Secondary Manufacturers' Settlements, to which Governmental Entity hereby agrees, aside from the exceptions in paragraph 13 below. To the extent this Combined Participation Form is interpreted differently from any of the Secondary Manufacturers' Settlements in any respect, the individual Secondary Manufacturer's Settlement controls.

13. For the avoidance of doubt, in the event that some but not all of the Secondary Manufacturers' Settlements proceed past their respective Reference Dates, all releases and other commitments or obligations shall become void ***only as to*** those Secondary Manufacturers' Settlements that fail to proceed past their Reference Dates. All releases and other commitments or obligations (including those contained in this Combined Participation Form) shall remain in full effect as to each Secondary Manufacturer's Settlement that proceeds past its Reference Date, and this Combined Participation Form need not be modified, returned, or destroyed as long as any Secondary Manufacturer's Settlement proceeds past its Reference Date.

I have all necessary power and authorization to execute this Combined Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

ALVOGEN SETTLEMENT AGREEMENT

ALVOGEN SETTLEMENT AGREEMENT

This Settlement Agreement, dated as of April 4, 2025 (the "*Agreement"*), sets forth the terms of settlement between and among the Settling States, the Participating Subdivisions, and Alvogen (as those terms are defined below). Upon satisfaction of the conditions set forth in Sections II and VIII, this Agreement will be binding on the Settling States, Alvogen, and the Participating Subdivisions. 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 Section IX.

I. Definitions

Unless otherwise specified, the following definitions apply:

A. *"Additional Remediation Amount."* The amount available to the Settling States listed in Exhibit M totaling up to $373,603.23.

B. *"Adjusted Maximum Remediation Payment."* The Maximum Remediation Payment reduced by the State Allocation Percentage specified in Exhibit F for each Non-Settling State.

C. *"Agreement."* This agreement, as set forth above. For the avoidance of doubt, this Agreement is inclusive of all exhibits.

D. *"Alleged Harms."* The alleged past, present, and future damages, harms, losses, and related expenditures allegedly incurred by the Settling States and Participating Subdivisions arising out of the use 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, death, and other related diseases and disorders, and that have allegedly been caused by Released Entities.

E. *"Allocation Statute."* 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.

F. *"Alvogen."* Alvogen, Inc.

G. *"Appropriate Official."* As defined in Section XIII.E.3.

H. *"Bankruptcy Code."* Title 11 of the United States Code, 11 U.S.C. § 101, et seq.

I. *"Bar."* Either: (1) a law barring Subdivisions in a Settling State from maintaining or asserting Released Claims against Released Entities (either through a direct bar or through a grant of authority to release claims and 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 or assert any Released Claims against Released Entities, 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 Released Entity (apart from the Remediation Payment by Alvogen under this Agreement) shall not constitute a Bar.

J. "*Base Payment.*" As defined in Section V.D.

K. *"Case-Specific Resolution."* Either: (1) a law barring the Subdivision at issue from maintaining any Released Claims against any Released Entities (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 Released Claims at issue against any Released Entities, 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 Released Entity (apart from the payment by Alvogen under this Agreement) shall not constitute a Case-Specific Resolution.

L. *"Claim."* Any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, fine, penalty, restitution, reimbursement, disgorgement, expenses, remediation, judgment, right, obligation, dispute, suit, contract, controversy, agreement, *parens patriae* claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law, statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including, but not limited to, any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, remediation, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative, or regulatory remedy whatsoever.

M. *"Claim-Over."* A Claim asserted by a Non-Released Entity against a Released Entity 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.

N. *"Compensatory Restitution Amount."* The aggregate amount paid or incurred by Alvogen hereunder for Opioid Remediation, which includes the aggregate Base

and Incentive Payments earned by Settling Sates and does not include amounts paid as attorneys' fees and costs or identified pursuant to Section VI.B.2 as being used to pay attorneys' fees, investigation costs or litigation costs, which shall be up to the amount of the Adjusted Maximum Remediation Payment.

O. *"Consent Judgment."* A consent judgment in a form to be agreed by the Settling States and Alvogen prior to the Effective Date that, among other things, (1) approves this Agreement and (2) provides for the release set forth in Section XI.A, including the dismissal with prejudice of any Released Claims that the Settling State has brought against Released Entities.

P. *"Covered Conduct"* means any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, service, work, sale, misstatement, misleading statement, or other activity of any kind whatsoever from the beginning of time through the Reference 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, service, work, sale, misstatement, misleading statement, or other activity) arising from or relating in any way to (a) compounding, counseling, and documentation related to any Product or class of Products; (b) the availability, discovery, research, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, relabeling, recall, withdrawal, distribution, delivery, monitoring, reporting, regulatory compliance supply, sale, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to any Product, or any system, plan, policy, procedure, or advocacy relating to any Product or class of Products, including but not limited to any unbranded or branded promotion, marketing, or advertising, information, patient support or assistance, educational programs, consultancy, research, other programs or campaigns, lobbying, grants, sponsorships, charitable donations, or other funding relating to any Product or class of Products; (c) the characteristics, properties, risks, or benefits of any Product or class of Products; (d) the monitoring or non-monitoring of orders placed of any Product; (e), reporting, disclosure, non-monitoring, non-reporting or non-disclosure to federal, state or other regulators of orders for any Product placed with any Released Entity; (f) the selective breeding, harvesting, extracting, purifying, exporting, importing, applying for quota for, procuring quota for, handling, promoting, manufacturing, processing, packaging, supplying, distributing, converting, or selling of, or otherwise engaging in any activity relating to, precursor or component Products, including but not limited to natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, or any related intermediate Products; or (g) diversion control programs, suspicious order monitoring, or regulatory compliance related to any Product.

Q. *"Deposit Date."* July 25, 2025. This Date is the date by which Alvogen shall deposit the Adjusted Maximum Remediation Payment, Private Attorney Fees, and the Additional Remediation Amount, pursuant to Section IV.D. This date is after the Preliminary Agreement Date, on which Alvogen agrees to proceed with the agreement; this date may be changed by written agreement of Alvogen and the Enforcement Committee.

R. "*Designated State*." The state of New York.

S. *"Effective Date."* The date sixty (60) calendar days after the Reference Date.

T. "*Eligible States*." The states, commonwealths, and territories of the United States of America. The 56 Eligible States are listed in Exhibit F.

U. *"Enforcement Committee.*" A committee consisting of representatives of the Settling States and of the Participating Subdivisions. Exhibit B contains the organizational bylaws of the Enforcement Committee. Notice pursuant to Section XIII.Q shall be provided when there are changes in membership or contact information.

V. *"Fees Payment."* The amount payable by Alvogen on the Payment Date comprised of the Additional Remediation Amount payment, and the Private Attorney Fees payment. The Fees Payment does not include the Remediation Payment.

W. *"Final Order."* An order or judgment of a court of competent jurisdiction with respect to the applicable subject matter (1) which has not been reversed or superseded by a modified or amended order, is not currently stayed, and as to which any right to appeal or seek certiorari, review, reargument, stay, or rehearing has expired, and as to which no appeal or petition for certiorari, review, reargument, stay, or rehearing is pending, or (2) as to which an appeal has been taken or petition for certiorari, review, reargument, stay, or rehearing has been filed and (a) such appeal or petition for certiorari, review, reargument, stay, or rehearing has been resolved by the highest court to which the order or judgment was appealed or from which certiorari, review, reargument, stay, or rehearing was sought, or (b) the time to appeal further or seek certiorari, review, reargument, stay, or rehearing has expired and no such further appeal or petition for certiorari, review, reargument, stay, or rehearing is pending.

X. "*Global Settlement Amount.*" The Global Settlement Amount is $21,370,104.95, which is comprised of the Maximum Remediation Payment, Private Attorney Fees, and Additional Remediation Amount. Notwithstanding any other language or provisions in this or any other agreement, the Global Settlement Amount is the maximum dollar amount Alvogen can pay in connection with the Agreement.

Y. "*Implementation Administrator*." Rubris, Inc., which is the vendor that will be retained by Alvogen to provide notice pursuant to Section VIII.A and to manage the initial joinder period for Subdivisions, including the issuance and receipt of Subdivision Settlement Participation Forms.

Z. *"Incentive Payment A."* The incentive payment described in Section V.E.4.

AA. *"Incentive Payment A Catch-Up Date."* August 1, 2026.

BB. *"Incentive Payment BC."* The incentive payment described in Section V.E.5.

CC. *"Initial Participating Subdivision."* A Subdivision that meets the requirements set forth in Section VIII.D.

DD. *"Initial Participation Date."* The date ninety (90) calendar days after the Preliminary Agreement Date, unless it is extended by written agreement of Alvogen and the Enforcement Committee.

EE. *"Injunctive Relief Terms."* The terms described in Section III and set forth in Exhibit P.

FF. *"Later Litigating Subdivision."* 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 Released Claim against a Released Entity after the Reference Date; or (2) adds a Released Claim against a Released Entity after the Reference Date to a lawsuit brought before the Reference Date that, prior to the Reference Date, did not include any Released Claims against a Released Entity; or (3) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a legislative Bar or legislative Case-Specific Resolution as of the Reference Date, (b) such legislative Bar or legislative Case-Specific Resolution is subject to a Revocation Event after the Reference 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 Released Claim against a Released Entity or one hundred eighty (180) 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 Released Claims being dismissed; or (4) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a judicial Bar or judicial Case-Specific Resolution as of the Reference Date, (b) such judicial Bar or judicial Case-Specific Resolution is subject to a Revocation Event after the Reference Date, and (c) such Litigating Subdivision takes any action in its lawsuit asserting a Released Claim against a Released Entity other than seeking a stay or dismissal.

GG. *"Later Participating Subdivision."* A Participating Subdivision that is not an Initial Participating Subdivision, but meets the requirements set forth in Section VIII.E.

HH. *"Litigating Subdivision."* A Subdivision (or Subdivision official) that brought any Released Claim against any Released Entity prior to the Reference Date. 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.

II. *"Maximum Remediation Payment."* The maximum amount owed by Alvogen to the Settling States and Subdivisions, exclusive of the Private Attorney Fees, and the Additional Remediation Amount. The amount of the Maximum Remediation Payment is $18,680,161.67.

JJ. *"National Arbitration Panel."* The panel comprised as described in Section VII.F.3.b.

KK. "*National Disputes."* As defined in Section VII.F.3.a.

LL. *"Non-Litigating Subdivision."* Any Subdivision that is not a Litigating Subdivision.

MM. *"Non-Participating Subdivision."* Any Subdivision that is not a Participating Subdivision.

NN. *"Non-Party Covered Conduct Claim."* A Claim against any Non-Released Entity involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity).

OO. *"Non-Party Settlement."* A settlement by any Releasor that settles any Non-Party Covered Conduct Claim and includes a release of any Non-Released Entity.

PP. *"Non-Released Entity."* An entity that is not a Released Entity.

QQ. "*Non-Settling State."* Any Eligible State that is not a Settling State.

RR. *"Opioid Remediation."* Care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures[1] except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to (1) address the use 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.

SS. *"Participating Subdivision."* Any Subdivision that meets the requirements for becoming a Participating Subdivision under Section VIII.B and Section VIII.C. Participating Subdivisions include both Initial Participating Subdivisions and Later Participating Subdivisions.

TT. "*Participation Percentage of Incentive BC Eligible Subdivision Population."* As defined in Section V.E.5.e.

UU. *"Parties."* Alvogen and the Settling States (each, a *"Party").*

VV. "*Payment Calculation Date*." October 20, 2025, which is sixty (60) days before the Payment Date. This date may be changed by written agreement of Alvogen and the Enforcement Committee.

WW. *"Payment Date."* December 19, 2025, which is the date by which Alvogen makes the Remediation Payment and the Fees Payment. This date may be changed by written agreement of Alvogen and the Enforcement Committee.

[1] Reimbursement includes amounts paid to any governmental entities for past expenditures or programs.

XX. "*Preliminary Agreement Date.*" The date Alvogen informs the Settling States of its determination that the condition in Section II.B has been satisfied. The Preliminary Agreement Date shall be no more than fourteen (14) calendar days after the end of the notice period to Eligible States, unless it is extended by written agreement of Alvogen and the Enforcement Committee.

YY. "*Primary Fire District.*" A fire district that covers a population of 25,000, or 0.20% of an Eligible State's population if an Eligible State's population is greater than 18 million. If not easily calculable from state data sources and agreed to between the Eligible State and Alvogen, 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. "Primary Fire Districts" shall mean fire districts as identified in connection with the implementation of the July 21, 2021, Janssen Settlement Agreement.

ZZ. *"Primary Subdivision."* A Subdivision that is a General Purpose Government (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore, or any other entities that provide municipal-type government) with population over 10,000; provided, however, that as used in connection with Incentive Payment BC, the population threshold is 30,000. Attached as Exhibit I is an agreed list of the Primary Subdivisions in each Eligible State.

AAA. *"Private Attorney Fees"* are the amount to be paid by Alvogen for private attorneys' litigation fees and costs on behalf of Participating Subdivisions. The maximum amount of Private Attorney Fees is $2,316,340.05. For avoidance of doubt, Private Attorney Fees do not include the Additional Remediation Amount.

BBB. *"Product."* Any chemical substance, 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 substance, that is: (1) an opioid or opiate, as well as any product containing any such substance; (2) benzodiazepine, carisoprodol, or gabapentin; or (3) a combination or "cocktail" of chemical substances prescribed, sold, bought, or dispensed to be used together that includes opioids or opiates. "Product" shall include, but is not limited to, any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, naloxone, naltrexone, oxycodone, oxymorphone, pentazocine, propoxyphene, 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. Notwithstanding the foregoing, nothing in this section prohibits a Settling State from taking administrative or regulatory action related to benzodiazepine (including, but not limited to, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triazolam, temazepam, and midazolam), carisoprodol, or gabapentin that is wholly independent from the use of such drugs in combination with opioids, *provided* such action does not seek money (including abatement and/or remediation) for conduct prior to the Initial Participation Date. "Product" also includes any natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, and any

intermediate products used or created in the manufacturing process for any of the substances described above.

CCC. *"Reference Date."* The date on which Alvogen is to inform the Settling States of its determination whether the condition in Section IX has been satisfied. The Reference Date shall be no later than thirty (30) calendar days after the Initial Participation Date, unless it is extended by written agreement of Alvogen and the Enforcement Committee.

DDD. *"Released Claims."* Any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct and/or Alleged Harms occurring prior to the Initial Participation Date. Without limiting the foregoing, Released Claims include any Claims that have been asserted against Released Entities by a Settling State or any of its Litigating Subdivisions in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) based on, arising out of, or relating to, in whole or in part, the Covered Conduct and/or Alleged Harms, or any such Claims that could be or could have been asserted now or in the future in those actions or in any comparable action or proceeding brought by a Settling State, Subdivision, or Releasor (whether or not such Settling State, Subdivision, or Releasor has brought such action or proceeding). Released Claims also include all Claims against Released Entities asserted in any proceeding to be dismissed pursuant to the Agreement, whether or not such claims related to Covered Conduct and/or Alleged Harms. The Parties intend that this term, "Released Claims," be interpreted broadly. This Agreement does not release Claims by private individuals. It is the intent of the Parties that Claims by private individuals be treated in accordance with applicable law. Released Claims is also used herein to describe claims brought by a non-party Subdivision that would have been Released Claims if they had been brought by a Releasor against a Released Entity.

EEE. *"Released Entities."* With respect to Released Claims, Alvogen and (1) all past and present subsidiaries, divisions, affiliates, predecessors, successors, and assigns (in each case, whether direct or indirect) of Alvogen; (2) all past and present subsidiaries and divisions (in each case, whether direct or indirect) of any entity described in subsection (1); (3) the respective past and present officers, directors, members, trustees, and employees of any of the foregoing (each for actions that occurred during and related to their work for, or employment with, any of Alvogen or the foregoing entities); (4) all past and present joint ventures (whether direct or indirect) of Alvogen or its subsidiaries, including in any subsidiary's capacity as a participating member in such joint venture; (5) all direct or indirect parents and shareholders of Alvogen (solely in their capacity as parents or shareholders of Alvogen with respect to Covered Conduct); and (6) any insurer of Alvogen or any person or entity otherwise described in subsections (1)-(5) (solely in its role as insurer of such person or entity and subject to the last sentence of Section XI.C). A list of Alvogen's joint ventures, subsidiaries and affiliates and predecessor entities is set forth in Exhibit J. Any person or entity described in subsections (3)-(6) shall be a Released Entity solely in the capacity described in such clause and shall not be a Released Entity with respect to its conduct in any other capacity. Any entity acquired, or joint venture entered into, by Alvogen after the Initial Participation Date is not a Released Entity. Further and notwithstanding anything else in this paragraph, no entity sued in *In re: National*

Prescription Opiate Litigation, No. 1:17-md-2804 (N.D. Ohio) is included as a Released Entity other than the entities listed on Exhibit J.

FFF. *"Releasors."* With respect to Released Claims, (1) each Settling State; (2) each Participating Subdivision; and (3) without limitation and to the maximum extent of the power of each Settling State's Attorney General and/or Participating Subdivision to release Claims, (a) the Settling State's and Participating Subdivision's departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind 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, water districts, emergency services districts, school districts, healthcare districts, hospital districts, Sheriffs and law enforcement districts, library districts, coroner's offices, and public transportation authorities, and other Special Districts in a Settling State, including those with the regulatory authority to enforce state and federal controlled substances acts or the authority to bring Claims related to Covered Conduct seeking money (including abatement (or remediation and/or restitution)) or revoke a pharmaceutical distribution license, 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, including but not limited to fines, penalties, or punitive damages, 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. 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. Each Settling State's Attorney General represents that he or she has obtained (or will obtain no later than the Initial Participation Date) the authority set forth in Section XI.G. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide the Subdivision Settlement Participation Form referenced in Section VIII providing for a release to the fullest extent of the Participating Subdivision's authority.

GGG. *"Remediation Accounts Fund."* The component of the Settlement Fund described in Section VI.C.

HHH. *"Remediation Payment."* The amount payable to the Settlement Fund by Alvogen for Settling States' Base Payments and Incentive Payments on the Payment Date, as calculated by the Settlement Fund Administrator.

III. *"Revocation Event."* With respect to a Bar or Case-Specific Resolution, a legislative amendment, revocation, rescission, reversal, overruling, or interpretation that in any way limits the effect of such Bar or Case-Specific Resolution on Released Claims, or any other action or event that otherwise deprives the Bar, or Case-Specific Resolution of force or effect in any material respect.

JJJ. *"Settlement Fund."* The interest-bearing fund established at [Bank TBD] pursuant to this Agreement into which the Remediation Payment is made under Section V, which is intended to be classified as a "qualified settlement fund" within the meaning of

26 C.F.R. §§ 1.468B-1 *et seq*. and which shall be approved by any Settling State in accordance with the requirements of 26 C.F.R. § 1.468B-1.

KKK. *"Settlement Fund Administrator."* BrownGreer PLC, which is the entity that determines the Remediation Payment (including calculating offset or reduction and Incentive Payments pursuant to Section V) and Additional Remediation Amount, administers the Settlement Fund, and distributes amounts into the Remediation Accounts Fund, State Fund, and Subdivision Fund pursuant to this Agreement. The duties of the Settlement Fund Administrator shall be governed by this Agreement. Prior to the Effective Date, Alvogen and the Enforcement Committee shall agree to a detailed description of the Settlement Fund Administrator's duties and responsibilities, including a detailed mechanism for paying the Settlement Fund Administrator's fees and costs, all of which shall be appended to the Agreement as Exhibit L.

LLL. *"Settlement Fund Escrow."* The interest-bearing escrow fund established pursuant to this Agreement to hold disputed payments made under this Agreement.

MMM."*Settling State."* An Eligible State that has entered into this Agreement and delivers executed releases in accordance with Section IX.A.

NNN. "*State Allocation Percentage."* A Settling State's percentage as set forth in Exhibit F.

OOO. *"State Fund."* The component of the Settlement Fund described in Section VI.C.

PPP. *"State-Subdivision Agreement."* 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.

QQQ. *"Statutory Trust."* 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.

RRR. *Statewide Payment Amount."* The amount from the Remediation Payment to be paid to a Settling State, including its separate types of funds (if applicable) and its Participating Subdivisions listed in Exhibit G, on or as soon as practical after the Payment Date.

SSS. *"Subdivision."* Any (1) General Purpose Government (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore, or any other entities that provide municipal-type government), School District, or Special District within a Settling State, and (2) any other subdivision, subdivision official acting in an official capacity on behalf of the subdivision (including, without limitation, district attorneys, county attorneys, city attorneys, sheriffs, and any other official, employee, or representative), 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, Nonfunctioning Governmental Units and public institutions) that has filed a lawsuit that includes a Released Claim against a Released Entity in a direct, *parens patriae,* or any other capacity. "General Purpose Government," "School District," and "Special District" shall correspond to the "five basic types of local governments" recognized by the U.S. Census Bureau and match the 2017 list of Governmental Units.[2] The three (3) General Purpose Governments are county, municipal, and township governments; the two (2) special purpose governments are School Districts and Special Districts.[3] "Fire District," "Health District," "Hospital District," and "Library District" shall correspond to categories of Special Districts recognized by the U.S. Census Bureau.[4] References to a Settling State's Subdivisions or to a Subdivision "in," "of," or "within" a Settling State include Subdivisions located within the Settling State even if they are not formally or legally a sub-entity of the Settling State; *provided, however,* that a "Health District" that includes any of the following words or phrases in its name shall not be considered a Subdivision: mosquito, pest, insect, spray, vector, animal, air quality, air pollution, clean air, coastal water, tuberculosis, and sanitary.

TTT. "*Subdivision Allocation Percentage."* The portion of a Settling State's Subdivision Fund set forth in Exhibit G that a Subdivision will receive pursuant to Section VI 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 VI.D.3 (or upon the effectiveness of an amendment to

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[2] https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP

[3] *E.g.,* U.S. Census Bureau, "Technical Documentation: 2017 Public Use Files for State and Local Government Organization" at 7 (noting that "the Census Bureau recognizes five basic types of local governments," that three of those are "general purpose governments" (county governments, municipal governments, and township governments), and that the other two are "school district and special district governments"), https://www2.census.gov/programs-surveys/gus/datasets/2017/2017_gov_org_meth_tech_doc.pdf.

[4] A list of 2017 Government Units provided by the Census Bureau identifies 38,542 Special Districts and categorizes them by "FUNCTION_NAME." "Govt_Units_2017_Final" spreadsheet, "Special District" sheet, included in "Independent Governments - list of governments with reference information," https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP. As used herein, "Fire District" corresponds to Special District function name "24 — Local Fire Protection," "Health District" corresponds to Special District function name "32 — Health," "Hospital District" corresponds to Special District function name "40 —Hospitals," and "Library District" corresponds to Special District function name "52 — Libraries." *See id.*

any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section VI.D.3) that addresses allocation from the Subdivision Fund, whether before or after the Initial 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 VI.D.3. The Subdivision Allocation Percentages contained in Exhibit G may not change once notice is distributed pursuant to Section VIII.A, except upon the effectiveness of any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section VI.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section VI.D.3) 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.

UUU. *"Subdivision Fund."* The component of the Settlement Fund described in Section VI.A.

VVV. *"Subdivision Settlement Participation Form."* The form attached as Exhibit K that Participating Subdivisions must execute and return to the Implementation Administrator or Settlement Fund Administrator, and which shall (1) make such Participating Subdivisions signatories to this Agreement, (2) include a full and complete release of any and all of such Participating Subdivisions' claims, and (3) require the prompt dismissal with prejudice of any Released Claims that have been filed by any such Participating Subdivision.

WWW. *"Threshold Motion."* A motion to dismiss or equivalent dispositive motion made at the outset of litigation under applicable procedure. A Threshold Motion must include as potential grounds for dismissal any applicable Bar or the relevant release by a Settling State or Participating Subdivision provided under this Agreement and, where appropriate under applicable law, any applicable limitations defense.

II. Participation by Eligible States and Condition to Preliminary Agreement

A. *Notice to Eligible States.* On May 26, 2025, this Agreement shall be distributed to all Eligible States. The Attorneys General of the Eligible States shall then have until June 25, 2025, to decide whether to become Settling States and notify the Enforcement Committee and Alvogen of that decision. Eligible States that determine to become Settling States shall so notify Alvogen and shall further commit to obtaining any necessary additional state releases prior to the Reference Date. This notice period may be extended by written agreement of Alvogen and the Enforcement Committee.

B. *Condition to Preliminary Agreement*. Following the notice period set forth in Section II.A, Alvogen shall have fourteen (14) calendar days to determine whether, in its sole discretion (based on any criteria or factors deemed relevant to Alvogen), enough Eligible States have agreed to become Settling States to proceed with notice to

Subdivisions as set forth in Section VIII. This period may be extended by written agreement of Alvogen and the Enforcement Committee. If Alvogen determines that this condition has been satisfied, and that notice to the Subdivisions should proceed, it will so notify the Settling States by providing notice to the Enforcement Committee. The date of such notice shall be the Preliminary Agreement Date. If Alvogen determines that this condition has not been satisfied, this Agreement will have no further effect and all releases and other commitments or obligations contained herein will be void.

C. *Later Joinder by Eligible States*. After the Preliminary Agreement Date, an Eligible State may only become a Settling State with the consent of Alvogen and the Enforcement Committee, provided that the Enforcement Committee may not withhold consent to an Eligible State's later joinder if the Eligible State agrees to join pursuant to the terms of this Agreement and the allocation set forth on Exhibit F. If an Eligible State becomes a Settling State more than thirty (30) calendar days after the Preliminary Agreement Date, but on or before the Reference 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 Reference Date.

D. *Litigation Activity.* Following the Preliminary Agreement Date, Eligible States that determine to become Settling States shall make reasonable efforts to cease litigation activity against Alvogen, including by jointly seeking stays or, where appropriate, severance of claim against Alvogen, 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.

III. Injunctive Relief

A. *Injunctive Relief.* As part of the Consent Judgment, the Parties agree to the injunctive relief terms attached in Exhibit P.

IV. Procedure for Segregated Account Deposits and Payments

A. By the Deposit Date, Alvogen shall deposit into a segregated interest-bearing bank account it establishes the Adjusted Maximum Remediation Payment amount. Alvogen shall also deposit into two (2) separate segregated interest-bearing bank accounts it establishes: (a) the Private Attorney Fees amount; and (b) the Additional Remediation Amount. Alvogen shall separately account for the interest earned on each of the three (3) accounts.

B. Alvogen shall provide proof to the Enforcement Committee of the deposits required by Section IV.D.1 by the Deposit Date. Alvogen shall not remove any money from the segregated bank accounts, except as provided by Section IV.F and Section IV.H.

C. If an Eligible State joins the agreement pursuant to Section II.C and that joinder is after the Deposit Date, Alvogen shall deposit that Settling State's maximum Statewide Payment Amount, which is the Maximum Remediation Payment multiplied by the Settling State's State Allocation Percentage. Such deposit shall be within fifteen (15) days of the Settling State's joinder.

D. If the condition set forth in Section IX.B is met, Alvogen shall:

1. Transfer into the Settlement Fund on the Payment Date (unless the Enforcement Committee specifies a later date) the Remediation Payment amount calculated by the Settlement Fund Administrator pursuant to Section V.C.2 from the segregated account. For the avoidance of doubt, this transfer includes any amounts that the Settlement Fund Administrator will place into the Settlement Fund Escrow pursuant to Section V.C.4.e.

a. The interest earned from the deposit account holding the Remediation Amount shall be used, first, to pay for the Implementation Administrator, then to pay for the Implementation Administrator in the Amneal, Apotex, Hikma, Indivior, Mylan, Sun, and Zydus Settlement Agreements, and finally to be transferred to the Settlement Fund to be used to pay for the Settlement Fund Administrator pursuant to Section VI.C.4.

2. Transfer into the relevant funds as directed by the Enforcement Committee, no later than the Payment Date (unless the Enforcement Committee specifies a later date) the amount in the segregated account holding the Private Attorney Fees (including all interest accrued on that account), minus any amounts not payable pursuant to the terms of Exhibit R, and the amount in the segregated account holding the Additional Remediation Amount (including all interest accrued on that account), minus the Additional Remediation Amount that would have been owed to Non-Settling States as calculated by multiplying the Additional Remediation Amount by the sum of allocations on Exhibit N for Non-Settling States.

E. The Remediation Payment transferred by Alvogen into the Settlement Fund pursuant to Section IV.D.1 shall be disbursed by the Settlement Fund Administrator to each Settling State and to its Participating Subdivisions listed on Exhibit G pursuant to Section V.C.5 through Section V.C.8; provided, however, that for any Settling State where the Consent Judgment has not been entered as of the Effective Date, the funds allocable to that Settling State and its Participating Subdivisions listed on Exhibit G shall not be disbursed until ten (10) calendar days after the entry of the Consent Judgment in that Settling State.

F. Any amounts in the segregated accounts not subject to transfer pursuant to Section IV.D shall immediately revert to Alvogen after Alvogen makes the transfers required by Section IV.D.

G. Except for the interest earned on the payment amounts, any unearned Incentive Payment A amount in the Settlement Fund shall immediately revert to Alvogen after the Incentive Payment A Catch-Up Date. This excess reflects Settling States who sought, but did not achieve, a Bar by the Incentive Payment A Catch-Up Date. Any amount in the Settlement Fund exceeding the payments described in Section V.C.3 shall immediately revert to Alvogen after the Payment Date. This excess is Settling States' unearned Maximum Incentive Payment amounts.

H. In the event that, in accordance with the terms of Section IX.B, Alvogen determines not to proceed with the Settlement, or the Settlement does not become effective for any other reason, the funds held in the segregated bank accounts shall immediately revert to Alvogen.

V. Settlement Payment Calculation Process

A. *Settlement Fund.* All payments under this Section V shall be made into the Settlement Fund, except that, where specified, they shall be made into the Settlement Fund Escrow. The Settlement Fund shall be allocated and used only as specified in Section VI.

B. *Remediation Payment*

1. Alvogen shall make one Remediation Payment comprised of both Base Payments and Incentive Payments as provided in Section IV.D.1.

2. In no instance shall Alvogen's Remediation Payment obligations exceed the Adjusted Maximum Remediation Amount.

C. *Settlement Fund Payment Process*

1. To determine the Remediation Payment, the Settlement Fund Administrator shall use the data as of the Payment Calculation Date. Prior to the Effective Date, the Parties will include Exhibit L, which sets forth in detail the process for the Settlement Fund Administrator to obtain relevant data and for distributing funds to the Settling States and their Participating Subdivisions listed on Exhibit G consistent with the terms of this Agreement as quickly as practical.

2. On the Payment Calculation Date, the Settlement Fund Administrator shall determine the Remediation Payment , consistent with the provisions in Exhibit L, by determining the sum, for all Settling States, of the Base Payment amount, Incentive Payments A or BC amount to which each Settling State is entitled (or could in the future be entitled for states who notify Defendants of an intent to obtain a Bar by the Incentive Payment A Catch-Up Date)by applying the criteria under Section V.D and Section V.E;

3. On the Payment Calculation Date and Incentive Payment A Catch-Up Date, the Settlement Fund Administrator shall determine the Statewide Payment Amount for each Settling State, consistent with the provisions in Exhibit L, by determining, for each Settling State, the Base Payment amount (only on the Payment Calculation Date) and Incentive Payment amount to which the Settling State is entitled on that date by applying the criteria under Section V.D and Section V.E, after subtracting the portion of any Settlement Fund Administrator costs and fees owed out of funds from the Settlement Fund pursuant to Section VI.C.4.

4. No later than fifty (50) days prior to the Payment Date, the Settlement Fund Administrator shall give notice to Alvogen, the Settling States, and the Enforcement Committee of the amount of the Remediation Payment, and/or the Statewide Payment Amount for each Settling State, following the determination described in Section V.C.2 and V.C.3, and the following timeline shall apply:

a. Within twenty-one (21) calendar days of the notice provided by the Settlement Fund Administrator, Alvogen, any Settling State or the Enforcement Committee may dispute, in writing, the calculation of the Remediation Payment and/or the Statewide Payment Amount for a Settling State. Such disputing party must provide a written notice of dispute to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Alvogen identifying the nature of the dispute, the amount of money that is disputed, and the Settling State(s) affected.

b. Within twenty-one (21) calendar days of the sending of a written notice of dispute, any affected party may submit a response, in writing, to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Alvogen identifying the basis for disagreement with the notice of dispute.

c. If no response is filed, the Settlement Fund Administrator shall adjust the amount calculated consistent with the written notice of dispute. In the case of the Remediation Payment, Alvogen shall pay the adjusted amount, collectively totaling the Remediation Payment, on the Payment Date.

d. If a written response to the written notice of dispute is timely sent to the Settlement Fund Administrator, the Settlement Fund Administrator shall notify Alvogen, the Enforcement Committee, and any affected Settling State of the preliminary amount, which shall be the greater of the amount originally calculated by the Settlement Fund Administrator or the amount that would be consistent with the notice of dispute. In the case of the Remediation Payment, Alvogen shall pay this preliminary amount, *provided, however,* that in no circumstances shall the preliminary amount to be paid be higher than the Maximum Remediation Payment.

e. The Settlement Fund Administrator shall place any disputed amount of the preliminary amount paid by Alvogen into the Settlement Fund Escrow and shall disburse any undisputed amount to each Settling State and its Participating Subdivisions listed on Exhibit G pursuant to Section V.C.5.

5. If a Settling State informs the Settlement Fund Administrator that it and its Participating Subdivisions listed on Exhibit G have agreed on the amount of its Statewide Payment Amount, determined pursuant to Section V.C.3, to be distributed to the Settling State, among its separate types of funds (if applicable), and among its Participating Subdivisions listed on Exhibit G, the Settlement Fund Administrator shall disburse the Statewide Payment Amount pursuant to the consensus distribution amounts provided by the Settling State as quickly as practical. For a Settling State that does not so notify the Settlement Fund Administrator, the Settlement Fund Administrator shall allocate the Settling State's Statewide Payment Amount, pursuant to Section VI, 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:

a. As soon as possible for each payment and following the determination described in Section V.C.3, the Settlement Fund Administrator shall give notice to the relevant Settling States and their Participating Subdivisions listed on Exhibit G of the amount to be received by each Settling State, the amount to be received by the separate types of funds for each Settling State (if applicable), and the amount to be received by each Participating Subdivision listed on Exhibit G for each Settling State.

b. Within twenty-one (21) days of the notice provided by the Settlement Fund 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 Fund 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.

c. Within twenty-one (21) 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 Fund Administrator, any affected Settling State, and any affected Participating Subdivision identifying the basis for disagreement with the notice of dispute.

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

e. The Settlement Fund Administrator shall place any disputed amount into the Settlement Fund Escrow and shall disburse any undisputed amount to the Settling State and its Participating Subdivisions eligible for payment.

6. Disputes described in this subsection (other than those for which no response is filed under Sections V.C.4.c or V.C.5.d) shall be resolved in accordance with the terms of Section VII.F.

7. The Settlement Fund Administrator may combine the disbursements of the Remediation Payment with the disbursement of funds under other comparable opioid settlements. In determining when disbursements of the Remediation Payment will be made, the Settlement Fund Administrator may take into account the timeline for the availability of disbursements under other comparable opioid settlements.

8. For the avoidance of doubt, Subdivisions 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.

D. *Base Payments.*

1. Alvogen shall make Base Payments into the Settlement Fund in an amount equal to forty percent (40%) of the Adjusted Maximum Remediation Payment. The maximum total for Base Payments is $7,472,064.67.

2. The Base Payment for any Settling State shall be the maximum total for Base Payments, $7,472,064.67, times the Settling State's State Allocation Percentage specified in Exhibit F.

E. *Incentive Payments.*

1. Settling States may earn Incentive Payments totaling up to a maximum of sixty percent (60%) of the Adjusted Maximum Remediation Payment, with the Incentive Payment amount depending on whether and the extent to which the criteria set forth below are met in each Settling State. The maximum total for Incentive Payments is $11,208,097.

2. A Settling State qualifies to receive an Incentive Payment in addition to its Base Payment if it meets the incentive eligibility requirements specified below. The maximum total Incentive Payment for any Settling State shall be no more than the maximum total for Incentive Payments, $11,208,097, times the Settling State's State Allocation Percentage specified in Exhibit F. Incentive Payments are state-specific,

with the actual amount depending on whether and the extent to which the criteria set forth below are met in such Settling State.

3. The Incentive Payments shall be divided among two (2) categories, referred to as Incentive Payments A and BC. Incentive Payments A and BC will be due to Settling States on the Payment Date. The total amount of Incentive Payments due to Settling States shall be the sum of the Incentive Payments for which the individual Settling States are eligible under the criteria set forth below. The Incentive Payments shall be made with respect to a specific Settling State based on its eligibility under the criteria set forth below. For the avoidance of doubt, eligibility for Incentive Payments A and BC shall be determined on a Settling State-by-Settling State basis.

4. Incentive Payment A.

a. Incentive Payment A is mutually exclusive with Incentive Payment BC; if a Settling State receives Incentive Payment A in the Remediation Payment, such Settling State is not eligible for Incentive Payment BC.

b. Incentive Payment A shall be equal to sixty percent (60%) of the Adjusted Maximum Remediation Payment, provided all Settling States satisfy the requirements of Incentive Payment A. Incentive Payment A will be due to a Settling State as part of the Remediation Payment, and shall equal a total potential maximum of $11,208,097 if all Eligible States qualify for Incentive Payment A. Each Settling State's share of Incentive Payment A, *provided* that Settling State qualifies, shall equal the total maximum amount available for Incentive Payment A, $11,208,097, times the Settling State's State Allocation Percentage.

c. Qualification for Incentive Payment A is as follows: A Settling State qualifies for Incentive Payment A if, as of the Payment Calculation Date: (i) there is a Bar in that Settling State in full force and effect, (ii) the 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: all Primary Subdivisions, Litigating Subdivisions, School Districts with a K-12 student enrollment of at least 25,000 or .10% of a Settling State's population, whichever is greater, Hospital Districts that have at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district, and Primary Fire Districts; or (iii) a combination of the actions in clauses (i) and (ii) has achieved the same level of resolution of Subdivision Claims (*e.g.,* a Bar against future litigation combined with full joinder by Litigating Subdivisions). For the avoidance of doubt, subsection (iii) cannot be satisfied unless all Litigating Subdivisions are Participating Subdivisions or there is a Case-Specific Resolution against any such Subdivisions that are not Participating Subdivisions. Alvogen and the

Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Initial Participation Date.

d. If a Settling State intends to achieve Incentive A by a Bar in effect after the Payment Calculation date but before the Incentive A Catch-Up Date, the Settling State shall notify Alvogen no later than 30 days before the Initial Participation Date. A Settling State who so notifies Alvogen and does not qualify for Incentive Payment A as of the Payment Date but becomes eligible for Incentive Payment A as of the Incentive Payment A Catch-Up Date shall receive the payment that it would have received for Incentive Payment A (the "Incentive Payment A Catch-up Payment") on the Incentive Payment A Catch-Up Date. The Incentive Payment A Catch-up Payment shall be reduced by any amounts paid to the Settling State under Incentive Payment BC prior to the Settling State's eligibility for Incentive Payment A. A Settling State that does not qualify for Incentive Payment A as of the Incentive Payment A Catch-Up Date shall not be eligible for Incentive Payment A.

e. To the extent a Settling State asserts that existing legislation qualifies as a Bar, the Settling State shall provide notice to Alvogen no later than 30 days before the Initial Participation Date. Alvogen shall indicate before the Initial Participation Date whether existing legislation in a Settling State is sufficient to qualify as a Bar.

5. Incentive Payment BC.

a. Incentive Payment BC shall be available to Settling States that do not qualify for Incentive Payment A.

b. Incentive Payment BC shall be up to a maximum of sixty percent (60%) of the Settling State's share of the Remediation Payment. Incentive Payment BC will be due to a Settling State as part of the Remediation Payment. Incentive Payment BC shall equal a total potential maximum of $11,208,097 if all Eligible States qualify for Incentive Payment BC (and do not qualify for Incentive Payment A).

c. The maximum Incentive Payment BC for any Settling State shall be the maximum potential Incentive Payment BC, $11,208,097, times the Settling State's State Allocation Percentage specified in Exhibit F, provided such Settling State becomes eligible for Incentive Payment BC by the Payment Calculation Date.

d. The amount of Incentive Payment BC for which a Settling State is eligible shall be determined based on the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of all the Settling State's

Incentive BC Subdivisions. The Settling State's Incentive BC Subdivisions are (i) all Litigating Subdivisions (including School Districts and Special Districts) and (ii) all Primary Subdivisions that have not sued Alvogen as of the Initial Participation Date (collectively "*Incentive BC Subdivisions*").

e. The percentage of the Settling State's maximum Incentive Payment BC provided by Section V.E.5.c to which the Settling State is entitled shall be determined according to the table of Incentive BC payment levels below:

Participation Percentage of Incentive BC Eligible Subdivision Population[5]	**Incentive Payment BC Percentage**
Less than 85%	0%
85% or more but less than 86%	3.57%
86% or more but less than 87%	8.93%
87% or more but less than 88%	14.29%
88% or more but less than 89%	19.64%
89% or more but less than 90%	25%
90% or more but less than 91%	30.36%
91% or more but less than 92%	35.71%
92% or more but less than 93%	41.07%
93% or more but less than 94%	46.43%
94% or more but less than 95%	51.79%
95% or more but less than 96%	60.71%

[5] The "Participation Percentage of Incentive BC Eligible Subdivision Population" shall be determined by the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of the Settling State's Incentive BC Subdivisions. In calculating the Settling State's population that resides in Incentive BC Subdivisions, the population of the Settling State's Incentive BC Subdivisions shall be the sum of the population of all Incentive BC Subdivisions in the Settling State, notwithstanding that persons may be included within the population of more than one Incentive BC Subdivision. An individual 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; provided, however, that for the avoidance of doubt, no Subdivision will be excluded from the numerator or denominator under this sentence unless a Subdivision otherwise counted in the denominator has the authority to release the Claims (consistent with Section X) of the Subdivision to be excluded.

96% or more but less than 97%	68.75%
97% or more but less than 98%	76.79%
98% or more but less than 99%	84.82%
99% or more but less than 100%	92.86%
100%	100%

f. The percentage of the available Incentive Payment BC amount for which a Settling State is eligible will be based on the Participation Percentage of Incentive BC Eligible Subdivision Population as of the Payment Calculation Date. If Incentive BC Eligible Subdivisions that have become Participating Subdivisions, or achieved Case-Specific Resolution status, collectively represent less than eighty-five percent (85%) of a Settling State's Incentive BC Eligible Subdivision population by the Payment Calculation Date, the Settling State shall not receive any Incentive Payment BC.

g. If there are no Incentive BC Eligible Subdivisions in a Settling State, and that Settling State is otherwise eligible for Incentive Payment BC, that Settling State will receive its maximum Incentive Payment BC provided by Section V.E.5.c.

In no event shall any Settling State receive a Base Payment and Incentive Payment totaling more than one hundred percent (100%) of its respective State Allocation Percentage specified in Exhibit F times the Maximum Remediation Payment.

VI. Allocation and Use of Settlement Payments

A. *Components of Settlement Fund.* The Settlement Fund shall be funded by the Remediation Payment and comprised of a Remediation Accounts Fund, a State Fund, and a Subdivision Fund for each Settling State. The payments made under Section IV into the Settlement Fund shall be initially allocated among those three (3) sub-funds and distributed and used as provided below. Unless otherwise specified herein, payments placed into the Settlement Fund do not revert back to Alvogen.

B. *Use of Settlement Payments.*

1. 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 VI.B.2. In no event may less than ninety-five percent (95%) of Alvogen's maximum amount of payments pursuant to Section V be spent on Opioid Remediation.

2. 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 Fund Administrator and Alvogen 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 VI.B.2 shall be available to the public. For the avoidance of doubt, (a) any amounts not identified under this Section VI.B.2 as used to pay attorneys' fees, investigation costs, or litigation costs shall be included in the Compensatory Restitution Amount for purposes of Section VI.F and (b) Participating Subdivisions not listed on Exhibit G may only use monies from the Settlement Fund for purposes that qualify as Opioid Remediation.

C. *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 Fund Administrator will make an initial allocation to three (3) state-level sub-funds. The Settlement Fund 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.

1. Base Payments. The Settlement Fund Administrator will allocate Base Payments under Section V.D among the Settling States pursuant to Section V.D.2. 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 VI.D.

2. Incentive Payments. The Settlement Fund Administrator will treat Incentive Payments under Section V.E on a state-specific basis. Incentive Payments for which a Settling State is eligible 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 VI.D.

3. Settlement Fund Administrator. Prior to the Effective Date, Alvogen and the Enforcement Committee will agree to a detailed mechanism consistent with the foregoing for the Settlement Fund Administrator to follow in allocating,

apportioning, and distributing payments, which shall then be appended hereto as Exhibit L.

4. Settlement Fund Administrator Costs. Any costs and fees associated with or arising out of the duties of the Settlement Fund Administrator as described in Exhibit L shall be paid from the interest accrued in the Settlement Fund Escrow and the Settlement Fund; provided, however, that if such accrued interest is insufficient to pay the entirety of any such costs and fees, the additional amount shall be paid out of the Settlement Fund. For the avoidance of doubt, nothing in this provision shall require Alvogen to pay any costs, fees or other amounts in excess of the Global Settlement Amount.

D. *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 VI.D.1 and Section VI.D.2, then the default provisions of Section VI.D.4 apply. It is not necessary that a State-Subdivision Agreement or other means of allocating funds pursuant to Section VI.D.1 and Section VI.D.2 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.

1. 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 VI.C 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 VI.B.2, and (b) that at least seventy percent (70%) of amounts be used solely for future Opioid Remediation.[6] For a State-Subdivision Agreement to be applied to the relevant portion of the Remediation Payment, notice must be provided to Alvogen and the Settlement Fund Administrator by the Payment Calculation Date.

2. 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 VI.B.2, 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 VI.C shall be allocated and

[6] 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

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 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 Section VI of any such unaddressed fund. For example, if an Allocation Statute or Statutory Trust that meets the requirements of this Section VI.D.2 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.

3. 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 Fund Administrator is not required to honor a voluntary redistribution for which notice is provided to it after the Payment Calculation Date.

4. Distribution in the Absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust. If Section VI.D.1, Section VI.D.2, and Section VI.D.3 do not apply, amounts apportioned to that Settling State's State Fund, Remediation Accounts Fund, and Subdivision Fund under Section VI.C shall be distributed as follows:

a. Amounts apportioned to that Settling State's State Fund shall be distributed to that Settling State.

b. Amounts apportioned to that Settling State's Remediation Accounts Fund shall be distributed consistent with Section VI.E. Each Settling State shall submit to the Settlement Fund 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 Fund 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 Fund 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 Fund Administrator to release the Settling State's Remediation Accounts Fund to the Statutory Trust.

c. 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 VIII.H 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.

d. Special Districts shall not be allocated funds from the Subdivision Fund, except through a voluntary redistribution allowed by Section VI.D.3 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.

5. Restrictions on Distribution. No amounts may be distributed from the Subdivision Fund contrary to Section VIII, 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 VIII.E through Section VIII.G. 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 VI.D.1 or by an Allocation Statute or a Statutory Trust described in Section VI.D.2.

E. *Provisions Regarding the Remediation Accounts Fund.*

1. 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 VI.D.1 or Section VI.D.2, as applicable, and all direct payments to Subdivisions comply with Section VIII.E through Section VIII.G.

2. 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:

a. Regional Remediation.

(i) 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 VI.E.2.d to define its regions and assign regional allocations percentages. Otherwise, the Settling State shall (A) define its initial regions, which shall consist of one (1) or more General Purpose Subdivisions 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; (B) 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.

(ii) 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.

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

b. *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.

c. *Small Settling States.* Notwithstanding the provisions of Section VI.E.2.a, Settling States with populations under four (4) million that do not have existing regions described in Section VI.E.2.a 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 VI.E.2.b shall be divided regionally so that each block-grant eligible Subdivision is a region, and the remainder of the state is a region.

d. *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:

(i) 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;

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

(iii) 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

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

3. Remediation Accounts Fund Reporting. The Settlement Fund Administrator shall track and assist in the report of remediation disbursements as agreed to between Alvogen and the Enforcement Committee

F. *Nature of Payment*. Alvogen, 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 Released Claims:

1. They have entered into this Agreement to avoid the delay, expense, inconvenience, and uncertainty of further litigation;

2. (a) The Settling States and Participating Subdivisions sought compensatory restitution and remediation (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; (b) 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 (c) 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;

3. The payment of the Compensatory Restitution Amount by Alvogen constitutes, and is paid for, compensatory restitution and remediation (within the meaning of 26 U.S.C. § 162(f)(2)(A) and 26 C.F.R. § 1.162-21(e)(4)(i), (ii)) for alleged damage or harm (as compensation for alleged damage or harm arising out of alleged bodily injury) allegedly caused by Alvogen 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

4. For the avoidance of doubt: (a) the entire Compensatory Restitution Amount is properly characterized as described in Section VI.F, (b) no portion of the Compensatory Restitution Amount represents reimbursement to any Settling State or Participating Subdivision or other person or entity for the fees or costs of any investigation or litigation, including without limitation attorneys' fees, (c) no portion of the Global Settlement Amount constitutes the disgorgement of any allegedly ill-gotten gains, and (d) no portion of the Global 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.

VII. Enforcement

A. *Enforceability.* This Agreement is enforceable only by the Settling States and Alvogen; *provided, however,* that Released Entities may enforce Section XI and Participating Subdivisions listed on Exhibit G have the enforcement rights described later in this paragraph and in Section VII.D. Except to the extent allowed by the Injunctive Relief Terms, Settling States and Participating Subdivisions shall not have enforcement rights against Alvogen 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. Participating Subdivisions shall not have enforcement rights against Alvogen with respect to this Agreement or any Consent Judgment except that Participating Subdivisions listed on Exhibit G shall have enforcement rights as set forth herein as to payments that would be allocated to the Participating Subdivisions or the Remediation Accounts Fund in such Settling State pursuant to Section V; *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. *Jurisdiction.* Alvogen consents to the jurisdiction of the court in which each Settling State files its Consent Judgment, limited to resolution of disputes identified in Section VII.F.2 for resolution in that court.

C. *Specific Terms Dispute Resolution.*

1. Any dispute that is addressed by the provisions set forth in the Injunctive Relief Terms shall be resolved as provided therein.

D. *State-Subdivision Enforcement.*

1. 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 allegations that (i) the Settling State's use of Remediation Accounts Fund monies were not used for uses 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 VI.E.2.b.

2. 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 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.

3. 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.

E. *Subdivision Alvogen Payment Enforcement.* A Participating Subdivision listed on Exhibit G shall have the same right as a Settling State to seek resolution regarding the failure by Alvogen to make its Remediation Payment.

F. *Other Terms Regarding Dispute Resolution.*

1. The parties to a dispute shall promptly meet and confer in good faith to resolve any dispute. If the parties cannot resolve the dispute informally, and unless otherwise agreed in writing, they shall follow the remaining provisions of this subsection to resolve the dispute.

2. Except to the extent provided by Section VII.C or Section VII.F.3, disputes not resolved informally shall be resolved in 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.

a. State court proceedings shall be governed by the rules and procedures of the relevant forum.

b. For the avoidance of doubt, disputes to be resolved in state court include, but are not limited to, the following:

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

(ii) disputes between a Settling State and its Participating Subdivisions as provided by Section VII.D, except to the extent the 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;

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

(iv) 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;

(v) whether the definition of a Bar, a Case-Specific Resolution, Final Order, lead state agency as described in Section VI.D.4.b, Later Litigating Subdivision, Litigating Subdivision, or Threshold Motion have been met; and

(vi) all other disputes not specifically identified in Section VII.C or Section VII.F.3.

c. Any Party may request that the National Arbitration Panel provide an interpretation of any provision of the settlement 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.

3. National Disputes involving a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VII.A, and/or Alvogen shall be resolved by the National Arbitration Panel.

a. National Disputes are disputes that are not addressed by Section VII.C, and which are exceptions to Section VII.F.2's presumption of resolution in state courts because they involve issues of interpretation of terms contained in this Agreement applicable to all Settling States without reference to a particular state's law. Disputes between a Settling State and any Participating Subdivision shall not be considered National Disputes. National Disputes are limited to the following:

(i) the amount of offset and/or credit attributable to Non-Settling States;

(ii) issues involving the scope and definition of Product;

(iii) interpretation and application of the terms "Covered Conduct," "Released Entities," and "Released Claims;"

(iv) the failure by Alvogen to pay the Remediation Payment or the Additional Remediation Amount, but for the avoidance of doubt, disputes between Alvogen and a Settling State over the amounts owed only to that state that do not affect any other Settling State shall not be considered National Disputes;

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

(vi) disputes involving liability of successor entities;

(vii) disputes that require a determination of the sufficiency of participation in order to qualify for Incentive Payments A or BC;

(viii) disputes involving a Releasor's compliance with, and the appropriate remedy under, Section XI.B.5.c;

(ix) 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

(x) any dispute subject to resolution under Section VII.F.2 but for which all parties to the dispute agree to arbitration before the National Arbitration Panel under the provisions of this Section VII.F.3.

b. The National Arbitration Panel shall be comprised of three (3) neutral arbitrators. One (1) arbitrator shall be chosen by Alvogen, one (1) arbitrator shall be chosen by the Enforcement Committee 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 that selected him/her.

c. 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.

d. 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.

e. To the extent allowed under state law, a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VII.A, 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.

f. The arbitrators will give due deference to 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 VII.A, or Alvogen on a state law issue.

g. The decisions of the National Arbitration Panel shall be binding on Settling States, Participating Subdivisions, Alvogen, and the Settlement Fund Administrator. In any proceeding before the National Arbitration Panel involving a dispute between a Settling State and Alvogen 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.

h. 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.

i. Each party shall bear its own costs in any arbitration or court proceeding arising under this Section VII. 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 Alvogen and Settling States/Participating Subdivisions shall be split fifty percent (50%) by Alvogen 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. For the avoidance of doubt, Alvogen shall not be responsible for the National Arbitration Panel costs in disputes that do not concern Alvogen.

4. Prior to initiating an action to enforce pursuant to this Section VII.F, the complaining party must:

a. Provide written notice to the Enforcement Committee and Alvogen 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 Enforcement Committee shall establish a reasonable process and timeline for obtaining additional information from the involved parties; *provided, however,* that the date the Enforcement Committee establishes for obtaining additional information from the parties shall not be more than forty-five (45) calendar days following the notice. The Enforcement Committee may advise the involved parties of its views on the complaint and/or seek to resolve the complaint informally.

b. Wait to commence any enforcement action until thirty (30) calendar days after the date that the Enforcement Committee establishes for obtaining additional information from the involved parties.

5. If the parties to a dispute cannot agree on the proper forum for resolution of the dispute under the provisions of Section VII.F.2 or Section VII.F.3, a committee comprising the Enforcement Committee and sufficient representatives of Alvogen such that the members of the Enforcement Committee have a majority of one (1) member 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 committee's identification of such forum in the first instance shall not be entitled to deference by the forum selected.

G. *Lien or Encumbrance*. To the extent allowed by applicable law, this Settlement Agreement shall not be deemed to create a lien or encumbrance against any real property owned by Alvogen or its affiliates, unless in the event of a default or breach of the payment provisions by Alvogen. Nothing in this Section shall be construed to limit any

remedy of any Settling State or Participating Subdivision in the event of a default or breach of this Agreement by Alvogen.

H. *No Effect.* Nothing in this Agreement shall be interpreted to limit the Settling States' Civil Investigative Demand ("*CID*") or investigative subpoena authority, to the extent such authority exists under applicable state law and the CID or investigative subpoena is issued pursuant to such authority, and Alvogen reserves all of its rights in connection with a CID or investigative subpoena issued pursuant to such authority.

VIII. Participation by Subdivisions

A. *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. 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, 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 and Special Districts listed on Exhibit G. The costs of the Implementation Administrator shall be paid for by the interest earned from the deposit accounts holding the Adjusted Maximum Remediation Payment for Alvogen, and nothing in this provision shall require Alvogen to pay any costs, fees or other amounts in excess of the Global Settlement Amount. The Settling States, with the cooperation of Alvogen, 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 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.

B. *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 Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or

Settlement Fund Administrator) specifying (1) that the Subdivision agrees to the terms of this Agreement pertaining to Subdivisions, (2) that the Subdivision releases all Released Claims against all Released Entities, (3) that the Subdivision agrees to use monies it receives, if any, from the Settlement Fund pursuant to the applicable requirements of Section VI; *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. The required Subdivision Settlement Participation Form is attached as Exhibit K.

C. *Requirements for Becoming a Participating Subdivision—Litigating Subdivisions.* A 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 Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) and upon prompt dismissal with prejudice of its lawsuit following the Reference Date or the date on which the conditions for effectiveness in Section IX.B have been met, whichever is later. 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 Fund Administrator shall provide reports of this information to the parties upon request. A Litigating Subdivision may not become a Participating Subdivision after the completion of opening statements in a trial of a lawsuit it brought that includes a Released Claim against a Released Entity.

D. *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 VIII.B or Section VIII.C by the Initial Participation Date. All Subdivision Settlement Participation Forms shall be held in escrow by the Implementation Administrator until the Reference 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 obligations.

E. *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 VIII.B or Section VIII.C after the Initial Participation Date but before the Payment Calculation 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 VI.D or Section VI.E. Unless waived by Alvogen, the following provisions govern what a Later Participating Subdivision can receive (but do not apply to Initial Participating Subdivisions):

1. A Later Participating Subdivision shall receive seventy-five percent (75%) of the share of the Base Payment or Incentive Payment that it would have received had it become an Initial Participating Subdivision.

2. A Later Participating Subdivision that had maintained a lawsuit for a Released Claim against a Released Entity and had judgment entered against it on any such Claim before it became a Participating Subdivision (other than consensual dismissal with prejudice) shall receive 50% of the share of future Base Payments and Incentive Payments that it would have received had it become a Participating Subdivision prior to such judgment; provided, however that if the Subdivision appeals the judgment and the judgment is affirmed with finality, the Subdivision shall not receive any share of any Base Payments or Incentive Payments, and shall return to Alvogen any share of any Base Payments or Incentive Payments such Subdivision had already received.

3. A Later Participating Subdivision that becomes a Participating Subdivision while a Bar or Case-Specific Resolution involving a different Subdivision exists in its state shall receive twenty-five percent (25%) of the share of the Base Payment and Incentive Payment that it would have received if it had become an Initial Participating Subdivision.

F. *No Increase in Payments.* Amounts to be received by Later Participating Subdivisions shall not increase the payments due from Alvogen.

G. *Non-Participating Subdivisions.* Non-Participating Subdivisions shall not directly receive any portion of the 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.

H. *Unpaid Allocations to Later Participating Subdivisions and Non-Participating Subdivisions.* Any Base Payment and Incentive Payment allocated pursuant to Section VI.D to a Later Participating Subdivision or Non-Participating Subdivision that cannot be paid pursuant to this Section VIII, including the amounts that remain unpaid after the reductions required by Section VIII.E., 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.

IX. Condition to Effectiveness of Agreement and Filing of Consent Judgment

A. *Determination to Proceed with Settlement. —Settling States*. Following the Initial Subdivision Participation Date, the Enforcement Committee shall determine whether to proceed with the Agreement on behalf of the Settling States, and the Settling States shall be bound by the determination of the Enforcement Committee. No later than fifteen (15) calendar days prior to the Reference Date, the Enforcement Committee shall provide notice to Alvogen of its decision. If the Enforcement Committee elects 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 informing Alvogen that there is sufficient participation to proceed, the Enforcement Committee will deliver all signatures and releases required by the Agreement to be provided by the Settling States to Alvogen.

B. *Determination to Proceed with Settlement—Alvogen*. If the Settling States elect to proceed, Alvogen will then determine on or before the Reference Date whether there is sufficient Eligible State participation, sufficient Subdivision participation, and sufficient resolution of the Claims of the Litigating Subdivisions in the Settling States (through participation under Section VIII, Case-Specific Resolution(s) and Bar(s)) to proceed with this Agreement. The determination shall be in the sole discretion of Alvogen and may be based on any criteria or factors deemed relevant by Alvogen.

C. *Notice by Alvogen.* On or before the Reference Date, Alvogen shall inform the Settling States of its determination pursuant to Section IX.B. If Alvogen determines to proceed, the Parties will proceed to file the Consent Judgments, each of which shall be signed by the relevant Settling State and Alvogen, and the obligations in the Subdivision Settlement Participation Forms will be effective and binding as of the Reference Date. If Alvogen determines not to proceed, this Agreement will have no further effect, any amounts deposited, including funds referenced in Section IV.D. and Exhibit M, shall revert to Alvogen, 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.

X. Settling State and Participating Subdivision Attorneys' Fees and Costs and Additional Remediation Amount

A. The Agreement on Subdivision Attorneys' Fees, Expenses and Costs is set forth in Exhibit R and incorporated herein by reference.

B. *Additional Remediation Amount*.

1. Subject to the reduction specified in Section X.B.2, Alvogen shall pay an Additional Remediation Amount to the Settling States listed in Exhibit N. Such funds shall be paid as allocated by the Settlement Fund Administrator pursuant to Exhibit N.

2. *Reduction of Additional Remediation Amount*. The amounts owed by Alvogen pursuant to this Section X.B shall be reduced by the allocations set forth on Exhibit N for Non-Settling States.

3. For the avoidance of doubt, (1) a Settling State that retained outside counsel in connection with the investigation of Alvogen that receives an Additional Remediation Amount may choose to have the Additional Remediation Amount designated to pay the Settling State's outside counsel, and may instruct the

Settlement Fund Administrator to pay those funds directly to the Settling State's outside counsel, and (2) Additional Remediation Amount funds, including funds designated by a Settling State to pay its outside counsel under this paragraph, shall not be subject to allocation as provided in Section VI.C through Section VI.E.

C. All payments addressed by this Section X will be made no later than the Payment Date pursuant to Section V.

XI. Release

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

B. *Claim-Over and Non-Party Settlement*.

1. It is the intent of the Parties that:

a. Released Entities should not seek contribution or indemnification (other than pursuant to an insurance contract), from other parties for their payment obligations under this Agreement;

b. the payments made under this Agreement shall be the sole payments made by the Released Entities to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity);

c. Claims by Releasors against non-Parties should not result in additional payments by Released Entities, whether through contribution, indemnification or any other means; and

d. 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 released party's liability to any other parties.

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

3. No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner; provided that a Released Entity shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

4. To the extent that, on or after the Reference Date, any Releasor enters into a Non-Party Settlement, including in any bankruptcy case or through any plan of reorganization, 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 substantially equivalent to that required from Alvogen in Section XI.B.3, or a release from such Non-Released Entity in favor of the Released Entities (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.

5. In the event that any Releasor obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Entity that does not contain a prohibition like that described in Section XI.B.3 or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in Section XI.B.3, and such Non-Released Entity asserts a Claim-Over against a Released Entity, the Released Entity shall be relieved of the prohibition in Section XI.B.3 with respect to that Non-Released Entity and that Releasor and Alvogen shall take the following actions to ensure that the Released Entities do not pay more with respect to Covered Conduct to the Releasor or to Non-Released Entities than the amount owed under this Settlement Agreement by Alvogen:

a. Alvogen shall notify that Releasor of the Claim-Over within sixty (60) calendar days of the assertion of the Claim-Over or sixty (60) calendar days of the Effective Date of this Settlement Agreement, whichever is later;

b. Alvogen and that Releasor shall meet and confer concerning the means to hold Released Entities harmless and ensure that Alvogen is not required to pay more with respect to Covered Conduct than the amounts owed by Alvogen to the Releasor under this Agreement;

c. The Releasor and Alvogen shall take steps sufficient and permissible under the law of the state of the Releasor to hold Released Entities harmless from the Claim-Over and ensure Released Entities are not

required to pay more with respect to Covered Conduct than the amounts owed by Alvogen under this Agreement. Such steps may include, where permissible:

(i) Filing of motions to dismiss or such other appropriate motion by Alvogen or Released Entities, and supported by Releasor, in response to any claim filed in litigation or arbitration;

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

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

(iv) Return of monies paid by Alvogen to the Releasor under this Settlement Agreement to permit satisfaction of a judgment against or settlement with the Non-Released Entity to satisfy the Claim-Over;

(v) Payment of monies to Alvogen by the Releasor to ensure it is held harmless from such Claim-Over, up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity;

(vi) Credit to Alvogen under this Agreement to reduce the overall amounts to be paid under the Agreement such that it is held harmless from the Claim-Over; and

(vii) Such other actions as the Releasor and Alvogen may devise to hold Alvogen harmless from the Claim-Over.

d. The actions of the Releasor and Alvogen taken pursuant to paragraph (c) must, in combination, ensure Alvogen is not required to pay more with respect to Covered Conduct than the amounts owed to the Releasor by Alvogen under this Agreement.

e. In the event of any dispute over the sufficiency of the actions taken pursuant to paragraph (c), the Releasor and Alvogen 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. The National Arbitration Panel shall have authority to require Releasor to implement a remedy that includes one or more of the

actions specified in paragraph (c) sufficient to hold Released Entities fully harmless. In the event that the Panel's actions do not result in Released Entities being held fully harmless, Alvogen shall have a claim for breach of this Agreement by Releasor, with the remedy being payment of sufficient funds to hold Alvogen harmless from the Claim-Over up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity. For the avoidance of doubt, the prior sentence does not limit or eliminate any other remedy that Alvogen may have.

6. To the extent that the Claim-Over is based on a contractual indemnity, the obligations under Section XI.B.4 shall extend solely to a Non-Party Covered Conduct Claim against a pharmacy, 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. Alvogen shall notify the Settling States, to the extent permitted by applicable law, in the event that any of these types of Non-Released Entities asserts a Claim-Over arising out of contractual indemnity against it.

C. *Indemnification and Contribution Prohibited.* No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory, from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

D. *General Release.* In connection with the releases provided for in this Agreement, each Settling State (for itself and its Releasors) and Participating Subdivision 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:

> **General Release; extent.** A general release does not extend to claims 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 Released Claims, but each Settling State (for itself and its Releasors) and Participating Subdivision (for itself and its Releasors) hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims 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.

E. *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 Alvogen (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 Alvogen.

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

G. *Representation and Warranty*. The signatories hereto on behalf of their respective Settling States and its Participating Subdivisions expressly represent and warrant that they will obtain on or before the Effective Date (or have obtained) the authority to settle and release, to the maximum extent of the State's power, all Released Claims of (1) their respective Settling States; (2) any of the respective Settling State's past and present executive departments, state agencies, divisions, boards, commissions and instrumentalities with the regulatory authority to enforce state and federal controlled substances acts; (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 Claims related to Covered Conduct seeking money (including abatement and/or remediation) or revocation of a pharmaceutical distribution license; and (4) any Participating Subdivisions. For the purposes of clause (3) above, executive departments, agencies, divisions, boards, commission, and instrumentalities are those that are under the executive authority or direct control of the State's Governor. Also, for the purposes of clause (3), a release from a State's Governor as set forth in Exhibit X is sufficient to demonstrate that the appropriate releases have been obtained.

H. *Effectiveness.* The releases set forth in this Agreement 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.

I. *Cooperation.* Releasors (1) will not encourage any person or entity to bring or maintain any Released Claim against any Released Entity and (2) will reasonably cooperate with and not oppose any effort by a Released Entity to secure the prompt dismissal of any and all Released Claims, including suits brought by non-Releasors based on Released Claims. Releasors will meet and confer and make reasonable efforts to resolve any action that is filed by a Subdivision against Alvogen 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.

J. *Non-Released Claims.* Notwithstanding the foregoing or anything in the definition of Released Claims, the Agreement does not waive, release or limit any criminal liability, Claims for any outstanding liability under any tax or securities law, Claims against parties who are not Released Entities, Claims by private individuals, Claims for Medicaid rebates, Claims asserted, or that could be asserted, by any State or Subdivision, related to the causes of action in *In re: Generic Pharmaceuticals Pricing Antitrust Litigation*, in the United States District court for the District of Pennsylvania, MDL No. 2724; *Connecticut et al v. Aurobindo Pharma USA, Inc. et al.*, in the United States District Court for the District of Connecticut, Case No. 3:16-cv-2056-NPS; *Connecticut et al. v. Teva Pharmaceuticals USA, Inc.*, in the United States District Court for the District of Connecticut, Case No. 3:19-cv-710-NPS; *Connecticut et al v. Sandoz, Inc. et al.*, in the United States District Court for the District of Connecticut, Case No. 3:20-cv-802-NPS; and any related action (such excluded claims include, but are not limited to, all antitrust claims and any claims related to any non-opioid generic drugs), State false claim violations; Medicaid fraud or abuse claims (whether common law, statutory or otherwise) and/or kickback violations; and any claims arising under the Agreement for enforcement of the Agreement.

XII. Later Litigating Subdivisions

A. *Released Claims against Released Entities*. If a Later Litigating Subdivision in a Settling State maintains a lawsuit for a Released Claim against a Released Entity after the Reference Date, the following shall apply subject to Section XII.B:

1. The Released Entity shall take ordinary and reasonable measures to defend the action, including filing a Threshold Motion with respect to the Released Claim. The Released Entity shall further notify the Settling State and Settlement Fund Administrator immediately upon notice of a Later Litigating Subdivision bringing a lawsuit for a Released Claim and shall not oppose a Settling State's submission in support of the Threshold Motion. Alvogen shall give the relevant Settling State a reasonable opportunity to extinguish the Released Claims without any payment or any other obligations being imposed upon any Released Entities (apart from the Global Settlement Amount payable by Alvogen under the Agreement or the Injunctive Relief Terms incurred by it). The relevant Settling State and Alvogen 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.

2. "*Terms requiring payment*" shall mean (i) a final monetary judgment or (ii) a settlement; provided that the Released Entity sought the applicable State Attorney General's consent to the settlement and such consent was either obtained or unreasonably withheld. Should the judgment or settlement resolve claims that are not Released Claims, the offset shall be for the Released Claims portion only, which shall be distinguishable in the judgment or settlement.

B. *Exceptions*

1. Section XII.A shall not apply where the Settling State at issue meets the eligibility criteria for and is entitled to Incentive Payment A, except as expressly provided therein.

2. Section XII.A shall not apply where the Later Litigating Subdivision seeks less than $10 million, or so long as its total claim is reduced to less than $10 million, in the lawsuit for a Released Claim at issue.

C. *No Effect on Other Provisions.* An offset under Section XII.A shall not affect the Injunctive Relief Terms or the Consent Judgment.

D. *No Effect on Other States*. An offset under Section XII.A applicable to one State shall not affect the allocation or payment of the Remediation Payment to other Settling States.

E. *Litigating Subdivisions in Non-Eligible States.* The Settling States will not encourage, facilitate, or assist in any manner whatsoever claims for Covered Conduct against Alvogen in any Settling, Non-Settling, or Non-Eligible State, regardless of whether those claims were filed against Alvogen prior to, on, or after the Effective Date.

XIII. Miscellaneous

A. *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.

B. *Population of Special Districts.* For any purpose in this Agreement in which the population of a Special District is used other than Section V.E.4.b: (a) School Districts' population will be measured by the number of students enrolled who are eligible under the Individuals with Disabilities Education Act *("IDEA")* or Section 504 of the Rehabilitation Act of 1973; (b) Health Districts' and Hospital Districts' population will be measured at twenty-five percent (25%) of discharges; and (c) all other Special Districts' (including Fire Districts' and Library Districts') population will be measured at ten percent (10%) of the population served.[7] For the avoidance of doubt, this means that California healthcare districts will be measured at ten percent (10%) of their membership. Alvogen and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Preliminary Agreement Date.

C. *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.

D. *No Admission.* Alvogen does not admit 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 Alvogen.

E. *Tax Cooperation and Reporting.*

1. Upon request by Alvogen, the Settling States and Participating Subdivisions agree to perform such further acts and to execute and deliver such further documents as may be reasonably necessary for Alvogen to establish the statements set forth in Section VI.F to the satisfaction of their tax advisors, their independent financial auditors, the Internal Revenue Service, or any other governmental authority, including as contemplated by 26 C.F.R § 1.162-21(b)(3)(ii) and any subsequently proposed or finalized relevant regulations or administrative guidance.

[7] 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.

2. Without limiting the generality of Section XIII.E.1, each Settling State and Participating Subdivision shall cooperate in good faith with Alvogen with respect to any tax claim, dispute, investigation, audit, examination, contest, litigation, or other proceeding relating to this Agreement.

3. 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 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 Alvogen and (ii) any legally required forms, returns or amended returns with any applicable governmental authority, or any returns requested by Alvogen, and (b) provides to Alvogen a copy of (i) the IRS Form 1098-F filed with respect to Alvogen 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 VI.F. and as set forth in Section XIII.E.4.

4. Any form, return, amended return, or written statement filed or provided pursuant to Section XIII.E.3, and any similar document, shall be prepared and filed in a manner consistent with reporting the Global Settlement Amount as the "Total amount to be paid" pursuant to this Agreement in Box 1 of IRS Form 1098-F and the Compensatory Restitution Amount as "Restitution/remediation amount" in Box 3 of IRS Form 1098-F, as reflected in the attached Exhibit U. If the Designated State or Appropriate Official shall be required to file any form, return, amended return, or written statement contemplated by this Section XIII.E other than an IRS Form 1098-F in the form attached as Exhibit U, the Designated State shall direct and ensure that the Appropriate Official provides to Alvogen a draft of such form, return, amended return, or written statement no later than sixty (60) calendar days prior to the due date thereof, and shall accept any reasonable revisions from Alvogen on the return, amended return, or written statement.

5. For the avoidance of doubt, neither Alvogen nor the Settling States and Participating Subdivisions make any warranty or representation to any Settling State, Participating Subdivision, or Releasor as to the tax consequences of the payment of the Compensatory Restitution Amount (or any portion thereof).

F. *No Third-Party Beneficiaries.* Except as expressly provided in this Agreement, no portion of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not the Settling State or Released Entity. Settling States may not assign or otherwise convey any right to enforce any provision of this Agreement.

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

H. *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.

I. *Cooperation.* 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 and the Consent Judgments.

J. *Entire Agreement.* This Agreement, including its exhibits and any other attachments, 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.

K. *Execution.* This Agreement 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 Agreement. One or more counterparts of this Agreement may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart hereof. One or more counterparts of this Agreement may be signed by electronic signature.

L. *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) was made to them to induce them to enter into this Agreement.

M. *Legal Obligations.* Nothing in this Agreement shall be construed as relieving Alvogen 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.

N. *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.

O. *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 XIII.M.

P. *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 or in any litigation or arbitration concerning Alvogen's right to coverage under an insurance contract.

Q. *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 below:

For the Attorney(s) General:

Jeff Jackson, Attorney General
North Carolina Department of Justice
Attn: Daniel Mosteller, Associate Deputy Attorney General
PO Box 629
Raleigh, NC 27602
Dmosteller@ncdoj.gov

Jonathan Skrmetti, Attorney General
Tennessee Attorney General's Office
Attn: Michael Leftwich, Senior Deputy Attorney General
Hamilton Millwee, Assistant Attorney General
P.O. Box 20207
Nashville, TN 37202
Michael.Leftwich@ag.tn.gov
Hamilton.Millwee@ag.tn.gov

Letitia James, Attorney General
New York State Attorney General
Attn: Jennifer Levy, First Deputy Attorney General
Monica Hanna, Special Counsel
Matthew Conrad, Assistant Attorney General
28 Liberty Street, New York, NY 10005

Jennifer.Levy@ag.ny.gov
Monica.Hanna@ag.ny.gov
Matthew.Conrad@ag.ny.gov

For the Plaintiffs' Executive Committee:

Co-leads
Jayne Conroy
Simmons Hanly Conroy LLC
112 Madison Avenue
7th Floor
New York, NY 10016-7416
JConroy@simmonsfirm.com

Joseph F. Rice
Motley Rice LLC
28 Bridgeside Blvd.
Mount Pleasant, SC 29464
jrice@motleyrice.com

Paul T. Farrell, Jr.
Farrell & Fuller, LLC
270 Munzo Rivera Ave, Suite 201
San Juan, Puerto Rico 00918
paul@farrellfuller.com

For Alvogen:

Alvogen, Inc.
44 Whippany Road, Suite 300
Morristown, NJ 07960
Attn: Legal Affairs
USLegal@alvogen.com

Craig Reiser
Eva Yung
Axinn, Veltrop & Harkrider LLP
45 Rockefeller Plaza
New York, NY 10111
creiser@axinn.com
eyung@axinn.com

Any Party or the Plaintiffs' Executive Committee 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 XIII.Q.

R. *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.

S. *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.

T. *Successors.*

1. This Agreement shall be binding upon, and inure to the benefit of, Alvogen and its respective successors and assigns.

2. Alvogen shall not, in one (1) transaction or a series of related transactions, sell or transfer U.S. assets having a fair market value equal to twenty-five percent (25%) or more of the consolidated assets of Alvogen (other than sales or transfers of inventories, or sales or transfers to an entity owned directly or indirectly by Alvogen) where the sale or transfer is announced after the Reference Date, is not for fair consideration, and would foreseeably and unreasonably jeopardize Alvogen's ability to make the payments under this Agreement following the close of a sale or transfer transaction, unless Alvogen obtains the acquiror's agreement that it will be either a guarantor of or successor to the percentage of Alvogen's remaining Payment Obligations under this Agreement equal to the percentage of Alvogen's consolidated assets being sold or transferred in such transaction; provided, that liens and security interests granted by Alvogen to its lenders and/or noteholders, and any agent and/or trustee for any lenders and/or noteholders, shall not constitute a transfer or sale for purposes of this Section. Percentages under this section shall be determined in accordance with United States generally accepted accounting principles and as of the date of Alvogen's most recent publicly filed consolidated balance sheet prior to the date of entry into the sale or transfer agreement at issue. This Section XIII.T shall be enforceable solely by the Settling States, and any objection under this Section XIII.T not raised within sixty (60) calendar days of the announcement of the relevant transaction is waived.

U. *Modification, Amendment, Alteration.* In the event the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, or Alvogen concludes prior to the Reference Date that technical corrections are required to this Agreement, the Plaintiffs' Executive Committee, the Executive Committee of the State

Attorneys General, and Alvogen shall meet and confer and make such amendments as they agree are appropriate. After the Reference Date, any modification, amendment, or alteration of this Agreement by the Parties shall be binding only if evidenced in writing signed by Alvogen, along with the signature of at least two-thirds of those then serving as Attorneys 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 VI.E.2.d, 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.

V. *Termination.*

1. Unless otherwise agreed to by each of Alvogen and the Settling States, this Agreement and all of its terms (except Section XIII.P and any other non-admissibility provisions, which shall continue in full force and effect) shall be canceled and terminated with respect to the Settling State, and the Agreement and all orders issued by the courts in the Settling State pursuant to the Agreement shall become null and void and of no effect if one or more of the following conditions applies:

a. a Consent Judgment approving this Agreement without modification of any of the Agreement's terms has not been entered as to a Settling State by a court of competent jurisdiction on or before one hundred eighty (180) calendar days after the Effective Date;

b. this Agreement or the Consent Judgment as to that Settling State has been disapproved by a court of competent jurisdiction to which it was presented for approval and/or entry (or, in the event of an appeal from or review of a decision of such a court to approve this Agreement and the Consent Judgment, by the court hearing such appeal or conducting such review), and the time to appeal from such disapproval has expired, or, in the event of an appeal from such disapproval, the appeal has been dismissed or the disapproval has been affirmed by the court of last resort to which such appeal has been taken and such dismissal or disapproval has become no longer subject to further appeal (including, without limitation, review by the United States Supreme Court); or

2. If this Agreement is terminated with respect to a Settling State and its Subdivisions for whatever reason pursuant to Section XIII.V.1, then:

a. an applicable statute of limitation or any similar time requirement (excluding any statute of repose) shall be tolled from the date the Settling State signed this Agreement until the later of the time permitted by applicable law or for one year from the date of such termination, with

the effect that Alvogen and the Settling State shall be in the same position with respect to the statute of limitation as they were at the time the Settling State filed its action; and

b. Alvogen and the Settling State and its Participating Subdivisions shall jointly move the relevant court of competent jurisdiction for an order reinstating the actions and claims dismissed pursuant to the terms of this Agreement governing dismissal, with the effect that Alvogen and the Settling State and its Participating Subdivisions shall be in the same position with respect to those actions and claims as they were at the time the action or claim was stayed or dismissed.

3. Unless Alvogen and the Enforcement Committee agree otherwise, this Agreement, with the exception of the Injunctive Relief Terms that have their own provisions on duration, shall terminate upon the disbursement of all funds in the Settlement Fund and Settlement Fund Escrow to Settling States and to their Participating Subdivisions listed on Exhibit G. Notwithstanding any other provision in this Section XIII.V.3 or in this Agreement and the provisions of Section XI, all releases under this Agreement will remain effective despite any termination under this Section XIII.V.3.

W. *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 Alvogen or against which Alvogen is seeking enforcement. Notwithstanding any other provision in this subsection on governing law, any disputes relating to the Settlement Fund Escrow shall be governed by and interpreted in accordance with the law of the state where the escrow agent has its primary place of business.

X. *Bankruptcy.* The following provisions shall apply if Alvogen enters bankruptcy and (i) the Alvogen bankruptcy estate recovers, pursuant to 11 U.S.C. § 550, any payments made under this Agreement, or (ii) this Agreement is deemed executory and is rejected by Alvogen pursuant to 11 U.S.C. § 365:

1. In the event that the both a number of Settling States equal to at least seventy-five percent (75%) of the total number of Settling States and Settling States having aggregate State Allocation Percentages as set forth on Exhibit F equal to at least seventy-five percent (75%) of the total aggregate State Allocation Percentages assigned to all Settling States deem (by written notice to Alvogen) that the financial obligations of this Agreement have been terminated and rendered null and void (except as provided in Section XIII.X.1.a) due to a material breach by Alvogen, whereupon:

a. all agreements, all concessions, all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall immediately and automatically be deemed null and void as to Alvogen; the Settling States shall be deemed immediately and automatically restored to the same position they were in immediately prior to their entry into this Settlement Agreement in respect to Alvogen and the Settling States shall have the right to assert any and all claims against Alvogen in the bankruptcy or otherwise without regard to any limits or agreements as to the amount of the settlement otherwise provided in this Agreement; *provided, however,* that notwithstanding the foregoing sentence, (i) all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall remain in full force and effect as to all persons or entities other than Alvogen itself; and (ii) in the event the Settling State asserts any Released Claim against Alvogen after the rejection and/or termination of this Agreement as described in this Section XIII.X.1.a and receives a judgment, settlement or distribution arising from such Released Claim, then the amount of any payments the Settling State has previously received from Alvogen under this Agreement shall be applied to reduce the amount of any such judgment, settlement or distribution (provided that no credit shall be given against any such judgment, settlement or distribution for any payment that the Settling State is required to disgorge or repay to Alvogen's bankruptcy estate); and

b. the Settling States may exercise all rights provided under the federal Bankruptcy Code (or other applicable bankruptcy or non-bankruptcy law) with respect to their Claims against Alvogen subject to all defenses and rights of the Alvogen.

Y. *Waiver*. Alvogen, for good and valuable consideration the receipt of which is acknowledged, hereby (a) waives, foregoes and relinquishes all rights to utilize and/or seek relief under any of the following laws of the State of Texas for the restructuring of its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement: Tex. Bus. Orgs. Code § 10.003 (Contents of Plan of Merger: More Than One Successor) or any other statute of Subchapter A of Chapter 10 of Tex. Bus. Orgs. Code to the extent such statute relates to multi-successor mergers (and/or any other similar laws or statutes in any other state or territory); Tex. Bus. Orgs. Code §§ 11.01–11.414 (Winding Up and Termination of Domestic Entity); or Tex. Bus. & Com. Code §§ 23.01–23.33 (Assignments for the Benefit of Creditors) (collectively, the "Texas Statutes"), and (b) agrees, warrants and represents that it will not file, request or petition for relief under the Texas Statutes related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement, in each case until such time as all of Alvogen's payment obligations incurred hereunder are satisfied in full. The foregoing waiver and relinquishment includes, without limitation, until such time as all of Alvogen's payment obligations incurred hereunder are satisfied in full, Alvogen's rights to execute a divisional merger or equivalent transaction or restructuring related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement that in each case has the intent or foreseeable effect of (i) separating material assets from material liabilities and (ii) assigning or allocating all or a substantial portion of those liabilities to any subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code, or pursuant to which such subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code would be assuming or retaining all or a substantial portion of those liabilities.

AMNEAL SETTLEMENT AGREEMENT

AMNEAL SETTLEMENT AGREEMENT

This Settlement Agreement, dated as of April 4, 2025 (the "*Agreement*"), sets forth the terms of settlement between and among the Settling States, the Participating Subdivisions, and Amneal (as those terms are defined below). Upon satisfaction of the conditions set forth in Sections II and VIII, this Agreement will be binding on the Settling States, Amneal, and the Participating Subdivisions. 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 Section VIII.

I. Definitions

Unless otherwise specified, the following definitions apply:

A. *"Additional Remediation Amount."* The amount available to the Settling States totaling up to $2,101,518 to be paid in accord with the payment schedule at Exhibit M-3.

B. *"Adjusted Maximum Remediation Payment."* The Maximum Remediation Payment reduced by the State Allocation Percentage for each Non-Settling State on Exhibit F.

C. *"Agreement."* This agreement, as set forth above. For the avoidance of doubt, this Agreement is inclusive of all exhibits.

D. *"Alleged Harms."* The alleged past, present, and future damages, harms, losses and related expenditures allegedly incurred by the Settling States and Participating Subdivisions arising out of the use 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, , death, and other related diseases and disorders, and that have allegedly been caused by Released Entities.

E. *"Allocation Statute."* 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.

F. "*Amneal*" means Amneal Pharmaceuticals LLC.

G. *"Annual Fees Payment."* The amounts payable by Amneal in each Payment Year comprised of the Additional Remediation Amount payment, State AG Fees payment and the Private Attorney Fees payment, and not including the Annual Remediation Payment.

H. *"Annual Remediation Maximum."* The total amount available to Eligible States for Annual Remediation Payments in each Payment Year as set forth in the "Maximum Annual Remediation Payment" column of Exhibit M-1. In no event shall an Annual Remediation Payment in Payment Years 1-2, or 5-10 exceed the Annual Remediation Maximum for that Payment Year set forth in Exhibit M-1. For Payment Years 3-4, the Annual Remediation Payment may exceed the Annual Remediation Maximum for that Payment Year only to the extent needed for the Incentive Payment A Catch-up Payment for a Settling State that has not earned some or all of Incentive Payment BC in prior Payment Years, having resulted in correspondingly lower Annual Remediation Payments in those prior Payment Years.

I. *"Annual Remediation Payment."* The amount payable to the Settlement Fund by Amneal for Settling States' Base Payments and Incentive Payments on the Payment Date for each Payment Year, as calculated by the Settlement Fund Administrator.

J. *"Appropriate Official."* As defined in Section XIII.E.3.

K. *"Bankruptcy Code."* Title 11 of the United States Code, 11 U.S.C. § 101, et seq.

L. *"Bar."* Either: (1) a law barring Subdivisions in a Settling State from maintaining or asserting Released Claims against Released Entities (either through a direct bar or through a grant of authority to release claims and 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 or assert any Released Claims against Released Entities, 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 Released Entity (apart from the Annual Remediation Payments by Amneal under this Agreement) shall not constitute a Bar.

M. "*Base Payment.*" As defined in Section IV.G.

N. *"Case-Specific Resolution."* Either: (1) a law barring the Subdivision at issue from maintaining any Released Claims against any Released Entities (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 Released Claims at issue against any Released Entities, 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 Released Entity (apart from the annual payments by Amneal under this Agreement) shall not constitute a Case-Specific Resolution.

O. *"Claim."* Any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, fine, penalty, restitution, reimbursement, disgorgement, expenses, remediation, judgment, right, obligation, dispute, suit, contract, controversy, agreement, *parens patriae* claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law, statute, regulation, guidance, ordinance or principles of equity,

whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including, but not limited to, any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, remediation, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative, or regulatory remedy whatsoever.

P. *"Claim-Over."* A Claim asserted by a Non-Released Entity against a Released Entity 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.

Q. *"Compensatory Restitution Amount."* The aggregate amount paid or incurred by Amneal 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 V.B.2 as being used to pay attorneys' fees, investigation costs or litigation costs, which shall be up to the amount of the Adjusted Maximum Remediation Payment.

R. *"Consent Judgment."* A consent judgment in a form to be agreed by the Settling States and Amneal prior to the Effective Date that, among other things, (1) approves this Agreement and (2) provides for the release set forth in Section X.A, including the dismissal with prejudice of any Released Claims that the Settling State has brought against Released Entities.

S. *"Covered Conduct" means* any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, service, work, sale misstatement, misleading statement or other activity of any kind whatsoever from the beginning of time through the Reference 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, service, work, sale misstatement, misleading statement or other activity) relating in any way to (a) compounding, counseling and documentation relating to any Product or class of Products (b) the availability, discovery, research, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, re-labeling, recall, withdrawal, distribution, delivery, monitoring, reporting, regulatory compliance, supply, sale, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to, any Product, or any system, plan, policy, procedure, or advocacy relating to any Product or class of Products, including, but not limited to, any unbranded or unbranded promotion, marketing, or advertising, information, patient support or assistance, educational programs, consultancy, research, other programs, or campaigns, lobbying, or grants, sponsorships, charitable donations, or other funding relating to any Product or class of Products; (c) the characteristics, properties, risks, or benefits of any Product; (d) the monitoring or non-monitoring of orders placed of any Product; (e) the reporting, disclosure, non-monitoring, nonreporting or non-disclosure to federal, state or other regulators of orders for any Product placed with any Released Entity; (f) the selective breeding, harvesting, extracting, purifying, exporting, importing, applying for quota for, procuring quota for, handling, promoting, manufacturing, processing, packaging, supplying, distributing,

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

T. "*Designated State.*" The State of New York.

U. *"Effective Date."* The date sixty (60) calendar days after the Reference Date.

V. "*Eligible States*." The states, commonwealths, and territories of the United States of America, excluding New Mexico and West Virginia. The 54 Eligible States are listed in Exhibit F.

W. *"Enforcement Committee.*" A committee consisting of representatives of the Settling States and of the Participating Subdivisions. Exhibit B contains the organizational bylaws of the Enforcement Committee. Notice pursuant to Section XIII.Q shall be provided when there are changes in membership or contact information.

X. *"Final Order."* An order or judgment of a court of competent jurisdiction with respect to the applicable subject matter (1) which has not been reversed or superseded by a modified or amended order, is not currently stayed, and as to which any right to appeal or seek certiorari, review, reargument, stay, or rehearing has expired, and as to which no appeal or petition for certiorari, review, reargument, stay, or rehearing is pending, or (2) as to which an appeal has been taken or petition for certiorari, review, reargument, stay, or rehearing has been filed and (a) such appeal or petition for certiorari, review, reargument, stay, or rehearing has been resolved by the highest court to which the order or judgment was appealed or from which certiorari, review, reargument, stay, or rehearing was sought, or (b) the time to appeal further or seek certiorari, review, reargument, stay, or rehearing has expired and no such further appeal or petition for certiorari, review, reargument, stay, or rehearing is pending.

W. "*Force Majeure Event.*" Any event reasonably beyond the control of Amneal that prevents Amneal from manufacturing or distributing Settlement Product, including wars, hostilities, revolution, riots, civil commotion, national emergency, unavailability of supplies, epidemics, pandemics, health crisis, fire, flood, earthquake, force of nature, explosion, terrorist act, embargo, or any act of God, or any law, regulation, ordinance, or other act or order of any court or governmental authority.

Y. "*Global Settlement Amount.*" The Global Settlement Amount is $132,913,155, which is comprised of the Maximum Remediation Payment, Private Attorney Fees, State AG Fees, Additional Remediation Amount, and the Settlement Product Cash Conversion Amount. Notwithstanding any other language or provisions in this or any other agreement, the Global Settlement Amount is the maximum dollar amount Amneal can pay in connection with the Agreement.

Z. "*Implementation Administrator*." Rubris, Inc., which is the vendor that will be retained by Amneal to provide notice pursuant to Section VII.A and to manage the initial joinder

period for Subdivisions, including the issuance and receipt of Subdivision Participation Agreements.

AA. *"Incentive Payment A."* The incentive payment described in Section IV.H.4.

BB. "*Incentive Payment A Catch-up Payment*." As defined in Section IV.H.4.f.

CC. *"Incentive Payment BC."* The incentive payment described in Section IV.H.5.

DD. *"Incentive Payment D."* The incentive payment described in Section IV.H.6

EE. *"Initial Participating Subdivision."* A Subdivision that meets the requirements set forth in Section VII.D.

FF. *"Initial Participation Date."* The date ninety (90) calendar days after the Preliminary Agreement Date, unless it is extended by written agreement of Amneal and the Enforcement Committee.

GG. *"Injunctive Relief Terms."* The terms described in Section III and set forth in Exhibit P.

HH. *"Later Litigating Subdivision."* 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 Released Claim against a Released Entity after the Reference Date; or (2) adds a Released Claim against a Released Entity after the Reference Date to a lawsuit brought before the Reference Date that, prior to the Reference Date, did not include any Released Claims against a Released Entity; or (3) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a legislative Bar or legislative Case-Specific Resolution as of the Reference Date, (b) such legislative Bar or legislative Case-Specific Resolution is subject to a Revocation Event after the Reference 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 Released Claim against a Released Entity or one hundred eighty (180) 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 Released Claims being dismissed; or (4) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a judicial Bar or judicial Case-Specific Resolution as of the Reference Date, (b) such judicial Bar or judicial Case-Specific Resolution is subject to a Revocation Event after the Reference Date, and (c) such Litigating Subdivision takes any action in its lawsuit asserting a Released Claim against a Released Entity other than seeking a stay or dismissal.

II. *"Later Participating Subdivision."* A Participating Subdivision that is not an Initial Participating Subdivision, but meets the requirements set forth in Section VII.E.

JJ. *"Litigating Subdivision."* A Subdivision (or Subdivision official) that brought any Released Claim against any Released Entity prior to the Reference Date. 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.

KK. *"Maximum Remediation Payment."* The maximum amount owed by Amneal to the Settling States and Subdivisions, exclusive of the Private Attorney Fees, State AG Fees, the Additional Remediation Amount, and the Settlement Product Cash Conversion Amount. The amount of the Maximum Remediation Payment is $71,751,010.

LL. *"National Arbitration Panel."* The panel comprised as described in Section VI.F.3.b.

MM. "*National Disputes."* As defined in Section VI.F.3.a.

NN. *"Non-Litigating Subdivision."* Any Subdivision that is not a Litigating Subdivision.

OO. *"Non-Participating Subdivision."* Any Subdivision that is not a Participating Subdivision.

PP. *"Non-Party Covered Conduct Claim."* A Claim against any Non-Released Entity involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity).

QQ. *"Non-Party Settlement."* A settlement by any Releasor that settles any Non-Party Covered Conduct Claim and includes a release of any Non-Released Entity.

RR. *"Non-Released Entity."* An entity that is not a Released Entity.

SS. "*Non-Settling State."* Any Eligible State that is not a Settling State.

TT. *"Opioid Remediation."* Care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures[1] 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, (2) treat or mitigate opioid use or related disorders, or (3) mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic. 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.

[1] Reimbursement includes amounts paid to any governmental entities for past expenditures or programs

UU. *"Participating Subdivision."* Any Subdivision that meets the requirements for becoming a Participating Subdivision under Section VII.B and Section VII.C. Participating Subdivisions include both Initial Participating Subdivisions and Later Participating Subdivisions.

VV. "*Participation Percentage of Incentive BC Eligible Subdivision Population."* As defined in Section IV.H.5.e.

WW. *"Parties."* Amneal and the Settling States (each, a *"Party").*

XX. *"Payment Date."* March 1 for each Payment Year, besides the initial payment year which is to be payable as outlined in Section IV.D.1 , which is the date by which Amneal makes the Annual Remediation Payment and the Annual Fees Payment.

YY. *"Payment Year."* The calendar year during which the applicable Annual Remediation Payment and the Annual Fees Payment are due. Payment Year 1 is 2025, Payment Year 2 is 2026 and so forth. References to payment "*for a Payment Year"* mean the Annual Remediation Payment and/or Annual Fees Payment due during that year. References to eligibility "*for a Payment Year"* mean eligibility in connection with the Annual Remediation Payment and/or Annual Fees Payment due during that year.

ZZ. "*Preliminary Agreement Date."* The date on which Amneal is to inform the Settling States of its determination that the condition in Section II.B has been satisfied. The Preliminary Agreement Date shall be no more than fourteen (14) calendar days after the end of the notice period to Eligible States, unless it is extended by written agreement of Amneal and the Enforcement Committee.

AAA. "*Primary Fire District."* A fire district that covers a population of 25,000, or 0.20% of an Eligible State's population if an Eligible State's population is greater than 18 million. If not easily calculable from state data sources and agreed to between the Eligible State and Amneal, 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. "Primary Fire Districts" shall mean fire districts as identified in connection with the implementation of the July 21, 2021, Janssen Settlement Agreement.

BBB. *"Primary Subdivision."* A Subdivision that is a General Purpose Government (including, but not limited to, a municipality, a county, county subdivision, city town, township, parish, village, borough, gore, or any other entities that provide municipal-type government) with population over 10,000; *provided, however,* that as used in connection with Incentive Payment BC, the population threshold is 30,000. Attached as Exhibit I is an agreed list of the Primary Subdivisions in each Eligible State

CCC. *"Private Attorney Fees"* are the amount to be paid for private attorneys' litigation fees and costs on behalf of Participating Subdivisions. The maximum amount of Private Attorney Fees is $14,477,125. For avoidance of doubt, Private Attorney Fees do not include State AG Fees or the Additional Remediation Amount.

DDD. *"Product."* Any chemical substance, 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 substance, that is: (1) an opioid or opiate, as well as any product containing any such substance; (2) benzodiazepine, carisoprodol, or gabapentin; or (3) a combination or "cocktail" of chemical substances prescribed, sold, bought, or dispensed to be used together that includes opioids or opiates. "Product" shall include, but is not limited to, any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, naloxone, naltrexone, oxycodone, oxymorphone, pentazocine, propoxyphene, 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. Notwithstanding the foregoing, nothing in this section prohibits a Settling State from taking administrative or regulatory action related to benzodiazepine (including, but not limited to, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triazolam, temazepam, and midazolam), carisoprodol, or gabapentin that is wholly independent from the use of such drugs in combination with opioids, *provided* such action does not seek money (including abatement and/or remediation) for conduct prior to the Initial Participation Date. "Product" also includes any natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, and any intermediate products used or created in the manufacturing process for any of the substances described above.

EEE. *"Reference Date."* The date on which Amneal is to inform the Settling States of its determination whether the condition in Section VIII has been satisfied. The Reference Date shall be no later than thirty (30) calendar days after the Initial Participation Date, unless it is extended by written agreement of Amneal and the Enforcement Committee.

FFF. *"Released Claims."* Any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct and/or Alleged Harms occurring prior to the Initial Participation Date. Without limiting the foregoing, Released Claims include any Claims that have been asserted against Released Entities by a Settling State or Litigating Subdivision in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) based on, arising out of, or relating to, in whole or in part, the Covered Conduct and/or Alleged Harms, or any such Claims that could be or could have been asserted now or in the future in those actions or in any comparable action or proceeding brought by a Settling State, Subdivision, or Releasor (whether or not such Settling State, Subdivision, or Releasor has brought such action or proceeding). Released Claims also include all Claims against Released Entities asserted in any proceeding to be dismissed pursuant to the Agreement, whether or not such claims relate to Covered Conduct and/or Alleged Harms. The Parties intend that this term, "Released Claims," be interpreted broadly. This Agreement does not release Claims by private individuals. It is the intent of the Parties that Claims by private individuals be treated in accordance with applicable law. Released Claims is also used herein to describe claims brought by a non-party Subdivision that would have been Released Claims if they had been brought by a Releasor against a Released Entity.

GGG. *"Released Entities."* This includes Amneal and (1) all past and present subsidiaries, divisions, affiliates, predecessors, successors, and assigns (in each case, whether direct or indirect)

of Amneal; (2) all past and present subsidiaries and divisions (in each case, whether direct or indirect) of any entity described in subsection (1); (3) the respective past and present officers, directors, members, trustees, and employees of any of the foregoing (each for actions that occurred during and related to their work for, or employment with, any of Amneal or the foregoing entities); (4) all past and present joint ventures (whether direct or indirect) of Amneal or its subsidiaries, including in any subsidiary's capacity as a participating member in such joint venture; (5) all direct or indirect parents and shareholders of Amneal (solely in their capacity as parents or shareholders of Amneal with respect to Covered Conduct); and (6) any insurer of Amneal or any person or entity otherwise described in subsections (1)-(5) (solely in its role as insurer of such person or entity and subject to the last sentence of Section X.C). A list of Amneal's joint ventures, subsidiaries and affiliates and predecessor entities is set forth in Exhibit J. Any person or entity described in subsections (3)-(6) shall be a Released Entity solely in the capacity described in such clause and shall not be a Released Entity with respect to its conduct in any other capacity. Any entity acquired, or joint venture entered into, by Amneal after the Initial Participation Date is not a Released Entity. Further and notwithstanding anything else in this paragraph, no entity sued in *In re: National Prescription Opiate Litigation*, No. 1:17-md-2804 (N.D. Ohio) is included as a Released Entity other than the entities listed on Exhibit J.

HHH. *"Releasors."* With respect to Released Claims, (1) each Settling State; (2) each Participating Subdivision; and (3) without limitation and to the maximum extent of the power of each Settling State's Attorney General and/or Participating Subdivision to release Claims, (a) the Settling State's and Participating Subdivision's departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind 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, water districts, emergency services districts, school districts, healthcare districts, hospital districts, Sheriffs and law enforcement districts, library districts, coroner's offices, and public transportation authorities, and other Special Districts in a Settling State, including those with the regulatory authority to enforce state and federal controlled substances acts or the authority to bring Claims related to Covered Conduct seeking money (including abatement (or remediation and/or restitution)) or revoke a pharmaceutical distribution license, 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, including but not limited to fines, penalties, or punitive damages, 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. 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. Each Settling State's Attorney General represents that he or she has or has obtained (or will obtain no later than the Initial Participation Date) the authority set forth in Section XI.G. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide the Subdivision Settlement Participation Form referenced in Section VIII providing for a release to the fullest extent of the Participating Subdivision's authority.

III. *"Remediation Accounts Fund."* The component of the Settlement Fund described in Section V.

JJJ. *"Revocation Event."* With respect to a Bar, or Case-Specific Resolution, a revocation, rescission, reversal, overruling, or interpretation that in any way limits the effect of such Bar, or Case-Specific Resolution on Released Claims, or any other action or event that otherwise deprives the Bar, or Case-Specific Resolution of force or effect in any material respect.

KKK. *"Settlement Fund."* The interest-bearing fund established at [Bank TBD] pursuant to this Agreement into which the Annual Remediation Payments are made under Section IV, which is intended to be classified as a "qualified settlement fund" within the meaning of 26 C.F.R. §§ 1.468B-1 *et seq*. and which shall be approved by any Settling State in accordance with the requirements of 26 C.F.R. § 1.468B-1.

LLL. *"Settlement Fund Administrator."* BrownGreer PLC, which is the entity that annually determines the Annual Remediation Payment (including calculating offset or reduction and Incentive Payments pursuant to Section IV and any amounts subject to offset pursuant to Section XII) and Additional Remediation Amount, administers the Settlement Fund, and distributes amounts into the Remediation Accounts Fund, State Fund, and Subdivision Fund pursuant to this Agreement. The duties of the Settlement Fund Administrator shall be governed by this Agreement. Prior to the Effective Date, Amneal and the Enforcement Committee shall agree to a detailed description of the Settlement Fund Administrator's duties and responsibilities, including a detailed mechanism for paying the Settlement Fund Administrator's fees and costs, all of which shall be appended to the Agreement as Exhibit L.

MMM. *"Settlement Fund Escrow."* The interest-bearing escrow fund established pursuant to this Agreement to hold disputed payments made under this Agreement.

NNN. *"Settlement Payment Schedule."* The schedule attached to this Agreement as Exhibit M-1, Exhibit M-2, and Exhibit M-3.

OOO. *"Settlement Product*" means Naloxone HCl nasal spray 4mg that is listed in Amneal's then-current generics catalog and can be viewed at https://amnealnaloxone.com/, and is provided to the Settling State as part of the settlement, at no cost as set forth in Section XIV and Exhibit D.

PPP. "*Settlement Product Cash Conversion Amount*" means the resulting dollar amount from when a Settling State has elected to convert all or a portion of its Settlement Product Allocation into a cash payment pursuant to Section XIV and Exhibit D. The aggregate, maximum amount that could be paid from the conversion of Settlement Product into cash is $44,350,000.

QQQ. "*Settlement Product Cash Conversion Amount Payment Date*" is March 1 of each Payment Year 7 through Payment Year 10. This date may be changed by written agreement of Amneal and the Enforcement Committee.

RRR. "*Settlement Product Election Date*" is the date thirty (30) days after the Effective Date by which a Settling State must submit its election of the Settling State's allocation of Settlement Product or cash conversion of Settlement Product pursuant to Section XIV and Exhibit D.

SSS. "*Settlement Product Election Form"* means the form a Settling State uses to submit its election of the Settling State's allocation of Settlement Product or cash conversion of Settlement Product pursuant to Section XIV and Exhibit D.

TTT. "*Settling State."* An Eligible State that has entered into this Agreement and delivers executed releases in accordance with Section VIII.A.

UUU. "*State Allocation."* The Maximum Remediation Payment multiplied by the State Allocation Percentage for each Eligible State listed in Exhibit F.

VVV. "*State Allocation Percentage*." A Settling State's percentage as set forth in Exhibit F.

WWW. *"State AG Fees"* The amount to be paid by Amneal to the Settling States for their litigation fees and costs pursuant to Exhibit S. The State AG Fees are 2% times the Maximum Remediation Payment plus the maximum Settlement Product Cash Conversion Amount, minus the Additional Remediation Amount, with the maximum amount being $233,502.

XXX. *"State Fund."* The component of the Settlement Fund described in Section V.

YYY. *"State-Subdivision Agreement."* 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.

ZZZ. *"Statutory Trust."* 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.

AAAA. *"Statewide Payment Amount."* The amount the Settlement Fund Administrator is to pay from the Remediation Payment to be paid to a Settling State, including its separate types of funds (if applicable) and its Participating Subdivisions listed in Exhibit G.

BBBB. *"Subdivision."* Any (1) General Purpose Government (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore, or any other entities that provide municipal-type government), School District, or Special District within a Settling State, and (2) any other subdivision, subdivision official acting in an official capacity on behalf of the subdivision (including, without limitation, district attorneys, county attorneys, city attorneys, sheriffs, and any other official, employee, or representative), 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, Nonfunctioning Governmental Units and public institutions) that has filed a lawsuit that includes a Released Claim against a Released Entity in a direct, *parens patriae,* or any other capacity. "General Purpose Government," "School District," and "Special District" shall correspond to the "five basic types of local governments" recognized by the U.S. Census Bureau and match the 2017 list of Governmental Units.[2] The three (3) General Purpose Governments are county, municipal, and township governments; the two (2) special purpose governments are School Districts and Special Districts.[3] "Fire District," "Health District," "Hospital District," and "Library District" shall correspond to categories of Special Districts recognized by the U.S. Census Bureau.[4] References to a Settling State's Subdivisions or to a Subdivision "in," "of," or "within" a Settling State include Subdivisions located within the Settling State even if they are not formally or legally a sub-entity of the Settling State; *provided, however,* that a "Health District" that includes any of the following words or phrases in its name shall not be considered a Subdivision: mosquito, pest, insect, spray, vector, animal, air quality, air pollution, clean air, coastal water, tuberculosis, and sanitary.

CCCC. "*Subdivision Allocation Percentage."* The portion of a Settling State's Subdivision Fund set forth in Exhibit G that a Subdivision will receive pursuant to Section V if it becomes a Participating Subdivision. The aggregate Subdivision Allocation Percentage of all Subdivisions

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[2] https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP

[3] *E.g.,* U.S. Census Bureau, "Technical Documentation: 2017 Public Use Files for State and Local Government Organization" at 7 (noting that "the Census Bureau recognizes five basic types of local governments," that three of those are "general purpose governments" (county governments, municipal governments, and township governments), and that the other two are "school district and special district governments"), https://www2.census.gov/programs-surveys/gus/datasets/2017/2017_gov_org_meth_tech_doc.pdf.

[4] A list of 2017 Government Units provided by the Census Bureau identifies 38,542 Special Districts and categorizes them by "FUNCTION_NAME." "Govt_Units_2017_Final" spreadsheet, "Special District" sheet, included in "Independent Governments - list of governments with reference information," https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP. As used herein, "Fire District" corresponds to Special District function name "24 — Local Fire Protection," "Health District" corresponds to Special District function name "32 — Health," "Hospital District" corresponds to Special District function name "40 —Hospitals," and "Library District" corresponds to Special District function name "52 — Libraries." *See id.*

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 V.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section V.D.3) that addresses allocation from the Subdivision Fund, whether before or after the Initial 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 V.D.3. The Subdivision Allocation Percentages contained in Exhibit G may not change once notice is distributed pursuant to Section VII.A, except upon the effectiveness of any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section V.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section V.D.3) 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.

DDDD. *"Subdivision Fund."* The component of the Settlement Fund described in Section V.A.

EEEE. *"Subdivision Settlement Participation Form."* The form attached as Exhibit K that Participating Subdivisions must execute and return to the Implementation Administrator or Settlement Fund Administrator, and which shall (1) make such Participating Subdivisions signatories to this Agreement, (2) include a full and complete release of any and all of such Subdivision's claims, and (3) require the prompt dismissal with prejudice of any Released Claims that have been filed by any such Participating Subdivision

FFFF. *"Threshold Motion."* A motion to dismiss or equivalent dispositive motion made at the outset of litigation under applicable procedure. A Threshold Motion must include as potential grounds for dismissal any applicable Bar or the relevant release by a Settling State or Participating Subdivision provided under this Agreement and, where appropriate under applicable law, any applicable limitations defense.

II. Participation by Eligible States and Condition to Preliminary Agreement

A. *Notice to Eligible States.* On May 26, 2025, this Agreement shall be distributed to all Eligible States. The Attorneys General of the Eligible States shall then have until June 25, 2025, to decide whether to become Settling States and notify Amneal of that decision. Eligible States that determine to become Settling States shall so notify Amneal and shall further commit to obtaining any necessary additional state releases prior to the Reference Date. This notice period may be extended by written agreement of Amneal and the Enforcement Committee.

B. *Condition to Preliminary Agreement*. Following the notice period set forth in Section II.A, Amneal shall have fourteen (14) calendar days to determine whether, in its sole discretion (based on any criteria or factors deemed relevant to Amneal), enough Eligible States have agreed to become Settling States to proceed with notice to Subdivisions as set forth in Section

VII. This period may be extended by written agreement of Amneal and the Enforcement Committee. If Amneal determines that this condition has been satisfied, and that notice to the Subdivisions should proceed, it will so notify the Settling States by providing notice to the Enforcement Committee. The date of such notice shall be the Preliminary Agreement Date. If Amneal determines that this condition has not been satisfied, this Agreement will have no further effect and all releases and other commitments or obligations contained herein will be void.

C. *Later Joinder by Eligible States*. After the Preliminary Agreement Date, an Eligible State may only become a Settling State with the consent of Amneal and the Enforcement Committee, provided that the Enforcement Committee may not withhold consent to an Eligible State's later joinder if the Eligible State agrees to join pursuant to the terms of this Agreement and the allocation set forth on Exhibit F. If an Eligible State becomes a Settling State more than thirty (30) calendar days after the Preliminary Agreement Date, but on or before the Reference 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 Reference Date.

D. *Litigation Activity.* Following the Preliminary Agreement Date, Eligible States that determine to become Settling States shall make reasonable efforts to cease litigation activity against Amneal, including by jointly seeking stays or, where appropriate, severance of claim against Amneal, 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.

III. Injunctive Relief

A. *Injunctive Relief.* As part of the Consent Judgment, the Parties agree to the entry of the injunctive relief terms attached in Exhibit P.

IV. Settlement Payments

A. *Settlement Fund.* All payments under this Section IV shall be made into the Settlement Fund, except that, where specified, they shall be made into the Settlement Fund Escrow. The Settlement Fund shall be allocated and used only as specified in Section V.

B. *Annual Remediation Payments*

1. Amneal shall make ten (10) Annual Remediation Payments, each comprised of Base Payments and Incentive Payments as provided in this Section IV and as determined by the Settlement Fund Administrator as set forth in this Agreement, *provided that* the Annual Remediation Payment in Payment Year 1 shall consist solely of Base Payments. The payment schedule for the Annual Remediation Payments is attached hereto as Exhibit M-2.

2. In no instance shall Amneal's Annual Remediation Payment obligation exceed the Annual Remediation Maximum, reduced for Non-Settling States, except as specified in the definition of "Annual Remediation Maximum" for Payment Years 3, 4, and 10. In no instance shall the sum of Amneal's Annual Remediation Payment obligations for Payment Years 1-10 exceed the sum of Amneal's Annual Remediation Maximums for Payment Years 1-10, reduced for Non-Settling States.

C. *Settlement Fund Payment Process*

1. To determine each Annual Remediation Payment for Payment Year 2 and forward, the Settlement Fund Administrator shall use the data as of sixty (60) days prior to the Payment Date for each payment, unless another provision of the Agreement specifies a different date. Prior to the Effective Date, the Parties will include Exhibit L, which sets forth in detail the process for the Settlement Fund Administrator to obtain relevant data and for distributing funds to the Settling States and their Participating Subdivisions listed on Exhibit G consistent with the terms of this Agreement as quickly as practical.

2. The Settlement Fund Administrator shall determine the Annual Remediation Payment and the Statewide Payment Amount for each Settling State, consistent with the provisions in Exhibit L, by:

a. Determining, for each Settling State, the Base Payment amount and Incentive Payment amount to which the Settling State is entitled by applying the criteria under Section IV.F, Section IV.G, and Section IV.H;

b. applying any offsets as specified under Section XII

c. determining the total amount owed by Amneal to all Settling States and the Participating Subdivisions listed on Exhibit G; and

d. the Settlement Fund Administrator shall then allocate, after subtracting the portion of any Settlement Fund Administrator costs and fees owed out of funds from the Settlement Fund pursuant to Section V.C.5, the Annual Remediation Payment pursuant to Section V among the Settling States, among the separate types of funds for each Settling State (if applicable), and among the Participating Subdivisions listed on Exhibit G.

3. If, no later than fifty (50) days prior to the Payment Date, Amneal and the Enforcement Committee inform the Settlement Fund Administrator that they agree on the amount of the Annual Remediation Payment and the Statewide Payment Amount for each Settling State, Amneal shall pay the agreed-upon Annual Remediation Payment amount on the Payment Date and the Settlement Fund Administrator shall treat those amounts as the determination described in Section IV.C.2. If the Settlement Fund Administrator is not so informed, it shall give notice to Amneal, the Settling States, and the Enforcement Committee of the amount of the Annual Remediation Payment, and the Statewide Payment Amount for

each Settling State, following the determination described in Section IV.C.2, and the following timeline shall apply:

a. Within twenty-one (21) calendar days of the notice provided by the Settlement Fund Administrator, Amneal, any Settling State or the Enforcement Committee may dispute, in writing, the calculation of the Annual Remediation Payment or the Statewide Payment Amount for a Settling State. Such disputing party must provide a written notice of dispute to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Amneal identifying the nature of the dispute, the amount of money that is disputed, and the Settling State(s) affected.

b. Within twenty-one (21) calendar days of the sending of a written notice of dispute, any affected party may submit a response, in writing, to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Amneal identifying the basis for disagreement with the notice of dispute.

c. If no response is filed, the Settlement Fund Administrator shall adjust the amount calculated consistent with the written notice of dispute, and Amneal shall pay the adjusted amount, collectively totaling that Payment Year's Annual Remediation Payment, on the Payment Date. If a written response to the written notice of dispute is timely sent to the Settlement Fund Administrator, the Settlement Fund Administrator shall notify Amneal of the preliminary amount to be paid, which shall be the greater of the amount originally calculated by the Settlement Fund Administrator or the amount that would be consistent with the notice of dispute, *provided, however,* that in no circumstances shall the preliminary amount to be paid be higher than the Annual Remediation Maximum. For the avoidance of doubt, a transfer of payments from the Settlement Fund Escrow for other Payment Years does not count toward determining whether the amount to be paid is higher than the Annual Remediation Maximum or other relevant maximum payment.

d. The Settlement Fund Administrator shall place any disputed amount of the preliminary amount paid by Amneal into the Settlement Fund Escrow and shall disburse any undisputed amount to each Settling State and its Participating Subdivisions listed on Exhibit G pursuant to Section IV.C.4.

4. If a Settling State informs the Settlement Fund Administrator that it and its Participating Subdivisions listed on Exhibit G have agreed on the amount of its Statewide Payment Amount, determined pursuant to Section IV.C.2 or Section IV.C.3, to be distributed to the Settling State, among its separate types of funds (if applicable), and among its Participating Subdivisions listed on Exhibit G, the Settlement Fund Administrator shall disburse the Statewide Payment Amount pursuant to the consensus distribution amounts provided by the Settling State as quickly as practical. For a Settling State that does not so notify the Settlement Fund Administrator, the Settlement Fund Administrator shall allocate

the Settling State's Statewide Payment Amount, pursuant to Section V, 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:

a. As soon as possible for each payment and following the determination described in Section IV.C.2 or Section IV.C.3, the Settlement Fund Administrator shall give notice to the relevant Settling States and their Participating Subdivisions listed on Exhibit G of the amount to be received by each Settling State, the amount to be received by the separate types of funds for each Settling State (if applicable), and the amount to be received by each Participating Subdivision listed on Exhibit G for each Settling State.

b. Within twenty-one (21) days of the notice provided by the Settlement Fund 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 Fund 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.

c. Within twenty-one (21) 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 Fund Administrator, any affected Settling State and any affected Participating Subdivision identifying the basis for disagreement with the notice of dispute.

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

e. The Settlement Fund Administrator shall place any disputed amount into the Settlement Fund Escrow and shall disburse any undisputed amount to the Settling State and its Participating Subdivisions eligible for payment.

5. Disputes described in this subsection shall be resolved in accordance with the terms of Section VI.F.

6. The Settlement Fund Administrator may combine the disbursements of Annual Remediation Payments with disbursement of funds under other comparable opioid settlements. In determining when disbursements for each Annual Remediation Payment will be made, the Settlement Fund Administrator may take into account the timeline for the availability of disbursements under other comparable opioid settlements.

7. 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.

D. *Procedure for Annual Remediation Payment and Annual Fees Payment in Payment Year 1.* The process described in Section IV.C shall not apply to Payment Year 1. The procedure in lieu of Section IV.C for Payment Year 1 is as set forth below:

1. The Payment Date for Payment Year 1 is 30 days after every Eligible State has notified Amneal of its intent to become Settling States. Amneal shall deposit into a segregated interest-bearing bank account it establishes the "Adjusted Maximum Base Payment" for Payment Year 1 as specified in Exhibit M-2. This amount shall be calculated by multiplying the aggregate State Allocation Percentage attributable to Eligible States that have agreed to become Settling States by the Preliminary Agreement Date by the "Maximum Base Payment" amount specified in Exhibit M-2 for Payment Year 1. Amneal shall also deposit into two (2) separate segregated interest-bearing bank accounts it establishes: (a) the "Maximum Exhibit R Attorney Fee and Cost Funds" for Payment Year 1 as specified in Exhibit M-3; and (b) the sum of the "Maximum State AG Fees" and the "Maximum Additional Remediation Amount" for Payment Year 1 as specified in Exhibit M-3. Amneal shall separately account for the interest earned on each of the three (3) accounts.

2. Amneal shall provide proof to the Enforcement Committee of the deposits required by Section IV.D.1 by July 25, 2025. Amneal shall not remove any money from the segregated bank accounts, except as provided by Sections IV.D.3-5.

3. In the event that, in accordance with the terms of Section VIII.B, Amneal determines not to proceed with the Settlement, or the Settlement does not become effective for any other reason, the funds held in the segregated bank accounts shall immediately revert to Amneal.

4. If the condition set forth in Section VIII.B is met, Amneal shall transfer into the Settlement Fund, no later than five (5) business days after the Reference Date (unless the Enforcement Committee specifies a later date), the amount in the segregated account holding the "*Adjusted Maximum Base Payment*" for Payment Year 1 (including all interest accrued on that account) plus the *total amount of the Base Payment* owed in Payment Year 1 for the Eligible States that newly agreed to become a Settling State between the Preliminary Agreement Date and the Reference Date, which shall be calculated by multiplying those Settling States' State Allocation Percentage by the amount specified in Exhibit M-2 for Payment Year 1. If the condition set forth in Section VIII.B is met, Amneal also shall transfer into the relevant funds as directed by the Enforcement Committee, no later than five (5) business days after the Reference Date (unless the Enforcement Committee specifies a later date), the amount in the segregated account holding the "*Maximum Exhibit R Attorney Fee and Cost Funds*" for Payment Year 1 (including all interest accrued on that account), and the amount in the segregated account holding the Maximum State AG Fees and "Maximum

Additional Remediation Amount" for Payment Year 1 (including all interest accrued on that account), except that any reductions provided by Section IX.B and Exhibits R and S shall revert to Amneal. Amneal shall provide an accounting to the Enforcement Committee of the transfers, including Statewide Payment Amount for Payment Year 1 for each Eligible State that newly agreed to become a Settling State between the Preliminary Agreement Date and the Reference Date.

5. The interest earned from the deposit account holding the Adjusted Maximum Base Payment for Payment Year 1 shall be used, first, to pay for the Implementation Administrator, then to pay for the Implementation Administrator in the Alvogen, Apotex, Hikma, Indivior, Mylan, Sun, and Zydus Settlement Agreements, and finally to be transferred to the Settlement Fund to be used to pay for the Settlement Fund Administrator pursuant to Section V.C.5.

6. The Annual Remediation Payment for Payment Year 1 transferred by Amneal into the Settlement Fund pursuant to Section IV.D.4 shall be disbursed by the Settlement Fund Administrator after the Effective Date to each Settling State and to its Initial Participating Subdivisions listed on Exhibit G pursuant to Section IV.C.4 through Section IV.C.7; *provided, however*, that for any Settling State where the Consent Judgment has not been entered as of the Effective Date, the funds allocable to that Settling State and its Participating Subdivisions listed on Exhibit G shall not be disbursed until ten (10) calendar days after the entry of the Consent Judgment in that Settling State.

E. *Payment Date for Payment Years 2 through 10.* The Payment Date for Payment Year 2 is March 1, 2026. The Payment Date for Payment Years 3 through 10 shall be each successive March 1. The Annual Remediation Payments for those Payment Years shall be made pursuant to the process set forth in Section IV.C.

F. *Offsets to Annual Remediation Payments to the Settlement Fund for Non-Settling States.* An offset equal to $71,751,010 times the State Allocation Percentage assigned to each Non-Settling State in Exhibit F shall be deducted from the total amount to be paid by Amneal to the Settlement Fund. For the avoidance of doubt, the Adjusted Maximum Remediation Payment is calculated in a way that reflects this offset. The Base Payments and Incentive Payments are also subject to offset as provided in Section XII.

G. *Base Payments.*

1. Subject to the offset provisions set forth in Section XII, Amneal shall make Base Payments into the Settlement Fund in an amount equal to forty percent (40%) of the Adjusted Maximum Remediation Payment. The maximum total for Base Payments is $28,700,404. The Base Payments shall be due in installments consistent with Exhibit M-2 over the ten (10) Payment Years.

2. The Base Payment for any Settling State in each Payment Year shall be the Base Payment for that Payment Year specified in Exhibit M-2 times the Settling State's State Allocation Percentage specified in Exhibit F.

H. *Incentive Payments.*

1. Subject to the offset provisions set forth in Section XII, Amneal shall make potential additional incentive payments totaling up to a maximum of sixty percent (60%) of the Adjusted Maximum Remediation Payment, with the Incentive Payment amount depending on whether and the extent to which the criteria set forth below are met in each Settling State. The maximum total for Incentive Payments is $43,050,606.

2. A Settling State qualifies to receive Incentive Payments in addition to Base Payments if it meets the incentive eligibility requirements specified below. The maximum total Incentive Payment for any Settling State shall be no more than the maximum total for Incentive Payments listed in Section IV.H.1 times the Settling State's State Allocation Percentage specified in Exhibit F. Incentive Payments are state-specific, with the actual amount depending on whether and the extent to which the criteria set forth below are met in such Settling State.

3. The incentive payments shall be divided among three (3) categories, referred to as Incentive Payments A, BC, and D. Incentive Payments A and BC will be due in installments over the nine (9) Payment Years beginning with Payment Year 2, while Incentive D will be due in installments over six (6) Payment Years beginning with Payment Year 5, as shown on Exhibit M-2. The total amount of incentive payments in an Annual Remediation Payment shall be the sum of the incentive payments for which the individual Settling States are eligible for that Payment Year under the criteria set forth below. The incentive payments shall be made with respect to a specific Settling State based on its eligibility for that Payment Year under the criteria set forth below. For the avoidance of doubt, eligibility for Incentive Payments A, BC, and D shall be determined on a Settling State-by-Settling State basis.

4. Incentive Payment A.

a. Incentive Payment A is mutually exclusive with Incentive Payments BC and D; if a Settling State receives Incentive Payment A in an Annual Remediation Payment, such Settling State is not eligible for Incentive Payment BC or D in that Annual Remediation Payment.

b. Incentive Payment A shall be equal to sixty percent (60%) of the Adjusted Maximum Remediation Payment, provided all Settling States satisfy the requirements of Incentive Payment A. Incentive Payment A will be due to a Settling State as part of the Annual Remediation Payment over nine (9) Payment Years, starting in Payment Year 2, and shall equal a total potential maximum of $43,050,606 if all Eligible States qualify for Incentive Payment A. Each Settling

State's share of Incentive Payment A in a given year, *provided* that Settling State qualifies, shall equal the total maximum amount available for Incentive Payment A for that year as reflected in Exhibit M-2 times the Settling State's State Allocation Percentage.

c. Qualification for Incentive Payment A is as follows: A Settling State qualifies for Incentive Payment A if, as of two (2) years of the Effective Date: (i) there is a Bar in that Settling State in full force and effect, (ii) the 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: all Primary Subdivisions, Litigating Subdivisions, School Districts with a K-12 student enrollment of at least 25,000 or .10% of a Settling State's population, whichever is greater, Hospital Districts that have at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district, and Primary Fire Districts; or (iii) a combination of the actions in clauses (i) and (ii) has achieved the same level of resolution of Claims by Subdivisions (*e.g.,* a Bar against future litigation combined with full joinder by Litigating Subdivisions). For the avoidance of doubt, subsection (iii) cannot be satisfied unless all Litigating Subdivisions are Participating Subdivisions or there is a Case-Specific Resolution against any such Subdivisions that are not Participating Subdivisions. Amneal and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Initial Participation Date.

d. A Settling State that does not qualify for Incentive Payment A as of two (2) years after the Effective Date shall not be eligible for Incentive Payment A for that Payment Year or any subsequent Payment Years.

e. To the extent a Settling State asserts that existing legislation qualifies as a Bar, the Settling State shall provide notice to Amneal no later than 30 days before the Initial Participation Date. Amneal shall indicate before the Initial Participation Date whether existing legislation in a Settling State is sufficient to qualify as a Bar.

f. If a Settling State does not qualify for Incentive Payment A as of the Payment Date for Payment Year 2 and becomes eligible for Incentive Payment A as of Payment Date for Payment Year 3, it shall receive the payment that it would have received for Incentive Payment A for Payment Year 2 (the "Incentive Payment A Catch-up Payment") on the Payment Date for Payment Year 3. If a Settling State is not eligible for Incentive Payment A as of the Payment Date for Payment Year 3 and becomes eligible for Incentive Payment A as of two (2) years after the Effective Date, it shall receive the payment that it would have received for Incentive Payment A for Payment Years 2 and 3 (also an "Incentive Payment A Catch-up Payment") on the Payment Date for Payment Year 4. The Incentive Payment A Catch-up Payment shall be reduced by any amounts paid to the Settling State under Incentive Payment BC prior to the Settling State's eligibility for Incentive Payment A.

g. If Amneal made a payment under Incentive Payment A solely on the basis of a Bar in a Settling State and that Bar is subsequently removed, revoked, rescinded, reversed, overruled, interpreted in a manner to limit the scope of the release, or otherwise deprived of force or effect in any material respect, 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 Section IV.H.4.c, in which case the Settling State shall be eligible for Incentive Payment A less any litigation fees and costs incurred by Amneal in the interim, except that, if the re-imposition occurs after the completion of opening statements in a trial involving a Released Claim, the Settling State shall not be eligible for Incentive Payment A (unless this exception is waived by Amneal).

5. Incentive Payment BC.

a. Incentive Payment BC shall be available to Settling States that do not qualify for Incentive Payment A.

b. Incentive Payment BC shall be up to a maximum of fifty-seven percent (57%) of the Settling State's State Allocation. Incentive Payment BC will be due to a Settling State as part of the Annual Remediation Payment over nine (9) Payment Years, starting in Annual Remediation Payment 2. Subject to Section IV.F, Incentive Payment BC shall equal a total potential maximum of $40,898,076 if all Eligible States qualify for Incentive Payment BC (and do not qualify for Incentive Payment A).

c. A Settling State may earn Incentive Payment BC in Annual Remediation Payments 2 through 10 and may receive, when combined with the Settling State's Base Payment, up to ninety-seven percent (97%) of the Settling State's State Allocation. The maximum Incentive Payment BC for any Settling State in a given Payment Year shall be the maximum potential Incentive Payment BC for that Payment Year specified in Exhibit M-2 times the Settling State's State Allocation Percentage specified in Exhibit F, provided such Settling State becomes eligible for Incentive Payment BC by sixty (60) days before the Payment Date for Payment Year 6.

d. The amount of Incentive Payment BC for which a Settling State is eligible shall be determined based on the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of all the Settling State's Incentive BC Subdivisions. The Settling State's Incentive BC Subdivisions are (i) all Litigating Subdivisions (including School Districts and Special Districts) and (ii) all Primary Subdivisions that have not sued Amneal as of the Initial Participation Date (collectively, "*Incentive BC Subdivisions*").

e. The percentage of the Settling State's maximum Incentive Payment BC for the Payment Year provided by Section IV.H.5.c to which the Settling State is entitled shall be determined according to the table of Incentive BC payment levels below:

Participation Percentage of Incentive BC Eligible Subdivision Population[5]	Incentive Payment BC Percentage for the Relevant Payment Year
Less than 85%	0%
85% or more but less than 86%	3.57%
86% or more but less than 87%	8.93%
87% or more but less than 88%	14.29%
88% or more but less than 89%	19.64%
89% or more but less than 90%	25%
90% or more but less than 91%	30.36%
91% or more but less than 92%	35.71%
92% or more but less than 93%	41.07%
93% or more but less than 94%	46.43%
94% or more but less than 95%	51.79%
95% or more but less than 96%	60.71%

[5] The "Participation Percentage of Incentive BC Eligible Subdivision Population" shall be determined by the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of the Settling State's Incentive BC Subdivisions. In calculating the Settling State's population that resides in Incentive BC Subdivisions, the population of the Settling State's Incentive BC Subdivisions shall be the sum of the population of all Incentive BC Subdivisions in the Settling State, notwithstanding that persons may be included within the population of more than one Incentive BC Subdivision. An individual 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; provided, however, that for the avoidance of doubt, no Subdivision will be excluded from the numerator or denominator under this sentence unless a Subdivision otherwise counted in the denominator has the authority to release the Claims (consistent with Section X) of the Subdivision to be excluded.

96% or more but less than 97%	68.75%
97% or more but less than 98%	76.79%
98% or more but less than 99%	84.82%
99% or more but less than 100%	92.86%
100%	100%

f. For Payment Years 2-5, the percentage of the available Incentive Payment BC amount for which a Settling State is eligible will be based on the Participation Percentage of Incentive BC Eligible Subdivision Population as of sixty (60) days before the Payment Date. For Payment Years 6-10, the percentage of the available Incentive Payment BC amount for which a Settling State is eligible will be based on the Participation Percentage of Incentive BC Eligible Subdivision Population as of sixty (60) days before the Payment Date for Payment Year 6. If Incentive BC Eligible Subdivisions that have become Participating Subdivisions, or achieved Case-Specific Resolution status, collectively represent less than eighty-five percent (85%) of a Settling State's Incentive BC Eligible Subdivision population by sixty (60) days before the Payment Date for Payment Year 6, the Settling State shall not receive any Incentive Payment BC.

g. If there are no Incentive BC Eligible Subdivisions in a Settling State, and that Settling State is otherwise eligible for Incentive Payment BC because it is not eligible for Incentive Payment A, that Settling State will receive its maximum Incentive Payment BC for that Annual Remediation Payment provided by Section IV.H.5.c.

6. Incentive Payment D.

a. Incentive Payment D shall be available to Settling States that do not qualify for Incentive Payment A.

b. Incentive Payment D shall be equal to up to a maximum of ten percent (10%) of the Adjusted Maximum Remediation Payment, with the actual amount depending whether and the extent to which the criteria set forth below are met in each Settling State. The maximum total for Incentive Payment D is $7,175,101.[6]

[6] The Incentive Payment BC table specified in Section IV.H.5.e and Incentive Payment D table specified in Section IV.H.6.f operate so that the combined amount of Incentive Payment BC and Incentive Payment D cannot exceed

c. Incentive Payment D shall be paid starting at Payment Year 5 and the amount of Incentive Payment D in Payment Years 5-10 will depend on (i) the Settling State meeting the qualifications set out in Section IV.H.6.d and (ii) the Participation Percentage of Incentive BC Eligible Subdivision Population achieved by the Settling State as of sixty (60) days prior to the Payment Date for Payment Year 5.

d. A Settling State qualifies for Incentive Payment D if no Later Litigating Subdivision (for purposes of Incentive Payment D, Later Litigating Subdivisions are limited to (i) a Primary Subdivision; (ii) a school district with a K-12 student enrollment of at least 25,000 or 0.10% of the Settling State's population, whichever is greater; (iii) a health district or hospital district that has at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district; and (iv) Primary Fire Districts) in that Settling State has a lawsuit against a Released Entity survive more than six (6) months after denial in whole or in part of a Threshold Motion.

e. A Settling State's qualification for Incentive Payment D shall be determined as of sixty (60) calendar days prior to the Payment Date ("*Incentive Payment D Look-Back Date*"). If a Later Litigating Subdivision's lawsuit in that Settling State survives more than six (6) months after denial in whole or in part a Threshold Motion after that date, that Settling State shall not be eligible for Incentive Payment D for the Payment Year in which that occurs and any subsequent Payment Year.

f. The Incentive Payment D for any Settling State qualifying for Incentive Payment D in Payment Years 5-10 shall be equal to between three percent (3%) and ten percent (10%) of the of the State Remediation Payment times the Settling State's Overall Allocation Percentage specified in Exhibit F. The applicable percentage shall be determined based on the Participation Percentage of Incentive BC Eligible Subdivision Population achieved by the Incentive Payment D Look-Back Date for Payment Year 5 as shown in the table below:

Participation Percentage of Incentive BC Eligible Subdivision Population as of sixty (60) days prior to the Payment Date for Payment Year 5	**Each Eligible Settling State's Applicable Incentive Payment D Percentage**
Participation of less than 95%	10% of State Allocation
Participation of 95% but less than 96%	9% of State Allocation
Participation of 96% but less than 97%	8% of State Allocation
Participation of 97% but less than 98%	7% of State Allocation

sixtypercent (60%) of the Adjusted Maximum Remediation Payment over the term of the Agreement. Amneal will have no obligation to pay more than $43,050,606 for the combined amounts of Incentive Payment BC and Incentive Payment D minus any offsets for Non-Settling States specified in Section IV.F.

Participation of 98% but less than 99%	6% of State Allocation
Participation of 99% but less than 100%	5% of State Allocation
Participation of 100%	3% of State Allocation

g. Incentive Payment D shall be paid in six installments. The Incentive Payment D for any Settling State in a given Payment Year shall be the Maximum Incentive Payment D for that Payment Year specified in Exhibit M-2 times the Settling State's State Allocation Percentage specified in Exhibit F times the ratio between the applicable percentage determined by Section IV.H.6.f and ten percent (10%).[7] Prior to making the Annual Remediation Payment for Payment Years 5-10, the Settlement Fund Administrator shall determine a Settling State's qualification for Incentive Payment D as of the Incentive Payment D Look-Back Date for that Payment Year. Prior to the Incentive Payment D Look-Back Date for each Payment Year, Amneal may provide the Settlement Fund Administrator and the Enforcement Committee with notice identifying any Settling State(s) it believes do not qualify for Incentive Payment D and information supporting its belief.

h. Notwithstanding Section IV.H.6.d and Section IV.H.6.e, a Settling State can become re-eligible for 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, in which case the Settling State shall be eligible for Incentive Payment D less any litigation fees and costs incurred by Amneal in the interim, 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.

7. In no event shall any Settling State receive Base Payments and Incentive Payments A, BC, and D totaling more than one hundred percent (100%) of its respective Overall State Allocation Percentage specified in Exhibit F times the Maximum Remediation Payment.

V. Allocation and Use of Settlement Payments

A. *Components of Settlement Fund.* The Settlement Fund shall be funded by the Annual Remediation Payments and comprised of a Remediation Accounts Fund, a State Fund, and a Subdivision Fund for each Settling State. The payments made under Section IV into the

[7] For example, for a Settling State with a Participation Percentage of Incentive BC Eligible Subdivision Population as of 60 days prior to the Payment Date for Payment Year 5 of 100%, the Incentive Payment D for any given Payment Year shall be the Maximum Incentive Payment D for that Payment Year specified in Exhibit M-2 times the Settling State's State Allocation Percentage specified in Exhibit F times 0.3. For a Settling State with a Participation Percentage of Incentive BC Eligible Subdivision Population as of 60 days prior to the Payment Date for Payment Year 5 of less than 95%, the Incentive Payment D for any given Payment Year shall be the Maximum Incentive Payment D for that Payment Year specified in Exhibit M-2 times the Settling State's State Allocation Percentage specified in Exhibit F times .1.

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 Amneal.

B. *Use of Settlement Payments.*

1. 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 V.B.2. In no event may less than ninety-five percent (95%) of Amneal's maximum amount of payments pursuant to Section IV as set forth on Exhibit M-2 over the entirety of all Payments Years (but not any single Payment Year) be spent on Opioid Remediation.

2. 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 Fund Administrator and Amneal 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 V.B.2 shall be available to the public. For the avoidance of doubt, (a) any amounts not identified under this Section V.B.2 as used to pay attorneys' fees, investigation costs, or litigation costs shall be included in the Compensatory Restitution Amount for purposes of Section V.F and (b) Participating Subdivisions not listed on Exhibit G may only use monies from the Settlement Fund for purposes that qualify as Opioid Remediation.

C. *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 Fund Administrator will make an initial allocation to three (3) state-level sub-funds. The Settlement Fund 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.

1. Base Payments. The Settlement Fund Administrator will allocate Base Payments under Section IV.G among the Settling States pursuant to Section IV.G.2. 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 V.D.

2. Incentive Payments. The Settlement Fund Administrator will treat Incentive Payments under Section IV.H on a state-specific basis. Incentive Payments for which a Settling State is eligible 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 V.D.

3. Application of Adjustments. If an offset under Section XII applies with respect to a Settling State, the offset 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.

4. Settlement Fund Administrator. Prior to the Effective Date, Amneal and the Enforcement Committee will agree to a detailed mechanism consistent with the foregoing for the Settlement Fund Administrator to follow in allocating, apportioning, and distributing payments, which shall then be appended hereto as Exhibit L.

5. Settlement Fund Administrator Costs. Any costs and fees associated with or arising out of the duties of the Settlement Fund Administrator as described in Exhibit L shall be paid from the interest accrued in the Settlement Fund Escrow and the Settlement Fund; *provided, however,* that if such accrued interest is insufficient to pay the entirety of any such costs and fees, the additional amount shall be paid out of the Settlement Fund. For the avoidance of doubt, nothing in this provision shall require Amneal to pay any costs, fees or other amounts in excess of the Global Settlement Amount.

D. *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 V.D.1 and Section V.D.2, then the default provisions of Section V.D.4 apply. It is not necessary that a State-Subdivision Agreement or other means of allocating funds pursuant to Section V.D.1 and Section V.D.2 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.

1. 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 V.C 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 V.B.2, and (b) that at least seventy percent (70%) of amounts be used solely for future Opioid Remediation.[8] For a State-

[8] 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

Subdivision Agreement to be applied to the relevant portion of an Annual Payment, notice must be provided to Amneal and the Settlement Fund Administrator at least sixty (60) calendar days prior to the Payment Date.

2. 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 V.B.2, 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 V.C 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 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 Section V of any such unaddressed fund. For example, if an Allocation Statute or Statutory Trust that meets the requirements of this Section V.D.2 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.

3. 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 Fund 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.

4. Distribution in the Absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust. If Section V.D.1 and Section V.D.2 do not apply, amounts apportioned to that Settling State's State Fund, Remediation Accounts Fund, and Subdivision Fund under Section V.C shall be distributed as follows:

a. Amounts apportioned to that Settling State's State Fund shall be distributed to that Settling State.

b. Amounts apportioned to that Settling State's Remediation Accounts Fund shall be distributed consistent with Section V.E. Each Settling State shall submit to the Settlement Fund 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 Fund 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 Fund 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 Fund Administrator to release the Settling State's Remediation Accounts Fund to the Statutory Trust.

c. 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 VII.H 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.

d. Special Districts shall not be allocated funds from the Subdivision Fund, except through a voluntary redistribution allowed by Section V.D.3 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.

5. Restrictions on Distribution. No amounts may be distributed from the Subdivision Fund contrary to Section VII, 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 VII.E through Section VII.H. 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 V.D.1 or by an Allocation Statute or a Statutory Trust described in Section V.D.2.

E. *Provisions Regarding the Remediation Accounts Fund.*

1. 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 V.D.1 or Section V.D.2, as applicable, and all direct payments to Subdivisions comply with Section VII.E through Section VII.H.

2. 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:

a. Regional Remediation.

(i) 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 V.E.2.d to define its regions and assign regional allocations percentages. Otherwise, the Settling State shall (A) define its initial regions, which shall consist of one (1) or more General Purpose Subdivisions 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; (B) 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.

(ii) 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.

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

b. *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.

c. *Small Settling States.* Notwithstanding the provisions of Section V.E.2.a, Settling States with populations under four (4) million that do not have existing regions described in Section V.E.2.a 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 V.E.2.b shall be divided regionally so that each block-grant eligible Subdivision is a region, and the remainder of the state is a region.

d. *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:

(i) 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;

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

(iii) 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

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

3. Remediation Accounts Fund Reporting. The Settlement Fund Administrator shall track and assist in the report of remediation disbursements as agreed to between Amneal and the Enforcement Committee

F. *Nature of Payment*. Amneal, 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 Released Claims:

1. They have entered into this Agreement to avoid the delay, expense, inconvenience, and uncertainty of further litigation;

2. (a) The Settling States and Participating Subdivisions sought compensatory payments (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; (b) 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 (c) 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;

3. The payment of the Compensatory Restitution Amount by Amneal constitutes payment (within the meaning of 26 U.S.C. § 162(f)(2)(A) and 26 C.F.R. § 1.162-21(e)(4)(i), (ii)) for alleged damage or harm allegedly caused by Amneal 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

4. For the avoidance of doubt: (a) the entire Compensatory Restitution Amount is properly characterized as described in Section V.F, (b) no portion of the Compensatory Restitution Amount represents reimbursement to any Settling State or Participating Subdivision or other person or entity for the fees or costs of any investigation or litigation, including without limitation attorneys' fees, (c) no portion of the Global Settlement Amount constitutes the disgorgement of any allegedly ill-gotten gains, and (d) no portion of the Global 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.

VI. Enforcement

A. *Enforceability.* This Agreement is enforceable only by the Settling States and Amneal; *provided, however,* that Released Entities may enforce Section X and Participating Subdivisions listed on Exhibit G have the enforcement rights described later in this paragraph and in Section VI.D. Except to the extent allowed by the Injunctive Relief Terms, Settling States and Participating Subdivisions shall not have enforcement rights against Amneal 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. Participating Subdivisions shall not have enforcement rights against Amneal with respect to this Agreement or any Consent Judgment except that Participating Subdivisions listed on Exhibit G shall have enforcement rights as set forth herein as to payments that would be allocated to the Participating Subdivisions or the Remediation Accounts Fund in such Settling State; *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. *Jurisdiction.* Amneal consents to the jurisdiction of the court in which each Settling State files its Consent Judgment, limited to resolution of disputes identified in Section VI.F.2 for resolution in that court.

C. *Specific Terms Dispute Resolution.*

1. Any dispute that is addressed by the provisions set forth in the Injunctive Relief Terms shall be resolved as provided therein.

2. In the event that Amneal believes that the ninety-five percent (95%) threshold established in Section V.B.1 is not being satisfied, any Party may request that Amneal and the Enforcement Committee meet and confer regarding the use of funds to implement Section V.B.1. The completion of such meet-and-confer process is a precondition to further action regarding any such dispute. Further action concerning Section V.B.1 shall: (i) be limited to Amneal seeking to reduce its 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 V.B.1; (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 V.B.1; and (iii) not reduce Annual Remediation Payments restricted to future Opioid Remediation.

D. *State-Subdivision Enforcement.*

1. 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 allegations that (i) the Settling State's use of Remediation Accounts Fund monies were not used for uses 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 V.E.2.b.

2. 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 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.

3. 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.

E. *Subdivision Amneal Payment Enforcement.* A Participating Subdivision listed on Exhibit G shall have the same right as a Settling State to seek resolution regarding the failure by Amneal to make its Annual Remediation Payment in a Payment Year.

F. *Other Terms Regarding Dispute Resolution.*

1. The parties to a dispute shall promptly meet and confer in good faith to resolve any dispute. If the parties cannot resolve the dispute informally, and unless otherwise agreed in writing, they shall follow the remaining provisions in this section to resolve the dispute.

2. Except to the extent provided by Section VI.C or Section VI.F.3, all disputes not resolved informally shall be resolved in 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.

a. State court proceedings shall be governed by the rules and procedures of the relevant forum.

b. For the avoidance of doubt, disputes to be resolved in state court include, but are not limited to, the following:

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

(ii) disputes between a Settling State and its Participating Subdivisions as provided by Section VI.D, except to the extent the 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;

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

(iv) 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; and

(v) whether the definition of a Bar, a Case-Specific Resolution, Final Order, lead state agency as described in Section V.D.4.b, Later Litigating Subdivision, Litigating Subdivision, or Threshold Motion have been met; and

(vi) all other disputes not specifically identified in Section VI.C or Section VI.F.3.

c. Any Party may request that the National Arbitration Panel provide an interpretation of any provision of the settlement 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.

3. National Disputes involving a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VI.A, and/or Amneal shall be resolved by the National Arbitration Panel.

a. National Disputes are disputes that are not addressed by Section VI.C, and which are exceptions to Section VI.F.2's presumption of resolution in state courts because they involve issues of interpretation of terms contained in this Agreement applicable to all Settling States without reference to a particular state's law. Disputes between a Settling State and any Participating Subdivision shall not be considered National Disputes. National Disputes are limited to the following:

(i) the amount of offset and/or credit attributable to Non-Settling States;

(ii) issues involving the scope and definition of Product;

(iii) interpretation and application of the terms "Covered Conduct," "Released Entities," and "Released Claims;"

(iv) the failure by Amneal to pay the Annual Remediation Payment or the Additional Remediation Amount in a Payment Year, but for the avoidance of doubt, disputes between Amneal and a Settling State over the amounts owed only to that state that do not affect any other Settling State shall not be considered National Disputes;

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

(vi) disputes involving liability of successor entities;

(vii) disputes that require a determination of the sufficiency of participation in order to qualify for Incentive Payments A, BC, or D;

(viii) disputes involving a Releasor's compliance with, and the appropriate remedy under, Section X.B.4;

(ix) 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

(x) any dispute subject to resolution under Section VI.F.2 but for which all parties to the dispute agree to arbitration before the National Arbitration Panel under the provisions of this Section VI.F.3.

b. The National Arbitration Panel shall be comprised of three (3) arbitrators. One (1) arbitrator shall be chosen by Amneal, one (1) arbitrator shall be chosen by the Enforcement Committee 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 that selected him/her.

c. 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.

d. 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.

e. To the extent allowed under state law, a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VI.A, 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.

f. The arbitrators will give due deference to 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 VI.A, or Amneal on a state law issue.

g. The decisions of the National Arbitration Panel shall be binding on Settling States, Participating Subdivisions, Amneal, and the Settlement Fund Administrator. In any proceeding before the National Arbitration Panel involving a dispute between a Settling State and Amneal 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.

h. 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.

i. Each party shall bear its own costs in any arbitration or court proceeding arising under this Section VI. 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 Amneal and Settling States/Participating Subdivisions shall be split fifty percent (50%) by Amneal 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. For the avoidance of doubt, Amneal shall not be responsible for the National Arbitration Panel costs in disputes that do not concern Amneal.

4. Prior to initiating an action to enforce pursuant to this Section VI.F, the complaining party must:

a. Provide written notice to the Enforcement Committee and/or Amneal 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 Enforcement Committee shall establish a reasonable process and timeline for obtaining additional information from the involved parties; *provided, however,* that the date the Enforcement Committee establishes for obtaining additional information from the parties shall not be more than forty-five (45) calendar days following the notice. The Enforcement Committee may advise the involved parties of its views on the complaint and/or seek to resolve the complaint informally.

b. Wait to commence any enforcement action until thirty (30) calendar days after the date that the Enforcement Committee establishes for obtaining additional information from the involved parties.

5. If the parties to a dispute cannot agree on the proper forum for resolution of the dispute under the provisions of Section VI.F.2 or Section VI.F.3, a committee comprising the Enforcement Committee and sufficient representatives of Amneal such that the members of the Enforcement Committee have a majority of one (1) member 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 committee's identification of such forum in the first instance shall not be entitled to deference by the forum selected.

G. *Lien or Encumbrance*. To the extent allowed by applicable law, this Settlement Agreement shall not be deemed to create a lien or encumbrance against any real property owned by Amneal or its affiliates, unless in the event of a default or breach of the payment provisions by Amneal. Nothing in this Section shall be construed to limit any remedy of any Settling State or Participating Subdivision in the event of a default or breach of this Agreement by Amneal.

H. *No Effect.* Nothing in this Agreement shall be interpreted to limit the Settling States' Civil Investigative Demand *("CID")* or investigative subpoena authority, to the extent such authority exists under applicable state law and the CID or investigative subpoena is issued pursuant to such authority, and Amneal reserves all of its rights in connection with a CID or investigative subpoena issued pursuant to such authority.

VII. Participation by Subdivisions

A. *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. 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, 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 and Special Districts listed on Exhibit G. The costs of the Implementation Administrator shall be paid for by the interest earned from the deposit accounts holding the Adjusted Maximum Base Payment for Payment Year 1 for Amneal and nothing in this provision shall require Amneal to pay any costs, fees or other amounts in excess of the Global Settlement Amount. The Settling States, with the cooperation of Amneal, 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 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.

B. *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 Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) specifying (1) that the Subdivision agrees to the terms of this Agreement pertaining to Subdivisions, (2) that the Subdivision releases all Released Claims against all Released Entities, (3) that the Subdivision agrees to use monies it receives, if any, from the Settlement Fund pursuant to the applicable requirements of Section V; *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. The required Subdivision Settlement Participation Form is attached as Exhibit K.

C. *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 Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) and upon prompt dismissal with prejudice of its lawsuit following the Reference Date or the date on which the conditions for effectiveness in Section VIII.B have been met, whichever is later. 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 Fund Administrator shall provide reports of this information to the parties upon request. A Litigating Subdivision or Later Litigating Subdivision may not become a Participating Subdivision after the completion of opening statements in a trial of the lawsuit it brought that includes a Released Claim against a Released Entity.

D. *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 VII.B or Section VII.C by the Initial Participation Date. All Subdivision Settlement Participation Forms shall be held in escrow by the Implementation Administrator until the Reference 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 Participation Agreements 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 obligations.

E. *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 VII.B or Section VII.C after the Initial 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 V.D or Section V.E. Unless

waived by Amneal, the following provisions govern what a Later Participating Subdivision can receive (but do not apply to Initial Participating Subdivisions):

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

2. A Later Participating Subdivision that becomes a Participating Subdivision after December 15, 2026, 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 VII.E.3 or Section VII.E.4).

3. A Later Participating Subdivision that, after the Initial Participation Date, maintains a lawsuit for a Released Claim(s) against a Released Entity and has judgment entered against it on every such 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.

4. A Later Participating Subdivision that becomes a Participating Subdivision while a Bar or Case-Specific Resolution involving a different Subdivision exists in its state 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 or Case-Specific Resolution.

F. *No Increase in Payments.* Amounts to be received by Later Participating Subdivisions shall not increase the payments due from Amneal.

G. *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.

H. *Unpaid Allocations to Later Participating Subdivisions and Non-Participating Subdivisions.* Any Base Payment and Incentive Payments allocated pursuant to Section V.D to a Later Participating Subdivision or Non-Participating Subdivision that cannot be paid pursuant to this Section VII, including the amounts that remain unpaid after the reductions required by Section VII.E.2 through Section VII.E.4, 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.

VIII. Condition to Effectiveness of Agreement and Filing of Consent Judgment

A. *Determination to Proceed with Settlement—Settling States*. Following the Initial Subdivision Participation Date, the Enforcement Committee shall determine whether to proceed with the Agreement on behalf of the Settling States, and the Settling States shall be bound by the determination of the Enforcement Committee. No later than fifteen (15) calendar days prior to the Reference Date, the Enforcement Committee shall provide notice to Amneal of its decision. If the Enforcement Committee elects not to proceed, this Agreement will have no further effect, and all releases (including those contained in Subdivision Participation Agreements) and other commitments or obligations contained herein or in Subdivision Settlement Participation Forms will be void. Within seven (7) calendar days of informing Amneal that there is sufficient participation to proceed, the Enforcement Committee will deliver all signatures and releases required by the Agreement to be provided by the Settling States to Amneal.

B. *Determination to Proceed with Settlement—Amneal*. If the Settling States elect to proceed, Amneal will then determine on or before the Reference Date whether there is sufficient Eligible State participation, sufficient Subdivision participation, and sufficient resolution of the Claims of the Litigating Subdivisions in the Settling States (through participation under Section VII, Case-Specific Resolution(s) and Bar(s)) to proceed with this Agreement. The determination shall be in the sole discretion of Amneal and may be based on any criteria or factors deemed relevant by Amneal.

C. *Notice by Amneal.* On or before the Reference Date, Amneal shall inform the Settling States of its determination pursuant to Section VIII.B. If Amneal determines to proceed, the Parties will proceed to file the Consent Judgments and the obligations in the Subdivision Settlement Participation Forms will be effective and binding as of the Reference Date. If Amneal determines not to proceed, this Agreement will have no further effect, any amounts deposited for Payment Year 1, including funds referenced in Section IV.D.1 and Exhibit M, shall revert to Amneal, 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.

IX. Participating Subdivision Attorneys' Fees and Costs and Additional Remediation Amount

A. The Agreement on Subdivision Attorneys' Fees, Expenses and Costs is set forth in Exhibit R and incorporated herein by reference. Agreed terms concerning the State AG Fees are set forth in Exhibit S and are incorporated herein by reference.

B. *Additional Remediation Amount*.

1. Subject to and without exceeding the maximum payment amounts set forth in the "Additional Remediation Amount" column of Exhibit M-3 and subject to the reduction specified in Section IX.B.2, Amneal shall pay an Additional Remediation Amount to the Settling States listed in Exhibit N. Such funds shall be paid, on the schedule set forth in Exhibit M-3, as allocated by the Settlement Fund Administrator pursuant to Exhibit N.

2. *Reduction of Additional Remediation Amount*. The amounts owed by Amneal pursuant to this Section IX.B shall be reduced by the allocations set forth on Exhibit N for Non-Settling States.

3. For the avoidance of doubt, (1) a Settling State that retained outside counsel in connection with the investigation of Amneal that receives an Additional Remediation Amount may choose to have the Additional Remediation Amount designated to pay the Settling State's outside counsel, and may instruct the Settlement Fund Administrator to pay those funds directly to the Settling State's outside counsel, and (2) Additional Remediation Amount funds, including funds designated by a Settling State to pay its outside counsel under this paragraph, shall not be subject to allocation as provided in Section V.C through Section V.E.

C. All payments addressed by this Section IX will be made no later than the Payment Date for the Payment Year in which they are due, pursuant to Exhibit M-3.

X. Release

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

B. *Claim-Over and Non-Party Settlement.*

1. It is the intent of the Parties that:

a. Released Entities should not seek contribution or indemnification (other than pursuant to an insurance contract), from other parties for their payment obligations under this Agreement;

b. the payments made under this Agreement shall be the sole payments made by the Released Entities to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity);

c. Claims by Releasors against non-Parties should not result in additional payments by Released Entities, whether through contribution, indemnification or any other means; and

d. 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 released party's liability to any other parties.

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

3. No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner; *provided* that a Released Entity shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

4. To the extent that, on or after the Reference Date, any Releasor enters into a Non-Party Settlement, including in any bankruptcy case or through any plan of reorganization, 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 substantially equivalent to that required from Amneal in Section X.B.3, or a release from such Non-Released Entity in favor of the Released Entities (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.

5. In the event that any Releasor obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Entity that does not contain a prohibition like that described in Section X.B.3 or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in Section X.B.3, and such Non-Released Entity asserts a Claim-Over against a Released Entity, the Released Entity shall be relieved of the prohibition in Section X.B.3 with respect to that Non-Released Entity and that Releasor and Amneal shall take the following actions to ensure that the Released Entities do not pay more with respect to Covered Conduct to the Releasor or to Non-Released Entities than the amounts owed under this Settlement Agreement by Amneal:

a. Amneal shall notify that Releasor of the Claim-Over within sixty (60) calendar days of the assertion of the Claim-Over or sixty (60) calendar days of the Effective Date of this Settlement Agreement, whichever is later;

b. Amneal and that Releasor shall meet and confer concerning the means to hold Released Entities harmless and ensure that they are not required to

pay more with respect to Covered Conduct than the amounts owed by Amneal to the Releasor under this Agreement;

c. That Releasor and Amneal shall take steps sufficient and permissible under the law of the state of the Releasor to hold Released Entities harmless from the Claim-Over and ensure Released Entities are not required to pay more with respect to Covered Conduct than the amounts owed by Amneal under this Agreement. Such steps may include, where permissible:

(i) Filing of motions to dismiss or such other appropriate motion by Amneal or Released Entities, and supported by Releasor, in response to any claim filed in litigation or arbitration;

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

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

(iv) Return of monies paid by Amneal to the Releasor under this Settlement Agreement to permit satisfaction of a judgment against or settlement with the Non-Released Entity to satisfy the Claim-Over;

(v) Payment of monies to Amneal by the Releasor to ensure it is held harmless from such Claim-Over, up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity;

(vi) Credit to Amneal under this Agreement to reduce the overall amounts to be paid under the Agreement such that it is held harmless from the Claim-Over; and

(vii) Such other actions as that Releasor and Amneal may devise to hold Amneal harmless from the Claim-Over.

d. The actions of that Releasor and Amneal taken pursuant to paragraph (c) must, in combination, ensure Amneal is not required to pay more with respect to Covered Conduct than the amounts owed by Amneal to the Releasor under this Agreement.

e. In the event of any dispute over the sufficiency of the actions taken pursuant to paragraph (c), the Releasor and Amneal 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. The National Arbitration Panel shall have authority to require Releasor to implement a remedy that includes one or more of the actions specified in paragraph (c) sufficient to hold Released Entities fully harmless. In the event that the Panel's actions do not result in Released Entities being held fully harmless, Amneal shall have a claim for breach of this Agreement by Releasor, with the remedy being payment of sufficient funds to hold Amneal harmless from the Claim-Over up to the amount the Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity. For the avoidance of doubt, the prior sentence does not limit or eliminate any other remedy that Amneal may have.

6. To the extent that the Claim-Over is based on a contractual indemnity, the obligations under Section X.B.4 shall extend solely to a Non-Party Covered Conduct Claim against a pharmacy, 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. Amneal shall notify the Settling States, to the extent permitted by applicable law, in the event that any of these types of Non-Released Entities asserts a Claim-Over arising out of contractual indemnity against it.

C. *Indemnification and Contribution Prohibited.* No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory, from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

D. *General Release.* In connection with the releases provided for in this Agreement, each Settling State (for itself and its Releasors) and Participating Subdivision 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:

> **General Release; extent**. A general release does not extend to claims 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 Released Claims, but each Settling State (for itself and its Releasors) and Participating Subdivision (for itself and its Releasors) hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims 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.

E. *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 Amneal (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 Amneal.

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

G. *Representation and Warranty*. The signatories hereto on behalf of their respective Settling States and its Participating Subdivisions expressly represent and warrant that they will obtain on or before the Effective Date (or have obtained) the authority to settle and release, to the maximum extent of the State's power, all Released Claims of (1) their respective Settling States; (2) any of the respective Settling State's past and present executive departments, state agencies, divisions, boards, commissions and instrumentalities with the regulatory authority to enforce state and federal controlled substances acts; (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 Claims related to Covered Conduct seeking money (including abatement and/or remediation) or revocation of a pharmaceutical distribution license; and (4) any Participating Subdivisions. For the purposes of clause (3) above, executive departments, agencies, divisions, boards, commission, and instrumentalities are those that are under the executive authority or direct control of the State's Governor. Also, for the purposes of clause (3), a release from a State's Governor as set forth in Exhibit X is sufficient to demonstrate that the appropriate releases have been obtained.

H. *Effectiveness.* The releases set forth in this Agreement 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.

I. *Cooperation.* Releasors (1) will not encourage any person or entity to bring or maintain any Released Claim against any Released Entity and (2) will reasonably cooperate with and not oppose any effort by a Released Entity to secure the prompt dismissal of any and all Released Claims, including suits brought by non-Releasors based on Released Claims. Releasors will meet and confer and make reasonable efforts to resolve any action that is filed by a Subdivision against Amneal 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.

J. *Non-Released Claims.* Notwithstanding the foregoing or anything in the definition of Released Claims, the Agreement does not waive, release or limit any criminal liability, Claims for any outstanding liability under any tax or securities law, Claims against parties who are not Released Entities, Claims by private individuals, Claims for Medicaid rebates, Claims asserted, or that could be asserted, by any State or Subdivision, related to the causes of action in *In re: Generic Pharmaceuticals Pricing Antitrust Litigation*, in the United States District court for the District of Pennsylvania, MDL No. 2724; *Connecticut et al v. Aurobindo Pharma USA, Inc. et al.*, in the United States District Court for the District of Connecticut, Case No. 3:16-cv-2056-NPS; *Connecticut et al. v. Teva Pharmaceuticals USA, Inc.*, in the United States District Court for the District of Connecticut, Case No. 3:19-cv-710-NPS; *Connecticut et al v. Sandoz, Inc. et al.*, in the United States District Court for the District of Connecticut, Case No. 3:20-cv-802-NPS; and any related action (such excluded claims include, but are not limited to, all antitrust claims and any claims related to any non-opioid generic drugs), and any claims arising under the Agreement for enforcement of the Agreement

XI. Later Litigating Subdivisions

A. *Released Claims against Released Entities*. If a Later Litigating Subdivision in a Settling State maintains a lawsuit for a Released Claim against a Released Entity after the Reference Date, the following shall apply subject to Section XI.B:

1. The Released Entity shall take ordinary and reasonable measures to defend the action, including filing a Threshold Motion with respect to the Released Claim. The Released Entity shall further notify the Settling State and Settlement Fund Administrator immediately upon notice of a Later Litigating Subdivision bringing a lawsuit for a Released Claim and shall not oppose a Settling State's submission in support of the Threshold Motion. Amneal shall give the relevant Settling State a reasonable opportunity to extinguish the Released Claims without any payment or any other obligations being imposed upon any Released Entities (apart from the Global Settlement Amount payable by Amneal under the Agreement or the Injunctive Relief Terms incurred by it). The relevant Settling State and Amneal 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.

2. If the lawsuit asserting a Released Claim is resolved with finality on terms requiring payment by the Released Entity, Amneal shall receive a dollar-for-dollar offset against Incentive Payment D for the amount paid. The offset shall be applied against the relevant portion of the Annual Remediation Payments starting in Payment Year 10 and working backwards.

3. For the avoidance of doubt, any offset pursuant to this Section XI in a Settling State that at the time is not eligible for Incentive Payment A shall continue to apply even if the Settling State at issue subsequently becomes eligible for Incentive Payment A.

4. "*Terms requiring payment*" shall mean (i) a final monetary judgment or (ii) a settlement; provided that the Released Entity sought the applicable State Attorney General's consent to the settlement and such consent was either obtained or unreasonably withheld. Should the judgment or settlement resolve claims that are not Released Claims, the offset shall be for the Released Claims portion only, which shall be distinguishable in the judgment or settlement.

B. *Exceptions*

1. Section XI.A shall not apply where the Settling State at issue meets the eligibility criteria for and is entitled to Incentive Payment A for the Payment Year at issue, except as expressly provided therein.

2. Section XI.A shall not apply where the Later Litigating Subdivision seeks less than $10 million, or so long as its total claim is reduced to less than $10 million, in the lawsuit for a Released Claim at issue.

C. *No Effect on Other Provisions.* An offset under Section XI.A shall not affect the Injunctive Relief Terms or the Consent Judgment.

D. *No Effect on Other States*. An offset under Section XI.A applicable to one State shall not affect the allocation or payment of the Annual Remediation Payment to other Settling States.

E. *Litigating Subdivisions in Non-Eligible States.* The Settling States will not encourage, facilitate, or assist in any manner whatsoever claims for Covered Conduct against Amneal in any Settling, Non-Settling, or Non-Eligible State, regardless of whether those claims were filed against Amneal prior to, on, or after the Effective Date.

XII. Offset

A. *Revoked Bar or Case-Specific Resolution.* If Amneal made any Annual Remediation Payments that included any incentive payments earned as a result of the existence of a Bar or Case-Specific Resolution in a Settling State, and there is subsequently a Revocation Event with respect to that Bar or Case-Specific Resolution after the determination of the amount of such Annual Remediation Payment, Amneal shall receive a dollar-for-dollar offset against the portion of remaining Annual Remediation Payments that would be allocated to that Settling State and its Participating Subdivisions. This offset will be calculated as the dollar amount difference between (1) the total amount of incentive payments paid by Amneal by virtue of the Bar or Case-Specific Resolution subject to the Revocation Event and (2) the total amount of incentive payments that would have been due from Amneal during that time had the Bar 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; 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: (1) its Released Claims are extinguished by any subsequent Bar or Case-Specific Resolution in effect as of the date of such calculation, or (2) it becomes a Participating Subdivision (in addition to all other Participating Subdivisions) prior to the date of such calculation.

XIII. Miscellaneous

A. *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.

B. *Population of Special Districts.* For any purpose in this Agreement in which the population of a Special District is used other than Section IV.H.4.c: (a) School Districts' population will be measured by the number of students enrolled who are eligible under the Individuals with Disabilities Education Act *("IDEA")* or Section 504 of the Rehabilitation Act of 1973; (b) Health Districts' and Hospital Districts' population will be measured at twenty-five percent (25%) of discharges; and (c) all other Special Districts' (including Fire Districts' and Library Districts') population will be measured at ten percent (10%) of the population served.[9] For the avoidance of doubt, this means that California healthcare districts will be measured at ten percent (10%) of their membership. Amneal and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Preliminary Agreement Date.

C. *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.

D. *No Admission.* Amneal does not admit 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 Amneal.

E. *Tax Cooperation and Reporting.*

1. Upon request by Amneal, the Settling States and Participating Subdivisions agree to perform such further acts and to execute and deliver such further documents as may be reasonably necessary for Amneal to establish the statements set forth in Section V.F to the satisfaction of their tax advisors, their independent financial auditors, the Internal Revenue

[9] 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.

Service, or any other governmental authority, including as contemplated by 26 C.F.R § 1.162-21(b)(3)(ii) and any subsequently proposed or finalized relevant regulations or administrative guidance.

2. Without limiting the generality of Section XIII.E.1, each Settling State and Participating Subdivision shall cooperate in good faith with Amneal with respect to any tax claim, dispute, investigation, audit, examination, contest, litigation, or other proceeding relating to this Agreement.

3. 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 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 Amneal and (ii) any legally required forms, returns or amended returns with any applicable governmental authority, or any returns requested by Amneal, and (b) provides to Amneal a copy of (i) the IRS Form 1098-F filed with respect to Amneal 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 V.F. and as set forth in Section XIII.E.4.

4. Any form, return, amended return, or written statement filed or provided pursuant to Section XIII.E.3, and any similar document, shall be prepared and filed in a manner consistent with reporting the Global Settlement Amount as the "Total amount to be paid" pursuant to this Agreement in Box 1 of IRS Form 1098-F and the Compensatory Restitution Amount as "Restitution/remediation amount" in Box 3 of IRS Form 1098-F, as reflected in the attached Exhibit U. If the Designated State or Appropriate Official shall be required to file any form, return, amended return, or written statement contemplated by this Section XIII.E other than an IRS Form 1098-F in the form attached as Exhibit U, the Designated State shall direct and ensure that the Appropriate Official provides to Amneal a draft of such form, return, amended return, or written statement no later than sixty (60) calendar days prior to the due date thereof, and shall accept any reasonable revisions from Amneal on the return, amended return, or written statement.

5. For the avoidance of doubt, neither Amneal nor the Settling States and Participating Subdivisions make any warranty or representation to any Settling State, Participating Subdivision, or Releasor as to the tax consequences of the payment of the Compensatory Restitution Amount (or any portion thereof).

F. *No Third-Party Beneficiaries.* Except as expressly provided in this Agreement, no portion of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not the Settling State or Released Entity. Settling States may not assign or otherwise convey any right to enforce any provision of this Agreement.

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

H. *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.

I. *Cooperation.* 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 and the Consent Judgments.

J. *Entire Agreement.* This Agreement, including its exhibits and any other attachments, 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.

K. *Execution.* This Agreement 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 Agreement. One or more counterparts of this Agreement may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart hereof. One or more counterparts of this Agreement may be signed by electronic signature.

L. *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) was made to them to induce them to enter into this Agreement.

M. *Legal Obligations.* Nothing in this Agreement shall be construed as relieving Amneal 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.

N. *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.

O. *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 XIII.M.

P. *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 relating to this Agreement or in any litigation or arbitration concerning Amneal's right to coverage under an insurance contract.

Q. *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 below:

For the Attorney(s) General:

Jeff Jackson, Attorney General
North Carolina Department of Justice
Attn: Daniel Mosteller, Associate Deputy Attorney General
PO Box 629
Raleigh, NC 27602
Dmosteller@ncdoj.gov

Jonathan Skrmetti, Attorney General
Tennessee Attorney General's Office
Attn: Michael Leftwich, Senior Deputy Attorney General
Hamilton Millwee, Assistant Attorney General
P.O. Box 20207
Nashville, TN 37202
Michael.Leftwich@ag.tn.gov
Hamilton.Millwee@ag.tn.gov

Letitia James, Attorney General
New York State Attorney General
Attn: Jennifer Levy, First Deputy Attorney General
Monica Hanna, Special Counsel
Matthew Conrad, Assistant Attorney General

28 Liberty Street, New York, NY 10005
Jennifer.Levy@ag.ny.gov
Monica.Hanna@ag.ny.gov
Matthew.Conrad@ag.ny.gov

For the Plaintiffs' Executive Committee:

Co-leads
Jayne Conroy
Simmons Hanly Conroy LLC
112 Madison Avenue
7th Floor
New York, NY 10016-7416
JConroy@simmonsfirm.com
Joseph F. Rice
Motley Rice LLC
28 Bridgeside Blvd.
Mount Pleasant, SC 29464
jrice@motleyrice.com

For Amneal:

General Counsel
Amneal Pharmaceuticals
400 Crossing Blvd., 3rd Floor
Bridgewater, NJ 08807

Any Party or the Plaintiffs' Executive Committee 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 XIII.R.

R. *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.

S. *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.

T. *Successors.*

1. This Agreement shall be binding upon, and inure to the benefit of, Amneal and its respective successors and assigns.

2. Amneal shall not, in one (1) transaction or a series of related transactions, sell or transfer U.S. assets having a fair market value equal to twenty-five percent (25%) or more of the consolidated assets of Amneal (other than sales or transfers of inventories, or sales or transfers to an entity owned directly or indirectly by Amneal) where the sale or transfer is announced after the Reference Date, is not for fair consideration, and would foreseeably and unreasonably jeopardize Amneal's ability to make the payments under this Agreement or its obligations regarding Settlement Product under Section XIV following the close of a sale or transfer transaction, unless Amneal obtains the acquiror's agreement that it will be either a guarantor of or successor to the percentage of Amneal's remaining payment obligations under this Agreement equal to the percentage of Amneal's consolidated assets being sold or transferred in such transaction; provided, that liens and security interests granted by Amneal to its lenders and/or noteholders, and any agent and/or trustee for any lenders and/or noteholders, shall not constitute a transfer or sale for purposes of this Section. Percentages under this section shall be determined in accordance with United States generally accepted accounting principles and as of the date of Amneal most recent publicly filed consolidated balance sheet prior to the date of entry into the sale or transfer agreement at issue. This Section XIII.U shall be enforceable solely by the Settling States, and any objection under this Section XIII.U not raised within sixty (60) calendar days of the announcement of the relevant transaction is waived.

U. *Modification, Amendment, Alteration.* In the event the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, or Amneal concludes prior to the Reference Date that technical corrections are required to this Agreement, the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, and Amneal shall meet and confer and make such amendments as they agree are appropriate. After the Reference Date, any modification, amendment, or alteration of this Agreement by the Parties shall be binding only if evidenced in writing signed by Amneal, along with the signature of at least two-thirds of those then serving as Attorneys 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 V.E.2.d, 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.

V. *Termination.*

1. Unless otherwise agreed to by each of Amneal and the Settling States, this Agreement and all of its terms (except Section XIII.P and any other non-admissibility provisions, which shall continue in full force and effect) shall be canceled and terminated with respect to the Settling State, and the Agreement and all orders issued by the courts in the

Settling State pursuant to the Agreement shall become null and void and of no effect if one or more of the following conditions applies:

a. a Consent Judgment approving this Agreement without modification of any of the Agreement's terms has not been entered as to a Settling State by a court of competent jurisdiction on or before one hundred eighty (180) calendar days after the Effective Date;

b. this Agreement or the Consent Judgment as to that Settling State has been disapproved by a court of competent jurisdiction to which it was presented for approval and/or entry (or, in the event of an appeal from or review of a decision of such a court to approve this Agreement and the Consent Judgment, by the court hearing such appeal or conducting such review), and the time to appeal from such disapproval has expired, or, in the event of an appeal from such disapproval, the appeal has been dismissed or the disapproval has been affirmed by the court of last resort to which such appeal has been taken and such dismissal or disapproval has become no longer subject to further appeal (including, without limitation, review by the United States Supreme Court); or

2. If this Agreement is terminated with respect to a Settling State for whatever reason pursuant to Section XIII.V.1, then:

a. an applicable statute of limitation or any similar time requirement (excluding any statute of repose) shall be tolled from the date the Settling State signed this Agreement until the later of the time permitted by applicable law or for one year from the date of such termination, with the effect that Amneal and the Settling State shall be in the same position with respect to the statute of limitation as they were at the time the Settling State filed its action; and

b. Amneal and the Settling State shall jointly move the relevant court of competent jurisdiction for an order reinstating the actions and claims dismissed pursuant to the terms of this Agreement governing dismissal, with the effect that Amneal and the Settling State shall be in the same position with respect to those actions and claims as they were at the time the action or claim was stayed or dismissed.

3. Unless Amneal and the Enforcement Committee agree otherwise, this Agreement, with the exception of the Injunctive Relief Terms that have their own provisions on duration, shall terminate as of the Payment Date for Payment Year 10, *provided* that Amneal has performed its payment and Settlement Product obligations under the Agreement as of that date. Notwithstanding any other provision in this Section XIII.V.3 or in this Agreement, all releases under this Agreement will remain effective despite any termination under this Section XIII.W.3.

W. *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 Amneal or against which Amneal is seeking enforcement. Notwithstanding any other provision in this subsection on governing law, any disputes relating to the Settlement Fund Escrow shall be governed by and interpreted in accordance with the law of the state where the escrow agent has its primary place of business.

X. *Bankruptcy.* The following provisions shall apply if Amneal enters bankruptcy and (i) the Amneal bankruptcy estate recovers, pursuant to 11 U.S.C. § 550, any payments made under this Agreement, or (ii) this Agreement is deemed executory and is rejected by Amneal pursuant to 11 U.S.C. § 365:

1. In the event that the both a number of Settling States equal to at least seventy-five percent (75%) of the total number of Settling States and Settling States having aggregate State Allocation Percentages as set forth on Exhibit F equal to at least seventy-five percent (75%) of the total aggregate State Allocation Percentages assigned to all Settling States deem (by written notice to Amneal) that the financial obligations of this Agreement have been terminated and rendered null and void (except as provided in Section XIII.X.1.a) due to a material breach by Amneal, whereupon:

a. all agreements, all concessions, all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall immediately and automatically be deemed null and void as to Amneal; the Settling States shall be deemed immediately and automatically restored to the same position they were in immediately prior to their entry into this Settlement Agreement in respect to Amneal and the Settling States shall have the right to assert any and all claims against Amneal in the bankruptcy or otherwise without regard to any limits or agreements as to the amount of the settlement otherwise provided in this Agreement; *provided, however,* that notwithstanding the foregoing sentence, (i) all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall remain in full force and effect as to all persons or entities other than Amneal itself; and (ii) in the event the Settling State asserts any Released Claim against Amneal after the rejection and/or termination of this Agreement as described in this Section XIII.X.1.a and receives a judgment, settlement or distribution arising from such Released Claim, then the amount of any payments the Settling State has previously received from Amneal under this Agreement shall be applied to reduce the amount of any such judgment, settlement or distribution (provided that no credit shall be given against any such judgment, settlement or distribution for any payment that the Settling State is required to disgorge or repay to Amneal's bankruptcy estate); and

b. the Settling States may exercise all rights provided under the federal Bankruptcy Code (or other applicable bankruptcy or non-bankruptcy law) with respect to their Claims against Amneal subject to all defenses and rights of the Amneal.

Y. *Waiver*. Amneal, for good and valuable consideration the receipt of which is acknowledged, hereby (a) waives, foregoes and relinquishes all rights to utilize and/or seek relief under any of the following laws of the State of Texas for the restructuring of its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement: Tex. Bus. Orgs. Code § 10.003 (Contents of Plan of Merger: More Than One Successor) or any other statute of Subchapter A of Chapter 10 of Tex. Bus. Orgs. Code to the extent such statute relates to multi-successor mergers (and/or any other similar laws or statutes in any other state or territory); Tex. Bus. Orgs. Code §§ 11.01–11.414 (Winding Up and Termination of Domestic Entity); or Tex. Bus. & Com. Code §§ 23.01–23.33 (Assignments for the Benefit of Creditors) (collectively, the "Texas Statutes"), and (b) agrees, warrants and represents that it will not file, request or petition for relief under the Texas Statutes related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement, in each case until such time as all of Amneal's payment obligations incurred hereunder are satisfied in full. The foregoing waiver and relinquishment includes, without limitation, until such time as all of Amneal's payment obligations incurred hereunder are satisfied in full, Amneal's rights to execute a divisional merger or equivalent transaction or restructuring related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement that in each case has the intent or foreseeable effect of (i) separating material assets from material liabilities and (ii) assigning or allocating all or a substantial portion of those liabilities to any subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code, or pursuant to which such subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code would be assuming or retaining all or a substantial portion of those liabilities.

XIV. Settlement Product

A. The Settlement Product is Naloxone Hydrochloride Nasal Spray (generic Narcan®), a medication that counteracts the life-threatening effects of opioid overdose and significantly reduces opioid-overdose mortality.

B. For the purposes of this agreement, Amneal has agreed to provide the Settling States Settlement Product valued at $177,400,000, which equals 1,419,200 kits of Settlement Product, valued at a fixed Wholesale Acquisition Cost (WAC) of $125 per kit, allocated in accordance with the allocation percentage as reflected in Exhibit F. For the avoidance of doubt, if a Settling State does not elect to participate in the settlement, that State's Settlement Product Allocation will not be the responsibility of Amneal and will not be transferred to the allocation of other Settling States. Amneal shall cover the cost of the Settlement Product distribution set forth in this Agreement. For the avoidance of doubt,

Participating Subdivisions and Special Districts are not eligible to make a Settlement Product election pursuant to this Agreement.

C. Consistent with the Settlement Product Election Form contained in Exhibit D, each Settling State shall have the discretion to convert any portion of the Settlement Product allocated to the Settling State into a cash value equaling twenty-five percent (25%) of the WAC value of the Settling State's allocated Settlement Product for each Payment Year 7-10. Such decision must be made prior to the Settlement Product Election Date; Settling States will have no ability to convert any portion of the Settlement Product to Settlement Product Cash Conversion Amount following the Settlement Product Election Date. Unless cash conversion amounts are specifically addressed in a State-Subdivision Agreement or Allocation Statute, a Settling State's Settlement Product Cash Conversion Amount shall be disbursed to the Settling State in the same manner as its Remediation Accounts Fund payments are made pursuant to Section V. This cash conversion payment is due on the Payment Date of each Payment Year 7-10.. If a Settling State does not elect to receive all of its allocation in its initial notice, such Settling State may submit a new or updated Settlement Product Election Form in lieu of converting the outstanding portion of Settlement Product to cash value and Amneal and the Settling States agree to work in good faith to maximize the availability of Settlement Product.

D. A Settling State that has submitted a Settlement Product Election Form may place periodic orders for Settlement Product consistent with this Section XIV and Exhibit D. A Settling State may request up to twenty-five percent (25%) of its full Settlement Product allocation for each Payment Year 7-10.

E. Within thirty (30) days of the Effective Date, each Settling State shall notify Amneal and the Settlement Fund Administrator of its Settlement Product election by submitting the Settlement Product Election Form reflected in Exhibit D.

F. Settling States that do not make a Settlement Product Election within 30 days of the Effective Date shall be deemed to have elected to full Settlement Product and to have elected not to convert any portion of the Settlement Product into Settlement Product Cash Conversion Amount. If a Settling State elects to receive a partial allocation of Settlement Product, the elected portion shall decrease Amneal's payment in earliest years to later years. For example, if a Settling State has a total allocation of $4,000,000 in settlement product (and cash conversion of $1,000,000), and elects to receive $1,500,000 in settlement product (and cash conversion deduction of $375,000), Amneal shall make payments to the Settling State in the following amounts: (1) Year 7: $0; (2) Year 8: $125,000; (3) Year 9: $250,000 and (4) Year 10: $250,000 for a total amount of $625,000 to the State.

G. In addition to offering Naloxone HCl nasal spray 4mg per this Section and Exhibit D, Amneal, at its sole discretion, may also offer Settling States different versions or greater amounts of Settlement Product or different products that can be accepted by the Settling State in lieu of its full allotment of the Settlement Product or Settlement Product Cash Conversion Amount. Distribution and other terms related to such substitute product shall

be set out in Amneal's offer. Nothing in this subsection changes the terms of this Agreement regarding the provision of Settlement Product or the calculation or availability of the Settlement Product Cash Conversion Amount.

H. In the event of a Force Majeure Event, Amneal shall promptly provide written notice to the Settling States. Amneal and the States shall meet and confer within seven (7) days of such written notice to establish a commercially reasonable plan to resolve any inability to supply as quickly as reasonably possible, it being understood that, unless otherwise agreed to by the Parties, it is Amneal's obligation to use reasonable efforts which are consistent with accepted industry practices to resume performance as soon as practicable under the circumstances.

I. Settling States shall not be permitted to return to Amneal any Settlement Product under any circumstances other than a recall of the Settlement Product initiated by Amneal or FDA, in which case Amneal's sole obligation shall be to supply the same number of Settlement Product units to replace the recalled product.

J. The Parties understand that the provision of Settlement Product constitutes compensatory restitution within the meaning of 26 U.S.C. § 162(f)(2)(A) and that the receipt of Settlement Product must be reported on IRS Form 1098-F consistent with subsection XIII.E.

APOTEX SETTLEMENT AGREEMENT

APOTEX SETTLEMENT AGREEMENT

This Settlement Agreement, dated as of April 4, 2025 (the "*Agreement"*), sets forth the terms of settlement between and among the Settling States, the Participating Subdivisions, and Apotex (as those terms are defined below). Upon satisfaction of the conditions set forth in Sections II and VIII, this Agreement will be binding on the Settling States, Apotex, and the Participating Subdivisions. 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 Section IX.

I. Definitions

Unless otherwise specified, the following definitions apply:

A. *"Additional Remediation Amount."* The amount available to the Settling States listed in Exhibit M totaling up to $1,273,648

B. *"Adjusted Maximum Remediation Payment."* The Maximum Remediation Payment reduced by the State Allocation Percentage specified in Exhibit F for each Non-Settling State.

C. *"Agreement."* The Apotex Settlement Agreement, as set forth above. For the avoidance of doubt, this Agreement is inclusive of all exhibits.

D. *"Alleged Harms."* The alleged past, present, and future damages, harms, losses, and related expenditures allegedly incurred by the Settling States and Participating Subdivisions arising out of the use 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, death, and other related diseases and disorders, and that have allegedly been caused by Released Entities.

E. *"Allocation Statute."* 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.

F. "*Apotex*." Apotex Corp.

G. *"Appropriate Official."* As defined in Section XIII.E.3.

H. "*Aveva.*" Aveva Drug Delivery Systems, Inc.

I. *"Bankruptcy Code."* Title 11 of the United States Code, 11 U.S.C. § 101, et seq.

J. *"Bar."* Either: (1) a law barring Subdivisions in a Settling State from maintaining or asserting Released Claims against Released Entities (either through a direct bar or through a grant of authority to release claims and 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 or assert any Released Claims against Released Entities, 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 Released Entity (apart from the Remediation Payment by Apotex under this Agreement) shall not constitute a Bar.

K. "*Base Payment.*" As defined in Section V.D.

L. *"Case-Specific Resolution."* Either: (1) a law barring the Subdivision at issue from maintaining any Released Claims against any Released Entities (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 Released Claims at issue against any Released Entities, 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 Released Entity (apart from the payment by Apotex under this Agreement) shall not constitute a Case-Specific Resolution.

M. *"Claim."* Any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, fine, penalty, restitution, reimbursement, disgorgement, expenses, remediation, judgment, right, obligation, dispute, suit, contract, controversy, agreement, *parens patriae* claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law, statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including, but not limited to, any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, remediation, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative, or regulatory remedy whatsoever.

N. *"Claim-Over."* A Claim asserted by a Non-Released Entity against a Released Entity 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.

O. *"Compensatory Restitution Amount."* The aggregate amount paid or incurred by Apotex hereunder for Opioid Remediation, which includes the aggregate Base and Incentive Payments earned by Settling Sates and does not include amounts paid as attorneys' fees and costs or identified pursuant to Section VI.B.2 as being used to pay attorneys' fees, investigation costs or litigation costs, which shall be up to the amount of the Adjusted Maximum Remediation Payment.

P. *"Consent Judgment."* A consent judgment in a form to be agreed by the Settling States and Apotex prior to the Effective Date that, among other things, (1) approves this Agreement and (2) provides for the release set forth in Section XI.A, including the dismissal with prejudice of any Released Claims that the Settling State has brought against Released Entities.

Q. *"Covered Conduct"* means any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, service, work, sale, misstatement, misleading statement, or other activity of any kind whatsoever from the beginning of time through the Reference 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, service, work, sale, misstatement, misleading statement, or other activity) arising from or relating in any way to (a) compounding, counseling, and documentation related to any Product or class of Products; (b) the availability, discovery, research, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, relabeling, recall, withdrawal, distribution, delivery, monitoring, reporting, regulatory compliance supply, sale, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to any Product, or any system, plan, policy, procedure, or advocacy relating to any Product or class of Products, including but not limited to any unbranded or branded promotion, marketing, or advertising, information, patient support or assistance, educational programs, consultancy, research, other programs or campaigns, lobbying, grants, sponsorships, charitable donations, or other funding relating to any Product or class of Products; (c) the characteristics, properties, risks, or benefits of any Product or class of Products; (d) the monitoring or non-monitoring of orders placed of any Product; (e), reporting, disclosure, non-monitoring, non-reporting or non-disclosure to federal, state or other regulators of orders for any Product placed with any Released Entity; (f) the selective breeding, harvesting, extracting, purifying, exporting, importing, applying for quota for, procuring quota for, handling, promoting, manufacturing, processing, packaging, supplying, distributing, converting, or selling of, or otherwise engaging in any activity relating to, precursor or component Products, including but not limited to natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, or any related intermediate Products; or (g) diversion control programs, suspicious order monitoring, or regulatory compliance related to any Product.

R. *"Deposit Date."* July 25, 2025. This Date is the date by which Apotex shall deposit the Adjusted Maximum Remediation Payment, Private Attorney Fees, and the Additional Remediation Amount, pursuant to Section V.D. This date is after the Preliminary Agreement Date, on which Apotex agrees to proceed with the agreement; this date may be changed by written agreement of Apotex and the Enforcement Committee.

S. "*Designated State*." The state of New York.

T. "*DifGen.*" DifGen Pharmaceuticals LLC.

U. *"Effective Date."* The date sixty (60) calendar days after the Reference Date.

V. "*Eligible States*." The states, commonwealths, and territories of the United States of America. The 56 Eligible States are listed in Exhibit F.

W. *"Enforcement Committee.*" A committee consisting of representatives of the Settling States and of the Participating Subdivisions. Exhibit B contains the organizational bylaws of the Enforcement Committee. Notice pursuant to Section XIII.Q shall be provided when there are changes in membership or contact information.

X. *"Fees Payment."* The amount payable by Apotex on the Payment Date comprised of the Additional Remediation Amount payment, and the Private Attorney Fees payment. The Fees Payment does not include the Remediation Payment.

Y. *"Final Order."* An order or judgment of a court of competent jurisdiction with respect to the applicable subject matter (1) which has not been reversed or superseded by a modified or amended order, is not currently stayed, and as to which any right to appeal or seek certiorari, review, reargument, stay, or rehearing has expired, and as to which no appeal or petition for certiorari, review, reargument, stay, or rehearing is pending, or (2) as to which an appeal has been taken or petition for certiorari, review, reargument, stay, or rehearing has been filed and (a) such appeal or petition for certiorari, review, reargument, stay, or rehearing has been resolved by the highest court to which the order or judgment was appealed or from which certiorari, review, reargument, stay, or rehearing was sought, or (b) the time to appeal further or seek certiorari, review, reargument, stay, or rehearing has expired and no such further appeal or petition for certiorari, review, reargument, stay, or rehearing is pending.

Z. "*Global Settlement Amount.*" The Global Settlement Amount is $72,852,631, which is comprised of the Maximum Remediation Payment, Private Attorney Fees, and the Additional Remediation Amount. Notwithstanding any other language or provisions in this or any other agreement, the Global Settlement Amount is the maximum dollar amount Apotex can pay in connection with the Agreement.

AA. "*Implementation Administrator*." Rubris, Inc., which is the vendor that will be retained by Apotex to provide notice pursuant to Section VIII.A and to manage the initial joinder period for Subdivisions, including the issuance and receipt of Subdivision Settlement Participation Forms.

BB. *"Incentive Payment A."* The incentive payment described in Section V.E.4.

CC. *"Incentive Payment A Catch-Up Date."* August 1, 2026.

DD. *"Incentive Payment BC."* The incentive payment described in Section V.E.5.

EE. *"Initial Participating Subdivision."* A Subdivision that meets the requirements set forth in Section VIII.D.

FF. *"Initial Participation Date."* The date ninety (90) calendar days after the Preliminary Agreement Date, unless it is extended by written agreement of Apotex and the Enforcement Committee.

GG. *"Injunctive Relief Terms."* The terms described in Section III and set forth in Exhibits P and Q.

HH. *"Later Litigating Subdivision."* 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 Released Claim against a Released Entity after the Reference Date; or (2) adds a Released Claim against a Released Entity after the Reference Date to a lawsuit brought before the Reference Date that, prior to the Reference Date, did not include any Released Claims against a Released Entity; or (3) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a legislative Bar or legislative Case-Specific Resolution as of the Reference Date, (b) such legislative Bar or legislative Case-Specific Resolution is subject to a Revocation Event after the Reference 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 Released Claim against a Released Entity or one hundred eighty (180) 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 Released Claims being dismissed; or (4) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a judicial Bar or judicial Case-Specific Resolution as of the Reference Date, (b) such judicial Bar or judicial Case-Specific Resolution is subject to a Revocation Event after the Reference Date, and (c) such Litigating Subdivision takes any action in its lawsuit asserting a Released Claim against a Released Entity other than seeking a stay or dismissal.

II. *"Later Participating Subdivision."* A Participating Subdivision that is not an Initial Participating Subdivision, but meets the requirements set forth in Section VIII.E.

JJ. *"Litigating Subdivision."* A Subdivision (or Subdivision official) that brought any Released Claim against any Released Entity prior to the Reference Date. 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.

KK. *"Maximum Remediation Payment."* The maximum amount owed by Apotex to the Settling States and Subdivisions, exclusive of the Private Attorney Fees, and the Additional Remediation Amount. The amount of the Maximum Remediation Payment is $63,682,369.

LL. *"National Arbitration Panel."* The panel comprised as described in Section VII.F.3.b.

MM. "*National Disputes."* As defined in Section VII.F.3.a.

NN. *"Non-Litigating Subdivision."* Any Subdivision that is not a Litigating Subdivision.

OO. *"Non-Participating Subdivision."* Any Subdivision that is not a Participating Subdivision.

PP. *"Non-Party Covered Conduct Claim."* A Claim against any Non-Released Entity involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity).

QQ. *"Non-Party Settlement."* A settlement by any Releasor that settles any Non-Party Covered Conduct Claim and includes a release of any Non-Released Entity.

RR. *"Non-Released Entity."* An entity that is not a Released Entity.

SS. "*Non-Settling State."* Any Eligible State that is not a Settling State.

TT. *"Opioid Remediation."* Care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures[1] except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to (1) address the use 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.

UU. *"Participating Subdivision."* Any Subdivision that meets the requirements for becoming a Participating Subdivision under Section VIII.B and Section VIII.C. Participating Subdivisions include both Initial Participating Subdivisions and Later Participating Subdivisions.

VV. "*Participation Percentage of Incentive BC Eligible Subdivision Population."* As defined in Section V.E.5.e.

WW. *"Parties."* Apotex and the Settling States (each, a *"Party").*

XX. "*Payment Calculation Date*." October 20, 2025, which is sixty (60) days before the Payment Date. This date may be changed by written agreement of Apotex and the Enforcement Committee.

[1] Reimbursement includes amounts paid to any governmental entities for past expenditures or programs.

YY. *"Payment Date."* December 19, 2025, which is the date by which Apotex makes the Remediation Payment and the Fees Payment. This date may be changed by written agreement of Apotex and the Enforcement Committee.

ZZ. "*Preliminary Agreement Date."* The date Apotex informs the Settling States of its determination that the condition in Section II.B has been satisfied. The Preliminary Agreement Date shall be no more than fourteen (14) calendar days after the end of the notice period to Eligible States, unless it is extended by written agreement of Apotex and the Enforcement Committee.

AAA. "*Primary Fire District."* A fire district that covers a population of 25,000, or 0.20% of an Eligible State's population if an Eligible State's population is greater than 18 million. If not easily calculable from state data sources and agreed to between the Eligible State and Apotex, 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. "Primary Fire Districts" shall mean fire districts as identified in connection with the implementation of the July 21, 2021, Janssen Settlement Agreement.

BBB. *"Primary Subdivision."* A Subdivision that is a General Purpose Government (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore, or any other entities that provide municipal-type government) with population over 10,000; provided, however, that as used in connection with Incentive Payment BC, the population threshold is 30,000. Attached as Exhibit I is an agreed list of the Primary Subdivisions in each Eligible State.

CCC. *"Private Attorney Fees."* The amount to be paid by Apotex for private attorneys' litigation fees and costs on behalf of Participating Subdivisions. The maximum amount of Private Attorney Fees is $7,896,614. For avoidance of doubt, Private Attorney Fees do not include the Additional Remediation Amount.

DDD. *"Product."* Any chemical substance, 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 substance, that is: (1) an opioid or opiate, as well as any product containing any such substance; (2) benzodiazepine, carisoprodol, or gabapentin; or (3) a combination or "cocktail" of chemical substances prescribed, sold, bought, or dispensed to be used together that includes opioids or opiates. "Product" shall include, but is not limited to, any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, naloxone, naltrexone, oxycodone, oxymorphone, pentazocine, propoxyphene, 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. Notwithstanding the foregoing, nothing in this section prohibits a Settling State from taking administrative or regulatory action related to benzodiazepine (including, but not limited to, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triazolam, temazepam, and midazolam), carisoprodol, or gabapentin that is wholly independent from the use of such drugs in combination with opioids, *provided* such action does not seek money

(including abatement and/or remediation) for conduct prior to the Initial Participation Date. "Product" also includes any natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, and any intermediate products used or created in the manufacturing process for any of the substances described above.

EEE. *"Reference Date."* The date on which Apotex is to inform the Settling States of its determination whether the condition in Section IX has been satisfied. The Reference Date shall be no later than thirty (30) calendar days after the Initial Participation Date, unless it is extended by written agreement of Apotex and the Enforcement Committee.

FFF. *"Released Claims."* Any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct and/or Alleged Harms occurring prior to the Initial Participation Date. Without limiting the foregoing, Released Claims include any Claims that have been asserted against Released Entities by a Settling State or any of its Litigating Subdivisions in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) based on, arising out of, or relating to, in whole or in part, the Covered Conduct and/or Alleged Harms, or any such Claims that could be or could have been asserted now or in the future in those actions or in any comparable action or proceeding brought by a Settling State, Subdivision, or Releasor (whether or not such Settling State, Subdivision, or Releasor has brought such action or proceeding). Released Claims also include all Claims against Released Entities asserted in any proceeding to be dismissed pursuant to the Agreement, whether or not such claims relate to Covered Conduct and/or Alleged Harms. The Parties intend that this term, "Released Claims," be interpreted broadly. This Agreement does not release Claims by private individuals. It is the intent of the Parties that Claims by private individuals be treated in accordance with applicable law. Released Claims is also used herein to describe claims brought by a non-party Subdivision that would have been Released Claims if they had been brought by a Releasor against a Released Entity.

GGG. *"Released Entities."* With respect to Released Claims, Apotex, Aveva, and (1) all past and present subsidiaries, divisions, affiliates, predecessors, successors, and assigns (in each case, whether direct or indirect) of Apotex or Aveva; (2) all past and present subsidiaries and divisions (in each case, whether direct or indirect) of any entity described in subsection (1); (3) the respective past and present officers, directors, members, trustees, and employees of any of the foregoing (each for actions that occurred during and related to their work for, or employment with, any of Apotex, Aveva, or the foregoing entities); (4) all past and present joint ventures (whether direct or indirect) of Apotex or Aveva or their subsidiaries, including in any subsidiary's capacity as a participating member in such joint venture; (5) all direct or indirect parents and shareholders of Apotex or Aveva (solely in their capacity as parents or shareholders of Apotex or Aveva with respect to Covered Conduct); and (6) any insurer of Apotex, Aveva, or any person or entity otherwise described in subsections (1)-(5) (solely in its role as insurer of such person or entity and subject to the last sentence of Section XI.C). A list of Apotex's and Aveva's joint ventures, subsidiaries and affiliates and predecessor entities is set forth in Exhibit J. Any person or entity described in subsections (3)-(6) shall be a Released Entity solely in

the capacity described in such clause and shall not be a Released Entity with respect to its conduct in any other capacity. Any entity acquired, or joint venture entered into, by Apotex or Aveva after the Initial Participation Date is not a Released Entity. Additionally, except for Aveva and its past and present subsidiaries and divisions, DifGen and its subsidiaries, divisions, affiliates, predecessors, successors, and assigns (or any entity otherwise covered by subsections (1)-(5) based on a relationship to DifGen and such entities) are not Released Entities for their conduct prior to DifGen's acquisition of Aveva, or for their post-acquisition conduct related to activities they undertook prior to DifGen's acquisition of Aveva. Further and notwithstanding anything else in this paragraph, no entity sued in *In re: National Prescription Opiate Litigation*, No. 1:17-md-2804 (N.D. Ohio) is included as a Released Entity other than Apotex, Aveva, and the entities listed on Exhibit J.

HHH. *"Releasors."* With respect to Released Claims, (1) each Settling State; (2) each Participating Subdivision; and (3) without limitation and to the maximum extent of the power of each Settling State's Attorney General and/or Participating Subdivision to release Claims, (a) the Settling State's and Participating Subdivision's departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind 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, water districts, emergency services districts, school districts, healthcare districts, hospital districts, Sheriffs and law enforcement districts, library districts, coroner's offices, and public transportation authorities, and other Special Districts in a Settling State, including those with the regulatory authority to enforce state and federal controlled substances acts or the authority to bring Claims related to Covered Conduct seeking money (including abatement (or remediation and/or restitution)) or revoke a pharmaceutical distribution license, 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, including but not limited to fines, penalties, or punitive damages, 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. 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. Each Settling State's Attorney General represents that he or she has obtained (or will obtain no later than the Initial Participation Date) the authority set forth in Section XI.G. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide the Subdivision Settlement Participation Form referenced in Section VIII providing for a release to the fullest extent of the Participating Subdivision's authority.

III. *"Remediation Accounts Fund."* The component of the Settlement Fund described in Section VI.C.

JJJ. *"Remediation Payment."* The amount payable to the Settlement Fund by Apotex for Settling States' Base Payments and Incentive Payments on the Payment Date, as calculated by the Settlement Fund Administrator.

KKK. *"Revocation Event."* With respect to a Bar or Case-Specific Resolution, a legislative amendment, revocation, rescission, reversal, overruling, or interpretation that in any way limits the effect of such Bar or Case-Specific Resolution on Released Claims, or any other action or event that otherwise deprives the Bar, or Case-Specific Resolution of force or effect in any material respect.

LLL. *"Settlement Fund."* The interest-bearing fund established at [Bank TBD] pursuant to this Agreement into which the Remediation Payment is made under Section V, which is intended to be classified as a "qualified settlement fund" within the meaning of 26 C.F.R. §§ 1.468B-1 *et seq*. and which shall be approved by any Settling State in accordance with the requirements of 26 C.F.R. § 1.468B-1.

MMM. *"Settlement Fund Administrator."* BrownGreer PLC, which is the entity that determines the Remediation Payment (including calculating offset or reduction and Incentive Payments pursuant to Section V) and Additional Remediation Amount, administers the Settlement Fund, and distributes amounts into the Remediation Accounts Fund, State Fund, and Subdivision Fund pursuant to this Agreement. The duties of the Settlement Fund Administrator shall be governed by this Agreement. Prior to the Effective Date, Apotex and the Enforcement Committee shall agree to a detailed description of the Settlement Fund Administrator's duties and responsibilities, including a detailed mechanism for paying the Settlement Fund Administrator's fees and costs, all of which shall be appended to the Agreement as Exhibit L.

NNN. *"Settlement Fund Escrow."* The interest-bearing escrow fund established pursuant to this Agreement to hold disputed payments made under this Agreement.

OOO. "*Settling State."* An Eligible State that has entered into this Agreement and delivers executed releases in accordance with Section IX.A.

PPP. "*State Allocation Percentage."* A Settling State's percentage as set forth in Exhibit F.

QQQ. *"State Fund."* The component of the Settlement Fund described in Section VI.C.

RRR. *"State-Subdivision Agreement."* 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.

SSS. *"Statutory Trust."* 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.

TTT. *"Statewide Payment Amount."* The amount from the Remediation Payment to be paid to a Settling State, including its separate types of funds (if applicable) and its Participating Subdivisions listed in Exhibit G, on or as soon as practical after the Payment Date.

UUU. *"Subdivision."* Any (1) General Purpose Government (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore, or any other entities that provide municipal-type government), School District, or Special District within a Settling State, and (2) any other subdivision, subdivision official acting in an official capacity on behalf of the subdivision (including, without limitation, district attorneys, county attorneys, city attorneys, sheriffs, and any other official, employee, or representative), 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, Nonfunctioning Governmental Units and public institutions) that has filed a lawsuit that includes a Released Claim against a Released Entity in a direct, *parens patriae,* or any other capacity. "General Purpose Government," "School District," and "Special District" shall correspond to the "five basic types of local governments" recognized by the U.S. Census Bureau and match the 2017 list of Governmental Units.[2] The three (3) General Purpose Governments are county, municipal, and township governments; the two (2) special purpose governments are School Districts and Special Districts.[3] "Fire District," "Health District," "Hospital District," and "Library District" shall correspond to categories of Special Districts recognized by the U.S. Census Bureau.[4] References to a Settling State's Subdivisions or to a Subdivision "in," "of," or "within" a Settling State include Subdivisions located within the Settling State even if they are not formally or legally a sub-entity of the Settling State; *provided, however,* that a "Health District" that includes any of the following words or phrases in its name shall not be considered a Subdivision: mosquito, pest, insect, spray, vector, animal, air quality, air pollution, clean air, coastal water, tuberculosis, and sanitary.

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[2] https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP

[3] *E.g.,* U.S. Census Bureau, "Technical Documentation: 2017 Public Use Files for State and Local Government Organization" at 7 (noting that "the Census Bureau recognizes five basic types of local governments," that three of those are "general purpose governments" (county governments, municipal governments, and township governments), and that the other two are "school district and special district governments"), https://www2.census.gov/programs-surveys/gus/datasets/2017/2017_gov_org_meth_tech_doc.pdf.

[4] A list of 2017 Government Units provided by the Census Bureau identifies 38,542 Special Districts and categorizes them by "FUNCTION_NAME." "Govt_Units_2017_Final" spreadsheet, "Special District" sheet, included in "Independent Governments - list of governments with reference information," https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP. As used herein, "Fire District" corresponds to Special District function name "24 — Local Fire Protection," "Health District" corresponds to Special District function name "32 — Health," "Hospital District" corresponds to Special District function name "40 —Hospitals," and "Library District" corresponds to Special District function name "52 — Libraries." *See id.*

VVV. "*Subdivision Allocation Percentage.*" The portion of a Settling State's Subdivision Fund set forth in Exhibit G that a Subdivision will receive pursuant to Section VI 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 VI.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section VI.D.3) that addresses allocation from the Subdivision Fund, whether before or after the Initial 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 VI.D.3. The Subdivision Allocation Percentages contained in Exhibit G may not change once notice is distributed pursuant to Section VIII.A, except upon the effectiveness of any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section VI.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section VI.D.3) 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.

WWW. *"Subdivision Fund."* The component of the Settlement Fund described in Section VI.A.

XXX. *"Subdivision Settlement Participation Form."* The form attached as Exhibit K that Participating Subdivisions must execute and return to the Implementation Administrator or Settlement Fund Administrator, and which shall (1) make such Participating Subdivisions signatories to this Agreement, (2) include a full and complete release of any and all of such Participating Subdivisions' claims, and (3) require the prompt dismissal with prejudice of any Released Claims that have been filed by any such Participating Subdivision.

YYY. *"Threshold Motion."* A motion to dismiss or equivalent dispositive motion made at the outset of litigation under applicable procedure. A Threshold Motion must include as potential grounds for dismissal any applicable Bar or the relevant release by a Settling State or Participating Subdivision provided under this Agreement and, where appropriate under applicable law, any applicable limitations defense.

II. Participation by Eligible States and Condition to Preliminary Agreement

A. *Notice to Eligible States.* On May 26, 2025, this Agreement shall be distributed to all Eligible States. The Attorneys General of the Eligible States shall then have until June 25, 2025, to decide whether to become Settling States and notify the Enforcement Committee and Apotex of that decision. Eligible States that determine to become Settling States shall so notify Apotex and shall further commit to obtaining any

necessary additional state releases prior to the Reference Date. This notice period may be extended by written agreement of Apotex and the Enforcement Committee.

B. *Condition to Preliminary Agreement*. Following the notice period set forth in Section II.A, Apotex shall have fourteen (14) calendar days to determine whether, in its sole discretion (based on any criteria or factors deemed relevant to Apotex), enough Eligible States have agreed to become Settling States to proceed with notice to Subdivisions as set forth in Section VIII. This period may be extended by written agreement of Apotex and the Enforcement Committee. If Apotex determines that this condition has been satisfied, and that notice to the Subdivisions should proceed, it will so notify the Settling States by providing notice to the Enforcement Committee. The date of such notice shall be the Preliminary Agreement Date. If Apotex determines that this condition has not been satisfied, this Agreement will have no further effect and all releases and other commitments or obligations contained herein will be void.

C. *Later Joinder by Eligible States*. After the Preliminary Agreement Date, an Eligible State may only become a Settling State with the consent of Apotex and the Enforcement Committee, provided that the Enforcement Committee may not withhold consent to an Eligible State's later joinder if the Eligible State agrees to join pursuant to the terms of this Agreement and the allocation set forth on Exhibit F. If an Eligible State becomes a Settling State more than thirty (30) calendar days after the Preliminary Agreement Date, but on or before the Reference 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 Reference Date.

D. *Litigation Activity.* Following the Preliminary Agreement Date, Eligible States that determine to become Settling States shall make reasonable efforts to cease litigation activity against Apotex or Aveva, including by jointly seeking stays or, where appropriate, severance of claim against Apotex or Aveva, 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.

III. Injunctive Relief

A. *Injunctive Relief.* As part of the Consent Judgment, the Parties agree to the respective injunctive relief terms attached in Exhibits P (Apotex) and Q (Aveva).

IV. Procedure for Segregated Account Deposits and Payments

A. By the Deposit Date, Apotex shall deposit into a segregated interest-bearing bank account it establishes the Adjusted Maximum Remediation Payment amount. Apotex shall also deposit into two (2) separate segregated interest-bearing bank accounts it establishes: (a) the Private Attorney Fees amount; and (b) the Additional Remediation Amount. Apotex shall separately account for the interest earned on each of the three (3) accounts.

B. Apotex shall provide proof to the Enforcement Committee of the deposits required by Section IV.D.1 by the Deposit Date. Apotex shall not remove any money from the segregated bank accounts, except as provided by Section IV.F and Section IV.H.

C. If an Eligible State joins the agreement pursuant to Section II.C and that joinder is after the Deposit Date, Apotex shall deposit that Settling State's maximum Statewide Payment Amount, which is the Maximum Remediation Payment multiplied by the Settling State's State Allocation Percentage. Such deposit shall be within fifteen (15) days of the Settling State's joinder.

D. If the condition set forth in Section IX.B is met, Apotex shall:

1. Transfer into the Settlement Fund on the Payment Date (unless the Enforcement Committee specifies a later date) the Remediation Payment amount calculated by the Settlement Fund Administrator pursuant to Section V.C.2 from the segregated account. For the avoidance of doubt, this transfer includes any amounts that the Settlement Fund Administrator will place into the Settlement Fund Escrow pursuant to Section V.C.4.e.

a. The interest earned from the deposit account holding the Remediation Amount shall be used, first, to pay for the Implementation Administrator, then to pay for the Implementation Administrator in the Alvogen, Amneal, Hikma, Indivior, Mylan, Sun, and Zydus Settlement Agreements, and finally to be transferred to the Settlement Fund to be used to pay for the Settlement Fund Administrator pursuant to Section VI.C.4.

2. Transfer into the relevant funds as directed by the Enforcement Committee, no later than the Payment Date (unless the Enforcement Committee specifies a later date) the amount in the segregated account holding the Private Attorney Fees (including all interest accrued on that account), minus any amounts not payable pursuant to the terms of Exhibit R, and the amount in the segregated account holding the Additional Remediation Amount (including all interest accrued on that account), minus the Additional Remediation Amount that would have been owed to Non-Settling States as calculated by multiplying the Additional Remediation Amount by the sum of allocations on Exhibit N for Non-Settling States.

E. The Remediation Payment transferred by Apotex into the Settlement Fund pursuant to Section IV.D.1 shall be disbursed by the Settlement Fund Administrator to each Settling State and to its Participating Subdivisions listed on Exhibit G pursuant to Section V.C.5 through Section V.C.8; provided, however, that for any Settling State where the Consent Judgment has not been entered as of the Effective Date, the funds allocable to that Settling State and its Participating Subdivisions listed on Exhibit G shall not be disbursed until ten (10) calendar days after the entry of the Consent Judgment in that Settling State.

F. Any amounts in the segregated accounts not subject to transfer pursuant to Section IV.D shall immediately revert to Apotex after Apotex makes the transfers required by Section IV.D.

G. Except for the interest earned on the payment amounts, any unearned Incentive Payment A amount in the Settlement Fund shall immediately revert to Apotex after the Incentive Payment A Catch-Up Date. This excess reflects Settling States who sought, but did not achieve, a Bar by the Incentive Payment A Catch-Up Date. Any amount in the Settlement Fund exceeding the payments described in Section V.C.3 shall immediately revert to Apotex after the Payment Date. This excess is Settling States' unearned Maximum Incentive Payment amounts.

H. In the event that, in accordance with the terms of Section IX.B, Apotex determines not to proceed with the Settlement, or the Settlement does not become effective for any other reason, the funds held in the segregated bank accounts shall immediately revert to Apotex.

V. Settlement Payment Calculation Process

A. *Settlement Fund.* All payments under this Section V shall be made into the Settlement Fund, except that, where specified, they shall be made into the Settlement Fund Escrow. The Settlement Fund shall be allocated and used only as specified in Section VI.

B. *Remediation Payment*

1. Apotex shall make one Remediation Payment comprised of both Base Payments and Incentive Payments as provided in Section IV.D.1.

2. In no instance shall Apotex's Remediation Payment obligations exceed the Adjusted Maximum Remediation Amount.

C. *Settlement Fund Payment Process*

1. To determine the Remediation Payment, the Settlement Fund Administrator shall use the data as of the Payment Calculation Date. Prior to the Effective Date, the Parties will include Exhibit L, which sets forth in detail the process for the Settlement Fund Administrator to obtain relevant data and for distributing funds to the Settling States and their Participating Subdivisions listed on Exhibit G consistent with the terms of this Agreement as quickly as practical.

2. On the Payment Calculation Date, the Settlement Fund Administrator shall determine the Remediation Payment, consistent with the provisions in Exhibit L, by determining the sum, for all Settling States, of the Base Payment amount and Incentive Payments A or BC amount to which each Settling State is entitled (or could in the future be entitled for states who notify Defendants of an intent to obtain a Bar by the Incentive Payment A Catch-Up Date) by applying the criteria under Section V.D and Section V.E;

3. On the Payment Calculation Date and Incentive Payment A Catch-Up Date, the Settlement Fund Administrator shall determine the Statewide Payment Amount for each Settling State, consistent with the provisions in Exhibit L, by determining, for each Settling State, the Base Payment amount (only on the Payment Calculation Date) and Incentive Payment amount to which the Settling State is entitled on that date by applying the criteria under Section V.D and Section V.E, after subtracting the portion of any Settlement Fund Administrator costs and fees owed out of funds from the Settlement Fund pursuant to Section VI.C.4.

4. No later than fifty (50) days prior to the Payment Date, the Settlement Fund Administrator shall give notice to Apotex, the Settling States, and the Enforcement Committee of the amount of the Remediation Payment, and/or the Statewide Payment Amount for each Settling State, following the determination described in Section V.C.2 and V.C.3, and the following timeline shall apply:

a. Within twenty-one (21) calendar days of the notice provided by the Settlement Fund Administrator, Apotex, any Settling State or the Enforcement Committee may dispute, in writing, the calculation of the Remediation Payment and/or the Statewide Payment Amount for a Settling State. Such disputing party must provide a written notice of dispute to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Apotex identifying the nature of the dispute, the amount of money that is disputed, and the Settling State(s) affected.

b. Within twenty-one (21) calendar days of the sending of a written notice of dispute, any affected party may submit a response, in writing, to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Apotex identifying the basis for disagreement with the notice of dispute.

c. If no response is filed, the Settlement Fund Administrator shall adjust the amount calculated consistent with the written notice of dispute. In the case of the Remediation Payment, Apotex shall pay the adjusted amount, collectively totaling the Remediation Payment, on the Payment Date.

d. If a written response to the written notice of dispute is timely sent to the Settlement Fund Administrator, the Settlement Fund Administrator shall notify Apotex, the Enforcement Committee, and any affected Settling State of the preliminary amount, which shall be the greater of the amount originally calculated by the Settlement Fund Administrator or the amount that would be consistent with the notice of dispute. In the case of the Remediation Payment, Apotex shall pay this preliminary amount, *provided, however,* that in no circumstances shall the preliminary amount to be paid be higher than the Maximum Remediation Payment.

e. The Settlement Fund Administrator shall place any disputed amount of the preliminary amount paid by Apotex into the Settlement Fund Escrow and shall disburse any undisputed amount to each Settling State and its Participating Subdivisions listed on Exhibit G pursuant to Section V.C.5.

5. If a Settling State informs the Settlement Fund Administrator that it and its Participating Subdivisions listed on Exhibit G have agreed on the amount of its Statewide Payment Amount, determined pursuant to Section V.C.3, to be distributed to the Settling State, among its separate types of funds (if applicable), and among its Participating Subdivisions listed on Exhibit G, the Settlement Fund Administrator shall disburse the Statewide Payment Amount pursuant to the consensus distribution amounts provided by the Settling State as quickly as practical. For a Settling State that does not so notify the Settlement Fund Administrator, the Settlement Fund Administrator shall allocate the Settling State's Statewide Payment Amount, pursuant to Section VI, 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:

a. As soon as possible for each payment and following the determination described in Section V.C.3, the Settlement Fund Administrator shall give notice to the relevant Settling States and their Participating Subdivisions listed on Exhibit G of the amount to be received by each Settling State, the amount to be received by the separate types of funds for each Settling State (if applicable), and the amount to be received by each Participating Subdivision listed on Exhibit G for each Settling State.

b. Within twenty-one (21) days of the notice provided by the Settlement Fund 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 Fund 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.

c. Within twenty-one (21) 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 Fund Administrator, any affected Settling State, and any affected Participating Subdivision identifying the basis for disagreement with the notice of dispute.

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

e. The Settlement Fund Administrator shall place any disputed amount into the Settlement Fund Escrow and shall disburse any undisputed amount to the Settling State and its Participating Subdivisions eligible for payment.

6. Disputes described in this subsection (other than those for which no response is filed under Sections V.C.4.c or V.C.5.d) shall be resolved in accordance with the terms of Section VII.F.

7. The Settlement Fund Administrator may combine the disbursements of the Remediation Payment with the disbursement of funds under other comparable opioid settlements. In determining when disbursements of the Remediation Payment will be made, the Settlement Fund Administrator may take into account the timeline for the availability of disbursements under other comparable opioid settlements.

8. For the avoidance of doubt, Subdivisions 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.

D. *Base Payments.*

1. Apotex shall make Base Payments into the Settlement Fund in an amount equal to forty percent (40%) of the Adjusted Maximum Remediation Payment. The maximum total for Base Payments is $25,472,948.

2. The Base Payment for any Settling State shall be the maximum total for Base Payments, $25,472,948, times the Settling State's State Allocation Percentage specified in Exhibit F.

E. *Incentive Payments.*

1. Settling States may earn Incentive Payments totaling up to a maximum of sixty percent (60%) of the Adjusted Maximum Remediation Payment, with the Incentive Payment amount depending on whether and the extent to which the criteria set forth below are met in each Settling State. The maximum total for Incentive Payments is $38,209,421.

2. A Settling State qualifies to receive an Incentive Payment in addition to its Base Payment if it meets the incentive eligibility requirements specified below. The maximum total Incentive Payment for any Settling State shall be no more than the maximum total for Incentive Payments, $38,209,421, times the Settling State's State Allocation Percentage specified in Exhibit F. Incentive Payments are state-specific, with the actual amount depending on whether and the extent to which the criteria set forth below are met in such Settling State.

3. The Incentive Payments shall be divided among two (2) categories, referred to as Incentive Payments A and BC. Incentive Payments A and BC will be due to Settling States on the Payment Date. The total amount of Incentive Payments due to Settling States shall be the sum of the Incentive Payments for which the individual Settling States are eligible under the criteria set forth below. The Incentive Payments shall be made with respect to a specific Settling State based on its eligibility under the criteria set forth below. For the avoidance of doubt, eligibility for Incentive Payments A and BC shall be determined on a Settling State-by-Settling State basis.

4. Incentive Payment A.

a. Incentive Payment A is mutually exclusive with Incentive Payment BC; if a Settling State receives Incentive Payment A in the Remediation Payment, such Settling State is not eligible for Incentive Payment BC.

b. Incentive Payment A shall be equal to sixty percent (60%) of the Adjusted Maximum Remediation Payment, provided all Settling States satisfy the requirements of Incentive Payment A. Incentive Payment A will be due to a Settling State as part of the Remediation Payment, and shall equal a total potential maximum of $38,209,421 if all Eligible States qualify for Incentive Payment A. Each Settling State's share of Incentive Payment A, *provided* that Settling State qualifies, shall equal the total maximum amount available for Incentive Payment A, $38,209,421, times the Settling State's State Allocation Percentage.

c. Qualification for Incentive Payment A is as follows: A Settling State qualifies for Incentive Payment A if, as of the Payment Calculation Date: (i) there is a Bar in that Settling State in full force and effect, (ii) the 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: all Primary Subdivisions, Litigating Subdivisions, School Districts with a K-12 student enrollment of at least 25,000 or .10% of a Settling State's population, whichever is greater, Hospital Districts that have at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district, and Primary Fire Districts; or (iii) a combination of the actions in clauses (i) and (ii) has achieved the same level of resolution of Subdivision Claims (*e.g.,* a Bar against future litigation combined with full joinder by Litigating Subdivisions). For the avoidance of doubt, subsection (iii) cannot be satisfied unless all Litigating Subdivisions are Participating Subdivisions or there is a Case-Specific Resolution against any such Subdivisions that are not Participating Subdivisions. Apotex and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Initial Participation Date.

d. If a Settling State intends to achieve Incentive A by a Bar in effect after the Payment Calculation date but before the Incentive A Catch-Up Date, the Settling State shall notify Apotex no later than 30 days before the Initial Participation Date. A Settling State who so notifies Apotex and does not qualify for Incentive Payment A as of the Payment Date but becomes eligible for Incentive Payment A as of the Incentive Payment A Catch-Up Date shall receive the payment that it would have received for Incentive Payment A (the "Incentive Payment A Catch-up Payment") on the Incentive Payment A Catch-Up Date. The Incentive Payment A Catch-up Payment shall be reduced by any amounts paid to the Settling State under Incentive Payment BC prior to the Settling State's eligibility for Incentive Payment A. A Settling State that does not qualify for Incentive Payment A as of the Incentive Payment A Catch-Up Date shall not be eligible for Incentive Payment A.

e. To the extent a Settling State asserts that existing legislation qualifies as a Bar, the Settling State shall provide notice to Apotex no later than 30 days before the Initial Participation Date. Apotex shall indicate before the Initial Participation Date whether existing legislation in a Settling State is sufficient to qualify as a Bar.

5. Incentive Payment BC.

a. Incentive Payment BC shall be available to Settling States that do not qualify for Incentive Payment A.

b. Incentive Payment BC shall be up to a maximum of sixty percent (60%) of the Settling State's share of the Remediation Payment. Incentive Payment BC will be due to a Settling State as part of the Remediation Payment. Incentive Payment BC shall equal a total potential maximum of $38,209,421 if all Eligible States qualify for Incentive Payment BC (and do not qualify for Incentive Payment A).

c. The maximum Incentive Payment BC for any Settling State shall be the maximum potential Incentive Payment BC, $38,209,421, times the Settling State's State Allocation Percentage specified in Exhibit F, provided such Settling State becomes eligible for Incentive Payment BC by the Payment Calculation Date.

d. The amount of Incentive Payment BC for which a Settling State is eligible shall be determined based on the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of all the Settling State's Incentive BC Subdivisions. The Settling State's Incentive BC Subdivisions are (i) all Litigating Subdivisions (including School Districts and Special

Districts) and (ii) all Primary Subdivisions that have not sued Apotex as of the Initial Participation Date (collectively "*Incentive BC Subdivisions*").

e. The percentage of the Settling State's maximum Incentive Payment BC provided by Section V.E.5.c to which the Settling State is entitled shall be determined according to the table of Incentive BC payment levels below:

Participation Percentage of Incentive BC Eligible Subdivision Population[5]	**Incentive Payment BC Percentage**
Less than 85%	0%
85% or more but less than 86%	3.57%
86% or more but less than 87%	8.93%
87% or more but less than 88%	14.29%
88% or more but less than 89%	19.64%
89% or more but less than 90%	25%
90% or more but less than 91%	30.36%
91% or more but less than 92%	35.71%
92% or more but less than 93%	41.07%
93% or more but less than 94%	46.43%
94% or more but less than 95%	51.79%
95% or more but less than 96%	60.71%
96% or more but less than 97%	68.75%

[5] The "Participation Percentage of Incentive BC Eligible Subdivision Population" shall be determined by the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of the Settling State's Incentive BC Subdivisions. In calculating the Settling State's population that resides in Incentive BC Subdivisions, the population of the Settling State's Incentive BC Subdivisions shall be the sum of the population of all Incentive BC Subdivisions in the Settling State, notwithstanding that persons may be included within the population of more than one Incentive BC Subdivision. An individual 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; provided, however, that for the avoidance of doubt, no Subdivision will be excluded from the numerator or denominator under this sentence unless a Subdivision otherwise counted in the denominator has the authority to release the Claims (consistent with Section X) of the Subdivision to be excluded.

97% or more but less than 98%	76.79%
98% or more but less than 99%	84.82%
99% or more but less than 100%	92.86%
100%	100%

f. The percentage of the available Incentive Payment BC amount for which a Settling State is eligible will be based on the Participation Percentage of Incentive BC Eligible Subdivision Population as of the Payment Calculation Date. If Incentive BC Eligible Subdivisions that have become Participating Subdivisions, or achieved Case-Specific Resolution status, collectively represent less than eighty-five percent (85%) of a Settling State's Incentive BC Eligible Subdivision population by the Payment Calculation Date, the Settling State shall not receive any Incentive Payment BC.

g. If there are no Incentive BC Eligible Subdivisions in a Settling State, and that Settling State is otherwise eligible for Incentive Payment BC, that Settling State will receive its maximum Incentive Payment BC provided by Section V.E.5.c.

F. In no event shall any Settling State receive a Base Payment and Incentive Payment totaling more than one hundred percent (100%) of its respective State Allocation Percentage specified in Exhibit F times the Maximum Remediation Payment.

VI. Allocation and Use of Settlement Payments

A. *Components of Settlement Fund.* The Settlement Fund shall be funded by the Remediation Payment and comprised of a Remediation Accounts Fund, a State Fund, and a Subdivision Fund for each Settling State. The payments made under Section IV into the Settlement Fund shall be initially allocated among those three (3) sub-funds and distributed and used as provided below. Unless otherwise specified herein, payments placed into the Settlement Fund do not revert back to Apotex.

B. *Use of Settlement Payments.*

1. 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 VI.B.2. In no event may less than ninety-five percent (95%) of Apotex's maximum amount of payments pursuant to Section V be spent on Opioid Remediation.

2. 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 Fund Administrator and Apotex 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 VI.B.2 shall be available to the public. For the avoidance of doubt, (a) any amounts not identified under this Section VI.B.2 as used to pay attorneys' fees, investigation costs, or litigation costs shall be included in the Compensatory Restitution Amount for purposes of Section VI.F and (b) Participating Subdivisions not listed on Exhibit G may only use monies from the Settlement Fund for purposes that qualify as Opioid Remediation.

C. *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 Fund Administrator will make an initial allocation to three (3) state-level sub-funds. The Settlement Fund 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.

1. Base Payments. The Settlement Fund Administrator will allocate Base Payments under Section V.D among the Settling States pursuant to Section V.D.2. 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 VI.D.

2. Incentive Payments. The Settlement Fund Administrator will treat Incentive Payments under Section V.E on a state-specific basis. Incentive Payments for which a Settling State is eligible 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 VI.D.

3. Settlement Fund Administrator. Prior to the Effective Date, Apotex and the Enforcement Committee will agree to a detailed mechanism consistent with the foregoing for the Settlement Fund Administrator to follow in allocating, apportioning, and distributing payments, which shall then be appended hereto as Exhibit L.

4. Settlement Fund Administrator Costs. Any costs and fees associated with or arising out of the duties of the Settlement Fund Administrator as described in Exhibit L shall be paid from the interest accrued in the Settlement Fund Escrow and the Settlement Fund; provided, however, that if such accrued interest is insufficient to pay the entirety of any such costs and fees, the additional amount shall be paid out of the Settlement Fund. For the avoidance of doubt, nothing in this provision shall require Apotex to pay any costs, fees or other amounts in excess of the Global Settlement Amount.

D. *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 VI.D.1 and Section VI.D.2, then the default provisions of Section VI.D.4 apply. It is not necessary that a State-Subdivision Agreement or other means of allocating funds pursuant to Section VI.D.1 and Section VI.D.2 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.

1. 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 VI.C 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 VI.B.2, and (b) that at least seventy percent (70%) of amounts be used solely for future Opioid Remediation.[6] For a State-Subdivision Agreement to be applied to the relevant portion of the Remediation Payment, notice must be provided to Apotex and the Settlement Fund Administrator by the Payment Calculation Date.

2. 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 VI.B.2, 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 VI.C 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 Statutory Trust does not address distribution of

[6] 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

all or some of these three (3) sub-funds, the applicable Allocation Statute or Statutory Trust does not replace the default provisions described in Section VI of any such unaddressed fund. For example, if an Allocation Statute or Statutory Trust that meets the requirements of this Section VI.D.2 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.

3. 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 Fund Administrator is not required to honor a voluntary redistribution for which notice is provided to it after the Payment Calculation Date.

4. Distribution in the Absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust. If Section VI.D.1, Section VI.D.2, and Section VI.D.3 do not apply, amounts apportioned to that Settling State's State Fund, Remediation Accounts Fund, and Subdivision Fund under Section VI.C shall be distributed as follows:

a. Amounts apportioned to that Settling State's State Fund shall be distributed to that Settling State.

b. Amounts apportioned to that Settling State's Remediation Accounts Fund shall be distributed consistent with Section VI.E. Each Settling State shall submit to the Settlement Fund 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 Fund 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 Fund 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 Fund Administrator to release the Settling State's Remediation Accounts Fund to the Statutory Trust.

c. 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 VIII.H 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.

d. Special Districts shall not be allocated funds from the Subdivision Fund, except through a voluntary redistribution allowed by Section VI.D.3 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.

5. Restrictions on Distribution. No amounts may be distributed from the Subdivision Fund contrary to Section VIII, 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 VIII.E through Section VIII.G. 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 VI.D.1 or by an Allocation Statute or a Statutory Trust described in Section VI.D.2.

E. *Provisions Regarding the Remediation Accounts Fund.*

1. 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 VI.D.1 or Section VI.D.2, as applicable, and all direct payments to Subdivisions comply with Section VIII.E through Section VIII.G.

2. 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:

a. Regional Remediation.

(i) 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 VI.E.2.d to define its regions and assign regional allocations percentages. Otherwise, the Settling State shall (A) define its initial regions, which shall consist of one (1) or more General Purpose Subdivisions 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; (B) 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.

(ii) 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.

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

b. *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.

c. *Small Settling States.* Notwithstanding the provisions of Section VI.E.2.a, Settling States with populations under four (4) million that do not have existing regions described in Section VI.E.2.a 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 VI.E.2.b shall be divided regionally so that each block-grant eligible Subdivision is a region, and the remainder of the state is a region.

d. *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:

(i) 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;

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

(iii) 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

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

3. Remediation Accounts Fund Reporting. The Settlement Fund Administrator shall track and assist in the report of remediation disbursements as agreed to between Apotex and the Enforcement Committee

F. *Nature of Payment*. Apotex, 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 Released Claims:

1. They have entered into this Agreement to avoid the delay, expense, inconvenience, and uncertainty of further litigation;

2. (a) The Settling States and Participating Subdivisions sought compensatory restitution and remediation (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; (b) 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 (c) 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;

3. The payment of the Compensatory Restitution Amount by Apotex constitutes, and is paid for, compensatory restitution and remediation (within the meaning of 26 U.S.C. § 162(f)(2)(A) and 26 C.F.R. § 1.162-21(e)(4)(i), (ii)) for alleged damage or harm (as compensation for alleged damage or harm arising out of alleged bodily injury) allegedly caused by Apotex 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

4. For the avoidance of doubt: (a) the entire Compensatory Restitution Amount is properly characterized as described in Section VI.F, (b) no portion of the Compensatory Restitution Amount represents reimbursement to any Settling State or Participating Subdivision or other person or entity for the fees or costs of any investigation or litigation, including without limitation attorneys' fees, (c) no portion of the Global Settlement Amount constitutes the disgorgement of any allegedly ill-gotten gains, and (d) no portion of the Global 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.

VII. Enforcement

A. *Enforceability.* This Agreement is enforceable only by the Settling States and Apotex; *provided, however,* that Released Entities may enforce Section XI and Participating Subdivisions listed on Exhibit G have the enforcement rights described later in this paragraph and in Section VII.D. Except to the extent allowed by the Injunctive Relief Terms, Settling States and Participating Subdivisions shall not have enforcement rights against Apotex 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. Participating Subdivisions shall not have enforcement rights against Apotex with respect to this Agreement or any Consent Judgment except that Participating Subdivisions listed on Exhibit G shall have enforcement rights as set forth herein as to payments that would be allocated to the Participating Subdivisions or the Remediation Accounts Fund in such Settling State pursuant to Section V; *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. *Jurisdiction.* Apotex and Aveva consent to the jurisdiction of the court in which each Settling State files its Consent Judgment, limited to resolution of disputes identified in Section VII.F.2 for resolution in that court.

C. *Specific Terms Dispute Resolution.*

1. Any dispute that is addressed by the provisions set forth in the Injunctive Relief Terms shall be resolved as provided therein.

D. *State-Subdivision Enforcement.*

1. 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 allegations that (i) the Settling State's use of Remediation Accounts Fund monies were not used for uses 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 VI.E.2.b.

2. 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 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.

3. 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.

E. *Subdivision Apotex Payment Enforcement.* A Participating Subdivision listed on Exhibit G shall have the same right as a Settling State to seek resolution regarding the failure by Apotex to make its Remediation Payment.

F. *Other Terms Regarding Dispute Resolution.*

1. The parties to a dispute shall promptly meet and confer in good faith to resolve any dispute. If the parties cannot resolve the dispute informally, and unless otherwise agreed in writing, they shall follow the remaining provisions of this subsection to resolve the dispute.

2. Except to the extent provided by Section VII.C or Section VII.F.3, disputes not resolved informally shall be resolved in 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.

a. State court proceedings shall be governed by the rules and procedures of the relevant forum.

b. For the avoidance of doubt, disputes to be resolved in state court include, but are not limited to, the following:

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

(ii) disputes between a Settling State and its Participating Subdivisions as provided by Section VII.D, except to the extent the 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;

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

(iv) 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;

(v) whether the definition of a Bar, a Case-Specific Resolution, Final Order, lead state agency as described in Section VI.D.4.b, Later Litigating Subdivision, Litigating Subdivision, or Threshold Motion have been met; and

(vi) all other disputes not specifically identified in Section VII.C or Section VII.F.3.

c. Any Party may request that the National Arbitration Panel provide an interpretation of any provision of the settlement 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.

3. National Disputes involving a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VII.A, and/or Apotex shall be resolved by the National Arbitration Panel.

a. National Disputes are disputes that are not addressed by Section VII.C, and which are exceptions to Section VII.F.2's presumption of resolution in state courts because they involve issues of interpretation of terms contained in this Agreement applicable to all Settling States without reference to a particular state's law. Disputes between a Settling State and any Participating Subdivision shall not be considered National Disputes. National Disputes are limited to the following:

(i) the amount of offset and/or credit attributable to Non-Settling States;

(ii) issues involving the scope and definition of Product;

(iii) interpretation and application of the terms "Covered Conduct," "Released Entities," and "Released Claims;"

(iv) the failure by Apotex to pay the Remediation Payment or the Additional Remediation Amount, but for the avoidance of doubt, disputes between Apotex and a Settling State over the amounts owed only to that state that do not affect any other Settling State shall not be considered National Disputes;

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

(vi) disputes involving liability of successor entities;

(vii) disputes that require a determination of the sufficiency of participation in order to qualify for Incentive Payments A or BC;

(viii) disputes involving a Releasor's compliance with, and the appropriate remedy under, Section XI.B.5.c;

(ix) 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

(x) any dispute subject to resolution under Section VII.F.2 but for which all parties to the dispute agree to arbitration before the National Arbitration Panel under the provisions of this Section VII.F.3.

b. The National Arbitration Panel shall be comprised of three (3) neutral arbitrators. One (1) arbitrator shall be chosen by Apotex, one (1) arbitrator shall be chosen by the Enforcement Committee 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 that selected him/her.

c. 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.

d. 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.

e. To the extent allowed under state law, a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VII.A, 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.

f. The arbitrators will give due deference to 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 VII.A, or Apotex on a state law issue.

g. The decisions of the National Arbitration Panel shall be binding on Settling States, Participating Subdivisions, Apotex, and the Settlement Fund Administrator. In any proceeding before the National Arbitration Panel involving a dispute between a Settling State and Apotex 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.

h. 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.

i. Each party shall bear its own costs in any arbitration or court proceeding arising under this Section VII. 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 Apotex and Settling States/Participating Subdivisions shall be split fifty percent (50%) by Apotex 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. For the avoidance of doubt, Apotex shall not be responsible for the National Arbitration Panel costs in disputes that do not concern Apotex.

4. Prior to initiating an action to enforce pursuant to this Section VII.F, the complaining party must:

a. Provide written notice to the Enforcement Committee and Apotex 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 Enforcement Committee shall establish a reasonable process and timeline for obtaining additional information from the involved parties; *provided, however,* that the date the Enforcement Committee establishes for obtaining additional information from the parties shall not be more than forty-five (45) calendar days following the notice. The Enforcement Committee may advise the involved parties of its views on the complaint and/or seek to resolve the complaint informally.

b. Wait to commence any enforcement action until thirty (30) calendar days after the date that the Enforcement Committee establishes for obtaining additional information from the involved parties.

5. If the parties to a dispute cannot agree on the proper forum for resolution of the dispute under the provisions of Section VII.F.2 or Section VII.F.3, a committee comprising the Enforcement Committee and sufficient representatives of Apotex such that the members of the Enforcement Committee have a majority of one (1) member 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 committee's identification of such forum in the first instance shall not be entitled to deference by the forum selected.

G. *Lien or Encumbrance*. To the extent allowed by applicable law, this Settlement Agreement shall not be deemed to create a lien or encumbrance against any real property owned by Apotex or its affiliates, unless in the event of a default or breach of the payment provisions by Apotex. Nothing in this Section shall be construed to limit any remedy of any Settling State or Participating Subdivision in the event of a default or breach of this Agreement by Apotex.

H. *No Effect.* Nothing in this Agreement shall be interpreted to limit the Settling States' Civil Investigative Demand ("*CID*") or investigative subpoena authority, to the extent such authority exists under applicable state law and the CID or investigative subpoena is issued pursuant to such authority, and Apotex and Aveva reserve all of its rights in connection with a CID or investigative subpoena issued pursuant to such authority.

VIII. Participation by Subdivisions

A. *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. 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, 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 and Special Districts listed on Exhibit G. The costs of the Implementation Administrator shall be paid for by the interest earned from the deposit accounts holding the Adjusted Maximum Remediation Payment for Apotex, and nothing in this provision shall require Apotex to pay any costs, fees or other amounts in excess of the Global Settlement Amount. The Settling States, with the cooperation of Apotex, 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 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.

B. *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 Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) specifying (1) that the Subdivision agrees to the terms of this Agreement pertaining to Subdivisions, (2) that the Subdivision releases all Released Claims against all Released Entities, (3) that the Subdivision agrees to use monies it

receives, if any, from the Settlement Fund pursuant to the applicable requirements of Section VI; *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. The required Subdivision Settlement Participation Form is attached as Exhibit K.

C. *Requirements for Becoming a Participating Subdivision—Litigating Subdivisions.* A 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 Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) and upon prompt dismissal with prejudice of its lawsuit following the Reference Date or the date on which the conditions for effectiveness in Section IX.B have been met, whichever is later. 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 Fund Administrator shall provide reports of this information to the parties upon request. A Litigating Subdivision may not become a Participating Subdivision after the completion of opening statements in a trial of a lawsuit it brought that includes a Released Claim against a Released Entity.

D. *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 VIII.B or Section VIII.C by the Initial Participation Date. All Subdivision Settlement Participation Forms shall be held in escrow by the Implementation Administrator until the Reference 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 obligations.

E. *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 VIII.B or Section VIII.C after the Initial Participation Date but before the Payment Calculation 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 VI.D or Section VI.E. Unless waived by Apotex, the following provisions govern what a Later Participating Subdivision can receive (but do not apply to Initial Participating Subdivisions):

1. A Later Participating Subdivision shall receive seventy-five percent (75%) of the share of the Base Payment or Incentive Payment that it would have received had it become an Initial Participating Subdivision.

2. A Later Participating Subdivision that had maintained a lawsuit for a Released Claim against a Released Entity and had judgment entered against it on any such Claim before it became a Participating Subdivision (other than consensual dismissal with prejudice) shall receive 50% of the share of future Base Payments and Incentive Payments that it would have received had it become a Participating Subdivision prior to such judgment; provided, however that if the Subdivision appeals the judgment and the judgment is affirmed with finality, the Subdivision shall not receive any share of any Base Payments or Incentive Payments, and shall return to Apotex any share of any Base Payments or Incentive Payments such Subdivision had already received.

3. A Later Participating Subdivision that becomes a Participating Subdivision while a Bar or Case-Specific Resolution involving a different Subdivision exists in its state shall receive twenty-five percent (25%) of the share of the Base Payment and Incentive Payment that it would have received if it had become an Initial Participating Subdivision.

F. *No Increase in Payments.* Amounts to be received by Later Participating Subdivisions shall not increase the payments due from Apotex.

G. *Non-Participating Subdivisions.* Non-Participating Subdivisions shall not directly receive any portion of the 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.

H. *Unpaid Allocations to Later Participating Subdivisions and Non-Participating Subdivisions.* Any Base Payment and Incentive Payment allocated pursuant to Section VI.D to a Later Participating Subdivision or Non-Participating Subdivision that cannot be paid pursuant to this Section VIII, including the amounts that remain unpaid after the reductions required by Section VIII.E., 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.

IX. Condition to Effectiveness of Agreement and Filing of Consent Judgment

A. *Determination to Proceed with Settlement. —Settling States*. Following the Initial Subdivision Participation Date, the Enforcement Committee shall determine whether to proceed with the Agreement on behalf of the Settling States, and the Settling States shall be bound by the determination of the Enforcement Committee. No later than fifteen (15) calendar days prior to the Reference Date, the Enforcement Committee shall provide notice to Apotex of its decision. If the Enforcement Committee elects 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 informing Apotex that there is sufficient

participation to proceed, the Enforcement Committee will deliver all signatures and releases required by the Agreement to be provided by the Settling States to Apotex.

B. *Determination to Proceed with Settlement—Apotex*. If the Settling States elect to proceed, Apotex will then determine on or before the Reference Date whether there is sufficient Eligible State participation, sufficient Subdivision participation, and sufficient resolution of the Claims of the Litigating Subdivisions in the Settling States (through participation under Section VIII, Case-Specific Resolution(s) and Bar(s)) to proceed with this Agreement. The determination shall be in the sole discretion of Apotex and may be based on any criteria or factors deemed relevant by Apotex.

C. *Notice by Apotex.* On or before the Reference Date, Apotex shall inform the Settling States of its determination pursuant to Section IX.B. If Apotex determines to proceed, the Parties will proceed to file the Consent Judgments, each of which shall be signed by the relevant Settling State, Apotex, and Aveva, and the obligations in the Subdivision Settlement Participation Forms will be effective and binding as of the Reference Date. If Apotex determines not to proceed, this Agreement will have no further effect, any amounts deposited, including funds referenced in Section IV.D. and Exhibit M, shall revert to Apotex, 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.

X. Settling State and Participating Subdivision Attorneys' Fees and Costs and Additional Remediation Amount

A. The Agreement on Subdivision Attorneys' Fees, Expenses and Costs is set forth in Exhibit R and incorporated herein by reference.

B. *Additional Remediation Amount*.

1. Subject to the reduction specified in Section X.B.2, Apotex shall pay an Additional Remediation Amount to the Settling States listed in Exhibit N. Such funds shall be paid as allocated by the Settlement Fund Administrator pursuant to Exhibit N.

2. *Reduction of Additional Remediation Amount*. The amounts owed by Apotex pursuant to this Section X.B shall be reduced by the allocations set forth on Exhibit N for Non-Settling States.

3. For the avoidance of doubt, (1) a Settling State that retained outside counsel in connection with the investigation of Apotex that receives an Additional Remediation Amount may choose to have the Additional Remediation Amount designated to pay the Settling State's outside counsel, and may instruct the Settlement Fund Administrator to pay those funds directly to the Settling State's outside counsel, and (2) Additional Remediation Amount funds, including funds designated by a Settling State to pay its outside counsel under this paragraph, shall not be subject to allocation as provided in Section VI.C through Section VI.E.

C. All payments addressed by this Section X will be made no later than the Payment Date pursuant to Section V.

XI. Release

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

B. *Claim-Over and Non-Party Settlement*.

1. It is the intent of the Parties that:

a. Released Entities should not seek contribution or indemnification (other than pursuant to an insurance contract), from other parties for their payment obligations under this Agreement;

b. the payments made under this Agreement shall be the sole payments made by the Released Entities to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity);

c. Claims by Releasors against non-Parties should not result in additional payments by Released Entities, whether through contribution, indemnification or any other means; and

d. 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 released party's liability to any other parties.

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

3. No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner; provided that a Released Entity shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

4. To the extent that, on or after the Reference Date, any Releasor enters into a Non-Party Settlement, including in any bankruptcy case or through any plan of reorganization, 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 substantially equivalent to that required from Apotex in Section XI.B.3, or a release from such Non-Released Entity in favor of the Released Entities (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.

5. In the event that any Releasor obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Entity that does not contain a prohibition like that described in Section XI.B.3 or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in Section XI.B.3, and such Non-Released Entity asserts a Claim-Over against a Released Entity, the Released Entity shall be relieved of the prohibition in Section XI.B.3 with respect to that Non-Released Entity and that Releasor and Apotex and/or Aveva shall take the following actions to ensure that the Released Entities do not pay more with respect to Covered Conduct to the Releasor or to Non-Released Entities than the amount owed under this Settlement Agreement by Apotex:

a. Apotex and/or Aveva shall notify that Releasor of the Claim-Over within sixty (60) calendar days of the assertion of the Claim-Over or sixty (60) calendar days of the Effective Date of this Settlement Agreement, whichever is later;

b. Apotex and/or Aveva and that Releasor shall meet and confer concerning the means to hold Released Entities harmless and ensure that Apotex is not required to pay more with respect to Covered Conduct than the amounts owed by Apotex to the Releasor under this Agreement;

c. The Releasor and Apotex and/or Aveva shall take steps sufficient and permissible under the law of the state of the Releasor to hold Released Entities harmless from the Claim-Over and ensure Released Entities are not required to pay more with respect to Covered Conduct than

the amounts owed by Apotex under this Agreement. Such steps may include, where permissible:

(i) Filing of motions to dismiss or such other appropriate motion by Apotex and/or Aveva or Released Entities, and supported by Releasor, in response to any claim filed in litigation or arbitration;

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

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

(iv) Return of monies paid by Apotex to the Releasor under this Settlement Agreement to permit satisfaction of a judgment against or settlement with the Non-Released Entity to satisfy the Claim-Over;

(v) Payment of monies to Apotex by the Releasor to ensure it is held harmless from such Claim-Over, up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity;

(vi) Credit to Apotex under this Agreement to reduce the overall amounts to be paid under the Agreement such that it is held harmless from the Claim-Over; and

(vii) Such other actions as the Releasor and Apotex and/or Aveva may devise to hold Apotex and/or Aveva harmless from the Claim-Over.

d. The actions of the Releasor and Apotex and/or Aveva taken pursuant to paragraph (c) must, in combination, ensure Apotex and/or Aveva is not required to pay more with respect to Covered Conduct than the amounts owed to the Releasor by Apotex under this Agreement.

e. In the event of any dispute over the sufficiency of the actions taken pursuant to paragraph (c), the Releasor and Apotex and/or Aveva 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. The National Arbitration Panel shall have authority to require Releasor to implement a remedy that includes one or

more of the actions specified in paragraph (c) sufficient to hold Released Entities fully harmless. In the event that the Panel's actions do not result in Released Entities being held fully harmless, Apotex shall have a claim for breach of this Agreement by Releasor, with the remedy being payment of sufficient funds to hold Apotex and/or Aveva harmless from the Claim-Over up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity. For the avoidance of doubt, the prior sentence does not limit or eliminate any other remedy that Apotex and/or Aveva may have.

6. To the extent that the Claim-Over is based on a contractual indemnity, the obligations under Section XI.B.4 shall extend solely to a Non-Party Covered Conduct Claim against a pharmacy, 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. Apotex and/or Aveva shall notify the Settling States, to the extent permitted by applicable law, in the event that any of these types of Non-Released Entities asserts a Claim-Over arising out of contractual indemnity against it.

C. *Indemnification and Contribution Prohibited.* No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory, from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

D. *General Release.* In connection with the releases provided for in this Agreement, each Settling State (for itself and its Releasors) and Participating Subdivision 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:

> **General Release; extent.** A general release does not extend to claims 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 Released Claims, but each Settling State (for itself and its Releasors) and Participating Subdivision (for itself and its Releasors) hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims 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.

E. *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 Apotex (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 Apotex.

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

G. *Representation and Warranty*. The signatories hereto on behalf of their respective Settling States and its Participating Subdivisions expressly represent and warrant that they will obtain on or before the Effective Date (or have obtained) the authority to settle and release, to the maximum extent of the State's power, all Released Claims of (1) their respective Settling States; (2) any of the respective Settling State's past and present executive departments, state agencies, divisions, boards, commissions and instrumentalities with the regulatory authority to enforce state and federal controlled substances acts; (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 Claims related to Covered Conduct seeking money (including abatement and/or remediation) or revocation of a pharmaceutical distribution license; and (4) any Participating Subdivisions. For the purposes of clause (3) above, executive departments, agencies, divisions, boards, commission, and instrumentalities are those that are under the executive authority or direct control of the State's Governor. Also, for the purposes of clause (3), a release from a State's Governor as set forth in Exhibit X is sufficient to demonstrate that the appropriate releases have been obtained.

H. *Effectiveness.* The releases set forth in this Agreement 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.

I. *Cooperation.* Releasors (1) will not encourage any person or entity to bring or maintain any Released Claim against any Released Entity and (2) will reasonably cooperate with and not oppose any effort by a Released Entity to secure the prompt dismissal of any and all Released Claims, including suits brought by non-Releasors based on Released Claims. Releasors will meet and confer and make reasonable efforts to resolve

any action that is filed by a Subdivision against Apotex and/or Aveva 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.

J. *Non-Released Claims.* Notwithstanding the foregoing or anything in the definition of Released Claims, the Agreement does not waive, release or limit any criminal liability, Claims for any outstanding liability under any tax or securities law, Claims against parties who are not Released Entities, Claims by private individuals, Claims for Medicaid rebates, Claims asserted, or that could be asserted, by any State or Subdivision, related to the causes of action in *In re: Generic Pharmaceuticals Pricing Antitrust Litigation*, in the United States District court for the District of Pennsylvania, MDL No. 2724; *Connecticut et al v. Aurobindo Pharma USA, Inc. et al.*, in the United States District Court for the District of Connecticut, Case No. 3:16-cv-2056-NPS; *Connecticut et al. v. Teva Pharmaceuticals USA, Inc.*, in the United States District Court for the District of Connecticut, Case No. 3:19-cv-710-NPS; *Connecticut et al v. Sandoz, Inc. et al.*, in the United States District Court for the District of Connecticut, Case No. 3:20-cv-802-NPS; and any related action (such excluded claims include, but are not limited to, all antitrust claims and any claims related to any non-opioid generic drugs), and any claims arising under the Agreement for enforcement of the Agreement.

XII. Later Litigating Subdivisions

A. *Released Claims against Released Entities*. If a Later Litigating Subdivision in a Settling State maintains a lawsuit for a Released Claim against a Released Entity after the Reference Date, the following shall apply subject to Section XII.B:

1. The Released Entity shall take ordinary and reasonable measures to defend the action, including filing a Threshold Motion with respect to the Released Claim. The Released Entity shall further notify the Settling State and Settlement Fund Administrator immediately upon notice of a Later Litigating Subdivision bringing a lawsuit for a Released Claim and shall not oppose a Settling State's submission in support of the Threshold Motion. Apotex shall give the relevant Settling State a reasonable opportunity to extinguish the Released Claims without any payment or any other obligations being imposed upon any Released Entities (apart from the Global Settlement Amount payable by Apotex under the Agreement or the Injunctive Relief Terms incurred by it). The relevant Settling State and Apotex 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.

2. "*Terms requiring payment*" shall mean (i) a final monetary judgment or (ii) a settlement; provided that the Released Entity sought the applicable State Attorney General's consent to the settlement and such consent was either obtained or unreasonably withheld. Should the judgment or settlement resolve claims that are not Released Claims, the offset shall be for the Released Claims portion only, which shall be distinguishable in the judgment or settlement.

B. *Exceptions*

1. Section XII.A shall not apply where the Settling State at issue meets the eligibility criteria for and is entitled to Incentive Payment A, except as expressly provided therein.

2. Section XII.A shall not apply where the Later Litigating Subdivision seeks less than $10 million, or so long as its total claim is reduced to less than $10 million, in the lawsuit for a Released Claim at issue.

C. *No Effect on Other Provisions.* An offset under Section XII.A shall not affect the Injunctive Relief Terms or the Consent Judgment.

D. *No Effect on Other States*. An offset under Section XII.A applicable to one State shall not affect the allocation or payment of the Remediation Payment to other Settling States.

E. *Litigating Subdivisions in Non-Eligible States.* The Settling States will not encourage, facilitate, or assist in any manner whatsoever claims for Covered Conduct against Apotex in any Settling, Non-Settling, or Non-Eligible State, regardless of whether those claims were filed against Apotex prior to, on, or after the Effective Date.

XIII. Miscellaneous

A. *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.

B. *Population of Special Districts.* For any purpose in this Agreement in which the population of a Special District is used other than Section V.E.4.b: (a) School Districts' population will be measured by the number of students enrolled who are eligible under the Individuals with Disabilities Education Act *("IDEA")* or Section 504 of the Rehabilitation Act of 1973; (b) Health Districts' and Hospital Districts' population will be measured at twenty-five percent (25%) of discharges; and (c) all other Special Districts' (including Fire Districts' and Library Districts') population will be measured at ten percent (10%) of the population served.[7] For the avoidance of doubt, this means that California healthcare districts will be measured at ten percent (10%) of their membership. Apotex and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Preliminary Agreement Date.

C. *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.

[7] 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.

D. *No Admission.* Apotex and Aveva do not admit 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 Apotex or Aveva.

E. *Tax Cooperation and Reporting.*

1. Upon request by Apotex, the Settling States and Participating Subdivisions agree to perform such further acts and to execute and deliver such further documents as may be reasonably necessary for Apotex to establish the statements set forth in Section VI.F to the satisfaction of their tax advisors, their independent financial auditors, the Internal Revenue Service, or any other governmental authority, including as contemplated by 26 C.F.R § 1.162-21(b)(3)(ii) and any subsequently proposed or finalized relevant regulations or administrative guidance.

2. Without limiting the generality of Section XIII.E.1, each Settling State and Participating Subdivision shall cooperate in good faith with Apotex with respect to any tax claim, dispute, investigation, audit, examination, contest, litigation, or other proceeding relating to this Agreement.

3. 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 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 Apotex and (ii) any legally required forms, returns or amended returns with any applicable governmental authority, or any returns requested by Apotex, and (b) provides to Apotex a copy of (i) the IRS Form 1098-F filed with respect to Apotex 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 VI.F. and as set forth in Section XIII.E.4.

4. Any form, return, amended return, or written statement filed or provided pursuant to Section XIII.E.3, and any similar document, shall be prepared and filed in a manner consistent with reporting the Global Settlement Amount as the "Total amount to be paid" pursuant to this Agreement in Box 1 of IRS Form 1098-F and the Compensatory Restitution Amount as "Restitution/remediation amount" in Box 3 of IRS Form 1098-F, as reflected in the attached Exhibit U. If the Designated State or Appropriate Official shall be required to file any form, return, amended return, or written statement contemplated by this Section XIII.E other than an IRS Form 1098-F in the form attached as Exhibit U, the Designated State shall direct and ensure that the Appropriate Official provides to Apotex a draft of such form, return, amended return, or written statement no later than sixty (60) calendar days prior to the due date thereof, and shall accept any reasonable revisions from Apotex on the return, amended return, or written statement.

5. For the avoidance of doubt, neither Apotex nor the Settling States and Participating Subdivisions make any warranty or representation to any Settling State, Participating Subdivision, or Releasor as to the tax consequences of the payment of the Compensatory Restitution Amount (or any portion thereof).

F. *No Third-Party Beneficiaries.* Except as expressly provided in this Agreement, no portion of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not the Settling State or Released Entity. Settling States may not assign or otherwise convey any right to enforce any provision of this Agreement.

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

H. *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.

I. *Cooperation.* 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 and the Consent Judgments.

J. *Entire Agreement.* This Agreement, including its exhibits and any other attachments, 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.

K. *Execution.* This Agreement 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 Agreement. One or more counterparts of this Agreement may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart hereof. One or more counterparts of this Agreement may be signed by electronic signature.

L. *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) was made to them to induce them to enter into this Agreement.

M. *Legal Obligations.* Nothing in this Agreement shall be construed as relieving Apotex 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.

N. *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.

O. *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 XIII.M.

P. *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 or in any litigation or arbitration concerning Apotex's right to coverage under an insurance contract.

Q. *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 below:

For the Attorney(s) General:

Jeff Jackson, Attorney General
North Carolina Department of Justice
Attn: Daniel Mosteller, Associate Deputy Attorney General
PO Box 629
Raleigh, NC 27602
Dmosteller@ncdoj.gov

Jonathan Skrmetti, Attorney General
Tennessee Attorney General's Office
Attn: Michael Leftwich, Senior Deputy Attorney General
Hamilton Millwee, Assistant Attorney General
P.O. Box 20207

Nashville, TN 37202
Michael.Leftwich@ag.tn.gov
Hamilton.Millwee@ag.tn.gov

Letitia James, Attorney General
New York State Attorney General
Attn: Jennifer Levy, First Deputy Attorney General
Monica Hanna, Special Counsel
Matthew Conrad, Assistant Attorney General
28 Liberty Street, New York, NY 10005
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Monica.Hanna@ag.ny.gov
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For the Plaintiffs' Executive Committee:

Co-leads
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Joseph F. Rice
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Mount Pleasant, SC 29464
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Paul T. Farrell, Jr.
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For Apotex:

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April N. Williams
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2100 Pennsylvania Avenue NW
Washington, DC 20037
April.williams@wilmerhale.com

Any Party or the Plaintiffs' Executive Committee 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 XIII.Q.

R. *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.

S. *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.

T. *Successors.*

1. This Agreement shall be binding upon, and inure to the benefit of, Apotex and its respective successors and assigns.

2. Apotex shall not, in one (1) transaction or a series of related transactions, sell or transfer U.S. assets having a fair market value equal to twenty-five percent (25%) or more of the consolidated assets of Apotex (other than sales or transfers of inventories, or sales or transfers to an entity owned directly or indirectly by Apotex) where the sale or transfer is announced after the Reference Date, is not for fair consideration, and would foreseeably and unreasonably jeopardize Apotex's ability to make the payments under this Agreement following the close of a sale or transfer transaction, unless Apotex obtains the acquiror's agreement that it will be either a guarantor of or successor to the percentage of Apotex's remaining Payment Obligations under this Agreement equal to the percentage of Apotex's consolidated assets being sold or transferred in such transaction. Percentages under this section shall be determined in accordance with United States generally accepted accounting principles and as of the date of Apotex's most recent publicly filed consolidated balance sheet prior to the date of entry into the sale or transfer agreement at issue. This Section XIII.T shall be enforceable solely by the Settling States, and any objection under this Section XIII.T not raised within sixty (60) calendar days of the announcement of the relevant transaction is waived.

U. *Modification, Amendment, Alteration.* In the event the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, or Apotex concludes prior to the Reference Date that technical corrections are required to this Agreement, the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, and Apotex shall meet and confer and make such amendments as they agree are appropriate. After the Reference Date, any modification, amendment, or alteration of this Agreement by the Parties shall be binding only if evidenced in writing signed by Apotex, along with the signature of at least two-thirds of those then serving as Attorneys 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 VI.E.2.d, 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.

V. *Termination.*

1. Unless otherwise agreed to by each of Apotex and the Settling States, this Agreement and all of its terms (except Section XIII.P and any other non-admissibility provisions, which shall continue in full force and effect) shall be canceled and terminated with respect to the Settling State, and the Agreement and all orders issued by the courts in the Settling State pursuant to the Agreement shall become null and void and of no effect if one or more of the following conditions applies:

a. a Consent Judgment approving this Agreement without modification of any of the Agreement's terms has not been entered as to a Settling State by a court of competent jurisdiction on or before one hundred eighty (180) calendar days after the Effective Date;

b. this Agreement or the Consent Judgment as to that Settling State has been disapproved by a court of competent jurisdiction to which it was presented for approval and/or entry (or, in the event of an appeal from or review of a decision of such a court to approve this Agreement and the Consent Judgment, by the court hearing such appeal or conducting such review), and the time to appeal from such disapproval has expired, or, in the event of an appeal from such disapproval, the appeal has been dismissed or the disapproval has been affirmed by the court of last resort to which such appeal has been taken and such dismissal or disapproval has become no longer subject to further appeal (including, without limitation, review by the United States Supreme Court); or

2. If this Agreement is terminated with respect to a Settling State and its Subdivisions for whatever reason pursuant to Section XIII.V.1, then:

a. an applicable statute of limitation or any similar time requirement (excluding any statute of repose) shall be tolled from the date the Settling State signed this Agreement until the later of the time permitted by applicable law or for one year from the date of such termination, with the effect that Apotex and the Settling State shall be in the same position with respect to the statute of limitation as they were at the time the Settling State filed its action; and

b. Apotex and the Settling State and its Participating Subdivisions shall jointly move the relevant court of competent jurisdiction for an order reinstating the actions and claims dismissed pursuant to the terms of this Agreement governing dismissal, with the effect that Apotex and the Settling State and its Participating Subdivisions shall be in the same position with respect to those actions and claims as they were at the time the action or claim was stayed or dismissed.

3. Unless Apotex and the Enforcement Committee agree otherwise, this Agreement, with the exception of the Injunctive Relief Terms that have their own provisions on duration, shall terminate upon the disbursement of all funds in the Settlement Fund and Settlement Fund Escrow to Settling States and to their Participating Subdivisions listed on Exhibit G. Notwithstanding any other provision in this Section XIII.V.3 or in this Agreement, all releases under this Agreement and the provisions of Section XI will remain effective despite any termination under this Section XIII.V.3.

W. *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 Apotex and/or Aveva or against which Apotex and/or Aveva is seeking enforcement. Notwithstanding any other provision in this subsection on governing law, any disputes relating to the Settlement Fund Escrow shall be governed by and interpreted in accordance with the law of the state where the escrow agent has its primary place of business.

X. *Bankruptcy.* The following provisions shall apply if Apotex enters bankruptcy and (i) the Apotex bankruptcy estate recovers, pursuant to 11 U.S.C. § 550, any payments made under this Agreement, or (ii) this Agreement is deemed executory and is rejected by Apotex pursuant to 11 U.S.C. § 365:

1. In the event that the both a number of Settling States equal to at least seventy-five percent (75%) of the total number of Settling States and Settling States having aggregate State Allocation Percentages as set forth on Exhibit F equal to at least seventy-five percent (75%) of the total aggregate State Allocation Percentages assigned to all Settling States deem (by written notice to Apotex) that the financial obligations of this Agreement have been terminated and rendered null and void (except as provided in Section XIII.X.1.a) due to a material breach by Apotex, whereupon:

a. all agreements, all concessions, all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall immediately and automatically be deemed null and void as to Apotex; the Settling States shall be deemed immediately and automatically restored to the same position they were in immediately prior to their entry into this Settlement Agreement in respect to Apotex and the Settling States shall have the right to assert any and all claims against Apotex in the bankruptcy or otherwise without regard to any limits or agreements as to the amount of the settlement otherwise provided in this Agreement; *provided, however,* that notwithstanding the foregoing sentence, (i) all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall remain in full force and effect as to all persons or entities other than Apotex itself; and (ii) in

the event the Settling State asserts any Released Claim against Apotex after the rejection and/or termination of this Agreement as described in this Section XIII.X.1.a and receives a judgment, settlement or distribution arising from such Released Claim, then the amount of any payments the Settling State has previously received from Apotex under this Agreement shall be applied to reduce the amount of any such judgment, settlement or distribution (provided that no credit shall be given against any such judgment, settlement or distribution for any payment that the Settling State is required to disgorge or repay to Apotex's bankruptcy estate); and

b. the Settling States may exercise all rights provided under the federal Bankruptcy Code (or other applicable bankruptcy or non-bankruptcy law) with respect to their Claims against Apotex subject to all defenses and rights of the Apotex.

Y. *Waiver*. Apotex, for good and valuable consideration the receipt of which is acknowledged, hereby (a) waives, foregoes and relinquishes all rights to utilize and/or seek relief under any of the following laws of the State of Texas for the restructuring of its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement: Tex. Bus. Orgs. Code § 10.003 (Contents of Plan of Merger: More Than One Successor) or any other statute of Subchapter A of Chapter 10 of Tex. Bus. Orgs. Code to the extent such statute relates to multi-successor mergers (and/or any other similar laws or statutes in any other state or territory); Tex. Bus. Orgs. Code §§ 11.01–11.414 (Winding Up and Termination of Domestic Entity); or Tex. Bus. & Com. Code §§ 23.01–23.33 (Assignments for the Benefit of Creditors) (collectively, the "Texas Statutes"), and (b) agrees, warrants and represents that it will not file, request or petition for relief under the Texas Statutes related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement, in each case until such time as all of Apotex's payment obligations incurred hereunder are satisfied in full. The foregoing waiver and relinquishment includes, without limitation, until such time as all of Apotex's payment obligations incurred hereunder are satisfied in full, Apotex's rights to execute a divisional merger or equivalent transaction or restructuring related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement that in each case has the intent or foreseeable effect of (i) separating material assets from material liabilities and (ii) assigning or allocating all or a substantial portion of those liabilities to any subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code, or pursuant to which such subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code would be assuming or retaining all or a substantial portion of those liabilities.

HIKMA SETTLEMENT AGREEMENT

HIKMA SETTLEMENT AGREEMENT

This Settlement Agreement, dated as of April 4, 2025 (the "*Agreement*"), sets forth the terms of settlement between and among the Settling States, the Participating Subdivisions, and Hikma (as those terms are defined below). Upon satisfaction of the conditions set forth in Sections II and VIII, this Agreement will be binding on the Settling States, Hikma, and the Participating Subdivisions. 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 Section IX.

I. Definitions

Unless otherwise specified, the following definitions apply:

A. *"Additional Remediation Amount."* The amount available to the Settling States listed in Exhibit M totaling up to $2,055,248.

B. *"Adjusted Maximum Remediation Payment."* The Maximum Remediation Payment reduced by the State Allocation Percentage specified in Exhibit F for each Non-Settling State.

C. *"Agreement."* The Hikma Settlement Agreement, as set forth above. For the avoidance of doubt, this Agreement is inclusive of all exhibits.

D. *"Alleged Harms."* The alleged past, present, and future damages, harms, losses, and related expenditures allegedly incurred by the Settling States and Participating Subdivisions arising out of the use 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, death, and other related diseases and disorders, and that have allegedly been caused by Released Entities.

E. *"Allocation Statute."* 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.

F. *"Appropriate Official."* As defined in Section XIV.E.3.

G. *"Bankruptcy Code."* Title 11 of the United States Code, 11 U.S.C. § 101, et seq.

H. *"Bar."* Either: (1) a law barring Subdivisions in a Settling State from maintaining or asserting Released Claims against Released Entities (either through a direct

bar or through a grant of authority to release claims and 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 or assert any Released Claims against Released Entities, 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 Released Entity (apart from the Remediation Payment by Hikma under this Agreement) shall not constitute a Bar.

I. "*Base Payment.*" As defined in Section V.D.

J. *"Case-Specific Resolution."* Either: (1) a law barring the Subdivision at issue from maintaining any Released Claims against any Released Entities (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 Released Claims at issue against any Released Entities, 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 Released Entity (apart from the payments by Hikma under this Agreement) shall not constitute a Case-Specific Resolution.

K. *"Claim."* Any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, fine, penalty, restitution, reimbursement, disgorgement, expenses, judgment, right, obligation, dispute, suit, contract, controversy, agreement, *parens patriae* claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law, statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including, but not limited to, any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, remediation, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative, or regulatory remedy whatsoever.

L. *"Claim-Over."* A Claim asserted by a Non-Released Entity against a Released Entity 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.

M. *"Compensatory Restitution Amount."* The aggregate amount paid or incurred by Hikma hereunder for Opioid Remediation, which includes the aggregate Base and Incentive Payments earned by Settling Sates and does not include amounts paid as attorneys' fees and costs or identified pursuant to Section VI.B.2 as being used to pay

attorneys' fees, investigation costs or litigation costs, which shall be up to the amount of the Adjusted Maximum Remediation Payment.

N. *"Consent Judgment."* A consent judgment in a form to be agreed by the Settling States and Hikma prior to the Effective Date that, among other things, (1) approves this Agreement and (2) provides for the release set forth in Section XI.A, including the dismissal with prejudice of any Released Claims that the Settling State has brought against Released Entities.

O. *"Covered Conduct"* means any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, service, work, sale, misstatement, misleading statement, or other activity of any kind whatsoever from the beginning of time through the Reference 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, service, work, sale, misstatement, misleading statement, or other activity) arising from or relating in any way to (a) compounding, counseling, and documentation related to any Product or class of Products; (b) the availability, discovery, research, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, relabeling, recall, withdrawal, distribution, delivery, monitoring, reporting, regulatory compliance supply, sale, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to any Product, or any system, plan, policy, procedure, or advocacy relating to any Product or class of Products, including but not limited to any unbranded or branded promotion, marketing, or advertising, information, patient support or assistance, educational programs, consultancy, research, other programs or campaigns, lobbying, grants, sponsorships, charitable donations, or other funding relating to any Product or class of Products; (c) the characteristics, properties, risks, or benefits of any Product or class of Products; (d) the monitoring or non-monitoring of orders placed of any Product; (e), reporting, disclosure, non-monitoring, non-reporting or non-disclosure to federal, state or other regulators of orders for any Product placed with any Released Entity; (f) the selective breeding, harvesting, extracting, purifying, exporting, importing, applying for quota for, procuring quota for, handling, promoting, manufacturing, processing, packaging, supplying, distributing, converting, or selling of, or otherwise engaging in any activity relating to, precursor or component Products, including but not limited to natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, or any related intermediate Products; or (g) diversion control programs, suspicious order monitoring, or regulatory compliance related to any Product.

P. *"Deposit Date."* July 25, 2025. This Date is the date by which Hikma shall deposit the Adjusted Maximum Remediation Payment, Private Attorney Fees, the Additional Remediation Amount, pursuant to Section V.D. This date is after the Preliminary Agreement Date, on which Hikma agrees to proceed with the agreement; this date may be changed by written agreement of Hikma and the Enforcement Committee.

Q. "*Designated State*." The state of New York.

R. *"Effective Date."* The date sixty (60) calendar days after the Reference Date.

S. "*Eligible States*." The states, commonwealths, and territories of the United States of America, excluding New Mexico. The 55 Eligible States are listed in Exhibit F.

T. *"Enforcement Committee.*" A committee consisting of representatives of the Settling States and of the Participating Subdivisions. Exhibit B contains the organizational bylaws of the Enforcement Committee. Notice pursuant to Section XIV.Q shall be provided when there are changes in membership or contact information.

U. *"Fees Payment."* The amount payable by Hikma on the Payment Date comprised of the Additional Remediation Amount payment, and the Private Attorney Fees payment. The Fees Payment does not include the Remediation Payment.

V. *"Final Order."* An order or judgment of a court of competent jurisdiction with respect to the applicable subject matter (1) which has not been reversed or superseded by a modified or amended order, is not currently stayed, and as to which any right to appeal or seek certiorari, review, reargument, stay, or rehearing has expired, and as to which no appeal or petition for certiorari, review, reargument, stay, or rehearing is pending, or (2) as to which an appeal has been taken or petition for certiorari, review, reargument, stay, or rehearing has been filed and (a) such appeal or petition for certiorari, review, reargument, stay, or rehearing has been resolved by the highest court to which the order or judgment was appealed or from which certiorari, review, reargument, stay, or rehearing was sought, or (b) the time to appeal further or seek certiorari, review, reargument, stay, or rehearing has expired and no such further appeal or petition for certiorari, review, reargument, stay, or rehearing is pending.

W. *"Force Majeure Event."* Any event reasonably beyond the control of Hikma that prevents Hikma from manufacturing or distributing Settlement Product, including wars, hostilities, revolution, riots, civil commotion, national emergency, unavailability of supplies, epidemics, pandemics, health crisis, fire, flood, earthquake, force of nature, explosion, terrorist act, embargo, or any act of God, or any law, regulation, ordinance, or other act or order of any court or governmental authority.

X. "*Global Settlement Amount.*" The Global Settlement Amount is $110,616,074, which is comprised of the Maximum Remediation Payment, Private Attorney Fees, Additional Remediation Amount, and the Settlement Product Cash Conversion Amount. The Global Settlement Amount reflects a dollar figure that has been reduced by a credit for New Mexico, which has previously settled with Hikma. Notwithstanding any other language or provisions in this or any other agreement, the Global Settlement Amount is the maximum dollar amount Hikma can pay in connection with the Agreement.

Y. "*Hikma*." Hikma Pharmaceuticals USA Inc. f/k/a West-Ward Pharmaceuticals Corp.

Z. "*Implementation Administrator*." Rubris, Inc., which is the vendor that will be retained by Hikma to provide notice pursuant to Section VIII.A and to manage the initial joinder period for Subdivisions, including the issuance and receipt of Subdivision Settlement Participation Forms.

AA. *"Incentive Payment A."* The incentive payment described in Section V.E.4.

BB. *"Incentive Payment A Catch-Up Date."* August 1, 2026.

CC. *"Incentive Payment BC."* The incentive payment described in Section V.E.5.

DD. *"Incentive Payment D."* The incentive payment described in Section V.E.6.

EE. *"Incentive Payment D Look-Back Dates."* Sixty days before each Incentive Payment D Release Date.

FF. *"Incentive Payment D Release Dates."* August 1, 2027, and August 1, 2029. These dates are when the Settlement Fund Administrator is to release Incentive Payment D from the Settlement Fund to Settling States in accordance with Section V.E.6.

GG. *"Initial Participating Subdivision."* A Subdivision that meets the requirements set forth in Section VIII.D.

HH. *"Initial Participation Date."* The date ninety (90) calendar days after the Preliminary Agreement Date, unless it is extended by written agreement of Hikma and the Enforcement Committee.

II. *"Injunctive Relief Terms."* The terms described in Section III and set forth in Exhibit P.

JJ. *"Later Litigating Subdivision."* 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 Released Claim against a Released Entity after the Reference Date; or (2) adds a Released Claim against a Released Entity after the Reference Date to a lawsuit brought before the Reference Date that, prior to the Reference Date, did not include any Released Claims against a Released Entity; or (3) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a legislative Bar or legislative Case-Specific Resolution as of the Reference Date, (b) such legislative Bar or legislative Case-Specific Resolution is subject to a Revocation Event after the Reference 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 Released Claim against a Released Entity or one hundred eighty (180) 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 Released Claims being dismissed; or (4) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a judicial Bar or judicial Case-Specific

Resolution as of the Reference Date, (b) such judicial Bar or judicial Case-Specific Resolution is subject to a Revocation Event after the Reference Date, and (c) such Litigating Subdivision takes any action in its lawsuit asserting a Released Claim against a Released Entity other than seeking a stay or dismissal.

KK. *"Later Participating Subdivision."* A Participating Subdivision that is not an Initial Participating Subdivision, but meets the requirements set forth in Section VIII.E.

LL. *"Litigating Subdivision."* A Subdivision (or Subdivision official) that brought any Released Claim against any Released Entity prior to the Reference Date. 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.

MM. *"Maximum Incentive Payment D Amount."* The maximum amount that may be owed by Hikma to Settling States and Subdivisions under Incentive Payment D, section V.E.6, adjusted for Non-Settling States, States that qualify for Incentive Payment A, and the Participation Percentage of Incentive BC Eligible Subdivision Population achieved by the Payment Calculation Date.

NN. *"Maximum Remediation Payment."* The maximum amount owed by Hikma to the Settling States and Subdivisions, exclusive of the Private Attorney Fees, and the Additional Remediation Amount. The amount of the Maximum Remediation Payment is $95,818,293.

OO. *"National Arbitration Panel."* The panel comprised as described in Section VII.F.3.b.

PP. "*National Disputes."* As defined in Section VII.F.3.a.

QQ. *"Non-Litigating Subdivision."* Any Subdivision that is not a Litigating Subdivision.

RR. *"Non-Participating Subdivision."* Any Subdivision that is not a Participating Subdivision.

SS. *"Non-Party Covered Conduct Claim."* A Claim against any Non-Released Entity involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity).

TT. *"Non-Party Settlement."* A settlement by any Releasor that settles any Non-Party Covered Conduct Claim and includes a release of any Non-Released Entity.

UU. *"Non-Released Entity."* An entity that is not a Released Entity.

VV. "*Non-Settling State."* Any Eligible State that is not a Settling State.

WW. *"Opioid Remediation."* Care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures[1] except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to (1) address the use 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.

XX. *"Participating Subdivision."* Any Subdivision that meets the requirements for becoming a Participating Subdivision under Section VIII.B and Section VIII.C. Participating Subdivisions include both Initial Participating Subdivisions and Later Participating Subdivisions.

YY. "*Participation Percentage of Incentive BC Eligible Subdivision Population."* As defined in Section V.E.5.e.

ZZ. *"Parties."* Hikma and the Settling States (each, a *"Party").*

AAA. "*Payment Calculation Date*." October 20, 2025, which is sixty (60) days before the Payment Date. This date may be changed by written agreement of Hikma and the Enforcement Committee.

BBB. *"Payment Date."* December 19, 2025, which is the date by which Hikma makes the Remediation Payment and the Fees Payment. This date may be changed by written agreement of Hikma and the Enforcement Committee.

CCC. "*Preliminary Agreement Date."* The date Hikma informs the Settling States of its determination that the condition in Section II.B has been satisfied. The Preliminary Agreement Date shall be no more than fourteen (14) calendar days after the end of the notice period to Eligible States, unless it is extended by written agreement of Hikma and the Enforcement Committee.

DDD. "*Primary Fire District."* A fire district that covers a population of 25,000, or 0.20% of an Eligible State's population if an Eligible State's population is greater than 18 million. If not easily calculable from state data sources and agreed to between the Eligible State and Hikma, 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. "Primary Fire Districts" shall mean fire districts as identified in connection with the implementation of the July 21, 2021, Janssen Settlement Agreement.

EEE. *"Primary Subdivision."* A Subdivision that is a General Purpose Government (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore, or any other entities that provide municipal-

[1] Reimbursement includes amounts paid to any governmental entities for past expenditures or programs

type government) with population over 10,000; *provided, however*, that as used in connection with Incentive Payment BC, the population threshold is 30,000. Attached as Exhibit I is an agreed list of the Primary Subdivisions in each Eligible State.

FFF. *"Private Attorney Fees"* are the amount to be paid by Hikma for private attorneys' litigation fees and costs on behalf of Participating Subdivisions. The maximum amount of Private Attorney Fees is $12,742,534. For avoidance of doubt, Private Attorney Fees do not include the Additional Remediation Amount.

GGG. *"Product."* Any chemical substance, 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 substance, that is: (1) an opioid or opiate, as well as any product containing any such substance; (2) benzodiazepine, carisoprodol, or gabapentin; or (3) a combination or "cocktail" of chemical substances prescribed, sold, bought, or dispensed to be used together that includes opioids or opiates. "Product" shall include, but is not limited to, any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, naloxone, naltrexone, oxycodone, oxymorphone, pentazocine, propoxyphene, 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. Notwithstanding the foregoing, nothing in this section prohibits a Settling State from taking administrative or regulatory action related to benzodiazepine (including, but not limited to, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triazolam, temazepam, and midazolam), carisoprodol, or gabapentin that is wholly independent from the use of such drugs in combination with opioids, *provided* such action does not seek money (including abatement and/or remediation) for conduct prior to the Initial Participation Date. "Product" also includes any natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, and any intermediate products used or created in the manufacturing process for any of the substances described above.

HHH. *"Reference Date."* The date on which Hikma is to inform the Settling States of its determination whether the condition in Section IX has been satisfied. The Reference Date shall be no later than thirty (30) calendar days after the Initial Participation Date, unless it is extended by written agreement of Hikma and the Enforcement Committee.

III. *"Released Claims."* Any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct and/or Alleged Harms occurring prior to the Initial Participation Date. Without limiting the foregoing, Released Claims include any Claims that have been asserted against Released Entities by a Settling State or any of its Litigating Subdivisions in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) based on, arising out of, or relating to, in whole or in part, the Covered Conduct and/or Alleged Harms, or any such Claims that could be or could have been asserted now or in the future in those actions or in any comparable action or proceeding brought by a Settling State, Subdivision, or Releasor (whether or not such Settling State, Subdivision, or Releasor has brought such action or

proceeding). Released Claims also include all Claims against Released Entities asserted in any proceeding to be dismissed pursuant to the Agreement, whether or not such claims related to Covered Conduct and/or Alleged Harms. The Parties intend that this term, "Released Claims," be interpreted broadly. This Agreement does not release Claims by private individuals. It is the intent of the Parties that Claims by private individuals be treated in accordance with applicable law. Released Claims is also used herein to describe claims brought by a non-party Subdivision that would have been Released Claims if they had been brought by a Releasor against a Released Entity.

JJJ. *"Released Entities."* With respect to Released Claims, Hikma and (1) all past and present subsidiaries, divisions, affiliates, predecessors, successors, and assigns (in each case, whether direct or indirect) of Hikma; (2) all past and present subsidiaries and divisions (in each case, whether direct or indirect) of any entity described in subsection (1); (3) the respective past and present officers, directors, members, trustees, and employees of any of the foregoing (each for actions that occurred during and related to their work for, or employment with, any of Hikma or the foregoing entities); (4) all past and present joint ventures (whether direct or indirect) of Hikma or its subsidiaries, including in any subsidiary's capacity as a participating member in such joint venture; (5) all direct or indirect parents and shareholders of Hikma (solely in their capacity as parents or shareholders of Hikma with respect to Covered Conduct); and (6) any insurer of Hikma or any person or entity otherwise described in subsections (1)-(5) (solely in its role as insurer of such person or entity and subject to the last sentence of Section XI.C). A list of Hikma's joint ventures, subsidiaries and affiliates and predecessor entities is set forth in Exhibit J. Any person or entity described in subsections (3)-(6) shall be a Released Entity solely in the capacity described in such clause and shall not be a Released Entity with respect to its conduct in any other capacity. Any entity acquired, or joint venture entered into, by Hikma after the Initial Participation Date is not a Released Entity. Further and notwithstanding anything else in this paragraph, no entity sued in *In re: National Prescription Opiate Litigation*, No. 1:17-md-2804 (N.D. Ohio) is included as a Released Entity other than the entities listed on Exhibit J.

KKK. *"Releasors."* With respect to Released Claims, (1) each Settling State; (2) each Participating Subdivision; and (3) without limitation and to the maximum extent of the power of each Settling State's Attorney General and/or Participating Subdivision to release Claims, (a) the Settling State's and Participating Subdivision's departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind 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, water districts, emergency services districts, school districts, healthcare districts, hospital districts, Sheriffs and law enforcement districts, library districts, coroner's offices, and public transportation authorities, and other Special Districts in a Settling State, including those with the regulatory authority to enforce state and federal controlled substances acts or the authority to bring Claims related to Covered Conduct seeking money (including abatement (or remediation and/or restitution)) or revoke a

pharmaceutical distribution license, 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, including but not limited to fines, penalties, or punitive damages, 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. 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. Each Settling State's Attorney General represents that he or she has or has obtained (or will obtain no later than the Initial Participation Date) the authority set forth in Section XI.G. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide the Subdivision Settlement Participation Form referenced in Section VIII providing for a release to the fullest extent of the Participating Subdivision's authority.

LLL. *"Remediation Accounts Fund."* The component of the Settlement Fund described in Section VI.C.

MMM. *"Remediation Payment."* The amount payable to the Settlement Fund by Hikma for Settling States' Base Payments and Incentive Payments on the Payment Date, as calculated by the Settlement Fund Administrator.

NNN. *"Revocation Event."* With respect to a Bar or Case-Specific Resolution, a legislative amendment, revocation, rescission, reversal, overruling, or interpretation that in any way limits the effect of such Bar or Case-Specific Resolution on Released Claims, or any other action or event that otherwise deprives the Bar, or Case-Specific Resolution of force or effect in any material respect.

OOO. *"Settlement Fund."* The interest-bearing fund established at [Bank TBD] pursuant to this Agreement into which the Remediation Payment is made under Section V, which is intended to be classified as a "qualified settlement fund" within the meaning of 26 C.F.R. §§ 1.468B-1 *et seq*. and which shall be approved by any Settling State in accordance with the requirements of 26 C.F.R. § 1.468B-1.

PPP. *"Settlement Fund Administrator."* BrownGreer PLC, which is the entity that determines the Remediation Payment (including calculating offset or reduction and Incentive Payments pursuant to Section V and any amounts subject to offset pursuant to Section XIII) and Additional Remediation Amount, administers the Settlement Fund, and distributes amounts into the Remediation Accounts Fund, State Fund, and Subdivision Fund pursuant to this Agreement. The duties of the Settlement Fund Administrator shall be governed by this Agreement. Prior to the Effective Date, Hikma and the Enforcement Committee shall agree to a detailed description of the Settlement Fund Administrator's duties and responsibilities, including a detailed mechanism for paying the Settlement Fund Administrator's fees and costs, all of which shall be appended to the Agreement as Exhibit L.

QQQ. *"Settlement Fund Escrow."* The interest-bearing escrow fund established pursuant to this Agreement to hold disputed payments made under this Agreement.

RRR. *"Settlement Product*" naloxone hydrochloride 8mg nasal spray approved pursuant to FDA New Drug Application No. 212045, currently listed in Hikma's generics catalog, which can be viewed at https://www.hikma.com/en-us/products , and is provided to the Settling State as part of the settlement, at no cost as set forth in Section XV and Exhibit D.

SSS. "*Settlement Product Cash Conversion Amount*" means the resulting dollar amount from when a Settling State has elected to convert all or a portion of its Settlement Product Allocation into a cash payment pursuant to Section XV and Exhibit D. The aggregate, maximum amount that could be paid from the conversion of Settlement Product into cash is $6,944,074.

TTT. "*Settlement Product Cash Conversion Amount Payment Date*" is May 15, 2027. This date may be changed by written agreement of Hikma and the Enforcement Committee.

UUU. "*Settlement Product Election Date*" is the date thirty (30) days after the Effective Date by which a Settling State must submit its election of the Settling State's allocation of Settlement Product or cash conversion of Settlement Product pursuant to Section XIV and Exhibit D.

VVV. "*Settlement Product Election Form"* means the form a Settling State uses to submit its election of the Settling State's allocation of Settlement Product or cash conversion of Settlement Product pursuant to Section XV and Exhibit D.

WWW. "*Settling State."* An Eligible State that has entered into this Agreement and delivers executed releases in accordance with Section IX.A.

XXX. "*State Allocation Percentage."* A Settling State's percentage as set forth in Exhibit F.

YYY. *"State Fund."* The component of the Settlement Fund described in Section VI.C.

ZZZ. *"State-Subdivision Agreement."* 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.

AAAA. *"Statutory Trust."* 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.

BBBB. *Statewide Payment Amount."* The amount the Settlement Fund Administrator is to pay from the Remediation Payment to a Settling State, including its separate types of funds (if applicable) and its Participating Subdivisions listed in Exhibit G, on or as soon as practical after the Payment Date and Incentive Payment D Release Dates.

CCCC. *"Subdivision."* Any (1) General Purpose Government (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore, or any other entities that provide municipal-type government), School District, or Special District within a Settling State, and (2) any other subdivision, subdivision official acting in an official capacity on behalf of the subdivision (including, without limitation, district attorneys, county attorneys, city attorneys, sheriffs, and any other official, employee, or representative), 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, Nonfunctioning Governmental Units and public institutions) that has filed a lawsuit that includes a Released Claim against a Released Entity in a direct, *parens patriae,* or any other capacity. "General Purpose Government," "School District," and "Special District" shall correspond to the "five basic types of local governments" recognized by the U.S. Census Bureau and match the 2017 list of Governmental Units.[2] The three (3) General Purpose Governments are county, municipal, and township governments; the two (2) special purpose governments are School Districts and Special Districts.[3] "Fire District," "Health District," "Hospital District," and "Library District" shall correspond to categories of Special Districts recognized by the U.S. Census Bureau.[4] References to a Settling State's Subdivisions or to a Subdivision "in," "of," or "within" a Settling State include Subdivisions located within the Settling State even if they are not formally or legally a sub-entity of the Settling State; *provided, however,* that a "Health District" that includes any of the following words or phrases in its name shall not be considered a

[2] https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP

[3] *E.g.,* U.S. Census Bureau, "Technical Documentation: 2017 Public Use Files for State and Local Government Organization" at 7 (noting that "the Census Bureau recognizes five basic types of local governments," that three of those are "general purpose governments" (county governments, municipal governments, and township governments), and that the other two are "school district and special district governments"), https://www2.census.gov/programs-surveys/gus/datasets/2017/2017_gov_org_meth_tech_doc.pdf.

[4] A list of 2017 Government Units provided by the Census Bureau identifies 38,542 Special Districts and categorizes them by "FUNCTION_NAME." "Govt_Units_2017_Final" spreadsheet, "Special District" sheet, included in "Independent Governments - list of governments with reference information," https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP. As used herein, "Fire District" corresponds to Special District function name "24 — Local Fire Protection," "Health District" corresponds to Special District function name "32 — Health," "Hospital District" corresponds to Special District function name "40 —Hospitals," and "Library District" corresponds to Special District function name "52 — Libraries." *See id.*

Subdivision: mosquito, pest, insect, spray, vector, animal, air quality, air pollution, clean air, coastal water, tuberculosis, and sanitary.

DDDD. "*Subdivision Allocation Percentage.*" The portion of a Settling State's Subdivision Fund set forth in Exhibit G that a Subdivision will receive pursuant to Section VI 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 VI.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section VI.D.3) that addresses allocation from the Subdivision Fund, whether before or after the Initial 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 VI.D.3. The Subdivision Allocation Percentages contained in Exhibit G may not change once notice is distributed pursuant to Section VIII.A, except upon the effectiveness of any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section VI.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section VI.D.3) 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.

EEEE. *"Subdivision Fund."* The component of the Settlement Fund described in Section VI.A.

FFFF. *"Subdivision Settlement Participation Form."* The form attached as Exhibit K that Participating Subdivisions must execute and return to the Implementation Administrator or Settlement Fund Administrator, and which shall (1) make such Participating Subdivisions signatories to this Agreement, (2) include a full and complete release of any and all of such Participating Subdivisions' claims, and (3) require the prompt dismissal with prejudice of any Released Claims that have been filed by any such Participating Subdivision.

GGGG. *"Threshold Motion."* A motion to dismiss or equivalent dispositive motion made at the outset of litigation under applicable procedure. A Threshold Motion must include as potential grounds for dismissal any applicable Bar or the relevant release by a Settling State or Participating Subdivision provided under this Agreement and, where appropriate under applicable law, any applicable limitations defense.

II. Participation by Eligible States and Condition to Preliminary Agreement

A. *Notice to Eligible States.* On May 26, 2025, this Agreement shall be distributed to all Eligible States. The Attorneys General of the Eligible States shall then

have until June 25, 2025, to decide whether to become Settling States and notify the Enforcement Committee and Hikma of that decision. Eligible States that determine to become Settling States shall so notify Hikma and shall further commit to obtaining any necessary additional state releases prior to the Reference Date. This notice period may be extended by written agreement of Hikma and the Enforcement Committee.

B. *Condition to Preliminary Agreement*. Following the notice period set forth in Section II.A, Hikma shall have fourteen (14) calendar days to determine whether, in its sole discretion (based on any criteria or factors deemed relevant to Hikma), enough Eligible States have agreed to become Settling States to proceed with notice to Subdivisions as set forth in Section VIII. This period may be extended by written agreement of Hikma and the Enforcement Committee. If Hikma determines that this condition has been satisfied, and that notice to the Subdivisions should proceed, it will so notify the Settling States by providing notice to the Enforcement Committee. The date of such notice shall be the Preliminary Agreement Date. If Hikma determines that this condition has not been satisfied, this Agreement will have no further effect and all releases and other commitments or obligations contained herein will be void.

C. *Later Joinder by Eligible States*. After the Preliminary Agreement Date, an Eligible State may only become a Settling State with the consent of Hikma and the Enforcement Committee, provided that the Enforcement Committee may not withhold consent to an Eligible State's later joinder if the Eligible State agrees to join pursuant to the terms of this Agreement and the allocation set forth in Exhibit F. If an Eligible State becomes a Settling State more than thirty (30) calendar days after the Preliminary Agreement Date, but on or before the Reference 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 Reference Date.

D. *Litigation Activity.* Following the Preliminary Agreement Date, Eligible States that determine to become Settling States shall make reasonable efforts to cease litigation activity against Hikma, including by jointly seeking stays or, where appropriate, severance of claim against Hikma, 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.

III. Injunctive Relief

A. *Injunctive Relief.* As part of the Consent Judgment, the Parties agree to the injunctive relief terms attached in Exhibit P.

IV. Procedure for Segregated Account Deposits and Payments

A. By the Deposit Date, Hikma shall deposit into a segregated interest-bearing bank account it establishes the Adjusted Maximum Remediation Payment amount. Hikma shall also deposit into two (2) separate segregated interest-bearing bank accounts it establishes: (a) the Private Attorney Fees amount; and (b) the Additional Remediation Amount. Hikma shall separately account for the interest earned on each of the three (3) accounts.

B. Hikma shall provide proof to the Enforcement Committee of the deposits required by Section IV.D.1 by the Deposit Date. Hikma shall not remove any money from the segregated bank accounts, except as provided by Section IV.F and Section IV.H.

C. If an Eligible State joins the agreement pursuant to Section II.C and that joinder is after the Deposit Date, Hikma shall deposit that Settling State's maximum Statewide Payment Amount, which is the Maximum Remediation Payment multiplied by the Settling State's State Allocation Percentage. Such deposit shall be within fifteen (15) days of the Settling State's joinder.

D. If the condition set forth in Section IX.B is met, Hikma shall:

1. Transfer into the Settlement Fund on the Payment Date (unless the Enforcement Committee specifies a later date) the Remediation Payment amount calculated by the Settlement Fund Administrator pursuant to Section V.C.2 from the segregated account. For the avoidance of doubt, this transfer includes the Maximum Incentive Payment D Amount and includes any amounts that the Settlement Fund Administrator will place into the Settlement Fund Escrow pursuant to Section V.C.4.e.

    a. The interest earned from the deposit account holding the Remediation Amount shall be used, first, to pay for the Implementation Administrator, then to pay for the Implementation Administrator in the Alvogen, Amneal, Apotex, Indivior, Mylan, Sun, and Zydus Settlement Agreements, and finally to be transferred to the Settlement Fund to be used to pay for the Settlement Fund Administrator pursuant to Section VI.C.4.

2. Transfer into the relevant funds as directed by the Enforcement Committee, no later than the Payment Date (unless the Enforcement Committee specifies a later date) the amount in the segregated account holding the Private Attorney Fees (including all interest accrued on that account), minus any amounts not payable pursuant to the terms of Exhibit R, and the amount in the segregated account holding the Additional Remediation Amount (including all interest accrued on that account), minus the Additional Remediation Amount that would have been owed to Non-Settling States as calculated by multiplying the Additional Remediation Amount by the sum of allocations on Exhibit N for Non-Settling States.

E. The Remediation Payment transferred by Hikma into the Settlement Fund pursuant to Section IV.D.1 shall be disbursed by the Settlement Fund Administrator to each Settling State and to its Participating Subdivisions listed on Exhibit G pursuant to Section V.C.5 through Section V.C.8; provided, however, that for any Settling State where the Consent Judgment has not been entered as of the Effective Date, the funds allocable to that Settling State and its Participating Subdivisions listed on Exhibit G shall not be disbursed until ten (10) calendar days after the entry of the Consent Judgment in that Settling State.

F. Any amounts in the segregated accounts not subject to transfer pursuant to Section IV.D shall immediately revert to Hikma after Hikma makes the transfers required by Section IV.D.

G. Except for the interest earned on the payment amounts, any unearned Incentive Payment A amount in the Settlement Fund shall immediately revert to Hikma after the Incentive Payment A Catch-Up Date. This excess reflects Settling States who sought, but did not achieve, a Bar by the Incentive Payment A Catch-Up Date. Any additional amount in the Settlement Fund exceeding the payments described in Section V.C.3 shall immediately revert to Hikma after the last Incentive Payment D Release Date. This excess is Settling States' unearned Maximum Incentive Payment D amounts.

H. In the event that, in accordance with the terms of Section X.B, Hikma determines not to proceed with the Settlement, or the Settlement does not become effective for any other reason, the funds held in the segregated bank accounts shall immediately revert to Hikma.

V. Settlement Payment Calculation Process

A. *Settlement Fund.* All payments under this Section V shall be made into the Settlement Fund, except that, where specified, they shall be made into the Settlement Fund Escrow. The Settlement Fund shall be allocated and used only as specified in Section VI.

B. *Remediation Payment*

1. Hikma shall make one Remediation Payment comprised of both Base Payments and Incentive Payments as provided in Section IV.D.1.

2. In no instance shall Hikma's Remediation Payment obligations exceed the Adjusted Maximum Remediation Amount.

C. *Settlement Fund Payment Process*

1. To determine the Remediation Payment, the Settlement Fund Administrator shall use the data as of the Payment Calculation Date. Prior to the Effective Date, the Parties will include Exhibit L, which sets forth in detail the process for the Settlement Fund Administrator to obtain relevant data and for distributing funds to the Settling States and their Participating Subdivisions listed on Exhibit G consistent with the terms of this Agreement as quickly as practical.

2. On the Payment Calculation Date, the Settlement Fund Administrator shall determine the Remediation Payment, consistent with the provisions in Exhibit L, by determining the sum, for all Settling States, of the Base Payment amount, Incentive Payments A or BC amount to which each Settling State is entitled (or could in the future be entitled for states who notify Defendants of an intent to obtain a Bar by the Incentive Payment A Catch-Up Date), and Incentive Payment D each Settling State could in the future be entitled (e.g. the Maximum Incentive Payment D Amount) by applying the criteria under Section V.D and Section V.E;

3. On the Payment Calculation Date, Incentive Payment A Catch-Up Date, and each subsequent Incentive D Look-Back Date, the Settlement Fund Administrator shall determine the Statewide Payment Amount for each Settling State, consistent with the provisions in Exhibit L, by determining, for each Settling State, the Base Payment amount (only on the Payment Calculation Date) and Incentive Payment amount to which the Settling State is entitled on that date by applying the criteria under Section V.D and Section V.E, after subtracting the portion of any Settlement Fund Administrator costs and fees owed out of funds from the Settlement Fund pursuant to Section VI.C.4.

4. No later than fifty (50) days prior to the Payment Date and Incentive Payment D Release Dates, the Settlement Fund Administrator shall give notice to Hikma, the Settling States, and the Enforcement Committee of the amount of the Remediation Payment, and/or the Statewide Payment Amount for each Settling State, following the determination described in Section V.C.2 and V.C.3, and the following timeline shall apply:

a. Within twenty-one (21) calendar days of the notice provided by the Settlement Fund Administrator, Hikma, any Settling State or the Enforcement Committee may dispute, in writing, the calculation of the Remediation Payment and/or the Statewide Payment Amount for a Settling State. Such disputing party must provide a written notice of dispute to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Hikma identifying the nature of the dispute, the amount of money that is disputed, and the Settling State(s) affected.

b. Within twenty-one (21) calendar days of the sending of a written notice of dispute, any affected party may submit a response, in writing, to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Hikma identifying the basis for disagreement with the notice of dispute.

c. If no response is filed, the Settlement Fund Administrator shall adjust the amount calculated consistent with the written notice of dispute. In the case of the Remediation Payment, Hikma shall pay the adjusted amount, collectively totaling the Remediation Payment, on the Payment Date.

d. If a written response to the written notice of dispute is timely sent to the Settlement Fund Administrator, the Settlement Fund Administrator shall notify Hikma, the Enforcement Committee, and any affected Settling State of the preliminary amount, which shall be the greater of the amount originally calculated by the Settlement Fund Administrator or the amount that would be consistent with the notice of dispute. In the case of the Remediation Payment, Hikma shall pay this preliminary amount, *provided, however,* that in no circumstances shall the preliminary amount to be paid be higher than the Maximum Remediation Payment.

e. The Settlement Fund Administrator shall place any disputed amount of the preliminary amount paid by Hikma into the Settlement Fund Escrow and shall disburse any undisputed amount to each Settling State and its Participating Subdivisions listed on Exhibit G pursuant to Section V.C.5.

5. If a Settling State informs the Settlement Fund Administrator that it and its Participating Subdivisions listed on Exhibit G have agreed on the amount of its Statewide Payment Amount, determined pursuant to Section V.C.3, to be distributed to the Settling State, among its separate types of funds (if applicable), and among its Participating Subdivisions listed on Exhibit G, the Settlement Fund Administrator shall disburse the Statewide Payment Amount pursuant to the consensus distribution amounts provided by the Settling State as quickly as practical. For a Settling State that does not so notify the Settlement Fund Administrator, the Settlement Fund Administrator shall allocate the Settling State's Statewide Payment Amount, pursuant to Section VI, 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:

a. As soon as possible for each payment and following the determination described in Section V.C.3, the Settlement Fund Administrator shall give notice to the relevant Settling States and their Participating Subdivisions listed on Exhibit G of the amount to be received by each Settling State, the amount to be received by the separate types of funds for each Settling State (if applicable), and the amount to be received by each Participating Subdivision listed on Exhibit G for each Settling State.

b. Within twenty-one (21) days of the notice provided by the Settlement Fund 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 Fund 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.

c. Within twenty-one (21) 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 Fund Administrator, any affected Settling State, and any affected Participating Subdivision identifying the basis for disagreement with the notice of dispute.

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

e. The Settlement Fund Administrator shall place any disputed amount into the Settlement Fund Escrow and shall disburse any undisputed amount to the Settling State and its Participating Subdivisions eligible for payment.

6. Disputes described in this subsection (other than those for which no response is filed under Sections V.C.4.c or V.C.5.d) shall be resolved in accordance with the terms of Section VII.F.

7. The Settlement Fund Administrator may combine the disbursements of the Remediation Payment with the disbursement of funds under other comparable opioid settlements. In determining when disbursements of the Remediation Payment will be made, the Settlement Fund Administrator may take into account the timeline for the availability of disbursements under other comparable opioid settlements.

8. For the avoidance of doubt, Subdivisions 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.

D. *Base Payments.*

1. Hikma shall make Base Payments into the Settlement Fund in an amount equal to forty percent (40%) of the Adjusted Maximum Remediation Payment. The maximum total for Base Payments is $38,327,317.

2. The Base Payment for any Settling State shall be the maximum total for Base Payments, $38,327,317, times the Settling State's State Allocation Percentage specified in Exhibit F.

E. *Incentive Payments.*

1. Hikma shall make potential additional Incentive Payments totaling up to a maximum of sixty percent (60%) of the Adjusted Maximum Remediation Payment, with the Incentive Payment amount depending on whether and the extent to which the criteria set forth below are met in each Settling State. The maximum total for Incentive Payments is $57,490,976.

2. A Settling State qualifies to receive an Incentive Payment in addition to its Base Payment if it meets the incentive eligibility requirements specified below. The maximum total Incentive Payment for any Settling State shall be no more than the maximum total for Incentive Payments, $57,490,976, times the Settling State's State Allocation Percentage specified in Exhibit F. Incentive Payments are state-specific, with the actual amount depending on whether and the extent to which the criteria set forth below are met in such Settling State.

3. The Incentive Payments shall be divided among three (3) categories, referred to as Incentive Payments A, BC, and D. Incentive Payments A and BC will be due to Settling States on the Payment Date. Incentive Payment D will be paid to Settling States in two equal installments on the Incentive Payment Release Dates. The total amount of Incentive Payments due to Settling States shall be the sum of the Incentive Payments for which the individual Settling States are eligible under the criteria set forth below. The Incentive Payments shall be made with respect to a specific Settling State based on its eligibility under the criteria set forth below. For the avoidance of doubt, eligibility for Incentive Payments A, BC, and D shall be determined on a Settling State-by-Settling State basis.

4. Incentive Payment A.

a. Incentive Payment A is mutually exclusive with Incentive Payment BC and D; if a Settling State receives Incentive Payment A in the Remediation Payment, such Settling State is not eligible for Incentive Payment BC or D.

b. Incentive Payment A shall be equal to sixty percent (60%) of the Adjusted Maximum Remediation Payment, provided all Settling States satisfy the requirements of Incentive Payment A. Incentive Payment A will be due to a Settling State as part of the Remediation Payment, and shall equal a total potential maximum of $57,490,976 if all Eligible States qualify for Incentive Payment A. Each Settling State's share of Incentive Payment A, *provided* that Settling State qualifies, shall equal the total maximum amount available for Incentive Payment A, $57,490,976, times the Settling State's State Allocation Percentage.

c. Qualification for Incentive Payment A is as follows: A Settling State qualifies for Incentive Payment A if, as of the Payment Calculation Date: (i) there is a Bar in that Settling State in full force and effect, (ii) the 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: all Primary Subdivisions, Litigating Subdivisions, School Districts with a K-12 student enrollment of at least 25,000 or .10% of a Settling State's population, whichever is greater, Hospital Districts that have at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district, and Primary Fire Districts; or (iii) a combination of the

actions in clauses (i) and (ii) has achieved the same level of resolution of Subdivision Claims (*e.g.,* a Bar against future litigation combined with full joinder by Litigating Subdivisions). For the avoidance of doubt, subsection (iii) cannot be satisfied unless all Litigating Subdivisions are Participating Subdivisions or there is a Case-Specific Resolution against any such Subdivisions that are not Participating Subdivisions. Hikma and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Initial Participation Date.

d. If a Settling State intends to achieve Incentive A by a Bar in effect after the Payment Calculation date but before the Incentive A Catch-Up Date, the Settling State shall notify Hikma no later than 30 days before the Initial Participation Date. A Settling State who so notifies Hikma and does not qualify for Incentive Payment A as of the Payment Date but becomes eligible for Incentive Payment A as of the Incentive Payment A Catch-Up Date shall receive the payment that it would have received for Incentive Payment A (the "Incentive Payment A Catch-up Payment") on the Incentive Payment A Catch-Up Date. The Incentive Payment A Catch-up Payment shall be reduced by any amounts paid to the Settling State under Incentive Payment BC prior to the Settling State's eligibility for Incentive Payment A. A Settling State that does not qualify for Incentive Payment A as of the Incentive Payment A Catch-Up Date shall not be eligible for Incentive Payment A.

e. To the extent a Settling State asserts that existing legislation qualifies as a Bar, the Settling State shall provide notice to Hikma no later than 30 days before the Initial Participation Date. Hikma shall indicate before the Initial Participation Date whether existing legislation in a Settling State is sufficient to qualify as a Bar.

5. Incentive Payment BC.

a. Incentive Payment BC shall be available to Settling States that do not qualify for Incentive Payment A.

b. Incentive Payment BC shall be up to a maximum of fifty-seven percent (57%) of the Settling State's share of the Remediation Payment. Incentive Payment BC will be due to a Settling State as part of the Remediation Payment. Incentive Payment BC shall equal a total potential maximum of $54,616,427 if all Eligible States qualify for Incentive Payment BC (and do not qualify for Incentive Payment A).

c. The maximum Incentive Payment BC for any Settling State shall be the maximum potential Incentive Payment BC, $ 54,616,427, times the Settling State's State Allocation Percentage specified in Exhibit F, provided such Settling State becomes eligible for Incentive Payment BC by the Payment Calculation Date.

d. The amount of Incentive Payment BC for which a Settling State is eligible shall be determined based on the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of all the Settling State's Incentive BC Subdivisions. The Settling State's Incentive BC Subdivisions are (i) all Litigating Subdivisions (including School Districts and Special Districts) and (ii) all Primary Subdivisions that have not sued Hikma as of the Initial Participation Date (collectively "*Incentive BC Subdivisions*").

e. The percentage of the Settling State's maximum Incentive Payment BC provided by Section V.E.5.c to which the Settling State is entitled shall be determined according to the table of Incentive BC payment levels below:

Participation Percentage of Incentive BC Eligible Subdivision Population[5]	**Incentive Payment BC Percentage**
Less than 85%	0%
85% or more but less than 86%	3.57%
86% or more but less than 87%	8.93%
87% or more but less than 88%	14.29%
88% or more but less than 89%	19.64%
89% or more but less than 90%	25%
90% or more but less than 91%	30.36%
91% or more but less than 92%	35.71%
92% or more but less than 93%	41.07%
93% or more but less than 94%	46.43%

[5] The "Participation Percentage of Incentive BC Eligible Subdivision Population" shall be determined by the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of the Settling State's Incentive BC Subdivisions. In calculating the Settling State's population that resides in Incentive BC Subdivisions, the population of the Settling State's Incentive BC Subdivisions shall be the sum of the population of all Incentive BC Subdivisions in the Settling State, notwithstanding that persons may be included within the population of more than one Incentive BC Subdivision. An individual 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; provided, however, that for the avoidance of doubt, no Subdivision will be excluded from the numerator or denominator under this sentence unless a Subdivision otherwise counted in the denominator has the authority to release the Claims (consistent with Section X) of the Subdivision to be excluded.

94% or more but less than 95%	51.79%
95% or more but less than 96%	60.71%
96% or more but less than 97%	68.75%
97% or more but less than 98%	76.79%
98% or more but less than 99%	84.82%
99% or more but less than 100%	92.86%
100%	100%

f. The percentage of the available Incentive Payment BC amount for which a Settling State is eligible will be based on the Participation Percentage of Incentive BC Eligible Subdivision Population as of the Payment Calculation Date. If Incentive BC Eligible Subdivisions that have become Participating Subdivisions, or achieved Case-Specific Resolution status, collectively represent less than eighty-five percent (85%) of a Settling State's Incentive BC Eligible Subdivision population by the Payment Calculation Date, the Settling State shall not receive any Incentive Payment BC.

g. If there are no Incentive BC Eligible Subdivisions in a Settling State, and that Settling State is otherwise eligible for Incentive Payment BC, that Settling State will receive its maximum Incentive Payment BC provided by Section V.E.5.c.

6. Incentive Payment D.

a. Incentive Payment D shall be available to Settling States that do not qualify for Incentive Payment A.

b. Incentive Payment D shall be equal to up to a maximum of ten percent (10%) of the Adjusted Maximum Remediation Payment, with the actual amount depending whether and the extent to which the criteria set forth below are met in each Settling State. The maximum total for Incentive Payment D is $9,581,829.[6]

[6] The Incentive Payment BC table specified in Section V.E.5.e and Incentive Payment D table specified in Section V.E.6.f operate so that the combined amount of Incentive Payment BC and Incentive Payment D cannot exceed sixty percent (60%) of the Adjusted Maximum Remediation Payment over the term of the Agreement. Hikma will have no obligation to pay more than $57,490,976 for the combined amounts of Incentive Payment BC and Incentive Payment D minus any offsets for Non-Settling States.

c. Incentive Payment D shall be released in two equal installments—one installment on each Incentive Payment Release Date—and the amount of Incentive Payment D released will depend on (i) the Settling State meeting the qualifications set out in Section V.E.6.d and (ii) the Participation Percentage of Incentive BC Eligible Subdivision Population achieved by the Settling State as of the Payment Calculation Date.

d. A Settling State qualifies for Incentive Payment D if no Later Litigating Subdivision (for purposes of Incentive Payment D, Later Litigating Subdivisions are limited to (i) a Primary Subdivision; (ii) a school district with a K-12 student enrollment of at least 25,000 or 0.10% of the Settling State's population, whichever is greater; (iii) a health district or hospital district that has at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district; and (iv) Primary Fire Districts) in that Settling State has a lawsuit against a Released Entity survive more than six (6) months after denial in whole or in part of a Threshold Motion.

e. A Settling State's qualification for Incentive Payment D shall be determined on each Incentive Payment D Look-Back Date. If a Later Litigating Subdivision's lawsuit in that Settling State survives more than six (6) months after denial in whole or in part a Threshold Motion after that date, that Settling State shall not be eligible for Incentive Payment D on that or any subsequent Incentive Payment D Release Date.

f. The Incentive Payment D for any Settling State qualifying for Incentive Payment D shall be equal to between three percent (3%) and ten percent (10%) of the of the Maximum Remediation Payment times the Settling State's Allocation Percentage specified in Exhibit F. The applicable percentage shall be determined based on the Participation Percentage of Incentive BC Eligible Subdivision Population achieved by the Payment Calculation Date as shown in the table below:

Participation Percentage of Incentive BC Eligible Subdivision Population as of the Payment Calculation Date	**Each Eligible Settling State's Applicable Incentive Payment D Percentage**
Participation of less than 95%	10% of State Allocation
Participation of 95% but less than 96%	9% of State Allocation
Participation of 96% but less than 97%	8% of State Allocation
Participation of 97% but less than 98%	7% of State Allocation
Participation of 98% but less than 99%	6% of State Allocation
Participation of 99% but less than 100%	5% of State Allocation
Participation of 100%	3% of State Allocation

g. Incentive Payment D shall be paid in two equal installments on the Incentive Payment D Release Dates. On each Incentive Payment D Look-Back Date, the Settlement Fund Administrator shall determine a Settling State's qualification for Incentive Payment D. Prior to each Incentive Payment D Look-Back Date, Hikma may provide the Settlement Fund Administrator and the Enforcement Committee with notice identifying any Settling State(s) it believes do not qualify for Incentive Payment D and information supporting its belief.

h. Notwithstanding Section V.E.6.d and Section V.E.6.e, a Settling State can become re-eligible for 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, in which case the Settling State shall be eligible for Incentive Payment D less any litigation fees and costs incurred by Hikma in the interim, 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.

F. In no event shall any Settling State receive a Base Payment and Incentive Payment totaling more than one hundred percent (100%) of its respective State Allocation Percentage specified in Exhibit F times the Maximum Remediation Payment.

VI. Allocation and Use of Settlement Payments

A. *Components of Settlement Fund.* The Settlement Fund shall be funded by the Remediation Payment and comprised of a Remediation Accounts Fund, a State Fund, and a Subdivision Fund for each Settling State. The payments made under Section IV into the Settlement Fund shall be initially allocated among those three (3) sub-funds and distributed and used as provided below. Unless otherwise specified herein, payments placed into the Settlement Fund do not revert back to Hikma.

B. *Use of Settlement Payments.*

1. 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 VI.B.2. In no event may less than ninety-five percent (95%) of Hikma's maximum amount of payments pursuant to Section V be spent on Opioid Remediation.

2. 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 Fund Administrator and Hikma 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 VI.B.2 shall be available to the public. For the avoidance of doubt, (a) any amounts not identified under this Section VI.B.2 as used to pay attorneys' fees, investigation costs, or litigation costs shall be included in the Compensatory Restitution Amount for purposes of Section VI.F and (b) Participating Subdivisions not listed on Exhibit G may only use monies from the Settlement Fund for purposes that qualify as Opioid Remediation.

C. *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 Fund Administrator will make an initial allocation to three (3) state-level sub-funds. The Settlement Fund 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.

1. Base Payments. The Settlement Fund Administrator will allocate Base Payments under Section V.D among the Settling States pursuant to Section V.D.2. 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 VI.D.

2. Incentive Payments. The Settlement Fund Administrator will treat Incentive Payments under Section V.E on a state-specific basis. Incentive Payments for which a Settling State is eligible 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 VI.D.

3. Settlement Fund Administrator. Prior to the Effective Date, Hikma and the Enforcement Committee will agree to a detailed mechanism consistent with the foregoing for the Settlement Fund Administrator to follow in allocating, apportioning, and distributing payments, which shall then be appended hereto as Exhibit L.

4. Settlement Fund Administrator Costs. Any costs and fees associated with or arising out of the duties of the Settlement Fund Administrator as described in Exhibit L shall be paid from the interest accrued in the Settlement Fund Escrow and the Settlement Fund; provided, however, that if such accrued interest is insufficient to pay the entirety of any such costs and fees, the additional amount shall be paid out of the Settlement Fund. For the avoidance of doubt, nothing in this provision

shall require Hikma to pay any costs, fees or other amounts in excess of the Global Settlement Amount.

D. *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 VI.D.1 and Section VI.D.2, then the default provisions of Section VI.D.4 apply. It is not necessary that a State-Subdivision Agreement or other means of allocating funds pursuant to Section VI.D.1 and Section VI.D.2 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.

1. 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 VI.C 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 VI.B.2, and (b) that at least seventy percent (70%) of amounts be used solely for future Opioid Remediation.[7] For a State-Subdivision Agreement to be applied to the relevant portion of the Remediation Payment, notice must be provided to Hikma and the Settlement Fund Administrator by the Payment Calculation Date.

2. 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 VI.B.2, 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 VI.C 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 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 Section VI of any such unaddressed fund. For example, if an Allocation Statute or Statutory Trust that meets the requirements of this Section VI.D.2 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

[7] 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

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.

3. 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 Fund Administrator is not required to honor a voluntary redistribution for which notice is provided to it after the Payment Calculation Date.

4. Distribution in the Absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust. If Section VI.D.1, Section VI.D.2, and Section VI.D.3 do not apply, amounts apportioned to that Settling State's State Fund, Remediation Accounts Fund, and Subdivision Fund under Section VI.C shall be distributed as follows:

a. Amounts apportioned to that Settling State's State Fund shall be distributed to that Settling State.

b. Amounts apportioned to that Settling State's Remediation Accounts Fund shall be distributed consistent with Section VI.E. Each Settling State shall submit to the Settlement Fund 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 Fund 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 Fund 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 Fund Administrator to release the Settling State's Remediation Accounts Fund to the Statutory Trust.

c. 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 VIII.H 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.

d. Special Districts shall not be allocated funds from the Subdivision Fund, except through a voluntary redistribution allowed by Section VI.D.3 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.

5. Restrictions on Distribution. No amounts may be distributed from the Subdivision Fund contrary to Section VIII, 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 VIII.E through Section VIII.G. 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 VI.D.1 or by an Allocation Statute or a Statutory Trust described in Section VI.D.2.

E. *Provisions Regarding the Remediation Accounts Fund.*

1. 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 VI.D.1 or Section VI.D.2, as applicable, and all direct payments to Subdivisions comply with Section VIII.E through Section VIII.G.

2. 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:

a. Regional Remediation.

(i) 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 VI.E.2.d to define its regions and assign regional allocations percentages. Otherwise, the Settling State shall (A) define its initial regions, which shall consist of one (1) or more General Purpose Subdivisions 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; (B) 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.

(ii) 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.

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

b. *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.

c. *Small Settling States.* Notwithstanding the provisions of Section VI.E.2.a, Settling States with populations under four (4) million that do not have existing regions described in Section VI.E.2.a 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 VI.E.2.b shall be divided regionally so that each block-grant eligible Subdivision is a region, and the remainder of the state is a region.

d. *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:

(i) 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;

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

(iii) 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

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

3. Remediation Accounts Fund Reporting. The Settlement Fund Administrator shall track and assist in the report of remediation disbursements as agreed to between Hikma and the Enforcement Committee

F. *Nature of Payment*. Hikma, 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 Released Claims:

1. They have entered into this Agreement to avoid the delay, expense, inconvenience, and uncertainty of further litigation;

2. (a) The Settling States and Participating Subdivisions sought compensatory payments (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; (b) 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 (c) 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;

3. The payment of the Compensatory Restitution Amount by Hikma constitutes payment(within the meaning of 26 U.S.C. § 162(f)(2)(A) and 26 C.F.R. § 1.162-21(e)(4)(i), (ii)) for alleged damage or harm allegedly caused by Hikma 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

4. For the avoidance of doubt: (a) the entire Compensatory Restitution Amount is properly characterized as described in Section VI.F, (b) no portion of the Compensatory Restitution Amount represents reimbursement to any Settling State or Participating Subdivision or other person or entity for the fees or costs of any investigation or litigation, including without limitation attorneys' fees, (c) no portion of the Global Settlement Amount constitutes the disgorgement of any allegedly ill-gotten gains, and (d) no portion of the Global 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.

VII. Enforcement

A. *Enforceability.* This Agreement is enforceable only by the Settling States and Hikma; *provided, however,* that Released Entities may enforce Section XI and Participating Subdivisions listed on Exhibit G have the enforcement rights described later in this paragraph and in Section VII.D. Except to the extent allowed by the Injunctive Relief Terms, Settling States and Participating Subdivisions shall not have enforcement rights against Hikma 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. Participating Subdivisions shall not have enforcement rights against Hikma with respect to this Agreement or any Consent Judgment except that Participating Subdivisions listed on Exhibit G shall have enforcement rights as set forth herein as to payments that would be allocated to the Participating Subdivisions or the Remediation Accounts Fund in such Settling State pursuant to Section V; *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. *Jurisdiction.* Hikma consents to the jurisdiction of the court in which each Settling State files its Consent Judgment, limited to resolution of disputes identified in Section VII.F.2 for resolution in that court.

C. *Specific Terms Dispute Resolution.*

1. Any dispute that is addressed by the provisions set forth in the Injunctive Relief Terms shall be resolved as provided therein.

2. In the event that Hikma believes that the ninety-five percent (95%) threshold established in Section VI.B.1 is not being satisfied, any Party may request that Hikma and the Enforcement Committee meet and confer regarding the use of funds to implement Section VI.B.1. The completion of such meet-and-confer process is a precondition to further action regarding any such dispute. Further action concerning Section VI.B.1 shall: (i) be limited to Hikma seeking to reduce its Settlement Product or Settlement Product Cash Conversion Amount 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 VI.B.1; (ii) only reduce to those Settling States and their Participating Subdivision(s) that are below the ninety-five percent (95%) threshold established in Section VI.B.1; and (iii) not reduce Remediation Payments restricted to future Opioid Remediation.

D. *State-Subdivision Enforcement.*

1. 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 allegations that (i) the Settling State's use of Remediation Accounts Fund monies were not used for uses 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 VI.E.2.b.

2. 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 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.

3. 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.

E. *Subdivision Hikma Payment Enforcement.* A Participating Subdivision listed on Exhibit G shall have the same right as a Settling State to seek resolution regarding the failure by Hikma to make its Remediation Payment.

F. *Other Terms Regarding Dispute Resolution.*

1. The parties to a dispute shall promptly meet and confer in good faith to resolve any dispute. If the parties cannot resolve the dispute informally, and unless otherwise agreed in writing, they shall follow the remaining provisions of this subsection to resolve the dispute.

2. Except to the extent provided by Section VII.C or Section VII.F.3, disputes not resolved informally shall be resolved in 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.

a. State court proceedings shall be governed by the rules and procedures of the relevant forum.

b. For the avoidance of doubt, disputes to be resolved in state court include, but are not limited to, the following:

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

(ii) disputes between a Settling State and its Participating Subdivisions as provided by Section VII.D, except to the extent the 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;

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

(iv) 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;

(v) whether the definition of a Bar, a Case-Specific Resolution, Final Order, lead state agency as described in Section VI.D.4.b, Later Litigating Subdivision, Litigating Subdivision, or Threshold Motion have been met; and

(vi) all other disputes not specifically identified in Section VII.C or Section VII.F.3.

c. Any Party may request that the National Arbitration Panel provide an interpretation of any provision of the settlement 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.

3. National Disputes involving a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VII.A, and/or Hikma shall be resolved by the National Arbitration Panel.

a. National Disputes are disputes that are not addressed by Section VII.C, and which are exceptions to Section VII.F.2's presumption of resolution in state courts because they involve issues of interpretation of terms contained in this Agreement applicable to all Settling States without reference to a particular state's law. Disputes between a Settling State and any Participating Subdivision shall not be considered National Disputes. National Disputes are limited to the following:

(i) the amount of offset and/or credit attributable to Non-Settling States;

(ii) issues involving the scope and definition of Product;

(iii) interpretation and application of the terms "Covered Conduct," "Released Entities," and "Released Claims;"

(iv) the failure by Hikma to pay the Remediation Payment or the Additional Remediation Amount, but for the avoidance of doubt, disputes between Hikma and a Settling State over the amounts owed only to that state that do not affect any other Settling State shall not be considered National Disputes;

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

(vi) disputes involving liability of successor entities;

(vii) disputes that require a determination of the sufficiency of participation in order to qualify for Incentive Payments A, BC, or D;

(viii) disputes involving a Releasor's compliance with, and the appropriate remedy under, Section XI.B.5.c;

(ix) 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

(x) any dispute subject to resolution under Section VII.F.2 but for which all parties to the dispute agree to arbitration before the National Arbitration Panel under the provisions of this Section VII.F.3.

b. The National Arbitration Panel shall be comprised of three (3) neutral arbitrators. One (1) arbitrator shall be chosen by Hikma, one (1) arbitrator shall be chosen by the Enforcement Committee 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 that selected him/her.

c. 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.

d. 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.

e. To the extent allowed under state law, a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VII.A, 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.

f. The arbitrators will give due deference to 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 VII.A, or Hikma on a state law issue.

g. The decisions of the National Arbitration Panel shall be binding on Settling States, Participating Subdivisions, Hikma, and the Settlement Fund Administrator. In any proceeding before the National Arbitration Panel involving a dispute between a Settling State and Hikma 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.

h. 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.

i. Each party shall bear its own costs in any arbitration or court proceeding arising under this Section VII. 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 Hikma and Settling States/Participating Subdivisions shall be split fifty percent (50%) by Hikma 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. For the avoidance of doubt, Hikma shall not be responsible for the National Arbitration Panel costs in disputes that do not concern Hikma.

4. Prior to initiating an action to enforce pursuant to this Section VII.F, the complaining party must:

a. Provide written notice to the Enforcement Committee and Hikma 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 Enforcement Committee shall establish a reasonable process and timeline for obtaining additional information from the involved parties; *provided, however,* that the date the Enforcement Committee establishes for obtaining additional information from the parties shall not be more than forty-five (45) calendar days following the notice. The Enforcement Committee may advise the involved parties of its views on the complaint and/or seek to resolve the complaint informally.

b. Wait to commence any enforcement action until thirty (30) calendar days after the date that the Enforcement Committee establishes for obtaining additional information from the involved parties.

5. If the parties to a dispute cannot agree on the proper forum for resolution of the dispute under the provisions of Section VII.F.2 or Section VII.F.3, a committee comprising the Enforcement Committee and sufficient representatives of Hikma such that the members of the Enforcement Committee have a majority of one (1) member 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 committee's identification of such forum in the first instance shall not be entitled to deference by the forum selected.

G. *Lien or Encumbrance*. To the extent allowed by applicable law, this Settlement Agreement shall not be deemed to create a lien or encumbrance against any real property owned by Hikma or its affiliates, unless in the event of a default or breach of the payment provisions by Hikma. Nothing in this Section shall be construed to limit any remedy of any Settling State or Participating Subdivision in the event of a default or breach of this Agreement by Hikma.

H. *No Effect.* Nothing in this Agreement shall be interpreted to limit the Settling States' Civil Investigative Demand ("*CID*") or investigative subpoena authority, to the extent such authority exists under applicable state law and the CID or investigative subpoena is issued pursuant to such authority, and Hikma reserves all of its rights in connection with a CID or investigative subpoena issued pursuant to such authority.

VIII. Participation by Subdivisions

A. *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. 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, 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 and Special Districts listed on Exhibit G. The costs of the Implementation Administrator shall be paid for by the interest earned from the deposit accounts holding the Adjusted Maximum Remediation Payment for Hikma, and nothing in this provision shall require Hikma to pay any costs, fees or other amounts in excess of the Global Settlement Amount. The Settling States, with the cooperation of Hikma, 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 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.

B. *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 Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) specifying (1) that the Subdivision agrees to the terms of this Agreement pertaining to Subdivisions, (2) that the Subdivision releases all Released Claims against all Released Entities, (3) that the Subdivision agrees to use monies it

receives, if any, from the Settlement Fund pursuant to the applicable requirements of Section VI; *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. The required Subdivision Settlement Participation Form is attached as Exhibit K.

C. *Requirements for Becoming a Participating Subdivision—Litigating Subdivisions/Later Litigating Subdivisions.* A Later Litigating Subdivision and 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 Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) and upon prompt dismissal with prejudice of its lawsuit following the Reference Date or the date on which the conditions for effectiveness in Section IX.B have been met, whichever is later. 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 Fund Administrator shall provide reports of this information to the parties upon request. A Litigating Subdivision or Later Litigating Subdivision may not become a Participating Subdivision after the completion of opening statements in a trial of a lawsuit it brought that includes a Released Claim against a Released Entity.

D. *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 VIII.B or Section VIII.C by the Initial Participation Date. All Subdivision Settlement Participation Forms shall be held in escrow by the Implementation Administrator until the Reference 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 obligations.

E. *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 VIII.B or Section VIII.C after the Initial Participation Date but before the Payment Calculation 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 VI.D or Section VI.E. Unless waived by Hikma, the following provisions govern what a Later Participating Subdivision can receive (but do not apply to Initial Participating Subdivisions):

1. A Later Participating Subdivision shall receive seventy-five percent (75%) of the share of the Base Payment or Incentive Payment that it would have received had it become an Initial Participating Subdivision.

2. A Later Participating Subdivision that had maintained a lawsuit for a Released Claim against a Released Entity and had judgment entered against it on any such Claim before it became a Participating Subdivision (other than consensual dismissal with prejudice) shall receive 50% of the share of future Base Payments and Incentive Payments that it would have received had it become a Participating Subdivision prior to such judgment; provided, however that if the Subdivision appeals the judgment and the judgment is affirmed with finality, the Subdivision shall not receive any share of any Base Payments or Incentive Payments, and shall return to Hikma any share of any Base Payments or Incentive Payments such Subdivision had already received.

3. A Later Participating Subdivision that becomes a Participating Subdivision while a Bar or Case-Specific Resolution involving a different Subdivision exists in its state shall receive twenty-five percent (25%) of the share of the Base Payment and Incentive Payment that it would have received if it had become an Initial Participating Subdivision.

F. *No Increase in Payments.* Amounts to be received by Later Participating Subdivisions shall not increase the payments due from Hikma.

G. *Non-Participating Subdivisions.* Non-Participating Subdivisions shall not directly receive any portion of the 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.

H. *Unpaid Allocations to Later Participating Subdivisions and Non-Participating Subdivisions.* Any Base Payment and Incentive Payment allocated pursuant to Section VI.D to a Later Participating Subdivision or Non-Participating Subdivision that cannot be paid pursuant to this Section VIII, including the amounts that remain unpaid after the reductions required by Section VIII.E., 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.

IX. Condition to Effectiveness of Agreement and Filing of Consent Judgment

A. *Determination to Proceed with Settlement. —Settling States*. Following the Initial Subdivision Participation Date, the Enforcement Committee shall determine whether to proceed with the Agreement on behalf of the Settling States, and the Settling States shall be bound by the determination of the Enforcement Committee. No later than fifteen (15) calendar days prior to the Reference Date, the Enforcement Committee shall provide notice to Hikma of its decision. If the Enforcement Committee elects 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 informing Hikma that there is sufficient participation to proceed, the Enforcement Committee will deliver all signatures and releases required by the Agreement to be provided by the Settling States to Hikma.

B. *Determination to Proceed with Settlement—Hikma*. If the Settling States elect to proceed, Hikma will then determine on or before the Reference Date whether there is sufficient Eligible State participation, sufficient Subdivision participation, and sufficient resolution of the Claims of the Litigating Subdivisions in the Settling States (through participation under Section VIII, Case-Specific Resolution(s) and Bar(s)) to proceed with this Agreement. The determination shall be in the sole discretion of Hikma and may be based on any criteria or factors deemed relevant by Hikma.

C. *Notice by Hikma.* On or before the Reference Date, Hikma shall inform the Settling States of its determination pursuant to Section IX.B. If Hikma determines to proceed, the Parties will proceed to file the Consent Judgments and the obligations in the Subdivision Settlement Participation Forms will be effective and binding as of the Reference Date. If Hikma determines not to proceed, this Agreement will have no further effect, any amounts deposited, including funds referenced in Section IV.D. and Exhibit M, shall revert to Hikma, 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.

X. Settling State and Participating Subdivision Attorneys' Fees and Costs and Additional Remediation Amount

A. The Agreement on Subdivision Attorneys' Fees, Expenses and Costs is set forth in Exhibit R and incorporated herein by reference.

B. *Additional Remediation Amount*.

1. Subject to the reduction specified in Section X.B.2, Hikma shall pay an Additional Remediation Amount to the Settling States listed in Exhibit N. Such funds shall be paid as allocated by the Settlement Fund Administrator pursuant to Exhibit N.

2. *Reduction of Additional Remediation Amount*. The amounts owed by Hikma pursuant to this Section X.B shall be reduced by the allocations set forth on Exhibit N for Non-Settling States.

3. For the avoidance of doubt, (1) a Settling State that retained outside counsel in connection with the investigation of Hikma that receives an Additional Remediation Amount may choose to have the Additional Remediation Amount designated to pay the Settling State's outside counsel, and may instruct the Settlement Fund Administrator to pay those funds directly to the Settling State's

outside counsel, and (2) Additional Remediation Amount funds, including funds designated by a Settling State to pay its outside counsel under this paragraph, shall not be subject to allocation as provided in Section VI.C through Section VI.E.

C. All payments addressed by this Section X will be made no later than the Payment Date pursuant to Section V.

XI. Release

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

B. *Claim-Over and Non-Party Settlement*.

1. It is the intent of the Parties that:

a. Released Entities should not seek contribution or indemnification (other than pursuant to an insurance contract), from other parties for their payment obligations under this Agreement;

b. the payments made under this Agreement shall be the sole payments made by the Released Entities to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity);

c. Claims by Releasors against non-Parties should not result in additional payments by Released Entities, whether through contribution, indemnification or any other means; and

d. 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 released party's liability to any other parties.

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

3. No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner; provided that a Released Entity shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

4. To the extent that, on or after the Reference Date, any Releasor enters into a Non-Party Settlement, including in any bankruptcy case or through any plan of reorganization, 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 substantially equivalent to that required from Hikma in Section XI.B.3, or a release from such Non-Released Entity in favor of the Released Entities (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.

5. In the event that any Releasor obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Entity that does not contain a prohibition like that described in Section XI.B.3 or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in Section XI.B.3, and such Non-Released Entity asserts a Claim-Over against a Released Entity, the Released Entity shall be relieved of the prohibition in Section XI.B.3 with respect to that Non-Released Entity and that Releasor and Hikma shall take the following actions to ensure that the Released Entities do not pay more with respect to Covered Conduct to the Releasor or to Non-Released Entities than the amount owed under this Settlement Agreement by Hikma:

a. Hikma shall notify that Releasor of the Claim-Over within sixty (60) calendar days of the assertion of the Claim-Over or sixty (60) calendar days of the Effective Date of this Settlement Agreement, whichever is later;

b. Hikma and that Releasor shall meet and confer concerning the means to hold Released Entities harmless and ensure that Hikma is not required to pay more with respect to Covered Conduct than the amounts owed by Hikma to the Releasor under this Agreement;

c. The Releasor and Hikma shall take steps sufficient and permissible under the law of the state of the Releasor to hold Released Entities harmless from the Claim-Over and ensure Released Entities are not required to pay more with respect to Covered Conduct than the amounts

owed by Hikma under this Agreement. Such steps may include, where permissible:

(i) Filing of motions to dismiss or such other appropriate motion by Hikma or Released Entities, and supported by Releasor, in response to any claim filed in litigation or arbitration;

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

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

(iv) Return of monies paid by Hikma to the Releasor under this Settlement Agreement to permit satisfaction of a judgment against or settlement with the Non-Released Entity to satisfy the Claim-Over;

(v) Payment of monies to Hikma by the Releasor to ensure it is held harmless from such Claim-Over, up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity;

(vi) Credit to Hikma under this Agreement to reduce the overall amounts to be paid under the Agreement such that it is held harmless from the Claim-Over; and

(vii) Such other actions as the Releasor and Hikma may devise to hold Hikma harmless from the Claim-Over.

d. The actions of the Releasor and Hikma taken pursuant to paragraph (c) must, in combination, ensure Hikma is not required to pay more with respect to Covered Conduct than the amounts owed to the Releasor by Hikma under this Agreement.

e. In the event of any dispute over the sufficiency of the actions taken pursuant to paragraph (c), the Releasor and Hikma 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. The National Arbitration Panel shall have authority to require Releasor to implement a remedy that includes one or more of the actions specified in paragraph (c) sufficient to hold Released Entities fully

harmless. In the event that the Panel's actions do not result in Released Entities being held fully harmless, Hikma shall have a claim for breach of this Agreement by Releasor, with the remedy being payment of sufficient funds to hold Hikma harmless from the Claim-Over up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity. For the avoidance of doubt, the prior sentence does not limit or eliminate any other remedy that Hikma may have.

6. To the extent that the Claim-Over is based on a contractual indemnity, the obligations under Section XI.B.4 shall extend solely to a Non-Party Covered Conduct Claim against a pharmacy, 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. Hikma shall notify the Settling States, to the extent permitted by applicable law, in the event that any of these types of Non-Released Entities asserts a Claim-Over arising out of contractual indemnity against it.

C. *Indemnification and Contribution Prohibited.* No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory, from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

D. *General Release.* In connection with the releases provided for in this Agreement, each Settling State (for itself and its Releasors) and Participating Subdivision 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:

> **General Release; extent.** A general release does not extend to claims 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 Released Claims, but each Settling State (for itself and its Releasors) and Participating Subdivision (for itself and its Releasors) hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims 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.

E. *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 Hikma (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 Hikma.

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

G. *Representation and Warranty*. The signatories hereto on behalf of their respective Settling States and its Participating Subdivisions expressly represent and warrant that they will obtain on or before the Effective Date (or have obtained) the authority to settle and release, to the maximum extent of the State's power, all Released Claims of (1) their respective Settling States; (2) any of the respective Settling State's past and present executive departments, state agencies, divisions, boards, commissions and instrumentalities with the regulatory authority to enforce state and federal controlled substances acts; (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 Claims related to Covered Conduct seeking money (including abatement and/or remediation) or revocation of a pharmaceutical distribution license; and (4) any Participating Subdivisions. For the purposes of clause (3) above, executive departments, agencies, divisions, boards, commission, and instrumentalities are those that are under the executive authority or direct control of the State's Governor. Also, for the purposes of clause (3), a release from a State's Governor as set forth in Exhibit X is sufficient to demonstrate that the appropriate releases have been obtained.

H. *Effectiveness.* The releases set forth in this Agreement 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.

I. *Cooperation.* Releasors (1) will not encourage any person or entity to bring or maintain any Released Claim against any Released Entity and (2) will reasonably cooperate with and not oppose any effort by a Released Entity to secure the prompt dismissal of any and all Released Claims, including suits brought by non-Releasors based on Released Claims. Releasors will meet and confer and make reasonable efforts to resolve any action that is filed by a Subdivision against Hikma 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.

J. *Non-Released Claims.* Notwithstanding the foregoing or anything in the definition of Released Claims, the Agreement does not waive, release or limit any criminal liability, Claims for any outstanding liability under any tax or securities law, Claims against parties who are not Released Entities, Claims by private individuals, Claims for Medicaid rebates, Claims asserted, or that could be asserted, by any State or Subdivision, related to the causes of action in *In re: Generic Pharmaceuticals Pricing Antitrust Litigation*, in the United States District court for the District of Pennsylvania, MDL No. 2724; *Connecticut et al v. Aurobindo Pharma USA, Inc. et al.*, in the United States District Court for the District of Connecticut, Case No. 3:16-cv-2056-NPS; *Connecticut et al. v. Teva Pharmaceuticals USA, Inc.*, in the United States District Court for the District of Connecticut, Case No. 3:19-cv-710-NPS; *Connecticut et al v. Sandoz, Inc. et al.*, in the United States District Court for the District of Connecticut, Case No. 3:20-cv-802-NPS; and any related action (such excluded claims include, but are not limited to, all antitrust claims and any claims related to any non-opioid generic drugs), and any claims arising under the Agreement for enforcement of the Agreement.

XII. Later Litigating Subdivisions

A. *Released Claims against Released Entities*. If a Later Litigating Subdivision in a Settling State maintains a lawsuit for a Released Claim against a Released Entity after the Reference Date, the following shall apply subject to Section XII.B:

1. The Released Entity shall take ordinary and reasonable measures to defend the action, including filing a Threshold Motion with respect to the Released Claim. The Released Entity shall further notify the Settling State and Settlement Fund Administrator immediately upon notice of a Later Litigating Subdivision bringing a lawsuit for a Released Claim and shall not oppose a Settling State's submission in support of the Threshold Motion. Hikma shall give the relevant Settling State a reasonable opportunity to extinguish the Released Claims without any payment or any other obligations being imposed upon any Released Entities (apart from the Global Settlement Amount payable by Hikma under the Agreement or the Injunctive Relief Terms incurred by it). The relevant Settling State and Hikma 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.

2. If the lawsuit asserting a Released Claim is resolved with finality on terms requiring payment by the Released Entity, Hikma shall receive a dollar-for-dollar offset against Incentive Payment D for the amount paid. The offset shall be applied against the relevant portion of Incentive Payment D to be released on the last Incentive Payment D Release Date and working backwards.

3. "*Terms requiring payment*" shall mean (i) a final monetary judgment or (ii) a settlement; provided that the Released Entity sought the applicable State Attorney General's consent to the settlement and such consent was either obtained or unreasonably withheld. Should the judgment or settlement resolve claims that are not Released Claims, the offset shall be for the Released Claims portion only, which shall be distinguishable in the judgment or settlement.

B. *Exceptions*

1. Section XII.A shall not apply where the Settling State at issue meets the eligibility criteria for and is entitled to Incentive Payment A, except as expressly provided therein.

2. Section XII.A shall not apply where the Later Litigating Subdivision seeks less than $10 million, or so long as its total claim is reduced to less than $10 million, in the lawsuit for a Released Claim at issue.

C. *No Effect on Other Provisions.* An offset under Section XII.A shall not affect the Injunctive Relief Terms or the Consent Judgment.

D. *No Effect on Other States*. An offset under Section XII.A applicable to one State shall not affect the allocation or payment of the Remediation Payment to other Settling States.

E. *Litigating Subdivisions in Non-Eligible States.* The Settling States will not encourage, facilitate, or assist in any manner whatsoever claims for Covered Conduct against Hikma in any Settling, Non-Settling, or Non-Eligible State, regardless of whether those claims were filed against Hikma prior to, on, or after the Effective Date.

XIII. Offset

A. *Revoked Bar or Case-Specific Resolution.* If Hikma's Remediation Payment included any incentive payments earned as a result of the existence of a Bar or Case-Specific Resolution in a Settling State, and there is subsequently a Revocation Event with respect to that Bar or Case-Specific Resolution after the Payment Calculation Date but before provision of Settlement Product or payment of the Settlement Product Cash Conversion Amount, Hikma shall receive a dollar-for-dollar offset against the Settlement Product or Settlement Product Cash Conversion Amount that would be allocated to that Settling State and its Subdivisions. This offset or reimbursement will be calculated as the dollar amount difference between (1) the total amount of incentive payments paid by Hikma by virtue of the Bar or Case-Specific Resolution subject to the Revocation Event and (2) the total amount of incentive payments that would have been due from Hikma during that time had the Bar or Case-Specific Resolution subject to the Revocation Event not been in effect. 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: (1) its Released Claims are extinguished by any subsequent Bar or Case-Specific Resolution in effect as of the date of such calculation, or (2) it becomes a Participating Subdivision (in addition to all other Participating Subdivisions) prior to the date of such calculation. At no point will the offset be greater than the Settlement Product or Settlement Product Cash Conversion Amount for such Settling State.

XIV. Miscellaneous

A. *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.

B. *Population of Special Districts.* For any purpose in this Agreement in which the population of a Special District is used other than Section V.E.4.b: (a) School Districts' population will be measured by the number of students enrolled who are eligible under the Individuals with Disabilities Education Act *("IDEA")* or Section 504 of the Rehabilitation Act of 1973; (b) Health Districts' and Hospital Districts' population will be measured at twenty-five percent (25%) of discharges; and (c) all other Special Districts' (including Fire Districts' and Library Districts') population will be measured at ten percent (10%) of the population served.[8] For the avoidance of doubt, this means that California healthcare districts will be measured at ten percent (10%) of their membership. Hikma and the

[8] 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.

Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Preliminary Agreement Date.

C. *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.

D. *No Admission.* Hikma does not admit 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 Hikma.

E. *Tax Cooperation and Reporting.*

1. Upon request by Hikma, the Settling States and Participating Subdivisions agree to perform such further acts and to execute and deliver such further documents as may be reasonably necessary for Hikma to establish the statements set forth in Section VI.F to the satisfaction of their tax advisors, their independent financial auditors, the Internal Revenue Service, or any other governmental authority, including as contemplated by 26 C.F.R § 1.162-21(b)(3)(ii) and any subsequently proposed or finalized relevant regulations or administrative guidance.

2. Without limiting the generality of Section XIV.E.1, each Settling State and Participating Subdivision shall cooperate in good faith with Hikma with respect to any tax claim, dispute, investigation, audit, examination, contest, litigation, or other proceeding relating to this Agreement.

3. 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 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 Hikma and (ii) any legally required forms, returns or amended returns with any applicable governmental authority, or any returns requested by Hikma, and (b) provides to Hikma a copy of (i) the IRS Form 1098-F filed with respect to Hikma 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 VI.F. and as set forth in Section XIV.E.4.

4. Any form, return, amended return, or written statement filed or provided pursuant to Section XIV.E.3, and any similar document, shall be prepared and filed in a manner consistent with reporting the Global Settlement Amount as the "Total amount to be paid" pursuant to this Agreement in Box 1 of IRS Form 1098-F and the Compensatory Restitution Amount as "Restitution/remediation amount" in Box 3 of IRS Form 1098-F, as reflected in the attached Exhibit U. If the Designated State

or Appropriate Official shall be required to file any form, return, amended return, or written statement contemplated by this Section XIV.E other than an IRS Form 1098-F in the form attached as Exhibit U, the Designated State shall direct and ensure that the Appropriate Official provides to Hikma a draft of such form, return, amended return, or written statement no later than sixty (60) calendar days prior to the due date thereof, and shall accept any reasonable revisions from Hikma on the return, amended return, or written statement.

5. For the avoidance of doubt, neither Hikma nor the Settling States and Participating Subdivisions make any warranty or representation to any Settling State, Participating Subdivision, or Releasor as to the tax consequences of the payment of the Compensatory Restitution Amount (or any portion thereof).

F. *No Third-Party Beneficiaries.* Except as expressly provided in this Agreement, no portion of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not the Settling State or Released Entity. Settling States may not assign or otherwise convey any right to enforce any provision of this Agreement.

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

H. *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.

I. *Cooperation.* 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 and the Consent Judgments.

J. *Entire Agreement.* This Agreement, including its exhibits and any other attachments, 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.

K. *Execution.* This Agreement 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 Agreement. One or more counterparts of this Agreement may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart hereof. One or more counterparts of this Agreement may be signed by electronic signature.

L. *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) was made to them to induce them to enter into this Agreement.

M. *Legal Obligations.* Nothing in this Agreement shall be construed as relieving Hikma 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.

N. *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.

O. *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 XIV.M.

P. *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 or in any litigation or arbitration concerning Hikma's right to coverage under an insurance contract.

Q. *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 below:

For the Attorney(s) General:

Josh Stein, Attorney General
North Carolina Department of Justice
Attn: Daniel Mosteller, Deputy General Counsel

PO Box 629
Raleigh, NC 27602
Dmosteller@ncdoj.gov

Jonathan Skrmetti, Attorney General
Tennessee Attorney General's Office
Attn: Michael Leftwich, Senior Deputy Attorney General
Hamilton Millwee, Assistant Attorney General
P.O. Box 20207
Nashville, TN 37202
Michael.Leftwich@ag.tn.gov
Hamilton.Millwee@ag.tn.gov

Letitia James, Attorney General
New York State Attorney General
Attn: Jennifer Levy, First Deputy Attorney General
Monica Hanna, Special Counsel
Matthew Conrad, Assistant Attorney General
28 Liberty Street, New York, NY 10005
Jennifer.Levy@ag.ny.gov
Monica.Hanna@ag.ny.gov
Matthew.Conrad@ag.ny.gov

For the Plaintiffs' Executive Committee:

Co-leads
Jayne Conroy
Simmons Hanly Conroy LLC
112 Madison Avenue
7th Floor
New York, NY 10016-7416
JConroy@simmonsfirm.com

Joseph F. Rice
Motley Rice LLC
28 Bridgeside Blvd.
Mount Pleasant, SC 29464
jrice@motleyrice.com

Paul T. Farrell, Jr.
Farrell & Fuller, LLC
270 Munzo Rivera Ave, Suite 201
San Juan, Puerto Rico 00918
paul@farrellfuller.com

For Hikma:

Hikma Pharmaceuticals USA Inc.
200 Connell Drive
Berkeley Heights, NJ 07922
Attn: Legal Department
Email: USLegal@hikma.com

With a copy to Hikma's counsel:

Christopher Essig
Winston & Strawn LLP
35 W. Wacker Dr.
Chicago, IL 60601
T: (312) 399-4334
Email: CEssig@winston.com

Any Party or the Plaintiffs' Executive Committee 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 XIV.Q.

R. *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.

S. *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.

T. *Successors.*

1. This Agreement shall be binding upon, and inure to the benefit of, Hikma and its respective successors and assigns.

2. Hikma shall not, in one (1) transaction or a series of related transactions, sell or transfer U.S. assets having a fair market value equal to twenty-five percent (25%) or more of the consolidated assets of Hikma (other than sales or transfers of inventories, or sales or transfers to an entity owned directly or indirectly by Hikma) where the sale or transfer is announced after the Reference Date, is not for fair consideration, and would foreseeably and unreasonably jeopardize Hikma's ability to make the payments under this Agreement or its obligations regarding Settlement

Product under Section XV following the close of a sale or transfer transaction, unless Hikma obtains the acquiror's agreement that it will be either a guarantor of or successor to the percentage of Hikma's remaining Payment Obligations under this Agreement equal to the percentage of Hikma's consolidated assets being sold or transferred in such transaction. Percentages under this section shall be determined in accordance with United States generally accepted accounting principles and as of the date of Hikma's most recent publicly filed consolidated balance sheet prior to the date of entry into the sale or transfer agreement at issue. This Section XIV.T shall be enforceable solely by the Settling States, and any objection under this Section XIV.T not raised within sixty (60) calendar days of the announcement of the relevant transaction is waived.

U. *Modification, Amendment, Alteration.* In the event the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, or Hikma concludes prior to the Reference Date that technical corrections are required to this Agreement, the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, and Hikma shall meet and confer and make such amendments as they agree are appropriate. After the Reference Date, any modification, amendment, or alteration of this Agreement by the Parties shall be binding only if evidenced in writing signed by Hikma, along with the signature of at least two-thirds of those then serving as Attorneys 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 VI.E.2.d, 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.

V. *Termination.*

1. Unless otherwise agreed to by each of Hikma and the Settling States, this Agreement and all of its terms (except Section XIV.P and any other non-admissibility provisions, which shall continue in full force and effect) shall be canceled and terminated with respect to the Settling State, and the Agreement and all orders issued by the courts in the Settling State pursuant to the Agreement shall become null and void and of no effect if one or more of the following conditions applies:

a. a Consent Judgment approving this Agreement without modification of any of the Agreement's terms has not been entered as to a Settling State by a court of competent jurisdiction on or before one hundred eighty (180) calendar days after the Effective Date;

b. this Agreement or the Consent Judgment as to that Settling State has been disapproved by a court of competent jurisdiction to which it was presented for approval and/or entry (or, in the event of an appeal from

or review of a decision of such a court to approve this Agreement and the Consent Judgment, by the court hearing such appeal or conducting such review), and the time to appeal from such disapproval has expired, or, in the event of an appeal from such disapproval, the appeal has been dismissed or the disapproval has been affirmed by the court of last resort to which such appeal has been taken and such dismissal or disapproval has become no longer subject to further appeal (including, without limitation, review by the United States Supreme Court); or

2. If this Agreement is terminated with respect to a Settling State and its Subdivisions for whatever reason pursuant to Section XIV.V.1, then:

a. an applicable statute of limitation or any similar time requirement (excluding any statute of repose) shall be tolled from the date the Settling State signed this Agreement until the later of the time permitted by applicable law or for one year from the date of such termination, with the effect that Hikma and the Settling State shall be in the same position with respect to the statute of limitation as they were at the time the Settling State filed its action; and

b. Hikma and the Settling State and its Participating Subdivisions shall jointly move the relevant court of competent jurisdiction for an order reinstating the actions and claims dismissed pursuant to the terms of this Agreement governing dismissal, with the effect that Hikma and the Settling State and its Participating Subdivisions shall be in the same position with respect to those actions and claims as they were at the time the action or claim was stayed or dismissed.

3. Unless Hikma and the Enforcement Committee agree otherwise, this Agreement, with the exception of the Injunctive Relief Terms that have their own provisions on duration, shall terminate as of May 15, 2027, provided that Hikma has performed its payment and Settlement Product obligations under the Agreement as of that date. Notwithstanding any other provision in this Section XIV.V.3 or in this Agreement, all releases under this Agreement will remain effective despite any termination under this Section XIV.V.3.

W. *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 Hikma or against which Hikma is seeking enforcement. Notwithstanding any other provision in this subsection on governing law, any disputes relating to the Settlement Fund Escrow shall be governed by and interpreted in accordance with the law of the state where the escrow agent has its primary place of business.

X. *Bankruptcy.* The following provisions shall apply if Hikma enters bankruptcy and (i) the Hikma bankruptcy estate recovers, pursuant to 11 U.S.C. § 550, any payments made under this Agreement, or (ii) this Agreement is deemed executory and is rejected by Hikma pursuant to 11 U.S.C. § 365:

1. In the event that the both a number of Settling States equal to at least seventy-five percent (75%) of the total number of Settling States and Settling States having aggregate State Allocation Percentages as set forth on Exhibit F equal to at least seventy-five percent (75%) of the total aggregate State Allocation Percentages assigned to all Settling States deem (by written notice to Hikma) that the financial obligations of this Agreement have been terminated and rendered null and void (except as provided in Section XIV.X.1.a) due to a material breach by Hikma, whereupon:

a. all agreements, all concessions, all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall immediately and automatically be deemed null and void as to Hikma; the Settling States shall be deemed immediately and automatically restored to the same position they were in immediately prior to their entry into this Settlement Agreement in respect to Hikma and the Settling States shall have the right to assert any and all claims against Hikma in the bankruptcy or otherwise without regard to any limits or agreements as to the amount of the settlement otherwise provided in this Agreement; *provided, however,* that notwithstanding the foregoing sentence, (i) all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall remain in full force and effect as to all persons or entities other than Hikma itself; and (ii) in the event the Settling State asserts any Released Claim against Hikma after the rejection and/or termination of this Agreement as described in this Section XIV.X.1.a and receives a judgment, settlement or distribution arising from such Released Claim, then the amount of any payments the Settling State has previously received from Hikma under this Agreement shall be applied to reduce the amount of any such judgment, settlement or distribution (provided that no credit shall be given against any such judgment, settlement or distribution for any payment that the Settling State is required to disgorge or repay to Hikma's bankruptcy estate); and

b. the Settling States may exercise all rights provided under the federal Bankruptcy Code (or other applicable bankruptcy or non-bankruptcy law) with respect to their Claims against Hikma subject to all defenses and rights of the Hikma.

Y. *Waiver*. Hikma, for good and valuable consideration the receipt of which is acknowledged, hereby (a) waives, foregoes and relinquishes all rights to utilize and/or seek relief under any of the following laws of the State of Texas for the restructuring of its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date,

or this Agreement: Tex. Bus. Orgs. Code § 10.003 (Contents of Plan of Merger: More Than One Successor) or any other statute of Subchapter A of Chapter 10 of Tex. Bus. Orgs. Code to the extent such statute relates to multi-successor mergers (and/or any other similar laws or statutes in any other state or territory); Tex. Bus. Orgs. Code §§ 11.01–11.414 (Winding Up and Termination of Domestic Entity); or Tex. Bus. & Com. Code §§ 23.01–23.33 (Assignments for the Benefit of Creditors) (collectively, the "Texas Statutes"), and (b) agrees, warrants and represents that it will not file, request or petition for relief under the Texas Statutes related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement, in each case until such time as all of Hikma's payment obligations incurred hereunder are satisfied in full. The foregoing waiver and relinquishment includes, without limitation, until such time as all of Hikma's payment obligations incurred hereunder are satisfied in full, Hikma's rights to execute a divisional merger or equivalent transaction or restructuring related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement that in each case has the intent or foreseeable effect of (i) separating material assets from material liabilities and (ii) assigning or allocating all or a substantial portion of those liabilities to any subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code, or pursuant to which such subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code would be assuming or retaining all or a substantial portion of those liabilities.

XV. Settlement Product

A. The Settlement Product is Kloxxado (naloxone HCl) nasal spray 8mg, a medication that counteracts the life-threatening effects of opioid overdose and significantly reduces opioid-overdose mortality.

B. For the purposes of this agreement, Hikma has agreed to provide the Settling States Settlement Product valued at $34,720,371, which equals 277,763 cartons of Settlement Product (each carton contains two devices), valued at a fixed Wholesale Acquisition Cost (WAC) of $125 per carton, allocated in accordance with the allocation percentage as reflected in Exhibit D-1. Hikma shall cover the cost of the Settlement Product distribution set forth in this Agreement. For the avoidance of doubt, Participating Subdivisions and Special Districts are not eligible to make a Settlement Product election pursuant to this agreement.

C. Hikma shall provide the full Settlement Product to Settling States by May 15, 2027.

D. Consistent with the Settlement Product Election Form contained in Exhibit D, each Settling State shall have the discretion to convert any portion of the Settlement Product allocated to the Settling State into a cash value equaling twenty percent (20%) of the WAC value of the Settling State's allocated Settlement Product. Such decision must be made prior to the Settlement Product Election Date; Settling States will have no ability to convert any portion of the Settlement Product to Settlement Product Cash Conversion Amount following the Settlement Product Election Date. Unless cash conversion amounts are specifically

addressed in a State-Subdivision Agreement or Allocation Statute, a Settling State's Settlement Product Cash Conversion Amount shall be disbursed to the Settling State in the same manner as its Remediation Accounts Fund payments are made pursuant to Section VI. This cash conversion payment is due by May 15, 2027.

E. Within thirty (30) days of the Effective Date, each Settling State shall notify Hikma and the Settlement Fund Administrator of its Settlement Product election by submitting the Settlement Product Election Form reflected in Exhibit D.

F. Settling States that do not make a Settlement Product Election within 30 days of the Effective Date shall be deemed to have elected to receive full Settlement Product and to have elected not to convert any portion of the Settlement Product into Settlement Product Cash Conversion Amount. Commencing within thirty (30) days of the Effective Date, the Settling States that have submitted a Settlement Product Election Form may place periodic orders for Settlement Product consistent with Section XV and Exhibit D.

G. The Parties understand that the provision of Settlement Product constitutes compensatory restitution within the meaning of 26 U.S.C. § 162(f)(2)(A) and that the receipt of Settlement Product must be reported on IRS Form 1098-F consistent with subsection XIV.E.

H. In addition to offering Kloxxado (naloxone HCl) nasal spray 8mg per this Section XV and Exhibit D, Hikma, at its sole discretion, may also offer Settling States different versions or greater amounts of Settlement Product or different products that can be accepted by the Settling State in lieu of its full allotment of the Settlement Product or Settlement Product Cash Conversion Amount. Distribution and other terms related to such substitute product shall be set out in Hikma's offer. Nothing in this subsection changes the terms of this Agreement regarding the provision of Settlement Product or the calculation or availability of the Settlement Product Cash Conversion Amount.

I. In the event of a Force Majeure Event, Hikma shall promptly provide written notice to the Settling States. Hikma and the States shall meet and confer within seven (7) days of such written notice to establish a commercially reasonable plan to resolve any inability to supply as quickly as reasonably possible, it being understood that, unless otherwise agreed to by the Parties, it is Hikma's obligation to use reasonable efforts which are consistent with accepted industry practices to resume performance as soon as practicable under the circumstances.

J. Settling States shall not be permitted to return to Hikma any Settlement Product under any circumstances other than a recall of the Settlement Product initiated by Hikma or FDA, in which case Hikma's sole obligation shall be to supply the same number of Settlement Product units to replace the recalled product.

INDIVIOR SETTLEMENT AGREEMENT

INDIVIOR SETTLEMENT AGREEMENT

This Settlement Agreement, dated as of April 4, 2025 (the "*Agreement*"), sets forth the terms of settlement between and among the Settling States, the Participating Subdivisions, and Indivior (as those terms are defined below). Upon satisfaction of the conditions set forth in Sections II and VIII, this Agreement will be binding on the Settling States, Indivior, and the Participating Subdivisions. 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 Section VIII.

I. Definitions

Unless otherwise specified, the following definitions apply:

A. *"Additional Remediation Amount."* The amount available to the Settling States totaling up to $1,460,450 to be paid in accord with the payment schedule at Exhibit M-3.

B. *"Adjusted Maximum Remediation Payment."* The Maximum Remediation Payment reduced by the State Allocation Percentage for each Non-Settling State on Exhibit F.

C. *"Agreement."* This agreement, as set forth above. For the avoidance of doubt, this Agreement is inclusive of all exhibits.

D. *"Alleged Harms."* The alleged past, present, and future damages, harms, losses, and related expenditures allegedly incurred by the Settling States and Participating Subdivisions arising out of the use 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, death, and other related diseases and disorders, and that have allegedly been caused by Released Entities.

E. *"Allocation Statute."* 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.

F. *"Annual Fees Payment."* The amounts payable by Indivior in each Payment Year comprised of the Additional Remediation Amount payment, and the Private Attorney Fees payment, and not including the Annual Remediation Payment.

G. *"Annual Remediation Maximum."* The total amount available to Eligible States for Annual Remediation Payments in each Payment Year as set forth in the "Maximum Annual Remediation Payment" column of Exhibit M-1. In no event shall an Annual Remediation Payment in Payment Years 1-2 exceed the Annual Remediation Maximum for that Payment Year set forth in Exhibit M-1. For Payment Years 3-4, the Annual Remediation Payment may exceed the Annual Remediation Maximum for that Payment Year only to the extent needed for the Incentive Payment A Catch-up Payment for a Settling State that has not earned some or all of Incentive Payment BC in prior Payment Years, having resulted in correspondingly lower Annual Remediation Payments in those prior Payment Years.

H. *"Annual Remediation Payment."* The amount payable to the Settlement Fund by Indivior for Settling States' Base Payments and Incentive Payments on the Payment Date for each Payment Year, as calculated by the Settlement Fund Administrator.

I. *"Appropriate Official."* As defined in Section XIII.E.3.

J. *"Bankruptcy Code."* Title 11 of the United States Code, 11 U.S.C. § 101, et seq.

K. *"Bar."* Either: (1) a law barring Subdivisions in a Settling State from maintaining or asserting Released Claims against Released Entities (either through a direct bar or through a grant of authority to release claims and 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 or assert any Released Claims against Released Entities, 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 Released Entity (apart from the Annual Remediation Payments by Indivior under this Agreement) shall not constitute a Bar.

L. "*Base Payment.*" As defined in Section IV.G.

M. *"Case-Specific Resolution."* Either: (1) a law barring the Subdivision at issue from maintaining any Released Claims against any Released Entities (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 Released Claims at issue against any Released Entities, 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 Released Entity (apart from the annual payments by Indivior under this Agreement) shall not constitute a Case-Specific Resolution.

N. *"Claim."* Any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, fine, penalty, restitution, reimbursement, disgorgement, expenses, remediation, judgment, right, obligation, dispute, suit, contract, controversy, agreement, *parens patriae* claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under

federal, state or local common law, statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including, but not limited to, any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, remediation, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative, or regulatory remedy whatsoever.

O. *"Claim-Over."* A Claim asserted by a Non-Released Entity against a Released Entity 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.

P. *"Compensatory Restitution Amount."* The aggregate amount paid or incurred by Indivior 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 V.B.2 as being used to pay attorneys' fees, investigation costs or litigation costs, which shall be up to the amount of the Adjusted Maximum Remediation Payment.

Q. *"Consent Judgment."* A consent judgment in a form to be agreed by the Settling States and Indivior prior to the Effective Date that, among other things, (1) approves this Agreement and (2) provides for the release set forth in Section X.A, including the dismissal with prejudice of any Released Claims that the Settling State has brought against Released Entities.

R. *"Covered Conduct" means* any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, service, work, sale, misstatement, misleading statement or other activity of any kind whatsoever from the beginning of time through the Reference 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, service, work, misstatement, misleading statement or other activity) relating in any way to (a) compounding, counseling and documentation relating to any Product or class of Products (b) the availability, discovery, research, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, re-labeling, recall, withdrawal, distribution, delivery, monitoring, reporting, regulatory compliance, supply, sale, offering, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to, any Product, or any system, plan, policy, procedure, or advocacy relating to any Product or class of Products, including, but not limited to, any branded or unbranded promotion, marketing, or advertising, information, patient support or assistance, educational programs, consultancy, research, other programs, or campaigns, lobbying, or grants, sponsorships, charitable donations, or other funding relating to any Product or class of Products; (c) the characteristics, properties, risks, or benefits of any Product; (d) the monitoring or non-monitoring of orders placed of any Product; (e) the reporting, disclosure, nonreporting or non-disclosure to federal, state or other regulators of orders for any Product placed with any Released Entity; (f) the selective breeding,

harvesting, extracting, purifying, exporting, importing, applying for quota for, procuring quota for, handling, promoting, manufacturing, processing, packaging, supplying, distributing, converting, or selling of, or otherwise engaging in any activity relating to, precursor or component Products, including but not limited to natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, or any related intermediate Products; or (g) diversion control programs, suspicious order monitoring, or regulatory compliance related to any Product.

S. "*Designated State.*" The State of New York.

T. *"Effective Date."* The date sixty (60) calendar days after the Reference Date.

U. "*Eligible States*." The states, commonwealths, and territories of the United States of America. The 56 Eligible States are listed in Exhibit F.

V. *"Enforcement Committee.*" A committee consisting of representatives of the Settling States and of the Participating Subdivisions. Exhibit B contains the organizational bylaws of the Enforcement Committee. Notice pursuant to Section XIII.Q shall be provided when there are changes in membership or contact information.

W. *"Final Order."* An order or judgment of a court of competent jurisdiction with respect to the applicable subject matter (1) which has not been reversed or superseded by a modified or amended order, is not currently stayed, and as to which any right to appeal or seek certiorari, review, reargument, stay, or rehearing has expired, and as to which no appeal or petition for certiorari, review, reargument, stay, or rehearing is pending, or (2) as to which an appeal has been taken or petition for certiorari, review, reargument, stay, or rehearing has been filed and (a) such appeal or petition for certiorari, review, reargument, stay, or rehearing has been resolved by the highest court to which the order or judgment was appealed or from which certiorari, review, reargument, stay, or rehearing was sought, or (b) the time to appeal further or seek certiorari, review, reargument, stay, or rehearing has expired and no such further appeal or petition for certiorari, review, reargument, stay, or rehearing is pending.

X. "*Force Majeure Event.*" Any event reasonably beyond the control of Indivior that prevents Indivior from manufacturing or distributing Settlement Product, including wars, hostilities, revolution, riots, civil commotion, national emergency, unavailability of supplies, epidemics, pandemics, health crisis, fire, flood, earthquake, force of nature, explosion, terrorist act, embargo, or any act of God, or any law, regulation, ordinance, or other act or order of any court or governmental authority.

Y. "*Global Settlement Amount.*" The Global Settlement Amount is $83,537,683, which is comprised of the Maximum Remediation Payment, Private Attorney Fees, Additional Remediation Amount, and the Settlement Product Cash Conversion Amount.

Z. "*Implementation Administrator*." Rubris, Inc., which is the vendor that will be retained by Indivior to provide notice pursuant to Section VII.A and to manage the initial joinder

period for Subdivisions, including the issuance and receipt of Subdivision Participation Agreements.

AA. *"Incentive Payment A."* The incentive payment described in Section IV.H.4.

BB. "*Incentive Payment A Catch-up Payment*." As defined in Section IV.H.4.f.

CC. *"Incentive Payment BC."* The incentive payment described in Section IV.H.5.

DD. *"Incentive Payment D."* The incentive payment described in Section IV.H.6

EE. *"Indivior."* Indivior Inc.

FF. *"Initial Participating Subdivision."* A Subdivision that meets the requirements set forth in Section VII.D.

GG. *"Initial Participation Date."* The date ninety (90) calendar days after the Preliminary Agreement Date, unless it is extended by written agreement of Indivior and the Enforcement Committee.

HH. *"Injunctive Relief Terms."* The terms described in Section III and set forth in Exhibit P.

II. *"Later Litigating Subdivision."* 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 Released Claim against a Released Entity after the Reference Date; or (2) adds a Released Claim against a Released Entity after the Reference Date to a lawsuit brought before the Reference Date that, prior to the Reference Date, did not include any Released Claims against a Released Entity; or (3) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a legislative Bar or legislative Case-Specific Resolution as of the Reference Date, (b) such legislative Bar or legislative Case-Specific Resolution is subject to a Revocation Event after the Reference 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 Released Claim against a Released Entity or one hundred eighty (180) 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 Released Claims being dismissed; or (4) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a judicial Bar or judicial Case-Specific Resolution as of the Reference Date, (b) such judicial Bar or judicial Case-Specific Resolution is subject to a Revocation Event after the Reference Date, and (c) such Litigating Subdivision takes any action in its lawsuit asserting a Released Claim against a Released Entity other than seeking a stay or dismissal.

JJ. *"Later Participating Subdivision."* A Participating Subdivision that is not an Initial Participating Subdivision, but meets the requirements set forth in Section VII.E.

KK. *"Litigating Subdivision."* A Subdivision (or Subdivision official) that brought any Released Claim against any Released Entity prior to the Reference Date. 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.

LL. *"Maximum Remediation Payment."* The maximum amount owed by Indivior to the Settling States and Subdivisions, exclusive of the Private Attorney Fees, the Additional Remediation Amount and the Settlement Product Cash Conversion Amount. The amount of the Maximum Remediation Payment is $38,022,450.

MM. *"National Arbitration Panel."* The panel comprised as described in Section VI.F.3.b.

NN. "*National Disputes."* As defined in Section VI.F.3.a.

OO. *"Non-Litigating Subdivision."* Any Subdivision that is not a Litigating Subdivision.

PP. *"Non-Participating Subdivision."* Any Subdivision that is not a Participating Subdivision.

QQ. *"Non-Party Covered Conduct Claim."* A Claim against any Non-Released Entity involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity).

RR. *"Non-Party Settlement."* A settlement by any Releasor that settles any Non-Party Covered Conduct Claim and includes a release of any Non-Released Entity.

SS. *"Non-Released Entity."* An entity that is not a Released Entity.

TT. "*Non-Settling State."* Any Eligible State that is not a Settling State.

UU. *"Opioid Remediation."* Care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures[1] 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, (2) treat or mitigate opioid use or related disorders, or (3) mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic. 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.

[1] Reimbursement includes amounts paid to any governmental entities for past expenditures or programs

VV. *"Participating Subdivision."* Any Subdivision that meets the requirements for becoming a Participating Subdivision under Section VII.B and Section VII.C. Participating Subdivisions include both Initial Participating Subdivisions and Later Participating Subdivisions.

WW. "*Participation Percentage of Incentive BC Eligible Subdivision Population."* As defined in Section IV.H.5.e.

XX. *"Parties."* Indivior and the Settling States (each, a *"Party").*

YY. *"Payment Date."* July 25, 2025, for Payment Year 1 and March 1 for each Payment Year thereafter, which are the dates by which Indivior shall make the Annual Remediation Payment, the Annual Fees Payment in Payment Years 2-4, and the payment for Settlement Product Cash Conversion Amount in Payment Year 5.

ZZ. *"Payment Year."* The calendar year during which the applicable Annual Remediation Payment and/or the Annual Fees Payment and/or the payment for Settlement Product Cash Conversion Amount, are due. Payment Year 1 is 2025, Payment Year 2 is 2026 and so forth. References to payment "*for a Payment Year"* mean the Annual Remediation Payment and/or Annual Fees Payment and/or the payment for Settlement Product Cash Conversion Amount due during that year. References to eligibility "*for a Payment Year"* mean eligibility in connection with the Annual Remediation Payment and/or Annual Fees Payment and/or the payment for Settlement Product Cash Conversion Amount due during that year.

AAA. "*Preliminary Agreement Date."* The date on which Indivior is to inform the Settling States of its determination that the condition in Section II.B has been satisfied. The Preliminary Agreement Date shall be no more than fourteen (14) calendar days after the end of the notice period to Eligible States, unless it is extended by written agreement of Indivior and the Enforcement Committee.

BBB. "*Primary Fire District."* A fire district that covers a population of 25,000, or 0.20% of an Eligible State's population if an Eligible State's population is greater than 18 million. If not easily calculable from state data sources and agreed to between the Eligible State and Indivior, 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. "Primary Fire Districts" shall mean fire districts as identified in connection with the implementation of the July 21, 2021, Janssen Settlement Agreement.

CCC. *"Primary Subdivision."* A Subdivision that is a General Purpose Government (including, but not limited to, a municipality, a county, county subdivision, city town, township, parish, village, borough, gore, or any other entities that provide municipal-type government) with population over 10,000; *provided, however,* that as used in connection with Incentive Payment BC, the population threshold is 30,000. Attached as Exhibit I is an agreed list of the Primary Subdivisions in each Eligible State.

DDD. *"Private Attorney Fees"* are the amount to be paid for private attorneys' litigation fees and costs on behalf of Participating Subdivisions. The maximum amount of Private Attorney Fees is $9,054,783. For avoidance of doubt, Private Attorney Fees do not include the Additional Remediation Amount.

EEE. *"Product."* Any chemical substance, 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 substance, that is: (1) an opioid or opiate, as well as any product containing any such substance; (2) benzodiazepine, carisoprodol, or gabapentin; or (3) a combination or "cocktail" of chemical substances prescribed, sold, bought, or dispensed to be used together that includes opioids or opiates. "Product" shall include, but is not limited to, any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, naloxone, naltrexone, oxycodone, oxymorphone, pentazocine, propoxyphene, tapentadol, tramadol, opium, heroin, carfentanil, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triozolam, temazepam, midazolam, carisoprodol, gabapentin, or any variant of these substances or any similar substance. Notwithstanding the foregoing, nothing in this section prohibits a Settling State from taking administrative or regulatory action related to benzodiazepine (including, but not limited to, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triozolam, temazepam, and midazolam), carisoprodol, or gabapentin that is wholly independent from the use of such drugs in combination with opioids, *provided* such action does not seek money (including abatement and/or remediation) for conduct prior to the Initial Participation Date. "Product" also includes any natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, and any intermediate products used or created in the manufacturing process for any of the substances described above.

FFF. *"Reference Date."* The date on which Indivior is to inform the Settling States of its determination whether the condition in Section VIII has been satisfied. The Reference Date shall be no later than thirty (30) calendar days after the Initial Participation Date, unless it is extended by written agreement of Indivior and the Enforcement Committee.

GGG. *"Released Claims."* Any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct and/or Alleged Harms occurring prior to the Initial Participation Date. Without limiting the foregoing, Released Claims include any Claims that have been asserted against Released Entities by a Settling State or Litigating Subdivision in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) based on, arising out of, or relating to, in whole or in part, the Covered Conduct and/or Alleged Harms, or any such Claims that could be or could have been asserted now or in the future in those actions or in any comparable action or proceeding brought by a Settling State, Subdivision, or Releasor (whether or not such Settling State, Subdivision, or Releasor has brought such action or proceeding). Released Claims also include all Claims against Released Entities asserted in any proceeding to be dismissed pursuant to the Agreement, whether or not such claims relate to Covered Conduct and/or Alleged Harms. The Parties intend that this term, "Released Claims," be interpreted broadly. This Agreement does not release Claims by private individuals. It is the intent of the Parties that Claims by private individuals be treated in accordance with

applicable law. Released Claims is also used herein to describe claims brought by a non-party Subdivision that would have been Released Claims if they had been brought by a Releasor against a Released Entity. Claims relating to or concerning Covered Conduct pertaining to Indivior's product Sublocade® are not "Released Claims" under this Agreement.

HHH. *"Released Entities."* This includes Indivior and (1) all past and present parents, subsidiaries, affiliates, divisions, predecessors, successors, and assigns (in each case, whether direct or indirect) of Indivior; (2) all past and present parents, subsidiaries, affiliates, and divisions (in each case, whether direct or indirect) of any entity described in subsection (1); (3) the respective past and present officers, directors, members, trustees, and employees of any of the foregoing (each for actions that occurred during and related to their work for, or employment with, any of Indivior or the foregoing entities); (4) all past and present joint ventures (whether direct or indirect) of Indivior or its parents, subsidiaries, or affiliates, including in any such entity's capacity as a participating member in such joint venture; (5) all past and present direct or indirect parents and shareholders of Indivior (solely in their capacity as parents or shareholders of Indivior with respect to Covered Conduct); and (6) all past and present contract manufacturers of any Product commercialized by Indivior or any person or entity otherwise described in subsections (1)-(5) (solely in their capacity as contract manufacturers); and (7) any past or present insurer of Indivior or any person or entity otherwise described in subsections (1)-(6) (solely in its role as insurer of such person or entity and subject to the last sentence of Section X.C). A list of Indivior's joint ventures, subsidiaries, affiliates, contract manufacturers, and predecessor entities is set forth in Exhibit J. Any person or entity described in subsections (3)-(7) shall be a Released Entity solely in the capacity described in such clause and shall not be a Released Entity with respect to its conduct in any other capacity. Any entity acquired, or joint venture entered into, by Indivior after the Initial Participation Date is not a Released Entity. Further and notwithstanding anything else in this paragraph, no entity sued in *In re: National Prescription Opiate Litigation*, No. 1:17-md-2804 (N.D. Ohio) is included as a Released Entity other than the entities listed on Exhibit J.

III. *"Releasors."* This includes (1) each Settling State; (2) each Participating Subdivision; and (3) without limitation and to the maximum extent of the power of each Settling State's Attorney General's and/or Participating Subdivision to release Claims, (a) the Settling State's and Participating Subdivision's departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind 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, water districts, emergency services districts, school districts, healthcare districts, hospital districts, Sheriffs and law enforcement districts, library districts, coroner's offices, and public transportation authorities, and other Special Districts in a Settling State, including those with the regulatory authority to enforce state and federal controlled substances acts or the authority to bring Claims related to Covered Conduct seeking money (including abatement (or remediation and/or restitution)) or revoke a pharmaceutical distribution license, 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 , including but not limited to, fines, penalties, or punitive damages, 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. 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. Each Settling State's Attorney General represents that he or she has or has obtained (or will obtain no later than the Initial Participation Date) the authority set forth in Section X.G. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide the Subdivision Settlement Participation Form referenced in Section VII providing for a release to the fullest extent of the Participating Subdivision's authority.

JJJ. *"Remediation Accounts Fund."* The component of the Settlement Fund described in Section V.

KKK. *"Revocation Event."* With respect to a Bar, or Case-Specific Resolution, a revocation, rescission, reversal, overruling, or interpretation that in any way limits the effect of such Bar, or Case-Specific Resolution on Released Claims, or any other action or event that otherwise deprives the Bar, or Case-Specific Resolution of force or effect in any material respect.

LLL. *"Settlement Fund."* The interest-bearing fund established at [Bank TBD] pursuant to this Agreement into which the Annual Remediation Payments are made under Section IV, which is intended to be classified as a "qualified settlement fund" within the meaning of 26 C.F.R. §§ 1.468B-1 *et seq*. and which shall be approved by any Settling State in accordance with the requirements of 26 C.F.R. § 1.468B-1.

MMM. *"Settlement Fund Administrator."* BrownGreer PLC, which is the entity that annually determines the Annual Remediation Payment (including calculating offset or reduction and Incentive Payments pursuant to Section IV and any amounts subject to offset pursuant to Section XII) and Additional Remediation Amount, administers the Settlement Fund, and distributes amounts into the Remediation Accounts Fund, State Fund, and Subdivision Fund pursuant to this Agreement. The duties of the Settlement Fund Administrator shall be governed by this Agreement. Prior to the Effective Date, Indivior and the Enforcement Committee shall agree to a detailed description of the Settlement Fund Administrator's duties and responsibilities, including a detailed mechanism for paying the Settlement Fund Administrator's fees and costs, all of which shall be appended to the Agreement as Exhibit L.

NNN. *"Settlement Fund Escrow."* The interest-bearing escrow fund established pursuant to this Agreement to hold disputed payments made under this Agreement.

OOO. *"Settlement Payment Schedule."* The schedule attached to this Agreement as Exhibit M-1, Exhibit M-2, and Exhibit M-3.

PPP. *"Settlement Product*" means SUBLOCADE® (buprenorphine extended-release) injection for subcutaneous use and Indivior's OPVEE (nalmefene) nasal spray, which are provided to the Settling States as part of the settlement, at no cost as set forth in Section XIV and Exhibit D.

QQQ. "*Settlement Product Cash Conversion Amount*" means the resulting dollar amount from when a Settling State has elected to convert all or a portion of its Settlement Product Allocation into a cash payment pursuant to Section XIV and Exhibit D. The aggregate, maximum amount that could be paid from the conversion of Settlement Product into cash is $35,000,000.

RRR. "*Settlement Product Election Date*" is the date thirty (30) days after the Effective Date by which a Settling State must submit its election of the Settling State's allocation of Settlement Product or cash conversion of Settlement Product pursuant to Section XIV and Exhibit D.

SSS. "*Settlement Product Election Form"* means the form a Settling State uses to submit its election of the Settling State's allocation of Settlement Product or cash conversion of Settlement Product pursuant to Section XIV and Exhibit D.

TTT. "*Settling State."* An Eligible State that has entered into this Agreement and delivers executed releases in accordance with Section VIII.A.

UUU. "*State Allocation."* The Maximum Remediation Payment multiplied by the State Allocation Percentage for each Eligible State listed in Exhibit F.

VVV. "*State Allocation Percentage*." A Settling State's percentage as set forth in Exhibit F.

WWW. *"State Fund."* The component of the Settlement Fund described in Section V.

XXX. *"State-Subdivision Agreement."* 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.

YYY. *"Statutory Trust."* 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.

ZZZ. *"Statewide Payment Amount."* The amount from the Remediation Payment to be paid to a Settling State, including its separate types of funds (if applicable) and its Participating Subdivisions listed in Exhibit G.

AAAA. *"Subdivision."* Any (1) General Purpose Government (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore, or any other entities that provide municipal-type government), School District, 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, Nonfunctioning Governmental Units and public institutions) that has filed a lawsuit that includes a Released Claim against a Released Entity in a direct, *parens patriae,* or any other capacity. "General Purpose Government," "School District," and "Special District" shall correspond to the "five basic types of local governments" recognized by the U.S. Census Bureau and match the 2017 list of Governmental Units.[2] The three (3) General Purpose Governments are county, municipal, and township governments; the two (2) special purpose governments are School Districts and Special Districts.[3] "Fire District," "Health District," "Hospital District," and "Library District" shall correspond to categories of Special Districts recognized by the U.S. Census Bureau.[4] References to a Settling State's Subdivisions or to a Subdivision "in," "of," or "within" a Settling State include Subdivisions located within the Settling State even if they are not formally or legally a sub-entity of the Settling State; *provided, however,* that a "Health District" that includes any of the following words or phrases in its name shall not be considered a Subdivision: mosquito, pest, insect, spray, vector, animal, air quality, air pollution, clean air, coastal water, tuberculosis, and sanitary.

BBBB. "*Subdivision Allocation Percentage."* The portion of a Settling State's Subdivision Fund set forth in Exhibit G that a Subdivision will receive pursuant to Section V 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 V.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute,

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[2] https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP.

[3] *E.g.,* U.S. Census Bureau, "Technical Documentation: 2017 Public Use Files for State and Local Government Organization" at 7 (noting that "the Census Bureau recognizes five basic types of local governments," that three of those are "general purpose governments" (county governments, municipal governments, and township governments), and that the other two are "school district and special district governments"), https://www2.census.gov/programs-surveysigus/datasets/2017/2017_gov_org_meth_tech_doc.pdf.

[4] A list of 2017 Government Units provided by the Census Bureau identifies 38,542 Special Districts and categorizes them by "FUNCTION_NAME." "Govt_Units_2017_Final" spreadsheet, "Special District" sheet, included in "Independent Governments - list of governments with reference information," https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP. As used herein, "Fire District" corresponds to Special District function name "24 — Local Fire Protection," "Health District" corresponds to Special District function name "32 — Health," "Hospital District" corresponds to Special District function name "40 —Hospitals," and "Library District" corresponds to Special District function name "52 — Libraries." *See id.*

Statutory Trust, or voluntary redistribution allowed by Section V.D.3) that addresses allocation from the Subdivision Fund, whether before or after the Initial 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 V.D.3. The Subdivision Allocation Percentages contained in Exhibit G may not change once notice is distributed pursuant to Section VII.A, except upon the effectiveness of any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section V.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section V.D.3) 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.

CCCC. *"Subdivision Fund."* The component of the Settlement Fund described in Section V.A.

DDDD. *"Subdivision Settlement Participation Form."* The form attached as Exhibit K that Participating Subdivisions must execute and return to the Implementation Administrator or Settlement Fund Administrator, and which shall (1) make such Participating Subdivisions signatories to this Agreement, (2) include a full and complete release of any and all of such Subdivision's claims, and (3) require the prompt dismissal with prejudice of any Released Claims that have been filed by any such Participating Subdivision

EEEE. *"Threshold Motion."* A motion to dismiss or equivalent dispositive motion made at the outset of litigation under applicable procedure. A Threshold Motion must include as potential grounds for dismissal any applicable Bar or the relevant release by a Settling State or Participating Subdivision provided under this Agreement and, where appropriate under applicable law, any applicable limitations defense.

II. Participation by Eligible States and Condition to Preliminary Agreement

A. *Notice to Eligible States.* On May 26, 2025, this Agreement shall be distributed to all Eligible States. The Attorneys General of the Eligible States shall then have until June 25, 2025, to decide whether to become Settling States and notify Indivior of that decision. Eligible States that determine to become Settling States shall so notify Indivior and shall further commit to obtaining any necessary additional state releases prior to the Reference Date. This notice period may be extended by written agreement of Indivior and the Enforcement Committee.

B. *Condition to Preliminary Agreement*. Following the notice period set forth in Section II.A, Indivior shall have fourteen (14) calendar days to determine whether, in its sole discretion, enough Eligible States have agreed to become Settling States to proceed with notice to Subdivisions as set forth in Section VII. This period may be extended by written agreement of Indivior and the Enforcement Committee. If Indivior determines that this condition has been satisfied, and that notice to the Subdivisions should proceed, it will so notify the Settling States by providing notice to the Enforcement Committee. The date of such notice shall be the Preliminary

Agreement Date. If Indivior determines that this condition has not been satisfied, this Agreement will have no further effect and all releases and other commitments or obligations contained herein will be void.

C. *Later Joinder by Eligible States*. After the Preliminary Agreement Date, an Eligible State may only become a Settling State with the consent of Indivior and the Enforcement Committee, provided that the Enforcement Committee may not withhold consent to an Eligible States's later joinder if the Eligible State agrees to join pursuant to the terms of this Agreement and the allocation set forth on Exhibit F. If an Eligible State becomes a Settling State more than sixty (60) calendar days after the Preliminary Agreement Date, but on or before the Reference 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 Reference Date.

D. *Litigation Activity.* Following the Preliminary Agreement Date, Eligible States that determine to become Settling States shall make reasonable efforts to cease litigation activity against Indivior, including by jointly seeking stays or, where appropriate, severance of claim against Indivior, 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.

III. Injunctive Relief

A. *Injunctive Relief.* As part of the Consent Judgment, the Parties agree to the entry of the injunctive relief terms attached in Exhibit P.

IV. Settlement Payments

A. *Settlement Fund.* All payments under this Section IV shall be made into the Settlement Fund, except that, where specified, they shall be made into the Settlement Fund Escrow. The Settlement Fund shall be allocated and used only as specified in Section V.

B. *Annual Remediation Payments*

1. Indivior shall make four (4) Annual Remediation Payments, each comprised of Base Payments and Incentive Payments as provided in this Section IV and as determined by the Settlement Fund Administrator as set forth in this Agreement, *provided that* the Annual Remediation Payment in Payment Year 1 shall consist solely of Base Payments. The payment schedule for the Annual Remediation Payments is attached hereto as Exhibit M-2.

2. In no instance shall Indivior's Annual Remediation Payment obligation exceed the Annual Remediation Maximum, reduced for Non-Settling States, except as specified in the

definition of "Annual Remediation Maximum" for Payment Years 3 and 4. In no instance shall the sum of Indivior's Annual Remediation Payment obligations for Payment Years 1-4 exceed the sum of Indivior's Annual Remediation Maximums for Payment Years 1-4, reduced for Non-Settling States.

C. *Settlement Fund Payment Process*

1. To determine each Annual Remediation Payment for Payment Year 2 and forward, the Settlement Fund Administrator shall use the data as of sixty (60) days prior to the Payment Date for each payment, unless another provision of the Agreement specifies a different date. Prior to the Effective Date, the Parties will include Exhibit L, which sets forth in detail the process for the Settlement Fund Administrator to obtain relevant data and for distributing funds to the Settling States and their Participating Subdivisions listed on Exhibit G consistent with the terms of this Agreement as quickly as practical.

2. The Settlement Fund Administrator shall determine the Annual Remediation Payment and the Statewide Payment Amount for each Settling State, consistent with the provisions in Exhibit L, by:

a. Determining, for each Settling State, the Base Payment amount and Incentive Payment amount to which the Settling State is entitled by applying the criteria under Section IV.F, Section IV.G, and Section IV.H;

b. applying any offsets as specified under Section XII;

c. determining the total amount owed by Indivior to all Settling States and the Participating Subdivisions listed on Exhibit G; and

d. the Settlement Fund Administrator shall then allocate, after subtracting the portion of any Settlement Fund Administrator costs and fees owed out of funds from the Settlement Fund pursuant to Section V.C.5, the Annual Remediation Payment pursuant to Section V among the Settling States, among the separate types of funds for each Settling State (if applicable), and among the Participating Subdivisions listed on Exhibit G.

3. If, no later than fifty (50) days prior to the Payment Date, Indivior and the Enforcement Committee inform the Settlement Fund Administrator that they agree on the amount of the Annual Remediation Payment and the Statewide Payment Amount for each Settling State, Indivior shall pay the agreed-upon Annual Remediation Payment amount on the Payment Date and the Settlement Fund Administrator shall treat those amounts as the determination described in Section IV.C.2. If the Settlement Fund Administrator is not so informed, it shall give notice to Indivior, the Settling States, and the Enforcement Committee of the amount of the Annual Remediation Payment, and the Statewide Payment

Amount for each Settling State, following the determination described in Section IV.C.2, and the following timeline shall apply:

a. Within twenty-one (21) calendar days of the notice provided by the Settlement Fund Administrator, Indivior, any Settling State or the Enforcement Committee may dispute, in writing, the calculation of the Annual Remediation Payment or the Statewide Payment Amount for a Settling State. Such disputing party must provide a written notice of dispute to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Indivior identifying the nature of the dispute, the amount of money that is disputed, and the Settling State(s) affected.

b. Within twenty-one (21) calendar days of the sending of a written notice of dispute, any affected party may submit a response, in writing, to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Indivior identifying the basis for disagreement with the notice of dispute.

c. If no response is filed, the Settlement Fund Administrator shall adjust the amount calculated consistent with the written notice of dispute, and Indivior shall pay the adjusted amount, collectively totaling that Payment Year's Annual Remediation Payment, on the Payment Date. If a written response to the written notice of dispute is timely sent to the Settlement Fund Administrator, the Settlement Fund Administrator shall notify Indivior of the preliminary amount to be paid, which shall be the greater of the amount originally calculated by the Settlement Fund Administrator or the amount that would be consistent with the notice of dispute, *provided, however,* that in no circumstances shall the preliminary amount to be paid be higher than the Annual Remediation Maximum. For the avoidance of doubt, a transfer of payments from the Settlement Fund Escrow for other Payment Years does not count toward determining whether the amount to be paid is higher than the Annual Remediation Maximum or other relevant maximum payment.

d. The Settlement Fund Administrator shall place any disputed amount of the preliminary amount paid by Indivior into the Settlement Fund Escrow and shall disburse any undisputed amount to each Settling State and its Participating Subdivisions listed on Exhibit G pursuant to Section IV.C.4.

4. If a Settling State informs the Settlement Fund Administrator that it and its Participating Subdivisions listed on Exhibit G have agreed on the amount of its Statewide Payment Amount, determined pursuant to Section IV.C.2 or Section IV.C.3, to be distributed to the Settling State, among its separate types of funds (if applicable), and among its Participating Subdivisions listed on Exhibit G, the Settlement Fund Administrator shall disburse the Statewide Payment Amount pursuant to the consensus distribution amounts provided by the Settling State as quickly as practical. For a Settling State that does not so notify the Settlement Fund Administrator, the Settlement Fund Administrator shall allocate

the Settling State's Statewide Payment Amount, pursuant to Section V, 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:

a. As soon as possible for each payment and following the determination described in Section IV.C.2 or Section IV.C.3, the Settlement Fund Administrator shall give notice to the relevant Settling States and their Participating Subdivisions listed on Exhibit G of the amount to be received by each Settling State, the amount to be received by the separate types of funds for each Settling State (if applicable), and the amount to be received by each Participating Subdivision listed on Exhibit G for each Settling State.

b. Within twenty-one (21) days of the notice provided by the Settlement Fund 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 Fund 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.

c. Within twenty-one (21) 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 Fund Administrator, any affected Settling State and any affected Participating Subdivision identifying the basis for disagreement with the notice of dispute.

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

e. The Settlement Fund Administrator shall place any disputed amount into the Settlement Fund Escrow and shall disburse any undisputed amount to the Settling State and its Participating Subdivisions eligible for payment.

5. Disputes described in this subsection shall be resolved in accordance with the terms of Section VI.F.

6. The Settlement Fund Administrator may combine the disbursements of Annual Remediation Payments with disbursement of funds under other comparable opioid settlements. In determining when disbursements for each Annual Remediation Payment will be made, the Settlement Fund Administrator may take into account the timeline for the availability of disbursements under other comparable opioid settlements.

7. 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.

D. *Procedure for Annual Remediation Payment and Annual Fees Payment in Payment Year 1.* The process described in Section IV.C shall not apply to Payment Year 1. The procedure in lieu of Section IV.C for Payment Year 1 is as set forth below:

1. The Payment Date for Payment Year 1 is July 25, 2025. Indivior shall deposit into a segregated interest-bearing bank account it establishes the "Adjusted Maximum Base Payment" for Payment Year 1. This amount shall be calculated by multiplying the aggregate State Allocation Percentage attributable to Eligible States that have agreed to become Settling States by the Preliminary Agreement Date by the "Maximum Base Payment" amount specified in Exhibit M-2 for Payment Year 1. Indivior shall also deposit into two (2) separate segregated interest-bearing bank accounts it establishes: (a) the "Maximum Exhibit R Private Attorney Fees" for Payment Year 1 as specified in Exhibit M-3; and (b) the "Additional Remediation Amount" for Payment Year 1 as specified in Exhibit M-3. Indivior shall separately account for the interest earned on each of the three (3) accounts.

2. Indivior shall provide proof to the Enforcement Committee of the deposits required by Section IV.D.1 by July 25, 2025. Indivior shall not remove any money from the segregated bank accounts, except as provided by Sections IV.D.3-5.

3. In the event that, in accordance with the terms of Section VIII.B, Indivior determines not to proceed with the Settlement, or the Settlement does not become effective for any other reason, the funds held in the segregated bank accounts shall immediately revert to Indivior.

4. If the condition set forth in Section VIII.B is met, Indivior shall transfer into the Settlement Fund, no later than five (5) business days after the Reference Date (unless the Enforcement Committee specifies a later date), the amount in the segregated account holding the "*Adjusted Maximum Base Payment*" for Payment Year 1 plus the *total amount of the Base Payment* owed in Payment Year 1 for the Eligible States that newly agreed to become a Settling State between the Preliminary Agreement Date and the Reference Date, which shall be calculated by multiplying those Settling States' State Allocation Percentage by the amount specified in Exhibit M-2 for Payment Year 1. If the condition set forth in Section VIII.B is met, Indivior also shall transfer into the relevant funds as directed by the Enforcement Committee, no later than five (5) business days after the Reference Date (unless the Enforcement Committee specifies a later date), the amount in the segregated account holding the "*Maximum Exhibit R Private Attorney Fees*" for Payment Year 1 (including all interest accrued on that account), and the amount in the segregated account holding the "Additional Remediation Amount" for Payment Year 1 (including all interest accrued on that account), except that any reductions provided by Section IX.B and Exhibit

R shall revert to Indivior. Indivior shall provide an accounting to the Enforcement Committee of the transfers, including Statewide Payment Amount for Payment Year 1 for each Eligible State that newly agreed to become a Settling State between the Preliminary Agreement Date and the Reference Date.

5. The interest earned from the deposit account holding the Adjusted Maximum Base Payment for Payment Year 1 shall be used, first, to pay for the Implementation Administrator, then to pay for the Implementation Administrator in the Alvogen, Amneal, Apotex, Hikma, Mylan, Sun, and Zydus Settlement Agreements, and finally to be transferred to the Settlement Fund to be used to pay for the Settlement Fund Administrator pursuant to Section V.C.5.

6. The Annual Remediation Payment for Payment Year 1 transferred by Indivior into the Settlement Fund pursuant to Section IV.D.4 shall be disbursed by the Settlement Fund Administrator after the Effective Date to each Settling State and to its Initial Participating Subdivisions listed on Exhibit G pursuant to Section IV.C.4 through Section IV.C.7; *provided, however*, that for any Settling State where the Consent Judgment has not been entered as of the Effective Date, the funds allocable to that Settling State and its Participating Subdivisions listed on Exhibit G shall not be disbursed until ten (10) calendar days after the entry of the Consent Judgment in that Settling State.

E. *Payment Date for Payment Years 2 through 4.* The Payment Date for Payment Year 2 is March 1, 2026. The Payment Date for Payment Years 3 through 4 shall be each successive March 1. The Annual Remediation Payments for those Payment Years shall be made pursuant to the process set forth in Section IV.C.

F. *Offsets to Annual Remediation Payments to the Settlement Fund for Non-Settling States.* An offset equal to $38,022,450 times the State Allocation Percentage assigned to each Non-Settling State in Exhibit F shall be deducted from the total amount to be paid by Indivior to the Settlement Fund. For the avoidance of doubt, the Adjusted Maximum Remediation Payment is calculated in a way that reflects this offset. The Base Payments and Incentive Payments are also subject to offset as provided in Section XII.

G. *Base Payments.*

1. Subject to the offset provisions set forth in Section XII, Indivior shall make Base Payments into the Settlement Fund in an amount equal to forty percent (40%) of the Adjusted Maximum Remediation Payment. The maximum total for Base Payments is $15,208,980. The Base Payments shall be due in installments consistent with Exhibit M-2 over the four (4) Payment Years.

2. The Base Payment for any Settling State in each Payment Year shall be the Base Payment for that Payment Year specified in Exhibit M-2 times the Settling State's State Allocation Percentage specified in Exhibit F.

H. *Incentive Payments.*

1. Subject to the offset provisions set forth in Section XII, Indivior shall make potential additional incentive payments totaling up to a maximum of sixty percent (60%) of the Adjusted Maximum Remediation Payment, with the Incentive Payment amount depending on whether and the extent to which the criteria set forth below are met in each Settling State. The maximum total for Incentive Payments is $22,813,470.

2. A Settling State qualifies to receive Incentive Payments in addition to Base Payments if it meets the incentive eligibility requirements specified below. The maximum total Incentive Payment for any Settling State shall be no more than the maximum total for Incentive Payments listed in Section IV.H.1 times the Settling State's State Allocation Percentage specified in Exhibit F. Incentive Payments are state-specific, with the actual amount depending on whether and the extent to which the criteria set forth below are met in such Settling State.

3. The incentive payments shall be divided among three (3) categories, referred to as Incentive Payments A, BC, and D. Incentive Payments A and BC will be due in installments over the three (3) Payment Years beginning with Payment Year 2, while Incentive D will be due in a single installment in Payment Year 4, as shown on Exhibit M-2. The total amount of incentive payments in an Annual Remediation Payment shall be the sum of the incentive payments for which the individual Settling States are eligible for that Payment Year under the criteria set forth below. The incentive payments shall be made with respect to a specific Settling State based on its eligibility for that Payment Year under the criteria set forth below. For the avoidance of doubt, eligibility for Incentive Payments A, BC, and D shall be determined on a Settling State-by-Settling State basis.

4. Incentive Payment A.

a. Incentive Payment A is mutually exclusive with Incentive Payments BC and D; if a Settling State receives Incentive Payment A in an Annual Remediation Payment, such Settling State is not eligible for Incentive Payment BC or D in that Annual Remediation Payment.

b. Incentive Payment A shall be equal to sixty percent (60%) of the Adjusted Maximum Remediation Payment, provided all Settling States satisfy the requirements of Incentive Payment A. Incentive Payment A will be due to a Settling State as part of the Annual Remediation Payment over three (3) Payment Years, starting in Payment Year 2, and shall equal a total potential maximum of

$22,813,470 if all Eligible States qualify for Incentive Payment A. Each Settling State's share of Incentive Payment A in a given year, *provided* that Settling State qualifies, shall equal the total maximum amount available for Incentive Payment A for that year as reflected in Exhibit M-2 times the Settling State's State Allocation Percentage.

c. Qualification for Incentive Payment A is as follows: A Settling State qualifies for Incentive Payment A if, as of two (2) years of the Effective Date: (i) there is a Bar in that Settling State in full force and effect, (ii) the 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: all Primary Subdivisions, Litigating Subdivisions, School Districts with a K-12 student enrollment of at least 25,000 or .10% of a Settling State's population, whichever is greater, Hospital Districts that have at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district, and Primary Fire Districts; or (iii) a combination of the actions in clauses (i) and (ii) has achieved the same level of resolution of Claims by Subdivisions (*e.g.,* a Bar against future litigation combined with full joinder by Litigating Subdivisions). For the avoidance of doubt, subsection (iii) cannot be satisfied unless all Litigating Subdivisions are Participating Subdivisions or there is a Case-Specific Resolution against any such Subdivisions that are not Participating Subdivisions. Indivior and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Initial Participation Date.

d. A Settling State that does not qualify for Incentive Payment A as of two (2) years after the Effective Date shall not be eligible for Incentive Payment A for that Payment Year or any subsequent Payment Years.

e. To the extent a Settling State asserts that existing legislation qualifies as a Bar, the Settling State shall provide notice to Indivior no later than 30 days before the Initial Participation Date. Indivior shall indicate before the Initial Participation Date whether existing legislation in a Settling State is sufficient to qualify as a Bar.

f. If a Settling State does not qualify for Incentive Payment A as of the Payment Date for Payment Year 2 and becomes eligible for Incentive Payment A as of Payment Date for Payment Year 3, it shall receive the payment that it would have received for Incentive Payment A for Payment Year 2 (the "Incentive Payment A Catch-up Payment") on the Payment Date for Payment Year 3. If a Settling State is not eligible for Incentive Payment A as of the Payment Date for Payment Year 3 and becomes eligible for Incentive Payment A as of two (2) years after the Effective Date, it shall receive the payment that it would have received for Incentive Payment A for Payment Years 2 and 3 (also an "Incentive Payment A Catch-up Payment") on the Payment Date for Payment Year 4. The Incentive Payment A Catch-up

Payment shall be reduced by any amounts paid to the Settling State under Incentive Payment BC prior to the Settling State's eligibility for Incentive Payment A.

g. If Indivior made a payment under Incentive Payment A solely on the basis of a Bar in a Settling State and that Bar is subsequently removed, revoked, rescinded, reversed, overruled, interpreted in a manner to limit the scope of the release, or otherwise deprived of force or effect in any material respect, 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 Section IV.H.4.c, in which case the Settling State shall be eligible for Incentive Payment A less any litigation fees and costs incurred by Indivior in the interim, except that, if the re-imposition occurs after the completion of opening statements in a trial involving a Released Claim, the Settling State shall not be eligible for Incentive Payment A (unless this exception is waived by Indivior).

5. Incentive Payment BC.

a. Incentive Payment BC shall be available to Settling States that do not qualify for Incentive Payment A.

b. Incentive Payment BC shall be up to a maximum of fifty-seven percent (57%) of the Settling State's State Allocation. Incentive Payment BC will be due to a Settling State as part of the Annual Remediation Payment over three (3) Payment Years, starting in Payment Year 2. Subject to Section IV.F, Incentive Payment BC shall equal a total potential maximum of $21,672,797 if all Eligible States qualify for Incentive Payment BC (and do not qualify for Incentive Payment A).

c. A Settling State may earn Incentive Payment BC in Annual Remediation Payments 2 through 4 and may receive, when combined with the Settling State's Base Payment, up to ninety-seven percent (97%) of the Settling State's State Allocation. The maximum Incentive Payment BC for any Settling State in a given Payment Year shall be the maximum potential Incentive Payment BC for that Payment Year specified in Exhibit M-2 times the Settling State's State Allocation Percentage specified in Exhibit F, provided such Settling State becomes eligible for Incentive Payment BC by sixty (60) days before the Payment Date for that Payment Year.

d. The amount of Incentive Payment BC for which a Settling State is eligible shall be determined based on the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of all the Settling State's Incentive BC Subdivisions. The Settling State's Incentive BC Subdivisions are (i) all Litigating Subdivisions (including School Districts and Special Districts) and (ii) all Primary Subdivisions that have

not sued Indivior as of the Initial Participation Date (collectively, "*Incentive BC Subdivisions*").

e. The percentage of the Settling State's maximum Incentive Payment BC for the Payment Year provided by Section IV.H.5.c to which the Settling State is entitled shall be determined according to the table of Incentive BC payment levels below:

Participation Percentage of Incentive BC Eligible Subdivision Population[5]	Incentive Payment BC Percentage for the Relevant Payment Year
Less than 85%	0%
85% or more but less than 86%	3.57%
86% or more but less than 87%	8.93%
87% or more but less than 88%	14.29%
88% or more but less than 89%	19.64%
89% or more but less than 90%	25%
90% or more but less than 91%	30.36%
91% or more but less than 92%	35.71%
92% or more but less than 93%	41.07%
93% or more but less than 94%	46.43%

[5] The "Participation Percentage of Incentive BC Eligible Subdivision Population" shall be determined by the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of the Settling State's Incentive BC Subdivisions. In calculating the Settling State's population that resides in Incentive BC Subdivisions, the population of the Settling State's Incentive BC Subdivisions shall be the sum of the population of all Incentive BC Subdivisions in the Settling State, notwithstanding that persons may be included within the population of more than one Incentive BC Subdivision. An individual 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; provided, however, that for the avoidance of doubt, no Subdivision will be excluded from the numerator or denominator under this sentence unless a Subdivision otherwise counted in the denominator has the authority to release the Claims (consistent with Section X) of the Subdivision to be excluded.

94% or more but less than 95%	51.79%
95% or more but less than 96%	60.71%
96% or more but less than 97%	68.75%
97% or more but less than 98%	76.79%
98% or more but less than 99%	84.82%
99% or more but less than 100%	92.86%
100%	100%

f. For Payment Years 2-4, the percentage of the available Incentive Payment BC amount for which a Settling State is eligible will be based on the Participation Percentage of Incentive BC Eligible Subdivision Population as of sixty (60) days before the Payment Date.

g. If there are no Incentive BC Eligible Subdivisions in a Settling State, and that Settling State is otherwise eligible for Incentive Payment BC because it is not eligible for Incentive Payment A, that Settling State will receive its maximum Incentive Payment BC for that Annual Remediation Payment provided by Section IV.H.5.c.

6. Incentive Payment D.

a. Incentive Payment D shall be available to Settling States that do not qualify for Incentive Payment A.

b. Incentive Payment D shall be equal to up to a maximum of ten percent (10%) of the Adjusted Maximum Remediation Payment, with the actual amount depending whether and the extent to which the criteria set forth below are met in each Settling State. The maximum total for Incentive Payment D is $3,802,245.[6]

[6] The Incentive Payment BC table specified in Section IV.H.5.e and Incentive Payment D table specified in Section IV.H.6.f operate so that the combined amount of Incentive Payment BC and Incentive Payment D cannot exceed sixty percent (60%) of the Adjusted Maximum Remediation Payment over the term of the Agreement. Indivior will have no obligation to pay more than $22,813,470 for the combined amounts of Incentive Payment BC and Incentive Payment D minus any offsets for Non-Settling States specified in Section IV.F.

c. Incentive Payment D shall be paid in Payment Year 4 and the amount of Incentive Payment D in Payment Year 4 will depend on (i) the Settling State meeting the qualifications set out in Section IV.H.6.d and (ii) the Participation Percentage of Incentive BC Eligible Subdivision Population achieved by the Settling State as of sixty (60) days prior to the Payment Date for Payment Year 4.

d. A Settling State qualifies for Incentive Payment D if no Later Litigating Subdivision (for purposes of Incentive Payment D, Later Litigating Subdivisions are limited to (i) a Primary Subdivision; (ii) a school district with a K-12 student enrollment of at least 25,000 or 0.10% of the Settling State's population, whichever is greater; (iii) a health district or hospital district that has at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district; and (iv) Primary Fire Districts) in that Settling State has a lawsuit against a Released Entity survive more than six (6) months after denial in whole or in part of a Threshold Motion.

e. A Settling State's qualification for Incentive Payment D shall be determined as of sixty (60) calendar days prior to the Payment Date ("*Incentive Payment D Look-Back Date*"). If a Later Litigating Subdivision's lawsuit in that Settling State survives more than six (6) months after denial in whole or in part a Threshold Motion after that date, that Settling State shall not be eligible for Incentive Payment D for the Payment Year in which that occurs and any subsequent Payment Year.

f. The Incentive Payment D for any Settling State qualifying for Incentive Payment D in Payment Year 4 shall be equal to between three percent (3%) and ten percent (10%) of the of the State Remediation Payment times the Settling State's Overall Allocation Percentage specified in Exhibit F. The applicable percentage shall be determined based on the Participation Percentage of Incentive BC Eligible Subdivision Population achieved by the Incentive Payment D Look-Back Date for Payment Year 4 as shown in the table below:

Participation Percentage of Incentive BC Eligible Subdivision Population as of sixty (60) days prior to the Payment Date for Payment Year 4	**Each Eligible Settling State's Applicable Incentive Payment D Percentage**
Participation of less than 95%	10% of State Allocation
Participation of 95% but less than 96%	9% of State Allocation
Participation of 96% but less than 97%	8% of State Allocation
Participation of 97% but less than 98%	7% of State Allocation
Participation of 98% but less than 99%	6% of State Allocation
Participation of 99% but less than 100%	5% of State Allocation
Participation of 100%	3% of State Allocation

g. Incentive Payment D shall be paid in one installment. The Incentive Payment D for any Settling State in a given Payment Year shall be the Maximum Incentive Payment D for that Payment Year specified in Exhibit M-2 times the Settling State's State Allocation Percentage specified in Exhibit F times the ratio between the applicable percentage determined by Section IV.H.6.f and ten percent (10%).[7] Prior to making the Annual Remediation Payment for Payment Year 4, the Settlement Fund Administrator shall determine a Settling State's qualification for Incentive Payment D as of the Incentive Payment D Look-Back Date for that Payment Year. Prior to the Incentive Payment D Look-Back Date for each Payment Year, Indivior may provide the Settlement Fund Administrator and the Enforcement Committee with notice identifying any Settling State(s) it believes do not qualify for Incentive Payment D and information supporting its belief.

h. Notwithstanding Section IV.H.6.d and Section IV.H.6.e, a Settling State can become re-eligible for 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, in which case the Settling State shall be eligible for Incentive Payment D less any litigation fees and costs incurred by Indivior in the interim, 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.

7. In no event shall any Settling State receive Base Payments and Incentive Payments A, BC, and D totaling more than one hundred percent (100%) of its respective Overall State Allocation Percentage specified in Exhibit F times the Maximum Remediation Payment.

V. Allocation and Use of Settlement Payments

A. *Components of Settlement Fund.* The Settlement Fund shall be funded by the Annual Remediation Payments and comprised of a Remediation Accounts Fund, a State Fund, and a Subdivision Fund for each Settling State. The payments made under Section IV 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 Indivior.

[7] For example, for a Settling State with a Participation Percentage of Incentive BC Eligible Subdivision Population as of 60 days prior to the Payment Date for Payment Year 4 of 100%, the Incentive Payment D for any given Payment Year shall be the Maximum Incentive Payment D for that Payment Year specified in Exhibit M-2 times the Settling State's State Allocation Percentage specified in Exhibit F times 0.3. For a Settling State with a Participation Percentage of Incentive BC Eligible Subdivision Population as of 60 days prior to the Payment Date for Payment Year 4 of less than 95%, the Incentive Payment D for any given Payment Year shall be the Maximum Incentive Payment D for that Payment Year specified in Exhibit M-2 times the Settling State's State Allocation Percentage specified in Exhibit F times 0.1.

B. *Use of Settlement Payments.*

1. 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 V.B.2. In no event may less than ninety-five percent (95%) of Indivior's maximum amount of payments pursuant to Section IV as set forth on Exhibit M-2 over the entirety of all Payment Years (but not any single Payment Year) be spent on Opioid Remediation.

2. 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 Fund Administrator and Indivior 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 V.B.2 shall be available to the public. For the avoidance of doubt, (a) any amounts not identified under this Section V.B.2 as used to pay attorneys' fees, investigation costs, or litigation costs shall be included in the Compensatory Restitution Amount for purposes of Section V.F and (b) Participating Subdivisions not listed on Exhibit G may only use monies from the Settlement Fund for purposes that qualify as Opioid Remediation.

C. *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 Fund Administrator will make an initial allocation to three (3) state-level sub-funds. The Settlement Fund 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.

1. Base Payments. The Settlement Fund Administrator will allocate Base Payments under Section IV.G among the Settling States pursuant to Section IV.G.2. 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 V.D.

2. Incentive Payments. The Settlement Fund Administrator will treat Incentive Payments under Section IV.H on a state-specific basis. Incentive Payments for which a Settling State is eligible 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 V.D.

3. Application of Adjustments. If an offset under Section XII applies with respect to a Settling State, the offset 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.

4. Settlement Fund Administrator. Prior to the Effective Date, Indivior and the Enforcement Committee will agree to a detailed mechanism consistent with the foregoing for the Settlement Fund Administrator to follow in allocating, apportioning, and distributing payments, which shall then be appended hereto as Exhibit L.

5. Settlement Fund Administrator Costs. Any costs and fees associated with or arising out of the duties of the Settlement Fund Administrator as described in Exhibit L shall be paid from the interest accrued in the Settlement Fund Escrow and the Settlement Fund; *provided, however,* that if such accrued interest is insufficient to pay the entirety of any such costs and fees, the additional amount shall be paid out of the Settlement Fund. For the avoidance of doubt, nothing in this provision shall require Indivior to pay any costs, fees or other amounts in excess of the Global Settlement Amount.

D. *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 V.D.1 and Section V.D.2, then the default provisions of Section V.D.4 apply. It is not necessary that a State-Subdivision Agreement or other means of allocating funds pursuant to Section V.D.1 and Section V.D.2 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.

1. 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 V.C 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 V.B.2, and (b) that

at least seventy percent (70%) of amounts be used solely for future Opioid Remediation.[8] For a State-Subdivision Agreement to be applied to the relevant portion of an Annual Payment, notice must be provided to Indivior and the Settlement Fund Administrator at least sixty (60) calendar days prior to the Payment Date.

2. 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 V.B.2, 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 V.C 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 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 Section V of any such unaddressed fund. For example, if an Allocation Statute or Statutory Trust that meets the requirements of this Section V.D.2 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.

3. 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 Fund 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.

4. Distribution in the Absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust. If Section V.D.1 and Section V.D.2 do not apply, amounts apportioned to that Settling State's State Fund, Remediation Accounts Fund, and Subdivision Fund under Section V.C shall be distributed as follows:

[8] 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.

a. Amounts apportioned to that Settling State's State Fund shall be distributed to that Settling State.

b. Amounts apportioned to that Settling State's Remediation Accounts Fund shall be distributed consistent with Section V.E. Each Settling State shall submit to the Settlement Fund 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 Fund 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 Fund 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 Fund Administrator to release the Settling State's Remediation Accounts Fund to the Statutory Trust.

c. 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 VII.H 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.

d. Special Districts shall not be allocated funds from the Subdivision Fund, except through a voluntary redistribution allowed by Section V.D.3 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.

5. Restrictions on Distribution. No amounts may be distributed from the Subdivision Fund contrary to Section VII, 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 VII.E through Section VII.H. 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 V.D.1 or by an Allocation Statute or a Statutory Trust described in Section V.D.2.

E. *Provisions Regarding the Remediation Accounts Fund.*

1. 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 V.D.1 or Section V.D.2, as applicable, and all direct payments to Subdivisions comply with Section VII.E through Section VII.H.

2. 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:

a. Regional Remediation.

(i) 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 V.E.2.d to define its regions and assign regional allocations percentages. Otherwise, the Settling State shall (A) define its initial regions, which shall consist of one (1) or more General Purpose Subdivisions 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; and (B) 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.

(ii) 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.

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

b. *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.

c. *Small Settling States.* Notwithstanding the provisions of Section V.E.2.a, Settling States with populations under four (4) million that do not have existing regions described in Section V.E.2.a 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 V.E.2.b shall be divided regionally so that each block-grant eligible Subdivision is a region, and the remainder of the state is a region.

d. *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:

(i) 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;

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

(iii) 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

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

3. Remediation Accounts Fund Reporting. The Settlement Fund Administrator shall track and assist in the report of remediation disbursements as agreed to between Indivior and the Enforcement Committee

F. *Nature of Payment*. Indivior, 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 Released Claims:

1. They have entered into this Agreement to avoid the delay, expense, inconvenience, and uncertainty of further litigation;

2. (a) 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; (b) 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 (c) 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;

3. The payment of the Compensatory Restitution Amount by Indivior constitutes, and is paid for, compensatory restitution and remediation (within the meaning of 26 U.S.C. § 162(f)(2)(A) and 26 C.F.R. § 1.162-21(e)(4)(i), (ii)) for alleged damage or harm (as compensation for alleged damage or harm arising out of alleged bodily injury) allegedly caused by Indivior 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

4. For the avoidance of doubt: (a) the entire Compensatory Restitution Amount is properly characterized as described in Section V.F, (b) no portion of the Compensatory Restitution Amount represents reimbursement to any Settling State or Participating Subdivision or other person or entity for the fees or costs of any investigation or litigation, including without limitation attorneys' fees, (c) no portion of the Global Settlement Amount constitutes the disgorgement of any allegedly ill-gotten gains, and (d) no portion of the Global 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.

VI. Enforcement

A. *Enforceability.* This Agreement is enforceable only by the Settling States and Indivior; *provided, however,* that Released Entities may enforce Section X and Participating Subdivisions listed on Exhibit G have the enforcement rights described later in this paragraph and in Section VI.D. Except to the extent allowed by the Injunctive Relief Terms, Settling States and Participating Subdivisions shall not have enforcement rights against Indivior 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. Participating Subdivisions shall not have enforcement rights against Indivior with respect to this Agreement or any Consent Judgment except that Participating Subdivisions listed on Exhibit G shall have enforcement rights as set forth herein as to payments that would be allocated to the Participating Subdivisions or the Remediation Accounts Fund in such Settling State; *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. *Jurisdiction.* Indivior consents to the jurisdiction of the court in which each Settling State files its Consent Judgment, limited to resolution of disputes identified in Section VI.F.2 for resolution in that court.

C. *Specific Terms Dispute Resolution.*

1. Any dispute that is addressed by the provisions set forth in the Injunctive Relief Terms shall be resolved as provided therein.

2. In the event that Indivior believes that the ninety-five percent (95%) threshold established in Section V.B.1 is not being satisfied, any Party may request that Indivior and the Enforcement Committee meet and confer regarding the use of funds to implement Section V.B.1. The completion of such meet-and-confer process is a precondition to further action regarding any such dispute. Further action concerning Section V.B.1 shall: (i) be limited to Indivior seeking to reduce its 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 V.B.1; (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 V.B.1; and (iii) not reduce Annual Remediation Payments restricted to future Opioid Remediation.

D. *State-Subdivision Enforcement.*

1. 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 allegations that (i) the Settling State's use of Remediation

Accounts Fund monies were not used for uses 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 V.E.2.b.

2. 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 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.

3. 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.

E. *Subdivision Indivior Payment Enforcement.* A Participating Subdivision listed on Exhibit G shall have the same right as a Settling State to seek resolution regarding the failure by Indivior to make its Annual Remediation Payment in a Payment Year.

F. *Other Terms Regarding Dispute Resolution.*

1. The parties to a dispute shall promptly meet and confer in good faith to resolve any dispute. If the parties cannot resolve the dispute informally, and unless otherwise agreed in writing, they shall follow the remaining provisions in this section to resolve the dispute.

2. Except to the extent provided by Section VI.C or Section VI.F.3, all disputes not resolved informally shall be resolved in 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.

a. State court proceedings shall be governed by the rules and procedures of the relevant forum.

b. For the avoidance of doubt, disputes to be resolved in state court include, but are not limited to, the following:

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

(ii) disputes between a Settling State and its Participating Subdivisions as provided by Section VI.D, except to the extent the 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;

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

(iv) 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; and

(v) whether the definition of a Bar, a Case-Specific Resolution, Final Order, lead state agency as described in Section V.D.4.b, Later Litigating Subdivision, Litigating Subdivision, or Threshold Motion have been met; and

(vi) all other disputes not specifically identified in Section VI.C or Section VI.F.3.

c. Any Party may request that the National Arbitration Panel provide an interpretation of any provision of the settlement 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.

3. National Disputes involving a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VI.A, and/or Indivior shall be resolved by the National Arbitration Panel.

a. National Disputes are disputes that are not addressed by Section VI.C, and which are exceptions to Section VI.F.2's presumption of resolution in state courts because they involve issues of interpretation of terms contained in this Agreement applicable to all Settling States without reference to a particular state's law. Disputes between a Settling State and any Participating Subdivision shall not be considered National Disputes. National Disputes are limited to the following:

(i) the amount of offset and/or credit attributable to Non-Settling States;

(ii) issues involving the scope and definition of Product;

(iii) interpretation and application of the terms "Covered Conduct," "Released Entities," and "Released Claims;"

(iv) the failure by Indivior to pay the Annual Remediation Payment or the Additional Remediation Amount in a Payment Year, but for the avoidance of doubt, disputes between Indivior and a Settling State over the amounts owed only to that state that do not affect any other Settling State shall not be considered National Disputes;

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

(vi) disputes involving liability of successor entities;

(vii) disputes that require a determination of the sufficiency of participation in order to qualify for Incentive Payments A, BC, or D;

(viii) disputes involving a Releasor's compliance with, and the appropriate remedy under, Section X.B.5.c;

(ix) 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

(x) any dispute subject to resolution under Section VI.F.2 but for which all parties to the dispute agree to arbitration before the National Arbitration Panel under the provisions of this Section VI.F.3.

b. The National Arbitration Panel shall be comprised of three (3) arbitrators. One (1) arbitrator shall be chosen by Indivior, one (1) arbitrator shall be chosen by the Enforcement Committee 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 that selected him/her.

c. 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.

d. 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.

e. To the extent allowed under state law, a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VI.A, 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.

f. The arbitrators will give due deference to 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 VI.A, or Indivior on a state law issue.

g. The decisions of the National Arbitration Panel shall be binding on Settling States, Participating Subdivisions, Indivior, and the Settlement Fund Administrator. In any proceeding before the National Arbitration Panel involving a dispute between a Settling State and Indivior 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.

h. 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.

i. Each party shall bear its own costs in any arbitration or court proceeding arising under this Section VI. 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 Indivior and Settling States/Participating Subdivisions shall be split fifty percent (50%) by Indivior 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. For the avoidance of doubt, Indivior shall not be responsible for the National Arbitration Panel costs in disputes that do not concern Indivior.

4. Prior to initiating an action to enforce pursuant to this Section VI.F, the complaining party must:

a. Provide written notice to the Enforcement Committee and/or Indivior 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 Enforcement Committee shall

establish a reasonable process and timeline for obtaining additional information from the involved parties; *provided, however,* that the date the Enforcement Committee establishes for obtaining additional information from the parties shall not be more than forty-five (45) calendar days following the notice. The Enforcement Committee may advise the involved parties of its views on the complaint and/or seek to resolve the complaint informally.

b. Wait to commence any enforcement action until thirty (30) calendar days after the date that the Enforcement Committee establishes for obtaining additional information from the involved parties.

5. If the parties to a dispute cannot agree on the proper forum for resolution of the dispute under the provisions of Section VI.F.2 or Section VI.F.3, a committee comprising the Enforcement Committee and sufficient representatives of Indivior such that the members of the Enforcement Committee have a majority of one (1) member 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 committee's identification of such forum in the first instance shall not be entitled to deference by the forum selected.

G. *Lien or Encumbrance*. To the extent allowed by applicable law, this Settlement Agreement shall not be deemed to create a lien or encumbrance against any real property owned by Indivior or its affiliates, unless in the event of a default or breach of the payment provisions by Indivior. Nothing in this Section shall be construed to limit any remedy of any Settling State or Participating Subdivision in the event of a default or breach of this Agreement by Indivior.

H. *No Effect.* Nothing in this Agreement shall be interpreted to limit the Settling States' Civil Investigative Demand *("CID")* or investigative subpoena authority, to the extent such authority exists under applicable state law and the CID or investigative subpoena is issued pursuant to such authority, and Indivior reserves all of its rights in connection with a CID or investigative subpoena issued pursuant to such authority.

VII. Participation by Subdivisions

A. *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. 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, 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 and Special Districts listed on Exhibit G. The costs of the Implementation Administrator shall be paid for by the interest earned from the deposit accounts holding the Adjusted Maximum Base Payment for Payment Year 1 for Indivior and nothing in this provision shall require Indivior to pay any costs, fees or other amounts in excess of the Global Settlement Amount. The Settling States, with the cooperation of Indivior, 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 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.

B. *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 Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) specifying (1) that the Subdivision agrees to the terms of this Agreement pertaining to Subdivisions, (2) that the Subdivision releases all Released Claims against all Released Entities, (3) that the Subdivision agrees to use monies it receives, if any, from the Settlement Fund pursuant to the applicable requirements of Section V; *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. The required Subdivision Settlement Participation Form is attached as Exhibit K.

C. *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 Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) and upon prompt dismissal with prejudice of its lawsuit following the Reference Date or the date on which the conditions for effectiveness in Section VIII.B have been met, whichever is later. 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 Fund Administrator shall provide reports of this information to the parties upon

request. A Litigating Subdivision or Later Litigating Subdivision may not become a Participating Subdivision after the completion of opening statements in a trial of the lawsuit it brought that includes a Released Claim against a Released Entity.

D. *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 VII.B or Section VII.C by the Initial Participation Date. All Subdivision Settlement Participation Forms shall be held in escrow by the Implementation Administrator until the Reference 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 Participation Agreements 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 obligations.

E. *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 VII.B or Section VII.C after the Initial 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 V.D or Section V.E. Unless waived by Indivior, the following provisions govern what a Later Participating Subdivision can receive (but do not apply to Initial Participating Subdivisions):

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

2. A Later Participating Subdivision that becomes a Participating Subdivision after December 15, 2026, 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 VII.E.3 or Section VII.E.4).

3. A Later Participating Subdivision that, after the Initial Participation Date, maintains a lawsuit for a Released Claim(s) against a Released Entity and has judgment entered against it on every such 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.

4. A Later Participating Subdivision that becomes a Participating Subdivision while a Bar or Case-Specific Resolution involving a different Subdivision exists in its state 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 or Case-Specific Resolution.

F. *No Increase in Payments.* Amounts to be received by Later Participating Subdivisions shall not increase the payments due from Indivior.

G. *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.

H. *Unpaid Allocations to Later Participating Subdivisions and Non-Participating Subdivisions.* Any Base Payment and Incentive Payments allocated pursuant to Section V.D to a Later Participating Subdivision or Non-Participating Subdivision that cannot be paid pursuant to this Section VII, including the amounts that remain unpaid after the reductions required by Section VII.E.2 through Section VII.E.4, 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.

VIII. Condition to Effectiveness of Agreement and Filing of Consent Judgment

A. *Determination to Proceed with Settlement—Settling States*. Following the Initial Subdivision Participation Date, the Settling States on the Enforcement Committee shall determine whether to proceed with the Agreement. No later than fifteen (15) calendar days prior to the Reference Date, the Settling States shall provide notice to Indivior and the Enforcement Committee of their decision. If the Settling States elect not to proceed, this Agreement will have no further effect, and all releases (including those contained in Subdivision Participation Agreements) and other commitments or obligations contained herein or in Subdivision Settlement Participation Forms will be void. Within seven (7) calendar days of informing Indivior that there is sufficient participation to proceed, the Settling States will deliver all signatures and releases required by the Agreement to be provided by the Settling States to Indivior.

B. *Determination to Proceed with Settlement—Indivior*. If the Settling States elect to proceed, Indivior will then determine on or before the Reference Date whether there is sufficient Eligible State participation, sufficient Subdivision participation, and sufficient resolution of the Claims of the Litigating Subdivisions in the Settling States (through participation under Section VII, Case-Specific Resolution(s) and Bar(s)) to proceed with this Agreement. The determination shall be in the sole discretion of Indivior and may be based on any criteria or factors deemed relevant by Indivior.

C. *Notice by Indivior.* On or before the Reference Date, Indivior shall inform the Settling States of its determination pursuant to Section VIII.B. If Indivior determines to proceed, the Parties will proceed to file the Consent Judgments and the obligations in the Subdivision Settlement Participation Forms will be effective and binding as of the Reference Date. If Indivior

determines not to proceed, this Agreement will have no further effect, any amounts deposited for Payment Year 1, including funds referenced in Section IV.D.1 and Exhibit M, shall revert to Indivior, 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.

IX. Participating Subdivision Attorneys' Fees and Costs and Additional Remediation Amount

A. The Agreement on Subdivision Attorneys' Fees, Expenses and Costs is set forth in Exhibit R and incorporated herein by reference.

B. *Additional Remediation Amount*.

1. Subject to and without exceeding the maximum payment amounts set forth in the "Additional Remediation Amount" column of Exhibit M-3 and subject to the reduction specified in Section IX.B.2, Indivior shall pay an Additional Remediation Amount to the Settling States listed in Exhibit N. Such funds shall be paid, on the schedule set forth in Exhibit M-3, as allocated by the Settlement Fund Administrator pursuant to Exhibit N.

2. *Reduction of Additional Remediation Amount*. The amounts owed by Indivior pursuant to this Section IX.B shall be reduced by the allocations set forth on Exhibit N for Non-Settling States.

3. For the avoidance of doubt, (1) a Settling State that retained outside counsel in connection with the investigation of Indivior that receives an Additional Remediation Amount may choose to have the Additional Remediation Amount designated to pay the Settling State's outside counsel, and may instruct the Settlement Fund Administrator to pay those funds directly to the Settling State's outside counsel, and (2) Additional Remediation Amount funds, including funds designated by a Settling State to pay its outside counsel under this paragraph, shall not be subject to allocation as provided in Section V.C through Section V.E.

C. All payments addressed by this Section IX will be made no later than the Payment Date for the Payment Year in which they are due, pursuant to Exhibit M-3.

X. Release

A. *Scope.* As of the Effective Date, the Released Entities are hereby released and forever discharged from all of the Releasors' Released Claims. Each Settling State (for itself and its Releasors) and Participating Subdivisions hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in this Agreement are intended by the Parties to

be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of each Settling State and its Attorney General to release claims. This Agreement shall be a complete bar to any Released Claim.

B. *Claim-Over and Non-Party Settlement.*

1. It is the intent of the Parties that:

a. Released Entities should not seek contribution or indemnification (other than pursuant to an insurance contract), from other parties for their payment obligations under this Agreement;

b. the payments made under this Agreement shall be the sole payments made by the Released Entities to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity);

c. Claims by Releasors against non-Parties should not result in additional payments by Released Entities, whether through contribution, indemnification or any other means; and

d. 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 released party's liability to any other parties.

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

3. No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner; *provided* that a Released Entity shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

4. To the extent that, on or after the Reference Date, any Releasor enters into a Non-Party Settlement, including in any bankruptcy case or through any plan of reorganization, 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 substantially equivalent to that required from Indivior in Section X.B.3, or a release

from such Non-Released Entity in favor of the Released Entities (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.

5. In the event that any Releasor obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Entity that does not contain a prohibition like that described in Section X.B.3 or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in Section X.B.3, and such Non-Released Entity asserts a Claim-Over against a Released Entity, the Released Entity shall be relieved of the prohibition in Section X.B.3 with respect to that Non-Released Entity and that Releasor and Indivior shall take the following actions to ensure that the Released Entities do not pay more with respect to Covered Conduct to the Releasor or to Non-Released Entities than the amounts owed under this Settlement Agreement by Indivior:

a. Indivior shall notify that Releasor of the Claim-Over within sixty (60) calendar days of the assertion of the Claim-Over or sixty (60) calendar days of the Effective Date of this Settlement Agreement, whichever is later;

b. Indivior and that Releasor shall meet and confer concerning the means to hold Released Entities harmless and ensure that they are not required to pay more with respect to Covered Conduct than the amounts owed by Indivior to the Releasor under this Agreement;

c. That Releasor and Indivior shall take steps sufficient and permissible under the law of the state of the Releasor to hold Released Entities harmless from the Claim-Over and ensure Released Entities are not required to pay more with respect to Covered Conduct than the amounts owed by Indivior under this Agreement. Such steps may include, where permissible:

(i) Filing of motions to dismiss or such other appropriate motion by Indivior or Released Entities, and supported by Releasor, in response to any claim filed in litigation or arbitration;

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

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

(iv) Return of monies paid by Indivior to the Releasor under this Settlement Agreement to permit satisfaction of a judgment against or settlement with the Non-Released Entity to satisfy the Claim-Over;

(v) Payment of monies to Indivior by the Releasor to ensure it is held harmless from such Claim-Over, up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity;

(vi) Credit to Indivior under this Agreement to reduce the overall amounts to be paid under the Agreement such that it is held harmless from the Claim-Over; and

(vii) Such other actions as that Releasor and Indivior may devise to hold Indivior harmless from the Claim-Over.

d. The actions of that Releasor and Indivior taken pursuant to paragraph (c) must, in combination, ensure Indivior is not required to pay more with respect to Covered Conduct than the amounts owed by Indivior to the Releasor under this Agreement.

e. In the event of any dispute over the sufficiency of the actions taken pursuant to paragraph (c), the Releasor and Indivior 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. The National Arbitration Panel shall have authority to require Releasor to implement a remedy that includes one or more of the actions specified in paragraph (c) sufficient to hold Released Entities fully harmless. In the event that the Panel's actions do not result in Released Entities being held fully harmless, Indivior shall have a claim for breach of this Agreement by Releasor, with the remedy being payment of sufficient funds to hold Indivior harmless from the Claim-Over up to the amount the Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity. For the avoidance of doubt, the prior sentence does not limit or eliminate any other remedy that Indivior may have.

6. To the extent that the Claim-Over is based on a contractual indemnity, the obligations under Section X.B.4 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. Indivior shall notify the Settling States, to the extent permitted by applicable law, in the event that any of these types of Non-Released Entity asserts a Claim-Over arising out of contractual indemnity against it.

C. *Indemnification and Contribution Prohibited.* No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory, from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

D. *General Release.* In connection with the releases provided for in this Agreement, each Settling State (for itself and its Releasors) and Participating Subdivision 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:

> **General Release; extent**. A general release does not extend to claims 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 Released Claims, 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 Released Claims 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.

E. *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 Indivior (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 Indivior.

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

G. *Representation and Warranty.* The signatories hereto on behalf of their respective Settling States and its Participating Subdivisions expressly represent and warrant that they will obtain on or before the Effective Date (or have obtained) the authority to settle and release, to the

maximum extent of the State's power, all Released Claims of (1) their respective Settling States; (2) any of the respective Settling State's past and present executive departments, state agencies, divisions, boards, commissions and instrumentalities with the regulatory authority to enforce state and federal controlled substances acts; (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 Claims related to Covered Conduct seeking money (including abatement and/or remediation) or revocation of a pharmaceutical distribution license; and (4) any Participating Subdivisions. For the purposes of clause (3) above, executive departments, agencies, divisions, boards, commission, and instrumentalities are those that are under the executive authority or direct control of the State's Governor. Also, for the purposes of clause (3), a release from a State's Governor as set forth in Exhibit X is sufficient to demonstrate that the appropriate releases have been obtained.

H. *Effectiveness.* The releases set forth in this Agreement 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.

I. *Cooperation.* Releasors (1) will not encourage any person or entity to bring or maintain any Released Claim against any Released Entity and (2) will reasonably cooperate with and not oppose any effort by Indivior to secure the prompt dismissal of any and all Released Claims, including suits brought by non-Releasors based on Released Claims. Releasors will meet and confer and make reasonable efforts to resolve any action that is filed by a Subdivision against Indivior 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.

J. *Non-Released Claims* Notwithstanding the foregoing or anything in the definition of Released Claims, the Agreement does not waive, release or limit any criminal liability, Claims for any outstanding liability under any tax or securities law, Claims against parties who are not Released Entities, Claims by private individuals, Claims for Medicaid rebates, Claims asserted, or that could be asserted, by any State or Subdivision, related to the causes of action in *In re: Generic Pharmaceuticals Pricing Antitrust Litigation*, in the United States District court for the District of Pennsylvania, MDL No. 2724; *Connecticut et al v. Aurobindo Pharma USA, Inc. et al*., in the United States District Court for the District of Connecticut, Case No. 3:16-cv-2056-NPS; *Connecticut et al. v. Teva Pharmaceuticals USA, Inc.*, in the United States District Court for the District of Connecticut, Case No. 3:19-cv-710-NPS; *Connecticut et al v. Sandoz, Inc. et al.*, in the United States District Court for the District of Connecticut, Case No. 3:20-cv-802-NPS; and any related action (such excluded claims include, but are not limited to, all antitrust claims and any claims related to any non-opioid generic drugs), and any claims arising under the Agreement for enforcement of the Agreement.

XI. Later Litigating Subdivisions

A. *Released Claims against Released Entities*. If a Later Litigating Subdivision in a Settling State maintains a lawsuit for a Released Claim against a Released Entity after the Reference Date, the following shall apply subject to Section XI.B:

1. The Released Entity shall take ordinary and reasonable measures to defend the action, including filing a Threshold Motion with respect to the Released Claim. The Released Entity shall further notify the Settling State and Settlement Fund Administrator immediately upon notice of a Later Litigating Subdivision bringing a lawsuit for a Released Claim and shall not oppose a Settling State's submission in support of the Threshold Motion. Indivior shall give the relevant Settling State a reasonable opportunity to extinguish the Released Claims without any payment or any other obligations being imposed upon any Released Entities (apart from the Global Settlement Amount payable by Indivior under the Agreement or the Injunctive Relief Terms incurred by it). The relevant Settling State and Indivior 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.

2. If the lawsuit asserting a Released Claim is resolved with finality on terms requiring payment by the Released Entity, Indivior shall receive a dollar-for-dollar offset against Incentive Payment D for the amount paid. The offset shall be applied against the relevant portion of the Annual Remediation Payments starting in Payment Year 4 and working backwards.

3. For the avoidance of doubt, any offset pursuant to this Section XI in a Settling State that at the time is not eligible for Incentive Payment A shall continue to apply even if the Settling State at issue subsequently becomes eligible for Incentive Payment A.

4. "*Terms requiring payment*" shall mean (i) a final monetary judgment or (ii) a settlement; provided that the Released Entity sought the applicable State Attorney General's consent to the settlement and such consent was either obtained or unreasonably withheld. Should the judgment or settlement resolve claims that are not Released Claims, the offset shall be for the Released Claims portion only, which shall be distinguishable in the judgment or settlement.

B. *Exceptions*

1. Section XI.A shall not apply where the Settling State at issue meets the eligibility criteria for and is entitled to Incentive Payment A for the Payment Year at issue, except as expressly provided therein.

2. Section XI.A shall not apply where the Later Litigating Subdivision seeks less than $10 million, or so long as its total claim is reduced to less than $10 million, in the lawsuit for a Released Claim at issue.

C. *No Effect on Other Provisions.* An offset under Section XI.A shall not affect the Injunctive Relief Terms or the Consent Judgment.

D. *No Effect on Other States*. An offset under Section XI.A applicable to one State shall not affect the allocation or payment of the Annual Remediation Payment to other Settling States.

E. *Litigating Subdivisions in Non-Eligible States.* The Settling States will not encourage, facilitate, or assist in any manner whatsoever claims for Covered Conduct against Indivior in any Settling, Non-Settling, or Non-Eligible State, regardless of whether those claims were filed against Indivior prior to, on, or after the Effective Date.

XII. Offset

A. *Revoked Bar or Case-Specific Resolution.* If Indivior made any Annual Remediation Payments that included any incentive payments earned as a result of the existence of a Bar or Case-Specific Resolution in a Settling State, and there is subsequently a Revocation Event with respect to that Bar or Case-Specific Resolution after the determination of the amount of such Annual Remediation Payment, Indivior shall receive a dollar-for-dollar offset against the portion of remaining Annual Remediation Payments that would be allocated to that Settling State and its Participating Subdivisions. This offset will be calculated as the dollar amount difference between (1) the total amount of incentive payments paid by Indivior by virtue of the Bar or Case-Specific Resolution subject to the Revocation Event and (2) the total amount of incentive payments that would have been due from Indivior during that time had the Bar 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; 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: (1) its Released Claims are extinguished by any subsequent Bar or Case-Specific Resolution in effect as of the date of such calculation, or (2) it becomes a Participating Subdivision (in addition to all other Participating Subdivisions) prior to the date of such calculation.

XIII. Miscellaneous

A. *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.

B. *Population of Special Districts.* For any purpose in this Agreement in which the population of a Special District is used other than Section IV.H.4.c: (a) School Districts' population will be measured by the number of students enrolled who are eligible under the Individuals with Disabilities Education Act *("IDEA")* or Section 504 of the Rehabilitation Act of 1973; (b) Health Districts' and Hospital Districts' population will be measured at twenty-five percent (25%) of discharges; and (c) all other Special Districts' (including Fire Districts' and Library Districts')

population will be measured at ten percent (10%) of the population served.[9] For the avoidance of doubt, this means that California healthcare districts will be measured at ten percent (10%) of their membership. Indivior and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Preliminary Agreement Date.

C. *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.

D. *No Admission.* Indivior does not admit 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 Indivior.

E. *Tax Cooperation and Reporting.*

1. Upon request by Indivior, the Settling States and Participating Subdivisions agree to perform such further acts and to execute and deliver such further documents as may be reasonably necessary for Indivior to establish the statements set forth in Section V.F to the satisfaction of their tax advisors, their independent financial auditors, the Internal Revenue Service, or any other governmental authority, including as contemplated by 26 C.F.R § 1.162-21(b)(3)(ii) and any subsequently proposed or finalized relevant regulations or administrative guidance.

2. Without limiting the generality of Section XIII.E.1, each Settling State and Participating Subdivision shall cooperate in good faith with Indivior with respect to any tax claim, dispute, investigation, audit, examination, contest, litigation, or other proceeding relating to this Agreement.

3. 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 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 Indivior and (ii) any legally required forms, returns or amended returns with any applicable governmental authority, or any returns requested by Indivior, and (b) provides to Indivior a copy of (i) the IRS Form 1098-F filed with respect to Indivior and (ii) any legally required written statement pursuant to any applicable law and any other document referred to in

[9] 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.

clause (a)(ii) above. Any such forms, returns, or statements shall be prepared and filed in a manner fully consistent with Section V.F. and as set forth in Section XIII.E.4.

4. Any form, return, amended return, or written statement filed or provided pursuant to Section XIII.E.3, and any similar document, shall be prepared and filed in a manner consistent with reporting the Global Settlement Amount as the "Total amount to be paid" pursuant to this Agreement in Box 1 of IRS Form 1098-F and the Compensatory Restitution Amount as "Restitution/remediation amount" in Box 3 of IRS Form 1098-F, as reflected in the attached Exhibit U. If the Designated State or Appropriate Official shall be required to file any form, return, amended return, or written statement contemplated by this Section XIII.E other than an IRS Form 1098-F in the form attached as Exhibit U, the Designated State shall direct and ensure that the Appropriate Official provides to Indivior a draft of such form, return, amended return, or written statement no later than sixty (60) calendar days prior to the due date thereof, and shall accept any reasonable revisions from Indivior on the return, amended return, or written statement.

5. For the avoidance of doubt, neither Indivior nor the Settling States and Participating Subdivisions make any warranty or representation to any Settling State, Participating Subdivision, or Releasor as to the tax consequences of the payment of the Compensatory Restitution Amount (or any portion thereof).

F. *No Third-Party Beneficiaries.* Except as expressly provided in this Agreement, no portion of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not the Settling State or Released Entity. Settling States may not assign or otherwise convey any right to enforce any provision of this Agreement.

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

H. *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.

I. *Cooperation.* 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 and the Consent Judgments.

J. *Entire Agreement.* This Agreement, including its exhibits and any other attachments, 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.

K. *Execution.* This Agreement 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 Agreement. One or more counterparts of this Agreement may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart hereof. One or more counterparts of this Agreement may be signed by electronic signature.

L. *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) was made to them to induce them to enter into this Agreement.

M. *Legal Obligations.* Nothing in this Agreement shall be construed as relieving Indivior 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.

N. *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.

O. *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 XIII.M.

P. *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.

Q. *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 below:

For the Attorney(s) General:

Jeff Jackson, Attorney General
North Carolina Department of Justice
Attn: Daniel Mosteller, Associate Deputy Attorney General
PO Box 629
Raleigh, NC 27602
Dmosteller@ncdoj.gov

Jonathan Skrmetti, Attorney General
Tennessee Attorney General's Office
Attn: Michael Leftwich, Senior Deputy Attorney General
Hamilton Millwee, Assistant Attorney General
P.O. Box 20207
Nashville, TN 37202
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Hamilton.Millwee@ag.tn.gov

Letitia James, Attorney General
New York State Attorney General
Attn: Jennifer Levy, First Deputy Attorney General
Monica Hanna, Special Counsel
Matthew Conrad, Assistant Attorney General
28 Liberty Street, New York, NY 10005
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Monica.Hanna@ag.ny.gov
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For the Plaintiffs' Executive Committee:

Co-leads
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For Indivior:

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Any Party or the Plaintiffs' Executive Committee 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 XIII.Q.

R. *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.

S. *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.

T. *Successors.*

1. This Agreement shall be binding upon, and inure to the benefit of, Indivior and its respective successors and assigns.

2. Indivior shall not, in one (1) transaction or a series of related transactions, sell or transfer U.S. assets having a fair market value equal to twenty-five percent (25%) or more of the consolidated assets of Indivior (other than sales or transfers of inventories, or sales or transfers to an entity owned directly or indirectly by Indivior) where the sale or transfer is announced after the Reference Date, is not for fair consideration, and would foreseeably and unreasonably jeopardize Indivior's ability to make the payments under this Agreement or its obligations regarding Settlement Product under Section XIV following the close of a sale or transfer transaction, unless Indivior obtains the acquiror's agreement that it will be either a guarantor of or successor to the percentage of Indivior's remaining payment obligations under this Agreement equal to the percentage of Indivior's consolidated assets being sold or transferred in such transaction. Percentages under this section shall be determined in accordance with United States generally accepted accounting principles and as of the date of Indivior's most recent publicly filed consolidated balance sheet prior to the date of entry into the sale or transfer agreement at issue. This Section XIII.T shall be enforceable solely by the Settling States, and any objection under this Section XIII.T not raised within sixty (60) calendar days of the announcement of the relevant transaction is waived.

U. *Modification, Amendment, Alteration.* In the event the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, or Indivior concludes prior to the Reference Date that technical corrections are required to this Agreement, the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, and Indivior shall meet and confer and make such amendments as they agree are appropriate. After the Reference Date, any modification, amendment, or alteration of this Agreement by the Parties shall be binding only if evidenced in writing signed by Indivior, 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 V.E.2.d, 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.

V. *Termination.*

1. Unless otherwise agreed to by each of Indivior and the Settling States, this Agreement and all of its terms (except Section XIII.P and any other non-admissibility provisions, which shall continue in full force and effect) shall be canceled and terminated with respect to the Settling State, and the Agreement and all orders issued by the courts in the Settling State pursuant to the Agreement shall become null and void and of no effect if one or more of the following conditions applies:

a. a Consent Judgment approving this Agreement without modification of any of the Agreement's terms has not been entered as to a Settling State by a court of competent jurisdiction on or before one hundred eighty (180) calendar days after the Effective Date; or

b. this Agreement or the Consent Judgment as to that Settling State has been disapproved by a court of competent jurisdiction to which it was presented for approval and/or entry (or, in the event of an appeal from or review of a decision of such a court to approve this Agreement and the Consent Judgment, by the court hearing such appeal or conducting such review), and the time to appeal from such disapproval has expired, or, in the event of an appeal from such disapproval, the appeal has been dismissed or the disapproval has been affirmed by the court of last resort to which such appeal has been taken and such dismissal or disapproval has become no longer subject to further appeal (including, without limitation, review by the United States Supreme Court).

2. If this Agreement is terminated with respect to a Settling State for whatever reason pursuant to Section XIII.V.1, then:

a. an applicable statute of limitation or any similar time requirement (excluding any statute of repose) shall be tolled from the date the Settling State signed this Agreement until the later of the time permitted by applicable law or for one year from the date of such termination, with the effect that Indivior and the Settling State shall be in the same position with respect to the statute of limitation as they were at the time the Settling State filed its action; and

b. Indivior and the Settling State shall jointly move the relevant court of competent jurisdiction for an order reinstating the actions and claims dismissed pursuant to the terms of this Agreement governing dismissal, with the effect that Indivior and the Settling State shall be in the same position with respect to those actions and claims as they were at the time the action or claim was stayed or dismissed.

3. Unless Indivior and the Enforcement Committee agree otherwise, this Agreement, with the exception of the Injunctive Relief Terms that have their own provisions on duration, shall terminate as of the Payment Date for Payment Year 5, *provided* that Indivior has performed its payment and Settlement Product obligations under the Agreement as of that

date. Notwithstanding any other provision in this Section XIII.V.3 or in this Agreement, all releases under this Agreement will remain effective despite any termination under this Section XIII.V.3.

W. *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 Indivior or against which Indivior is seeking enforcement. Notwithstanding any other provision in this subsection on governing law, any disputes relating to the Settlement Fund Escrow shall be governed by and interpreted in accordance with the law of the state where the escrow agent has its primary place of business.

X. *Bankruptcy.* The following provisions shall apply if Indivior enters bankruptcy and (i) the Indivior bankruptcy estate recovers, pursuant to 11 U.S.C. § 550, any payments made under this Agreement, or (ii) this Agreement is deemed executory and is rejected by Indivior pursuant to 11 U.S.C. § 365:

1. In the event that the both a number of Settling States equal to at least seventy-five percent (75%) of the total number of Settling States and Settling States having aggregate State Allocation Percentages as set forth on Exhibit F equal to at least seventy-five percent (75%) of the total aggregate State Allocation Percentages assigned to all Settling States deem (by written notice to Indivior) that the financial obligations of this Agreement have been terminated and rendered null and void (except as provided in Section XIII.X.1.a) due to a material breach by Indivior, whereupon:

a. all agreements, all concessions, all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall immediately and automatically be deemed null and void as to Indivior; the Settling States shall be deemed immediately and automatically restored to the same position they were in immediately prior to their entry into this Settlement Agreement in respect to Indivior and the Settling States shall have the right to assert any and all claims against Indivior in the bankruptcy or otherwise without regard to any limits or agreements as to the amount of the settlement otherwise provided in this Agreement; *provided, however,* that notwithstanding the foregoing sentence, (i) all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall remain in full force and effect as to all persons or entities other than Indivior itself; and (ii) in the event the Settling State asserts any Released Claim against Indivior after the rejection and/or termination of this Agreement as described in this Section XIII.X.1.a and receives a judgment, settlement or distribution arising from such Released Claim, then the amount of any payments the Settling State has previously received from Indivior under this Agreement shall be applied to reduce the amount of any such judgment, settlement

or distribution (provided that no credit shall be given against any such judgment, settlement or distribution for any payment that the Settling State is required to disgorge or repay to Indivior's bankruptcy estate); and

b. the Settling States may exercise all rights provided under the federal Bankruptcy Code (or other applicable bankruptcy or non-bankruptcy law) with respect to their Claims against Indivior subject to all defenses and rights of the Indivior.

Y. *Waiver*. Indivior, for good and valuable consideration the receipt of which is acknowledged, hereby (a) waives, foregoes and relinquishes all rights to utilize and/or seek relief under any of the following laws of the State of Texas for the restructuring of its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement: Tex. Bus. Orgs. Code § 10.003 (Contents of Plan of Merger: More Than One Successor) or any other statute of Subchapter A of Chapter 10 of Tex. Bus. Orgs. Code to the extent such statute relates to multi-successor mergers (and/or any other similar laws or statutes in any other state or territory); Tex. Bus. Orgs. Code §§ 11.01–11.414 (Winding Up and Termination of Domestic Entity); or Tex. Bus. & Com. Code §§ 23.01–23.33 (Assignments for the Benefit of Creditors) (collectively, the "Texas Statutes"), and (b) agrees, warrants and represents that it will not file, request or petition for relief under the Texas Statutes related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement, in each case until such time as all of Indivior's payment obligations incurred hereunder are satisfied in full. The foregoing waiver and relinquishment includes, without limitation, until such time as all of Indivior's payment obligations incurred hereunder are satisfied in full, Indivior's rights to execute a divisional merger or equivalent transaction or restructuring related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement that in each case has the intent or foreseeable effect of (i) separating material assets from material liabilities and (ii) assigning or allocating all or a substantial portion of those liabilities to any subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code, or pursuant to which such subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code would be assuming or retaining all or a substantial portion of those liabilities.

XIV. Settlement Product

A. The Settlement Products are Indivior's SUBLOCADE® (buprenorphine extended-release) injection for subcutaneous use and Indivior's OPVEE® (nalmefene) nasal spray. For the purposes of this agreement, Indivior has agreed to provide the Settling States Settlement Product valued at $140,000,000. The Settlement Product consists of SUBLOCADE® (available in 100mg and 300mg), valued at a fixed Wholesale Acquisition Cost (WAC) of $2,017.34 per unit, and OPVEE® 2.7mg, valued at a fixed WAC of $98.00 per unit, allocated in accordance with the allocation percentage as reflected in Exhibit F. For the avoidance of doubt, if a Settling State does not elect to participate in the settlement, that State's Settlement Product Allocation will not be the

responsibility of Indivior and will not be transferred to the allocation of other Settling States. Indivior shall cover the cost of the Settlement Product distribution set forth in this Agreement. For the avoidance of doubt, Participating Subdivisions and Special Districts are not eligible to make a Settlement Product election pursuant to this Agreement.

B. Consistent with the Settlement Product Election Form contained in Exhibit D, each Settling State shall have the discretion to convert any portion of the Settlement Product allocated to the Settling State into a cash value equaling twenty-five percent (25%) of the WAC value of the Settling State's allocated Settlement Product. Unless cash conversion amounts are specifically addressed in a State-Subdivision Agreement or Allocation Statute, a Settling State's Settlement Product Cash Conversion Amount shall be disbursed to the Settling State in the same manner as its Remediation Accounts Fund payments are made pursuant to Section V. This cash conversion payment is due on the Payment Date of Payment Year 5. The Settling State's election shall apply and remain in place for each following Payment Year unless the Settling State notifies Indivior of a change to the Settling State's election form at least ninety (90) days prior to the Payment Date for that Payment Year. If a Settling State does not elect to receive all of its allocation in its initial notice, such Settling State may submit a new or updated Settlement Product Election Form in lieu of converting the outstanding portion of Settlement Product to cash value and Indivior and the Settling States agree to work in good faith to maximize the availability of Settlement Product.

C. A Settling State that has submitted a Settlement Product Election Form may place periodic orders for Settlement Product consistent with this Section XIV and Exhibit D. A Settling State may request up to twenty-five percent (25%) of its full Settlement Product allocation for each Payment Year 2-5.

D. Within thirty (30) days of the Effective Date, each Settling State shall notify Indivior and the Settlement Fund Administrator of its Settlement Product election by submitting the Settlement Product Election Form reflected in Exhibit D.

E. Settling States that do not make a Settlement Product Election within 30 days of the Effective Date shall be deemed to have elected to receive the full Settlement Product Cash Conversion Amount, allocated in accordance with the State Allocation Percentage as reflected in Exhibit F.

F. In the event of a Force Majeure Event, Indivior shall promptly provide written notice to the Settling States. Indivior and the States shall meet and confer within seven (7) days of such written notice to establish a commercially reasonable plan to resolve any inability to supply as quickly as reasonably possible, it being understood that, unless otherwise agreed to by the Parties, it is Indivior's obligation to use reasonable efforts which are consistent with accepted industry practices to resume performance as soon as practicable under the circumstances.

G. Settling States shall not be permitted to return to Indivior any Settlement Product under any circumstances other than a recall of the Settlement Product initiated by Indivior or FDA,

in which case Indivior's sole obligation shall be to supply the same number of Settlement Product units to replace the recalled product.

H. The Parties understand that the provision of Settlement Product constitutes compensatory restitution within the meaning of 26 U.S.C. § 162(f)(2)(A) and that the receipt of Settlement Product must be reported on IRS Form 1098-F consistent with subsection XIII.E.

MYLAN SETTLEMENT AGREEMENT

MYLAN SETTLEMENT AGREEMENT

This Settlement Agreement, dated as of April 4, 2025 (the "*Agreement*"), sets forth the terms of settlement between and among the Settling States, the Participating Subdivisions, and Mylan (as those terms are defined below). Upon satisfaction of the conditions set forth in Sections II and VIII, this Agreement will be binding on the Settling States, Mylan, and the Participating Subdivisions. 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 Section VIII.

I. Definitions

Unless otherwise specified, the following definitions apply:

A. *"Additional Remediation Amount."* The amount available to the Settling States totaling up to $5,688,958 to be paid in accord with the payment schedule at Exhibit M-3.

B. *"Adjusted Maximum Remediation Payment."* The Maximum Remediation Payment reduced by the State Allocation Percentage for each Non-Settling State on Exhibit F.

C. *"Agreement."* This agreement, as set forth above. For the avoidance of doubt, this Agreement is inclusive of all exhibits.

D. *"Alleged Harms."* The alleged past, present, and future damages, harms, losses, and related expenditures allegedly incurred by the Settling States and Participating Subdivisions arising out of the use 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, death, and other related diseases and disorders, and that have allegedly been caused by Released Entities.

E. *"Allocation Statute."* 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.

F. *"Annual Fees Payment."* The amounts payable by Mylan in each Payment Year comprised of the Additional Remediation Amount payment and the Private Attorney Fees payment, and not including the Annual Remediation Payment.

G. *"Annual Remediation Maximum."* The total amount available to Eligible States for Annual Remediation Payments in each Payment Year as set forth in the "Maximum Annual Remediation Payment" column of Exhibit M-1. In no event shall an Annual Remediation Payment in Payment Years 1-2, or 5-9 exceed the Annual Remediation Maximum for that Payment Year set forth in Exhibit M-1. For Payment Years 3-4, the Annual Remediation Payment may exceed the Annual Remediation Maximum for that Payment Year only to the extent needed for the Incentive Payment A Catch-up Payment for a Settling State that has not earned some or all of Incentive Payment BC in prior Payment Years, having resulted in correspondingly lower Annual Remediation Payments in those prior Payment Years.

H. *"Annual Remediation Payment."* The amount payable to the Settlement Fund by Mylan for Settling States' Base Payments and Incentive Payments on the Payment Date for each Payment Year, as calculated by the Settlement Fund Administrator.

I. *"Appropriate Official."* As defined in Section XIII.E.3.

J. *"Bankruptcy Code."* Title 11 of the United States Code, 11 U.S.C. § 101, et seq.

K. *"Bar."* Either: (1) a law barring Subdivisions in a Settling State from maintaining or asserting Released Claims against Released Entities (either through a direct bar or through a grant of authority to release claims and 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 or assert any Released Claims against Released Entities, 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 Released Entity (apart from the Annual Remediation Payments by Mylan under this Agreement) shall not constitute a Bar.

L. "*Base Payment.*" As defined in Section IV.G.

M. *"Case-Specific Resolution."* Either: (1) a law barring the Subdivision at issue from maintaining any Released Claims against any Released Entities (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 Released Claims at issue against any Released Entities, 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 Released Entity (apart from the annual payments by Mylan under this Agreement) shall not constitute a Case-Specific Resolution.

N. *"Claim."* Any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, fine, penalty, restitution, reimbursement, disgorgement, expenses, judgment, right, obligation, dispute, suit, contract, controversy, agreement, *parens patriae* claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law, statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or

unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including, but not limited to, any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, remediation, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative, or regulatory remedy whatsoever.

O. *"Claim-Over."* A Claim asserted by a Non-Released Entity against a Released Entity 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.

P. *"Compensatory Restitution Amount."* The aggregate amount paid or incurred by Mylan 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 V.B.2 as being used to pay attorneys' fees, investigation costs or litigation costs, which shall be up to the amount of the Adjusted Maximum Remediation Payment.

Q. *"Consent Judgment."* A consent judgment in a form to be agreed by the Settling States and Mylan prior to the Effective Date that, among other things, (1) approves this Agreement and (2) provides for the release set forth in Section X.A, including the dismissal with prejudice of any Released Claims that the Settling State has brought against Released Entities.

R. *"Covered Conduct"* means any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, service, work, sale, misstatement, misleading statement, or other activity of any kind whatsoever from the beginning of time through the Reference 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, service, work, sale, misstatement, misleading statement, or other activity) arising from or relating in any way to (a) compounding, counseling, and documentation related to any Product or class of Products; (b) the availability, discovery, research, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, relabeling, recall, withdrawal, distribution, delivery, monitoring, reporting, regulatory compliance supply, sale, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to any Product, or any system, plan, policy, procedure, or advocacy relating to any Product or class of Products, including but not limited to any unbranded or branded promotion, marketing, or advertising, information, patient support or assistance, educational programs, consultancy, research, other programs or campaigns, lobbying, grants, sponsorships, charitable donations, or other funding relating to any Product or class of Products; (c) the characteristics, properties, risks, or benefits of any Product or class of Products; (d) the monitoring or non-monitoring of orders placed of any Product; (e), reporting, disclosure, non-monitoring, non-reporting or non-disclosure to federal, state or other regulators of orders for any Product placed with any Released Entity; (f) the selective breeding, harvesting, extracting, purifying, exporting, importing, applying for quota for, procuring quota for, handling, promoting, manufacturing, processing, packaging, supplying, distributing, converting, or selling of, or otherwise engaging in any activity relating to, precursor or component Products, including but not limited to natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, or any

related intermediate Products; or (g) diversion control programs, suspicious order monitoring, or regulatory compliance related to any Product.

S. "*Designated State.*" The State of New York.

T. *"Effective Date."* The date sixty (60) calendar days after the Reference Date.

U. "*Eligible States*." The states, commonwealths, and territories of the United States of America, excluding West Virginia. The 55 Eligible States are listed in Exhibit F.

V. *"Enforcement Committee.*" A committee consisting of representatives of the Settling States and of the Participating Subdivisions. Exhibit B contains the organizational bylaws of the Enforcement Committee. Notice pursuant to Section XIII.Q shall be provided when there are changes in membership or contact information.

W. *"Final Order."* An order or judgment of a court of competent jurisdiction with respect to the applicable subject matter (1) which has not been reversed or superseded by a modified or amended order, is not currently stayed, and as to which any right to appeal or seek certiorari, review, reargument, stay, or rehearing has expired, and as to which no appeal or petition for certiorari, review, reargument, stay, or rehearing is pending, or (2) as to which an appeal has been taken or petition for certiorari, review, reargument, stay, or rehearing has been filed and (a) such appeal or petition for certiorari, review, reargument, stay, or rehearing has been resolved by the highest court to which the order or judgment was appealed or from which certiorari, review, reargument, stay, or rehearing was sought, or (b) the time to appeal further or seek certiorari, review, reargument, stay, or rehearing has expired and no such further appeal or petition for certiorari, review, reargument, stay, or rehearing is pending.

X. "*Global Settlement Amount.*" The Global Settlement Amount is $325,408,416, which is composed of the Maximum Remediation Payment, Private Attorney Fees, and Additional Remediation Amount.

Y. "*Implementation Administrator*." Rubris, Inc., which is the vendor that will be retained by Mylan to provide notice pursuant to Section VII.A and to manage the initial joinder period for Subdivisions, including the issuance and receipt of Subdivision Participation Agreements.

Z. *"Incentive Payment A."* The incentive payment described in Section IV.H.4.

AA. "*Incentive Payment A Catch-up Payment*." As defined in Section IV.H.4.f.

BB. *"Incentive Payment BC."* The incentive payment described in Section IV.H.5.

CC. *"Incentive Payment D."* The incentive payment described in Section IV.H.6.

DD. *"Initial Participating Subdivision."* A Subdivision that meets the requirements set forth in Section VII.D.

EE. *"Initial Participation Date."* The date ninety (90) calendar days after the Preliminary Agreement Date, unless it is extended by written agreement of Mylan and the Enforcement Committee.

FF. *"Injunctive Relief Terms."* The terms described in Section III and set forth in Exhibit P.

GG. *"Later Litigating Subdivision."* 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 Released Claim against a Released Entity after the Reference Date; or (2) adds a Released Claim against a Released Entity after the Reference Date to a lawsuit brought before the Reference Date that, prior to the Reference Date, did not include any Released Claims against a Released Entity; or (3) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a legislative Bar or legislative Case-Specific Resolution as of the Reference Date, (b) such legislative Bar or legislative Case-Specific Resolution is subject to a Revocation Event after the Reference 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 Released Claim against a Released Entity or one hundred eighty (180) 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 Released Claims being dismissed; or (4) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a judicial Bar or judicial Case-Specific Resolution as of the Reference Date, (b) such judicial Bar or judicial Case-Specific Resolution is subject to a Revocation Event after the Reference Date, and (c) such Litigating Subdivision takes any action in its lawsuit asserting a Released Claim against a Released Entity other than seeking a stay or dismissal.

HH. *"Later Participating Subdivision."* A Participating Subdivision that is not an Initial Participating Subdivision, but meets the requirements set forth in Section VII.E.

II. *"Litigating Subdivision."* A Subdivision (or Subdivision official) that brought any Released Claim against any Released Entity prior to the Reference Date. 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.

JJ. *"Maximum Remediation Payment."* The maximum amount owed by Mylan to the Settling States and Subdivisions, exclusive of the Private Attorney Fees and the Additional Remediation Amount. The amount of the Maximum Remediation Payment is $284,447,916.

KK. *"Mylan."* Viatris Inc.

LL. *"National Arbitration Panel."* The panel comprised as described in Section VI.F.3.b.

MM. "*National Disputes."* As defined in Section VI.F.3.a.

NN. *"Non-Litigating Subdivision."* Any Subdivision that is not a Litigating Subdivision.

OO. *"Non-Participating Subdivision."* Any Subdivision that is not a Participating Subdivision.

PP. *"Non-Party Covered Conduct Claim."* A Claim against any Non-Released Entity involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity).

QQ. *"Non-Party Settlement."* A settlement by any Releasor that settles any Non-Party Covered Conduct Claim and includes a release of any Non-Released Entity.

RR. *"Non-Released Entity."* An entity that is not a Released Entity.

SS. "*Non-Settling State."* Any Eligible State that is not a Settling State.

TT. *"Opioid Remediation."* Care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures[1] except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to (1) address the use 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.

UU. *"Participating Subdivision."* Any Subdivision that meets the requirements for becoming a Participating Subdivision under Section VII.B and Section VII.C. Participating Subdivisions include both Initial Participating Subdivisions and Later Participating Subdivisions but not Prior Litigating Subdivisions.

VV. "*Participation Percentage of Incentive BC Eligible Subdivision Population."* As defined in Section IV.H.5.e.

WW. *"Parties."* Mylan and the Settling States (each, a "*Party*").

XX. *"Payment Date."* The date by which Mylan makes the Annual Remediation Payment and the Annual Fees Payment. The Payment Date shall be July 25, 2025, for Payment Year 1 as outlined in Section IV.D.1, and March 1 for each subsequent Payment Year.

YY. *"Payment Year."* The calendar year during which the applicable Annual Remediation Payment and the Annual Fees Payment are due. Payment Year 1 is 2025, Payment Year 2 is 2026 and so forth. References to payment "*for a Payment Year"* mean the Annual Remediation Payment and/or Annual Fees Payment due during that year. References to eligibility "*for a Payment Year"* mean eligibility in connection with the Annual Remediation Payment and/or Annual Fees Payment due during that year.

[1] Reimbursement includes amounts paid to any governmental entities for past expenditures or programs.

ZZ. "*Preliminary Agreement Date.*" The date on which Mylan is to inform the Settling States of its determination that the condition in Section II.B has been satisfied. The Preliminary Agreement Date shall be no more than fourteen (14) calendar days after the end of the notice period to Eligible States, unless it is extended by written agreement of Mylan and the Enforcement Committee.

AAA. "*Primary Fire District.*" A fire district that covers a population of 25,000, or 0.20% of an Eligible State's population if an Eligible State's population is greater than 18 million. If not easily calculable from state data sources and agreed to between the Eligible State and Mylan, 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. "Primary Fire Districts" shall mean fire districts as identified in connection with the implementation of the July 21, 2021, Janssen Settlement Agreement.

BBB. *"Primary Subdivision."* A Subdivision that is a General Purpose Government (including, but not limited to, a municipality, a county, county subdivision, city town, township, parish, village, borough, gore, or any other entities that provide municipal-type government) with population over 10,000; *provided, however,* that as used in connection with Incentive Payment BC, the population threshold is 30,000. Attached as Exhibit I is an agreed list of the Primary Subdivisions in each Eligible State.

CCC. "*Prior Litigating Subdivision*." A Subdivision (or Subdivision official) that brought any Released Claim against any Released Entity prior to the Reference date and all such Released Claims were separately settled or finally adjudicated prior to the Reference 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, Mylan and the Settling State of the relevant Subdivision may agree in writing that the Subdivision shall not be considered a Prior Litigating Subdivision.

DDD. *"Private Attorney Fees"* are the amount to be paid for private attorneys' litigation fees and costs on behalf of Participating Subdivisions. The maximum amount of Private Attorney Fees is $35,271,542, as set forth in Exhibit M-3 ("Maximum Exhibit R Attorneys Fee and Cost Funds"). For avoidance of doubt, Private Attorney Fees do not include Additional Remediation Amount.

EEE. *"Product."* Any chemical substance, 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 substance, that is: (1) an opioid or opiate, as well as any product containing any such substance; (2) benzodiazepine, carisoprodol, or gabapentin; or (3) a combination or "cocktail" of chemical substances prescribed, sold, bought, or dispensed to be used together that includes opioids or opiates. "Product" shall include, but is not limited to, any substance consisting of or containing buprenorphine, butorphanol, codeine, diphenoxylate, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, naloxone, naltrexone, oxycodone, oxymorphone, pentazocine, propoxyphene, remifentanil, 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. Notwithstanding the foregoing, nothing in this section prohibits a Settling

State from taking administrative or regulatory action related to benzodiazepine (including, but not limited to, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triazolam, temazepam, and midazolam), carisoprodol, or gabapentin that is wholly independent from the use of such drugs in combination with opioids, *provided* such action does not seek money (including abatement and/or remediation) for conduct prior to the Initial Participation Date. "Product" also includes any natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, and any intermediate products used or created in the manufacturing process for any of the substances described above.

FFF. *"Reference Date."* The date on which Mylan is to inform the Settling States of its determination whether the condition in Section VIII has been satisfied. The Reference Date shall be no later than thirty (30) calendar days after the Initial Participation Date, unless it is extended by written agreement of Mylan and the Enforcement Committee.

GGG. *"Released Claims."* Any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct and/or Alleged Harms occurring prior to the Initial Participation Date. Without limiting the foregoing, Released Claims include any Claims that have been asserted against Released Entities by a Settling State or any of its Litigating Subdivisions in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) based on, arising out of, or relating to, in whole or in part, the Covered Conduct and/or Alleged Harms, or any such Claims that could be or could have been asserted now or in the future in those actions or in any comparable action or proceeding brought by a Settling State, Subdivision, or Releasor (whether or not such Settling State, Subdivision, or Releasor has brought such action or proceeding). Released Claims also include all Claims against Released Entities asserted in any proceeding to be dismissed pursuant to the Agreement, whether or not such claims related to Covered Conduct and/or Alleged Harms. The Parties intend that this term, "Released Claims," be interpreted broadly. This Agreement does not release Claims by private individuals. It is the intent of the Parties that Claims by private individuals be treated in accordance with applicable law. Released Claims is also used herein to describe claims brought by a non-party Subdivision that would have been Released Claims if they had been brought by a Releasor against a Released Entity.

HHH. *"Released Entities."* With respect to Released Claims, Mylan and (1) all past and present subsidiaries, divisions, affiliates, predecessors, successors, and assigns (in each case, whether direct or indirect) of Mylan; (2) all past and present subsidiaries and divisions (in each case, whether direct or indirect) of any entity described in subsection (1); (3) the respective past and present officers, directors, members, trustees, and employees of any of the foregoing (each for actions that occurred during and related to their work for, or employment with, any of Mylan or the foregoing entities); (4) all past and present joint ventures (whether direct or indirect) of Mylan or its subsidiaries, including in any subsidiary's capacity as a participating member in such joint venture; (5) all direct or indirect parents and shareholders of Mylan (solely in their capacity as parents or shareholders of Mylan with respect to Covered Conduct); and (6) any insurer of Mylan or any person or entity otherwise described in subsections (1)-(5) (solely in its role as insurer of such person or entity and subject to the last sentence of Section X.B.3). A list of Mylan's joint ventures, subsidiaries and affiliates and predecessor entities is set forth in Exhibit J. Any person or entity described in subsections (3)-(6) shall be a Released Entity solely in the capacity described in such clause and shall not be a Released Entity with respect to its conduct in any other capacity.

Any entity acquired, or joint venture entered into, by Mylan after the Initial Participation Date is not a Released Entity. Further and notwithstanding anything else in this paragraph, no entity sued in *In re: National Prescription Opiate Litigation*, No. 1:17-md-2804 (N.D. Ohio) is included as a Released Entity other than the entities listed on Exhibit J.

III. *"Releasors."* With respect to Released Claims, (1) each Settling State; (2) each Participating Subdivision; and (3) without limitation and to the maximum extent of the power of each Settling State's Attorney General and/or Participating Subdivision to release Claims, (a) the Settling State's and Participating Subdivision's departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind 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, water districts, emergency services districts, school districts, healthcare districts, hospital districts, Sheriffs and law enforcement districts, library districts, coroner's offices, and public transportation authorities, and other Special Districts in a Settling State, including those with the regulatory authority to enforce state and federal controlled substances acts or the authority to bring Claims related to Covered Conduct seeking money (including abatement (or remediation and/or restitution)) or revoke a pharmaceutical distribution license, 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, including but not limited to fines, penalties, or punitive damages, 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. 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. Each Settling State's Attorney General represents that he or she has or has obtained (or will obtain no later than the Initial Participation Date) the authority set forth in Section XI.G. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide the Subdivision Settlement Participation Form referenced in Section VIII providing for a release to the fullest extent of the Participating Subdivision's authority.

JJJ. *"Remediation Accounts Fund."* The component of the Settlement Fund described in Section V.

KKK. *"Revocation Event."* With respect to a Bar, or Case-Specific Resolution, a revocation, rescission, reversal, overruling, or interpretation that in any way limits the effect of such Bar, or Case-Specific Resolution on Released Claims, or any other action or event that otherwise deprives the Bar, or Case-Specific Resolution of force or effect in any material respect.

LLL. *"Settlement Fund."* The interest-bearing fund established at [Bank TBD] pursuant to this Agreement into which the Annual Remediation Payments are made under Section IV, which is intended to be classified as a "qualified settlement fund" within the meaning of 26 C.F.R. §§ 1.468B-1 *et seq*. and which shall be approved by any Settling State in accordance with the requirements of 26 C.F.R. § 1.468B-1.

MMM. *"Settlement Fund Administrator."* BrownGreer PLC, which is the entity that annually determines the Annual Remediation Payment (including calculating offset or reduction

and Incentive Payments pursuant to Section IV and any amounts subject to offset pursuant to Section XII) and Additional Remediation Amount, administers the Settlement Fund, and distributes amounts into the Remediation Accounts Fund, State Fund, and Subdivision Fund pursuant to this Agreement. The duties of the Settlement Fund Administrator shall be governed by this Agreement. Prior to the Effective Date, Mylan and the Enforcement Committee shall agree to a detailed description of the Settlement Fund Administrator's duties and responsibilities, including a detailed mechanism for paying the Settlement Fund Administrator's fees and costs, all of which shall be appended to the Agreement as Exhibit L.

NNN. *"Settlement Fund Escrow."* The interest-bearing escrow fund established pursuant to this Agreement to hold disputed payments made under this Agreement.

OOO. *"Settlement Payment Schedule."* The schedule attached to this Agreement as Exhibit M-1, Exhibit M-2, and Exhibit M-3.

PPP. "*Settling State."* An Eligible State that has entered into this Agreement and delivers executed releases in accordance with Section VIII.A.

QQQ. "*State Allocation."* The Maximum Remediation Payment multiplied by the State Allocation Percentage for each Eligible State listed in Exhibit F.

RRR. "*State Allocation Percentage*." A Settling State's percentage as set forth in Exhibit F.

SSS. *"State Fund."* The component of the Settlement Fund described in Section V.

TTT. *"State-Subdivision Agreement."* 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.

UUU. *"Statutory Trust."* 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.

VVV. *"Statewide Payment Amount."* The amount from the Remediation Payment to be paid to a Settling State, including its separate types of funds (if applicable) and its Participating Subdivisions listed in Exhibit G.

WWW. *"Subdivision."* Any (1) General Purpose Government (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village,

borough, gore, or any other entities that provide municipal-type government), School District, 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, Nonfunctioning Governmental Units and public institutions) that has filed a lawsuit that includes a Released Claim against a Released Entity in a direct, *parens patriae,* or any other capacity. "General Purpose Government," "School District," and "Special District" shall correspond to the "five basic types of local governments" recognized by the U.S. Census Bureau and match the 2017 list of Governmental Units.[2] The three (3) General Purpose Governments are county, municipal, and township governments; the two (2) special purpose governments are School Districts and Special Districts.[3] "Fire District," "Health District," "Hospital District," and "Library District" shall correspond to categories of Special Districts recognized by the U.S. Census Bureau.[4] References to a Settling State's Subdivisions or to a Subdivision "in," "of," or "within" a Settling State include Subdivisions located within the Settling State even if they are not formally or legally a sub-entity of the Settling State; *provided, however,* that a "Health District" that includes any of the following words or phrases in its name shall not be considered a Subdivision: mosquito, pest, insect, spray, vector, animal, air quality, air pollution, clean air, coastal water, tuberculosis, and sanitary.

XXX. "*Subdivision Allocation Percentage."* The portion of a Settling State's Subdivision Fund set forth in Exhibit G that a Subdivision will receive pursuant to Section V 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 V.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section V.D.3) that addresses allocation from the Subdivision Fund, whether before or after the Initial 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

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[2] https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP

[3] *E.g.,* U.S. Census Bureau, "Technical Documentation: 2017 Public Use Files for State and Local Government Organization" at 7 (noting that "the Census Bureau recognizes five basic types of local governments," that three of those are "general purpose governments" (county governments, municipal governments, and township governments), and that the other two are "school district and special district governments"), https://www2.census.gov/programs-surveys/gus/datasets/2017/2017_gov_org_meth_tech_doc.pdf.

[4] A list of 2017 Government Units provided by the Census Bureau identifies 38,542 Special Districts and categorizes them by "FUNCTION_NAME." "Govt_Units_2017_Final" spreadsheet, "Special District" sheet, included in "Independent Governments - list of governments with reference information," https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP. As used herein, "Fire District" corresponds to Special District function name "24 — Local Fire Protection," "Health District" corresponds to Special District function name "32 — Health," "Hospital District" corresponds to Special District function name "40 —Hospitals," and "Library District" corresponds to Special District function name "52 — Libraries." *See id.*

by Section V.D.3. The Subdivision Allocation Percentages contained in Exhibit G may not change once notice is distributed pursuant to Section VII.A, except upon the effectiveness of any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section V.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section V.D.3) 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.

YYY. *"Subdivision Fund."* The component of the Settlement Fund described in Section V.A.

ZZZ. *"Subdivision Settlement Participation Form."* The form attached as Exhibit K that Participating Subdivisions must execute and return to the Implementation Administrator or Settlement Fund Administrator, and which shall (1) make such Participating Subdivisions signatories to this Agreement, (2) include a full and complete release of any and all of such Subdivision's claims, and (3) require the prompt dismissal with prejudice of any Released Claims that have been filed by any such Participating Subdivision.

AAAA. *"Threshold Motion."* A motion to dismiss or equivalent dispositive motion made at the outset of litigation under applicable procedure. A Threshold Motion must include as potential grounds for dismissal any applicable Bar or the relevant release by a Settling State or Participating Subdivision provided under this Agreement and, where appropriate under applicable law, any applicable limitations defense.

II. Participation by Eligible States and Condition to Preliminary Agreement

A. *Notice to Eligible States.* On May 26, 2025, this Agreement shall be distributed to all Eligible States. The Attorneys General of the Eligible States shall then have until June 25, 2025, to decide whether to become Settling States and notify Mylan of that decision. Eligible States that determine to become Settling States shall so notify Mylan and shall further commit to obtaining any necessary additional state releases prior to the Reference Date. This notice period may be extended by written agreement of Mylan and the Enforcement Committee.

B. *Condition to Preliminary Agreement*. Following the notice period set forth in Section II.A, Mylan shall have fourteen (14) calendar days to determine whether, in its sole discretion, enough Eligible States have agreed to become Settling States to proceed with notice to Subdivisions as set forth in Section VII. This period may be extended by written agreement of Mylan and the Enforcement Committee. If Mylan determines that this condition has been satisfied, and that notice to the Subdivisions should proceed, it will so notify the Settling States by providing notice to the Enforcement Committee. The date of such notice shall be the Preliminary Agreement Date. If Mylan determines that this condition has not been satisfied, this Agreement will have no further effect and all releases and other commitments or obligations contained herein will be void.

C. *Later Joinder by Eligible States*. After the Preliminary Agreement Date, an Eligible State may only become a Settling State with the consent of Mylan and the Enforcement Committee, provided that the Enforcement Committee may not withhold consent to an Eligible State's later

joinder if the Eligible State agrees to join pursuant to the terms of this Agreement and the allocation set forth on Exhibit F. If an Eligible State becomes a Settling State more than thirty (30) calendar days after the Preliminary Agreement Date, but on or before the Reference 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 Reference Date.

D. *Litigation Activity.* Following the Preliminary Agreement Date, Eligible States that determine to become Settling States shall make reasonable efforts to cease litigation activity against Mylan, including by jointly seeking stays or, where appropriate, severance of claims against Mylan, 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.

III. Injunctive Relief

A. *Injunctive Relief.* As part of the Consent Judgment, the Parties agree to the entry of the injunctive relief terms attached in Exhibit P.

IV. Settlement Payments

A. *Settlement Fund.* All payments under this Section IV shall be made into the Settlement Fund, except that, where specified, they shall be made into the Settlement Fund Escrow. The Settlement Fund shall be allocated and used only as specified in Section V.

B. *Annual Remediation Payments*

1. Mylan shall make nine (9) Annual Remediation Payments, each composed of Base Payments and Incentive Payments as provided in this Section IV and as determined by the Settlement Fund Administrator as set forth in this Agreement, *provided that* the Annual Remediation Payment in Payment Year 1 and Payment Year 9 shall consist solely of Base Payments. The payment schedule for the Annual Remediation Payments is attached hereto as Exhibit M-2.

2. In no instance shall Mylan's Annual Remediation Payment obligation exceed the Annual Remediation Maximum, reduced for Non-Settling States, except as specified in the definition of "Annual Remediation Maximum" for Payment Years 3-4. In no instance shall the sum of Mylan's Annual Remediation Payment obligations for Payment Years 1-9 exceed the sum of Mylan's Annual Remediation Maximums for Payment Years 1-9, reduced for Non-Settling States.

C. *Settlement Fund Payment Process*

1. To determine each Annual Remediation Payment for Payment Year 2 and forward, the Settlement Fund Administrator shall use the data as of sixty (60) days prior to the Payment Date for each payment, unless another provision of the Agreement specifies a

different date. Prior to the Effective Date, the Parties will include Exhibit L, which sets forth in detail the process for the Settlement Fund Administrator to obtain relevant data and for distributing funds to the Settling States and their Participating Subdivisions listed on Exhibit G consistent with the terms of this Agreement as quickly as practical.

2. The Settlement Fund Administrator shall determine the Annual Remediation Payment and the Statewide Payment Amount for each Settling State, consistent with the provisions in Exhibit L, by:

a. Determining, for each Settling State, the Base Payment amount and Incentive Payment amount to which the Settling State is entitled by applying the criteria under Section IV.F, Section IV.G, and Section IV.H;

b. applying any offsets as specified under Section XII;

c. determining the total amount owed by Mylan to all Settling States and the Participating Subdivisions listed on Exhibit G; and

d. the Settlement Fund Administrator shall then allocate, after subtracting the portion of any Settlement Fund Administrator costs and fees owed out of funds from the Settlement Fund pursuant to Section V.C.5, the Annual Remediation Payment pursuant to Section V among the Settling States, among the separate types of funds for each Settling State (if applicable), and among the Participating Subdivisions listed on Exhibit G.

3. If, no later than fifty (50) days prior to the Payment Date, Mylan and the Enforcement Committee inform the Settlement Fund Administrator that they agree on the amount of the Annual Remediation Payment and the Statewide Payment Amount for each Settling State, Mylan shall pay the agreed-upon Annual Remediation Payment amount on the Payment Date and the Settlement Fund Administrator shall treat those amounts as the determination described in Section IV.C.2. If the Settlement Fund Administrator is not so informed, it shall give notice to Mylan, the Settling States, and the Enforcement Committee of the amount of the Annual Remediation Payment, and the Statewide Payment Amount for each Settling State, following the determination described in Section IV.C.2, and the following timeline shall apply:

a. Within twenty-one (21) calendar days of the notice provided by the Settlement Fund Administrator, Mylan, any Settling State, or the Enforcement Committee may dispute, in writing, the calculation of the Annual Remediation Payment or the Statewide Payment Amount for a Settling State. Such disputing party must provide a written notice of dispute to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Mylan identifying the nature of the dispute, the amount of money that is disputed, and the Settling State(s) affected.

b. Within twenty-one (21) calendar days of the sending of a written notice of dispute, any affected party may submit a response, in writing, to the

Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Mylan identifying the basis for disagreement with the notice of dispute.

c. If no response is filed, the Settlement Fund Administrator shall adjust the amount calculated consistent with the written notice of dispute, and Mylan shall pay the adjusted amount, collectively totaling that Payment Year's Annual Remediation Payment, on the Payment Date. If a written response to the written notice of dispute is timely sent to the Settlement Fund Administrator, the Settlement Fund Administrator shall notify Mylan of the preliminary amount to be paid, which shall be the greater of the amount originally calculated by the Settlement Fund Administrator or the amount that would be consistent with the notice of dispute, *provided, however,* that in no circumstances shall the preliminary amount to be paid be higher than the Annual Remediation Maximum. For the avoidance of doubt, a transfer of payments from the Settlement Fund Escrow for other Payment Years does not count toward determining whether the amount to be paid is higher than the Annual Remediation Maximum or other relevant maximum payment.

d. The Settlement Fund Administrator shall place any disputed amount of the preliminary amount paid by Mylan into the Settlement Fund Escrow and shall disburse any undisputed amount to each Settling State and its Participating Subdivisions listed on Exhibit G pursuant to Section IV.C.4.

4. If a Settling State informs the Settlement Fund Administrator that it and its Participating Subdivisions listed on Exhibit G have agreed on the amount of its Statewide Payment Amount, determined pursuant to Section IV.C.2 or Section IV.C.3, to be distributed to the Settling State, among its separate types of funds (if applicable), and among its Participating Subdivisions listed on Exhibit G, the Settlement Fund Administrator shall disburse the Statewide Payment Amount pursuant to the consensus distribution amounts provided by the Settling State as quickly as practical. For a Settling State that does not so notify the Settlement Fund Administrator, the Settlement Fund Administrator shall allocate the Settling State's Statewide Payment Amount, pursuant to Section V, 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:

a. As soon as possible for each payment and following the determination described in Section IV.C.2 or Section IV.C.3, the Settlement Fund Administrator shall give notice to the relevant Settling States and their Participating Subdivisions listed on Exhibit G of the amount to be received by each Settling State, the amount to be received by the separate types of funds for each Settling State (if applicable), and the amount to be received by each Participating Subdivision listed on Exhibit G for each Settling State.

b. Within twenty-one (21) days of the notice provided by the Settlement Fund 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 Fund 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.

c. Within twenty-one (21) 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 Fund Administrator, any affected Settling State and any affected Participating Subdivision identifying the basis for disagreement with the notice of dispute.

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

e. The Settlement Fund Administrator shall place any disputed amount into the Settlement Fund Escrow and shall disburse any undisputed amount to the Settling State and its Participating Subdivisions eligible for payment.

5. Disputes described in this subsection shall be resolved in accordance with the terms of Section VI.F.

6. The Settlement Fund Administrator may combine the disbursements of Annual Remediation Payments with disbursement of funds under other comparable opioid settlements. In determining when disbursements for each Annual Remediation Payment will be made, the Settlement Fund Administrator may take into account the timeline for the availability of disbursements under other comparable opioid settlements.

7. 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.

D. *Procedure for Annual Remediation Payment and Annual Fees Payment in Payment Year 1.* The process described in Section IV.C shall not apply to Payment Year 1. The procedure in lieu of Section IV.C for Payment Year 1 is as set forth below:

1. The Payment Date for Payment Year 1 is July 25, 2025. Mylan shall deposit into a segregated interest-bearing bank account it establishes the "Adjusted Maximum Base Payment" for Payment Year 1 as specified in Exhibit M-2. This amount shall be calculated by multiplying the aggregate State Allocation Percentage attributable to Eligible States that have agreed to become Settling States by the Preliminary Agreement Date by the "Maximum Base Payment" amount specified in Exhibit M-2 for Payment Year 1. Mylan shall also deposit into two (2) separate segregated interest-bearing bank accounts it establishes: (a) the "Maximum Exhibit R Attorney Fee and Cost Funds" for Payment Year 1 as specified in Exhibit M-3; and (b) the "Additional Remediation Amount" for Payment

Year 1 as specified in Exhibit M-3. Mylan shall separately account for the interest earned on each of the three (3) accounts.

2. Mylan shall provide proof to the Enforcement Committee of the deposits required by Section IV.D.1 by July 25, 2025. Mylan shall not remove any money from the segregated bank accounts, except as provided by Sections IV.D.3-5.

3. In the event that, in accordance with the terms of Section VIII.B, Mylan determines not to proceed with the Settlement, or the Settlement does not become effective for any other reason, all funds held in the segregated bank accounts shall immediately revert to Mylan.

4. If the condition set forth in Section VIII.B is met, Mylan shall transfer into the Settlement Fund, no later than five (5) business days after the Reference Date (unless the Enforcement Committee specifies a later date), the amount in the segregated account holding the "*Adjusted Maximum Base Payment*" for Payment Year 1 plus the *total amount of the Base Payment* owed in Payment Year 1 for the Eligible States that newly agreed to become a Settling State between the Preliminary Agreement Date and the Reference Date, which shall be calculated by multiplying those Settling States' State Allocation Percentage by the amount specified in Exhibit M-2 for Payment Year 1. If the condition set forth in Section VIII.B is met, Mylan also shall transfer into the relevant funds as directed by the Enforcement Committee, no later than five (5) business days after the Reference Date (unless the Enforcement Committee specifies a later date), the amount in the segregated account holding the "*Maximum Exhibit R Attorney Fee and Cost Funds*" for Payment Year 1 (including all interest accrued on that account), and the amount in the segregated account holding the Additional Remediation Amount for Payment Year 1 (including all interest accrued on that account), except that any reductions provided by Section IX.B and Exhibit R shall revert to Mylan. Mylan shall provide an accounting to the Enforcement Committee of the transfers, including Statewide Payment Amount for Payment Year 1 for each Eligible State that newly agreed to become a Settling State between the Preliminary Agreement Date and the Reference Date.

5. The interest earned from the deposit account holding the Adjusted Maximum Base Payment for Payment Year 1 shall be used, first, to pay for the Implementation Administrator, then to pay for the Implementation Administrator in the Alvogen, Amneal, Apotex, Hikma, Indivior, Sun, and Zydus Settlement Agreements, and finally to be transferred to the Settlement Fund to be used to pay for the Settlement Fund Administrator pursuant to Section V.C.5.

6. The Annual Remediation Payment for Payment Year 1 transferred by Mylan into the Settlement Fund pursuant to Section IV.D.4 shall be disbursed by the Settlement Fund Administrator after the Effective Date to each Settling State and to its Initial Participating Subdivisions listed on Exhibit G pursuant to Section IV.C.4 through Section IV.C.7; *provided, however*, that for any Settling State where the Consent Judgment has not been entered as of the Effective Date, the funds allocable to that Settling State and its

Participating Subdivisions listed on Exhibit G shall not be disbursed until ten (10) calendar days after the entry of the Consent Judgment in that Settling State.

E. *Payment Date for Payment Years 2 through 9.* The Payment Date for Payment Year 2 is March 1, 2026. The Payment Date for Payment Years 3 through 9 shall be each successive March 1. The Annual Remediation Payments for those Payment Years shall be made pursuant to the process set forth in Section IV.C.

F. *Offsets to Annual Remediation Payments to the Settlement Fund for Non-Settling States.* An offset equal to $284,447,916 times the State Allocation Percentage assigned to each Non-Settling State in Exhibit F shall be deducted from the total amount to be paid by Mylan to the Settlement Fund. For the avoidance of doubt, the Adjusted Maximum Remediation Payment is calculated in a way that reflects this offset. The Base Payments and Incentive Payments are also subject to offset as provided in Section XII.

G. *Base Payments.*

1. Subject to the offset provisions set forth in Section XII, Mylan shall make Base Payments into the Settlement Fund in an amount equal to 48.4373968835% of the Adjusted Maximum Remediation Payment. The maximum total for Base Payments is $137,779,166. The Base Payments shall be due in installments consistent with Exhibit M-2 over the nine (9) Payment Years.

2. The Base Payment for any Settling State in each Payment Year shall be the Base Payment for that Payment Year specified in Exhibit M-2 times the Settling State's State Allocation Percentage specified in Exhibit F.

H. *Incentive Payments.*

1. Subject to the offset provisions set forth in Section XII, Mylan shall make potential additional incentive payments totaling up to a maximum of 51.5626031165% of the Adjusted Maximum Remediation Payment, with the Incentive Payment amount depending on whether and the extent to which the criteria set forth below are met in each Settling State. The maximum total for Incentive Payments is $146,668,750.

2. A Settling State qualifies to receive Incentive Payments in addition to Base Payments if it meets the incentive eligibility requirements specified below. The maximum total Incentive Payment for any Settling State shall be no more than the maximum total for Incentive Payments listed in Section IV.H.1 times the Settling State's State Allocation Percentage specified in Exhibit F. Incentive Payments are state-specific, with the actual amount depending on whether and the extent to which the criteria set forth below are met in such Settling State.

3. The incentive payments shall be divided among three (3) categories, referred to as Incentive Payments A, BC, and D. Incentive Payments A and BC will be due in installments

over the seven (7) Payment Years beginning with Payment Year 2 and ending with Payment Year 8, while Incentive D will be due in installments over four (4) Payment Years beginning with Payment Year 5, as shown on Exhibit M-2. The total amount of incentive payments in an Annual Remediation Payment shall be the sum of the incentive payments for which the individual Settling States are eligible for that Payment Year under the criteria set forth below. The incentive payments shall be made with respect to a specific Settling State based on its eligibility for that Payment Year under the criteria set forth below. For the avoidance of doubt, eligibility for Incentive Payments A, BC, and D shall be determined on a Settling State-by-Settling State basis.

4. Incentive Payment A.

a. Incentive Payment A is mutually exclusive with Incentive Payments BC and D; if a Settling State receives Incentive Payment A in an Annual Remediation Payment, such Settling State is not eligible for Incentive Payment BC or D in that Annual Remediation Payment.

b. Incentive Payment A shall be equal to 51.5626031165% of the Adjusted Maximum Remediation Payment, provided all Settling States satisfy the requirements of Incentive Payment A. Incentive Payment A will be due to a Settling State as part of the Annual Remediation Payment over seven (7) Payment Years, starting in Payment Year 2, and shall equal a total potential maximum of $146,668,750 if all Eligible States qualify for Incentive Payment A. Each Settling State's share of Incentive Payment A in a given year, *provided* that Settling State qualifies, shall equal the total maximum amount available for Incentive Payment A for that year as reflected in Exhibit M-2 times the Settling State's State Allocation Percentage.

c. Qualification for Incentive Payment A is as follows: A Settling State qualifies for Incentive Payment A if, as of two (2) years of the Effective Date: (i) there is a Bar in that Settling State in full force and effect, (ii) the 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: all Primary Subdivisions, Litigating Subdivisions, School Districts with a K-12 student enrollment of at least 25,000 or .10% of a Settling State's population, whichever is greater, Hospital Districts that have at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district, and Primary Fire Districts; or (iii) a combination of the actions in clauses (i) and (ii) has achieved the same level of resolution of Claims by Subdivisions (*e.g.,* a Bar against future litigation combined with full joinder by Litigating Subdivisions). For the avoidance of doubt, subsection (iii) cannot be satisfied unless all Litigating Subdivisions are Participating Subdivisions or there is a Case-Specific Resolution against any such Subdivisions that are not Participating Subdivisions. Mylan and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Initial Participation Date.

d. A Settling State that does not qualify for Incentive Payment A as of two (2) years after the Effective Date shall not be eligible for Incentive Payment A for that Payment Year or any subsequent Payment Years.

e. To the extent a Settling State asserts that existing legislation qualifies as a Bar, the Settling State shall provide notice to Mylan no later than thirty (30) days before the Initial Participation Date. Mylan shall indicate before the Initial Participation Date whether existing legislation in a Settling State is sufficient to qualify as a Bar.

f. If a Settling State does not qualify for Incentive Payment A as of the Payment Date for Payment Year 2 and becomes eligible for Incentive Payment A as of Payment Date for Payment Year 3, it shall receive the payment that it would have received for Incentive Payment A for Payment Year 2 (the "Incentive Payment A Catch-up Payment") on the Payment Date for Payment Year 3. If a Settling State is not eligible for Incentive Payment A as of the Payment Date for Payment Year 3 and becomes eligible for Incentive Payment A as of two (2) years after the Effective Date, it shall receive the payment that it would have received for Incentive Payment A for Payment Years 2 and 3 (also an "Incentive Payment A Catch-up Payment") on the Payment Date for Payment Year 4. The Incentive Payment A Catch-up Payment shall be reduced by any amounts paid to the Settling State under Incentive Payment BC prior to the Settling State's eligibility for Incentive Payment A.

g. If Mylan made a payment under Incentive Payment A solely on the basis of a Bar in a Settling State and that Bar is subsequently removed, revoked, rescinded, reversed, overruled, interpreted in a manner to limit the scope of the release, or otherwise deprived of force or effect in any material respect, 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 Section IV.H.4.c, in which case the Settling State shall be eligible for Incentive Payment A less any litigation fees and costs incurred by Mylan in the interim, except that, if the re-imposition occurs after the completion of opening statements in a trial involving a Released Claim, the Settling State shall not be eligible for Incentive Payment A (unless this exception is waived by Mylan).

5. Incentive Payment BC.

a. Incentive Payment BC shall be available to Settling States that do not qualify for Incentive Payment A.

b. Incentive Payment BC shall be up to a maximum of 48.9844727848% of the Settling State's State Allocation. Incentive Payment BC will be due to a Settling State as part of the Annual Remediation Payment over seven (7) Payment Years, starting in Annual Remediation Payment 2. Subject to Section IV.F, Incentive Payment BC shall equal a total potential maximum of $139,335,312 if all Eligible States qualify for Incentive Payment BC (and do not qualify for Incentive Payment A).

c. A Settling State may earn Incentive Payment BC in Annual Remediation Payments 2 through 8 and may receive, when combined with the Settling State's Base Payment, up to 97.4218696683% of the Settling State's State Allocation. The maximum Incentive Payment BC for any Settling State in a given Payment Year shall be the maximum potential Incentive Payment BC for that Payment Year specified in Exhibit M-2 times the Settling State's State Allocation Percentage specified in Exhibit F, provided such Settling State becomes eligible for Incentive Payment BC by sixty (60) days before the Payment Date for Payment Year 5.

d. The amount of Incentive Payment BC for which a Settling State is eligible shall be determined based on the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of all the Settling State's Incentive BC Subdivisions. The Settling State's Incentive BC Subdivisions are (i) all Litigating Subdivisions (including School Districts and Special Districts) and (ii) all Primary Subdivisions that have not sued Mylan as of the Initial Participation Date (collectively, "*Incentive BC Subdivisions*").

e. The percentage of the Settling State's maximum Incentive Payment BC for the Payment Year provided by Section IV.H.5.c to which the Settling State is entitled shall be determined according to the table of Incentive BC payment levels below:

Participation Percentage of Incentive BC Eligible Subdivision Population[5]	Incentive Payment BC Percentage for the Relevant Payment Year
Less than 85%	0%
85% or more but less than 86%	3.57%
86% or more but less than 87%	8.93%

[5] The "Participation Percentage of Incentive BC Eligible Subdivision Population" shall be determined by the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of the Settling State's Incentive BC Subdivisions. None of the population figures shall include Prior Litigating Subdivisions. In calculating the Settling State's population that resides in Incentive BC Subdivisions, the population of the Settling State's Incentive BC Subdivisions shall be the sum of the population of all Incentive BC Subdivisions in the Settling State, notwithstanding that persons may be included within the population of more than one Incentive BC Subdivision. An individual 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; provided, however, that for the avoidance of doubt, no Subdivision will be excluded from the numerator or denominator under this sentence unless a Subdivision otherwise counted in the denominator has the authority to release the Claims (consistent with Section X) of the Subdivision to be excluded.

87% or more but less than 88%	14.29%
88% or more but less than 89%	19.64%
89% or more but less than 90%	25%
90% or more but less than 91%	30.36%
91% or more but less than 92%	35.71%
92% or more but less than 93%	41.07%
93% or more but less than 94%	46.43%
94% or more but less than 95%	51.79%
95% or more but less than 96%	60.71%
96% or more but less than 97%	68.75%
97% or more but less than 98%	76.79%
98% or more but less than 99%	84.82%
99% or more but less than 100%	92.86%
100%	100%

f. For Payment Years 2-5, the percentage of the available Incentive Payment BC amount for which a Settling State is eligible will be based on the Participation Percentage of Incentive BC Eligible Subdivision Population as of sixty (60) days before the Payment Date. For Payment Years 6-8, the percentage of the available Incentive Payment BC amount for which a Settling State is eligible will be based on the Participation Percentage of Incentive BC Eligible Subdivision Population as of sixty (60) days before the Payment Date for Payment Year 5. If Incentive BC Eligible Subdivisions that have become Participating Subdivisions, or achieved Case-Specific Resolution status, collectively represent less than eighty-five percent (85%) of a Settling State's Incentive BC Eligible Subdivision population by sixty (60) days before the Payment Date for Payment Year 5, the Settling State shall not receive any Incentive Payment BC.

g. If there are no Incentive BC Eligible Subdivisions in a Settling State, and that Settling State is otherwise eligible for Incentive Payment BC because it is not eligible for Incentive Payment A, that Settling State will receive its maximum Incentive Payment BC for that Annual Remediation Payment provided by Section IV.H.5.c.

6. Incentive Payment D.

a. Incentive Payment D shall be available to Settling States that do not qualify for Incentive Payment A.

b. Incentive Payment D shall be equal to up to a maximum of 8.5937673033% of the Adjusted Maximum Remediation Payment, with the actual amount depending whether and the extent to which the criteria set forth below are met in each Settling State. The maximum total for Incentive Payment D is $24,444,792.[6]

c. Incentive Payment D shall be paid starting at Payment Year 5 and the amount of Incentive Payment D in Payment Years 5-8 will depend on (i) the Settling State meeting the qualifications set out in Section IV.H.6.d and (ii) the Participation Percentage of Incentive BC Eligible Subdivision Population achieved by the Settling State as of sixty (60) days prior to the Payment Date for Payment Year 5.

d. A Settling State qualifies for Incentive Payment D if no Later Litigating Subdivision (for purposes of Incentive Payment D, Later Litigating Subdivisions are limited to (i) a Primary Subdivision; (ii) a school district with a K-12 student enrollment of at least 25,000 or 0.10% of the Settling State's population, whichever is greater; (iii) a health district or hospital district that has at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district; and (iv) Primary Fire Districts) in that Settling State has a lawsuit against a Released Entity survive more than six (6) months after denial in whole or in part of a Threshold Motion.

e. A Settling State's qualification for Incentive Payment D shall be determined as of sixty (60) calendar days prior to the Payment Date ("*Incentive Payment D Look-Back Date*"). If a Later Litigating Subdivision's lawsuit in that Settling State survives more than six (6) months after denial in whole or in part a Threshold Motion after that date, that Settling State shall not be eligible for Incentive Payment D for the Payment Year in which that occurs and any subsequent Payment Year.

f. The Incentive Payment D for any Settling State qualifying for Incentive Payment D in Payment Years 5-8 shall be equal to between 2.5781301910% and 8.5937673033% of the State Remediation Payment times the Settling State's Overall Allocation Percentage specified in Exhibit F. The applicable percentage shall be determined based on the Participation Percentage of

[6] The Incentive Payment BC table specified in Section IV.H.5.e and Incentive Payment D table specified in Section IV.H.6.f operate so that the combined amount of Incentive Payment BC and Incentive Payment D cannot exceed 51.5626031165% of the Adjusted Maximum Remediation Payment over the term of the Agreement. Mylan will have no obligation to pay more than $146,668,750 for the combined amounts of Incentive Payment BC and Incentive Payment D minus any offsets for Non-Settling States specified in Section IV.F.

Incentive BC Eligible Subdivision Population achieved by the Incentive Payment D Look-Back Date for Payment Year 5 as shown in the table below:

Participation Percentage of Incentive BC Eligible Subdivision Population as of sixty (60) days prior to the Payment Date for Payment Year 5	**Each Eligible Settling State's Applicable Incentive Payment D Percentage**
Participation of less than 95%	8.5937673033% of State Allocation
Participation of 95% but less than 96%	7.7343905729% of State Allocation
Participation of 96% but less than 97%	6.8750138426% of State Allocation
Participation of 97% but less than 98%	6.0156371123% of State Allocation
Participation of 98% but less than 99%	5.1562603820% of State Allocation
Participation of 99% but less than 100%	4.2968836516% of State Allocation
Participation of 100%	2.5781301910% of State Allocation

g. Incentive Payment D shall be paid in four equal installments. Prior to making the Annual Remediation Payment for Payment Years 5-8, the Settlement Fund Administrator shall determine a Settling State's qualification for Incentive Payment D as of the Incentive Payment D Look-Back Date for that Payment Year. Prior to the Incentive Payment D Look-Back Date for each Payment Year, Mylan may provide the Settlement Fund Administrator and the Enforcement Committee with notice identifying any Settling State(s) it believes do not qualify for Incentive Payment D and information supporting its belief.

h. Notwithstanding Section IV.H.6.d and Section IV.H.6.e, a Settling State can become re-eligible for 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, in which case the Settling State shall be eligible for Incentive Payment D less any litigation fees and costs incurred by Mylan in the interim, 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.

7. In no event shall any Settling State receive Base Payments and Incentive Payments A, BC, and D totaling more than one hundred percent (100%) of its respective Overall State Allocation Percentage specified in Exhibit F times the Maximum Remediation Payment.

V. Allocation and Use of Settlement Payments

A. *Components of Settlement Fund.* The Settlement Fund shall be funded by the Annual Remediation Payments and comprised of a Remediation Accounts Fund, a State Fund, and a Subdivision Fund for each Settling State. The payments made under Section IV 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 Mylan.

B. *Use of Settlement Payments.*

1. 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 V.B.2. In no event may less than ninety-five percent (95%) of Mylan's maximum amount of payments pursuant to Section IV as set forth on Exhibit M-2 over the entirety of all Payment Years (but not any single Payment Year) be spent on Opioid Remediation.

2. 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 Fund Administrator and Mylan 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 V.B.2 shall be available to the public. For the avoidance of doubt, (a) any amounts not identified under this Section V.B.2 as used to pay attorneys' fees, investigation costs, or litigation costs shall be included in the Compensatory Restitution Amount for purposes of Section V.F and (b) Participating Subdivisions not listed on Exhibit G may only use monies from the Settlement Fund for purposes that qualify as Opioid Remediation.

C. *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 Fund Administrator will make an initial allocation to three (3) state-level sub-funds. The Settlement Fund 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.

1. Base Payments. The Settlement Fund Administrator will allocate Base Payments under Section IV.G among the Settling States pursuant to Section IV.G.2. 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 V.D.

2. Incentive Payments. The Settlement Fund Administrator will treat Incentive Payments under Section IV.H on a state-specific basis. Incentive Payments for which a Settling State is eligible 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 V.D.

3. Application of Adjustments. If an offset under Section XII applies with respect to a Settling State, the offset 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.

4. Settlement Fund Administrator. Prior to the Effective Date, Mylan and the Enforcement Committee will agree to a detailed mechanism consistent with the foregoing for the Settlement Fund Administrator to follow in allocating, apportioning, and distributing payments, which shall then be appended hereto as Exhibit L.

5. Settlement Fund Administrator Costs. Any costs and fees associated with or arising out of the duties of the Settlement Fund Administrator as described in Exhibit L shall be paid from the interest accrued in the Settlement Fund Escrow and the Settlement Fund; *provided, however,* that if such accrued interest is insufficient to pay the entirety of any such costs and fees, the additional amount and shall be paid out of the Settlement Fund. For the avoidance of doubt, nothing in this provision shall require Mylan to pay any costs, fees, or other amounts in excess of the Global Settlement Amount.

D. *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 V.D.1 and Section V.D.2, then the default provisions of Section V.D.4 apply. It is not necessary that a State-Subdivision Agreement or other means of allocating funds pursuant to Section V.D.1 and Section V.D.2 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.

1. 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 V.C 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 V.B.2, and (b) that

at least seventy percent (70%) of amounts be used solely for future Opioid Remediation.[7] For a State-Subdivision Agreement to be applied to the relevant portion of an Annual Payment, notice must be provided to Mylan and the Settlement Fund Administrator at least sixty (60) calendar days prior to the Payment Date.

2. 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 V.B.2, 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 V.C 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 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 Section V of any such unaddressed fund. For example, if an Allocation Statute or Statutory Trust that meets the requirements of this Section V.D.2 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.

3. 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 Fund 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.

4. Distribution in the Absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust. If Section V.D.1 and Section V.D.2 do not apply, amounts apportioned to that Settling State's State Fund, Remediation Accounts Fund, and Subdivision Fund under Section V.C shall be distributed as follows:

a. Amounts apportioned to that Settling State's State Fund shall be distributed to that Settling State.

[7] 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.

b. Amounts apportioned to that Settling State's Remediation Accounts Fund shall be distributed consistent with Section V.E. Each Settling State shall submit to the Settlement Fund 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 Fund 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 Fund 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 Fund Administrator to release the Settling State's Remediation Accounts Fund to the Statutory Trust.

c. 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 VII.H 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.

d. Special Districts shall not be allocated funds from the Subdivision Fund, except through a voluntary redistribution allowed by Section V.D.3 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.

5. Restrictions on Distribution. No amounts may be distributed from the Subdivision Fund contrary to Section VII, 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 VII.E through Section VII.H. 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 V.D.1 or by an Allocation Statute or a Statutory Trust described in Section V.D.2.

E. *Provisions Regarding the Remediation Accounts Fund.*

1. 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 V.D.1 or Section V.D.2, as

applicable, and all direct payments to Subdivisions comply with Section VII.E through Section VII.H.

2. 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:

a. Regional Remediation.

(i) 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 V.E.2.d to define its regions and assign regional allocations percentages. Otherwise, the Settling State shall (A) define its initial regions, which shall consist of one (1) or more General Purpose Subdivisions 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; (B) 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.

(ii) 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.

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

b. *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.

c. *Small Settling States.* Notwithstanding the provisions of Section V.E.2.a, Settling States with populations under four (4) million that do not have existing regions described in Section V.E.2.a 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 V.E.2.b shall be divided regionally so that each block-grant eligible Subdivision is a region, and the remainder of the state is a region.

d. *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:

(i) 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;

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

(iii) 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

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

3. Remediation Accounts Fund Reporting. The Settlement Fund Administrator shall track and assist in the report of remediation disbursements as agreed to between Mylan and the Enforcement Committee

F. *Nature of Payment*. Mylan, 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 Released Claims:

1. They have entered into this Agreement to avoid the delay, expense, inconvenience, and uncertainty of further litigation;

2. (a) 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; (b) 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 (c) 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;

3. The payment of the Compensatory Restitution Amount by Mylan constitutes, and is paid for, compensatory restitution and remediation (within the meaning of 26 U.S.C. § 162(f)(2)(A) and 26 C.F.R. § 1.162-21(e)(4)(i), (ii)) for alleged damage or harm (as compensation for alleged damage or harm arising out of alleged bodily injury) allegedly caused by Mylan 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

4. For the avoidance of doubt: (a) the entire Compensatory Restitution Amount is properly characterized as described in Section V.F, (b) no portion of the Compensatory Restitution Amount represents reimbursement to any Settling State or Participating Subdivision or other person or entity for the fees or costs of any investigation or litigation, including without limitation attorneys' fees, (c) no portion of the Global Settlement Amount constitutes the disgorgement of any allegedly ill-gotten gains, and (d) no portion of the Global 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.

VI. Enforcement

A. *Enforceability.* This Agreement is enforceable only by the Settling States and Mylan; *provided, however,* that Released Entities may enforce Section X and Participating Subdivisions listed on Exhibit G have the enforcement rights described later in this paragraph and in Section VI.D. Except to the extent allowed by the Injunctive Relief Terms, Settling States and Participating Subdivisions shall not have enforcement rights against Mylan 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. Participating Subdivisions shall not have enforcement rights against Mylan with respect to this Agreement or any Consent Judgment except that Participating Subdivisions listed on Exhibit G shall have enforcement rights as set forth herein as to payments that would be allocated to the Participating Subdivisions or the Remediation Accounts Fund in such Settling State; *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. *Jurisdiction.* Mylan consents to the jurisdiction of the court in which each Settling State files its Consent Judgment, limited to resolution of disputes identified in Section VI.F.2 for resolution in that court.

C. *Specific Terms Dispute Resolution.*

1. Any dispute that is addressed by the provisions set forth in the Injunctive Relief Terms shall be resolved as provided therein.

2. In the event that Mylan believes that the ninety-five percent (95%) threshold established in Section V.B.1 is not being satisfied, any Party may request that Mylan and the Enforcement Committee meet and confer regarding the use of funds to implement Section V.B.1. The completion of such meet-and-confer process is a precondition to further action regarding any such dispute. Further action concerning Section V.B.1 shall: (i) be limited to Mylan seeking to reduce its 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 V.B.1; (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 V.B.1; and (iii) not reduce Annual Remediation Payments restricted to future Opioid Remediation.

D. *State-Subdivision Enforcement.*

1. 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 allegations that (i) the Settling State's use of Remediation Accounts Fund monies were not used for uses 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 V.E.2.b.

2. 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 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.

3. 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.

E. *Subdivision Mylan Payment Enforcement.* A Participating Subdivision listed on Exhibit G shall have the same right as a Settling State to seek resolution regarding the failure by Mylan to make its Annual Remediation Payment in a Payment Year.

F. *Other Terms Regarding Dispute Resolution.*

1. The parties to a dispute shall promptly meet and confer in good faith to resolve any dispute. If the parties cannot resolve the dispute informally, and unless otherwise agreed in writing, they shall follow the remaining provisions in this section to resolve the dispute.

2. Except to the extent provided by Section VI.C or Section VI.F.3, all disputes not resolved informally shall be resolved in 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.

a. State court proceedings shall be governed by the rules and procedures of the relevant forum.

b. For the avoidance of doubt, disputes to be resolved in state court include, but are not limited to, the following:

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

(ii) disputes between a Settling State and its Participating Subdivisions as provided by Section VI.D, except to the extent the 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;

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

(iv) 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; and

(v) whether the definition of a Bar, a Case-Specific Resolution, Final Order, lead state agency as described in Section V.D.4.b, Later Litigating Subdivision, Litigating Subdivision, or Threshold Motion have been met; and

(vi) all other disputes not specifically identified in Section VI.C or Section VI.F.3.

c. Any Party may request that the National Arbitration Panel provide an interpretation of any provision of the settlement 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.

3. National Disputes involving a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VI.A, and/or Mylan shall be resolved by the National Arbitration Panel.

a. National Disputes are disputes that are not addressed by Section VI.C, and which are exceptions to Section VI.F.2's presumption of resolution in state courts because they involve issues of interpretation of terms contained in this Agreement applicable to all Settling States without reference to a particular state's law. Disputes between a Settling State and any Participating Subdivision shall not be considered National Disputes. National Disputes are limited to the following:

(i) the amount of offset and/or credit attributable to Non-Settling States;

(ii) issues involving the scope and definition of Product;

(iii) interpretation and application of the terms "Covered Conduct," "Released Entities," and "Released Claims;"

(iv) the failure by Mylan to pay the Annual Remediation Payment or the Additional Remediation Amount in a Payment Year, but for the avoidance of doubt, disputes between Mylan and a Settling State over the amounts owed only to that state that do not affect any other Settling State shall not be considered National Disputes;

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

(vi) disputes involving liability of successor entities;

(vii) disputes that require a determination of the sufficiency of participation in order to qualify for Incentive Payments A, BC, or D;

(viii) disputes involving a Releasor's compliance with, and the appropriate remedy under, Section X.B.5.c;

(ix) 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

(x) any dispute subject to resolution under Section VI.F.2 but for which all parties to the dispute agree to arbitration before the National Arbitration Panel under the provisions of this Section VI.F.3.

b. The National Arbitration Panel shall be comprised of three (3) arbitrators. One (1) arbitrator shall be chosen by Mylan, one (1) arbitrator shall be chosen by the Enforcement Committee 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 that selected him/her.

c. 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.

d. 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.

e. To the extent allowed under state law, a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VI.A, 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.

f. The arbitrators will give due deference to 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 VI.A, or Mylan on a state law issue.

g. The decisions of the National Arbitration Panel shall be binding on Settling States, Participating Subdivisions, Mylan, and the Settlement Fund Administrator. In any proceeding before the National Arbitration Panel involving a dispute between a Settling State and Mylan 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.

h. 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.

i. Each party shall bear its own costs in any arbitration or court proceeding arising under this Section VI. 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 Mylan and Settling States/Participating Subdivisions shall be split fifty percent (50%) by Mylan 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. For the avoidance of doubt, Mylan shall not be responsible for the National Arbitration Panel costs in disputes that do not concern Mylan.

4. Prior to initiating an action to enforce pursuant to this Section VI.F, the complaining party must:

a. Provide written notice to the Enforcement Committee and/or Mylan 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 Enforcement Committee shall establish a reasonable process and timeline for obtaining additional information from the involved parties; *provided, however,* that the date the Enforcement Committee establishes for obtaining additional information from the parties shall not be more than forty-five (45) calendar days following the notice. The Enforcement Committee may advise the involved parties of its views on the complaint and/or seek to resolve the complaint informally.

b. Wait to commence any enforcement action until thirty (30) calendar days after the date that the Enforcement Committee establishes for obtaining additional information from the involved parties.

5. If the parties to a dispute cannot agree on the proper forum for resolution of the dispute under the provisions of Section VI.F.2 or Section VI.F.3, a committee comprising the Enforcement Committee and sufficient representatives of Mylan such that the members of the Enforcement Committee have a majority of one (1) member 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 committee's identification of such forum in the first instance shall not be entitled to deference by the forum selected.

G. *Lien or Encumbrance*. To the extent allowed by applicable law, this Settlement Agreement shall not be deemed to create a lien or encumbrance against any real property owned by Mylan or its affiliates, unless in the event of a default or breach of the payment provisions by Mylan. Nothing in this Section shall be construed to limit any remedy of any Settling State or Participating Subdivision in the event of a default or breach of this Agreement by Mylan.

H. *No Effect.* Nothing in this Agreement shall be interpreted to limit the Settling States' Civil Investigative Demand *("CID")* or investigative subpoena authority, to the extent such authority exists under applicable state law and the CID or investigative subpoena is issued pursuant to such authority, and Mylan reserves all of its rights in connection with a CID or investigative subpoena issued pursuant to such authority.

VII. Participation by Subdivisions

A. *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. 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, 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 and Special Districts listed on Exhibit G. The costs of the Implementation Administrator shall be paid for by the interest earned from the deposit accounts holding the Adjusted Maximum Base Payment for Payment Year 1 for Mylan and nothing in this provision shall require Mylan to pay any costs, fees or other amounts in excess of the Global Settlement Amount. The Settling States, with the cooperation of Mylan, 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 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.

B. *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 Fund Administrator (which may be executed and

returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) specifying (1) that the Subdivision agrees to the terms of this Agreement pertaining to Subdivisions, (2) that the Subdivision releases all Released Claims against all Released Entities, (3) that the Subdivision agrees to use monies it receives, if any, from the Settlement Fund pursuant to the applicable requirements of Section V; *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. The required Subdivision Settlement Participation Form is attached as Exhibit K.

C. *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 Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) and upon prompt dismissal with prejudice of its lawsuit following the Reference Date or the date on which the conditions for effectiveness in Section VIII.B have been met, whichever is later. 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 Fund Administrator shall provide reports of this information to the parties upon request. A Litigating Subdivision or Later Litigating Subdivision may not become a Participating Subdivision after the completion of opening statements in a trial of the lawsuit it brought that includes a Released Claim against a Released Entity.

D. *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 VII.B or Section VII.C by the Initial Participation Date. All Subdivision Settlement Participation Forms shall be held in escrow by the Implementation Administrator until the Reference 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 Participation Agreements 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 obligations.

E. *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 VII.B or Section VII.C after the Initial 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 V.D or Section V.E. Unless waived by Mylan, the following provisions govern what a Later Participating Subdivision can receive (but do not apply to Initial Participating Subdivisions):

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

2. A Later Participating Subdivision that becomes a Participating Subdivision after December 15, 2026, 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 VII.E.3 or Section VII.E.4).

3. A Later Participating Subdivision that, after the Initial Participation Date, maintains a lawsuit for a Released Claim(s) against a Released Entity and has judgment entered against it on every such 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.

4. A Later Participating Subdivision that becomes a Participating Subdivision while a Bar or Case-Specific Resolution involving a different Subdivision exists in its state 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 or Case-Specific Resolution.

F. *No Increase in Payments.* Amounts to be received by Later Participating Subdivisions shall not increase the payments due from Mylan.

G. *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.

H. *Unpaid Allocations to Later Participating Subdivisions and Non-Participating Subdivisions.* Any Base Payment and Incentive Payments allocated pursuant to Section V.D to a Later Participating Subdivision or Non-Participating Subdivision that cannot be paid pursuant to this Section VII, including the amounts that remain unpaid after the reductions required by Section VII.E.2 through Section VII.E.4, 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.

I. *Ineligible Subdivisions.* Subdivisions in Non-Settling States and Prior Litigating Subdivisions are not eligible to be Participating Subdivisions.

VIII. Condition to Effectiveness of Agreement and Filing of Consent Judgment

A. *Determination to Proceed with Settlement—Settling States*. Following the Initial Subdivision Participation Date, the Enforcement Committee shall determine whether to proceed with the Agreement on behalf of the Settling States, and the Settling States shall be bound by the determination of the Enforcement Committee. No later than fifteen (15) calendar days prior to the

Reference Date, the Enforcement Committee shall provide notice to Mylan of its decision. If the Enforcement Committee elects 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 informing Mylan that there is sufficient participation to proceed, the Enforcement Committee will deliver all signatures and releases required by the Agreement to be provided by the Settling States to Mylan.

B. *Determination to Proceed with Settlement—Mylan*. If the Settling States elect to proceed, Mylan will then determine on or before the Reference Date whether there is sufficient Eligible State participation, sufficient Subdivision participation, and sufficient resolution of the Claims of the Litigating Subdivisions in the Settling States (through participation under Section VIII, Case-Specific Resolution(s) and Bar(s)) to proceed with this Agreement. The determination shall be in the sole discretion of Mylan and may be based on any criteria or factors deemed relevant by Mylan.

C. *Notice by Mylan.* On or before the Reference Date, Mylan shall inform the Settling States of its determination pursuant to Section VIII.B. If Mylan determines to proceed, the Parties will proceed to file the Consent Judgments and the obligations in the Subdivision Settlement Participation Forms will be effective and binding as of the Reference Date. If Mylan determines not to proceed, this Agreement will have no further effect, any amounts deposited for Payment Year 1, including funds referenced in Section IV.D.1 and Exhibit M, shall revert to Mylan, 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.

IX. Participating Subdivision Attorneys' Fees and Costs and Additional Remediation Amount

A. The Agreement on Subdivision Attorneys' Fees, Expenses and Costs is set forth in Exhibit R and incorporated herein by reference.

B. *Additional Remediation Amount*.

1. Subject to and without exceeding the maximum payment amounts set forth in the "Additional Remediation Amount" column of Exhibit M-3 and subject to the reduction specified in Section IX.B.2, Mylan shall pay an Additional Remediation Amount to the Settling States listed in Exhibit N. Such funds shall be paid, on the schedule set forth in Exhibit M-3, as allocated by the Settlement Fund Administrator pursuant to Exhibit N.

2. *Reduction of Additional Remediation Amount*. The amounts owed by Mylan pursuant to this Section IX.B shall be reduced by the allocations set forth on Exhibit N for Non-Settling States.

3. For the avoidance of doubt, (1) a Settling State that retained outside counsel in connection with the investigation of Mylan that receives an Additional Remediation

Amount may choose to have the Additional Remediation Amount designated to pay the Settling State's outside counsel, and may instruct the Settlement Fund Administrator to pay those funds directly to the Settling State's outside counsel, and (2) Additional Remediation Amount funds, including funds designated by a Settling State to pay its outside counsel under this paragraph, shall not be subject to allocation as provided in Section V.C through Section V.E.

C. All payments addressed by this Section IX will be made no later than the Payment Date for the Payment Year in which they are due, pursuant to Exhibit M-3.

X. Release

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

B. *Claim-Over and Non-Party Settlement.*

1. It is the intent of the Parties that:

a. Released Entities should not seek contribution or indemnification (other than pursuant to an insurance contract), from other parties for their payment obligations under this Agreement;

b. the payments made under this Agreement shall be the sole payments made by the Released Entities to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity);

c. Claims by Releasors against non-Parties should not result in additional payments by Released Entities, whether through contribution, indemnification or any other means; and

d. 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 released party's liability to any other parties.

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

3. No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner; *provided* that a Released Entity shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

4. To the extent that, on or after the Reference Date, any Releasor enters into a Non-Party Settlement, including in any bankruptcy case or through any plan of reorganization, 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 substantially equivalent to that required from Mylan in Section X.B.3, or a release from such Non-Released Entity in favor of the Released Entities (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.

5. In the event that any Releasor obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Entity that does not contain a prohibition like that described in Section X.B.3 or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in Section X.B.3, and such Non-Released Entity asserts a Claim-Over against a Released Entity, the Released Entity shall be relieved of the prohibition in Section X.B.3 with respect to that Non-Released Entity and that Releasor and Mylan shall take the following actions to ensure that the Released Entities do not pay more with respect to Covered Conduct to the Releasor or to Non-Released Entities than the amounts owed under this Settlement Agreement by Mylan:

a. Mylan shall notify that Releasor of the Claim-Over within sixty (60) calendar days of the assertion of the Claim-Over or sixty (60) calendar days of the Effective Date of this Settlement Agreement, whichever is later;

b. Mylan and that Releasor shall meet and confer concerning the means to hold Released Entities harmless and ensure that they are not required to pay more with respect to Covered Conduct than the amounts owed by Mylan to the Releasor under this Agreement;

c. That Releasor and Mylan shall take steps sufficient and permissible under the law of the state of the Releasor to hold Released Entities harmless from the Claim-Over and ensure Released Entities are not required to pay more with respect to Covered Conduct than the amounts owed by Mylan under this Agreement. Such steps may include, where permissible:

(i) Filing of motions to dismiss or such other appropriate motion by Mylan or Released Entities, and supported by Releasor, in response to any claim filed in litigation or arbitration;

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

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

(iv) Return of monies paid by Mylan to the Releasor under this Settlement Agreement to permit satisfaction of a judgment against or settlement with the Non-Released Entity to satisfy the Claim-Over;

(v) Payment of monies to Mylan by the Releasor to ensure it is held harmless from such Claim-Over, up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity;

(vi) Credit to Mylan under this Agreement to reduce the overall amounts to be paid under the Agreement such that it is held harmless from the Claim-Over; and

(vii) Such other actions as that Releasor and Mylan may devise to hold Mylan harmless from the Claim-Over.

d. The actions of that Releasor and Mylan taken pursuant to paragraph (c) must, in combination, ensure Mylan is not required to pay more with respect to Covered Conduct than the amounts owed by Mylan to the Releasor under this Agreement.

e. In the event of any dispute over the sufficiency of the actions taken pursuant to paragraph (c), the Releasor and Mylan 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. The National Arbitration Panel shall have authority to require Releasor to implement a remedy that includes one or more of the actions specified in paragraph (c) sufficient to hold Released Entities fully harmless. In the event that the Panel's actions do not result in Released Entities being held fully harmless, Mylan shall have a claim for breach of this Agreement by Releasor, with the remedy being payment of sufficient funds to hold Mylan harmless from the Claim-Over up to the amount the Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity. For the avoidance of doubt, the prior sentence does not limit or eliminate any other remedy that Mylan may have.

6. To the extent that the Claim-Over is based on a contractual indemnity, the obligations under Section X.B.4 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. Mylan shall notify the Settling States, to the extent permitted by applicable law, in the event that any of these types of Non-Released Entity asserts a Claim-Over arising out of contractual indemnity against it.

C. *Indemnification and Contribution Prohibited.* No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory, from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

D. *General Release.* In connection with the releases provided for in this Agreement, each Settling State (for itself and its Releasors) and Participating Subdivision 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:

> **General Release; extent**. A general release does not extend to claims 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 Released Claims, 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 Released Claims 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.

E. *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 Mylan (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 Mylan.

F. *Res Judicata.* Nothing in this Agreement shall be deemed to reduce the scope of the res judicata or claim preclusive effect that the settlement memorialized in this Agreement,

and/or any Consent Judgment or other judgment entered on this Agreement, gives rise to under applicable law.

G. *Representation and Warranty*. The signatories hereto on behalf of their respective Settling States and its Participating Subdivisions expressly represent and warrant that they will obtain on or before the Effective Date (or have obtained) the authority to settle and release, to the maximum extent of the State's power, all Released Claims of (1) their respective Settling States; (2) any of the respective Settling State's past and present executive departments, state agencies, divisions, boards, commissions and instrumentalities with the regulatory authority to enforce state and federal controlled substances acts; (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 Claims related to Covered Conduct seeking money (including abatement and/or remediation) or revocation of a pharmaceutical distribution license; and (4) any Participating Subdivisions. For the purposes of clause (3) above, executive departments, agencies, divisions, boards, commission, and instrumentalities are those that are under the executive authority or direct control of the State's Governor. Also, for the purposes of clause (3), a release from a State's Governor as set forth in Exhibit X is sufficient to demonstrate that the appropriate releases have been obtained.

H. *Effectiveness.* The releases set forth in this Agreement 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.

I. *Cooperation.* Releasors (1) will not encourage any person or entity to bring or maintain any Released Claim against any Released Entity and (2) will reasonably cooperate with and not oppose any effort by a Released Entity to secure the prompt dismissal of any and all Released Claims, including suits brought by non-Releasors based on Released Claims. Releasors will meet and confer and make reasonable efforts to resolve any action that is filed by a Subdivision against Mylan 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.

J. *Non-Released Claims.* Notwithstanding the foregoing or anything in the definition of Released Claims, the Agreement does not waive, release or limit any criminal liability, Claims for any outstanding liability under any tax or securities law, Claims against parties who are not Released Entities, Claims by private individuals, Claims for Medicaid rebates, Claims asserted, or that could be asserted, by any State or Subdivision, related to the causes of action in *In re: Generic Pharmaceuticals Pricing Antitrust Litigation*, in the United States District court for the District of Pennsylvania, MDL No. 2724; *Connecticut et al v. Aurobindo Pharma USA, Inc. et al.*, in the United States District Court for the District of Connecticut, Case No. 3:16-cv-2056-NPS; *Connecticut et al. v. Teva Pharmaceuticals USA, Inc.*, in the United States District Court for the District of Connecticut, Case No. 3:19-cv-710-NPS; *Connecticut et al v. Sandoz, Inc. et al.*, in the United States District Court for the District of Connecticut, Case No. 3:20-cv-802-NPS; and any related action (such excluded claims include, but are not limited to, all antitrust claims and any

claims related to any non-opioid generic drugs), and any claims arising under the Agreement for enforcement of the Agreement.

XI. Later Litigating Subdivisions

A. *Released Claims against Released Entities*. If a Later Litigating Subdivision in a Settling State maintains a lawsuit for a Released Claim against a Released Entity after the Reference Date, the following shall apply subject to Section XI.B:

1. The Released Entity shall take ordinary and reasonable measures to defend the action, including filing a Threshold Motion with respect to the Released Claim. The Released Entity shall further notify the Settling State and Settlement Fund Administrator immediately upon notice of a Later Litigating Subdivision bringing a lawsuit for a Released Claim and shall not oppose a Settling State's submission in support of the Threshold Motion. Mylan shall give the relevant Settling State a reasonable opportunity to extinguish the Released Claims without any payment or any other obligations being imposed upon any Released Entities (apart from the Global Settlement Amount payable by Mylan under the Agreement or the Injunctive Relief Terms incurred by it). The relevant Settling State and Mylan 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.

2. If the lawsuit asserting a Released Claim is resolved with finality on terms requiring payment by the Released Entity, Mylan shall receive a dollar-for-dollar offset against Incentive Payment D for the amount paid. The offset shall be applied against the relevant portion of the Annual Remediation Payments starting in Payment Year 9 and working backwards.

3. For the avoidance of doubt, any offset pursuant to this Section XI in a Settling State that at the time is not eligible for Incentive Payment A shall continue to apply even if the Settling State at issue subsequently becomes eligible for Incentive Payment A.

4. "*Terms requiring payment*" shall mean (i) a final monetary judgment or (ii) a settlement; provided that the Released Entity sought the applicable State Attorney General's consent to the settlement and such consent was either obtained or unreasonably withheld. Should the judgment or settlement resolve claims that are not Released Claims, the offset shall be for the Released Claims portion only, which shall be distinguishable in the judgment or settlement.

B. *Exceptions*

1. Section XI.A shall not apply where the Settling State at issue meets the eligibility criteria for and is entitled to Incentive Payment A for the Payment Year at issue, except as expressly provided therein.

2. Section XI.A shall not apply where the Later Litigating Subdivision seeks less than $10 million, or so long as its total claim is reduced to less than $10 million, in the lawsuit for a Released Claim at issue.

C. *No Effect on Other Provisions.* An offset under Section XI.A shall not affect the Injunctive Relief Terms or the Consent Judgment.

D. *No Effect on Other States*. An offset under Section XI.A applicable to one State shall not affect the allocation or payment of the Annual Remediation Payment to other Settling States.

E. *Litigating Subdivisions in Non-Eligible States.* The Settling States will not encourage, facilitate, or assist in any manner whatsoever claims for Covered Conduct against Mylan in any Settling, Non-Settling, or Non-Eligible State, regardless of whether those claims were filed against Mylan prior to, on, or after the Effective Date.

XII. Offset

A. *Revoked Bar or Case-Specific Resolution.* If Mylan made any Annual Remediation Payments that included any incentive payments earned as a result of the existence of a Bar or Case-Specific Resolution in a Settling State, and there is subsequently a Revocation Event with respect to that Bar or Case-Specific Resolution after the determination of the amount of such Annual Remediation Payment, Mylan shall receive a dollar-for-dollar offset against the portion of remaining Annual Remediation Payments that would be allocated to that Settling State and its Participating Subdivisions. This offset will be calculated as the dollar amount difference between (1) the total amount of incentive payments paid by Mylan by virtue of the Bar or Case-Specific Resolution subject to the Revocation Event and (2) the total amount of incentive payments that would have been due from Mylan during that time had the Bar 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; 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: (1) its Released Claims are extinguished by any subsequent Bar or Case-Specific Resolution in effect as of the date of such calculation, or (2) it becomes a Participating Subdivision (in addition to all other Participating Subdivisions) prior to the date of such calculation.

XIII. Miscellaneous

A. *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.

B. *Population of Special Districts.* For any purpose in this Agreement in which the population of a Special District is used other than Section IV.H.4.c: (a) School Districts' population will be measured by the number of students enrolled who are eligible under the Individuals with Disabilities Education Act *("IDEA")* or Section 504 of the Rehabilitation Act of 1973; (b) Health Districts' and Hospital Districts' population will be measured at twenty-five percent (25%) of

discharges; and (c) all other Special Districts' (including Fire Districts' and Library Districts') population will be measured at ten percent (10%) of the population served.[8] For the avoidance of doubt, this means that California healthcare districts will be measured at ten percent (10%) of their membership. Mylan and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Preliminary Agreement Date.

C. *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.

D. *No Admission.* Mylan does not admit 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 Mylan.

E. *Tax Cooperation and Reporting.*

1. Upon request by Mylan, the Settling States and Participating Subdivisions agree to perform such further acts and to execute and deliver such further documents as may be reasonably necessary for Mylan to establish the statements set forth in Section V.F to the satisfaction of their tax advisors, their independent financial auditors, the Internal Revenue Service, or any other governmental authority, including as contemplated by 26 C.F.R § 1.162-21(b)(3)(ii) and any subsequently proposed or finalized relevant regulations or administrative guidance.

2. Without limiting the generality of Section XIII.E.1, each Settling State and Participating Subdivision shall cooperate in good faith with Mylan with respect to any tax claim, dispute, investigation, audit, examination, contest, litigation, or other proceeding relating to this Agreement.

3. 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 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 Mylan and (ii) any legally required forms, returns or amended returns with any applicable governmental authority, or any returns requested by Mylan, and (b) provides to Mylan a copy of (i) the IRS Form 1098-F filed with respect to Mylan and (ii) any legally required written statement pursuant to any applicable law and any other document referred to in

[8] 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.

clause (a)(ii) above. Any such forms, returns, or statements shall be prepared and filed in a manner fully consistent with Section V.F. and as set forth in Section XIII.E.4.

4. Any form, return, amended return, or written statement filed or provided pursuant to Section XIII.E.3, and any similar document, shall be prepared and filed in a manner consistent with reporting the Global Settlement Amount as the "Total amount to be paid" pursuant to this Agreement in Box 1 of IRS Form 1098-F and the Compensatory Restitution Amount as "Restitution/remediation amount" in Box 3 of IRS Form 1098-F, as reflected in the attached Exhibit U. If the Designated State or Appropriate Official shall be required to file any form, return, amended return, or written statement contemplated by this Section XIII.E other than an IRS Form 1098-F in the form attached as Exhibit U, the Designated State shall direct and ensure that the Appropriate Official provides to Mylan a draft of such form, return, amended return, or written statement no later than sixty (60) calendar days prior to the due date thereof, and shall accept any reasonable revisions from Mylan on the return, amended return, or written statement.

5. For the avoidance of doubt, neither Mylan nor the Settling States and Participating Subdivisions make any warranty or representation to any Settling State, Participating Subdivision, or Releasor as to the tax consequences of the payment of the Compensatory Restitution Amount (or any portion thereof).

F. *No Third-Party Beneficiaries.* Except as expressly provided in this Agreement, no portion of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not the Settling State or Released Entity. Settling States may not assign or otherwise convey any right to enforce any provision of this Agreement.

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

H. *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.

I. *Cooperation.* 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 and the Consent Judgments.

J. *Entire Agreement.* This Agreement, including its exhibits and any other attachments, 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.

K. *Execution.* This Agreement 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 Agreement. One or more counterparts of this Agreement may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart hereof. One or more counterparts of this Agreement may be signed by electronic signature.

L. *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) was made to them to induce them to enter into this Agreement.

M. *Legal Obligations.* Nothing in this Agreement shall be construed as relieving Mylan 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.

N. *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.

O. *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 XIII.M.

P. *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.

Q. *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 below:

For the Attorney(s) General:

Jeff Jackson, Attorney General
North Carolina Department of Justice
Attn: Daniel Mosteller, Associate Deputy Attorney General
PO Box 629
Raleigh, NC 27602
Dmosteller@ncdoj.gov

Jonathan Skrmetti, Attorney General
Tennessee Attorney General's Office
Attn: Michael Leftwich, Senior Deputy Attorney General
Hamilton Millwee, Assistant Attorney General
P.O. Box 20207
Nashville, TN 37202
Michael.Leftwich@ag.tn.gov
Hamilton.Millwee@ag.tn.gov

Letitia James, Attorney General
New York State Attorney General
Attn: Jennifer Levy, First Deputy Attorney General
Monica Hanna, Special Counsel
Matthew Conrad, Assistant Attorney General
28 Liberty Street, New York, NY 10005
Jennifer.Levy@ag.ny.gov
Monica.Hanna@ag.ny.gov
Matthew.Conrad@ag.ny.gov

For the Plaintiffs' Executive Committee:

Co-leads
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Joseph F. Rice
Motley Rice LLC
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For Mylan:

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Douglas Miner
Viatris Inc.
General Counsel, North America
1000 Mylan Boulevard
Canonsburg, PA 15317
douglas.miner@viatris.com

Any Party or the Plaintiffs' Executive Committee 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 XIII.Q.

R. *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.

S. *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.

T. *Successors.*

1. This Agreement shall be binding upon, and inure to the benefit of, Mylan and its respective successors and assigns.

2. Mylan shall not, in one (1) transaction or a series of related transactions, sell or transfer U.S. assets having a fair market value equal to twenty-five percent (25%) or more of the consolidated assets of Mylan (other than sales or transfers of inventories, or sales or transfers to an entity owned directly or indirectly by Mylan) where the sale or transfer is

announced after the Reference Date, is not for fair consideration, and would foreseeably and unreasonably jeopardize Mylan's ability to make the payments under this Agreement following the close of a sale or transfer transaction, unless Mylan obtains the acquiror's agreement that it will be either a guarantor of or successor to the percentage of Mylan's remaining payment obligations under this Agreement equal to the percentage of Mylan's consolidated assets being sold or transferred in such transaction. Percentages under this section shall be determined in accordance with United States generally accepted accounting principles and as of the date of Mylan most recent publicly filed consolidated balance sheet prior to the date of entry into the sale or transfer agreement at issue. This Section XIII.T shall be enforceable solely by the Settling States, and any objection under this Section XIII.T not raised within sixty (60) calendar days of the announcement of the relevant transaction is waived.

U. *Modification, Amendment, Alteration.* In the event the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, or Mylan concludes prior to the Reference Date that technical corrections are required to this Agreement, the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, and Mylan shall meet and confer in good faith and make such amendments as they agree are appropriate. After the Reference Date, any modification, amendment, or alteration of this Agreement by the Parties shall be binding only if evidenced in writing signed by Mylan, 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 V.E.2.d, 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.

V. *Termination.*

1. Unless otherwise agreed to by each of Mylan and the Settling States, this Agreement and all of its terms (except Section XIII.P and any other non-admissibility provisions, which shall continue in full force and effect) shall be canceled and terminated with respect to the Settling State, and the Agreement and all orders issued by the courts in the Settling State pursuant to the Agreement shall become null and void and of no effect if one or more of the following conditions applies:

a. a Consent Judgment approving this Agreement without modification of any of the Agreement's terms has not been entered as to a Settling State by a court of competent jurisdiction on or before one hundred eighty (180) calendar days after the Effective Date;

b. this Agreement or the Consent Judgment as to that Settling State has been disapproved by a court of competent jurisdiction to which it was presented for approval and/or entry (or, in the event of an appeal from or review of a decision of such a court to approve this Agreement and the Consent Judgment, by the court

hearing such appeal or conducting such review), and the time to appeal from such disapproval has expired, or, in the event of an appeal from such disapproval, the appeal has been dismissed or the disapproval has been affirmed by the court of last resort to which such appeal has been taken and such dismissal or disapproval has become no longer subject to further appeal (including, without limitation, review by the United States Supreme Court); or

2. If this Agreement is terminated with respect to a Settling State for whatever reason pursuant to Section XIII.V.1, then:

a. an applicable statute of limitation or any similar time requirement (excluding any statute of repose) shall be tolled from the date the Settling State signed this Agreement until the later of the time permitted by applicable law or for one year from the date of such termination, with the effect that Mylan and the Settling State shall be in the same position with respect to the statute of limitation as they were at the time the Settling State filed its action; and

b. Mylan and the Settling State shall jointly move the relevant court of competent jurisdiction for an order reinstating the actions and claims dismissed pursuant to the terms of this Agreement governing dismissal, with the effect that Mylan and the Settling State shall be in the same position with respect to those actions and claims as they were at the time the action or claim was stayed or dismissed.

3. Unless Mylan and the Enforcement Committee agree otherwise, this Agreement, with the exception of the Injunctive Relief Terms that have their own provisions on duration, shall terminate as of the Payment Date for Payment Year 9, *provided* that Mylan has performed its payment obligations under the Agreement as of that date. Notwithstanding any other provision in this Section XIII.V.3 or in this Agreement, all releases under this Agreement will remain effective despite any termination under this Section XIII.V.3.

W. *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 Mylan or against which Mylan is seeking enforcement. Notwithstanding any other provision in this subsection on governing law, any disputes relating to the Settlement Fund Escrow shall be governed by and interpreted in accordance with the law of the state where the escrow agent has its primary place of business.

X. *Bankruptcy.* The following provisions shall apply if Mylan enters bankruptcy and (i) the Mylan bankruptcy estate recovers, pursuant to 11 U.S.C. § 550, any payments made under this Agreement, or (ii) this Agreement is deemed executory and is rejected by Mylan pursuant to 11 U.S.C. § 365:

1. In the event that the both a number of Settling States equal to at least seventy-five percent (75%) of the total number of Settling States and Settling States having aggregate State Allocation Percentages as set forth on Exhibit F equal to at least seventy-five percent (75%) of the total aggregate State Allocation Percentages assigned to all Settling States deem (by written notice to Mylan) that the financial obligations of this Agreement have been terminated and rendered null and void (except as provided in Section XIII.X.1.a) due to a material breach by Mylan, whereupon:

a. all agreements, all concessions, all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall immediately and automatically be deemed null and void as to Mylan; the Settling States shall be deemed immediately and automatically restored to the same position they were in immediately prior to their entry into this Settlement Agreement in respect to Mylan and the Settling States shall have the right to assert any and all claims against Mylan in the bankruptcy or otherwise without regard to any limits or agreements as to the amount of the settlement otherwise provided in this Agreement; *provided, however,* that notwithstanding the foregoing sentence, (i) all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall remain in full force and effect as to all persons or entities other than Mylan itself; and (ii) in the event the Settling State asserts any Released Claim against Mylan after the rejection and/or termination of this Agreement as described in this Section XIII.X.1.a and receives a judgment, settlement or distribution arising from such Released Claim, then the amount of any payments the Settling State has previously received from Mylan under this Agreement shall be applied to reduce the amount of any such judgment, settlement or distribution (provided that no credit shall be given against any such judgment, settlement or distribution for any payment that the Settling State is required to disgorge or repay to Mylan's bankruptcy estate); and

b. the Settling States may exercise all rights provided under the federal Bankruptcy Code (or other applicable bankruptcy or non-bankruptcy law) with respect to their Claims against Mylan subject to all defenses and rights of the Mylan.

Y. *Waiver*. Mylan, for good and valuable consideration the receipt of which is acknowledged, hereby (a) waives, foregoes and relinquishes all rights to utilize and/or seek relief under any of the following laws of the State of Texas for the restructuring of its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement: Tex. Bus. Orgs. Code § 10.003 (Contents of Plan of Merger: More Than One Successor) or any other statute of Subchapter A of Chapter 10 of Tex. Bus. Orgs. Code to the extent such statute relates to multi-successor mergers (and/or any other similar laws or statutes in any other state or territory); Tex. Bus. Orgs. Code §§ 11.01–11.414 (Winding Up and Termination of Domestic Entity); or Tex. Bus. & Com. Code §§ 23.01–23.33 (Assignments for the Benefit of Creditors) (collectively, the "Texas Statutes"), and (b) agrees, warrants and represents that it will not file, request or petition for relief under the Texas Statutes related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity

before the Effective Date, or this Agreement, in each case until such time as all of Mylan's payment obligations incurred hereunder are satisfied in full. The foregoing waiver and relinquishment includes, without limitation, until such time as all of Mylan's payment obligations incurred hereunder are satisfied in full, Mylan's rights to execute a divisional merger or equivalent transaction or restructuring related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement that in each case has the intent or foreseeable effect of (i) separating material assets from material liabilities and (ii) assigning or allocating all or a substantial portion of those liabilities to any subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code, or pursuant to which such subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code would be assuming or retaining all or a substantial portion of those liabilities.

SUN SETTLEMENT AGREEMENT

SUN SETTLEMENT AGREEMENT

This Settlement Agreement, dated as of April 4, 2025 (the "*Agreement*"), sets forth the terms of settlement between and among the Settling States, the Participating Subdivisions, and Sun (as those terms are defined below). Upon satisfaction of the conditions set forth in Sections II and VIII, this Agreement will be binding on the Settling States, Sun, and the Participating Subdivisions. 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 Section IX.

I. Definitions

Unless otherwise specified, the following definitions apply:

A. *"Additional Remediation Amount."* The amount available to the Settling States listed in Exhibit M totaling up to $619,842.

B. *"Adjusted Maximum Remediation Payment."* The Maximum Remediation Payment reduced by the State Allocation Percentage specified in Exhibit F for each Non-Settling State.

C. *"Agreement."* The Sun Settlement Agreement, as set forth above. For the avoidance of doubt, this Agreement is inclusive of all exhibits.

D. *"Alleged Harms."* The alleged past, present, and future damages, harms, losses, and related expenditures allegedly incurred by the Settling States and Participating Subdivisions arising out of the use 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, death, and other related diseases and disorders, and that have allegedly been caused by Released Entities.

E. *"Allocation Statute."* 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.

F. *"Appropriate Official."* As defined in Section XIII.E.3.

G. *"Bankruptcy Code."* Title 11 of the United States Code, 11 U.S.C. § 101, et seq.

H. *"Bar."* Either: (1) a law barring Subdivisions in a Settling State from maintaining or asserting Released Claims against Released Entities (either through a direct

bar or through a grant of authority to release claims and 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 or assert any Released Claims against Released Entities, 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 Released Entity (apart from the Remediation Payment by Sun under this Agreement) shall not constitute a Bar.

I. "*Base Payment.*" As defined in Section V.D.

J. *"Case-Specific Resolution."* Either: (1) a law barring the Subdivision at issue from maintaining any Released Claims against any Released Entities (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 Released Claims at issue against any Released Entities, 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 Released Entity (apart from the payment by Sun under this Agreement) shall not constitute a Case-Specific Resolution.

K. *"Claim."* Any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, fine, penalty, restitution, reimbursement, disgorgement, expenses, remediation, judgment, right, obligation, dispute, suit, contract, controversy, agreement, *parens patriae* claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law, statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including, but not limited to, any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, remediation, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative, or regulatory remedy whatsoever.

L. *"Claim-Over."* A Claim asserted by a Non-Released Entity against a Released Entity 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.

M. *"Compensatory Restitution Amount."* The aggregate amount paid or incurred by Sun hereunder for Opioid Remediation, which includes the aggregate Base and Incentive Payments earned by Settling Sates and does not include amounts paid as attorneys' fees and costs or identified pursuant to Section VI.B.2 as being used to pay

attorneys' fees, investigation costs or litigation costs, which shall be up to the amount of the Adjusted Maximum Remediation Payment.

N. *"Consent Judgment."* A consent judgment in a form to be agreed by the Settling States and Sun prior to the Effective Date that, among other things, (1) approves this Agreement and (2) provides for the release set forth in Section XI.A, including the dismissal with prejudice of any Released Claims that the Settling State has brought against Released Entities.

O. *"Covered Conduct"* means any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, service, work, sale, misstatement, misleading statement, or other activity of any kind whatsoever from the beginning of time through the Reference 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, service, work, sale, misstatement, misleading statement, or other activity) arising from or relating in any way to (a) compounding, counseling, and documentation related to any Product or class of Products; (b) the availability, discovery, research, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, relabeling, recall, withdrawal, distribution, delivery, monitoring, reporting, regulatory compliance supply, sale, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to any Product, or any system, plan, policy, procedure, or advocacy relating to any Product or class of Products, including but not limited to any unbranded or branded promotion, marketing, or advertising, information, patient support or assistance, educational programs, consultancy, research, other programs or campaigns, lobbying, grants, sponsorships, charitable donations, or other funding relating to any Product or class of Products; (c) the characteristics, properties, risks, or benefits of any Product or class of Products; (d) the monitoring or non-monitoring of orders placed of any Product; (e), reporting, disclosure, non-monitoring, non-reporting or non-disclosure to federal, state or other regulators of orders for any Product placed with any Released Entity; (f) the selective breeding, harvesting, extracting, purifying, exporting, importing, applying for quota for, procuring quota for, handling, promoting, manufacturing, processing, packaging, supplying, distributing, converting, or selling of, or otherwise engaging in any activity relating to, precursor or component Products, including but not limited to natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, or any related intermediate Products; or (g) diversion control programs, suspicious order monitoring, or regulatory compliance related to any Product.

P. *"Deposit Date."* July 25, 2025. This Date is the date by which Sun shall deposit the Adjusted Maximum Remediation Payment, Private Attorney Fees, the Additional Remediation Amount, pursuant to Section V.D. This date is after the Preliminary Agreement Date, on which Sun agrees to proceed with the agreement; this date may be changed by written agreement of Sun and the Enforcement Committee.

Q. "*Designated State*." The state of New York.

R. *"Effective Date."* The date sixty (60) calendar days after the Reference Date.

S. "*Eligible States*." The states, commonwealths, and territories of the United States of America. The 56 Eligible States are listed in Exhibit F.

T. *"Enforcement Committee.*" A committee consisting of representatives of the Settling States and of the Participating Subdivisions. Exhibit B contains the organizational bylaws of the Enforcement Committee. Notice pursuant to Section XIII.Q shall be provided when there are changes in membership or contact information.

U. *"Fees Payment."* The amount payable by Sun on the Payment Date comprised of the Additional Remediation Amount payment, and the Private Attorney Fees payment. The Fees Payment does not include the Remediation Payment.

V. *"Final Order."* An order or judgment of a court of competent jurisdiction with respect to the applicable subject matter (1) which has not been reversed or superseded by a modified or amended order, is not currently stayed, and as to which any right to appeal or seek certiorari, review, reargument, stay, or rehearing has expired, and as to which no appeal or petition for certiorari, review, reargument, stay, or rehearing is pending, or (2) as to which an appeal has been taken or petition for certiorari, review, reargument, stay, or rehearing has been filed and (a) such appeal or petition for certiorari, review, reargument, stay, or rehearing has been resolved by the highest court to which the order or judgment was appealed or from which certiorari, review, reargument, stay, or rehearing was sought, or (b) the time to appeal further or seek certiorari, review, reargument, stay, or rehearing has expired and no such further appeal or petition for certiorari, review, reargument, stay, or rehearing is pending.

W. "*Global Settlement Amount.*" The Global Settlement Amount is $35,454,947, which is comprised of the Maximum Remediation Payment, Private Attorney Fees, and Additional Remediation Amount. Notwithstanding any other language or provisions in this or any other agreement, the Global Settlement Amount is the maximum dollar amount Sun can pay in connection with the Agreement.

X. "*Implementation Administrator*." Rubris, Inc., which is the vendor that will be retained by Sun to provide notice pursuant to Section VIII.A and to manage the initial joinder period for Subdivisions, including the issuance and receipt of Subdivision Settlement Participation Forms.

Y. *"Incentive Payment A."* The incentive payment described in Section V.E.4.

Z. *"Incentive Payment A Catch-Up Date."* August 1, 2026.

AA. *"Incentive Payment BC."* The incentive payment described in Section V.E.5.

BB. *"Incentive Payment D."* The incentive payment described in Section V.E.6.

CC. *"Incentive Payment D Look-Back Dates."* Sixty days before each Incentive Payment D Release Date.

DD. *"Incentive Payment D Release Dates."* August 1, 2027, and August 1, 2029. These dates are when the Settlement Fund Administrator is to release Incentive Payment D from the Settlement Fund to Settling States in accordance with Section V.E.6.

EE. *"Initial Participating Subdivision."* A Subdivision that meets the requirements set forth in Section VIII.D.

FF. *"Initial Participation Date."* The date ninety (90) calendar days after the Preliminary Agreement Date, unless it is extended by written agreement of Sun and the Enforcement Committee.

GG. *"Injunctive Relief Terms."* The terms described in Section III and set forth in Exhibit P.

HH. *"Later Litigating Subdivision."* 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 Released Claim against a Released Entity after the Reference Date; or (2) adds a Released Claim against a Released Entity after the Reference Date to a lawsuit brought before the Reference Date that, prior to the Reference Date, did not include any Released Claims against a Released Entity; or (3) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a legislative Bar or legislative Case-Specific Resolution as of the Reference Date, (b) such legislative Bar or legislative Case-Specific Resolution is subject to a Revocation Event after the Reference 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 Released Claim against a Released Entity or one hundred eighty (180) 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 Released Claims being dismissed; or (4) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a judicial Bar or judicial Case-Specific Resolution as of the Reference Date, (b) such judicial Bar or judicial Case-Specific Resolution is subject to a Revocation Event after the Reference Date, and (c) such Litigating Subdivision takes any action in its lawsuit asserting a Released Claim against a Released Entity other than seeking a stay or dismissal.

II. *"Later Participating Subdivision."* A Participating Subdivision that is not an Initial Participating Subdivision, but meets the requirements set forth in Section VIII.E.

JJ. *"Litigating Subdivision."* A Subdivision (or Subdivision official) that brought any Released Claim against any Released Entity prior to the Reference 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.

KK. *"Maximum Incentive Payment D Amount."* The maximum amount that may be owed by Sun to Settling States and Subdivisions under Incentive Payment D, section V.E.6, adjusted for Non-Settling States, States that qualify for Incentive Payment A, and the Participation Percentage of Incentive BC Eligible Subdivision Population achieved by the Payment Calculation Date.

LL. *"Maximum Remediation Payment."* The maximum amount owed by Sun to the Settling States and Subdivisions, exclusive of the Private Attorney Fees, and the Additional Remediation Amount. The amount of the Maximum Remediation Payment is $30,992,087.

MM. *"National Arbitration Panel."* The panel comprised as described in Section VII.F.3.b.

NN. "*National Disputes."* As defined in Section VII.F.3.a.

OO. *"Non-Litigating Subdivision."* Any Subdivision that is not a Litigating Subdivision.

PP. *"Non-Participating Subdivision."* Any Subdivision that is not a Participating Subdivision.

QQ. *"Non-Party Covered Conduct Claim."* A Claim against any Non-Released Entity involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity).

RR. *"Non-Party Settlement."* A settlement by any Releasor that settles any Non-Party Covered Conduct Claim and includes a release of any Non-Released Entity.

SS. *"Non-Released Entity."* An entity that is not a Released Entity.

TT. "*Non-Settling State."* Any Eligible State that is not a Settling State.

UU. *"Opioid Remediation."* Care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures[1] except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to (1) address the use 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

[1] Reimbursement includes amounts paid to any governmental entities for past expenditures or programs

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.

VV. *"Participating Subdivision."* Any Subdivision that meets the requirements for becoming a Participating Subdivision under Section VIII.B and Section VIII.C. Participating Subdivisions include both Initial Participating Subdivisions and Later Participating Subdivisions but not Prior Litigating Subdivisions.

WW. "*Participation Percentage of Incentive BC Eligible Subdivision Population."* As defined in Section V.E.5.e.

XX. *"Parties."* Sun and the Settling States (each, a *"Party").*

YY. "*Payment Calculation Date*." October 20, 2025, which is sixty (60) days before the Payment Date. This date may be changed by written agreement of Sun and the Enforcement Committee.

ZZ. *"Payment Date."* December 19, 2025, which is the date by which Sun makes the Remediation Payment and the Fees Payment. This date may be changed by written agreement of Sun and the Enforcement Committee.

AAA. "*Preliminary Agreement Date."* The date Sun informs the Settling States of its determination that the condition in Section II.B has been satisfied. The Preliminary Agreement Date shall be no more than fourteen (14) calendar days after the end of the notice period to Eligible States, unless it is extended by written agreement of Sun and the Enforcement Committee.

BBB. "*Primary Fire District."* A fire district that covers a population of 25,000, or 0.20% of an Eligible State's population if an Eligible State's population is greater than 18 million. If not easily calculable from state data sources and agreed to between the Eligible State and Sun, 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. "Primary Fire Districts" shall mean fire districts as identified in connection with the implementation of the July 21, 2021, Janssen Settlement Agreement.

CCC. *"Primary Subdivision."* A Subdivision that is a General Purpose Government (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore, or any other entities that provide municipal-type government) with population over 10,000; provided, however, that as used in connection with Incentive Payment BC, the population threshold is 30,000. Attached as Exhibit I is an agreed list of the Primary Subdivisions in each Eligible State.

DDD. "*Prior Litigating Subdivision*." A Subdivision (or Subdivision official) that brought any Released Claim against any Released Entity prior to the Reference date and all such Released Claims were separately settled or finally adjudicated prior to the

Reference 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, Sun and the Settling State of the relevant Subdivision may agree in writing that the Subdivision shall not be considered a Prior Litigating Subdivision.

EEE. *"Private Attorney Fees"* are the amount to be paid by Sun for private attorneys' litigation fees and costs on behalf of Participating Subdivisions. The maximum amount of Private Attorney Fees is $3,843,018. For avoidance of doubt, Private Attorney Fees do not include the Additional Remediation Amount.

FFF. *"Product."* Any chemical substance, 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 substance, that is: (1) an opioid or opiate, as well as any product containing any such substance; (2) benzodiazepine, carisoprodol, or gabapentin; or (3) a combination or "cocktail" of chemical substances prescribed, sold, bought, or dispensed to be used together that includes opioids or opiates. "Product" shall include, but is not limited to, any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, naloxone, naltrexone, oxycodone, oxymorphone, pentazocine, propoxyphene, 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. Notwithstanding the foregoing, nothing in this section prohibits a Settling State from taking administrative or regulatory action related to benzodiazepine (including, but not limited to, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triazolam, temazepam, and midazolam), carisoprodol, or gabapentin that is wholly independent from the use of such drugs in combination with opioids, *provided* such action does not seek money (including abatement and/or remediation) for conduct prior to the Initial Participation Date. "Product" also includes any natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, and any intermediate products used or created in the manufacturing process for any of the substances described above.

GGG. *"Reference Date."* The date on which Sun is to inform the Settling States of its determination whether the condition in Section IX has been satisfied. The Reference Date shall be no later than thirty (30) calendar days after the Initial Participation Date, unless it is extended by written agreement of Sun and the Enforcement Committee.

HHH. *"Released Claims."* Any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct and/or Alleged Harms occurring prior to the Initial Participation Date. Without limiting the foregoing, Released Claims include any Claims that have been asserted against Released Entities by a Settling State or any of its Litigating Subdivisions in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) based on, arising out of, or relating to, in whole or in part, the Covered Conduct and/or Alleged Harms, or any such Claims that could be or could have been asserted now or in the future in those actions or in any comparable action or proceeding brought by a Settling State, Subdivision, or Releasor

(whether or not such Settling State, Subdivision, or Releasor has brought such action or proceeding). Released Claims also include all Claims against Released Entities asserted in any proceeding to be dismissed pursuant to the Agreement, whether or not such claims related to Covered Conduct and/or Alleged Harms. The Parties intend that this term, "Released Claims," be interpreted broadly. This Agreement does not release Claims by private individuals. It is the intent of the Parties that Claims by private individuals be treated in accordance with applicable law. Released Claims is also used herein to describe claims brought by a non-party Subdivision that would have been Released Claims if they had been brought by a Releasor against a Released Entity.

III. *"Released Entities."* With respect to Released Claims, Sun and (1) all past and present subsidiaries, divisions, affiliates, predecessors, successors, and assigns (in each case, whether direct or indirect) of Sun; (2) all past and present subsidiaries and divisions (in each case, whether direct or indirect) of any entity described in subsection (1); (3) the respective past and present officers, directors, members, trustees, and employees of any of the foregoing (each for actions that occurred during and related to their work for, or employment with, any of Sun or the foregoing entities); (4) all past and present joint ventures (whether direct or indirect) of Sun or its subsidiaries, including in any subsidiary's capacity as a participating member in such joint venture; (5) all direct or indirect parents and shareholders of Sun (solely in their capacity as parents or shareholders of Sun with respect to Covered Conduct); and (6) any insurer of Sun or any person or entity otherwise described in subsections (1)-(5) (solely in its role as insurer of such person or entity and subject to the last sentence of Section XI.C). A list of Sun's joint ventures, subsidiaries and affiliates and predecessor entities is set forth in Exhibit J. Any person or entity described in subsections (3)-(6) shall be a Released Entity solely in the capacity described in such clause and shall not be a Released Entity with respect to its conduct in any other capacity. Any entity acquired, or joint venture entered into, by Sun after the Initial Participation Date is not a Released Entity. Further and notwithstanding anything else in this paragraph, no entity sued in *In re: National Prescription Opiate Litigation*, No. 1:17-md-2804 (N.D. Ohio) is included as a Released Entity other than the entities listed on Exhibit J.

JJJ. *"Releasors."* With respect to Released Claims, (1) each Settling State; (2) each Participating Subdivision; and (3) without limitation and to the maximum extent of the power of each Settling State's Attorney General and/or Participating Subdivision to release Claims, (a) the Settling State's and Participating Subdivision's departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind 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, water districts, emergency services districts, school districts, healthcare districts, hospital districts, Sheriffs and law enforcement districts, library districts, coroner's offices, and public transportation authorities, and other Special Districts in a Settling State, including those with the regulatory authority to enforce state and federal controlled substances acts or the authority to bring Claims related to Covered Conduct seeking money (including abatement (or remediation and/or restitution)) or revoke a

pharmaceutical distribution license, 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, including but not limited to fines, penalties, or punitive damages, 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. 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. Each Settling State's Attorney General represents that he or she has or has obtained (or will obtain no later than the Initial Participation Date) the authority set forth in Section XI.G. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide the Subdivision Settlement Participation Form referenced in Section VIII providing for a release to the fullest extent of the Participating Subdivision's authority.

KKK. *"Remediation Accounts Fund."* The component of the Settlement Fund described in Section VI.C.

LLL. *"Remediation Payment."* The amount payable to the Settlement Fund by Sun for Settling States' Base Payments and Incentive Payments on the Payment Date, as calculated by the Settlement Fund Administrator.

MMM. *"Revocation Event."* With respect to a Bar or Case-Specific Resolution, a legislative amendment, revocation, rescission, reversal, overruling, or interpretation that in any way limits the effect of such Bar or Case-Specific Resolution on Released Claims, or any other action or event that otherwise deprives the Bar, or Case-Specific Resolution of force or effect in any material respect.

NNN. *"Settlement Fund."* The interest-bearing fund established at [Bank TBD] pursuant to this Agreement into which the Remediation Payment is made under Section V, which is intended to be classified as a "qualified settlement fund" within the meaning of 26 C.F.R. §§ 1.468B-1 *et seq*. and which shall be approved by any Settling State in accordance with the requirements of 26 C.F.R. § 1.468B-1.

OOO. *"Settlement Fund Administrator."* BrownGreer PLC, which is the entity that determines the Remediation Payment (including calculating offset or reduction and Incentive Payments pursuant to Section V) and Additional Remediation Amount, administers the Settlement Fund, and distributes amounts into the Remediation Accounts Fund, State Fund, and Subdivision Fund pursuant to this Agreement. The duties of the Settlement Fund Administrator shall be governed by this Agreement. Prior to the Effective Date, Sun and the Enforcement Committee shall agree to a detailed description of the Settlement Fund Administrator's duties and responsibilities, including a detailed mechanism for paying the Settlement Fund Administrator's fees and costs, all of which shall be appended to the Agreement as Exhibit L.

PPP. *"Settlement Fund Escrow."* The interest-bearing escrow fund established pursuant to this Agreement to hold disputed payments made under this Agreement.

QQQ. "*Settling State.*" An Eligible State that has entered into this Agreement and delivers executed releases in accordance with Section IX.A.

RRR. "*State Allocation Percentage.*" A Settling State's percentage as set forth in Exhibit F.

SSS. *"State Fund."* The component of the Settlement Fund described in Section VI.C.

TTT. *"State-Subdivision Agreement."* 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.

UUU. *"Statutory Trust."* 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.

VVV. *Statewide Payment Amount."* The amount from the Remediation Payment to be paid to a Settling State, including its separate types of funds (if applicable) and its Participating Subdivisions listed in Exhibit G, on or as soon as practical after the Payment Date and Incentive Payment D Release Dates.

WWW. *"Subdivision."* Any (1) General Purpose Government (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore, or any other entities that provide municipal-type government), School District, or Special District within a Settling State, and (2) any other subdivision, subdivision official acting in an official capacity on behalf of the subdivision (including, without limitation, district attorneys, county attorneys, city attorneys, sheriffs, and any other official, employee, or representative), 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, Nonfunctioning Governmental Units and public institutions) that has filed a lawsuit that includes a Released Claim against a Released Entity in a direct, *parens patriae,* or any other capacity. "General Purpose Government," "School District," and "Special District" shall correspond to the "five basic types of local governments" recognized by the U.S. Census Bureau and match the 2017 list of Governmental Units.[2] The three (3) General

[2] https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP

Purpose Governments are county, municipal, and township governments; the two (2) special purpose governments are School Districts and Special Districts.[3] "Fire District," "Health District," "Hospital District," and "Library District" shall correspond to categories of Special Districts recognized by the U.S. Census Bureau.[4] References to a Settling State's Subdivisions or to a Subdivision "in," "of," or "within" a Settling State include Subdivisions located within the Settling State even if they are not formally or legally a sub-entity of the Settling State; *provided, however,* that a "Health District" that includes any of the following words or phrases in its name shall not be considered a Subdivision: mosquito, pest, insect, spray, vector, animal, air quality, air pollution, clean air, coastal water, tuberculosis, and sanitary.

XXX. "*Subdivision Allocation Percentage.*" The portion of a Settling State's Subdivision Fund set forth in Exhibit G that a Subdivision will receive pursuant to Section VI 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 VI.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section VI.D.3) that addresses allocation from the Subdivision Fund, whether before or after the Initial 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 VI.D.3. The Subdivision Allocation Percentages contained in Exhibit G may not change once notice is distributed pursuant to Section VIII.A, except upon the effectiveness of any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section VI.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section VI.D.3) 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.

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[3] *E.g.,* U.S. Census Bureau, "Technical Documentation: 2017 Public Use Files for State and Local Government Organization" at 7 (noting that "the Census Bureau recognizes five basic types of local governments," that three of those are "general purpose governments" (county governments, municipal governments, and township governments), and that the other two are "school district and special district governments"), https://www2.census.gov/programs-surveys/gus/datasets/2017/2017_gov_org_meth_tech_doc.pdf.

[4] A list of 2017 Government Units provided by the Census Bureau identifies 38,542 Special Districts and categorizes them by "FUNCTION_NAME." "Govt_Units_2017_Final" spreadsheet, "Special District" sheet, included in "Independent Governments - list of governments with reference information," https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP. As used herein, "Fire District" corresponds to Special District function name "24 — Local Fire Protection," "Health District" corresponds to Special District function name "32 — Health," "Hospital District" corresponds to Special District function name "40 —Hospitals," and "Library District" corresponds to Special District function name "52 — Libraries." *See id.*

YYY. *"Subdivision Fund."* The component of the Settlement Fund described in Section VI.A.

ZZZ. *"Subdivision Settlement Participation Form."* The form attached as Exhibit K that Participating Subdivisions must execute and return to the Implementation Administrator or Settlement Fund Administrator, and which shall (1) make such Participating Subdivisions signatories to this Agreement, (2) include a full and complete release of any and all of such Participating Subdivisions' claims, and (3) require the prompt dismissal with prejudice of any Released Claims that have been filed by any such Participating Subdivision.

AAAA. "*Sun*." Sun Pharmaceutical Industries, Inc.

BBBB. *"Threshold Motion."* A motion to dismiss or equivalent dispositive motion made at the outset of litigation under applicable procedure. A Threshold Motion must include as potential grounds for dismissal any applicable Bar or the relevant release by a Settling State or Participating Subdivision provided under this Agreement and, where appropriate under applicable law, any applicable limitations defense.

II. Participation by Eligible States and Condition to Preliminary Agreement

A. *Notice to Eligible States.* On May 26, 2025, this Agreement shall be distributed to all Eligible States. The Attorneys General of the Eligible States shall then have until June 25, 2025, to decide whether to become Settling States and notify the Enforcement Committee and Sun of that decision. Eligible States that determine to become Settling States shall so notify Sun and shall further commit to obtaining any necessary additional state releases prior to the Reference Date. This notice period may be extended by written agreement of Sun and the Enforcement Committee.

B. *Condition to Preliminary Agreement*. Following the notice period set forth in Section II.A, Sun shall have fourteen (14) calendar days to determine whether, in its sole discretion (based on any criteria or factors deemed relevant to Sun), enough Eligible States have agreed to become Settling States to proceed with notice to Subdivisions as set forth in Section VIII. This period may be extended by written agreement of Sun and the Enforcement Committee. If Sun determines that this condition has been satisfied, and that notice to the Subdivisions should proceed, it will so notify the Settling States by providing notice to the Enforcement Committee. The date of such notice shall be the Preliminary Agreement Date. If Sun determines that this condition has not been satisfied, this Agreement will have no further effect and all releases and other commitments or obligations contained herein will be void.

C. *Later Joinder by Eligible States*. After the Preliminary Agreement Date, an Eligible State may only become a Settling State with the consent of Sun and the Enforcement Committee, provided that the Enforcement Committee may not withhold consent to an Eligible State's later joinder if the Eligible State agrees to join pursuant to the terms of this Agreement and the allocation set forth on Exhibit F. If an Eligible State

becomes a Settling State more than thirty (30) calendar days after the Preliminary Agreement Date, but on or before the Reference 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 Reference Date.

D. *Litigation Activity.* Following the Preliminary Agreement Date, Eligible States that determine to become Settling States shall make reasonable efforts to cease litigation activity against Sun, including by jointly seeking stays or, where appropriate, severance of claim against Sun, 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.

III. Injunctive Relief

A. *Injunctive Relief.* As part of the Consent Judgment, the Parties agree to the injunctive relief terms attached in Exhibit P.

IV. Procedure for Segregated Account Deposits and Payments

A. By the Deposit Date, Sun shall deposit into a segregated interest-bearing bank account it establishes the Adjusted Maximum Remediation Payment amount. Sun shall also deposit into two (2) separate segregated interest-bearing bank accounts it establishes: (a) the Private Attorney Fees amount; and (b) the Additional Remediation Amount. Sun shall separately account for the interest earned on each of the three (3) accounts.

B. Sun shall provide proof to the Enforcement Committee of the deposits required by Section IV.D.1 by the Deposit Date. Sun shall not remove any money from the segregated bank accounts, except as provided by Section IV.F and Section IV.H.

C. If an Eligible State joins the agreement pursuant to Section II.C and that joinder is after the Deposit Date, Sun shall deposit that Settling State's maximum Statewide Payment Amount, which is the Maximum Remediation Payment multiplied by the Settling State's State Allocation Percentage. Such deposit shall be within fifteen (15) days of the Settling State's joinder.

D. If the condition set forth in Section IX.B is met, Sun shall:

1. Transfer into the Settlement Fund on the Payment Date (unless the Enforcement Committee specifies a later date) the Remediation Payment amount calculated by the Settlement Fund Administrator pursuant to Section V.C.2 from the segregated account. For the avoidance of doubt, this transfer includes the Maximum Incentive Payment D Amount and includes any amounts that the Settlement Fund Administrator will place into the Settlement Fund Escrow pursuant to Section V.C.4.e.

a. The interest earned from the deposit account holding the Remediation Amount shall be used, first, to pay for the Implementation Administrator, then to pay for the Implementation Administrator in the Alvogen, Amneal, Apotex, Hikma, Indivior, Mylan, and Zydus Settlement Agreements, and finally to be transferred to the Settlement Fund to be used to pay for the Settlement Fund Administrator pursuant to Section VI.C.4.

2. Transfer into the relevant funds as directed by the Enforcement Committee, no later than the Payment Date (unless the Enforcement Committee specifies a later date) the amount in the segregated account holding the Private Attorney Fees (including all interest accrued on that account), minus any amounts not payable pursuant to the terms of Exhibit R, and the amount in the segregated account holding the Additional Remediation Amount (including all interest accrued on that account), minus the Additional Remediation Amount that would have been owed to Non-Settling States as calculated by multiplying the Additional Remediation Amount by the sum of allocations on Exhibit N for Non-Settling States.

E. The Remediation Payment transferred by Sun into the Settlement Fund pursuant to Section IV.D.1 shall be disbursed by the Settlement Fund Administrator to each Settling State and to its Participating Subdivisions listed on Exhibit G pursuant to Section V.C.5 through Section V.C.8; provided, however, that for any Settling State where the Consent Judgment has not been entered as of the Effective Date, the funds allocable to that Settling State and its Participating Subdivisions listed on Exhibit G shall not be disbursed until ten (10) calendar days after the entry of the Consent Judgment in that Settling State.

F. Any amounts in the segregated accounts not subject to transfer pursuant to Section IV.D shall immediately revert to Sun after Sun makes the transfers required by Section IV.D.

G. Except for the interest earned on the payment amounts, any unearned Incentive Payment A amount in the Settlement Fund shall immediately revert to Sun after the Incentive Payment A Catch-Up Date. This excess reflects Settling States who sought, but did not achieve, a Bar by the Incentive Payment A Catch-Up Date. Any amount in the Settlement Fund exceeding the payments described in Section V.C.3 shall immediately revert to Sun after the last Incentive Payment D Release Date. This excess is Settling States' unearned Maximum Incentive Payment D amounts.

H. In the event that, in accordance with the terms of Section IX.B, Sun determines not to proceed with the Settlement, or the Settlement does not become effective for any other reason, the funds held in the segregated bank accounts shall immediately revert to Sun.

V. Settlement Payment Calculation Process

A. *Settlement Fund.* All payments under this Section V shall be made into the Settlement Fund, except that, where specified, they shall be made into the Settlement Fund Escrow. The Settlement Fund shall be allocated and used only as specified in Section VI.

B. *Remediation Payment*

1. Sun shall make one Remediation Payment comprised of both Base Payments and Incentive Payments as provided in Section IV.D.1.

2. In no instance shall Sun's Remediation Payment obligations exceed the Adjusted Maximum Remediation Amount.

C. *Settlement Fund Payment Process*

1. To determine the Remediation Payment, the Settlement Fund Administrator shall use the data as of the Payment Calculation Date. Prior to the Effective Date, the Parties will include Exhibit L, which sets forth in detail the process for the Settlement Fund Administrator to obtain relevant data and for distributing funds to the Settling States and their Participating Subdivisions listed on Exhibit G consistent with the terms of this Agreement as quickly as practical.

2. On the Payment Calculation Date, the Settlement Fund Administrator shall determine the Remediation Payment , consistent with the provisions in Exhibit L, by determining the sum, for all Settling States, of the Base Payment amount, Incentive Payments A or BC amount to which each Settling State is entitled (or could in the future be entitled for states who notify Defendants of an intent to obtain a Bar by the Incentive Payment A Catch-Up Date), and Incentive Payment D each Settling State could in the future be entitled (e.g. the Maximum Incentive Payment D Amount) by applying the criteria under Section V.D and Section V.E;

3. On the Payment Calculation Date, Incentive Payment A Catch-Up Date, and each subsequent Incentive D Look-Back Date, the Settlement Fund Administrator shall determine the Statewide Payment Amount for each Settling State, consistent with the provisions in Exhibit L, by determining, for each Settling State, the Base Payment amount (only on the Payment Calculation Date) and Incentive Payment amount to which the Settling State is entitled on that date by applying the criteria under Section V.D and Section V.E, after subtracting the portion of any Settlement Fund Administrator costs and fees owed out of funds from the Settlement Fund pursuant to Section VI.C.4.

4. No later than fifty (50) days prior to the Payment Date and Incentive Payment D Release Dates, the Settlement Fund Administrator shall give notice to Sun, the Settling States, and the Enforcement Committee of the amount of the Remediation Payment, and/or the Statewide Payment Amount for each Settling State, following the determination described in Section V.C.2 and V.C.3, and the following timeline shall apply:

a. Within twenty-one (21) calendar days of the notice provided by the Settlement Fund Administrator, Sun, any Settling State or the Enforcement Committee may dispute, in writing, the calculation of the Remediation Payment and/or the Statewide Payment Amount for a Settling

State. Such disputing party must provide a written notice of dispute to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Sun identifying the nature of the dispute, the amount of money that is disputed, and the Settling State(s) affected.

b. Within twenty-one (21) calendar days of the sending of a written notice of dispute, any affected party may submit a response, in writing, to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Sun identifying the basis for disagreement with the notice of dispute.

c. If no response is filed, the Settlement Fund Administrator shall adjust the amount calculated consistent with the written notice of dispute. In the case of the Remediation Payment, Sun shall pay the adjusted amount, collectively totaling the Remediation Payment, on the Payment Date.

d. If a written response to the written notice of dispute is timely sent to the Settlement Fund Administrator, the Settlement Fund Administrator shall notify Sun, the Enforcement Committee, and any affected Settling State of the preliminary amount, which shall be the greater of the amount originally calculated by the Settlement Fund Administrator or the amount that would be consistent with the notice of dispute. In the case of the Remediation Payment, Sun shall pay this preliminary amount, *provided, however,* that in no circumstances shall the preliminary amount to be paid be higher than the Maximum Remediation Payment.

e. The Settlement Fund Administrator shall place any disputed amount of the preliminary amount paid by Sun into the Settlement Fund Escrow and shall disburse any undisputed amount to each Settling State and its Participating Subdivisions listed on Exhibit G pursuant to Section V.C.5.

5. If a Settling State informs the Settlement Fund Administrator that it and its Participating Subdivisions listed on Exhibit G have agreed on the amount of its Statewide Payment Amount, determined pursuant to Section V.C.3, to be distributed to the Settling State, among its separate types of funds (if applicable), and among its Participating Subdivisions listed on Exhibit G, the Settlement Fund Administrator shall disburse the Statewide Payment Amount pursuant to the consensus distribution amounts provided by the Settling State as quickly as practical. For a Settling State that does not so notify the Settlement Fund Administrator, the Settlement Fund Administrator shall allocate the Settling State's Statewide Payment Amount, pursuant to Section VI, 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:

a. As soon as possible for each payment and following the determination described in Section V.C.3, the Settlement Fund

Administrator shall give notice to the relevant Settling States and their Participating Subdivisions listed on Exhibit G of the amount to be received by each Settling State, the amount to be received by the separate types of funds for each Settling State (if applicable), and the amount to be received by each Participating Subdivision listed on Exhibit G for each Settling State.

b. Within twenty-one (21) days of the notice provided by the Settlement Fund 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 Fund 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.

c. Within twenty-one (21) 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 Fund Administrator, any affected Settling State, and any affected Participating Subdivision identifying the basis for disagreement with the notice of dispute.

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

e. The Settlement Fund Administrator shall place any disputed amount into the Settlement Fund Escrow and shall disburse any undisputed amount to the Settling State and its Participating Subdivisions eligible for payment.

6. Disputes described in this subsection (other than those for which no response is filed under Sections V.C.4.c or V.C.5.d) shall be resolved in accordance with the terms of Section VII.F.

7. The Settlement Fund Administrator may combine the disbursements of the Remediation Payment with the disbursement of funds under other comparable opioid settlements. In determining when disbursements of the Remediation Payment will be made, the Settlement Fund Administrator may take into account the timeline for the availability of disbursements under other comparable opioid settlements.

8. For the avoidance of doubt, Subdivisions 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.

D. *Base Payments.*

1. Sun shall make Base Payments into the Settlement Fund in an amount equal to forty percent (40%) of the Adjusted Maximum Remediation Payment. The maximum total for Base Payments is $12,396,835.

2. The Base Payment for any Settling State shall be the maximum total for Base Payments, $12,396,835, times the Settling State's State Allocation Percentage specified in Exhibit F.

E. *Incentive Payments.*

1. Sun shall make potential additional Incentive Payments totaling up to a maximum of sixty percent (60%) of the Adjusted Maximum Remediation Payment, with the Incentive Payment amount depending on whether and the extent to which the criteria set forth below are met in each Settling State. The maximum total for Incentive Payments is $18,595,252.

2. A Settling State qualifies to receive an Incentive Payment in addition to its Base Payment if it meets the incentive eligibility requirements specified below. The maximum total Incentive Payment for any Settling State shall be no more than the maximum total for Incentive Payments, $18,595,252, times the Settling State's State Allocation Percentage specified in Exhibit F. Incentive Payments are state-specific, with the actual amount depending on whether and the extent to which the criteria set forth below are met in such Settling State.

3. The Incentive Payments shall be divided among three (3) categories, referred to as Incentive Payments A, BC, and D. Incentive Payments A and BC will be due to Settling States on the Payment Date. Incentive Payment D will be paid to Settling States in two equal installments on the Incentive Payment Release Dates. The total amount of Incentive Payments due to Settling States shall be the sum of the Incentive Payments for which the individual Settling States are eligible under the criteria set forth below. The Incentive Payments shall be made with respect to a specific Settling State based on its eligibility under the criteria set forth below. For the avoidance of doubt, eligibility for Incentive Payments A, BC, and D shall be determined on a Settling State-by-Settling State basis.

4. Incentive Payment A.

a. Incentive Payment A is mutually exclusive with Incentive Payment BC and D; if a Settling State receives Incentive Payment A in the Remediation Payment, such Settling State is not eligible for Incentive Payment BC or D.

b. Incentive Payment A shall be equal to sixty percent (60%) of the Adjusted Maximum Remediation Payment, provided all Settling States satisfy the requirements of Incentive Payment A. Incentive Payment

A will be due to a Settling State as part of the Remediation Payment, and shall equal a total potential maximum of $18,595,252 if all Eligible States qualify for Incentive Payment A. Each Settling State's share of Incentive Payment A, *provided* that Settling State qualifies, shall equal the total maximum amount available for Incentive Payment A, $18,595,252, times the Settling State's State Allocation Percentage.

c. Qualification for Incentive Payment A is as follows: A Settling State qualifies for Incentive Payment A if, as of the Payment Calculation Date: (i) there is a Bar in that Settling State in full force and effect, (ii) the 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: all Primary Subdivisions, Litigating Subdivisions, School Districts with a K-12 student enrollment of at least 25,000 or .10% of a Settling State's population, whichever is greater, Hospital Districts that have at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district, and Primary Fire Districts; or (iii) a combination of the actions in clauses (i) and (ii) has achieved the same level of resolution of Subdivision Claims (*e.g.,* a Bar against future litigation combined with full joinder by Litigating Subdivisions). For the avoidance of doubt, subsection (iii) cannot be satisfied unless all Litigating Subdivisions are Participating Subdivisions or there is a Case-Specific Resolution against any such Subdivisions that are not Participating Subdivisions. Sun and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Initial Participation Date.

d. If a Settling State intends to achieve Incentive A by a Bar in effect after the Payment Calculation date but before the Incentive A Catch-Up Date, the Settling State shall notify Sun no later than 30 days before the Initial Participation Date. A Settling State who so notifies Sun and does not qualify for Incentive Payment A as of the Payment Date but becomes eligible for Incentive Payment A as of the Incentive Payment A Catch-Up Date shall receive the payment that it would have received for Incentive Payment A (the "Incentive Payment A Catch-up Payment") on the Incentive Payment A Catch-Up Date. The Incentive Payment A Catch-up Payment shall be reduced by any amounts paid to the Settling State under Incentive Payment BC prior to the Settling State's eligibility for Incentive Payment A. A Settling State that does not qualify for Incentive Payment A as of the Incentive Payment A Catch-Up Date shall not be eligible for Incentive Payment A.

e. To the extent a Settling State asserts that existing legislation qualifies as a Bar, the Settling State shall provide notice to Sun no later than 30 days before the Initial Participation Date. Sun shall indicate before the Initial Participation Date whether existing legislation in a Settling State is sufficient to qualify as a Bar.

5. Incentive Payment BC.

a. Incentive Payment BC shall be available to Settling States that do not qualify for Incentive Payment A.

b. Incentive Payment BC shall be up to a maximum of fifty-seven percent (57%) of the Settling State's share of the Remediation Payment. Incentive Payment BC will be due to a Settling State as part of the Remediation Payment. Incentive Payment BC shall equal a total potential maximum of $17,665,490 if all Eligible States qualify for Incentive Payment BC (and do not qualify for Incentive Payment A).

c. The maximum Incentive Payment BC for any Settling State shall be the maximum potential Incentive Payment BC, $17,665,490, times the Settling State's State Allocation Percentage specified in Exhibit F, provided such Settling State becomes eligible for Incentive Payment BC by the Payment Calculation Date.

d. The amount of Incentive Payment BC for which a Settling State is eligible shall be determined based on the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of all the Settling State's Incentive BC Subdivisions. The Settling State's Incentive BC Subdivisions are (i) all Litigating Subdivisions (including School Districts and Special Districts) and (ii) all Primary Subdivisions that have not sued Sun as of the Initial Participation Date (collectively "*Incentive BC Subdivisions*").

e. The percentage of the Settling State's maximum Incentive Payment BC provided by Section V.E.5.c to which the Settling State is entitled shall be determined according to the table of Incentive BC payment levels below:

Participation Percentage of Incentive BC Eligible Subdivision Population[5]	**Incentive Payment BC Percentage**
Less than 85%	0%

[5] The "Participation Percentage of Incentive BC Eligible Subdivision Population" shall be determined by the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of the Settling State's Incentive BC Subdivisions. None of the population figures shall include Prior Litigating Subdivisions In calculating the Settling State's population that resides in Incentive BC Subdivisions, the population of the Settling State's Incentive BC Subdivisions shall be the sum of the population of all Incentive BC Subdivisions in the Settling State, notwithstanding that persons may be included within the population of more than one Incentive BC Subdivision. An individual 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

85% or more but less than 86%	3.57%
86% or more but less than 87%	8.93%
87% or more but less than 88%	14.29%
88% or more but less than 89%	19.64%
89% or more but less than 90%	25%
90% or more but less than 91%	30.36%
91% or more but less than 92%	35.71%
92% or more but less than 93%	41.07%
93% or more but less than 94%	46.43%
94% or more but less than 95%	51.79%
95% or more but less than 96%	60.71%
96% or more but less than 97%	68.75%
97% or more but less than 98%	76.79%
98% or more but less than 99%	84.82%
99% or more but less than 100%	92.86%
100%	100%

f. The percentage of the available Incentive Payment BC amount for which a Settling State is eligible will be based on the Participation Percentage of Incentive BC Eligible Subdivision Population as of the Payment Calculation Date. If Incentive BC Eligible Subdivisions that have become Participating Subdivisions, or achieved Case-Specific Resolution status, collectively represent less than eighty-five percent (85%) of a Settling State's Incentive BC Eligible Subdivision population by the Payment Calculation Date, the Settling State shall not receive any Incentive Payment BC.

same lawsuit; provided, however, that for the avoidance of doubt, no Subdivision will be excluded from the numerator or denominator under this sentence unless a Subdivision otherwise counted in the denominator has the authority to release the Claims (consistent with Section X) of the Subdivision to be excluded.

g. If there are no Incentive BC Eligible Subdivisions in a Settling State, and that Settling State is otherwise eligible for Incentive Payment BC, that Settling State will receive its maximum Incentive Payment BC provided by Section V.E.5.c.

6. Incentive Payment D.

a. Incentive Payment D shall be available to Settling States that do not qualify for Incentive Payment A.

b. Incentive Payment D shall be equal to up to a maximum of ten percent (10%) of the Adjusted Maximum Remediation Payment, with the actual amount depending whether and the extent to which the criteria set forth below are met in each Settling State. The maximum total for Incentive Payment D is $3,099,209.[6]

c. Incentive Payment D shall be released in two equal installments—one installment on each Incentive Payment Release Date—and the amount of Incentive Payment D released will depend on (i) the Settling State meeting the qualifications set out in Section V.E.6.d and (ii) the Participation Percentage of Incentive BC Eligible Subdivision Population achieved by the Settling State as of the Payment Calculation Date.

d. A Settling State qualifies for Incentive Payment D if no Later Litigating Subdivision (for purposes of Incentive Payment D, Later Litigating Subdivisions are limited to (i) a Primary Subdivision; (ii) a school district with a K-12 student enrollment of at least 25,000 or 0.10% of the Settling State's population, whichever is greater; (iii) a health district or hospital district that has at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district; and (iv) Primary Fire Districts) in that Settling State has a lawsuit against a Released Entity survive more than six (6) months after denial in whole or in part of a Threshold Motion.

e. A Settling State's qualification for Incentive Payment D shall be determined on each Incentive Payment D Look-Back Date. If a Later Litigating Subdivision's lawsuit in that Settling State survives more than six (6) months after denial in whole or in part a Threshold Motion after that date, that Settling State shall not be eligible for Incentive Payment D on that or any subsequent Incentive Payment D Release Date.

[6] The Incentive Payment BC table specified in Section V.E.5.e and Incentive Payment D table specified in Section V.E.6.f operate so that the combined amount of Incentive Payment BC and Incentive Payment D cannot exceed sixty percent (60%) of the Adjusted Maximum Remediation Payment over the term of the Agreement. Sun will have no obligation to pay more than $18,595,252 for the combined amounts of Incentive Payment BC and Incentive Payment D minus any offsets for Non-Settling States.

f. The Incentive Payment D for any Settling State qualifying for Incentive Payment D shall be equal to between three percent (3%) and ten percent (10%) of the of the Maximum Remediation Payment times the Settling State's Allocation Percentage specified in Exhibit F. The applicable percentage shall be determined based on the Participation Percentage of Incentive BC Eligible Subdivision Population achieved by the Payment Calculation Date as shown in the table below:

Participation Percentage of Incentive BC Eligible Subdivision Population as of the Payment Calculation Date	**Each Eligible Settling State's Applicable Incentive Payment D Percentage**
Participation of less than 95%	10% of State Allocation
Participation of 95% but less than 96%	9% of State Allocation
Participation of 96% but less than 97%	8% of State Allocation
Participation of 97% but less than 98%	7% of State Allocation
Participation of 98% but less than 99%	6% of State Allocation
Participation of 99% but less than 100%	5% of State Allocation
Participation of 100%	3% of State Allocation

g. Incentive Payment D shall be paid in two equal installments on the Incentive Payment D Release Dates. On each Incentive Payment D Look-Back Date, the Settlement Fund Administrator shall determine a Settling State's qualification for Incentive Payment D. Prior to each Incentive Payment D Look-Back Date, Sun may provide the Settlement Fund Administrator and the Enforcement Committee with notice identifying any Settling State(s) it believes do not qualify for Incentive Payment D and information supporting its belief.

h. Notwithstanding Section V.E.6.d and Section V.E.6.e, a Settling State can become re-eligible for 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, in which case the Settling State shall be eligible for Incentive Payment D less any litigation fees and costs incurred by Sun in the interim, 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.

F. In no event shall any Settling State receive a Base Payment and Incentive Payment totaling more than one hundred percent (100%) of its respective State Allocation Percentage specified in Exhibit F times the Maximum Remediation Payment.

VI. Allocation and Use of Settlement Payments

A. *Components of Settlement Fund.* The Settlement Fund shall be funded by the Remediation Payment and comprised of a Remediation Accounts Fund, a State Fund, and a Subdivision Fund for each Settling State. The payments made under Section IV into the Settlement Fund shall be initially allocated among those three (3) sub-funds and

distributed and used as provided below. Unless otherwise specified herein, payments placed into the Settlement Fund do not revert back to Sun.

B. *Use of Settlement Payments.*

1. 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 VI.B.2. In no event may less than ninety-five percent (95%) of Sun's maximum amount of payments pursuant to Section V be spent on Opioid Remediation.

2. 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 Fund Administrator and Sun 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 VI.B.2 shall be available to the public. For the avoidance of doubt, (a) any amounts not identified under this Section VI.B.2 as used to pay attorneys' fees, investigation costs, or litigation costs shall be included in the Compensatory Restitution Amount for purposes of Section VI.F and (b) Participating Subdivisions not listed on Exhibit G may only use monies from the Settlement Fund for purposes that qualify as Opioid Remediation.

C. *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 Fund Administrator will make an initial allocation to three (3) state-level sub-funds. The Settlement Fund 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.

1. Base Payments. The Settlement Fund Administrator will allocate Base Payments under Section V.D among the Settling States pursuant to Section V.D.2. 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 VI.D.

2. Incentive Payments. The Settlement Fund Administrator will treat Incentive Payments under Section V.E on a state-specific basis. Incentive Payments for which a Settling State is eligible 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 VI.D.

3. Settlement Fund Administrator. Prior to the Effective Date, Sun and the Enforcement Committee will agree to a detailed mechanism consistent with the foregoing for the Settlement Fund Administrator to follow in allocating, apportioning, and distributing payments, which shall then be appended hereto as Exhibit L.

4. Settlement Fund Administrator Costs. Any costs and fees associated with or arising out of the duties of the Settlement Fund Administrator as described in Exhibit L shall be paid from the interest accrued in the Settlement Fund Escrow and the Settlement Fund; provided, however, that if such accrued interest is insufficient to pay the entirety of any such costs and fees, the additional amount shall be paid out of the Settlement Fund. For the avoidance of doubt, nothing in this provision shall require Sun to pay any costs, fees or other amounts in excess of the Global Settlement Amount.

D. *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 VI.D.1 and Section VI.D.2, then the default provisions of Section VI.D.4 apply. It is not necessary that a State-Subdivision Agreement or other means of allocating funds pursuant to Section VI.D.1 and Section VI.D.2 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.

1. 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 VI.C 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 VI.B.2, and (b) that at least seventy percent (70%) of amounts be used solely for future Opioid Remediation.[7] For a State-Subdivision Agreement to be applied to the relevant portion of the Remediation Payment, notice must be provided to Sun and the Settlement Fund Administrator by the Payment Calculation Date.

[7] 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

2. 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 VI.B.2, 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 VI.C 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 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 Section VI of any such unaddressed fund. For example, if an Allocation Statute or Statutory Trust that meets the requirements of this Section VI.D.2 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.

3. 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 Fund Administrator is not required to honor a voluntary redistribution for which notice is provided to it after the Payment Calculation Date.

4. Distribution in the Absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust. If Section VI.D.1, Section VI.D.2, and Section VI.D.3 do not apply, amounts apportioned to that Settling State's State Fund, Remediation Accounts Fund, and Subdivision Fund under Section VI.C shall be distributed as follows:

a. Amounts apportioned to that Settling State's State Fund shall be distributed to that Settling State.

b. Amounts apportioned to that Settling State's Remediation Accounts Fund shall be distributed consistent with Section VI.E. Each Settling State shall submit to the Settlement Fund 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 Fund 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 Fund 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 Fund Administrator to release the Settling State's Remediation Accounts Fund to the Statutory Trust.

c. 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 VIII.H 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.

d. Special Districts shall not be allocated funds from the Subdivision Fund, except through a voluntary redistribution allowed by Section VI.D.3 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.

5. Restrictions on Distribution. No amounts may be distributed from the Subdivision Fund contrary to Section VIII, 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 VIII.E through Section VIII.G. 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 VI.D.1 or by an Allocation Statute or a Statutory Trust described in Section VI.D.2.

E. *Provisions Regarding the Remediation Accounts Fund.*

1. 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 VI.D.1 or Section VI.D.2, as applicable, and all direct payments to Subdivisions comply with Section VIII.E through Section VIII.G.

2. 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:

a. Regional Remediation.

(i) 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 VI.E.2.d to define its regions and assign regional allocations percentages. Otherwise, the Settling State shall (A) define its initial regions, which shall consist of one (1) or more General Purpose Subdivisions 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; (B) 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.

(ii) 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.

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

b. *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.

c. *Small Settling States.* Notwithstanding the provisions of Section VI.E.2.a, Settling States with populations under four (4) million that do not have existing regions described in Section VI.E.2.a 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 VI.E.2.b shall be divided regionally so that each block-grant eligible Subdivision is a region, and the remainder of the state is a region.

d. *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:

(i) 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;

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

(iii) 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

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

3. Remediation Accounts Fund Reporting. The Settlement Fund Administrator shall track and assist in the report of remediation disbursements as agreed to between Sun and the Enforcement Committee

F. *Nature of Payment*. Sun, 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 Released Claims:

1. They have entered into this Agreement to avoid the delay, expense, inconvenience, and uncertainty of further litigation;

2. (a) The Settling States and Participating Subdivisions sought compensatory restitution and remediation (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; (b) 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 (c) 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;

3. The payment of the Compensatory Restitution Amount by Sun constitutes, and is paid for, compensatory restitution and remediation (within the meaning of 26 U.S.C. § 162(f)(2)(A) and 26 C.F.R. § 1.162-21(e)(4)(i), (ii)) for alleged damage or harm (as compensation for alleged damage or harm arising out of alleged bodily injury) allegedly caused by Sun 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

4. For the avoidance of doubt: (a) the entire Compensatory Restitution Amount is properly characterized as described in Section VI.F, (b) no portion of the Compensatory Restitution Amount represents reimbursement to any Settling State or Participating Subdivision or other person or entity for the fees or costs of any investigation or litigation, including without limitation attorneys' fees, (c) no portion of the Global Settlement Amount constitutes the disgorgement of any allegedly ill-gotten gains, and (d) no portion of the Global 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.

VII. Enforcement

A. *Enforceability.* This Agreement is enforceable only by the Settling States and Sun; *provided, however,* that Released Entities may enforce Section XI and Participating Subdivisions listed on Exhibit G have the enforcement rights described later in this paragraph and in Section VII.D. Except to the extent allowed by the Injunctive Relief Terms, Settling States and Participating Subdivisions shall not have enforcement rights against Sun 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. Participating Subdivisions shall not have enforcement rights against Sun with respect to this Agreement or any Consent Judgment except that Participating Subdivisions listed on Exhibit G shall have enforcement rights as set forth herein as to payments that would be allocated to the Participating Subdivisions or the Remediation Accounts Fund in such

Settling State pursuant to Section V; *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. *Jurisdiction.* Sun consents to the jurisdiction of the court in which each Settling State files its Consent Judgment, limited to resolution of disputes identified in Section VII.F.2 for resolution in that court.

C. *Specific Terms Dispute Resolution.*

1. Any dispute that is addressed by the provisions set forth in the Injunctive Relief Terms shall be resolved as provided therein.

D. *State-Subdivision Enforcement.*

1. 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 allegations that (i) the Settling State's use of Remediation Accounts Fund monies were not used for uses 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 VI.E.2.b.

2. 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 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.

3. 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.

E. *Subdivision Sun Payment Enforcement.* A Participating Subdivision listed on Exhibit G shall have the same right as a Settling State to seek resolution regarding the failure by Sun to make its Remediation Payment.

F. *Other Terms Regarding Dispute Resolution.*

1. The parties to a dispute shall promptly meet and confer in good faith to resolve any dispute. If the parties cannot resolve the dispute informally, and unless

otherwise agreed in writing, they shall follow the remaining provisions of this subsection to resolve the dispute.

2. Except to the extent provided by Section VII.C or Section VII.F.3, disputes not resolved informally shall be resolved in 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.

a. State court proceedings shall be governed by the rules and procedures of the relevant forum.

b. For the avoidance of doubt, disputes to be resolved in state court include, but are not limited to, the following:

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

(ii) disputes between a Settling State and its Participating Subdivisions as provided by Section VII.D, except to the extent the 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;

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

(iv) 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;

(v) whether the definition of a Bar, a Case-Specific Resolution, Final Order, lead state agency as described in Section VI.D.4.b, Later Litigating Subdivision, Litigating Subdivision, or Threshold Motion have been met; and

(vi) all other disputes not specifically identified in Section VII.C or Section VII.F.3.

c. Any Party may request that the National Arbitration Panel provide an interpretation of any provision of the settlement 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.

3. National Disputes involving a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VII.A, and/or Sun shall be resolved by the National Arbitration Panel.

a. National Disputes are disputes that are not addressed by Section VII.C, and which are exceptions to Section VII.F.2's presumption of resolution in state courts because they involve issues of interpretation of terms contained in this Agreement applicable to all Settling States without reference to a particular state's law. Disputes between a Settling State and any Participating Subdivision shall not be considered National Disputes. National Disputes are limited to the following:

(i) the amount of offset and/or credit attributable to Non-Settling States;

(ii) issues involving the scope and definition of Product;

(iii) interpretation and application of the terms "Covered Conduct," "Released Entities," and "Released Claims;"

(iv) the failure by Sun to pay the Remediation Payment or the Additional Remediation Amount, but for the avoidance of doubt, disputes between Sun and a Settling State over the amounts owed only to that state that do not affect any other Settling State shall not be considered National Disputes;

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

(vi) disputes involving liability of successor entities;

(vii) disputes that require a determination of the sufficiency of participation in order to qualify for Incentive Payments A, BC, or D;

(viii) disputes involving a Releasor's compliance with, and the appropriate remedy under, Section XI.B.5.c;

(ix) 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

(x) any dispute subject to resolution under Section VII.F.2 but for which all parties to the dispute agree to arbitration before the National Arbitration Panel under the provisions of this Section VII.F.3.

b. The National Arbitration Panel shall be comprised of three (3) neutral arbitrators. One (1) arbitrator shall be chosen by Sun, one (1) arbitrator shall be chosen by the Enforcement Committee 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 that selected him/her.

c. 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.

d. 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.

e. To the extent allowed under state law, a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VII.A, 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.

f. The arbitrators will give due deference to 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 VII.A, or Sun on a state law issue.

g. The decisions of the National Arbitration Panel shall be binding on Settling States, Participating Subdivisions, Sun, and the Settlement Fund Administrator. In any proceeding before the National Arbitration Panel involving a dispute between a Settling State and Sun 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.

h. 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.

i. Each party shall bear its own costs in any arbitration or court proceeding arising under this Section VII. 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 Sun and Settling States/Participating Subdivisions shall be split fifty percent (50%) by Sun 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. For the avoidance of doubt, Sun shall not be responsible for the National Arbitration Panel costs in disputes that do not concern Sun.

4. Prior to initiating an action to enforce pursuant to this Section VII.F, the complaining party must:

a. Provide written notice to the Enforcement Committee and Sun 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 Enforcement Committee shall establish a reasonable process and timeline for obtaining additional information from the involved parties; *provided, however,* that the date the Enforcement Committee establishes for obtaining additional information from the parties shall not be more than forty-five (45) calendar days following the notice. The Enforcement Committee may advise the involved parties of its views on the complaint and/or seek to resolve the complaint informally.

b. Wait to commence any enforcement action until thirty (30) calendar days after the date that the Enforcement Committee establishes for obtaining additional information from the involved parties.

5. If the parties to a dispute cannot agree on the proper forum for resolution of the dispute under the provisions of Section VII.F.2 or Section VII.F.3, a committee comprising the Enforcement Committee and sufficient representatives of Sun such that the members of the Enforcement Committee have a majority of one (1) member 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 committee's identification of such forum in the first instance shall not be entitled to deference by the forum selected.

G. *Lien or Encumbrance*. To the extent allowed by applicable law, this Settlement Agreement shall not be deemed to create a lien or encumbrance against any real property owned by Sun or its affiliates, unless in the event of a default or breach of the payment provisions by Sun. Nothing in this Section shall be construed to limit any remedy of any Settling State or Participating Subdivision in the event of a default or breach of this Agreement by Sun.

H. *No Effect.* Nothing in this Agreement shall be interpreted to limit the Settling States' Civil Investigative Demand ("*CID*") or investigative subpoena authority, to the extent such authority exists under applicable state law and the CID or investigative subpoena is issued pursuant to such authority, and Sun reserves all of its rights in connection with a CID or investigative subpoena issued pursuant to such authority.

VIII. Participation by Subdivisions

A. *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. 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, 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 and Special Districts listed on Exhibit G. The costs of the Implementation Administrator shall be paid for by the interest earned from the deposit accounts holding the Adjusted Maximum Remediation Payment for Sun, and nothing in this provision shall require Sun to pay any costs, fees or other amounts in excess of the Global Settlement Amount. The Settling States, with the cooperation of Sun, 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 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.

B. *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 Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) specifying (1) that the Subdivision agrees to the terms of this Agreement pertaining to Subdivisions, (2) that the Subdivision releases all Released Claims against all Released Entities, (3) that the Subdivision agrees to use monies it receives, if any, from the Settlement Fund pursuant to the applicable requirements of Section VI; *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. The required Subdivision Settlement Participation Form is attached as Exhibit K.

C. *Requirements for Becoming a Participating Subdivision—Litigating Subdivisions/Later Litigating Subdivisions.* A Later Litigating Subdivision and 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 Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) and upon prompt dismissal with prejudice of its lawsuit following the Reference Date or the date on which the conditions for effectiveness in Section IX.B have been met, whichever is later. 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 Fund Administrator shall provide reports of this information to the parties upon request. A Litigating Subdivision or Later Litigating Subdivision may not become a Participating Subdivision after the completion of opening statements in a trial of a lawsuit it brought that includes a Released Claim against a Released Entity.

D. *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 VIII.B or Section VIII.C by the Initial Participation Date. All Subdivision Settlement Participation Forms shall be held in escrow by the Implementation Administrator until the Reference 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 obligations.

E. *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 VIII.B or Section VIII.C after the Initial Participation Date but before the Payment Calculation 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 VI.D or Section VI.E. Unless waived by Sun, the following provisions govern what a Later Participating Subdivision can receive (but do not apply to Initial Participating Subdivisions):

1. A Later Participating Subdivision shall receive seventy-five percent (75%) of the share of the Base Payment or Incentive Payment that it would have received had it become an Initial Participating Subdivision.

2. A Later Participating Subdivision that had maintained a lawsuit for a Released Claim against a Released Entity and had judgment entered against it on any such Claim before it became a Participating Subdivision (other than consensual dismissal with prejudice) shall receive 50% of the share of future Base Payments and Incentive Payments that it would have received had it become a Participating Subdivision prior to such judgment; provided, however that if the Subdivision appeals the judgment and the judgment is affirmed with finality, the Subdivision shall not receive any share of any Base Payments or Incentive Payments, and shall return to Sun any share of any Base Payments or Incentive Payments such Subdivision had already received.

3. A Later Participating Subdivision that becomes a Participating Subdivision while a Bar or Case-Specific Resolution involving a different Subdivision exists in its state shall receive twenty-five percent (25%) of the share of the Base Payment and Incentive Payment that it would have received if it had become an Initial Participating Subdivision.

F. *No Increase in Payments.* Amounts to be received by Later Participating Subdivisions shall not increase the payments due from Sun.

G. *Non-Participating Subdivisions.* Non-Participating Subdivisions shall not directly receive any portion of the 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.

H. *Unpaid Allocations to Later Participating Subdivisions and Non-Participating Subdivisions.* Any Base Payment and Incentive Payment allocated pursuant to Section VI.D to a Later Participating Subdivision or Non-Participating Subdivision that cannot be paid pursuant to this Section VIII, including the amounts that remain unpaid after the reductions required by Section VIII.E., 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.

I. *Ineligible Subdivisions.* Subdivisions in Non-Settling States and Prior Litigating Subdivisions are not eligible to be Participating Subdivisions.

IX. Condition to Effectiveness of Agreement and Filing of Consent Judgment

A. *Determination to Proceed with Settlement. —Settling States*. Following the Initial Subdivision Participation Date, the Enforcement Committee shall determine whether to proceed with the Agreement on behalf of the Settling States, and the Settling States shall be bound by the determination of the Enforcement Committee. No later than fifteen (15) calendar days prior to the Reference Date, the Enforcement Committee shall provide notice to Sun of its decision. If the Enforcement Committee elects 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 informing Sun that there is sufficient participation to proceed, the Enforcement Committee will deliver all signatures and releases required by the Agreement to be provided by the Settling States to Sun.

B. *Determination to Proceed with Settlement—Sun*. If the Settling States elect to proceed, Sun will then determine on or before the Reference Date whether there is sufficient Eligible State participation, sufficient Subdivision participation, and sufficient resolution of the Claims of the Litigating Subdivisions in the Settling States (through participation under Section VIII, Case-Specific Resolution(s) and Bar(s)) to proceed with this Agreement. The determination shall be in the sole discretion of Sun and may be based on any criteria or factors deemed relevant by Sun.

C. *Notice by Sun.* On or before the Reference Date, Sun shall inform the Settling States of its determination pursuant to Section IX.B. If Sun determines to proceed, the Parties will proceed to file the Consent Judgments and the obligations in the Subdivision Settlement Participation Forms will be effective and binding as of the Reference Date. If Sun determines not to proceed, this Agreement will have no further effect, any amounts deposited, including funds referenced in Section IV.D. and Exhibit M, shall revert to Sun, 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.

X. Settling State and Participating Subdivision Attorneys' Fees and Costs and Additional Remediation Amount

A. The Agreement on Subdivision Attorneys' Fees, Expenses and Costs is set forth in Exhibit R and incorporated herein by reference.

B. *Additional Remediation Amount*.

1. Subject to the reduction specified in Section X.B.2, Sun shall pay an Additional Remediation Amount to the Settling States listed in Exhibit N. Such funds shall be paid as allocated by the Settlement Fund Administrator pursuant to Exhibit N.

2. *Reduction of Additional Remediation Amount*. The amounts owed by Sun pursuant to this Section X.B shall be reduced by the allocations set forth on Exhibit N for Non-Settling States.

3. For the avoidance of doubt, (1) a Settling State that retained outside counsel in connection with the investigation of Sun that receives an Additional Remediation Amount may choose to have the Additional Remediation Amount designated to pay the Settling State's outside counsel, and may instruct the Settlement Fund Administrator to pay those funds directly to the Settling State's outside counsel, and (2) Additional Remediation Amount funds, including funds designated by a Settling State to pay its outside counsel under this paragraph, shall not be subject to allocation as provided in Section VI.C through Section VI.E.

C. All payments addressed by this Section X will be made no later than the Payment Date pursuant to Section V.

XI. Release

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

B. *Claim-Over and Non-Party Settlement*.

1. It is the intent of the Parties that:

a. Released Entities should not seek contribution or indemnification (other than pursuant to an insurance contract), from other parties for their payment obligations under this Agreement;

b. the payments made under this Agreement shall be the sole payments made by the Released Entities to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity);

c. Claims by Releasors against non-Parties should not result in additional payments by Released Entities, whether through contribution, indemnification or any other means; and

d. 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 released party's liability to any other parties.

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

3. No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner; provided that a Released Entity shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

4. To the extent that, on or after the Reference Date, any Releasor enters into a Non-Party Settlement, including in any bankruptcy case or through any plan of reorganization, 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 substantially equivalent to that required from Sun in Section XI.B.3, or a release from such Non-Released Entity in favor of the Released Entities (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.

5. In the event that any Releasor obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Entity that does not contain a prohibition like that described in Section XI.B.3 or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in Section XI.B.3, and such Non-Released Entity asserts a Claim-Over against a Released Entity, the Released Entity shall be relieved of the prohibition in Section XI.B.3 with respect to that Non-Released Entity and that Releasor and Sun shall take the following actions to ensure that the Released Entities do not pay more with respect to Covered Conduct to the Releasor or to Non-Released Entities than the amount owed under this Settlement Agreement by Sun:

a. Sun shall notify that Releasor of the Claim-Over within sixty (60) calendar days of the assertion of the Claim-Over or sixty (60) calendar days of the Effective Date of this Settlement Agreement, whichever is later;

b. Sun and that Releasor shall meet and confer concerning the means to hold Released Entities harmless and ensure that Sun is not required to pay more with respect to Covered Conduct than the amounts owed by Sun to the Releasor under this Agreement;

c. The Releasor and Sun shall take steps sufficient and permissible under the law of the state of the Releasor to hold Released Entities harmless from the Claim-Over and ensure Released Entities are not required to pay more with respect to Covered Conduct than the amounts owed by Sun under this Agreement. Such steps may include, where permissible:

(i) Filing of motions to dismiss or such other appropriate motion by Sun or Released Entities, and supported by Releasor, in response to any claim filed in litigation or arbitration;

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

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

(iv) Return of monies paid by Sun to the Releasor under this Settlement Agreement to permit satisfaction of a judgment against or settlement with the Non-Released Entity to satisfy the Claim-Over;

(v) Payment of monies to Sun by the Releasor to ensure it is held harmless from such Claim-Over, up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity;

(vi) Credit to Sun under this Agreement to reduce the overall amounts to be paid under the Agreement such that it is held harmless from the Claim-Over; and

(vii) Such other actions as the Releasor and Sun may devise to hold Sun harmless from the Claim-Over.

d. The actions of the Releasor and Sun taken pursuant to paragraph (c) must, in combination, ensure Sun is not required to pay more with respect to Covered Conduct than the amounts owed to the Releasor by Sun under this Agreement.

e. In the event of any dispute over the sufficiency of the actions taken pursuant to paragraph (c), the Releasor and Sun 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. The National Arbitration Panel shall have authority to require Releasor to implement a remedy that includes one or more of the actions specified in paragraph (c) sufficient to hold Released Entities fully harmless. In the event that the Panel's actions do not result in Released Entities being held fully harmless, Sun shall have a claim for breach of this Agreement by Releasor, with the remedy being payment of sufficient funds to hold Sun harmless from the Claim-Over up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity. For the avoidance of doubt, the prior sentence does not limit or eliminate any other remedy that Sun may have.

6. To the extent that the Claim-Over is based on a contractual indemnity, the obligations under Section XI.B.4 shall extend solely to a Non-Party Covered Conduct Claim against a pharmacy, 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. Sun shall notify the Settling States, to the extent permitted by applicable law, in the event that any of these types of Non-Released Entities asserts a Claim-Over arising out of contractual indemnity against it.

C. *Indemnification and Contribution Prohibited.* No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory, from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

D. *General Release.* In connection with the releases provided for in this Agreement, each Settling State (for itself and its Releasors) and Participating Subdivision 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:

> **General Release; extent.** A general release does not extend to claims 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 Released Claims, but each Settling State (for itself and its Releasors) and Participating Subdivision (for itself and its Releasors) hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims 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.

E. *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 Sun (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 Sun.

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

G. *Representation and Warranty*. The signatories hereto on behalf of their respective Settling States and its Participating Subdivisions expressly represent and warrant that they will obtain on or before the Effective Date (or have obtained) the authority to settle and release, to the maximum extent of the State's power, all Released Claims of (1) their respective Settling States; (2) any of the respective Settling State's past and present executive departments, state agencies, divisions, boards, commissions and instrumentalities with the regulatory authority to enforce state and federal controlled substances acts; (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 Claims related to Covered Conduct seeking money (including abatement

and/or remediation) or revocation of a pharmaceutical distribution license; and (4) any Participating Subdivisions. For the purposes of clause (3) above, executive departments, agencies, divisions, boards, commission, and instrumentalities are those that are under the executive authority or direct control of the State's Governor. Also, for the purposes of clause (3), a release from a State's Governor as set forth in Exhibit X is sufficient to demonstrate that the appropriate releases have been obtained.

H. *Effectiveness.* The releases set forth in this Agreement 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.

I. *Cooperation.* Releasors (1) will not encourage any person or entity to bring or maintain any Released Claim against any Released Entity and (2) will reasonably cooperate with and not oppose any effort by a Released Entity to secure the prompt dismissal of any and all Released Claims, including suits brought by non-Releasors based on Released Claims. Releasors will meet and confer and make reasonable efforts to resolve any action that is filed by a Subdivision against Sun 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.

J. *Non-Released Claims.* Notwithstanding the foregoing or anything in the definition of Released Claims, the Agreement does not waive, release or limit any criminal liability, Claims for any outstanding liability under any tax or securities law, Claims against parties who are not Released Entities, Claims by private individuals, Claims for Medicaid rebates, Claims asserted, or that could be asserted, by any State or Subdivision, related to the causes of action in *In re: Generic Pharmaceuticals Pricing Antitrust Litigation*, in the United States District court for the District of Pennsylvania, MDL No. 2724; *Connecticut et al v. Aurobindo Pharma USA, Inc. et al.*, in the United States District Court for the District of Connecticut, Case No. 3:16-cv-2056-NPS; *Connecticut et al. v. Teva Pharmaceuticals USA, Inc.*, in the United States District Court for the District of Connecticut, Case No. 3:19-cv-710-NPS; *Connecticut et al v. Sandoz, Inc. et al.*, in the United States District Court for the District of Connecticut, Case No. 3:20-cv-802-NPS; and any related action (such excluded claims include, but are not limited to, all antitrust claims and any claims related to any non-opioid generic drugs), and any claims arising under the Agreement for enforcement of the Agreement.

XII. Later Litigating Subdivisions

A. *Released Claims against Released Entities*. If a Later Litigating Subdivision in a Settling State maintains a lawsuit for a Released Claim against a Released Entity after the Reference Date, the following shall apply subject to Section XII.B:

1. The Released Entity shall take ordinary and reasonable measures to defend the action, including filing a Threshold Motion with respect to the Released Claim. The Released Entity shall further notify the Settling State and Settlement Fund Administrator immediately upon notice of a Later Litigating Subdivision bringing a lawsuit for a Released Claim and shall not oppose a Settling State's submission in support of the Threshold Motion. Sun shall give the relevant Settling State a reasonable opportunity to extinguish the Released Claims without any payment or any other obligations being imposed upon any Released Entities (apart from the Global Settlement Amount payable by Sun under the Agreement or the Injunctive Relief Terms incurred by it). The relevant Settling State and Sun 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.

2. If the lawsuit asserting a Released Claim is resolved with finality on terms requiring payment by the Released Entity, Sun shall receive a dollar-for-dollar offset against Incentive Payment D for the amount paid. The offset shall be applied against the relevant portion of Incentive Payment D to be released on the last Incentive Payment D Release Date and working backwards.

3. "*Terms requiring payment*" shall mean (i) a final monetary judgment or (ii) a settlement; provided that the Released Entity sought the applicable State Attorney General's consent to the settlement and such consent was either obtained or unreasonably withheld. Should the judgment or settlement resolve claims that are not Released Claims, the offset shall be for the Released Claims portion only, which shall be distinguishable in the judgment or settlement.

B. *Exceptions*

1. Section XII.A shall not apply where the Settling State at issue meets the eligibility criteria for and is entitled to Incentive Payment A, except as expressly provided therein.

2. Section XII.A shall not apply where the Later Litigating Subdivision seeks less than $10 million, or so long as its total claim is reduced to less than $10 million, in the lawsuit for a Released Claim at issue.

C. *No Effect on Other Provisions.* An offset under Section XII.A shall not affect the Injunctive Relief Terms or the Consent Judgment.

D. *No Effect on Other States*. An offset under Section XII.A applicable to one State shall not affect the allocation or payment of the Remediation Payment to other Settling States.

E. *Litigating Subdivisions in Non-Eligible States.* The Settling States will not encourage, facilitate, or assist in any manner whatsoever claims for Covered Conduct against Sun in any Settling, Non-Settling, or Non-Eligible State, regardless of whether those claims were filed against Sun prior to, on, or after the Effective Date.

XIII. Miscellaneous

A. *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.

B. *Population of Special Districts.* For any purpose in this Agreement in which the population of a Special District is used other than Section V.E.4.b: (a) School Districts' population will be measured by the number of students enrolled who are eligible under the Individuals with Disabilities Education Act *("IDEA")* or Section 504 of the Rehabilitation Act of 1973; (b) Health Districts' and Hospital Districts' population will be measured at twenty-five percent (25%) of discharges; and (c) all other Special Districts' (including Fire Districts' and Library Districts') population will be measured at ten percent (10%) of the population served.[8] For the avoidance of doubt, this means that California healthcare districts will be measured at ten percent (10%) of their membership. Sun and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Preliminary Agreement Date.

C. *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.

D. *No Admission.* Sun does not admit 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 Sun.

E. *Tax Cooperation and Reporting.*

1. Upon request by Sun, the Settling States and Participating Subdivisions agree to perform such further acts and to execute and deliver such further documents as may be reasonably necessary for Sun to establish the statements set forth in Section VI.F to the satisfaction of their tax advisors, their independent financial auditors, the Internal Revenue Service, or any other governmental authority, including as contemplated by 26 C.F.R § 1.162-21(b)(3)(ii) and any subsequently proposed or finalized relevant regulations or administrative guidance.

[8] 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.

2. Without limiting the generality of Section XIII.E.1, each Settling State and Participating Subdivision shall cooperate in good faith with Sun with respect to any tax claim, dispute, investigation, audit, examination, contest, litigation, or other proceeding relating to this Agreement.

3. 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 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 Sun and (ii) any legally required forms, returns or amended returns with any applicable governmental authority, or any returns requested by Sun, and (b) provides to Sun a copy of (i) the IRS Form 1098-F filed with respect to Sun 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 VI.F. and as set forth in Section XIII.E.4.

4. Any form, return, amended return, or written statement filed or provided pursuant to Section XIII.E.3, and any similar document, shall be prepared and filed in a manner consistent with reporting the Global Settlement Amount as the "Total amount to be paid" pursuant to this Agreement in Box 1 of IRS Form 1098-F and the Compensatory Restitution Amount as "Restitution/remediation amount" in Box 3 of IRS Form 1098-F, as reflected in the attached Exhibit U. If the Designated State or Appropriate Official shall be required to file any form, return, amended return, or written statement contemplated by this Section XIII.E other than an IRS Form 1098-F in the form attached as Exhibit U, the Designated State shall direct and ensure that the Appropriate Official provides to Sun a draft of such form, return, amended return, or written statement no later than sixty (60) calendar days prior to the due date thereof, and shall accept any reasonable revisions from Sun on the return, amended return, or written statement.

5. For the avoidance of doubt, neither Sun nor the Settling States and Participating Subdivisions make any warranty or representation to any Settling State, Participating Subdivision, or Releasor as to the tax consequences of the payment of the Compensatory Restitution Amount (or any portion thereof).

F. *No Third-Party Beneficiaries.* Except as expressly provided in this Agreement, no portion of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not the Settling State or Released Entity. Settling States may not assign or otherwise convey any right to enforce any provision of this Agreement.

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

H. *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.

I. *Cooperation.* 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 and the Consent Judgments.

J. *Entire Agreement.* This Agreement, including its exhibits and any other attachments, 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.

K. *Execution.* This Agreement 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 Agreement. One or more counterparts of this Agreement may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart hereof. One or more counterparts of this Agreement may be signed by electronic signature.

L. *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) was made to them to induce them to enter into this Agreement.

M. *Legal Obligations.* Nothing in this Agreement shall be construed as relieving Sun 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.

N. *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.

O. *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 XIII.M.

P. *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 or in any litigation or arbitration concerning Sun's right to coverage under an insurance contract.

Q. *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 below:

For the Attorney(s) General:

Jeff Jackson, Attorney General
North Carolina Department of Justice
Attn: Daniel Mosteller, Associate Deputy Attorney General
PO Box 629
Raleigh, NC 27602
Dmosteller@ncdoj.gov

Jonathan Skrmetti, Attorney General
Tennessee Attorney General's Office
Attn: Michael Leftwich, Senior Deputy Attorney General
Hamilton Millwee, Assistant Attorney General
P.O. Box 20207
Nashville, TN 37202
Michael.Leftwich@ag.tn.gov
Hamilton.Millwee@ag.tn.gov

Letitia James, Attorney General
New York State Attorney General
Attn: Jennifer Levy, First Deputy Attorney General
Monica Hanna, Special Counsel
Matthew Conrad, Assistant Attorney General
28 Liberty Street, New York, NY 10005

Jennifer.Levy@ag.ny.gov
Monica.Hanna@ag.ny.gov
Matthew.Conrad@ag.ny.gov

For the Plaintiffs' Executive Committee:

Co-leads
Jayne Conroy
Simmons Hanly Conroy LLC
112 Madison Avenue
7th Floor
New York, NY 10016-7416
JConroy@simmonsfirm.com

Joseph F. Rice
Motley Rice LLC
28 Bridgeside Blvd.
Mount Pleasant, SC 29464
jrice@motleyrice.com

Paul T. Farrell, Jr.
Farrell & Fuller, LLC
270 Munzo Rivera Ave, Suite 201
San Juan, Puerto Rico 00918
paul@farrellfuller.com

For Sun:

Michael Connelly
Hyung Steele
Troutman Pepper Hamilton Sanders LLP
501 Grant Street, Suite 300
Pittsburgh, PA 15219
michael.connelly@troutman.com
hyung.steele@troutman.com

[OTHERS]

Any Party or the Plaintiffs' Executive Committee 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 XIII.Q.

R. *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.

S. *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.

T. *Successors.*

1. This Agreement shall be binding upon, and inure to the benefit of, Sun and its respective successors and assigns.

2. Sun shall not, in one (1) transaction or a series of related transactions, sell or transfer U.S. assets having a fair market value equal to twenty-five percent (25%) or more of the consolidated assets of Sun (other than sales or transfers of inventories, or sales or transfers to an entity owned directly or indirectly by Sun) where the sale or transfer is announced after the Reference Date, is not for fair consideration, and would foreseeably and unreasonably jeopardize Sun's ability to make the payments under this Agreement following the close of a sale or transfer transaction, unless Sun obtains the acquiror's agreement that it will be either a guarantor of or successor to the percentage of Sun's remaining Payment Obligations under this Agreement equal to the percentage of Sun's consolidated assets being sold or transferred in such transaction. Percentages under this section shall be determined in accordance with United States generally accepted accounting principles and as of the date of Sun's most recent publicly filed consolidated balance sheet prior to the date of entry into the sale or transfer agreement at issue. This Section XIII.T shall be enforceable solely by the Settling States, and any objection under this Section XIII.T not raised within sixty (60) calendar days of the announcement of the relevant transaction is waived.

U. *Modification, Amendment, Alteration.* In the event the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, or Sun concludes prior to the Reference Date that technical corrections are required to this Agreement, the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, and Sun shall meet and confer and make such amendments as they agree are appropriate. After the Reference Date, any modification, amendment, or alteration of this Agreement by the Parties shall be binding only if evidenced in writing signed by Sun, along with the signature of at least two-thirds of those then serving as Attorneys 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 VI.E.2.d, 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.

V. *Termination.*

1. Unless otherwise agreed to by each of Sun and the Settling States, this Agreement and all of its terms (except Section XIII.P and any other non-admissibility provisions, which shall continue in full force and effect) shall be canceled and terminated with respect to the Settling State, and the Agreement and all orders issued by the courts in the Settling State pursuant to the Agreement shall become null and void and of no effect if one or more of the following conditions applies:

a. a Consent Judgment approving this Agreement without modification of any of the Agreement's terms has not been entered as to a Settling State by a court of competent jurisdiction on or before one hundred eighty (180) calendar days after the Effective Date;

b. this Agreement or the Consent Judgment as to that Settling State has been disapproved by a court of competent jurisdiction to which it was presented for approval and/or entry (or, in the event of an appeal from or review of a decision of such a court to approve this Agreement and the Consent Judgment, by the court hearing such appeal or conducting such review), and the time to appeal from such disapproval has expired, or, in the event of an appeal from such disapproval, the appeal has been dismissed or the disapproval has been affirmed by the court of last resort to which such appeal has been taken and such dismissal or disapproval has become no longer subject to further appeal (including, without limitation, review by the United States Supreme Court); or

2. If this Agreement is terminated with respect to a Settling State and its Subdivisions for whatever reason pursuant to Section XIII.V.1, then:

a. an applicable statute of limitation or any similar time requirement (excluding any statute of repose) shall be tolled from the date the Settling State signed this Agreement until the later of the time permitted by applicable law or for one year from the date of such termination, with the effect that Sun and the Settling State shall be in the same position with respect to the statute of limitation as they were at the time the Settling State filed its action; and

b. Sun and the Settling State and its Participating Subdivisions shall jointly move the relevant court of competent jurisdiction for an order reinstating the actions and claims dismissed pursuant to the terms of this Agreement governing dismissal, with the effect that Sun and the Settling State and its Participating Subdivisions shall be in the same position with respect to those actions and claims as they were at the time the action or claim was stayed or dismissed.

3. Unless Sun and the Enforcement Committee agree otherwise, this Agreement, with the exception of the Injunctive Relief Terms that have their own provisions on duration, shall terminate as of May 15, 2027, provided that Sun has performed its payment obligations under the Agreement as of that date. Notwithstanding any other provision in this Section XIII.V.3 or in this Agreement, all releases under this Agreement will remain effective despite any termination under this Section XIII.V.3.

W. *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 Sun or against which Sun is seeking enforcement. Notwithstanding any other provision in this subsection on governing law, any disputes relating to the Settlement Fund Escrow shall be governed by and interpreted in accordance with the law of the state where the escrow agent has its primary place of business.

X. *Bankruptcy.* The following provisions shall apply if Sun enters bankruptcy and (i) the Sun bankruptcy estate recovers, pursuant to 11 U.S.C. § 550, any payments made under this Agreement, or (ii) this Agreement is deemed executory and is rejected by Sun pursuant to 11 U.S.C. § 365:

1. In the event that the both a number of Settling States equal to at least seventy-five percent (75%) of the total number of Settling States and Settling States having aggregate State Allocation Percentages as set forth on Exhibit F equal to at least seventy-five percent (75%) of the total aggregate State Allocation Percentages assigned to all Settling States deem (by written notice to Sun) that the financial obligations of this Agreement have been terminated and rendered null and void (except as provided in Section XIII.X.1.a) due to a material breach by Sun, whereupon:

a. all agreements, all concessions, all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall immediately and automatically be deemed null and void as to Sun; the Settling States shall be deemed immediately and automatically restored to the same position they were in immediately prior to their entry into this Settlement Agreement in respect to Sun and the Settling States shall have the right to assert any and all claims against Sun in the bankruptcy or otherwise without regard to any limits or agreements as to the amount of the settlement otherwise provided in this Agreement; *provided, however,* that notwithstanding the foregoing sentence, (i) all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall remain in full force and effect as to all persons or entities other than Sun itself; and (ii) in the event the Settling State asserts any Released Claim against Sun after the rejection and/or termination of this

Agreement as described in this Section XIII.X.1.a and receives a judgment, settlement or distribution arising from such Released Claim, then the amount of any payments the Settling State has previously received from Sun under this Agreement shall be applied to reduce the amount of any such judgment, settlement or distribution (provided that no credit shall be given against any such judgment, settlement or distribution for any payment that the Settling State is required to disgorge or repay to Sun's bankruptcy estate); and

b. the Settling States may exercise all rights provided under the federal Bankruptcy Code (or other applicable bankruptcy or non-bankruptcy law) with respect to their Claims against Sun subject to all defenses and rights of the Sun.

Y. *Waiver*. Sun, for good and valuable consideration the receipt of which is acknowledged, hereby (a) waives, foregoes and relinquishes all rights to utilize and/or seek relief under any of the following laws of the State of Texas for the restructuring of its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement: Tex. Bus. Orgs. Code § 10.003 (Contents of Plan of Merger: More Than One Successor) or any other statute of Subchapter A of Chapter 10 of Tex. Bus. Orgs. Code to the extent such statute relates to multi-successor mergers (and/or any other similar laws or statutes in any other state or territory); Tex. Bus. Orgs. Code §§ 11.01–11.414 (Winding Up and Termination of Domestic Entity); or Tex. Bus. & Com. Code §§ 23.01–23.33 (Assignments for the Benefit of Creditors) (collectively, the "Texas Statutes"), and (b) agrees, warrants and represents that it will not file, request or petition for relief under the Texas Statutes related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement, in each case until such time as all of Sun's payment obligations incurred hereunder are satisfied in full. The foregoing waiver and relinquishment includes, without limitation, until such time as all of Sun's payment obligations incurred hereunder are satisfied in full, Sun's rights to execute a divisional merger or equivalent transaction or restructuring related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement that in each case has the intent or foreseeable effect of (i) separating material assets from material liabilities and (ii) assigning or allocating all or a substantial portion of those liabilities to any subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code, or pursuant to which such subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code would be assuming or retaining all or a substantial portion of those liabilities.

ZYDUS SETTLEMENT AGREEMENT

ZYDUS SETTLEMENT AGREEMENT

This Settlement Agreement, dated as of April 4, 2025 (the "*Agreement"*), sets forth the terms of settlement between and among the Settling States, the Participating Subdivisions, and Zydus (as those terms are defined below). Upon satisfaction of the conditions set forth in Sections II and VIII, this Agreement will be binding on the Settling States, Zydus, and the Participating Subdivisions. 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 Section IX.

I. Definitions

Unless otherwise specified, the following definitions apply:

A. *"Additional Remediation Amount."* The amount available to the Settling States listed in Exhibit M totaling up to $297,184.39.

B. *"Adjusted Maximum Remediation Payment."* The Maximum Remediation Payment reduced by the State Allocation Percentage specified in Exhibit F for each Non-Settling State.

C. *"Agreement."* The Zydus Settlement Agreement, as set forth above. For the avoidance of doubt, this Agreement is inclusive of all exhibits.

D. *"Alleged Harms."* The alleged past, present, and future damages, harms, losses, and related expenditures allegedly incurred by the Settling States and Participating Subdivisions arising out of the use 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, death, and other related diseases and disorders, and that have allegedly been caused by Released Entities.

E. *"Allocation Statute."* 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.

F. *"Appropriate Official."* As defined in Section XIII.E.3.

G. *"Bankruptcy Code."* Title 11 of the United States Code, 11 U.S.C. § 101, et seq.

H. *"Bar."* Either: (1) a law barring Subdivisions in a Settling State from maintaining or asserting Released Claims against Released Entities (either through a direct

bar or through a grant of authority to release claims and 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 or assert any Released Claims against Released Entities, 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 Released Entity (apart from the Remediation Payment by Zydus under this Agreement) shall not constitute a Bar.

I. "*Base Payment.*" As defined in Section V.D.

J. *"Case-Specific Resolution."* Either: (1) a law barring the Subdivision at issue from maintaining any Released Claims against any Released Entities (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 Released Claims at issue against any Released Entities, 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 Released Entity (apart from the payment by Zydus under this Agreement) shall not constitute a Case-Specific Resolution.

K. *"Claim."* Any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, fine, penalty, restitution, reimbursement, disgorgement, expenses, remediation, judgment, right, obligation, dispute, suit, contract, controversy, agreement, *parens patriae* claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law, statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including, but not limited to, any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, remediation, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative, or regulatory remedy whatsoever.

L. *"Claim-Over."* A Claim asserted by a Non-Released Entity against a Released Entity 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.

M. *"Compensatory Restitution Amount."* The aggregate amount paid or incurred by Zydus hereunder for Opioid Remediation, which includes the aggregate Base and Incentive Payments earned by Settling Sates and does not include amounts paid as attorneys' fees and costs or identified pursuant to Section VI.B.2 as being used to pay

attorneys' fees, investigation costs or litigation costs, which shall be up to the amount of the Adjusted Maximum Remediation Payment.

N. *"Consent Judgment."* A consent judgment in a form to be agreed by the Settling States and Zydus prior to the Effective Date that, among other things, (1) approves this Agreement and (2) provides for the release set forth in Section XI.A, including the dismissal with prejudice of any Released Claims that the Settling State has brought against Released Entities.

O. *"Covered Conduct"* means any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, service, work, sale, misstatement, misleading statement, or other activity of any kind whatsoever from the beginning of time through the Reference 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, service, work, sale, misstatement, misleading statement, or other activity) arising from or relating in any way to (a) compounding, counseling, and documentation related to any Product or class of Products; (b) the availability, discovery, research, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, relabeling, recall, withdrawal, distribution, delivery, monitoring, reporting, regulatory compliance supply, sale, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to any Product, or any system, plan, policy, procedure, or advocacy relating to any Product or class of Products, including but not limited to any unbranded or branded promotion, marketing, or advertising, information, patient support or assistance, educational programs, consultancy, research, other programs or campaigns, lobbying, grants, sponsorships, charitable donations, or other funding relating to any Product or class of Products; (c) the characteristics, properties, risks, or benefits of any Product or class of Products; (d) the monitoring or non-monitoring of orders placed of any Product; (e), reporting, disclosure, non-monitoring, non-reporting or non-disclosure to federal, state or other regulators of orders for any Product placed with any Released Entity; (f) the selective breeding, harvesting, extracting, purifying, exporting, importing, applying for quota for, procuring quota for, handling, promoting, manufacturing, processing, packaging, supplying, distributing, converting, or selling of, or otherwise engaging in any activity relating to, precursor or component Products, including but not limited to natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, or any related intermediate Products; or (g) diversion control programs, suspicious order monitoring, or regulatory compliance related to any Product.

P. *"Deposit Date."* July 25, 2025. This Date is the date by which the Settlement Referee shall transfer the Adjusted Maximum Remediation Payment, Private Attorney Fees, and the Additional Remediation Amount, pursuant to Section IV.D. This date is after the Preliminary Agreement Date, on which Zydus agrees to proceed with the agreement; this date may be changed by written agreement of Zydus and the Enforcement Committee.

Q. "*Designated State*." The state of New York.

R. *"Effective Date."* The date sixty (60) calendar days after the Reference Date.

S. "*Eligible States*." The states, commonwealths, and territories of the United States of America. The 56 Eligible States are listed in Exhibit F.

T. *"Enforcement Committee.*" A committee consisting of representatives of the Settling States and of the Participating Subdivisions. Exhibit B contains the organizational bylaws of the Enforcement Committee. Notice pursuant to Section XIII.Q shall be provided when there are changes in membership or contact information.

U. *"Fees Payment."* The amount payable by Zydus on the Payment Date comprised of the Additional Remediation Amount payment, and the Private Attorney Fees payment. The Fees Payment does not include the Remediation Payment.

V. *"Final Order."* An order or judgment of a court of competent jurisdiction with respect to the applicable subject matter (1) which has not been reversed or superseded by a modified or amended order, is not currently stayed, and as to which any right to appeal or seek certiorari, review, reargument, stay, or rehearing has expired, and as to which no appeal or petition for certiorari, review, reargument, stay, or rehearing is pending, or (2) as to which an appeal has been taken or petition for certiorari, review, reargument, stay, or rehearing has been filed and (a) such appeal or petition for certiorari, review, reargument, stay, or rehearing has been resolved by the highest court to which the order or judgment was appealed or from which certiorari, review, reargument, stay, or rehearing was sought, or (b) the time to appeal further or seek certiorari, review, reargument, stay, or rehearing has expired and no such further appeal or petition for certiorari, review, reargument, stay, or rehearing is pending.

W. "*Global Settlement Amount.*" The Global Settlement Amount is $16,998,947.12, which is comprised of the Maximum Remediation Payment, Private Attorney Fees, and Additional Remediation Amount. Notwithstanding any other language or provisions in this or any other agreement, the Global Settlement Amount is the maximum dollar amount Zydus can pay in connection with the Agreement.

X. "*Implementation Administrator*." Rubris, Inc., which is the vendor that will be retained by Zydus to provide notice pursuant to Section VIII.A and to manage the initial joinder period for Subdivisions, including the issuance and receipt of Subdivision Settlement Participation Forms.

Y. *"Incentive Payment A."* The incentive payment described in Section V.E.4.

Z. *"Incentive Payment A Catch-Up Date."* August 1, 2026.

AA. *"Incentive Payment BC."* The incentive payment described in Section V.E.5.

BB. *"Initial Participating Subdivision."* A Subdivision that meets the requirements set forth in Section VIII.D.

CC. *"Initial Participation Date."* The date ninety (90) calendar days after the Preliminary Agreement Date, unless it is extended by written agreement of Zydus and the Enforcement Committee.

DD. *"Injunctive Relief Terms."* The terms described in Section III and set forth in Exhibit P.

EE. *"Later Litigating Subdivision."* 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 Released Claim against a Released Entity after the Reference Date; or (2) adds a Released Claim against a Released Entity after the Reference Date to a lawsuit brought before the Reference Date that, prior to the Reference Date, did not include any Released Claims against a Released Entity; or (3) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a legislative Bar or legislative Case-Specific Resolution as of the Reference Date, (b) such legislative Bar or legislative Case-Specific Resolution is subject to a Revocation Event after the Reference 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 Released Claim against a Released Entity or one hundred eighty (180) 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 Released Claims being dismissed; or (4) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a judicial Bar or judicial Case-Specific Resolution as of the Reference Date, (b) such judicial Bar or judicial Case-Specific Resolution is subject to a Revocation Event after the Reference Date, and (c) such Litigating Subdivision takes any action in its lawsuit asserting a Released Claim against a Released Entity other than seeking a stay or dismissal.

FF. *"Later Participating Subdivision."* A Participating Subdivision that is not an Initial Participating Subdivision, but meets the requirements set forth in Section VIII.E.

GG. *"Litigating Subdivision."* A Subdivision (or Subdivision official) that brought any Released Claim against any Released Entity prior to the Reference Date. 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.

HH. *"Maximum Remediation Payment."* The maximum amount owed by Zydus to the Settling States and Subdivisions, exclusive of the Private Attorney Fees, and the Additional Remediation Amount. The amount of the Maximum Remediation Payment is $14,859,219.51.

II. *"National Arbitration Panel."* The panel comprised as described in Section VII.F.3.b.

JJ. "*National Disputes."* As defined in Section VII.F.3.a.

KK. *"Non-Litigating Subdivision."* Any Subdivision that is not a Litigating Subdivision.

LL. *"Non-Participating Subdivision."* Any Subdivision that is not a Participating Subdivision.

MM. *"Non-Party Covered Conduct Claim."* A Claim against any Non-Released Entity involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity).

NN. *"Non-Party Settlement."* A settlement by any Releasor that settles any Non-Party Covered Conduct Claim and includes a release of any Non-Released Entity.

OO. *"Non-Released Entity."* An entity that is not a Released Entity.

PP. "*Non-Settling State."* Any Eligible State that is not a Settling State.

QQ. *"Opioid Remediation."* Care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures[1] except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to (1) address the use 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.

RR. *"Participating Subdivision."* Any Subdivision that meets the requirements for becoming a Participating Subdivision under Section VIII.B and Section VIII.C. Participating Subdivisions include both Initial Participating Subdivisions and Later Participating Subdivisions.

SS. "*Participation Percentage of Incentive BC Eligible Subdivision Population."* As defined in Section V.E.5.e.

TT. *"Parties."* Zydus and the Settling States (each, a *"Party").*

UU. "*Payment Calculation Date*." October 20, 2025, which is sixty (60) days before the Payment Date. This date may be changed by written agreement of Zydus and the Enforcement Committee.

VV. *"Payment Date."* December 19, 2025, which is the date by which Zydus makes the Remediation Payment and the Fees Payment. This date may be changed by written agreement of Zydus and the Enforcement Committee.

[1] Reimbursement includes amounts paid to any governmental entities for past expenditures or programs.

WW. "*Preliminary Agreement Date.*" The date Zydus informs the Settling States of its determination that the condition in Section II.B has been satisfied. The Preliminary Agreement Date shall be no more than fourteen (14) calendar days after the end of the notice period to Eligible States, unless it is extended by written agreement of Zydus and the Enforcement Committee.

XX. "*Primary Fire District.*" A fire district that covers a population of 25,000, or 0.20% of an Eligible State's population if an Eligible State's population is greater than 18 million. If not easily calculable from state data sources and agreed to between the Eligible State and Zydus, 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. "Primary Fire Districts" shall mean fire districts as identified in connection with the implementation of the July 21, 2021, Janssen Settlement Agreement.

YY. *"Primary Subdivision."* A Subdivision that is a General Purpose Government (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore, or any other entities that provide municipal-type government) with population over 10,000; provided, however, that as used in connection with Incentive Payment BC, the population threshold is 30,000. Attached as Exhibit I is an agreed list of the Primary Subdivisions in each Eligible State.

ZZ. *"Private Attorney Fees"* are the amount to be paid by Zydus for private attorneys' litigation fees and costs on behalf of Participating Subdivisions. The maximum amount of Private Attorney Fees is $1,842,543.22. For avoidance of doubt, Private Attorney Fees do not include the Additional Remediation Amount.

AAA. *"Product."* Any chemical substance, 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 substance, that is: (1) an opioid or opiate, as well as any product containing any such substance; (2) benzodiazepine, carisoprodol, or gabapentin; or (3) a combination or "cocktail" of chemical substances prescribed, sold, bought, or dispensed to be used together that includes opioids or opiates. "Product" shall include, but is not limited to, any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, naloxone, naltrexone, oxycodone, oxymorphone, pentazocine, propoxyphene, 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. Notwithstanding the foregoing, nothing in this section prohibits a Settling State from taking administrative or regulatory action related to benzodiazepine (including, but not limited to, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triazolam, temazepam, and midazolam), carisoprodol, or gabapentin that is wholly independent from the use of such drugs in combination with opioids, *provided* such action does not seek money (including abatement and/or remediation) for conduct prior to the Initial Participation Date. "Product" also includes any natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, and any

intermediate products used or created in the manufacturing process for any of the substances described above.

BBB. *"Reference Date."* The date on which Zydus is to inform the Settling States of its determination whether the condition in Section IX has been satisfied. The Reference Date shall be no later than thirty (30) calendar days after the Initial Participation Date, unless it is extended by written agreement of Zydus and the Enforcement Committee.

CCC. *"Released Claims."* Any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct and/or Alleged Harms occurring prior to the Initial Participation Date. Without limiting the foregoing, Released Claims include any Claims that have been asserted against Released Entities by a Settling State or any of its Litigating Subdivisions in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) based on, arising out of, or relating to, in whole or in part, the Covered Conduct and/or Alleged Harms, or any such Claims that could be or could have been asserted now or in the future in those actions or in any comparable action or proceeding brought by a Settling State, Subdivision, or Releasor (whether or not such Settling State, Subdivision, or Releasor has brought such action or proceeding). Released Claims also include all Claims against Released Entities asserted in any proceeding to be dismissed pursuant to the Agreement, whether or not such claims relate to Covered Conduct and/or Alleged Harms. The Parties intend that this term, "Released Claims," be interpreted broadly. This Agreement does not release Claims by private individuals. It is the intent of the Parties that Claims by private individuals be treated in accordance with applicable law. Released Claims is also used herein to describe claims brought by a non-party Subdivision that would have been Released Claims if they had been brought by a Releasor against a Released Entity.

DDD. *"Released Entities."* With respect to Released Claims, Zydus and (1) all past and present subsidiaries, divisions, affiliates, predecessors, successors, and assigns (in each case, whether direct or indirect) of Zydus; (2) all past and present subsidiaries and divisions (in each case, whether direct or indirect) of any entity described in subsection (1); (3) the respective past and present officers, directors, members, trustees, and employees of any of the foregoing (each for actions that occurred during and related to their work for, or employment with, any of Zydus or the foregoing entities); (4) all past and present joint ventures (whether direct or indirect) of Zydus or its subsidiaries, including in any subsidiary's capacity as a participating member in such joint venture; (5) all direct or indirect parents and shareholders of Zydus (solely in their capacity as parents or shareholders of Zydus with respect to Covered Conduct); and (6) any insurer of Zydus or any person or entity otherwise described in subsections (1)-(5) (solely in its role as insurer of such person or entity and subject to the last sentence of Section XI.C). A list of Zydus's joint ventures, subsidiaries and affiliates and predecessor entities is set forth in Exhibit J. Any person or entity described in subsections (3)-(6) shall be a Released Entity solely in the capacity described in such clause and shall not be a Released Entity with respect to its conduct in any other capacity. Any entity acquired, or joint venture entered into, by Zydus after the Initial Participation Date is not a Released Entity. Further and notwithstanding anything else in this paragraph, no entity sued in *In re: National Prescription Opiate*

Litigation, No. 1:17-md-2804 (N.D. Ohio) is included as a Released Entity other than the entities listed on Exhibit J.

EEE. *"Releasors."* With respect to Released Claims, (1) each Settling State; (2) each Participating Subdivision; and (3) without limitation and to the maximum extent of the power of each Settling State's Attorney General and/or Participating Subdivision to release Claims, (a) the Settling State's and Participating Subdivision's departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind 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, water districts, emergency services districts, school districts, healthcare districts, hospital districts, Sheriffs and law enforcement districts, library districts, coroner's offices, and public transportation authorities, and other Special Districts in a Settling State, including those with the regulatory authority to enforce state and federal controlled substances acts or the authority to bring Claims related to Covered Conduct seeking money (including abatement (or remediation and/or restitution)) or revoke a pharmaceutical distribution license, 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, including but not limited to fines, penalties, or punitive damages, 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. 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. Each Settling State's Attorney General represents that he or she has obtained (or will obtain no later than the Initial Participation Date) the authority set forth in Section XI.G. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide the Subdivision Settlement Participation Form referenced in Section VIII providing for a release to the fullest extent of the Participating Subdivision's authority.

FFF. *"Remediation Accounts Fund."* The component of the Settlement Fund described in Section VI.C.

GGG. *"Remediation Payment."* The amount payable to the Settlement Fund by Zydus for Settling States' Base Payments and Incentive Payments on the Payment Date, as calculated by the Settlement Fund Administrator.

HHH. *"Revocation Event."* With respect to a Bar or Case-Specific Resolution, a legislative amendment, revocation, rescission, reversal, overruling, or interpretation that in any way limits the effect of such Bar or Case-Specific Resolution on Released Claims, or any other action or event that otherwise deprives the Bar, or Case-Specific Resolution of force or effect in any material respect.

III. *"Settlement Fund."* The interest-bearing fund established at [Bank TBD] pursuant to this Agreement into which the Remediation Payment is made under Section V, which is intended to be classified as a "qualified settlement fund" within the meaning of

26 C.F.R. §§ 1.468B-1 *et seq*. and which shall be approved by any Settling State in accordance with the requirements of 26 C.F.R. § 1.468B-1.

JJJ. *"Settlement Fund Administrator."* BrownGreer PLC, which is the entity that determines the Remediation Payment (including calculating offset or reduction and Incentive Payments pursuant to Section V) and Additional Remediation Amount, administers the Settlement Fund, and distributes amounts into the Remediation Accounts Fund, State Fund, and Subdivision Fund pursuant to this Agreement. The duties of the Settlement Fund Administrator shall be governed by this Agreement. Prior to the Effective Date, Zydus and the Enforcement Committee shall agree to a detailed description of the Settlement Fund Administrator's duties and responsibilities, including a detailed mechanism for paying the Settlement Fund Administrator's fees and costs, all of which shall be appended to the Agreement as Exhibit L.

KKK. "*Settlement Referee*." The trustee administrator appointed by the federal district court in the March 11, 2025 Order in *In re: National Prescription Opiate Litigation,* No. 1:17-md-2804 (N.D. Ohio) entitled "Order to Establish Confidential Qualified Settlement Fund and Appoint Settlement Referee for Zydus Settlement Agreement" (Docket #6010) to administer the qualified settlement fund called the Zydus Settlement Fund.

LLL. *"Settlement Fund Escrow."* The interest-bearing escrow fund established pursuant to this Agreement to hold disputed payments made under this Agreement.

MMM."*Settling State."* An Eligible State that has entered into this Agreement and delivers executed releases in accordance with Section IX.A.

NNN. "*State Allocation Percentage."* A Settling State's percentage as set forth in Exhibit F.

OOO. *"State Fund."* The component of the Settlement Fund described in Section VI.C.

PPP. *"State-Subdivision Agreement."* 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.

QQQ. *"Statutory Trust."* 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.

RRR. *"Statewide Payment Amount."* The amount from the Remediation Payment to be paid to a Settling State, including its separate types of funds (if applicable) and its Participating Subdivisions listed in Exhibit G, on or as soon as practical after the Payment Date.

SSS. *"Subdivision."* Any (1) General Purpose Government (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore, or any other entities that provide municipal-type government), School District, or Special District within a Settling State, and (2) any other subdivision, subdivision official acting in an official capacity on behalf of the subdivision (including, without limitation, district attorneys, county attorneys, city attorneys, sheriffs, and any other official, employee, or representative), 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, Nonfunctioning Governmental Units and public institutions) that has filed a lawsuit that includes a Released Claim against a Released Entity in a direct, *parens patriae,* or any other capacity. "General Purpose Government," "School District," and "Special District" shall correspond to the "five basic types of local governments" recognized by the U.S. Census Bureau and match the 2017 list of Governmental Units.[2] The three (3) General Purpose Governments are county, municipal, and township governments; the two (2) special purpose governments are School Districts and Special Districts.[3] "Fire District," "Health District," "Hospital District," and "Library District" shall correspond to categories of Special Districts recognized by the U.S. Census Bureau.[4] References to a Settling State's Subdivisions or to a Subdivision "in," "of," or "within" a Settling State include Subdivisions located within the Settling State even if they are not formally or legally a sub-entity of the Settling State; *provided, however,* that a "Health District" that includes any of the following words or phrases in its name shall not be considered a Subdivision: mosquito, pest, insect, spray, vector, animal, air quality, air pollution, clean air, coastal water, tuberculosis, and sanitary.

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[2] https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP

[3] *E.g.,* U.S. Census Bureau, "Technical Documentation: 2017 Public Use Files for State and Local Government Organization" at 7 (noting that "the Census Bureau recognizes five basic types of local governments," that three of those are "general purpose governments" (county governments, municipal governments, and township governments), and that the other two are "school district and special district governments"), https://www2.census.gov/programs-surveys/gus/datasets/2017/2017_gov_org_meth_tech_doc.pdf.

[4] A list of 2017 Government Units provided by the Census Bureau identifies 38,542 Special Districts and categorizes them by "FUNCTION_NAME." "Govt_Units_2017_Final" spreadsheet, "Special District" sheet, included in "Independent Governments - list of governments with reference information," https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP. As used herein, "Fire District" corresponds to Special District function name "24 — Local Fire Protection," "Health District" corresponds to Special District function name "32 — Health," "Hospital District" corresponds to Special District function name "40 —Hospitals," and "Library District" corresponds to Special District function name "52 — Libraries." *See id.*

TTT. "*Subdivision Allocation Percentage.*" The portion of a Settling State's Subdivision Fund set forth in Exhibit G that a Subdivision will receive pursuant to Section VI 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 VI.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section VI.D.3) that addresses allocation from the Subdivision Fund, whether before or after the Initial 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 VI.D.3. The Subdivision Allocation Percentages contained in Exhibit G may not change once notice is distributed pursuant to Section VIII.A, except upon the effectiveness of any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section VI.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section VI.D.3) 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.

UUU. *"Subdivision Fund."* The component of the Settlement Fund described in Section VI.A.

VVV. *"Subdivision Settlement Participation Form."* The form attached as Exhibit K that Participating Subdivisions must execute and return to the Implementation Administrator or Settlement Fund Administrator, and which shall (1) make such Participating Subdivisions signatories to this Agreement, (2) include a full and complete release of any and all of such Participating Subdivisions' claims, and (3) require the prompt dismissal with prejudice of any Released Claims that have been filed by any such Participating Subdivision.

WWW. "*Threshold Motion*." A motion to dismiss or equivalent dispositive motion made at the outset of litigation under applicable procedure. A Threshold Motion must include as potential grounds for dismissal any applicable Bar or the relevant release by a Settling State or Participating Subdivision provided under this Agreement and, where appropriate under applicable law, any applicable limitations defense.

XXX. "*Zydus*."Zydus Pharmaceuticals (USA) Inc.

YYY. "*Zydus Settlement Fund*." The qualified settlement fund established by the federal district court in *In re: National Prescription Opiate Litigation*, No. 1:17-md-2804 (N.D. Ohio) by its March 11, 2025 Order entitled "Order to Establish Confidential Qualified Settlement Fund and Appoint Settlement Referee for Zydus Settlement Agreement" (Docket #6010) called the "Zydus Settlement Fund" therein within which

Zydus deposited amounts to be used to pay the amounts set forth in this Agreement upon the fulfillment of the conditions precedent set forth in this Agreement.

II. Participation by Eligible States and Condition to Preliminary Agreement

A. *Notice to Eligible States.* On May 26, 2025, this Agreement shall be distributed to all Eligible States. The Attorneys General of the Eligible States shall then have until June 25, 2025, to decide whether to become Settling States and notify the Enforcement Committee and Zydus of that decision. Eligible States that determine to become Settling States shall so notify Zydus and shall further commit to obtaining any necessary additional state releases prior to the Reference Date. This notice period may be extended by written agreement of Zydus and the Enforcement Committee.

B. *Condition to Preliminary Agreement*. Following the notice period set forth in Section II.A, Zydus shall have fourteen (14) calendar days to determine whether, in its sole discretion (based on any criteria or factors deemed relevant to Zydus), enough Eligible States have agreed to become Settling States to proceed with notice to Subdivisions as set forth in Section VIII. This period may be extended by written agreement of Zydus and the Enforcement Committee. If Zydus determines that this condition has been satisfied, and that notice to the Subdivisions should proceed, it will so notify the Settling States by providing notice to the Enforcement Committee. The date of such notice shall be the Preliminary Agreement Date. If Zydus determines that this condition has not been satisfied, this Agreement will have no further effect and all releases and other commitments or obligations contained herein will be void.

C. *Later Joinder by Eligible States*. After the Preliminary Agreement Date, an Eligible State may only become a Settling State with the consent of Zydus and the Enforcement Committee, provided that the Enforcement Committee may not withhold consent to an Eligible State's later joinder if the Eligible State agrees to join pursuant to the terms of this Agreement and the allocation set forth on Exhibit F. If an Eligible State becomes a Settling State more than thirty (30) calendar days after the Preliminary Agreement Date, but on or before the Reference 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 Reference Date.

D. *Litigation Activity.* Following the Preliminary Agreement Date, Eligible States that determine to become Settling States shall make reasonable efforts to cease litigation activity against Zydus, including by jointly seeking stays or, where appropriate, severance of claim against Zydus, 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.

III. Injunctive Relief

A. *Injunctive Relief.* As part of the Consent Judgment, the Parties agree to the injunctive relief terms attached in Exhibit P.

IV. Procedure for Segregated Account Deposits and Payments

A. On April 3, 2025, Zydus deposited into the Zydus Settlement Fund the amount of $16,998,947.12, which is the total amount of funds subject to this Agreement.

1. The interest earned from the deposit account holding the Remediation Amount shall be used, first, to pay for the Implementation Administrator, then to pay for the Implementation Administrator in the Alvogen, Amneal, Apotex, Hikma, Indivior, Mylan, and Sun Settlement Agreements, and finally to be transferred to the Settlement Fund to be used to pay for the Settlement Fund Administrator pursuant to Section VI.C.4.

B. By the Deposit Date, the Settlement Referee shall transfer from the Zydus Settlement Fund into two (2) separate segregated interest-bearing bank accounts it establishes: (a) the Private Attorney Fees amount; and (b) the Additional Remediation Amount. Zydus shall separately account for the interest earned on each of the three (3) accounts.

C. The Settlement Fund Referee shall provide proof to the Enforcement Committee of the deposits required by Section IV.E.1 by the Deposit Date. Zydus shall not remove any money from the segregated bank accounts, except as provided by Section IV.G and Section IV.I.

D. If an Eligible State joins the agreement pursuant to Section II.C and that joinder is after the Deposit Date, the Settlement Fund Referee shall deposit that Settling State's maximum Statewide Payment Amount, which is the Maximum Remediation Payment multiplied by the Settling State's State Allocation Percentage. Such deposit shall be within fifteen (15) days of the Settling State's joinder.

E. If the condition set forth in Section IX.B is met, the Settlement Referee shall:

1. Transfer into the Settlement Fund on the Payment Date (unless the Enforcement Committee specifies a later date) the Remediation Payment amount calculated by the Settlement Fund Administrator pursuant to Section V.C.2 from the segregated account. For the avoidance of doubt, this transfer includes any amounts that the Settlement Fund Administrator will place into the Settlement Fund Escrow pursuant to Section V.C.4.e.

a. The interest earned from the deposit account holding the Remediation Amount shall be used, first, to pay for the Implementation Administrator, then to pay for the Implementation Administrator in the

Alvogen, Amneal, Apotex, Hikma, Indivior, Mylan, and Sun Settlement Agreements, and finally to be transferred to the Settlement Fund to be used to pay for the Settlement Fund Administrator pursuant to Section VI.C.4.

2. Transfer into the relevant funds as directed by the Enforcement Committee, no later than the Payment Date (unless the Enforcement Committee specifies a later date) the amount in the segregated account holding the Private Attorney Fees (including all interest accrued on that account), minus any amounts not payable pursuant to the terms of Exhibit R, and the amount in the segregated account holding the Additional Remediation Amount (including all interest accrued on that account), minus the Additional Remediation Amount that would have been owed to Non-Settling States as calculated by multiplying the Additional Remediation Amount by the sum of allocations on Exhibit N for Non-Settling States.

F. The Remediation Payment transferred by the Settlement Referee into the Settlement Fund pursuant to Section IV.D.1 shall be disbursed by the Settlement Fund Administrator to each Settling State and to its Participating Subdivisions listed on Exhibit G pursuant to Section V.C.5 through Section V.C.8; provided, however, that for any Settling State where the Consent Judgment has not been entered as of the Effective Date, the funds allocable to that Settling State and its Participating Subdivisions listed on Exhibit G shall not be disbursed until ten (10) calendar days after the entry of the Consent Judgment in that Settling State.

G. Any amounts in the segregated accounts not subject to transfer pursuant to Section IV.D shall immediately revert to Zydus after the Settlement Referee makes the transfers required by Section IV.D.

H. Except for the interest earned on the payment amounts, any unearned Incentive Payment A amount in the Settlement Fund shall immediately revert to Zydus after the Incentive Payment A Catch-Up Date. This excess reflects Settling States who sought, but did not achieve, a Bar by the Incentive Payment A Catch-Up Date. Any amount in the Settlement Fund exceeding the payments described in Section V.C.3 shall immediately revert to Zydus after the Payment Date. This excess is Settling States' unearned Maximum Incentive Payment amounts.

I. In the event that, in accordance with the terms of Section IX.B, Zydus determines not to proceed with the Settlement, or the Settlement does not become effective for any other reason, the funds held in the segregated bank accounts shall immediately revert to Zydus.

V. Settlement Payment Calculation Process

A. *Settlement Fund.* All payments under this Section V shall be made into the Settlement Fund, except that, where specified, they shall be made into the Settlement Fund Escrow. The Settlement Fund shall be allocated and used only as specified in Section VI.

B. *Remediation Payment*

1. Zydus shall make one Remediation Payment comprised of both Base Payments and Incentive Payments as provided in Section IV.D.1.

2. In no instance shall Zydus's Remediation Payment obligations exceed the Adjusted Maximum Remediation Amount.

C. *Settlement Fund Payment Process*

1. To determine the Remediation Payment, the Settlement Fund Administrator shall use the data as of the Payment Calculation Date. Prior to the Effective Date, the Parties will include Exhibit L, which sets forth in detail the process for the Settlement Fund Administrator to obtain relevant data and for distributing funds to the Settling States and their Participating Subdivisions listed on Exhibit G consistent with the terms of this Agreement as quickly as practical.

2. On the Payment Calculation Date, the Settlement Fund Administrator shall determine the Remediation Payment, consistent with the provisions in Exhibit L, by determining the sum, for all Settling States, of the Base Payment amount, Incentive Payments A or BC amount to which each Settling State is entitled (or could in the future be entitled for states who notify Defendants of an intent to obtain a Bar by the Incentive Payment A Catch-Up Date)by applying the criteria under Section V.D and Section V.E;

3. On the Payment Calculation Date and Incentive Payment A Catch-Up Date, the Settlement Fund Administrator shall determine the Statewide Payment Amount for each Settling State, consistent with the provisions in Exhibit L, by determining, for each Settling State, the Base Payment amount (only on the Payment Calculation Date) and Incentive Payment amount to which the Settling State is entitled on that date by applying the criteria under Section V.D and Section V.E, after subtracting the portion of any Settlement Fund Administrator costs and fees owed out of funds from the Settlement Fund pursuant to Section VI.C.4.

4. No later than fifty (50) days prior to the Payment Date, the Settlement Fund Administrator shall give notice to Zydus, the Settling States, and the Enforcement Committee of the amount of the Remediation Payment, and/or the Statewide Payment Amount for each Settling State, following the determination described in Section V.C.2 and V.C.3, and the following timeline shall apply:

a. Within twenty-one (21) calendar days of the notice provided by the Settlement Fund Administrator, Zydus, any Settling State or the Enforcement Committee may dispute, in writing, the calculation of the Remediation Payment and/or the Statewide Payment Amount for a Settling State. Such disputing party must provide a written notice of dispute to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Zydus identifying the nature of the dispute, the amount of money that is disputed, and the Settling State(s) affected.

b. Within twenty-one (21) calendar days of the sending of a written notice of dispute, any affected party may submit a response, in writing, to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Zydus identifying the basis for disagreement with the notice of dispute.

c. If no response is filed, the Settlement Fund Administrator shall adjust the amount calculated consistent with the written notice of dispute. In the case of the Remediation Payment, Zydus shall pay the adjusted amount, collectively totaling the Remediation Payment, on the Payment Date.

d. If a written response to the written notice of dispute is timely sent to the Settlement Fund Administrator, the Settlement Fund Administrator shall notify Zydus, the Enforcement Committee, and any affected Settling State of the preliminary amount, which shall be the greater of the amount originally calculated by the Settlement Fund Administrator or the amount that would be consistent with the notice of dispute. In the case of the Remediation Payment, Zydus shall pay this preliminary amount, *provided, however,* that in no circumstances shall the preliminary amount to be paid be higher than the Maximum Remediation Payment.

e. The Settlement Fund Administrator shall place any disputed amount of the preliminary amount paid by Zydus into the Settlement Fund Escrow and shall disburse any undisputed amount to each Settling State and its Participating Subdivisions listed on Exhibit G pursuant to Section V.C.5.

5. If a Settling State informs the Settlement Fund Administrator that it and its Participating Subdivisions listed on Exhibit G have agreed on the amount of its Statewide Payment Amount, determined pursuant to Section V.C.3, to be distributed to the Settling State, among its separate types of funds (if applicable), and among its Participating Subdivisions listed on Exhibit G, the Settlement Fund Administrator shall disburse the Statewide Payment Amount pursuant to the consensus distribution amounts provided by the Settling State as quickly as practical. For a Settling State that does not so notify the Settlement Fund Administrator, the Settlement Fund Administrator shall allocate the Settling State's Statewide Payment Amount, pursuant to Section VI, 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:

a. As soon as possible for each payment and following the determination described in Section V.C.3, the Settlement Fund Administrator shall give notice to the relevant Settling States and their Participating Subdivisions listed on Exhibit G of the amount to be received by each Settling State, the amount to be received by the separate types of funds for each Settling State (if applicable), and the amount to be received by each Participating Subdivision listed on Exhibit G for each Settling State.

b. Within twenty-one (21) days of the notice provided by the Settlement Fund 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 Fund 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.

c. Within twenty-one (21) 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 Fund Administrator, any affected Settling State, and any affected Participating Subdivision identifying the basis for disagreement with the notice of dispute.

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

e. The Settlement Fund Administrator shall place any disputed amount into the Settlement Fund Escrow and shall disburse any undisputed amount to the Settling State and its Participating Subdivisions eligible for payment.

6. Disputes described in this subsection (other than those for which no response is filed under Sections V.C.4.c or V.C.5.d) shall be resolved in accordance with the terms of Section VII.F.

7. The Settlement Fund Administrator may combine the disbursements of the Remediation Payment with the disbursement of funds under other comparable opioid settlements. In determining when disbursements of the Remediation Payment will be made, the Settlement Fund Administrator may take into account the timeline for the availability of disbursements under other comparable opioid settlements.

8. For the avoidance of doubt, Subdivisions 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.

D. *Base Payments.*

1. Zydus shall make Base Payments into the Settlement Fund in an amount equal to forty percent (40%) of the Adjusted Maximum Remediation Payment. The maximum total for Base Payments is $5,943,687.80.

2. The Base Payment for any Settling State shall be the maximum total for Base Payments, $5,943,687.80, times the Settling State's State Allocation Percentage specified in Exhibit F.

E. *Incentive Payments.*

1. Settling States may earn Incentive Payments totaling up to a maximum of sixty percent (60%) of the Adjusted Maximum Remediation Payment, with the Incentive Payment amount depending on whether and the extent to which the criteria set forth below are met in each Settling State. The maximum total for Incentive Payments is $8,915,531.71.

2. A Settling State qualifies to receive an Incentive Payment in addition to its Base Payment if it meets the incentive eligibility requirements specified below. The maximum total Incentive Payment for any Settling State shall be no more than the maximum total for Incentive Payments, $8,915.531.71, times the Settling State's State Allocation Percentage specified in Exhibit F. Incentive Payments are state-specific, with the actual amount depending on whether and the extent to which the criteria set forth below are met in such Settling State.

3. The Incentive Payments shall be divided among two (2) categories, referred to as Incentive Payments A and BC. Incentive Payments A and BC will be due to Settling States on the Payment Date. The total amount of Incentive Payments due to Settling States shall be the sum of the Incentive Payments for which the individual Settling States are eligible under the criteria set forth below. The Incentive Payments shall be made with respect to a specific Settling State based on its eligibility under the criteria set forth below. For the avoidance of doubt, eligibility for Incentive Payments A and BC shall be determined on a Settling State-by-Settling State basis.

4. Incentive Payment A.

a. Incentive Payment A is mutually exclusive with Incentive Payment BC; if a Settling State receives Incentive Payment A in the Remediation Payment, such Settling State is not eligible for Incentive Payment BC.

b. Incentive Payment A shall be equal to sixty percent (60%) of the Adjusted Maximum Remediation Payment, provided all Settling States satisfy the requirements of Incentive Payment A. Incentive Payment A will be due to a Settling State as part of the Remediation Payment, and shall equal a total potential maximum of $8,915,531.71 if all Eligible States qualify for Incentive Payment A. Each Settling State's share of Incentive Payment A, *provided* that Settling State qualifies, shall equal the total maximum amount available for Incentive Payment A, $8,915,531.71, times the Settling State's State Allocation Percentage.

c. Qualification for Incentive Payment A is as follows: A Settling State qualifies for Incentive Payment A if, as of the Payment Calculation Date: (i) there is a Bar in that Settling State in full force and effect, (ii) the 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: all Primary Subdivisions, Litigating Subdivisions, School Districts with a K-12 student enrollment of at least 25,000 or .10% of a Settling State's population, whichever is greater, Hospital Districts that have at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district, and Primary Fire Districts; or (iii) a combination of the actions in clauses (i) and (ii) has achieved the same level of resolution of Subdivision Claims (*e.g.,* a Bar against future litigation combined with full joinder by Litigating Subdivisions). For the avoidance of doubt, subsection (iii) cannot be satisfied unless all Litigating Subdivisions are Participating Subdivisions or there is a Case-Specific Resolution against any such Subdivisions that are not Participating Subdivisions. Zydus and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Initial Participation Date.

d. If a Settling State intends to achieve Incentive A by a Bar in effect after the Payment Calculation date but before the Incentive A Catch-Up Date, the Settling State shall notify Zydus no later than 30 days before the Initial Participation Date. A Settling State who so notifies Zydus and does not qualify for Incentive Payment A as of the Payment Date but becomes eligible for Incentive Payment A as of the Incentive Payment A Catch-Up Date shall receive the payment that it would have received for Incentive Payment A (the "Incentive Payment A Catch-up Payment") on the Incentive Payment A Catch-Up Date. The Incentive Payment A Catch-up Payment shall be reduced by any amounts paid to the Settling State under Incentive Payment BC prior to the Settling State's eligibility for Incentive Payment A. A Settling State that does not qualify for Incentive Payment A as of the Incentive Payment A Catch-Up Date shall not be eligible for Incentive Payment A.

e. To the extent a Settling State asserts that existing legislation qualifies as a Bar, the Settling State shall provide notice to Zydus no later than 30 days before the Initial Participation Date. Zydus shall indicate before the Initial Participation Date whether existing legislation in a Settling State is sufficient to qualify as a Bar.

5. Incentive Payment BC.

a. Incentive Payment BC shall be available to Settling States that do not qualify for Incentive Payment A.

b. Incentive Payment BC shall be up to a maximum of sixty percent (60%) of the Settling State's share of the Remediation Payment. Incentive Payment BC will be due to a Settling State as part of the Remediation Payment. Incentive Payment BC shall equal a total potential maximum of $8,915,531.71 if all Eligible States qualify for Incentive Payment BC (and do not qualify for Incentive Payment A).

c. The maximum Incentive Payment BC for any Settling State shall be the maximum potential Incentive Payment BC, $8,915,531.71, times the Settling State's State Allocation Percentage specified in Exhibit F, provided such Settling State becomes eligible for Incentive Payment BC by the Payment Calculation Date.

d. The amount of Incentive Payment BC for which a Settling State is eligible shall be determined based on the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of all the Settling State's Incentive BC Subdivisions. The Settling State's Incentive BC Subdivisions are (i) all Litigating Subdivisions (including School Districts and Special Districts) and (ii) all Primary Subdivisions that have not sued Zydus as of the Initial Participation Date (collectively "*Incentive BC Subdivisions*").

e. The percentage of the Settling State's maximum Incentive Payment BC provided by Section V.E.5.c to which the Settling State is entitled shall be determined according to the table of Incentive BC payment levels below:

Participation Percentage of Incentive BC Eligible Subdivision Population[5]	**Incentive Payment BC Percentage**
Less than 85%	0%
85% or more but less than 86%	3.57%
86% or more but less than 87%	8.93%

[5] The "Participation Percentage of Incentive BC Eligible Subdivision Population" shall be determined by the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of the Settling State's Incentive BC Subdivisions. In calculating the Settling State's population that resides in Incentive BC Subdivisions, the population of the Settling State's Incentive BC Subdivisions shall be the sum of the population of all Incentive BC Subdivisions in the Settling State, notwithstanding that persons may be included within the population of more than one Incentive BC Subdivision. An individual 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; provided, however, that for the avoidance of doubt, no Subdivision will be excluded from the numerator or denominator under this sentence unless a Subdivision otherwise counted in the denominator has the authority to release the Claims (consistent with Section X) of the Subdivision to be excluded.

87% or more but less than 88%	14.29%
88% or more but less than 89%	19.64%
89% or more but less than 90%	25%
90% or more but less than 91%	30.36%
91% or more but less than 92%	35.71%
92% or more but less than 93%	41.07%
93% or more but less than 94%	46.43%
94% or more but less than 95%	51.79%
95% or more but less than 96%	60.71%
96% or more but less than 97%	68.75%
97% or more but less than 98%	76.79%
98% or more but less than 99%	84.82%
99% or more but less than 100%	92.86%
100%	100%

f. The percentage of the available Incentive Payment BC amount for which a Settling State is eligible will be based on the Participation Percentage of Incentive BC Eligible Subdivision Population as of the Payment Calculation Date. If Incentive BC Eligible Subdivisions that have become Participating Subdivisions, or achieved Case-Specific Resolution status, collectively represent less than eighty-five percent (85%) of a Settling State's Incentive BC Eligible Subdivision population by the Payment Calculation Date, the Settling State shall not receive any Incentive Payment BC.

g. If there are no Incentive BC Eligible Subdivisions in a Settling State, and that Settling State is otherwise eligible for Incentive Payment BC, that Settling State will receive its maximum Incentive Payment BC provided by Section V.E.5.c.

In no event shall any Settling State receive a Base Payment and Incentive Payment totaling more than one hundred percent (100%) of its respective State Allocation Percentage specified in Exhibit F times the Maximum Remediation Payment.

VI. Allocation and Use of Settlement Payments

A. *Components of Settlement Fund.* The Settlement Fund shall be funded by the Remediation Payment and comprised of a Remediation Accounts Fund, a State Fund, and a Subdivision Fund for each Settling State. The payments made under Section IV into the Settlement Fund shall be initially allocated among those three (3) sub-funds and distributed and used as provided below. Unless otherwise specified herein, payments placed into the Settlement Fund do not revert back to Zydus.

B. *Use of Settlement Payments.*

1. 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 VI.B.2. In no event may less than ninety-five percent (95%) of Zydus's maximum amount of payments pursuant to Section V be spent on Opioid Remediation.

2. 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 Fund Administrator and Zydus 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 VI.B.2 shall be available to the public. For the avoidance of doubt, (a) any amounts not identified under this Section VI.B.2 as used to pay attorneys' fees, investigation costs, or litigation costs shall be included in the Compensatory Restitution Amount for purposes of Section VI.F and (b) Participating Subdivisions not listed on Exhibit G may only use monies from the Settlement Fund for purposes that qualify as Opioid Remediation.

C. *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 Fund Administrator will make an initial allocation to three (3) state-level sub-funds. The Settlement Fund 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.

1. Base Payments. The Settlement Fund Administrator will allocate Base Payments under Section V.D among the Settling States pursuant to Section V.D.2. 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 VI.D.

2. Incentive Payments. The Settlement Fund Administrator will treat Incentive Payments under Section V.E on a state-specific basis. Incentive Payments for which a Settling State is eligible 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 VI.D.

3. Settlement Fund Administrator. Prior to the Effective Date, Zydus and the Enforcement Committee will agree to a detailed mechanism consistent with the foregoing for the Settlement Fund Administrator to follow in allocating, apportioning, and distributing payments, which shall then be appended hereto as Exhibit L.

4. Settlement Fund Administrator Costs. Any costs and fees associated with or arising out of the duties of the Settlement Fund Administrator as described in Exhibit L shall be paid from the interest accrued in the Settlement Fund Escrow and the Settlement Fund; provided, however, that if such accrued interest is insufficient to pay the entirety of any such costs and fees, the additional amount shall be paid out of the Settlement Fund. For the avoidance of doubt, nothing in this provision shall require Zydus to pay any costs, fees or other amounts in excess of the Global Settlement Amount.

D. *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 VI.D.1 and Section VI.D.2, then the default provisions of Section VI.D.4 apply. It is not necessary that a State-Subdivision Agreement or other means of allocating funds pursuant to Section VI.D.1 and Section VI.D.2 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.

1. 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 VI.C 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 VI.B.2, and (b) that at least seventy percent (70%) of amounts be used solely for future Opioid Remediation.[6] For a State-Subdivision Agreement to be applied to the relevant portion of the Remediation Payment, notice must be provided to Zydus and the Settlement Fund Administrator by the Payment Calculation Date.

2. 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 VI.B.2, 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 VI.C 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 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 Section VI of any such unaddressed fund. For example, if an Allocation Statute or Statutory Trust that meets the requirements of this Section VI.D.2 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.

3. 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 Fund Administrator is not required to honor a voluntary redistribution for which notice is provided to it after the Payment Calculation Date.

4. Distribution in the Absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust. If Section VI.D.1, Section VI.D.2, and Section VI.D.3 do not apply, amounts apportioned to that Settling State's State Fund, Remediation Accounts Fund, and Subdivision Fund under Section VI.C shall be distributed as follows:

[6] 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

a. Amounts apportioned to that Settling State's State Fund shall be distributed to that Settling State.

b. Amounts apportioned to that Settling State's Remediation Accounts Fund shall be distributed consistent with Section VI.E. Each Settling State shall submit to the Settlement Fund 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 Fund 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 Fund 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 Fund Administrator to release the Settling State's Remediation Accounts Fund to the Statutory Trust.

c. 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 VIII.H 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.

d. Special Districts shall not be allocated funds from the Subdivision Fund, except through a voluntary redistribution allowed by Section VI.D.3 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.

5. Restrictions on Distribution. No amounts may be distributed from the Subdivision Fund contrary to Section VIII, 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 VIII.E through Section VIII.G. 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 VI.D.1 or by an Allocation Statute or a Statutory Trust described in Section VI.D.2.

E. *Provisions Regarding the Remediation Accounts Fund.*

1. 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 VI.D.1 or Section VI.D.2, as applicable, and all direct payments to Subdivisions comply with Section VIII.E through Section VIII.G.

2. 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:

a. Regional Remediation.

(i) 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 VI.E.2.d to define its regions and assign regional allocations percentages. Otherwise, the Settling State shall (A) define its initial regions, which shall consist of one (1) or more General Purpose Subdivisions 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; (B) 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.

(ii) 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.

(iii) The Settling State (A) has the authority to adjust the definition of the regions, and (B) may annually revise the percentages allocated to each region to reflect the number of General

Purpose Subdivisions in each region that are Non-Participating Subdivisions.

b. *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.

c. *Small Settling States.* Notwithstanding the provisions of Section VI.E.2.a, Settling States with populations under four (4) million that do not have existing regions described in Section VI.E.2.a 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 VI.E.2.b shall be divided regionally so that each block-grant eligible Subdivision is a region, and the remainder of the state is a region.

d. *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:

(i) 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;

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

(iii) 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

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

3. Remediation Accounts Fund Reporting. The Settlement Fund Administrator shall track and assist in the report of remediation disbursements as agreed to between Zydus and the Enforcement Committee

F. *Nature of Payment*. Zydus, 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 Released Claims:

1. They have entered into this Agreement to avoid the delay, expense, inconvenience, and uncertainty of further litigation;

2. (a) The Settling States and Participating Subdivisions sought compensatory restitution and remediation (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; (b) 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 (c) 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;

3. The payment of the Compensatory Restitution Amount by Zydus constitutes, and is paid for, compensatory restitution and remediation (within the meaning of 26 U.S.C. § 162(f)(2)(A) and 26 C.F.R. § 1.162-21(e)(4)(i), (ii)) for alleged damage or harm (as compensation for alleged damage or harm arising out of alleged bodily injury) allegedly caused by Zydus 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

4. For the avoidance of doubt: (a) the entire Compensatory Restitution Amount is properly characterized as described in Section VI.F, (b) no portion of the Compensatory Restitution Amount represents reimbursement to any Settling State or Participating Subdivision or other person or entity for the fees or costs of any investigation or litigation, including without limitation attorneys' fees, (c) no portion of the Global Settlement Amount constitutes the disgorgement of any allegedly ill-gotten gains, and (d) no portion of the Global 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.

VII. Enforcement

A. *Enforceability.* This Agreement is enforceable only by the Settling States and Zydus; *provided, however,* that Released Entities may enforce Section XI and Participating Subdivisions listed on Exhibit G have the enforcement rights described later in this paragraph and in Section VII.D. Except to the extent allowed by the Injunctive Relief Terms, Settling States and Participating Subdivisions shall not have enforcement rights against Zydus 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. Participating Subdivisions shall not have enforcement rights against Zydus with respect to this Agreement or any Consent Judgment except that Participating Subdivisions listed on Exhibit G shall have enforcement rights as set forth herein as to payments that would be allocated to the Participating Subdivisions or the Remediation Accounts Fund in such Settling State pursuant to Section V; *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. *Jurisdiction.* Zydus consents to the jurisdiction of the court in which each Settling State files its Consent Judgment, limited to resolution of disputes identified in Section VII.F.2 for resolution in that court.

C. *Specific Terms Dispute Resolution.*

1. Any dispute that is addressed by the provisions set forth in the Injunctive Relief Terms shall be resolved as provided therein.

D. *State-Subdivision Enforcement.*

1. 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 allegations that (i) the Settling State's use of Remediation Accounts Fund monies were not used for uses 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 VI.E.2.b.

2. 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 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.

3. 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.

E. *Subdivision Zydus Payment Enforcement.* A Participating Subdivision listed on Exhibit G shall have the same right as a Settling State to seek resolution regarding the failure by Zydus to make its Remediation Payment.

F. *Other Terms Regarding Dispute Resolution.*

1. The parties to a dispute shall promptly meet and confer in good faith to resolve any dispute. If the parties cannot resolve the dispute informally, and unless otherwise agreed in writing, they shall follow the remaining provisions of this subsection to resolve the dispute.

2. Except to the extent provided by Section VII.C or Section VII.F.3, disputes not resolved informally shall be resolved in 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.

a. State court proceedings shall be governed by the rules and procedures of the relevant forum.

b. For the avoidance of doubt, disputes to be resolved in state court include, but are not limited to, the following:

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

(ii) disputes between a Settling State and its Participating Subdivisions as provided by Section VII.D, except to the extent the 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;

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

(iv) 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;

(v) whether the definition of a Bar, a Case-Specific Resolution, Final Order, lead state agency as described in Section VI.D.4.b, Later Litigating Subdivision, Litigating Subdivision, or Threshold Motion have been met; and

(vi) all other disputes not specifically identified in Section VII.C or Section VII.F.3.

c. Any Party may request that the National Arbitration Panel provide an interpretation of any provision of the settlement 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.

3. National Disputes involving a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VII.A, and/or Zydus shall be resolved by the National Arbitration Panel.

a. National Disputes are disputes that are not addressed by Section VII.C, and which are exceptions to Section VII.F.2's presumption of resolution in state courts because they involve issues of interpretation of terms contained in this Agreement applicable to all Settling States without reference to a particular state's law. Disputes between a Settling State and any Participating Subdivision shall not be considered National Disputes. National Disputes are limited to the following:

(i) the amount of offset and/or credit attributable to Non-Settling States;

(ii) issues involving the scope and definition of Product;

(iii) interpretation and application of the terms "Covered Conduct," "Released Entities," and "Released Claims;"

(iv) the failure by Zydus to pay the Remediation Payment or the Additional Remediation Amount, but for the avoidance of doubt, disputes between Zydus and a Settling State over the amounts owed only to that state that do not affect any other Settling State shall not be considered National Disputes;

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

(vi) disputes involving liability of successor entities;

(vii) disputes that require a determination of the sufficiency of participation in order to qualify for Incentive Payments A or BC;

(viii) disputes involving a Releasor's compliance with, and the appropriate remedy under, Section XI.B.5.c;

(ix) 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

(x) any dispute subject to resolution under Section VII.F.2 but for which all parties to the dispute agree to arbitration before the National Arbitration Panel under the provisions of this Section VII.F.3.

b. The National Arbitration Panel shall be comprised of three (3) neutral arbitrators. One (1) arbitrator shall be chosen by Zydus, one (1) arbitrator shall be chosen by the Enforcement Committee 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 that selected him/her.

c. 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.

d. 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.

e. To the extent allowed under state law, a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VII.A, 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.

f. The arbitrators will give due deference to 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 VII.A, or Zydus on a state law issue.

g. The decisions of the National Arbitration Panel shall be binding on Settling States, Participating Subdivisions, Zydus, and the Settlement Fund Administrator. In any proceeding before the National Arbitration Panel involving a dispute between a Settling State and Zydus 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.

h. 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.

i. Each party shall bear its own costs in any arbitration or court proceeding arising under this Section VII. 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 Zydus and Settling States/Participating Subdivisions shall be split fifty percent (50%) by Zydus 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. For the avoidance of doubt, Zydus shall not be responsible for the National Arbitration Panel costs in disputes that do not concern Zydus.

4. Prior to initiating an action to enforce pursuant to this Section VII.F, the complaining party must:

a. Provide written notice to the Enforcement Committee and Zydus 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 Enforcement Committee shall establish a reasonable process and timeline for obtaining additional information from the involved parties; *provided, however,* that the date the Enforcement Committee establishes for obtaining additional information from the parties shall not be more than forty-five (45) calendar days following the notice. The Enforcement Committee may advise the involved parties of its views on the complaint and/or seek to resolve the complaint informally.

b. Wait to commence any enforcement action until thirty (30) calendar days after the date that the Enforcement Committee establishes for obtaining additional information from the involved parties.

5. If the parties to a dispute cannot agree on the proper forum for resolution of the dispute under the provisions of Section VII.F.2 or Section VII.F.3, a committee comprising the Enforcement Committee and sufficient representatives of Zydus such that the members of the Enforcement Committee have a majority of one (1) member 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 committee's identification of such forum in the first instance shall not be entitled to deference by the forum selected.

G. *Lien or Encumbrance*. To the extent allowed by applicable law, this Settlement Agreement shall not be deemed to create a lien or encumbrance against any real property owned by Zydus or its affiliates, unless in the event of a default or breach of the payment provisions by Zydus. Nothing in this Section shall be construed to limit any remedy of any Settling State or Participating Subdivision in the event of a default or breach of this Agreement by Zydus.

H. *No Effect.* Nothing in this Agreement shall be interpreted to limit the Settling States' Civil Investigative Demand ("*CID*") or investigative subpoena authority, to the extent such authority exists under applicable state law and the CID or investigative subpoena is issued pursuant to such authority, and Zydus reserves all of its rights in connection with a CID or investigative subpoena issued pursuant to such authority.

VIII. Participation by Subdivisions

A. *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. 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, 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 and Special Districts listed on Exhibit G. The costs of the Implementation

Administrator shall be paid for by the interest earned from the deposit accounts holding the Adjusted Maximum Remediation Payment for Zydus, and nothing in this provision shall require Zydus to pay any costs, fees or other amounts in excess of the Global Settlement Amount. The Settling States, with the cooperation of Zydus, 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 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.

B. *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 Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) specifying (1) that the Subdivision agrees to the terms of this Agreement pertaining to Subdivisions, (2) that the Subdivision releases all Released Claims against all Released Entities, (3) that the Subdivision agrees to use monies it receives, if any, from the Settlement Fund pursuant to the applicable requirements of Section VI; *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. The required Subdivision Settlement Participation Form is attached as Exhibit K.

C. *Requirements for Becoming a Participating Subdivision—Litigating Subdivisions.* A 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 Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) and upon prompt dismissal with prejudice of its lawsuit following the Reference Date or the date on which the conditions for effectiveness in Section IX.B have been met, whichever is later. 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 Fund Administrator shall provide reports of this information to the parties upon request. A Litigating Subdivision may not become a Participating Subdivision after the completion of opening statements in a trial of a lawsuit it brought that includes a Released Claim against a Released Entity.

D. *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 VIII.B or Section VIII.C by the Initial Participation Date. All Subdivision Settlement Participation Forms shall be held in escrow by the Implementation Administrator until the Reference 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 obligations.

E. *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 VIII.B or Section VIII.C after the Initial Participation Date but before the Payment Calculation 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 VI.D or Section VI.E. Unless waived by Zydus, the following provisions govern what a Later Participating Subdivision can receive (but do not apply to Initial Participating Subdivisions):

1. A Later Participating Subdivision shall receive seventy-five percent (75%) of the share of the Base Payment or Incentive Payment that it would have received had it become an Initial Participating Subdivision.

2. A Later Participating Subdivision that had maintained a lawsuit for a Released Claim against a Released Entity and had judgment entered against it on any such Claim before it became a Participating Subdivision (other than consensual dismissal with prejudice) shall receive 50% of the share of future Base Payments and Incentive Payments that it would have received had it become a Participating Subdivision prior to such judgment; provided, however that if the Subdivision appeals the judgment and the judgment is affirmed with finality, the Subdivision shall not receive any share of any Base Payments or Incentive Payments, and shall return to Zydus any share of any Base Payments or Incentive Payments such Subdivision had already received.

3. A Later Participating Subdivision that becomes a Participating Subdivision while a Bar or Case-Specific Resolution involving a different Subdivision exists in its state shall receive twenty-five percent (25%) of the share of the Base Payment and Incentive Payment that it would have received if it had become an Initial Participating Subdivision.

F. *No Increase in Payments.* Amounts to be received by Later Participating Subdivisions shall not increase the payments due from Zydus.

G. *Non-Participating Subdivisions.* Non-Participating Subdivisions shall not directly receive any portion of the 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.

H. *Unpaid Allocations to Later Participating Subdivisions and Non-Participating Subdivisions.* Any Base Payment and Incentive Payment allocated pursuant to Section VI.D to a Later Participating Subdivision or Non-Participating Subdivision that cannot be paid pursuant to this Section VIII, including the amounts that remain unpaid after the reductions required by Section VIII.E., 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.

IX. Condition to Effectiveness of Agreement and Filing of Consent Judgment

A. *Determination to Proceed with Settlement. —Settling States*. Following the Initial Subdivision Participation Date, the Enforcement Committee shall determine whether to proceed with the Agreement on behalf of the Settling States, and the Settling States shall be bound by the determination of the Enforcement Committee. No later than fifteen (15) calendar days prior to the Reference Date, the Enforcement Committee shall provide notice to Zydus of its decision. If the Enforcement Committee elects 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 informing Zydus that there is sufficient participation to proceed, the Enforcement Committee will deliver all signatures and releases required by the Agreement to be provided by the Settling States to Zydus.

B. *Determination to Proceed with Settlement—Zydus*. If the Settling States elect to proceed, Zydus will then determine on or before the Reference Date whether there is sufficient Eligible State participation, sufficient Subdivision participation, and sufficient resolution of the Claims of the Litigating Subdivisions in the Settling States (through participation under Section VIII, Case-Specific Resolution(s) and Bar(s)) to proceed with this Agreement. The determination shall be in the sole discretion of Zydus and may be based on any criteria or factors deemed relevant by Zydus.

C. *Notice by Zydus.* On or before the Reference Date, Zydus shall inform the Settling States of its determination pursuant to Section IX.B. If Zydus determines to proceed, the Parties will proceed to file the Consent Judgments and the obligations in the Subdivision Settlement Participation Forms will be effective and binding as of the Reference Date. If Zydus determines not to proceed, this Agreement will have no further effect, any amounts deposited, including funds referenced in Section IV.D. and Exhibit M, shall revert to Zydus, 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.

X. Settling State and Participating Subdivision Attorneys' Fees and Costs and Additional Remediation Amount

A. The Agreement on Subdivision Attorneys' Fees, Expenses and Costs is set forth in Exhibit R and incorporated herein by reference.

B. *Additional Remediation Amount*.

1. Subject to the reduction specified in Section X.B.2, Zydus shall pay an Additional Remediation Amount to the Settling States listed in Exhibit N. Such funds shall be paid as allocated by the Settlement Fund Administrator pursuant to Exhibit N.

2. *Reduction of Additional Remediation Amount*. The amounts owed by Zydus pursuant to this Section X.B shall be reduced by the allocations set forth on Exhibit N for Non-Settling States.

3. For the avoidance of doubt, (1) a Settling State that retained outside counsel in connection with the investigation of Zydus that receives an Additional Remediation Amount may choose to have the Additional Remediation Amount designated to pay the Settling State's outside counsel, and may instruct the Settlement Fund Administrator to pay those funds directly to the Settling State's outside counsel, and (2) Additional Remediation Amount funds, including funds designated by a Settling State to pay its outside counsel under this paragraph, shall not be subject to allocation as provided in Section VI.C through Section VI.E.

C. All payments addressed by this Section X will be made no later than the Payment Date pursuant to Section V.

XI. Release

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

B. *Claim-Over and Non-Party Settlement*.

1. It is the intent of the Parties that:

a. Released Entities should not seek contribution or indemnification (other than pursuant to an insurance contract), from other parties for their payment obligations under this Agreement;

b. the payments made under this Agreement shall be the sole payments made by the Released Entities to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity);

c. Claims by Releasors against non-Parties should not result in additional payments by Released Entities, whether through contribution, indemnification or any other means; and

d. 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 released party's liability to any other parties.

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

3. No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner; provided that a Released Entity shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

4. To the extent that, on or after the Reference Date, any Releasor enters into a Non-Party Settlement, including in any bankruptcy case or through any plan of reorganization, 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 substantially equivalent to that required from Zydus in Section XI.B.3, or a release from such Non-Released Entity in favor of the Released Entities (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.

5. In the event that any Releasor obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Entity that does not contain a prohibition like that described in Section XI.B.3 or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in Section XI.B.3, and such Non-Released Entity asserts a Claim-Over against a Released Entity, the Released Entity shall be relieved of the prohibition in Section XI.B.3 with respect to that Non-Released Entity and that Releasor and Zydus shall take the following actions to ensure that the Released Entities do not pay more with respect to Covered Conduct to the Releasor or to Non-Released Entities than the amount owed under this Settlement Agreement by Zydus:

a. Zydus shall notify that Releasor of the Claim-Over within sixty (60) calendar days of the assertion of the Claim-Over or sixty (60) calendar days of the Effective Date of this Settlement Agreement, whichever is later;

b. Zydus and that Releasor shall meet and confer concerning the means to hold Released Entities harmless and ensure that Zydus is not required to pay more with respect to Covered Conduct than the amounts owed by Zydus to the Releasor under this Agreement;

c. The Releasor and Zydus shall take steps sufficient and permissible under the law of the state of the Releasor to hold Released Entities harmless from the Claim-Over and ensure Released Entities are not required to pay more with respect to Covered Conduct than the amounts owed by Zydus under this Agreement. Such steps may include, where permissible:

(i) Filing of motions to dismiss or such other appropriate motion by Zydus or Released Entities, and supported by Releasor, in response to any claim filed in litigation or arbitration;

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

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

(iv) Return of monies paid by Zydus to the Releasor under this Settlement Agreement to permit satisfaction of a

judgment against or settlement with the Non-Released Entity to satisfy the Claim-Over;

(v) Payment of monies to Zydus by the Releasor to ensure it is held harmless from such Claim-Over, up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity;

(vi) Credit to Zydus under this Agreement to reduce the overall amounts to be paid under the Agreement such that it is held harmless from the Claim-Over; and

(vii) Such other actions as the Releasor and Zydus may devise to hold Zydus harmless from the Claim-Over.

d. The actions of the Releasor and Zydus taken pursuant to paragraph (c) must, in combination, ensure Zydus is not required to pay more with respect to Covered Conduct than the amounts owed to the Releasor by Zydus under this Agreement.

e. In the event of any dispute over the sufficiency of the actions taken pursuant to paragraph (c), the Releasor and Zydus 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. The National Arbitration Panel shall have authority to require Releasor to implement a remedy that includes one or more of the actions specified in paragraph (c) sufficient to hold Released Entities fully harmless. In the event that the Panel's actions do not result in Released Entities being held fully harmless, Zydus shall have a claim for breach of this Agreement by Releasor, with the remedy being payment of sufficient funds to hold Zydus harmless from the Claim-Over up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity. For the avoidance of doubt, the prior sentence does not limit or eliminate any other remedy that Zydus may have.

6. To the extent that the Claim-Over is based on a contractual indemnity, the obligations under Section XI.B.4 shall extend solely to a Non-Party Covered Conduct Claim against a pharmacy, 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. Zydus shall notify the Settling States, to the extent permitted by applicable law, in the event that any of these types of Non-Released Entities asserts a Claim-Over arising out of contractual indemnity against it.

C. *Indemnification and Contribution Prohibited.* No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory, from a manufacturer, pharmacy, hospital, pharmacy benefit manager,

health insurer, third-party vendor, trade association, distributor, or health care practitioner. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

D. *General Release.* In connection with the releases provided for in this Agreement, each Settling State (for itself and its Releasors) and Participating Subdivision 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:

> **General Release; extent.** A general release does not extend to claims 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 Released Claims, but each Settling State (for itself and its Releasors) and Participating Subdivision (for itself and its Releasors) hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims 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.

E. *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 Zydus (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 Zydus.

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

G. *Representation and Warranty*. The signatories hereto on behalf of their respective Settling States and its Participating Subdivisions expressly represent and warrant that they will obtain on or before the Effective Date (or have obtained) the authority to settle and release, to the maximum extent of the State's power, all Released Claims of (1) their respective Settling States; (2) any of the respective Settling State's past and present

executive departments, state agencies, divisions, boards, commissions and instrumentalities with the regulatory authority to enforce state and federal controlled substances acts; (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 Claims related to Covered Conduct seeking money (including abatement and/or remediation) or revocation of a pharmaceutical distribution license; and (4) any Participating Subdivisions. For the purposes of clause (3) above, executive departments, agencies, divisions, boards, commission, and instrumentalities are those that are under the executive authority or direct control of the State's Governor. Also, for the purposes of clause (3), a release from a State's Governor as set forth in Exhibit X is sufficient to demonstrate that the appropriate releases have been obtained.

H. *Effectiveness.* The releases set forth in this Agreement 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.

I. *Cooperation.* Releasors (1) will not encourage any person or entity to bring or maintain any Released Claim against any Released Entity and (2) will reasonably cooperate with and not oppose any effort by a Released Entity to secure the prompt dismissal of any and all Released Claims, including suits brought by non-Releasors based on Released Claims. Releasors will meet and confer and make reasonable efforts to resolve any action that is filed by a Subdivision against Zydus 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.

J. *Non-Released Claims.* Notwithstanding the foregoing or anything in the definition of Released Claims, the Agreement does not waive, release or limit any criminal liability, Claims for any outstanding liability under any tax or securities law, Claims against parties who are not Released Entities, Claims by private individuals, Claims for Medicaid rebates, Claims asserted, or that could be asserted, by any State or Subdivision, related to the causes of action in *In re: Generic Pharmaceuticals Pricing Antitrust Litigation*, in the United States District court for the District of Pennsylvania, MDL No. 2724; *Connecticut et al v. Aurobindo Pharma USA, Inc. et al.*, in the United States District Court for the District of Connecticut, Case No. 3:16-cv-2056-NPS; *Connecticut et al. v. Teva Pharmaceuticals USA, Inc.*, in the United States District Court for the District of Connecticut, Case No. 3:19-cv-710-NPS; *Connecticut et al v. Sandoz, Inc. et al.*, in the United States District Court for the District of Connecticut, Case No. 3:20-cv-802-NPS; and any related action (such excluded claims include, but are not limited to, all antitrust claims and any claims related to any non-opioid generic drugs), State false claim violations; Medicaid fraud or abuse claims (whether common law, statutory or otherwise) and/or kickback violations; and any claims arising under the Agreement for enforcement of the Agreement.

XII. Later Litigating Subdivisions

A. *Released Claims against Released Entities*. If a Later Litigating Subdivision in a Settling State maintains a lawsuit for a Released Claim against a Released Entity after the Reference Date, the following shall apply subject to Section XII.B:

1. The Released Entity shall take ordinary and reasonable measures to defend the action, including filing a Threshold Motion with respect to the Released Claim. The Released Entity shall further notify the Settling State and Settlement Fund Administrator immediately upon notice of a Later Litigating Subdivision bringing a lawsuit for a Released Claim and shall not oppose a Settling State's submission in support of the Threshold Motion. Zydus shall give the relevant Settling State a reasonable opportunity to extinguish the Released Claims without any payment or any other obligations being imposed upon any Released Entities (apart from the Global Settlement Amount payable by Zydus under the Agreement or the Injunctive Relief Terms incurred by it). The relevant Settling State and Zydus 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.

2. "*Terms requiring payment*" shall mean (i) a final monetary judgment or (ii) a settlement; provided that the Released Entity sought the applicable State Attorney General's consent to the settlement and such consent was either obtained or unreasonably withheld. Should the judgment or settlement resolve claims that are not Released Claims, the offset shall be for the Released Claims portion only, which shall be distinguishable in the judgment or settlement.

B. *Exceptions*

1. Section XII.A shall not apply where the Settling State at issue meets the eligibility criteria for and is entitled to Incentive Payment A, except as expressly provided therein.

2. Section XII.A shall not apply where the Later Litigating Subdivision seeks less than $10 million, or so long as its total claim is reduced to less than $10 million, in the lawsuit for a Released Claim at issue.

C. *No Effect on Other Provisions.* An offset under Section XII.A shall not affect the Injunctive Relief Terms or the Consent Judgment.

D. *No Effect on Other States*. An offset under Section XII.A applicable to one State shall not affect the allocation or payment of the Remediation Payment to other Settling States.

E. *Litigating Subdivisions in Non-Eligible States.* The Settling States will not encourage, facilitate, or assist in any manner whatsoever claims for Covered Conduct against Zydus in any Settling, Non-Settling, or Non-Eligible State, regardless of whether those claims were filed against Zydus prior to, on, or after the Effective Date.

XIII. Miscellaneous

A. *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.

B. *Population of Special Districts.* For any purpose in this Agreement in which the population of a Special District is used other than Section V.E.4.b: (a) School Districts' population will be measured by the number of students enrolled who are eligible under the Individuals with Disabilities Education Act *("IDEA")* or Section 504 of the Rehabilitation Act of 1973; (b) Health Districts' and Hospital Districts' population will be measured at twenty-five percent (25%) of discharges; and (c) all other Special Districts' (including Fire Districts' and Library Districts') population will be measured at ten percent (10%) of the population served.[7] For the avoidance of doubt, this means that California healthcare districts will be measured at ten percent (10%) of their membership. Zydus and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Preliminary Agreement Date.

C. *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.

D. *No Admission.* Zydus does not admit 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 Zydus.

E. *Tax Cooperation and Reporting.*

1. Upon request by Zydus, the Settling States and Participating Subdivisions agree to perform such further acts and to execute and deliver such further documents as may be reasonably necessary for Zydus to establish the statements set forth in Section VI.F to the satisfaction of their tax advisors, their independent financial auditors, the Internal Revenue Service, or any other governmental authority, including as contemplated by 26 C.F.R § 1.162-21(b)(3)(ii) and any subsequently proposed or finalized relevant regulations or administrative guidance.

[7] 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.

2. Without limiting the generality of Section XIII.E.1, each Settling State and Participating Subdivision shall cooperate in good faith with Zydus with respect to any tax claim, dispute, investigation, audit, examination, contest, litigation, or other proceeding relating to this Agreement.

3. 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 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 Zydus and (ii) any legally required forms, returns or amended returns with any applicable governmental authority, or any returns requested by Zydus, and (b) provides to Zydus a copy of (i) the IRS Form 1098-F filed with respect to Zydus 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 VI.F. and as set forth in Section XIII.E.4.

4. Any form, return, amended return, or written statement filed or provided pursuant to Section XIII.E.3, and any similar document, shall be prepared and filed in a manner consistent with reporting the Global Settlement Amount as the "Total amount to be paid" pursuant to this Agreement in Box 1 of IRS Form 1098-F and the Compensatory Restitution Amount as "Restitution/remediation amount" in Box 3 of IRS Form 1098-F, as reflected in the attached Exhibit U. If the Designated State or Appropriate Official shall be required to file any form, return, amended return, or written statement contemplated by this Section XIII.E other than an IRS Form 1098-F in the form attached as Exhibit U, the Designated State shall direct and ensure that the Appropriate Official provides to Zydus a draft of such form, return, amended return, or written statement no later than sixty (60) calendar days prior to the due date thereof, and shall accept any reasonable revisions from Zydus on the return, amended return, or written statement.

5. For the avoidance of doubt, neither Zydus nor the Settling States and Participating Subdivisions make any warranty or representation to any Settling State, Participating Subdivision, or Releasor as to the tax consequences of the payment of the Compensatory Restitution Amount (or any portion thereof).

F. *No Third-Party Beneficiaries.* Except as expressly provided in this Agreement, no portion of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not the Settling State or Released Entity. Settling States may not assign or otherwise convey any right to enforce any provision of this Agreement.

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

H. *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.

I. *Cooperation.* 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 and the Consent Judgments.

J. *Entire Agreement.* This Agreement, including its exhibits and any other attachments, 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.

K. *Execution.* This Agreement 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 Agreement. One or more counterparts of this Agreement may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart hereof. One or more counterparts of this Agreement may be signed by electronic signature.

L. *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) was made to them to induce them to enter into this Agreement.

M. *Legal Obligations.* Nothing in this Agreement shall be construed as relieving Zydus 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.

N. *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.

O. *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 XIII.M.

P. *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 or in any litigation or arbitration concerning Zydus's right to coverage under an insurance contract.

Q. *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 below:

For the Attorney(s) General:

Jeff Jackson, Attorney General
North Carolina Department of Justice
Attn: Daniel Mosteller, Associate Deputy Attorney General
PO Box 629
Raleigh, NC 27602
Dmosteller@ncdoj.gov

Jonathan Skrmetti, Attorney General
Tennessee Attorney General's Office
Attn: Michael Leftwich, Senior Deputy Attorney General
Hamilton Millwee, Assistant Attorney General
P.O. Box 20207
Nashville, TN 37202
Michael.Leftwich@ag.tn.gov
Hamilton.Millwee@ag.tn.gov

Letitia James, Attorney General
New York State Attorney General
Attn: Jennifer Levy, First Deputy Attorney General
Monica Hanna, Special Counsel
Matthew Conrad, Assistant Attorney General
28 Liberty Street, New York, NY 10005

Jennifer.Levy@ag.ny.gov
Monica.Hanna@ag.ny.gov
Matthew.Conrad@ag.ny.gov

For the Plaintiffs' Executive Committee:

Co-leads
Jayne Conroy
Simmons Hanly Conroy LLC
112 Madison Avenue
7th Floor
New York, NY 10016-7416
JConroy@simmonsfirm.com

Joseph F. Rice
Motley Rice LLC
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Mount Pleasant, SC 29464
jrice@motleyrice.com

Paul T. Farrell, Jr.
Farrell & Fuller, LLC
270 Munzo Rivera Ave, Suite 201
San Juan, Puerto Rico 00918
paul@farrellfuller.com

For Zydus:

Lauren Colton
Hogan Lovells US LLP
100 International Drive
Suite 2000
Baltimore, MD 21202
Lauren.colton@hoganlovells.com
(410) 659-2733

Crystal Fisher
Zydus Pharmaceuticals (USA) Inc.
General Counsel & Compliance Officer
73 Route 31 N.
Pennington, NJ 08534
cfisher@zydususa.com

Any Party or the Plaintiffs' Executive Committee 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 XIII.Q.

R. *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.

S. *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.

T. *Successors.*

1. This Agreement shall be binding upon, and inure to the benefit of, Zydus and its respective successors and assigns.

2. Zydus shall not, in one (1) transaction or a series of related transactions, sell or transfer U.S. assets having a fair market value equal to twenty-five percent (25%) or more of the consolidated assets of Zydus (other than sales or transfers of inventories, or sales or transfers to an entity owned directly or indirectly by Zydus) where the sale or transfer is announced after the Reference Date, is not for fair consideration, and would foreseeably and unreasonably jeopardize Zydus's ability to make the payments under this Agreement following the close of a sale or transfer transaction, unless Zydus obtains the acquiror's agreement that it will be either a guarantor of or successor to the percentage of Zydus's remaining Payment Obligations under this Agreement equal to the percentage of Zydus's consolidated assets being sold or transferred in such transaction. Percentages under this section shall be determined in accordance with United States generally accepted accounting principles and as of the date of Zydus's most recent publicly filed consolidated balance sheet prior to the date of entry into the sale or transfer agreement at issue. This Section XIII.T shall be enforceable solely by the Settling States, and any objection under this Section XIII.T not raised within sixty (60) calendar days of the announcement of the relevant transaction is waived.

U. *Modification, Amendment, Alteration.* In the event the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, or Zydus concludes prior to the Reference Date that technical corrections are required to this Agreement, the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, and Zydus shall meet and confer and make such amendments as they agree are appropriate. After the Reference Date, any modification, amendment, or alteration of this Agreement by the Parties shall be binding only if evidenced in writing signed by Zydus, along with

the signature of at least two-thirds of those then serving as Attorneys 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 VI.E.2.d, 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.

V. *Termination.*

1. Unless otherwise agreed to by each of Zydus and the Settling States, this Agreement and all of its terms (except Section XIII.P and any other non-admissibility provisions, which shall continue in full force and effect) shall be canceled and terminated with respect to the Settling State, and the Agreement and all orders issued by the courts in the Settling State pursuant to the Agreement shall become null and void and of no effect if one or more of the following conditions applies:

a. a Consent Judgment approving this Agreement without modification of any of the Agreement's terms has not been entered as to a Settling State by a court of competent jurisdiction on or before one hundred eighty (180) calendar days after the Effective Date;

b. this Agreement or the Consent Judgment as to that Settling State has been disapproved by a court of competent jurisdiction to which it was presented for approval and/or entry (or, in the event of an appeal from or review of a decision of such a court to approve this Agreement and the Consent Judgment, by the court hearing such appeal or conducting such review), and the time to appeal from such disapproval has expired, or, in the event of an appeal from such disapproval, the appeal has been dismissed or the disapproval has been affirmed by the court of last resort to which such appeal has been taken and such dismissal or disapproval has become no longer subject to further appeal (including, without limitation, review by the United States Supreme Court); or

2. If this Agreement is terminated with respect to a Settling State and its Subdivisions for whatever reason pursuant to Section XIII.V.1, then:

a. an applicable statute of limitation or any similar time requirement (excluding any statute of repose) shall be tolled from the date the Settling State signed this Agreement until the later of the time permitted by applicable law or for one year from the date of such termination, with the effect that Zydus and the Settling State shall be in the same position with respect to the statute of limitation as they were at the time the Settling State filed its action; and

b. Zydus and the Settling State and its Participating Subdivisions shall jointly move the relevant court of competent jurisdiction for an order reinstating the actions and claims dismissed pursuant to the terms of this Agreement governing dismissal, with the effect that Zydus and the Settling State and its Participating Subdivisions shall be in the same position with respect to those actions and claims as they were at the time the action or claim was stayed or dismissed.

3. Unless Zydus and the Enforcement Committee agree otherwise, this Agreement, with the exception of the Injunctive Relief Terms that have their own provisions on duration, shall terminate as of May 15, 2027, provided that Zydus has performed its payment obligations under the Agreement as of that date. Notwithstanding any other provision in this Section XIII.V.3 or in this Agreement, all releases under this Agreement will remain effective despite any termination under this Section XIII.V.3.

W. *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 Zydus or against which Zydus is seeking enforcement. Notwithstanding any other provision in this subsection on governing law, any disputes relating to the Settlement Fund Escrow shall be governed by and interpreted in accordance with the law of the state where the escrow agent has its primary place of business.

X. *Bankruptcy.* The following provisions shall apply if Zydus enters bankruptcy and (i) the Zydus bankruptcy estate recovers, pursuant to 11 U.S.C. § 550, any payments made under this Agreement, or (ii) this Agreement is deemed executory and is rejected by Zydus pursuant to 11 U.S.C. § 365:

1. In the event that the both a number of Settling States equal to at least seventy-five percent (75%) of the total number of Settling States and Settling States having aggregate State Allocation Percentages as set forth on Exhibit F equal to at least seventy-five percent (75%) of the total aggregate State Allocation Percentages assigned to all Settling States deem (by written notice to Zydus) that the financial obligations of this Agreement have been terminated and rendered null and void (except as provided in Section XIII.X.1.a) due to a material breach by Zydus, whereupon:

a. all agreements, all concessions, all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall immediately and automatically be deemed null and void as to Zydus; the Settling States shall be deemed immediately and automatically restored to the same position they were in immediately prior to their entry into this Settlement Agreement in respect to Zydus and the Settling States

shall have the right to assert any and all claims against Zydus in the bankruptcy or otherwise without regard to any limits or agreements as to the amount of the settlement otherwise provided in this Agreement; *provided, however,* that notwithstanding the foregoing sentence, (i) all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall remain in full force and effect as to all persons or entities other than Zydus itself; and (ii) in the event the Settling State asserts any Released Claim against Zydus after the rejection and/or termination of this Agreement as described in this Section XIII.X.1.a and receives a judgment, settlement or distribution arising from such Released Claim, then the amount of any payments the Settling State has previously received from Zydus under this Agreement shall be applied to reduce the amount of any such judgment, settlement or distribution (provided that no credit shall be given against any such judgment, settlement or distribution for any payment that the Settling State is required to disgorge or repay to Zydus's bankruptcy estate); and

b. the Settling States may exercise all rights provided under the federal Bankruptcy Code (or other applicable bankruptcy or non-bankruptcy law) with respect to their Claims against Zydus subject to all defenses and rights of the Zydus.

Y. *Waiver*. Zydus, for good and valuable consideration the receipt of which is acknowledged, hereby (a) waives, foregoes and relinquishes all rights to utilize and/or seek relief under any of the following laws of the State of Texas for the restructuring of its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement: Tex. Bus. Orgs. Code § 10.003 (Contents of Plan of Merger: More Than One Successor) or any other statute of Subchapter A of Chapter 10 of Tex. Bus. Orgs. Code to the extent such statute relates to multi-successor mergers (and/or any other similar laws or statutes in any other state or territory); Tex. Bus. Orgs. Code §§ 11.01–11.414 (Winding Up and Termination of Domestic Entity); or Tex. Bus. & Com. Code §§ 23.01–23.33 (Assignments for the Benefit of Creditors) (collectively, the "Texas Statutes"), and (b) agrees, warrants and represents that it will not file, request or petition for relief under the Texas Statutes related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement, in each case until such time as all of Zydus's payment obligations incurred hereunder are satisfied in full. The foregoing waiver and relinquishment includes, without limitation, until such time as all of Zydus's payment obligations incurred hereunder are satisfied in full, Zydus's rights to execute a divisional merger or equivalent transaction or restructuring related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement that in each case has the intent or foreseeable effect of (i) separating material assets from material liabilities and (ii) assigning or allocating all or a substantial portion of those liabilities to any subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code, or pursuant to which such subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code would be assuming or retaining all or a substantial portion of those liabilities.

CITY OF SANTA FE

Memorandum

Date: September 12, 2025

To: Governing Body; Public Works and Utilities Committee; Finance Committee

From: Jesse Roach, Interim Public Utilities Director Jesse Roach

RE: Updating Water Offset Requirement Fee Chart

EXECUTIVE SUMMARY:
Consistent with SFCC 1987 25-12.8, this resolution would increase costs in the City of Santa Fe's ("City's") Water Offset Requirement Fee Chart ("Chart") from $16,600 to $36,000 per acre-foot ("AF") of added water demand. This overdue adjustment will bring water offset costs into closer alignment with the true cost of additional water demand.

BACKGROUND AND JUSTIFICATION:
As part of the land development process, new water demand brought to the system by any development is calculated with a water budget. A developer can offset a new water demand by transferring pre 1907 water rights from Middle Rio Grande (MRG) to the City's Buckman Wellfield. "Sub-threshold" developments add less than a threshold amount of demand (10 AF per year (AFY) for residential, 5 AFY for commercial, and 7.5 AFY for mixed use). Those developments can pay the City a fee instead of transferring the water rights. The Chart estimates water demand associated with different types of use and associated costs based on a specified value of one AF of water rights. Although the Chart specifies that the value be updated annually, the City hasn't changed the value of $16,600 per AF (including administrative fees) since 2010.

Transferring water rights from the MRG into the Buckman Wellfield takes years and involves significant transaction costs including negotiations and or litigation in response to protests from the Middle Rio Grande Conservancy District and Middle Rio Grande Pueblos. The City recently lost a water rights acquisition due to the delay associated with these protests. As a result of the delays and costs associated with transfers, the true market cost of water rights in the Buckman Wellfield is represented by the value of rights in the City's Water Bank where developers can move water rights in anticipation of needing them for development. The City has limited transactional data from the Water Bank but the most recent transaction it has, which occurred in March of this year valued the water rights at $36,000 per AF. Santa Fe County currently uses a water offset fee of $36,000 per AF. City staff recommends matching this value, including administrative fees, with an effective date of January 1, 2026. The City will continue to collect transaction data from the Water Bank where possible to inform future updates to the specified value of water rights in the Chart.

ATTACHMENTS:
Resolution
FIR

General Information

Santa Fe, City of
P O Box 909 Santa Fe, NM 87504-0909
( ) -
Water Treatment Plant Chemical Feed Project

Water Project Fund 2026 Application

Water Storage, Conveyance and Delivery Project

Funding Request Amount: 2,550,000.00

PART I. GENERAL APPLICANT AND PROJECT INFORMATION

A. APPLICANT INFORMATION

Full Legal Name of Entity:	City of Santa Fe Water
Mailing Address:	PO Box 909
Street Address:	801 W. San Mateo Rd
City:	Santa Fe, NM
Zip Code:	87504-0909
County:	Santa Fe
Phone:	505-955-4309
Email Address:	jdroach@santafenm.gov

B. SERVICE AREA OF APPLICANT

Communities in Applicant's Service Area:	City of Santa Fe
Counties in Applicant's Service Area:	Santa Fe County
NM House District(s):	48
NM Senate District(s):	25
Map of Service Area:	Current File: WTB-ServiceArea_Map

Has Applicant recently completed a Median Household Income (MHI) survey that the Applicant believes more accurately reflects the MHI of the Applicant's service area?

Yes or No: NO

If Yes, please describe below the methodology used and attach a copy of the survey results.

Methodology:

Attachment:	Current File: None

Census Tract(s) of Applicant's Service Area or, if applicable, name of Census Designated Place:

City of Santa Fe

C. PROJECT LOCATION:

Street Address:	1780 Upper Canyon Rd
City:	Santa Fe
Zip:	87501
Communities served by the Project:	City of Santa Fe
County or Counties where Project is located:	
Map of Project Area:	Current File: WTB-MapOfProjectArea

D. APPLICANT CONTACTS

PRIMARY CONTACT

Name:	Jonathan Montoya
Title:	Interim Water Division Director
Address:	801 W. San Mateo Rd
City:	Santa Fe
Zip Code:	87504
Phone:	505-955-4373
Email Address:	jmmontoya@santafenm.gov

SECONDARY CONTACT

Name:	Clinton Peterson
Title:	Engineer
Address:	801 W. San Mateo Rd
City:	Santa Fe
Zip Code:	87504
Phone:	505-955-4231
Email Address:	cdpeterson@santafenm.gov

CONSULTING ENGINEER

Name:	Carollo
Title:	Design Engineering
Firm:	Carollo
Address:	6200 Uptown Blvd. NE, Suite 120

Address:	6200 Uptown Blvd. NE, Suite 120
City:	Albuquerque
Zip Code:	87110
Phone:	505-881-5034
Email Address:	

LEGAL COUNSEL CONTACT

Name:	Marco Martinez
Firm:	City of Santa FE
Address:	200 Lincoln Ave
City:	City of Santa Fe
Zip Code:	87501
Phone:	505-955-6949
Email Address:	mdmartinez@santafenm.gov

OTHER CONTACT

Name:	Alan G. Hook
Title:	Water Resources Coordinator
Firm:	City of Santa Fe
Address:	801 W. San Mateo Rd
City:	Santa Fe
Zip Code:	87504
Phone:	505-955-4205
Email Address:	aghook@santafenm.gov

PART II. PROJECT SUMMARY

1. Project Scope. Provide a ***brief statement*** of the project. State: 1) the requested Scope of funding as Plan, Design, and/or Construction, and 2) the overall goal of project. (Example: "Plan, design, and construct Main St water transmission lines.")

Note: Response is limited to 200 Characters.

1) A design for upgrades to the chemical feed equipment & filters at the CRWTP for the City of Santa Fe. 2) Goal is to update water treatment process

2. Project Description. Regarding *only the Scope for which funding is being requested*:

a. Provide a detailed description of the project.

To construct upgrades to the chemical feed equipment and filters at the Canyon Road Water Treatment Plant for the City of Santa Fe in Santa Fe County. Work will include the construction of a new chemical storage building and replacement and upgrades to filter valve, piping, instrumentation, and controls. Other upgrades and replacements will be done according to the results of the

City's 2020 Comprehensive Performance and Facility Optimization Evaluations Report.

b. Explain why the project is necessary.

This project is necessary to improve the treatment plant drinking water process per the City's 2020 Comprehensive Performance and Facility Optimization Evaluations Report.

c. Describe the overall degree of benefit from the project.

This benefits only benefits rate-paying customers in the City of Santa Fe (approximately 80,000 citizens), but not 100% of the citizens.

3. Project Selection.

a. Describe how the project area or alternative was selected.

The project design was selected based upon the City's 2020 Comprehensive Performance and Facility Optimization Evaluations Report.

b. If this is a second or subsequent phase of a project, describe the extent to which experience from the previous phases of the project altered the planning or implementation of the requested phase.

Not applicable.

4. Project Continuation. (Phase of a previously funded WTB Project.) If this is a phase of a larger project, have any previous phases of the larger project been awarded by the Water Trust Board?

Yes or No: No

If yes, provide the WTB Project Number(s):

If yes, please describe below whether previous phase(s) met or is meeting the project goals and objectives.

5. If funded, would this phase complete the larger project?

Yes or No: No

If no, briefly explain why:

This funding is only for design prior to construction.

6. Human Health and Safety. Describe how the project addresses human health and safety needs of the community.

This project does not eliminate a risk or hazard to public health and/or safety.

7. Is this project identified in a regional water plan accepted by the New Mexico Interstate Stream Commission?

Yes or No: No

If yes, please provide the name of the plan and the date of acceptance.

Name of Plan:

Date: / /

8. Is this project listed on the community's current Infrastructure Capital Improvement Plan (ICIP)?

Yes or No: Yes

If yes, provide the Priority Number and Date of Prioritization.

ICIP Priority No.	39331
Date of Prioritization:	07/11/2025

9. Community Support.

a. List all of the partners involved in this project and outline the responsibilities for each partner.

Carollo Engineering will provide design.

b. Describe how the surrounding communities are involved.

Not applicable

c. Identify the regional collaboration, including how stakeholders participate both financially and programmatically.

Not applicable

Optional: Attach letters of support from project partners, including Federal, Tribal, State, Non-Governmental Organizations and private interests, as applicable.

Attachment (combine multiple letters into one attachment):	Current File: None

PART III. PROJECT DETAIL

1. Required Planning Document. Section II 3.2 of the WTB Project Management Policies requires Applicants to submit a Planning Document as part of the Project Application.

When was the planning document completed?

07/18/2025

Which regulatory or funding agency(ies) approved the Planning Document, if any?

None

Date of last cost updates, if any:	/ /
Title of Planning Document:	CANYON ROAD WTP FILTER AND CHEMICAL IMPROVEMENTS

Name of Firm that prepared the Planning Document:

Carollo Engineers, LLC

Name of primary Planning Document preparer:

Carollo Engineers, LLC

Please upload Planning Document here. If necessary, break and attach document into parts (additional Attachment blocks are also provided at end of application).

Planning Document Attachment 1	Current File: WTB-PlanningDocument-Attachment1
Planning Document-Attachment 2	Current File: None
Planning Document Attachment 3	Current File: None
Planning Document Attachment 4	Current File: None

2. Design only projects. Is the funding sought for design only? If so, you may qualify for 100% grant with the following conditions:

conditions:

- The project serves or will serve fewer than 500 connections.
- The scope is limited to design only; "design" is defined as necessary technical work required to prepare a complete and final set of plans and specifications ready to be bid.
- The costs for the design must be substantiated with the coordinating planning document(s).
- Grants for design may not exceed $500,000.

Yes

3. Project Funding. Please download the Project Funding spreadsheet at the top of the page, provide total estimated project costs under the appropriate Funding Sources, save it to your local computer and then upload it as a spreadsheet here:

(Attach in spreadsheet format only.) Current File: WTB-ProjectFunding_Attachment

4. Source and Status of Matching Funds. Identify the sources, terms and status of all local, State and Federal Funds identified for this project, and attach documentation substantiating the match.

***NOTE**: If no documentation/evidence of match is provided, match cannot be verified.*

Source *(Name of Federal Funding Agency)*:

Amount: 0.00

Type (Loan, Grant, or Loan/Grant):

Term (# of years)**:**

Status (Application Pending, Approved, or Secured):

Attach evidence of federal funds here: Current File: None

Source *(Name of State Funding Agency)*:

Amount: 0.00

Type (Loan, Grant, or Loan/Grant):

Term (# of years)**:**

Status (Application Pending, Approved, or Secured):

Attach evidence of state funds here: Current File: None

Source (Local): Enterprise Revenue Funds

Amount: 0.00

Type (Bond Proceeds, Accumulated Reserves, or Other Budgeted Funds):

Term (# of years):

Status (Application Pending, Approved, or Secured): secured

Attach evidence of local funds here: Current File: WTB-SourceOfMatchingFundsStatus-Local-Attach

5. Project Readiness.

• Have construction plans and specifications been completed?

Yes or No: No

If yes, please provide the date of completion:

/ /

• If plans and specifications have not been completed, provide estimated date of completion.

Completion date: 09/30/2026

• Have engineering services been procured?

Yes or No: Yes

6. Permits/Licenses/Authorizations. Download Permits Detail spreadsheet at the top of the page, provide the status of each required permit, certification, license or authorization required to complete the project and the time frame for completion. Save the spreadsheet to your local drive, then upload it as an attachment here:

Current File: WTB-PermitsLicenses_Attachment

7. Assuming funds are approved in July 2026, would this project be able to be completed by June 2028?

Yes or No: Yes

If no, what is the estimated time of completion?

Date: / /

PART IV. EXPECTED PROJECT BENEFITS

1. Regionalization. The evaluation criteria provides up to 10 points for projects that demonstrate regional impacts. Maximum points are given to projects that incorporate greater than 80% of the population within a five-mile radius.

a. Describe the direct and indirect impacts of the project, including benefits to the region.

This benefits only rate-paying customers in the City of Santa Fe (approximately 80,000 citizens), but not 100% of the citizens.

b. What is the percentage of population served by the project? 95.000000

c. Describe the extent to which the project increases efficiencies through collaboration.

This project does not eliminate a risk or hazard to public health and/or safet.y

d. Does the project replace individual well-septic systems? No

Explain: It is simply upgrading existing water infrastructure.

e. Describe collaboration efforts to date and the results of the collaboration.

Collaborating with Carallo Engineering, LLC has created 30% design

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

Page 1.

2. Health and Safety. The evaluation criteria provides up to 30 points for projects that address human health and safety. Maximum points are given to projects that specifically address imminent or existing threats to human health and safety due to water borne disease and Safe Drinking Water Act violations.

a. Describe the purpose of the project as it relates to health and safety, including any expected health and safety impacts.

This project does not eliminate a risk or hazard to public health and/or safety

b. Do the health and safety conditions to be addressed currently exist? Explain.

Not applicable

c. What is the extent of expected health and safety impacts if the project were not to proceed? Describe any resulting threats to human health and safety.

This project does not eliminate a risk or hazard to public health and/or safety.

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

Page 1.

3. Plan and Design. The evaluation criteria provides up to 10 points for projects that demonstrate a well-designed selection, design and implementation of infrastructure improvements. Maximum points are given to projects that incorporate water saving technologies into a well-designed project.

a. Describe the status of the project's design and note if the concept is substantively complete.

30% Design

b. Describe the methodology used to measure the project's expected outcome, planned objectives and other benchmarks for measuring project results and describe how they have been incorporated into the project design.

Monthly progress reports with invoicing to track progress and reduce cost overruns.

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

CANYON ROAD WTP FILTER AND CHEMICAL IMPROVEMENTS PROJECT, p. 1

4. Emergency. The evaluation criteria provides up to 25 points for projects that address imminent or existing catastrophic conditions related to water quality or quantity. Maximum points are given to projects that cure severe violations of water quality.

a. Describe how the expected impacts of the project address imminent or existing catastrophic conditions related to water quality improvements.

Not applicable

b. Do the emergency conditions to be addressed currently exist? Explain.

Not applicable

c. What is the extent of expected impacts if the project were not to proceed? Describe any resulting threats to human health and safety from imminent or existing catastrophic conditions related to water quality improvements.

This project does not eliminate a risk or hazard to public health and/or safety.

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

N/A

PART V. REGULATORY COMPLIANCE

In preparation for the Readiness Application, regulatory agencies will certify the applicant compliance with all relevant regulations. Please note that Water Trust Board Policies require the Office of State Engineer to verify water rights. Applicants must submit a completed request form *directly to the Office of the State Engineer* in order to receive verification. Applicants requesting funding for watershed restoration or ESA collaborative projects do not need to receive verification. Flood prevention projects also do not require verification unless they include jurisdictional dams or storage facilities.

(Download OSE form at the top of this page. Complete and submit the completed request form *directly to the Office of the State Engineer.*)

1. Does the Applicant have all necessary water rights to complete the project?

Yes or No: Yes

2. Does the water system supply, deliver, distribute or otherwise provide at least 500-acre feet annually for domestic, commercial, industrial or government customers for non-agricultural purposes?

Yes or No: Yes

If yes, has the Applicant completed a Water Conservation Plan as required by law?

Yes

If no, explain.

PART VI. ATTACHMENTS

A. Required

- Resolution by the governing body authorizing the submission of an application to the Water Trust Board.

Current File: WTB-RequiredAttachment_ResolutionAttach

- Copy of organizational documents for non-governmental entities, including current Articles of Incorporation, Bylaws, etc.

Current File: WTB-RequiredAttachment_IncorporationAttach

B. Additional Documents (optional)

Attach below any additional information you believe would be helpful to evaluating your project.

1. Document description:

Attachment: Current File: None

2. Document description:

Attachment: Current File: None

3. Document description:

Attachment: Current File: None

4. Document description:

Attachment: Current File: None

PART VII. APPLICANT CERTIFICATION

PART VII: APPLICANT CERTIFICATION

Please download the Applicant Certification document at the top of the page, sign and save it to your computer, then upload it to the application here:

Attachment: Current File: WTB-ApplicantCertification_Attach

General Information

Santa Fe, City of
P O Box 909 Santa Fe, NM 87504-0909
( ) -
City of Santa Fe Sewer Rehabilitation Project

Water Project Fund 2026 Application

Wastewater Collection, Conveyance, and Treatment Project

Funding Request Amount: 2,550,000.00

PART I. GENERAL APPLICANT AND PROJECT INFORMATION

A. APPLICANT INFORMATION

Full Legal Name of Entity:	Santa Fe Public Utilities Department
Mailing Address:	PO Box 909
Street Address:	801 W. San Mateo
City:	Santa Fe
Zip Code:	87504-0909
County:	Santa Fe
Phone:	505-955-4333
Email Address:	cedickens@santafenm.gov

B. SERVICE AREA OF APPLICANT

Communities in Applicant's Service Area:	Santa Fe
Counties in Applicant's Service Area:	Santa Fe
NM House District(s):	48
NM Senate District(s):	25
Map of Service Area:	Current File: WTB-ServiceArea_Map

Has Applicant recently completed a Median Household Income (MHI) survey that the Applicant believes more accurately reflects the MHI of the Applicant's service area?

Yes or No: No

If Yes, please describe below the methodology used and attach a copy of the survey results.

Methodology:

Methodology:

Attachment:	Current File: None

Census Tract(s) of Applicant's Service Area or, if applicable, name of Census Designated Place:

NA

C. PROJECT LOCATION:

Street Address:	Santa Fe - City-wide Project
City:	Santa Fe
Zip:	87504
Communities served by the Project:	Santa Fe
County or Counties where Project is located:	
Map of Project Area:	Current File: WTB-MapOfProjectArea

D. APPLICANT CONTACTS

PRIMARY CONTACT

Name:	Carl Dickens
Title:	Project Manager
Address:	801 W. San Mateo
City:	Santa Fe
Zip Code:	87505
Phone:	505-577-3708
Email Address:	cedickens@santafenm.gov

SECONDARY CONTACT

Name:	Mike Dozier
Title:	Waste Water Division Director
Address:	801 W. San Mateo
City:	Santa Fe
Zip Code:	87505
Phone:	505-955-4642
Email Address:	mldozier@santafenm.gov

CONSULTING ENGINEER

Name:	
Title:	

Firm:

Address:

City:

Zip Code:

Phone:

Email Address:

LEGAL COUNSEL CONTACT

Name:	Marcos Martinez
Firm:	City of Santa Fe
Address:	200 Lincoln Ave
City:	Santa Fe
Zip Code:	87501
Phone:	505-955-6502
Email Address:	mdmartinez@santafenm.gov

OTHER CONTACT

Name:

Title:

Firm:

Address:

City:

Zip Code:

Phone:

Email Address:

PART II. PROJECT SUMMARY

1. Project Scope. Provide a ***brief statement*** of the project. State: 1) the requested Scope of funding as Plan, Design, and/or Construction, and 2) the overall goal of project. (Example: "Plan, design, and construct Main St water transmission lines.")

Note: Response is limited to 200 Characters.

The overall goal of the project is to replace aging sewer lines throughout the City of Santa Fe.

2. Project Description. Regarding *only the Scope for which funding is being requested*:

a. Provide a detailed description of the project.

The City of Santa has numerous areas requiring the replacement of old and aging sewer lines. This project is designed to prevent any major sewer incidents.

b. Explain why the project is necessary.

The project is necessary to ensure that there are no sewer line failures that could potentially lead to environmental damage and human health issues.

c. Describe the overall degree of benefit from the project.

The benefit is simple and straightforward, properly functioning sewer lines carrying waste to a treatment plant is a vital component to the city of Santa Fe and its residents.

3. Project Selection.

a. Describe how the project area or alternative was selected.

Sewer lines run throughout the City of Santa Fe, there are no alternative to the location of the project, it is city-wide.

b. If this is a second or subsequent phase of a project, describe the extent to which experience from the previous phases of the project altered the planning or implementation of the requested phase.

There will be several phases to the sewer line replacement project. It is a consistent ongoing process and is not altered by previous line replacement projects.

4. Project Continuation. (Phase of a previously funded WTB Project.) If this is a phase of a larger project, have any previous phases of the larger project been awarded by the Water Trust Board?

Yes or No: No

If yes, provide the WTB Project Number(s):

If yes, please describe below whether previous phase(s) met or is meeting the project goals and objectives.

5. If funded, would this phase complete the larger project?

Yes or No: No

If no, briefly explain why:

Replacing the miles of City sewer lines is a long-term and ongoing project. consisting of many phases.

6. Human Health and Safety. Describe how the project addresses human health and safety needs of the community.

Properly functioning sewer lines are essential elements for the health and safety of residents of the City of Santa Fe.

7. Is this project listed on the community's current Infrastructure Capital Improvement Plan (ICIP)?

Yes or No: Yes

If yes, provide the Priority Number and Date of Prioritization.

ICIP Priority No. #068

Date of Prioritization: 06/11/2025

8. Community Support.

a. List all of the partners involved in this project and outline the responsibilities for each partner.

The partners involved in the project are the residents of Santa Fe who are dependent on the sewer lines for waste removal

dependent on the sewer lines for waste removal.

b. Describe how the surrounding communities are involved.

Surrounding communities are not involved with City sewer lines..

c. Identify the regional collaboration, including how stakeholders participate both financially and programmatically.

NA

Optional: Attach letters of support from project partners, including Federal, Tribal, State, Non-Governmental Organizations and private interests, as applicable.

Attachment (combine multiple letters into one attachment): Current File: None

PART III. PROJECT DETAIL

1. Required Planning Document. Section II 3.2 of the WTB Project Management Policies requires Applicants to submit a Planning Document as part of the Project Application.

When was the planning document completed?

08/13/2025

Which regulatory or funding agency(ies) approved the Planning Document, if any?

N/A

Date of last cost updates, if any: / /

Title of Planning Document: On-Call Collection System Construction Contract

Name of Firm that prepared the Planning Document:

SKE Contractors, LLC

Name of primary Planning Document preparer:

N/A

Please upload Planning Document here. If necessary, break and attach document into parts (additional Attachment blocks are also provided at end of application).

Planning Document Attachment 1 Current File: WTB-PlanningDocument-Attachment1

Planning Document-Attachment 2 Current File: None

Planning Document Attachment 3 Current File: None

Planning Document Attachment 4 Current File: None

2. Design only projects. Is the funding sought for design only? If so, you may qualify for 100% grant with the following conditions:

- The project serves or will serve fewer than 500 connections.
- The scope is limited to design only; "design" is defined as necessary technical work required to prepare a complete and final set of plans and specifications ready to be bid.
- The costs for the design must be substantiated with the coordinating planning document(s).
- Grants for design may not exceed $500,000.

No

3. Project Funding. Please download the Project Funding spreadsheet at the top of the page, provide total estimated project costs under the appropriate Funding Sources, save it to your local computer and then upload it as a spreadsheet here:

(Attach in spreadsheet format only.) Current File: WTB-ProjectFunding_Attachment

4. Source and Status of Matching Funds. Identify the sources, terms and status of all local, State and Federal Funds identified for this project, and attach documentation substantiating the match.

***NOTE**: If no documentation/evidence of match is provided, match cannot be verified.*

Source *(Name of Federal Funding Agency)*:

Amount: 0.00

Type (Loan, Grant, or Loan/Grant):

Term (# of years)**:**

Status (Application Pending, Approved, or Secured):

Attach evidence of federal funds here: Current File: None

Source *(Name of State Funding Agency)*:

Amount: 0.00

Type (Loan, Grant, or Loan/Grant):

Term (# of years)**:**

Status (Application Pending, Approved, or Secured):

Attach evidence of state funds here: Current File: None

Source (Local): Wastewater Enterprise Funds

Amount: 0.00

Type (Bond Proceeds, Accumulated Reserves, or Other Budgeted Funds):

Term (# of years):

Status (Application Pending, Approved, or Secured):

Attach evidence of local funds here: Current File: WTB-SourceOfMatchingFundsStatus-Local-Attach

5. Project Readiness.

- Have construction plans and specifications been completed?

  Yes or No: No

  If yes, please provide the date of completion:

  / /

- If plans and specifications have not been completed, provide estimated date of completion

• If plans and specifications have not been completed, provide estimated date of completion:

Completion date: 08/13/2029

• Have engineering services been procured?

Yes or No: No

6. Permits/Licenses/Authorizations. Download Permits Detail spreadsheet at the top of the page, provide the status of each required permit, certification, license or authorization required to complete the project and the time frame for completion. Save the spreadsheet to your local drive, then upload it as an attachment here:

Current File: WTB-PermitsLicenses_Attachment

7. Assuming funds are approved in July 2026, would this project be able to be completed by June 2028?

Yes or No: Yes

If no, what is the estimated time of completion?

Date: / /

PART IV. EXPECTED PROJECT BENEFITS

1. Regionalization. The evaluation criteria provides up to 10 points for projects that demonstrate regional impacts. Maximum points are given to projects that incorporate greater than 80% of the population within a five-mile radius.

a. Describe the direct and indirect impacts of the project, including benefits to the region.

The direct benefit is ensuring that waste is efficiently and effectively carried to the City's treatment facility. The is no indirect benefit.

b. What is the percentage of population served by the project? 100.000000

c. Describe the extent to which the project increases efficiencies through collaboration.

There is collaboration required in replacing sewer lines. It is a simple and straightforward process based on the need to replace lines.

d. Does the project replace individual well-septic systems? No

Explain: NA

e. Describe collaboration efforts to date and the results of the collaboration.

NA

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

NA

2. Health and Safety. The evaluation criteria provides up to 30 points for projects that address human health and safety. Maximum points are given to projects that specifically address imminent or existing threats to human health and safety due to water borne disease and Safe Drinking Water Act violations.

a. Describe the purpose of the project as it relates to health and safety, including any expected health and safety impacts.

Properly functioning sewer lines are a keystone need for any and all municipalities.

b. Do the health and safety conditions to be addressed currently exist? Explain.

Yes. Every metropolitan area needs to properly dispose of waste.

c. What is the extent of expected health and safety impacts if the project were not to proceed? Describe any resulting threats to human health and safety.

Broken and poorly functioning sewer lines would create serious and immediate health issues including disease transmission.

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

N/A

3. Plan and Design. The evaluation criteria provides up to 10 points for projects that demonstrate a well-designed selection, design and implementation of infrastructure improvements. Maximum points are given to projects that incorporate water saving technologies into a well-designed project.

a. Describe the status of the project's design and note if the concept is substantively complete.

N/A

b. Describe the methodology used to measure the project's expected outcome, planned objectives and other benchmarks for measuring project results and describe how they have been incorporated into the project design.

Project Manager and Public Utilities staff oversight.

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

N/A

4. Emergency. The evaluation criteria provides up to 25 points for projects that address imminent or existing catastrophic conditions related to water quality or quantity. Maximum points are given to projects that cure severe violations of water quality.

a. Describe how the expected impacts of the project address imminent or existing catastrophic conditions related to water quality improvements.

Broken or leaking sewer lines could lead to groundwater contamination impacting the City's production wells.

b. Do the emergency conditions to be addressed currently exist? Explain.

Yes

c. What is the extent of expected impacts if the project were not to proceed? Describe any resulting threats to human health and safety from imminent or existing catastrophic conditions related to water quality improvements.

Broken or leaking sewer lines causing serious immediate and long-term health issues would be the result of the project not proceeding.

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

N/A

PART V. REGULATORY COMPLIANCE

In preparation for the Readiness Application, regulatory agencies will certify the applicant's compliance with all relevant regulations.

PART VI. ATTACHMENTS

A. Required

- Resolution by the governing body authorizing the submission of an application to the Water Trust Board.

Current File: WTB-RequiredAttachment_ResolutionAttach

• Copy of organizational documents for non-governmental entities, including current Articles of Incorporation, Bylaws, etc.

Current File: WTB-RequiredAttachment_IncorporationAttach

B. Additional Documents (optional)

Attach below any additional information you believe would be helpful to evaluating your project.

1. Document description: Waiver Request

Attachment: Current File: WTB-AdditionalDocument1-Attach

2. Document description:

Attachment: Current File: None

3. Document description:

Attachment: Current File: None

4. Document description:

Attachment: Current File: None

PART VII. APPLICANT CERTIFICATION

Please download the Applicant Certification document at the top of the page, sign and save it to your computer, then upload it to the application here:

Attachment: Current File: WTB-ApplicantCertification_Attach

General Information

Santa Fe, City of
P O Box 909 Santa Fe, NM 87504-0909
( ) -
City of Santa Fe Wastewater Plant Replacement

Water Project Fund 2026 Application

Wastewater Collection, Conveyance, and Treatment Project

Funding Request Amount: 8,500,000.00

PART I. GENERAL APPLICANT AND PROJECT INFORMATION

A. APPLICANT INFORMATION

Full Legal Name of Entity:	City of Santa Fe Public Utilities Department
Mailing Address:	PO Box 909
Street Address:	801 W. San Mateo
City:	Santa Fe
Zip Code:	87504-0909
County:	Santa Fe
Phone:	505-955-4333
Email Address:	cedickens@santafenm.gov

B. SERVICE AREA OF APPLICANT

Communities in Applicant's Service Area:	Santa Fe
Counties in Applicant's Service Area:	Santa Fe
NM House District(s):	48
NM Senate District(s):	25
Map of Service Area:	Current File: WTB-ServiceArea_Map

Has Applicant recently completed a Median Household Income (MHI) survey that the Applicant believes more accurately reflects the MHI of the Applicant's service area?

Yes or No: No

If Yes, please describe below the methodology used and attach a copy of the survey results.

Methodology:

Methodology:

Attachment: Current File: None

Census Tract(s) of Applicant's Service Area or, if applicable, name of Census Designated Place:

City of Santa Fe

C. PROJECT LOCATION:

Street Address:	73 Paseo Real
City:	Santa Fe
Zip:	87507
Communities served by the Project:	City of Santa Fe
County or Counties where Project is located:	
Map of Project Area:	Current File: WTB-MapOfProjectArea

D. APPLICANT CONTACTS

PRIMARY CONTACT

Name:	Carl Dickens
Title:	Project Manager
Address:	801 . San Mateo
City:	Santa Fe
Zip Code:	87505
Phone:	505-577-3708
Email Address:	cedickens@santafenm.gov

SECONDARY CONTACT

Name:	Mike Dozier
Title:	Waste Water Division Director
Address:	801 West San Mateo
City:	Santa Fe
Zip Code:	87505
Phone:	505-955-4642
Email Address:	aghook@santafenm.gov

CONSULTING ENGINEER

Name:

Title:

Firm:

Address:

City:

Zip Code:

Phone:

Email Address:

LEGAL COUNSEL CONTACT

Name:	Marcos Martinez
Firm:	City of Santa Fe
Address:	200 Lincoln Avenue
City:	Santa Fe
Zip Code:	87501
Phone:	505-955-6502
Email Address:	mdmartinez@santafenm.gov

OTHER CONTACT

Name:

Title:

Firm:

Address:

City:

Zip Code:

Phone:

Email Address:

PART II. PROJECT SUMMARY

1. Project Scope. Provide a ***brief statement*** of the project. State: 1) the requested Scope of funding as Plan, Design, and/or Construction, and 2) the overall goal of project. (Example: "Plan, design, and construct Main St water transmission lines.")

Note: Response is limited to 200 Characters.

Project is to create a plan and design for a replacement facility for the Paseo Real Water Reclamation Facility (wastewater treatment plant) located in Santa Fe..

2. Project Description. Regarding *only the Scope for which funding is being requested*:

a. Provide a detailed description of the project.

This is not a project. We are requesting funding to create a design and plan document to be utilized for the purposes of constructing and/or rehabbing

replacement wastewater treatment facility.

b. Explain why the project is necessary.

The existing wastewater plant was constructed in the 1960s, it has been "patched" over the years but at this point needs to be replaced or completely rehabilitated.

c. Describe the overall degree of benefit from the project.

Returning clean water to the Santa Fe River are federal, EPA and state Enviroment Department reulated requirements. It benefits downstream users, farmers, ranches and the Santa Fe River's riparian environment

3. Project Selection.

a. Describe how the project area or alternative was selected.

The plant has been in the same location since the 1960s and needs to be on the Santa Fe River. There is no alternative location.

b. If this is a second or subsequent phase of a project, describe the extent to which experience from the previous phases of the project altered the planning or implementation of the requested phase.

It is not the second phase of a project.

4. Project Continuation. (Phase of a previously funded WTB Project.) If this is a phase of a larger project, have any previous phases of the larger project been awarded by the Water Trust Board?

Yes or No: No

If yes, provide the WTB Project Number(s):

If yes, please describe below whether previous phase(s) met or is meeting the project goals and objectives.

5. If funded, would this phase complete the larger project?

Yes or No: NO

If no, briefly explain why:

This is the design phase.

6. Human Health and Safety. Describe how the project addresses human health and safety needs of the community.

Properly processed wastewater is essential to the health and safety of downstream users, farmers and ranchers and communities. A new plant would provide those assurances.

7. Is this project listed on the community's current Infrastructure Capital Improvement Plan (ICIP)?

Yes or No: Yes

If yes, provide the Priority Number and Date of Prioritization.

ICIP Priority No. 41218

Date of Prioritization: 07/11/2025

8. Community Support.

a. List all of the partners involved in this project and outline the responsibilities for each partner.

No partners are currently involved in the project

No partners are currently involved in the project.

b. Describe how the surrounding communities are involved.

The local communities of La Cienega, La Cieneguilla and La Bajada are informed on actions and activities in planning the new treatment facility.

c. Identify the regional collaboration, including how stakeholders participate both financially and programmatically.

City of Santa Fe residents will be responsible for the cost.

Optional: Attach letters of support from project partners, including Federal, Tribal, State, Non-Governmental Organizations and private interests, as applicable.

Attachment (combine multiple letters into one attachment): Current File: None

PART III. PROJECT DETAIL

1. Required Planning Document. Section II 3.2 of the WTB Project Management Policies requires Applicants to submit a Planning Document as part of the Project Application.

When was the planning document completed?

06/30/2027

Which regulatory or funding agency(ies) approved the Planning Document, if any?

NA

Date of last cost updates, if any: 09/24/2025

Title of Planning Document: This will be a progressive design/build

Name of Firm that prepared the Planning Document:

NA

Name of primary Planning Document preparer:

NA

Please upload Planning Document here. If necessary, break and attach document into parts (additional Attachment blocks are also provided at end of application).

Planning Document Attachment 1 Current File: WTB-PlanningDocument-Attachment1

Planning Document-Attachment 2 Current File: None

Planning Document Attachment 3 Current File: None

Planning Document Attachment 4 Current File: None

2. Design only projects. Is the funding sought for design only? If so, you may qualify for 100% grant with the following conditions:

- The project serves or will serve fewer than 500 connections.
- The scope is limited to design only; "design" is defined as necessary technical work required to prepare a complete and final set of plans and specifications ready to be bid.
- The costs for the design must be substantiated with the coordinating planning document(s).
- Grants for design may not exceed $500,000.

No

3. Project Funding. Please download the Project Funding spreadsheet at the top of the page, provide total estimated project costs under the appropriate Funding Sources, save it to your local computer and then upload it as a spreadsheet here:

(Attach in spreadsheet format only.) Current File: WTB-ProjectFunding_Attachment

4. Source and Status of Matching Funds. Identify the sources, terms and status of all local, State and Federal Funds identified for this project, and attach documentation substantiating the match.

***NOTE**: If no documentation/evidence of match is provided, match cannot be verified.*

Source *(Name of Federal Funding Agency):*

Amount: 0.00

Type (Loan, Grant, or Loan/Grant):

Term (# of years)**:**

Status (Application Pending, Approved, or Secured):

Attach evidence of federal funds here: Current File: None

Source *(Name of State Funding Agency):*

Amount: 0.00

Type (Loan, Grant, or Loan/Grant):

Term (# of years)**:**

Status (Application Pending, Approved, or Secured):

Attach evidence of state funds here: Current File: None

Source (Local): Wastewater Enterprise Funds

Amount: 0.00

Type (Bond Proceeds, Accumulated Reserves, or Other Budgeted Funds):

Term (# of years):

Status (Application Pending, Approved, or Secured):

Attach evidence of local funds here: Current File: WTB-SourceOfMatchingFundsStatus-Local-Attach

5. Project Readiness.

- Have construction plans and specifications been completed?

  Yes or No: No

  If yes, please provide the date of completion:

  / /

• If plans and specifications have not been completed, provide estimated date of completion.

Completion date: 06/30/2027

• Have engineering services been procured?

Yes or No: No

6. Permits/Licenses/Authorizations. Download Permits Detail spreadsheet at the top of the page, provide the status of each required permit, certification, license or authorization required to complete the project and the time frame for completion. Save the spreadsheet to your local drive, then upload it as an attachment here:

Current File: WTB-PermitsLicenses_Attachment

7. Assuming funds are approved in July 2026, would this project be able to be completed by June 2028?

Yes or No: Yes

If no, what is the estimated time of completion?

Date: / /

PART IV. EXPECTED PROJECT BENEFITS

1. Regionalization. The evaluation criteria provides up to 10 points for projects that demonstrate regional impacts. Maximum points are given to projects that incorporate greater than 80% of the population within a five-mile radius.

a. Describe the direct and indirect impacts of the project, including benefits to the region.

Regional impacts will include cleanwater to downstream users, ranchers, farmers and communities as well as providing environmental benefits to the river's riparian area and aquatic life,

b. What is the percentage of population served by the project? 100.000000

c. Describe the extent to which the project increases efficiencies through collaboration.

This a design phase, it does not increase efficiencies.

d. Does the project replace individual well-septic systems? No

Explain: The funding request is for the design phase.

e. Describe collaboration efforts to date and the results of the collaboration.

NA Design phase

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

NA Design Phase

2. Health and Safety. The evaluation criteria provides up to 30 points for projects that address human health and safety. Maximum points are given to projects that specifically address imminent or existing threats to human health and safety due to water borne disease and Safe Drinking Water Act violations.

a. Describe the purpose of the project as it relates to health and safety, including any expected health and safety impacts.

Designing a new treatment plant will benefit downstream users, ranchers, farmers and communities as well as providing environmental benefits to the

river's riparian area and aquatic life,

b. Do the health and safety conditions to be addressed currently exist? Explain.

NA Design phase

c. What is the extent of expected health and safety impacts if the project were not to proceed? Describe any resulting threats to human health and safety.

NA Request is for design and planning

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

NA

3. Plan and Design. The evaluation criteria provides up to 10 points for projects that demonstrate a well-designed selection, design and implementation of infrastructure improvements. Maximum points are given to projects that incorporate water saving technologies into a well-designed project.

a. Describe the status of the project's design and note if the concept is substantively complete.

Request is for design

b. Describe the methodology used to measure the project's expected outcome, planned objectives and other benchmarks for measuring project results and describe how they have been incorporated into the project design.

NA

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

NA

4. Emergency. The evaluation criteria provides up to 25 points for projects that address imminent or existing catastrophic conditions related to water quality or quantity. Maximum points are given to projects that cure severe violations of water quality.

a. Describe how the expected impacts of the project address imminent or existing catastrophic conditions related to water quality improvements.

NA

b. Do the emergency conditions to be addressed currently exist? Explain.

NA

c. What is the extent of expected impacts if the project were not to proceed? Describe any resulting threats to human health and safety from imminent or existing catastrophic conditions related to water quality improvements.

There are no resulting threats to human health and safety from imminent or existing catastrophic conditions related to water quality improvements at the Paseo Real Wastewater Treatment Plant.

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

NA

PART V. REGULATORY COMPLIANCE

In preparation for the Readiness Application, regulatory agencies will certify the applicant's compliance with all relevant regulations.

PART VI. ATTACHMENTS

PART VI. ATTACHMENTS

A. Required

- Resolution by the governing body authorizing the submission of an application to the Water Trust Board.

  Current File: WTB-RequiredAttachment_ResolutionAttach

- Copy of organizational documents for non-governmental entities, including current Articles of Incorporation, Bylaws, etc.

  Current File: WTB-RequiredAttachment_IncorporationAttach

B. Additional Documents (optional)

Attach below any additional information you believe would be helpful to evaluating your project.

1. Document description: City of SFe Waiver Request

   Attachment: Current File: WTB-AdditionalDocument1-Attach

2. Document description:

   Attachment: Current File: None

3. Document description:

   Attachment: Current File: None

4. Document description:

   Attachment: Current File: None

PART VII. APPLICANT CERTIFICATION

Please download the Applicant Certification document at the top of the page, sign and save it to your computer, then upload it to the application here:

Attachment: Current File: WTB-ApplicantCertification_Attach

General Information

Santa Fe, City of
P O Box 909 Santa Fe, NM 87504-0909
( ) -
Water Infrastructure Improvements Project

Water Project Fund 2026 Application

Water Storage, Conveyance and Delivery Project

Funding Request Amount: 1,105,000.00

PART I. GENERAL APPLICANT AND PROJECT INFORMATION

A. APPLICANT INFORMATION

Full Legal Name of Entity:	City of Santa Fe
Mailing Address:	801 W. San Mateo Rd
Street Address:	801 W. San Mateo Rd
City:	Santa Fe
Zip Code:	87504
County:	Santa Fe
Phone:	505-955-4309
Email Address:	jdroach@santafenm.gov

B. SERVICE AREA OF APPLICANT

Communities in Applicant's Service Area:	City of Santa Fe
Counties in Applicant's Service Area:	Santa Fe County
NM House District(s):	48
NM Senate District(s):	25
Map of Service Area:	Current File: WTB-ServiceArea_Map

Has Applicant recently completed a Median Household Income (MHI) survey that the Applicant believes more accurately reflects the MHI of the Applicant's service area?

Yes or No: No

If Yes, please describe below the methodology used and attach a copy of the survey results.

Methodology:

Attachment:	Current File: None

Census Tract(s) of Applicant's Service Area or, if applicable, name of Census Designated Place:

City of Santa Fe

C. PROJECT LOCATION:

Street Address:	1780 Upper Canyon Rd
City:	Santa Fe
Zip:	87501
Communities served by the Project:	City of Santa Fe
County or Counties where Project is located:	
Map of Project Area:	Current File: WTB-MapOfProjectArea

D. APPLICANT CONTACTS

PRIMARY CONTACT

Name:	Jonathan Montoya
Title:	Interim Water Division Director
Address:	1780 Canyon Rd
City:	Santa Fe
Zip Code:	87501
Phone:	505-955-4373
Email Address:	jmmontoya@santafenm.gov

SECONDARY CONTACT

Name:	Chris Helvey
Title:	Automation and System Security Administrator
Address:	1780 Canyon Rd
City:	Santa Fe
Zip Code:	87501
Phone:	575-779-6605
Email Address:	chelvey@santafenm.gov

CONSULTING ENGINEER

Name:	N/A
Title:	
Firm:	
Address:	

Address:

City:

Zip Code:

Phone:

Email Address:

LEGAL COUNSEL CONTACT

Name:	Marcos Martinez
Firm:	City of Santa Fe
Address:	200 Lincoln Avenue
City:	Santa Fe
Zip Code:	87501
Phone:	505-955-6502
Email Address:	mdmartinez@santafenm.gov

OTHER CONTACT

Name:

Title:

Firm:

Address:

City:

Zip Code:

Phone:

Email Address:

PART II. PROJECT SUMMARY

1. Project Scope. Provide a ***brief statement*** of the project. State: 1) the requested Scope of funding as Plan, Design, and/or Construction, and 2) the overall goal of project. (Example: "Plan, design, and construct Main St water transmission lines.")

Note: Response is limited to 200 Characters.

To plan, design and construct digital video and access control systems for water facilities for City of Santa Fe.

2. Project Description. Regarding *only the Scope for which funding is being requested*:

a. Provide a detailed description of the project.

Plan, design and construct digital video and access control system to remote sites for viewing at the Canyon Road Water Treatment Plant. These water infrastructure improvements will strengthen security and protection of our source water sites.

b. Explain why the project is necessary.

City of Santa Fe Water spends over $100,000 per year on security personnel to patrol our water production sites. With improved security camera automation and protection at our remote water production sites, we could save a significant amount of our historical cost.

c. Describe the overall degree of benefit from the project.

Increased cost savings and flexibility for operators to address potential security issues.

3. Project Selection.

a. Describe how the project area or alternative was selected.

City of Santa Fe Water infrastructure

b. If this is a second or subsequent phase of a project, describe the extent to which experience from the previous phases of the project altered the planning or implementation of the requested phase.

N/A

4. Project Continuation. (Phase of a previously funded WTB Project.) If this is a phase of a larger project, have any previous phases of the larger project been awarded by the Water Trust Board?

Yes or No: No

If yes, provide the WTB Project Number(s):

If yes, please describe below whether previous phase(s) met or is meeting the project goals and objectives.

5. If funded, would this phase complete the larger project?

Yes or No: N/A

If no, briefly explain why:

6. Human Health and Safety. Describe how the project addresses human health and safety needs of the community.

This design/build project for improved water utility infrastructure improves worker security, but does not eliminate risk or hazard where there is immediate danger.

7. Is this project identified in a regional water plan accepted by the New Mexico Interstate Stream Commission?

Yes or No: No

If yes, please provide the name of the plan and the date of acceptance.

Name of Plan:

Date: / /

8. Is this project listed on the community's current Infrastructure Capital Improvement Plan (ICIP)?

Yes or No: Yes

If yes, provide the Priority Number and Date of Prioritization.

ICIP Priority No. 42419

Date of Prioritization: 07/11/2025

9. Community Support.

a. List all of the partners involved in this project and outline the responsibilities for each partner.

APIC Solutions.

b. Describe how the surrounding communities are involved.

Not applicable

c. Identify the regional collaboration, including how stakeholders participate both financially and programmatically.

Not applicable

Optional: Attach letters of support from project partners, including Federal, Tribal, State, Non-Governmental Organizations and private interests, as applicable.

Attachment (combine multiple letters into one attachment): Current File: None

PART III. PROJECT DETAIL

1. Required Planning Document. Section II 3.2 of the WTB Project Management Policies requires Applicants to submit a Planning Document as part of the Project Application.

When was the planning document completed?

12/03/2024

Which regulatory or funding agency(ies) approved the Planning Document, if any?

None

Date of last cost updates, if any: 12/03/2024

Title of Planning Document: APIC Solutions State Price Agreement

Name of Firm that prepared the Planning Document:

APIC Solutions

Name of primary Planning Document preparer:

N/A

Please upload Planning Document here. If necessary, break and attach document into parts (additional Attachment blocks are also provided at end of application).

Planning Document Attachment 1 Current File: WTB-PlanningDocument-Attachment1

Planning Document-Attachment 2 Current File: None

Planning Document Attachment 3 Current File: None

Planning Document Attachment 4 Current File: None

2. Design only projects. Is the funding sought for design only? If so, you may qualify for 100% grant with the following conditions:

- The project serves or will serve fewer than 500 connections.
- The scope is limited to design only; "design" is defined as necessary technical work required to prepare a complete and final set of plans and specifications ready to be bid.
- The costs for the design must be substantiated with the coordinating planning document(s).
- Grants for design may not exceed $500,000.

No

3. Project Funding. Please download the Project Funding spreadsheet at the top of the page, provide total estimated project costs under the appropriate Funding Sources, save it to your local computer and then upload it as a spreadsheet here:

(Attach in spreadsheet format only.) Current File: WTB-ProjectFunding_Attachment

4. Source and Status of Matching Funds. Identify the sources, terms and status of all local, State and Federal Funds identified for this project, and attach documentation substantiating the match.

***NOTE**: If no documentation/evidence of match is provided, match cannot be verified.*

Source *(Name of Federal Funding Agency)*:

Amount: 0.00

Type (Loan, Grant, or Loan/Grant):

Term (# of years)**:**

Status (Application Pending, Approved, or Secured):

Attach evidence of federal funds here: Current File: None

Source *(Name of State Funding Agency)*:

Amount: 0.00

Type (Loan, Grant, or Loan/Grant):

Term (# of years)**:**

Status (Application Pending, Approved, or Secured):

Attach evidence of state funds here: Current File: None

Source (Local): Enterprise Fund Revenues

Amount: 0.00

Type (Bond Proceeds, Accumulated Reserves, or Other Budgeted Funds):

Term (# of years):

Status (Application Pending, Approved, or Secured):

Attach evidence of local funds here: Current File: None

5. Project Readiness

5. Project Readiness.

- Have construction plans and specifications been completed?

Yes or No: No

If yes, please provide the date of completion:

/ /

- If plans and specifications have not been completed, provide estimated date of completion.

Completion date: 10/30/2025

- Have engineering services been procured?

Yes or No: No

6. Permits/Licenses/Authorizations. Download Permits Detail spreadsheet at the top of the page, provide the status of each required permit, certification, license or authorization required to complete the project and the time frame for completion. Save the spreadsheet to your local drive, then upload it as an attachment here:

Current File: WTB-PermitsLicenses_Attachment

7. Assuming funds are approved in July 2026, would this project be able to be completed by June 2028?

Yes or No: Yes

If no, what is the estimated time of completion?

Date: / /

PART IV. EXPECTED PROJECT BENEFITS

1. Regionalization. The evaluation criteria provides up to 10 points for projects that demonstrate regional impacts. Maximum points are given to projects that incorporate greater than 80% of the population within a five-mile radius.

a. Describe the direct and indirect impacts of the project, including benefits to the region.

Benefits will occur in the City of Santa Fe's water utility service area.

b. What is the percentage of population served by the project? 0.950000

c. Describe the extent to which the project increases efficiencies through collaboration.

Efficiencies occur through cost savings.

d. Does the project replace individual well-septic systems? No

Explain: Not Applicable

e. Describe collaboration efforts to date and the results of the collaboration.

Not applicable

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

Not Applicable

2. Health and Safety. The evaluation criteria provides up to 30 points for projects that address human health and safety. Maximum points are given to projects that specifically address imminent or existing threats to human health and safety due to

Maximum points are given to projects that specifically address imminent or existing threats to human health and safety due to water borne disease and Safe Drinking Water Act violations.

a. Describe the purpose of the project as it relates to health and safety, including any expected health and safety impacts.

This project will increase the safety of water division staff and can provide water utility operators a much better chance to respond faster in an emergency situation.

b. Do the health and safety conditions to be addressed currently exist? Explain.

No

c. What is the extent of expected health and safety impacts if the project were not to proceed? Describe any resulting threats to human health and safety.

No immediate health and safety concerns if project does not proceed.

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

None

3. Plan and Design. The evaluation criteria provides up to 10 points for projects that demonstrate a well-designed selection, design and implementation of infrastructure improvements. Maximum points are given to projects that incorporate water saving technologies into a well-designed project.

a. Describe the status of the project's design and note if the concept is substantively complete.

The design/build process has not been initiated, yet, but will be by October.

b. Describe the methodology used to measure the project's expected outcome, planned objectives and other benchmarks for measuring project results and describe how they have been incorporated into the project design.

Project management and public utilities will provide oversight for this project.

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

N/A

4. Emergency. The evaluation criteria provides up to 25 points for projects that address imminent or existing catastrophic conditions related to water quality or quantity. Maximum points are given to projects that cure severe violations of water quality.

a. Describe how the expected impacts of the project address imminent or existing catastrophic conditions related to water quality improvements.

No catastrophic conditions.

b. Do the emergency conditions to be addressed currently exist? Explain.

No

c. What is the extent of expected impacts if the project were not to proceed? Describe any resulting threats to human health and safety from imminent or existing catastrophic conditions related to water quality improvements.

Continued high cost to hire security would occur

Please cite the Planning Document and its page numbers or sections that substantiate your statements above.

N/A

PART V. REGULATORY COMPLIANCE

In preparation for the Readiness Application, regulatory agencies will certify the applicant compliance with all relevant regulations. Please note that Water Trust Board Policies require the Office of State Engineer to verify water rights. Applicants must submit a completed request form *directly to the Office of the State Engineer* in order to receive verification. Applicants requesting funding for watershed restoration or ESA collaborative projects do not need to receive verification. Flood prevention projects also do not require verification unless they include jurisdictional dams or storage facilities.

(Download OSE form at the top of this page. Complete and submit the completed request form *directly to the Office of the State Engineer.*)

1. Does the Applicant have all necessary water rights to complete the project?

Yes or No: Yes

2. Does the water system supply, deliver, distribute or otherwise provide at least 500-acre feet annually for domestic, commercial, industrial or government customers for non-agricultural purposes?

Yes or No: Yes

If yes, has the Applicant completed a Water Conservation Plan as required by law?

Yes

If no, explain.

PART VI. ATTACHMENTS

A. Required

- Resolution by the governing body authorizing the submission of an application to the Water Trust Board.

Current File: WTB-RequiredAttachment_ResolutionAttach

- Copy of organizational documents for non-governmental entities, including current Articles of Incorporation, Bylaws, etc.

Current File: WTB-RequiredAttachment_IncorporationAttach

B. Additional Documents (optional)

Attach below any additional information you believe would be helpful to evaluating your project.

1. Document description: City of Santa Fe Waiver Request

Attachment: Current File: WTB-AdditionalDocument1-Attach

2. Document description:

Attachment: Current File: None

3. Document description:

Attachment: Current File: None

4. Document description:

Attachment: Current File: None

PART VII. APPLICANT CERTIFICATION

Please download the Applicant Certification document at the top of the page, sign and save it to your computer, then upload it to the application here:

Attachment: Current File: WTB-ApplicantCertification_Attach

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2025-__

INTRODUCED BY:

Councilor Jamie Cassutt

Councilor Carol Romero-Wirth

A RESOLUTION

UPDATING THE WATER OFFSET REQUIREMENT FEE CHART TO MORE ACCURATELY REFLECT THE CURRENT MARKET VALUE OF WATER RIGHTS.

WHEREAS, pursuant to the City of Santa Fe ("City") Municipal Code, SFCC 1987, Sections 25-9 and 25-10, land use development must offset new water demand and, in certain situations, such as developments adding new water demand below a threshold, developments may offset demand by paying the City the current market value of an equivalent amount of water rights; and

WHEREAS, in March of 2010, the City adopted Resolution No. 2010-20, which adopted the Administrative Procedures for Water Demand Offset Requirements, and the water offset fees were included in these procedures as Appendix I, entitled "Water Offset Requirement Fee Chart"; and

WHEREAS, the Water Offset Requirement Fee Chart states that the average per acre foot cost for water rights should be updated annually; and

WHEREAS, the water rights cost in the Water Offset Requirement Fee has not changed since 2010; and

WHEREAS, Resolution No. 2010-20 provides that "modification of fees associated with the

implementation of the city code requires approval of the Governing Body"; and

WHEREAS, SFCC 1987, Section 25-12.8(E) states that the "current value of the water rights shall be presumed to be the current fair market value of pre-1907 consumptive use water rights from the Middle Rio Grande Basin. The City shall have the sole discretion to determine the current value of the water rights, which determination shall be reasonably made based upon the known market for such rights and upon the purchase price of the water rights as evidenced by the purchase agreement required in Section 25-12.4(D) SFCC 1987"; and

WHEREAS, water rights are becoming more difficult to obtain due to limited supply and protests of water right transfers by Middle Rio Grande Pueblos and the Middle Rio Grande Conservancy District (MRGCD); and

WHEREAS, as of 2024, Santa Fe County uses a value of water rights of $36,000 per acre-foot in determination of water demand offset fees.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that, effective January 1, 2026, the value of water rights used to determine offset fees in the Water Offset Requirement Fee Chart shall be $36,000 per acre-foot.

BE IT FURTHER RESOLVED THAT the updated Water Offset Requirement Fee Chart is attached to this resolution as Exhibit A and shall replace the existing Appendix I, "Water Offset Requirement Fee Chart" in the "Administrative Procedures for Water Demand Offset Requirements", adopted by Resolution 2010-20.

PASSED, APPROVED, and ADOPTED this ___ day of _____ 2025.

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:

Erin McSherry

Erin McSherry (Sep 15, 2025 16:50:13 MDT)

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Resolutions/Updating the Water Offset Requirement fee chart

Exhibit A

Water Offset Requirement Fee Chart (Effective Date 1/1/2026)

Type of Use	# Acre Feet	Fee	Unit of Measurement
WATER RIGHT			
Average per acre foot cost (to be up-dated annually)	1	$36,000	1 Acre Feet Per Year
Due diligence	NA	$1,000	per application
RESIDENTIAL			
*Single Family Dwelling Unit	0.18		Per Dwelling unit
Single Family Dwelling Unit Lot (<6000sq ft)	0.15	$5,400	Per Dwelling unit
Single Family Dwelling Unit Lot (6,000-10,890)	0.17	$6,120	Per Dwelling Unit
Single Family Dwelling Unit Lot (>10,890 sq ft)	0.25	$9,000	Per Dwelling Unit
Apartment/Condominium	0.16	$5,760	Per Dwelling Unit
Mobile Home	0.17	$6,120	Per Dwelling Unit
Accessory Dwelling Unit	0.09	$3,240	Per Dwelling Unit
Senior Complex	0.12	$4,320	Per Dwelling Unit
COMMERCIAL			
Restaurant, Full Service	0.02	$720	Per Seat
Restaurant, Limited Service	1.63	$58,680	Per Site
Hotel	0.13	$4,680	Per Room
Motel	0.09	$3,240	Per Room
Grocery Store	1.27	$45,720	Per 10,000 sq. ft.
Retail, Large (>75,000 sq ft)	0.45	$16,200	Per 10,000 sq. ft.
Retail, Medium (75,000-25,000 sq ft)	0.43	$15,480	Per 10,000 sq. ft.
Retail, Small (<25,000 sq ft)	0.06	$2,160	Per Site
Gallery	0.6	$21,600	Per Site
Medical Office	0.72	$25,920	Per 10,000 sq. ft.
Office – City/State	0.58	$20,880	Per 10,000 sq. ft.
Office – Non Medical	0.7	$25,200	Per 10,000 sq. ft.
Research & Development Lab	1.18	$42,480	Per 10,000 sq. ft.
Manufacturing – Goods	0.21	$7,560	Per Site
Manufacturing – Consumables	2.33	$83,880	Per Site
Gas Station	0.88	$31,680	Per Site
Gas Station w/ Carwash	6.56	Water rights required	Per Site
Carwash, Full Service	5.66	Water rights required	Per Site
Carwash, Limited Service	0.94	$33,840	Per Bay
Laundromat, Commercial	0.78	$28,080	Per Machine
Laundromat, Other	0.22	$7,920	Per Machine
Drycleaner	0.41	$14,760	Per Site
Plant Nursery	0.56	$20,160	Per 10,000 sq. ft.
Gyms w/ Showers	8.94	Water rights required	Per Site
Gyms w/o Showers	0.77	$27,720	Per Site
Salons	0.21	$7,560	Per Site
Pet Grooming	0.52	$18,720	Per Site
Pet Daycare	0.11	$3,960	Per Site
Auto Repair	0.12	$4,320	Per Site
Car Rental	0.12	$4,320	Per Site
Car Sales	0.07	$2,520	Per 10,000 sq. ft.
Self-Storage	0.13	$4,680	Per Site

Type of Use	# Acre Feet	Fee	Unit of Measurement
PUBLIC SERVICES			
Parks	1.48	$53,280	Per Acre
Schools, Daycare	0.85	$30,600	Per 100 children
Schools, Elementary	0.53	$19,080	Per 100 students
Schools, Middle	1.68	$60,480	Per 100 students
Schools, High	2.64	$95,040	Per 100 students
Places of Worship	0.15	$5,400	Per Site
Places of Worship w/ Daycare & School	0.95	$34,200	Per Site

*Average of residential lot sizes, used for estimating purposes only

FIR No. 10714.0

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** _____ **Resolution:** X

Short Title(s): Update Prices in City Water Offset Fee Table

Sponsor(s): Councilors Jamie Cassutt and Carol Romero-Wirth

Reviewing Department(s): Public Utilities Department

Staff Completing FIR: Jesse Roach, Interim Public Utilities Department Director **Date:** 8/26/2025

Phone: (505) 955-4309

Reviewed by City Attorney: Erin McSherry Erin McSherry (Sep 15, 2025 16:50:13 MDT) **Date:** 09/15/2025

Reviewed by Finance Director: Emily K. Oster **Date:** 09/17/2025

Summary:
The proposed resolution would increase the costs associated with water offset requirements for developers paying to offset new water use. The City of Santa Fe ("City") has not updated its fee chart since it became effective in 2010. The cost the City charges for adding one acre foot of new demand to the system (including administrative fees) would change from $16,600 to $36,000, in alignment with the water offset fee charged by Santa Fe County and in line with the market cost to purchase and move rights from the Middle Rio Grande into the Buckman Wellfield. This overdue adjustment will bring water offset costs into closer alignment with the true cost born by the City to support additional water demand.

Departments Affected:
Revenues to the Public Utilities Department will increase. The Land Use Division of the Community Development Department will be indirectly affected due to increased development costs.

Consequences of Not Enacting Legislation:
If this legislation is not adopted, the City's Public Utilities Department will continue to not accurately value water off-sets. In addition, the Department need to generate additional revenue in another way, meaning potential increases to proposed rate hikes. In this case, the water development cost of additional growth in demand would be paid for by existing customers rather than those benefitting directly from new development.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
Staff is recommending a bill to increase water rates following this legislation, which would provide revenue from the existing water system users to help meet the current and future needs of the system. Once the San Juan Chama Project is operational, the Utilities Department is considering recommending legislation to increase the threshold above which developers must bring water rights. That change would increase the pool of developers using the water offset requirement fee chart instead of transferring water rights to the City's Buckman Wellfield.

Performance and Administrative Implications:
None.

Fiscal Implications:
Increased revenues to the Water Division.

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 2026	FYE 2027	FYE 2028	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

Expenditure Narrative:
No additional expenditures are expected as a result of this change.

Revenue

Revenue Type	FYE 2026	FYE 2027	FYE 2028	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$333,500	$670,000	$674,000	R	Water Enterprise
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:
Added revenue from "sub-threshold" development assuming this resolution takes effect ½ way through FY2026 and 0.5% customer growth. Beginning in FY 2028, an additional $821,000 per year of recurring revenue potential is unlocked with this resolution if subsequent legislation change is enacted to allow all development to pay a fee instead of transferring water rights. This future possible legislation change would be contingent on completion of the San Juan Chama return flow project.

Signature: 
Email: jdroach@santafenm.gov

CITY OF SANTA FE

Memorandum

Date: September 17, 2025

To: Governing Body, Public Works and Utilities Committee, Finance Committee

From: Alan Hook, Water Resources Coordinator

Via: Jesse Roach, Interim Public Utilities Director
Jonathan Montoya, Interim Water Division Director
Bill Schneider, Water Resources Supervisor

RE: Resolution Directing Identifying and Appling for Federal and State Funding

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EXECUTIVE SUMMARY:

This resolution directs the City Manager to direct City of Santa Fe ("City") Public Utilities staff to identify priorities and research for water, wastewater, water conservation, water treatment, water recycling, water reuse, water storage, water conveyance, water delivery, flood prevention, water restoration, watershed management, and other similar projects ("Projects"). The resolution also directs the City Manager to direct the City Public Utilities staff to apply for federal and State funding sources for the related Projects. The New Mexico Water Trust Boards application process requires the City to adopt such a resolution to receive funding for all project types eligible for consideration. The City's Water Division has submitted four applications to the New Mexico Water Trust Board for Fiscal Year 2026, which are included as attachments to this Memorandum.

BACKGROUND:

The City's Water Division submitted applications to the New Mexico Water Trust Fund Board for Fiscal Year 2026 and requested funding of $13 million for the construction of the Water Treatment Plant Chemical Feed Design project (2027-2031 Infrastructure Capital Improvements Plan (ICIP) ID No. 39331, Rank No. 69), $1.3 million for the Security Improvements for Water Sources and Storage Sites project (ICIP ID. 32424, Rank No. 048), $3 million for CIPP Sewer Line Rehabilitation project (ICIP ID. 42419, Rank No. 068), and $10 million for the design of the Paseo Real Replacement Wastewater Treatment Plant project (ICIP ID 41218, Rank No. 002). Without this resolution, the City's Public Utilities Department cannot receive Water Trust Board funding for Fiscal Year 2026. The Public Utilities Department will submit specific agreements for the Projects to committees and the Governing Body.

CITY OF SANTA FE

Memorandum

ATTACHMENTS:

Resolution
Fiscal Impact Report
Memo Attachment – Water Treatment Plant Chemical Feed Design Project Water Trust Board Application
Memo Attachment – Security Improvements for Water Sources and Storage Sites Project Water Trust Board Application
Memo Attachment – CIPP Sever Line Rehabilitation Project Water Trust Board Application
Memo Attachment – Paseo Real Replacement Wastewater Treatment Plant Project Water Trust Board Application

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2025-__

INTRODUCED BY:

Councilor Amanda Chavez

Councilor Carol Romero-Wirth

A RESOLUTION

DIRECTING THE CITY MANAGER TO DIRECT CITY STAFF TO IDENTIFY AND APPLY FOR FEDERAL AND STATE FUNDING SOURCES FOR CITY WATER, WASTEWATER, AND OTHER WATER-RELATED PROJECTS, INCLUDING SUBMITTING WATER TRUST BOARD APPLICATIONS; IDENTIFY A STATE LEGISLATIVE PRIORITY LIST FOR WATER-RELATED PROJECTS; AND APPROVE NEW MEXICO WATER TRUST BOARD APPLICATIONS SUBMITTED.

WHEREAS, the City of Santa Fe ("City") has outdated infrastructure for water and wastewater systems that require significant investments to upgrade or replace; and

WHEREAS, adequate water and wastewater infrastructure is essential to protect public and environmental health and contributes to the City's economic health; and

WHEREAS, to make the upgrades, replacements and repairs needed for adequate water and wastewater infrastructure, there is an ongoing need for the City to obtain funding for water and wastewater projects; and

WHEREAS, the City established several water and wastewater infrastructure project

financing priorities through the City's Fiscal Year 2027 through 2031 with its Infrastructure Capital Improvements Plan ("ICIP"), attached as Exhibit A, and adopted in Resolution No. 2025-44; and

WHEREAS, the New Mexico Finance Authority Water Trust Board requires the Governing Body's adoption, or expected adoption, of a Resolution authorizing the submission of an application to the Water Trust Board; and

WHEREAS, the New Mexico Water Trust Board's Project Management Policies Section 2.3 establish that projects are approved using the following six (6) categories:

1) Water storage, conveyance and delivery projects;
2) Watershed restoration and management projects;
3) Endangered Species Act collaborative projects;
4) Flood prevention projects;
5) Water conservation, treatment, recycling, and reuse projects; and
6) Wastewater collection, conveyance and treatment projects; and

WHEREAS, the City has submitted applications that fit these categories; and

WHEREAS, the City's Water Division submitted an application to the New Mexico Water Trust Board for Fiscal Year 2026 and requested funding for $13,000,000.00 for the Canyon Road Water Treatment Plant Chemical Feed Design Project, which ranked number sixty-nine (69) in the ICIP (Exhibit A); and

WHEREAS, the City's Water Division submitted an application to the New Mexico Water Trust Board for Fiscal Year 2026 and requested funding for $1,300,000.00 for the Security Improvements for Water Sources and Storage Sites Project, which is ranked number forty-eight (48) in the ICIP (Exhibit A); and

WHEREAS, the City's Water Division submitted an application to the New Mexico Water Trust Board for Fiscal Year 2026 and requested funding for $10,000,000.00 for the design of the Paseo Real Replacement Wastewater Reclamation Facility Project, which is ranked number two

(2) in the ICIP (Exhibit A); and

WHEREAS, the City's Water Division submitted an application to the New Mexico Water Trust Board for the Fiscal Year 2026 and requested funding for $3,000,000.00 for the Sewer Rehabilitation Project, which is ranked number sixty-eight (68) in the ICIP (Exhibit A); and

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the City Manager or designee is directed to:

1. Identify priorities and research, by way of example and not limitations, water, wastewater, water conservation, water treatment, water recycling, water reuse, water storage, water conveyance, water delivery, flood prevention, watershed restoration, watershed management, and other similar projects ("Projects") and identify potential federal and state funding sources for such projects.
2. Apply for funding and bring specific agreements for such Projects for approval by the Governing Body.
3. Identify a state legislative priority list of Projects for presentation to the City's Public Works and Utilities Committee and Governing Body.

BE IT FURTHER RESOLVED that the Governing Body approves the applications submitted to the New Mexico Water Trust Board for financial assistance from the New Mexico Water Project Fund for items 69, 48, 2, and 68 in the ICIP attached as Exhibit A.

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:

Erin McSherry

Erin McSherry (Sep 19, 2025 17:17:40 MDT)

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Resolutions/Application for Federal and State Funding Sources for Water and Wastewater Projects

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2025-44

INTRODUCED BY:

Councilor Amanda Chavez

Mayor Alan Webber

A RESOLUTION

ADOPTING THE CITY OF SANTA FE'S 2027-2031 INFRASTRUCTURE CAPITAL IMPROVEMENTS PLAN.

WHEREAS, the City of Santa Fe ("City"), New Mexico, a New Mexico municipal corporation, recognizes that the financing of public capital projects is a major concern in New Mexico and nationally; and

WHEREAS, in times of scare resources, it is necessary to find new financing mechanisms and maximize the use of existing resources; and

WHEREAS, systematic capital improvements planning is an effective tool for communities to define their development needs, establish priorities, and pursue concrete actions and strategies to achieve necessary project development; and

WHEREAS, the City's plan for capital projects contributes to local and regional project identification and selection in short and long-range capital planning efforts; and

WHEREAS, the State of New Mexico's ("State's") Department of Finance and Administration requires the City to adopt a resolution identifying a five-year Infrastructure Capital Improvement Plan ("ICIP"), as specified in its ICIP Guidelines – Submissions Specifications, in

order for the City to receive capital outlay funding from the State.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that

1. It adopts the attached 2027-2031 Infrastructure Capital Improvements Plan ("Plan"); and

2. The Plan is intended to be a working document and is the first of many steps toward improving rational, long-range, capital planning and budgeting for New Mexico's infrastructure.

PASSED, APPROVED, and ADOPTED this 9th day of July, 2025.

Alan Webber (Jul 11, 2025 10:38 MDT)
ALAN WEBBER, MAYOR

ATTEST:

ANDREA SALAZAR (Jul 11, 2025 10:57 MDT)
ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:

Marcos Martinez
Marcos Martinez (Jul 11, 2025 10:34 MDT)
ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Resolutions/2025-44(R)/2027-2031 Infrastructure Capital Improvements Plan

Santa Fe
Project Summary

ID	Year	Rank	Project Title	Category	Funded to date	2027	2028	2029	2030	2031	Total Project Cost	Amount Not Yet Funded	Phases?
43735	2027	001	Large Capacity Noncongregate Shelter	Facilities - Housing-Related Cap Infrastructure	0	10,000,000	17,000,000	0	0	0	27,000,000	27,000,000	Yes
41218	2027	002	Replacement Paseo Real Wstewtr Reclamation Fac	Other - Utilities (publicly owned)	1,600,000	22,000,000	198,000,000	0	0	0	221,600,000	220,000,000	No
43741	2027	003	Police Training Facility	Facilities - Public Safety Facilities	0	750,000	7,250,000	250,000	0	0	8,250,000	8,250,000	Yes
32333	2027	004	Airport Terminal Expansion Phase II	Transportation - Airports	2,590,000	20,000,000	0	0	0	0	22,590,000	20,000,000	Yes
36137	2027	005	Midtown Redevelopment Infrastructure Improvements	Facilities - Housing-Related Cap Infrastructure	8,000,000	20,000,000	20,000,000	0	0	0	48,000,000	40,000,000	No
43742	2027	006	SF Police Dept Internal Affairs Facility	Facilities - Public Safety Facilities	0	7,250,000	0	250,000	0	0	7,500,000	7,500,000	Yes
39893	2027	007	Richards Avenue Extension	Transportation - Bike/Pedestrian/Equestrian	1,525,000	2,850,000	27,000,000	0	0	0	31,375,000	29,850,000	Yes
40038	2027	008	Fire Station Remodels for Response	Facilities - Public Safety Facilities	6,845,000	4,000,000	0	0	0	0	10,845,000	4,000,000	Yes
39332	2027	009	San Juan Chama Return Flow Project	Water - Water Supply	4,606,333	35,000,000	28,745,640	0	0	0	68,351,976	63,745,640	No
43733	2027	010	Herb Martinez Park Improvements	Facilities - Other	0	875,000	0	0	0	0	875,000	875,000	Yes
36136	2027	011	21st Century Midtown Library & Community Center	Facilities - Libraries	300,000	2,500,000	20,000,000	0	0	0	22,800,000	22,500,000	Yes
36178	2027	012	Santa Fe Median Beautification Phase I	Transportation - Medians	1,710,000	1,830,000	0	0	0	0	3,540,000	1,830,000	Yes
43730	2027	013	Downtown (Sheridan) Transit Center	Transportation - Transit	100,000	3,600,000	0	0	0	0	3,700,000	3,600,000	Yes
42426	2027	014	West Alameda St Reconstruction	Transportation - Highways/Roads/Bridges	1,440,000	2,900,000	21,160,000	0	0	0	25,500,000	24,060,000	Yes

42802	2027	015	Pavement Rehab & Preservation on Residential Roads	Transportation - Highways/Roads/Bridges	2,500,000	3,000,000	0	0	0	0	5,500,000	3,000,000	Yes
34780	2027	016	Regional Airport Access Road from NM599	Transportation - Highways/Roads/Bridges	4,500,000	5,500,000	0	0	0	0	10,000,000	5,500,000	Yes
42554	2027	017	Santa Fe Regional Airport Parking Structure	Transportation - Airports	0	3,000,000	17,500,000	0	0	0	20,500,000	20,500,000	Yes
42408	2027	018	Zozobra Field at Fort Marcy Park Renovations	Facilities - Other	5,500,000	0	4,500,000	3,000,000	1,500,000	0	14,500,000	9,000,000	Yes
41216	2027	019	Permanent & Transitional Housing End Homelessness	Facilities - Other	4,200,000	5,000,000	15,000,000	0	0	0	24,200,000	20,000,000	Yes
43729	2027	020	Santa Fe City Hall Elevator & Council Chambers	Facilities - Administrative Facilities	150,000	250,000	2,250,000	0	0	0	2,650,000	2,500,000	Yes
40054	2027	021	MRC Soccer Valley Expansion	Facilities - Other	11,330,000	0	4,370,000	0	0	0	15,700,000	4,370,000	Yes
43738	2027	022	SF Police Dept Internal Evidence & Crime Facility	Facilities - Public Safety Facilities	0	7,250,000	0	250,000	0	0	7,500,000	7,500,000	Yes
41462	2027	023	Ragle Park Baseball Field Upgrades	Facilities - Administrative Facilities	1,200,000	4,000,000	300,000	0	0	0	5,500,000	4,300,000	Yes
42424	2027	024	Police Department Facility Improvements	Facilities - Administrative Facilities	0	1,250,000	1,250,000	0	0	0	2,500,000	2,500,000	Yes
43728	2027	025	Cerro Gordo Culvert & Watershed Improvements	Water - Storm/Surface Water Control	0	200,000	450,000	100,000	7,025,000	0	7,775,000	7,775,000	Yes
36503	2027	026	New City Services Center	Facilities - Administrative Facilities	82,572	7,250,000	20,198,000	25,000,000	15,000,000	2,500,000	70,030,576	69,948,000	Yes
34519	2027	027	McClure Dam Outlet Rehabilitation	Water - Water Supply	0	25,000,000	0	0	0	0	25,000,000	25,000,000	Yes
36164	2027	028	Henry Lynch Reconstruction	Transportation - Highways/Roads/Bridges	1,135,347	3,500,000	0	0	0	0	4,635,347	3,500,000	Yes
43734	2027	029	Critical La Familia Facility Improvements	Facilities - Housing-Related Cap Infrastructure	0	1,500,000	0	0	0	0	1,500,000	1,500,000	Yes

37155	2027	030	MRC Irrigation System Upgrades	Water - Storm/Surface Water Control	200,000	300,000	8,000,000	0	0	0	8,500,000	8,300,000	Yes
37528	2027	031	St.Mikes Rail Trail Underpass Project	Transportation - Bike/Pedestrian/Equestrian	1,227,734	20,000,000	0	0	0	0	21,227,734	20,000,000	Yes
41206	2027	032	Municipal Court Facility Improvements	Facilities - Administrative Facilities	0	1,000,000	0	0	0	0	1,000,000	1,000,000	Yes
43731	2027	034	Frenchy's Field Park / SF River Trail Improvements	Facilities - Other	0	600,000	0	0	0	0	600,000	600,000	Yes
39165	2027	035	Pacheco Street Bicycle & Pedestrian Improvements	Transportation - Bike/Pedestrian/Equestrian	500,000	0	0	0	2,000,000	0	2,500,000	2,000,000	Yes
43748	2027	036	Santa Fe River Park Ped Bridge Upgrades Closson	Transportation - Bike/Pedestrian/Equestrian	0	300,000	0	0	0	0	300,000	300,000	Yes
41224	2027	037	Paseo Real Maintenance Building Construction	Facilities - Other	0	2,200,000	3,800,000	0	0	0	6,000,000	6,000,000	Yes
41223	2027	038	Paseo Real Headwork & Prelim Treatment Renovations	Facilities - Other	0	20,000,000	0	0	0	0	20,000,000	20,000,000	No
41225	2027	039	Paseo Real Ultraviolet Disinfection Equipment	Equipment - Other	0	10,000,000	0	0	0	0	10,000,000	10,000,000	No
39891	2027	040	Acequia Trail Extension (Otowi to La Cieneguita)	Transportation - Bike/Pedestrian/Equestrian	0	1,000,000	0	0	2,500,000	0	3,500,000	3,500,000	Yes
37523	2027	041	Pressure Release Valve SCADA Implementation	Water - Other	0	150,000	150,000	150,000	150,000	150,000	750,000	750,000	No
33692	2027	042	Alameda/Delgado Bridge Reconstruction	Transportation - Highways/Roads/Bridges	0	1,000,000	0	4,000,000	0	0	5,000,000	5,000,000	Yes
41204	2027	045	Regional Traffic Management Center Study	Transportation - Lighting	0	1,000,000	0	6,000,000	0	0	7,000,000	7,000,000	Yes
41201	2027	046	Rodeo Rd - St Francis Bridge Reconstruction	Transportation - Highways/Roads/Bridges	0	1,000,000	0	5,000,000	0	0	6,000,000	6,000,000	Yes

42421	2027	047	Flood Risk Mitigation at Marc Brandt Park	Water - Storm/Surface Water Control	0	350,000	0	3,000,000	0	0	3,350,000	3,350,000	Yes
32424	2027	048	Security for Water Source and Storage Sites	Water - Water Supply	0	700,000	600,000	0	0	0	1,300,000	1,300,000	Yes
22909	2027	049	Southside Transit Center	Facilities - Administrative Facilities	350,000	3,500,000	500,000	0	0	0	4,350,000	4,000,000	Yes
23272	2027	050	SWAN Park Phase II	Facilities - Other	4,099,800	0	750,000	12,450,000	0	0	17,299,800	13,200,000	Yes
40211	2027	051	Water & Sewer Expansion to West Alameda Rd	Water - Wastewater	0	350,000	3,500,000	0	0	0	3,850,000	3,850,000	Yes
40213	2027	052	Water Line Extension to Underserved Mutt Nelson Rd	Water - Water Supply	0	6,500,000	0	0	0	0	6,500,000	6,500,000	Yes
43732	2027	053	Harrison Rd Sidewalk & Lighting Improvements	Transportation - Bike/Pedestrian/Equestrian	400,000	500,000	0	0	0	0	900,000	500,000	Yes
33698	2027	054	Paseo de Peralta - SF River Bridge Rehab	Transportation - Highways/Roads/Bridges	0	1,000,000	0	3,000,000	0	0	4,000,000	4,000,000	Yes
43744	2027	055	Railyard Performance Center Upgrades	Facilities - Cultural Facilities	0	100,000	0	0	0	0	100,000	100,000	No
38554	2027	056	Bishop's Lodge Road Reconstruction	Transportation - Highways/Roads/Bridges	1,308,007	240,000	9,760,000	10,000,000	10,000,000	5,000,000	36,308,008	35,000,000	Yes
38555	2027	057	Rufina St & Lopez Lane Intersection Improvements	Transportation - Highways/Roads/Bridges	50,000	600,000	0	0	4,350,000	0	5,000,000	4,950,000	Yes
43746	2027	058	Rio Metro Intersection Improvements	Transportation - Highways/Roads/Bridges	0	1,000,000	0	4,000,000	0	0	5,000,000	5,000,000	Yes
43747	2027	059	Santa Fe Teen Center Improvements	Facilities - Other	1,805,000	300,000	0	0	0	0	2,105,000	300,000	Yes
42422	2027	060	Arroyo Chamiso Extension Connecting E. & W. Zia Rd	Transportation - Highways/Roads/Bridges	300,000	200,000	0	0	1,000,000	0	1,500,000	1,200,000	Yes
42403	2027	061	Cerro Gordo Paving & Drainage	Facilities - Administrative Facilities	0	1,500,000	1,000,000	10,900,000	0	0	13,400,000	13,400,000	Yes

42413	2027	062	Agua Fria Corridor Improvements	Transportation - Bike/Pedestrian/Equestrian	110,000	1,390,000	5,500,000	0	0	0	7,000,000	6,890,000	Yes
42414	2027	063	Arroyo San Antonio Drainage Improvements	Water - Storm/Surface Water Control	0	500,000	2,500,000	2,500,000	0	0	5,500,000	5,500,000	Yes
42415	2027	064	Arroyo Torreon Channel Improvements	Water - Storm/Surface Water Control	347,750	3,000,000	1,062,500	0	0	0	4,410,250	4,062,500	No
43737	2027	065	City Offices at Warehouse 21	Facilities - Administrative Facilities	0	2,000,000	0	0	0	0	2,000,000	2,000,000	No
42417	2027	066	Calle Nopal Storm Drainage Improvements	Water - Storm/Surface Water Control	0	300,000	900,000	0	0	0	1,200,000	1,200,000	Yes
43743	2027	067	Presbyterian Headstart Improvements	Facilities - Daycare Facilities	0	100,000	0	0	0	0	100,000	100,000	No
42419	2027	068	2026 CIPP Sewer Rehabilitation Project	Water - Wastewater	0	3,000,000	0	0	0	0	3,000,000	3,000,000	No
39331	2027	069	Canyon Road Water Chemical Feed Upgrades	Water - Water Supply	37,653.641	1,640,000	6,000,000	6,000,000	0	0	13,677,654	13,640,000	No
42425	2027	070	Rio Vista/Alamo Culvert Improvements	Water - Storm/Surface Water Control	0	250,000	950,000	0	0	0	1,200,000	1,200,000	Yes
37157	2027	071	Electric Vehicle Charging Stations	Facilities - Housing-Related Cap Infrastructure	0	380,000	500,000	250,000	0	0	1,130,000	1,130,000	Yes
42429	2027	072	Transit Bus Shelters	Transportation - Transit	550,000	450,000	0	0	0	0	1,000,000	450,000	Yes
40029	2027	073	Ashbaugh Infiltration Project	Water - Storm/Surface Water Control	560,577	0	2,000,000	1,500,000	0	0	4,060,577	3,500,000	Yes
41193	2027	074	Galisteo Alameda Bridge Reconstruction	Transportation - Highways/Roads/Bridges	0	1,000,000	0	4,000,000	0	0	5,000,000	5,000,000	Yes
43726	2027	075	Arroyo Chamiso Urban Trail Improvements	Water - Storm/Surface Water Control	64,270	650,000	250,000	0	0	0	964,270	900,000	No
32419	2028	001	Chemical Storage and Feed System Rehabilitation	Water - Wastewater	0	0	150,000	575,000	0	0	725,000	725,000	Yes

Infrastructure Capital Improvement Plan FY 2027-2031

Number of projects:	73							
	Funded to date:	**Year 1:**	**Year 2:**	**Year 3:**	**Year 4:**	**Year 5:**	**Total Project Cost:**	**Total Not Yet Funded:**
Grand Totals	71,225,048	290,305,024	452,846,144	102,175,000	43,525,000	7,650,000	967,726,336	896,501,248

FIR No. 10716.1

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** _____ **Resolution:** X

Short Title(s): Funding Sources for Water, Wastewater, and Other Water Related Projects.

Sponsor(s): Councilor Amanda Chavez and Councilor Carol Romero-Wirth

Reviewing Department(s): Public Utilities Department- Water Division

Staff Completing FIR: Alan G. Hook **Date:** 09/17/2025 **Phone:** (505) 955-4205

Reviewed by City Attorney: Erin McSherry Erin McSherry (Sep 19, 2025 17:17:40 MDT) **Date:** 09/19/2025

Reviewed by Finance Director: Emily K. Oster **Date:** 09/19/2025

Summary:
The resolution directs the City Manager to identify priorities and research water, wastewater, water conservation, water treatment, water recycling, water reuse, water storage, water conveyance, water delivery, flood prevention, water restoration, watershed management, and other similar projects ("Projects") and apply for potential federal and State funding sources for the Projects. Furthermore, this resolution is a requirement of the New Mexico Water Trust Boards application process to receive funding for all project types eligible for consideration. The City's Water Division has submitted two applications to the New Mexico Water Trust Board for Fiscal Year 2026.

Departments Affected:
The City Manager's Office and Public Utilities Department's Water Division.

Consequences of Not Enacting Legislation:
If this legislation is not adopted, the City cannot receive Water Trust Board funding for Fiscal Year 2026. The City's Public Utilities staff will not be authorized to apply for State, federal, or other funding sources for water or wastewater related projects.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
None.

Performance and Administrative Implications:
Public Utilities staff would identify priorities and research water, wastewater, and other water related projects and apply for State and federal funding for water related projects.

Fiscal Implications:
Without the passage of this Resolution, the Fiscal Year 2026 Water Trust Board applications for $13 million toward the construction of the Water Treatment Plant Chemical Feed Design project, $1.3 million for the Water Infrastructure Security Improvement project, $3 million for Sewer Line Rehabilitation project and

$10 million for the design of the Paseo Real Replacement Wastewater Treatment Plant project will all be jeopardized. The revenue will be determined when funding is awarded. Agreements to accept the funds will need to be approved through the Governing Body's approval process.

Fiscal Impact

X Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 2025	FYE 2026	FYE 2027	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				

Expenditure Narrative:

Revenue

Revenue Type	FYE 2025	FYE 2026	FYE 2027	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

Signature:

Email: aghook@santafenm.gov

Signature:

Email: jdroach@santafenm.gov

Signature:

Email: jmmontoya@santafenm.gov

Signature:

Email: whschneider@santafenm.gov

CITY OF SANTA FE

Memorandum

Date: 9/16/2025

To: Governing Body, Quality of Life Committee, Finance Committee

From: Benjamin Valdez, Deputy Police Chief

Via: Paul Joye, Police Chief; Mark Scott, City Manager; Andrea Phillips, Deputy City Manager

RE: STOP Program Updates; Noise Violations, Fines, and Program Administration

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EXECUTIVE SUMMARY:
This bill would amend SFCC 1987, Section 24-4, "Santa Fe Traffic Operations Program" ("STOP"), to provide for the use of devices that detect sound and issue citations using an automated compliance enforcement system. It would also remove the requirement for police oversight, establish administrative fines for motor-vehicle noise violations, and update the administrative fines for speeding violations.

BACKGROUND INFORMATION:
In 2008 the Governing Body of the City of Santa Fe ("City") found there was a significant risk to the health and safety of the community from drivers who exceed the posted speed limit. Furthermore, some drivers in Santa Fe repeatedly violate posted speed limits and the state law against speeding is inadequate to preserve public safety in Santa Fe. The Governing Body found that photographic and electronic devices that measure speed were accurate and reliable, and the implementation of this technology would abate the nuisance of speeding.

The City operated an automated speed enforcement program from 2008 until 2013. This program, as currently contemplated in the ordinance, requires oversight by the City of Santa Fe Police Department. Reactivating the program would address an increased demand for enforcement of speeding violations.

Following the 2020 pandemic, communities across our nation have also seen an increase in modified exhausts that have caused a quality of life concerns, due to excessive noise in residential and commercial areas. Santa Fe has not been excluded from this nuisance, with the issue continuing despite increased penalties and enforcement.

CITY OF SANTA FE

Memorandum

Cities such as New York City, New York and Chicago, Illinois are currently using sound cameras to locate excessive noise and to enforce noise restrictions. Additionally, Albuquerque, New Mexico has implemented a pilot program with the goal of addressing overly noisy vehicles.

ATTACHMENTS:
Bill
FIR

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2025-6

INTRODUCED BY:

Mayor Alan Webber

Councilor Signe Lindell

Councilor Pilar Faulkner

Councilor Michael Garcia

A BILL

RELATING TO THE SANTA FE TRAFFIC OPERATIONS PROGRAM; AMENDING SECTION 24-4 TO REMOVE THE REQUIREMENT FOR POLICE DEPARTMENT OVERSIGHT; PROVIDE FOR THE USE OF CAMERAS THAT DETECT VEHICLE NOISE VIOLATIONS USING AN AUTOMATED COMPLIANCE ENFORCEMENT SYSTEM; AND IMPOSE A FINE FOR SYSTEM-DETECTED VEHICLE NOISE VIOLATIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Section 24-4.1 SFCC 1987 (being Ord. No. 2008-47, § 2) is included for reference without changes:

24-4.1 Short title.

Section 24-4 SFCC 1987 shall be referred to as the Santa Fe Traffic Operations Program or "STOP" and may sometimes be referred to as "this section."

Section 2. Section 24-4.2 SFCC 1987 (being Ord. No. 2017-17) is amended to read:

24-4.2 Findings and Intent.

underscored material = new [~~bracketed material~~] = delete

The governing body finds that speeding and motor vehicle noise pollution are significant and dangerous nuisances to the community and that enforcement of the legal limits on excessive speed and noise by means of automated compliance enforcement systems will abate the nuisance of each without dedicating police department personnel.

A. **Speed.**

The governing body declares the following findings and intentions regarding vehicle speed:

(1) [~~The governing body finds that t~~] There is a significant risk to the health and safety of the community from drivers who exceed the posted speed limit signs.

(2) [~~B. The governing body finds that s~~] Some drivers in Santa Fe repeatedly violate posted speed limits.

(3) [~~The governing body fins that s~~]State law against speeding is inadequate to preserve public safety in Santa Fe.

(4) [~~The governing body finds that p~~] Photographic and electronic devices that measure speed are accurate and reliable.

(5) [~~The governing body finds that implementation of e~~] Enforcement of speed limits by means of photographic and electronic equipment will abate the nuisance of speeding.

B. **Noise.**

The governing body declares the following findings and intentions regarding vehicle noise:

(1) There is a significant risk to the health and quality of life of the community due to noise pollution.

(2) State law against excessive motor vehicle noise is inadequate to preserve

the public's peace.

(3) Photographic and electronic devices that measure automotive noise and identify the offending vehicle in traffic accurately and reliably measure decibel levels that exceed the limitations described in 10-2.9.

C. The governing body declares that a vehicle used to violate this section is the instrumentality of a nuisance and shall be abated in the city.

D. The governing body declares that this section is a nuisance abatement section enacted pursuant to the city's authority under state law and that the remedies are purely civil and not criminal in nature.

Section 3. Section 24-4.3 of SFCC 1987 (being Ord. No. 2017-17) is amended to read:

24-4.3 Definitions.

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Automated compliance enforcement system ("ACE") is a device that includes but is not limited to digital, photographic, videographic, and/or acoustic detection equipment, used to detect and assist in the enforcement of the STOP program.

Acoustic camera, sound device, or noise camera means a type of camera, included as a component within an ACE, that detects noise exceeding the limits established in Section 10-2.9, "Motor Vehicle Noise", including, but is not limited to, digital equipment reasonably relied upon by a STOP program administrator.

Authorized emergency vehicle means the same as defined under NMSA 1978, Section 66-1-4.1 (E) (2001) as amended from time to time and, without limitation on the foregoing, shall mean any fire department vehicle, police vehicle, ambulance and any emergency vehicles of municipal departments or public utilities that are designated or authorized as emergency vehicles by the

director of the New Mexico State Police Division of the Department of Public Safety or chief of police of the Santa Fe police department.

Camera[~~, *speed device* or *"CSD"*~~] means the component within an ACE [~~instrument~~] that detects a violation of this section [~~.The definition~~], include[~~es~~]ing, but is not limited to, [~~electronic~~] digital speed or sound detection equipment reasonably relied upon by [~~police officers~~] STOP administrators.

City means the city of Santa Fe.

City clerk means the city clerk of the city of Santa Fe.

City manager means the city manager of the city of Santa Fe.

Contractor means a person or entity that enters a contract with the city to provide the city with digital, photographic, videographic, and/or [~~electronic~~]acoustic evidence of a violation of this Section through an [~~CSD~~] ACE and that may provide administrative support and facilitation for STOP.

Days means calendar days, including holidays.

Default means the failure to pay a STOP fine or to timely pay a fine pursuant to a decision of a hearing officer under this section.

Delivery or delivered means the mailing of a STOP fine notification to a registered owner or nominee or personal service of a STOP fine notification or hearing officer decision on a registered owner or nominee.

Department means the [~~police~~] city agency that employs the [~~police officer~~] STOP administrator who issued a STOP fine notification or caused a STOP fine notification to be issued.

Department of motor vehicles or DMV means the motor vehicle division of the taxation and revenue department of the state of New Mexico or its successor agencies.

Driver means the person operating a motor vehicle at the time of a violation.

Effective date means the date a STOP fine notification is mailed to the recipient [~~by the~~

~~contractor~~] as indicated on the face of the STOP fine notification.

Finance department means the city department established as per Section 2-8 SFCC 1987.

Hearing officer means the city hearing officer, as appointed by the presiding judge of the civil division of the district court, pursuant to Section 3-18-17(A)(4)(e) NMSA 1978. The hearing officer shall be a licensed member of the New Mexico Bar.

Identify means to submit all information on a driver sufficient to allow the city to locate and notify the driver in lieu of the registered owner including but not limited to the name and address of the driver.

Nomination means identification of the actual driver of a car by the registered owner as the responsible party for a violation.

Nominee means the person or entity identified by the registered owner as the driver or responsible party.

Notice of default means a document delivered to the registered owner and stating that the registered owner is in default.

Nuisance means the act of operating a vehicle in violation of this section.

Owner's affidavit means a written statement signed under oath and submitted [~~to the city or the city's contractor~~] under penalty of perjury by the registered owner of a vehicle who asserts therein that the registered owner was not driving a vehicle at the time of a violation.

Police officer means a sworn member of the Santa Fe city police department, the Santa Fe county sheriffs office, the New Mexico state police, or any other public official with authority to stop a vehicle for a traffic violation in the city of Santa Fe.

[~~Public safety aide~~ means a public safety aide of the Santa Fe city police department.]

Registered owner means the owner or owners of a vehicle according to the license plate number or information obtained from the department of motor vehicles, from similar motor vehicle agencies outside New Mexico, from information obtained from the Santa Fe municipal court, from

the Santa Fe county magistrate court, from department records, from an [~~CSD~~] ACE or from any other documentation or methods reasonably relied upon by [~~police officers~~] a STOP administrator. The singular includes the plural.

Respondent means an accused violator who has received a STOP fine notification and requested a hearing.

School zone means a posted "safety zone" as that term is defined under NMSA 1978 66-1-4.16 (2001) as amended from time to time.

Stop fine notification means a written document mailed to the address of the registered owner or nominee stating that a violation has occurred and payment is due.

STOP administrator means the city staff person or persons responsible for administering and enforcing this Section.

Speed camera, speed device, or speed camera means a type of camera, included as a component within an ACE, that detects a violation of this section for speed. The definition includes but is not limited to electronic or digital speed detection equipment reasonably relied upon by a STOP program administrator.

Violation means a violation of this section

Section 4. Section 24-4.4 SFCC 1987 (being Ord. No. 2017) is amended to read:

24-4.4 [~~Violation~~] General Provisions.

A. An image or video recorded by an automated compliance enforcement system shall display the time, date, and location of the covered offense, and an audio recording by an automated compliance enforcement system shall include data sufficient to determine the time, date, and location of the covered offense.

B. Any violation of the Santa Fe Traffic Code, [~~Section 12-5-6 or~~], Section 12-6-1.2, "Speed Limits" or Santa Fe Environmental Regulations, Section 10-2.9, "Motor vehicle noise"; [~~of the City of Santa Fe Traffic Code~~] is a violation of this section.

This section does not apply to authorized emergency vehicles responding to an emergency.

Section 5. Subsection 24-4.5 (being Ord. 2020-2, §7 as amended) is amended to read:

24-4.5 Enforcement.

A. C*riminal Violation Observed by Police Officer*. This section does not abrogate or impair enforcement authority of existing traffic laws by a police officer for a violation committed in their presence. Specifically, if a police officer personally and contemporaneously observes a traffic violation, the police officer may stop the vehicle and issue a citation under state law or the city of Santa Fe Traffic Code in the usual manner.

B. *Violation Recorded by [~~CSD~~] ACE* . The contractor shall provide all evidence of an [~~CSD~~] ACE-recorded violation to a [~~police officer~~] STOP administrator. A [~~police officer~~] STOP administrator shall review all [~~CSD~~] ACE evidence provided by the contractor. If the [~~police officer~~] STOP administrator determines that a violation has occurred, the [~~police officer~~] STOP administrator shall cause a STOP fine notification to be delivered to the registered owner. The registered owner is strictly and vicariously liable for the violation unless one (1) of the exceptions herein applies. If there is more than one (1) registered owner, all registered owners shall be jointly and severally liable.

C. *STOP Fine Notification.*

(1) Form and contents. The STOP fine notification shall [~~state and contain~~] include the following:

(a) name of the registered owner or owners or nominee,

(b) [~~the~~] effective date of the STOP fine notification,

(c) [~~the~~] type of violation,

(d) [~~the~~] date, time, and location of the violation,

(e) a picture of the violation,

(f) [~~the~~] license number of the vehicle,

(g) [~~the~~] name and identification of the issuing [~~police officer~~] STOP program administrator,

(h) [~~the~~] amount of the fine [~~consistent with fees listed in Schedule A of Exhibit A of Chapter 24 (Uniform Traffic Ordinance)~~],

(i) whether the fine is a first or subsequent violation,

(j) the response due date and the address for sending the response[~~of the city clerk.~~],

(k) [~~The STOP fine notification shall~~] conspicuous[~~ly and in~~], bold face type stat[~~e;~~]ing, "Failure to pay this fine on time will lead to serious legal consequences including the assessment of additional fines and monies due. A second or subsequent STOP violation within two (2) years from the date of this STOP fine notification will lead to increasing fines and penalties~~.~~",

(l) [~~The STOP fine notification shall include~~] an owner's affidavit form[~~.~~],

(m) [~~The STOP fine notification shall contain~~] a pre-addressed return envelope ~~a~~addressed to the STOP administrator [~~contractor or the Santa Fe police department.~~],

(n) [~~The STOP fine notification shall~~] language informing the registered owner or the nominee of the right to request a hearing [~~by so indicating in a space provided on the form and returning same to the city clerk~~] with instructions describing how to indicate interest, including instructions to do so within thirty-five (35) days of the effective date

of the STOP fine notification.

(2) Delivery. The STOP fine notification shall be mailed [~~delivered~~] to the address of the registered owner according to the address registered with the department of motor vehicles or to the address of the nominee according to the owner's affidavit. Because [~~T~~]the registered owner has a duty to timely notify DMV of a change of address, [~~and~~] the failure to do so does not entitle the registered owner to assert the defense of inadequate notice. The mailing of a STOP fine notification to the address of the registered owner of a vehicle according to the records of DMV or to the address of the nominee according to the owner's affidavit is constructive notice of a STOP fine notification.

D. *Response to a STOP Fine Notification.* Within thirty-five (35) days from the effective date, the registered owner shall respond to the STOP fine notification in one of three ways: 1) pay the fine, 2) [~~file an owner's affidavit making a nomination~~] appeal the fine and request a hearing, or 3) [~~request a hearing~~] file an owner's affidavit making a nomination. [~~To pay the fine, the recipient shall deliver the STOP fine notification with payment to the city or to the contractor according to the instructions on the STOP fine notification. To make a nomination, the recipient shall return the STOP fine notification with a completed owner's affidavit to the contractor. To request a hearing, the recipient shall return the STOP fine notification with the request for hearing to the hearing officer. There is no fee to request a hearing. Three (3) days for mailing is not allowed and the response shall be actually received later than thirty five (35) consecutive days (including holidays) from the effective date. The department and hearing officer shall forthwith notify the contractor concerning the receipt of a request for hearing. If the fine has not been paid, there has been no nomination or a request for~~

~~a hearing within thirty-five (35) days from the effective date, the contractor shall send written notice of default to the department and the registered owner or nominee or both~~].

(1) Payment of STOP fine. Upon receipt of the STOP fine notification, the recipient may elect to admit the violation and pay the fine [~~. To proceed under this paragraph, the recipient shall admit the violation~~] by signing and dating the STOP fine notification on a space provided and returning it [~~the STOP fine notification~~] with payment [~~to the contractor or to the city~~] within thirty-five (35) days, according to the instructions on the STOP fine notification. The city may, but is not required to, adopt procedures for alternative methods of payment of fines using the internet or other on-line services. There shall be a fifty-dollar ($50.00) penalty for any payment tendered that is not honored or is returned for any reason.

(2) Appeal and hearing. The recipient of the STOP fine notification may request a hearing by [~~so indicating and~~] returning the STOP fine notification, consistent with instructions, [~~to the hearing officer~~] within thirty-five (35) days of the effective date. There is no fee for a hearing. The hearing officer shall schedule a hearing and conduct the hearing as is described in 24-4.5(F), "Hearing".

(3) Nomination. Any registered owner who was not driving the car at the time of the violation may either accept the responsibility or identify the driver so the department or the contractor can send a notice of violation to the driver. The nomination procedure described in this paragraph is available to any registered owner and is not limited to corporations and governmental entities. If the registered owner claims that another person was driving the vehicle at the time

of the violation, the registered owner shall so indicate on the owner's affidavit and identify the person who was driving the vehicle and the person's address, if known. [~~The contractor shall forthwith deliver the STOP fine notification and owner's affidavit to the department to the attention of the issuing police officer~~]. The [~~police officer~~] department or contractor may send a new STOP fine notification to the nominee or cause the contractor to deliver a new STOP fine notification to the nominee. The effective date of the STOP fine notification sent to the nominee is the day the STOP fine notification is issued to the nominee as indicated on the face of the new STOP fine notification. If the nominee successfully appeals the allegation that [~~he or she was~~] the nominee was the driver or defaults on payment of the STOP fine, the city may proceed against the registered owner by issuing to the registered owner a [~~subsequent~~] STOP fine notification [~~to the registered owner~~] with a [~~the~~] new effective date [~~being the date so~~] indicated on its [~~the~~] face [~~of the subsequent STOP fine notification~~]. If the city cannot assert jurisdiction over the nominee, the registered owner is responsible, subject to the remaining defenses available in this section. Any registered owner who submits an owner's affidavit does so under penalty of perjury. If the registered owner operates a business that uses a fleet of [~~one (1) or~~] more than one (1) vehicle[~~s~~] and nominated the driver on a previous violation and the driver paid the fine or otherwise cleared the violation, a subsequent violation pertaining to the fleet vehicle shall not be considered a second, third, or subsequent violation regarding that vehicle, unless [~~driven by~~] the same driver was driving the vehicle in the initial violation and subsequent alleged violations. Without limitation on the foregoing, nomination may be used [~~when~~] under the following circumstances:

(a) the registered owner is the United States of America, state of New Mexico, county of Santa Fe, city of Santa Fe, or any other governmental entity that owns a vehicle that was being driven by a natural person who was an employee, contractor or agent of the governmental entity at the time of the alleged violation. Said entities shall nominate and identify the driver.

(b) The registered owner is a place of business, corporation, or other non-natural entity that owns a vehicle [~~that was being driven by a natural person who was the employee, contractor or agent of the business, corporation or other non-natural entity at the time of the alleged violation. Said entities shall nominate and identify the driver~~].

(c) The registered owner is an automobile rental business, automobile dealership, or other business entity that, in the ordinary course of business, leases vehicles to others and the lessee was driving the vehicle at the time of the alleged violation. Said entities shall nominate and identify the driver.

(d) The registered owner was not driving the vehicle at the time of the violation. [~~To assert the defense mentioned in this paragraph, t~~] The registered owner shall nominate and identify the [~~actual~~] driver. [~~and comply with the nomination provision above to assert this defense~~].

E. *Default.* If the city does not receive payment of the fine, a nomination, or a request for a hearing within thirty-five (35) days from the effective date, the registered owner is in default. Default automatically results in liability to the registered owner for the violation and the registered owner is barred from requesting or obtaining any hearing on the merits of the STOP fine after the date of the default. A default results in an additional penalty of twenty-five dollars ($25.00). The department shall mail, or cause

the contractor to mail, the notice of default to the defaulting party. The notice of default shall inform the [~~recipient~~] defaulting party that they have twenty (20) days from the date of mailing of the notice of default to pay the fine and default penalty [~~or request a hearing from the hearing officer~~]. If the default is not cured, the city may pursue all remedies for collection of a debt and [~~is entitled to~~] may seek an award of reasonable attorney's fees incurred. An uncured notice of default shall be entered into the records of the department. The registered owner is liable for a default by a nominee.

F. *Hearing.* In the event of a demand for a hearing, the hearing officer shall hold a hearing within ninety (90) days from the date of the request for hearing unless a continuance is granted pursuant to the consent of the parties. The hearing does not need to be held within ninety (90) days if a continuance is granted. The hearing officer is in charge of the proceedings and may exclude any person for inappropriate conduct. The hearing shall be conducted following the rules of evidence and civil procedure for the district courts. The department has the burden to prove by a preponderance of the evidence that the violation occurred. The respondent has the burden to prove any defenses by a preponderance of the evidence. A photograph, videotape, audio file, or other [~~electronic~~] evidence collected by an ACE of a violation is authentic, is not hearsay, and shall be admitted into evidence by the hearing officer. The respondent may challenge the weight or accuracy of the evidence. If the department prevails, the respondent shall pay the fine. The hearing officer shall render a decision in writing in ten (10) days and provide the decision to the department and the finance department. A determination by the hearing officer shall not impose a total amount of penalties, fines, fees and costs in excess of that provided in this section. The hearing officer may refer the respondent to teen court according to the municipal court's procedures for teen court referrals. Failure to pay a fine as ordered by the hearing officer within twenty

(20) consecutive days from the date of the decision is a default and will apply against the vehicle without service of a notice of default. Following a hearing, the respondent may appeal the decision of the hearing officer to district court within thirty (30) days of the decision and may recover the costs of filing the appeal if successful.

G. *Defenses.* The respondent may present the following defenses in addition to any other defenses available under law and has the burden of proof concerning the defenses:

(1) The vehicle was stolen or otherwise being driven without the registered owner's knowledge or permission at the time of the alleged violation. The registered owner shall have a police report pertaining to the theft to avail the owner of this defense.

(2) The ownership of the vehicle had lawfully been transferred and conveyed from the registered owner to another person before the time of the alleged violation. To assert this defense, the registered owner shall identify the transferee and provide proof of conveyance.

(3) The evidence does not show that a violation was committed involving the subject vehicle.

(4) The registered owner was not driving the vehicle at the time of the violation. To assert the defense mentioned in this paragraph, the registered owner shall identify the actual driver and comply with the nomination provision above to assert this defense.

(5) The vehicle should not be assessed an increased fine for a subsequent violation because the registered owner owns or operates a fleet of vehicles in a business and nominated the actual driver who satisfied payment of the fine on the previous violation.

(6) The registered owner did not receive notice because the STOP fine notification was not mailed to the address of record with the department of motor vehicles.

H. *Fine.* Except as set forth in paragraph ([~~2~~]3) below, the following fines are prescribed for all violations, including those imposed by the hearing officer. Nothing in this section shall prohibit the department from entering into pre-hearing settlement agreements with respondents.

(1) Speeding.

(a) For [~~each~~] the first violation, the fines for speeding are as follows:

([~~a~~] i) More than five (5) miles per hour over the speed limit in school and construction zones: one hundred dollars ($100[~~.~~]);

([~~b~~ ii]) More than ten (10) miles per hour over the speed limit in all other locations: fifty dollars ($50[~~.~~]).

([~~2~~]b) For subsequent violations within two (2) years of the preceding violation, the fines for speeding are as follows:

([~~a~~]i) More than five (5) miles per hour over the speed limit in school and construction zones: one hundred and fifty dollars ($150);

([~~b~~]ii) More than ten (10) miles per hour over the speed limit: one hundred dollars ($100).

(2) Noise.

(a) vehicular noise exceeding the limits in SFCC Section 10-2.9: five hundred dollars ($500).

([~~2~~]3) The hearing officer may allow service to the city as an alternative to payment of fines. A violator who elects to avail themselves of the option of service to the city in lieu of payment of a fine does so voluntarily and is entitled to none of the benefits conferred upon city employees, including, without limitation, workers compensation. The city is not

responsible for damages incurred except as otherwise provided by law. The person seeking relief hereunder shall timely request the option of service to the city in lieu of payment of a fine by requesting a hearing before a hearing office at which to demonstrate that the person eligible for the option and shall not be in default on payment of other fines, fees, or liens levied by the city [~~of Santa Fe~~]. Respondents ordered to perform community service in lieu of payment of a fine shall complete such community service within thirty (30) days from the date of hearing. [~~Passing a background check is required~~] A person who cannot pass the background check to qualify as a volunteer shall not obtain relief under this paragraph. The services shall be performed [~~for~~] with approved organizations or city departments. Services shall be rendered in not less than full hour increments and shall be credited against the fine payable at a rate consistent with the city of Santa Fe Living Wage Ordinance, Section 28-1.5(B) SFCC 1987. The city manager or designee may [~~shall~~] establish procedures for administering this paragraph including, but not limited to, the nature of services performed.

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

APPROVED AS TO FORM:

Erin McSherry

Erin McSherry (Sep 19, 2025 17:08:54 MDT)

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Bills/Automated Compliance Enforcement System

FIR No. 10640.0

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** X **Resolution:** _____

Short Title(s): Sound Cameras Placed in Section 24-4 STOP Program (Bill)

Sponsor(s): Mayor Alan Webber

Reviewing Department(s): Police Department

Staff Completing FIR: Benjamin Valdez, Deputy Police Chief

Date: 12/10/2024 **Phone:** (505) 955-5040

Reviewed by City Attorney: Erin McSherry Erin McSherry (Sep 19, 2025 17:08:54 MDT) **Date:** 09/19/2025

Reviewed by Finance Director: Emily K. Oster **Date:** 09/19/2025

Summary:
This bill would amend SFCC 1987, Section 24-4 , "Santa Fe Traffic Operations Program" ("STOP"), to provide for the use of devices that detect vehicle noise exceeding nuisance levels using an automated compliance enforcement system to produce the evidence to support noise violation citations, using the process provided in the STOP ordinance for speeding citations . The bill would also allow the City Manager to assign responsibility for STOP administration, removing the requirement for the administering department to be the police department citations.

Departments Affected:
This bill would affect the Police Department, by not requiring that Department to administer the program, and it would affect the department ultimately assigned responsibility for administering STOP.

Consequences of Not Enacting Legislation:
If this legislation is not adopted, the STOP ordinance would not include regulating vehicular noise regulation and the police department would be required to administer speeding violations.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
None at this time.

Performance and Administrative Implications:
If adopted, this bill would require the City to take operational steps to administer STOP as contemplated in the bill. In particular, a department would need to be assigned to work with a city contractor to administer

the program. Personnel from that department would review evidence, determine if it sufficient to issue a citation, and participate in administrative hearings if an individual decides to appeal a citation.

Fiscal Implications:

The automated compliance enforcement system is intended to fund itself through revenue generated by the payment of violation fees. While there is an initial system cost, the automated enforcement system is paid using a portion of the fines collected. Then, State Statute NMSA 1978, Section 3-18-17 requires one half the speeding violations fee revenues (after paying the system contractor) go to the State Treasurer and one half go to the City for traffic safety programs and to offset the reasonable costs directly related to administering the program.

The fee structure for speeding violations is as follows:

First violation:

a) one hundred dollars ($100) for more than five (5) miles per hour over the speed limit in school and construction zones;
b) fifty dollars ($50) for more than ten (10) miles per hour over the speed limit;

Subsequent violations within two (2) years of the preceding violation:

a) one hundred fifty dollars ($150) for five (5) miles per hour over the speed limit;
b) one hundred dollars ($100) for more than ten (10) miles over the speed limit.

The fee structure for all noise violations are as follows:

a) five hundred dollars ($500)

The City has funded the initial implementation of the program as contemplated in this bill with $1,000,000. Funds are budgeted as follows: $250,000 in Lodger's Tax Fund and $750,000 in General Fund from FY25 one time funding. This cost does not include staffing during the first year of the implementation of the program, as contemplated by the bill. However, revenues from the program may be utilized towards funding staff time dedicated to the administration of STOP.

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE __	FYE __	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

* This includes all staff time associated with executing the job functions of the proposed legislation.

Expenditure Narrative:

See "Fiscal Implications Narrative" above.

Revenue

Revenue Type	FYE __	FYE __	FYE __	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

Signature:

Email: mscott@santafenm.gov

Signature:

Email: akphillips@santafenm.gov

Signature:

Email: pmjoye@santafenm.gov

Signature:

Email: bpvaldez@santafenm.gov

CITY OF SANTA FE

Memorandum

Date: September 11, 2025

To: Governing Body; Public Works and Utilities Committee; Quality of Life Committee; Finance Committee

From: Henri Hammond-Paul, Community Health and Safety Director

RE: Establishing a Micro Community in Every District

EXECUTIVE SUMMARY:

The proposed resolution would require a Micro Community in every City of Santa Fe ("City") Council district to provide shelter and supportive services for individuals experiencing homelessness in Santa Fe by January 1, 2027. Alternatively, in the event a Micro Community in each district is not possible, the resolution requires a presentation to the Governing Body, describing the reasons why a Micro Community in one or more Council districts is not possible and making related recommendations.

BACKGROUND:

On April 26, 2023, the Governing Body adopted Resolution No. 2023-16, which established the "Safe Outdoor Spaces" as an alternative sheltering model for those experiencing homelessness and for whom standard shelter options are not feasible. Safe Outdoor Spaces provides private, non-congregate sleeping quarters, access to bathrooms and showers, laundry facilities, meals, and connections to services, including access to case managers and services providers. A Safe Outdoor space provides a regular place to return, a comfortable, climate-controlled place to sleep, a secure place for storing belongings, agency and ownership, community support, and enables outreach workers and case managers to know where to find the people they are assisting.

In December of 2023, the Governing Body approved a pilot agreement between the City and Christ Lutheran Church and Life Link to establish a Micro Community in City Council District 2. The City approved developing a second Micro Community though Resolution No. 2025-38 at 2395 Richards Avenue, located next to Fire Station 7 and the Genoveva Chavez Community Center in City Council District 4. To date, the Governing Body has not approved Micro Communities in Council districts 1 or 3.

ATTACHMENTS:
Resolution
Fiscal Impact Report

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2025-__

INTRODUCED BY:

Mayor Alan Webber

A RESOLUTION

REQUIRING A "MICRO COMMUNITY" IN EVERY CITY OF SANTA FE COUNCIL DISTRICT BY JANUARY 1, 2027, OR, IF THAT TIMELINE IS NOT MET, A PRESENTATION EXPLAINING THE BARRIERS TO MEETING THE TIMELINE AND RECOMMENDING HOW AND WHEN THE GOAL OF A MICRO COMMUNITY IN EVERY DISTRICT CAN BE ACHIEVED.

WHEREAS, the City's "Point-in-Time Count" and daily outreach and emergency services data confirm a persistent and visible population of unsheltered individuals in Santa Fe with complex behavioral health, substance use, and trauma-related needs; and

WHEREAS, the City of Santa Fe ("City") recognizes homelessness as a public priority requiring coordinated and innovative shelter responses; and

WHEREAS, Safe Outdoor Spaces, also called "Micro Communities" are comprised of individual, non-congregate, secure, units, with access to restrooms, meals, laundry, case management, and 24 hour-a-day, 7 day-a-week, supervision, designed to provide a safe and stable environment for persons experiencing chronic homelessness; and

WHEREAS, the City has a history of supporting Micro Communities as a model to serve

a crucial public health and public safety function by reducing the spread of disease, decreasing emergency service calls, improving neighborhood conditions, and reducing the number of people living unsheltered in parks, arroyos and public spaces; and

WHEREAS, in April 2023, the Governing Body adopted Resolution No. 2023-16, which supported Safe Outdoor Spaces and directed the City Manager to pursue contracts for shelter infrastructure, land, and operators to serve people for whom traditional shelter options are not viable; and

WHEREAS, in December of 2023, the Governing Body approved a pilot agreement between the City and Christ Lutheran Church and Life Link to provide housing to unsheltered individuals, establishing the first Safe Outdoor Space in Santa Fe in City Council District 2; and

WHEREAS, through Resolution No. 2025-38, the City approved developing a second Micro Community at 2395 Richards Avenue located next to Fire Station 7 and the Genoveva Chavez Community Center in City Council District 4; and

WHEREAS, equitable access to shelter and services across all districts is essential to ensure that all residents of Santa Fe are treated with dignity and have opportunities to access support close to where they live; and

WHEREAS, responding to the challenges of homelessness requires a city-wide, community-wide response with all parts of Santa Fe participating and contributing, with ample community engagement and transparent planning; and

WHEREAS, the City wishes to establish a Micro Community in each city council district to ensure citywide access to safe shelter and supportive services.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the City shall establish a Micro Community in every City council district by January 1, 2027.

BE IT FURTHER RESOLVED that if a Micro Community is not established in every

City council district, the City Manager or designee shall present to the Governing Body the reasons why it has not happened and make further recommendations as to how and when Micro Communities can be established at the earliest possible date.

BE IT FURTHER RESOLVED that the City Manager or designee shall develop an implementation plan that recognizes and credits districts that have one or more Micro Communities and otherwise identifies potential locations, budget estimates, and projected timelines for establishing a Micro Community in districts without a Micro Community.

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:

Erin McSherry

Erin McSherry (Sep 19, 2025 17:26:09 MDT)

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Resolutions/Establishing a Micro Community in Every District

FIR No. 10715.1

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** _____ **Resolution:** X

Short Title(s): Establishing a "Micro Community" in Each District

Sponsor(s): Mayor Alan Webber

Reviewing Department(s): Community Health and Safety Department

Staff Completing FIR: Henri Hammond-Paul **Date:** 9/12/2025 **Phone:** (505) 490-7818

Reviewed by City Attorney: Erin McSherry Erin McSherry (Sep 19, 2025 17:26:09 MDT) **Date:** 09/19/2025

Reviewed by Finance Director: Emily K. Oster **Date:** 09/19/2025

Summary:
The proposed resolution would require a "Micro Community" in every City of Santa Fe ("City") council district to provide shelter and supportive services for individuals experiencing homelessness in Santa Fe. by January 1, 2027. Alternatively, in the event a Micro Community in each district is not possible, the resolution requires a presentation to the Governing Body, describing the reasons why it is not possible and making related recommendations.

Departments Affected:
Community Health and Safety Department and Community Development Department

Consequences of Not Enacting Legislation:
If this legislation is not adopted, then Micro-Communities would not be required in all City Council districts.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
Resolutions 20203-16 and 2025-38

Performance and Administrative Implications:
Community Health Services ("CHS") does not currently have operating or contracting/professional service funds to place Micro Communities in every City Council district. If the City wants to have a Micro Community in each district, the City will need to allocate recurring funds for operations and one-time funds for construction.

Fiscal Implications:
Fiscal Implications of this resolution will vary, depending on the specifics of each Micro Community. Characteristics such as food preparation capacity, land development needs, and security needs influence cost for implementing and operating each area.

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 2025	FYE 2026	FYE 2027	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$ 400,000	$	$				
Contractual/ Professional Services	$ 500,000	$ 500,000	$ 2,000,000				
Operating	$	$	$				$
Total:	$ 900,000	$ 500,000	$ 2,000,000				$ 3,400,000

Expenditure Narrative:

CHS identifies that it costs about $500,000 to operate a given Micro Community of 30-40 units on an annual basis. The City has Pallet units sufficient to open Micro Communities in every City Council district in storage currently. Also, the team is looking into local solutions to reduce development and construction costs.

Revenue

Revenue Type	FYE 2025	FYE 2026	FYE 2027	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

Signature:

Email: hmhammondpaul@santafenm.gov

CITY OF SANTA FE

Memorandum

Date: August 28, 2025

To: Governing Body, Public Works and Utilities Committee, Quality of Life Committee, Finance Committee

From: Rod Gould, Senior Advisor and Public Engagement Coordinator RG

RE: Living Wage Update

EXECUTIVE SUMMARY:

The proposed legislation would amend SFCC 1987, Section 28-1, to increase Santa Fe's minimum wage to $17.50/hour, beginning January 1, 2027. Thereafter, the ordinance would increase by a rate equal to the average of (1) the increase (if there is one) to the consumer price index for the western regions for urban wage earners and clerical workers of the Western Region Consumer Price Index ("Western Region CPI") (for the previous year) and (2) the increase (if there is one) to the United States Department of Housing and Urban Development's ("HUD") "Fair Market Rent" for a two-bedroom unit in Santa Fe. The purpose is to tie the escalator more closely to the cost of housing, which, according to the impact analysis entitled "Raising the Living Wage in Santa Fe: Potential Impacts and Analysis" ("Santa Fe Impact Analysis") (attached to this memo), is the most significant affordability factor for workers. The annual increase to the minimum wage would be 5% per year and the minimum wage would not decrease in the event of a depression or economic crisis.

BACKGROUND:

There is a gap between what it costs to live in Santa Fe and what people who work in Santa Fe are paid. The Living Wage Ordinance, adopted in 2002 with a limited scope and amended soon after in 2003, sought to address what was already a gap back then. In the last 23 years, the gap has grown wider, forcing more working Santa Feans to leave the city where they work and have roots and relocate to less expensive communities. There are numerous negative consequences—economic, social, and more—of allowing that long-standing trend to continue, not the least of which are the losses of diversity and community continuity in Santa Fe.

Median incomes in the city have risen 36% since 2016; rents have increased 74%, and home prices by 80% according to housing data from the Santa Fe Forward general plan assessment. According to the Santa Fe Impact Analysis, housing costs are the single largest cost burden for low-wage workers in Santa Fe. Over the past 25 years, Santa Fe Market Rent (FMR) levels have consistently trended upward faster than general inflation in the Western United States.

CITY OF SANTA FE

Memorandum

Housing production in Santa Fe decreased after the 2008 recession but has since rebounded. There has been a dramatic uptick in multifamily construction in recent years, with 407 to 840 units per year permitted since 2018, partially due to regulatory changes to the Santa Fe Homes Program which improved development feasibility and offered developers additional ways to meet the inclusionary zoning requirements.

Data compiled by the 2025 Santa Fe Forward report suggests that City policies on the housing supply side have had some impact on the cost of rental units in Santa Fe. The significant influx of new apartments in the past few years has slowed rent increases. For example, data show that early 2025 rents have risen only about half of a percent above rents from a year ago. More production, particularly of multi-family rental units, will continue to impact rental costs. The next step is to make an adjustment to the living wage.

Santa Fe's living wage increased to $15/hour on March 1, 2025. The New Mexico State minimum wage is $12/hour. The federal minimum wage has remained at $7.25/hour since 2009. However, the current impact of the $15/hour living wage is limited. Many employers are already paying more than the living wage for entry level workers and have been doing so for some time.

ANALYSIS AND PROPOSAL SPECIFICS:

-Raise the living wage to $17.50/hour January 1, 2027. Approving the adjustment in 2025, but delaying its implementation until 2027, allows employers time to prepare for the increase and navigate the current economic uncertainty.

- Continue to include income from tips in calculating the living wage as is currently provided in the Living Wage Ordinance, Section 28-1.5. Nonprofit organizations whose primary source of funds is from Medicaid remain exempted. The value of health care and/or childcare benefits continues to count in the calculation of wages paid to employees.

-Beginning January 1, 2028, following the 2027 implementation of the new $17.50/hour living wage, adjust the formula for calculating the annual increase. Rather than using the Western Region CPI in isolation, the new formula would also include the HUD Fair Market Rent for a two-bedroom unit in Santa Fe, averaging the annual increase (if there is an increase to both) of the two figures. The purpose of including the HUD Fair Market Rent is to acknowledge that housing plays a primary role in the high cost of living in Santa Fe. Combining the CPI with the Fair Market Rent more accurately addresses the fundamental challenge workers face in being able to live in Santa Fe. The Fair Market Rent figure is published by the U.S. Department of Housing and Urban Development and is Santa Fe-specific and publicly available.

-Cap any annual increase in the living wage at 5% and, as a floor, prohibit any decrease in the living wage, even if housing costs should dip dramatically in any given year. Historical data included in the scenario analysis, "What Should a Living Wage Look Like in Santa Fe: Five Potential Scenarios" (attached to this memo) suggest that living wage growth will fall within the 2-4% range of the 5% cap. The 5% cap would be triggered only in years with rare economic circumstances. Similarly, the floor would only apply in deep deflationary cycles.

CITY OF SANTA FE

Memorandum

Projected Increases in Living Wage Based on Historical Western CPI and Housing Prices in Santa Fe

Year	10th percentile (0.00%)	50th percentile (2.6%)	90th percentile (5.0%)
2025	$15.00	$15.00	$15.00
2026	$15.00	$15.00	$15.00
2027	$17.50	$17.50	$17.50
2028	$17.50	$17.96	$18.38
2029	$17.50	$18.42	$19.29
2030	$17.50	$18.90	$20.26
2031	$17.50	$19.39	$21.27
2032	$17.50	$19.90	$22.33
2033	$17.50	$20.41	$23.45
2034	$17.50	$20.94	$24.62
2035	$17.50	$21.49	$25.86

This chart indicates that the most likely scenario, based on historical CPI increases and housing growth, is that the proposed living wage will grow at a rate of 2.6% per year. If there is little or no inflation and little to no rent increases over the next ten years, the living wage will remain at $17.50/hour. If both inflation rates and rental costs rise significantly over the next decade, the annual living wage increase would be capped at 5% per year.

Financial Impact on City of Santa Fe:

Analysis of the most recent payroll shows 18 of roughly 1,350 City employees making slightly less than $17/hour. Although these employees receive a substantial benefits package, staff would recommend raising their base wages to the $17.50 per hour specified in this legislation at a cost of the $13,467.71 per year.

ATTACHMENTS:

Bill
Fiscal Impact Report
Memo Attachment – Santa Fe Scenario Analysis
Memo Attachment – Santa Fe Impact Report
Memo Attachment -- Proposal for Revising Current Living Wage Law

Memo Submitting Living Wage Update Legislation
August 20, 2025
Study Session

To: City Council

From: Mayor Alan Webber

Re: Proposal for Revising Current Living Wage Law

Purpose and Summary

Santa Fe's future depends on many factors—none more important than the adoption of a strategy that helps guide the composition of the city: who lives here now and in the future. Much of the unique character of Santa Fe is a reflection of the makeup of our community. Santa Fe has always been a diverse place, with some families tracing their roots back for many generations and others proud to be new arrivals. The city depends on workers in a variety of jobs and industries whose labors make the economy go; it also has retirees who contribute their time as volunteers and their support to worthy causes. Keeping that blend of people—a population strategy for Santa Fe—will play a critical role in the city's future, its character, its distinctive culture, its quality of life, and its sense of place and livability.

A population strategy has many components, but none is more important than the combination of affordable housing and a living wage.

As this memo lays out, there is a gap between what it costs to live in Santa Fe and what people who work in Santa Fe are paid. The living wage ordinance, adopted in 2002 with a limited scope and amended soon after in 2003, displayed foresight and courage in addressing what was already seen as a gap back then. In the last 23 years, the gap has grown wider, forcing more working Santa Feans to leave the city where they work and have roots, and relocate to less expensive communities. There are numerous negative consequences—economic, social, and more—of allowing that long-standing trend to continue, not the least of which are the losses of diversity and community continuity in Santa Fe.

Data suggest that City policies on the supply side have had some impact on the cost of rental units in Santa Fe. More production, particularly of multi-family rental units, will continue to impact rental costs. The next step is to make an adjustment to the living wage.

This proposal increases it to $17.50/hour after a one-year period for prpparaion and observation. It maintains the existing provisions for exceptions. It creates a new blended formula for calculating any annual increase, using both the Consumer Price Index and Fair Market Rent data specific to Santa Fe, a reflection of the key role that housing costs play in what constitutes a living wage. It caps any increase at 5%, guarding against an excessive increase, and establishes a floor of 0% preventing the living wage from going down in the case of an economic crisis.

This two-pronged strategy represents another commitment of the City to address the needs of both employees and employers and puts the City on record as supporting a strategy that will keep Santa Fe, Santa Fe when it comes to the people who live and work in the city.

To recap:

Santa Fe's future as a diverse community where people can both work and live depends in large measure on two inter-related factors: the supply of housing units and the income level of the working people of Santa Fe. A strategy that focuses on the population composition of the city needs to address both factors.

The pipeline of housing construction in Santa Fe is currently experiencing a renewed level of activity. As a result, rental rates are finally experiencing a modest but significant improvement through the increased supply and diversity of housing options. More housing construction, additional funding for the Affordable Housing Trust Fund, and other supply side housing policies can continue this positive trend.

However, the gap between the cost of housing and the income levels of Santa Fe's workforce is still substantial. As a result, data show that long-time Santa Fe residents are forced to relocate to less expensive communities outside the city, and then commute to jobs in the city.

The second part of an effective strategy comes through an adjustment to the living wage, as recommended initially by the Food Depot in a white paper on childhood hunger. This proposal does the following things:

-If adopted, would go into effect one year after its adoption. This is to permit the Governing Body, as well as employers and employees, to take stock of the larger macro-economic environment, which currently is undergoing a great deal of uncertainty. A year from now there should be much more clarity as to the strength and direction of both the national economy and the local Santa Fe economy.

-Leaves in place the current provisions in the existing living wage ordinance concerning exemptions for tipped wages, and several special categories of employers.

-Makes a one-time change to the living wage to $17.50/hour.

-Adjusts the basis for the annual escalator so that the formula is a 50-50 calculation of the Western Region Consumer Price Index (for the previous year) and the HUD Fair Market Rent for a 2-bedroom unit in Santa Fe. The purpose is to tie the escalator more closely to the cost of housing, which is the most significant affordability factor for workers. The annual increase would be capped at no more than 5% per year and the floor would be 0% in the event of a depression or economic crisis.

Background

Initial Ordinance

In 2002, the City of Santa Fe enacted a Living wage ordinance. The ordinance as amended in 2003 applies to most full-time public, private, or non-profit employees within the city limits. The purpose of the legislation was to require employers to pay employees minimum wages adequate to meet the basic needs of living in Santa Fe. Santa Fe was widely recognized as the second city in the nation to adopt a living wage law.

At that time, the Governing Body recognized that many Santa Fe workers earned wages that were insufficient to support themselves and their families. The purpose of the living wage was tied to the public welfare, health, safety, and prosperity of Santa Fe; earned wages needed to be sufficient to ensure a decent and healthy life for workers and their families.

The findings included the fact that, in 2003, Santa Fe County was 23% below the national average in average earnings and that the cost of living was 18% higher than the national average. Furthermore, housing costs were much higher than in most parts of New Mexico, and low-income workers were required to spend a disproportionate percentage of their income sheltering themselves and their families.

The Governing Body further stated that a living wage would benefit employers and the economy by improving employee performance, reducing employee turnover, and lowering absenteeism on the job. As a result, productivity would improve, as would the quality of services provided by employees.

Beginning January 1, 2004, the minimum wage was set at $8.50 per hour. Then on January 1, 2006, it was increased to $9.50/hour. Beginning January 1, 2009, and each year thereafter, the minimum wage has been adjusted upward by an amount corresponding to the previous year's increase, if any, in the Consumer Price Index for the Western region for urban wage

earners and clerical workers. In 2003, it was estimated that for a worker in Santa Fe to afford an average rent, that worker would have needed to make $15.29 an hour.

Under the provisions of the living wage ordinance, tips earned by workers who typically earn more than $100/month in tips or commissions are counted toward the living wage standard. Nonprofit organizations whose primary source of funds is from Medicaid are exempted. The value of health care and/or childcare benefits is included in the calculation of wages paid to employees.

The City Manager or his/her designee is authorized to enforce the living wage law. Anyone found guilty of violating the law may be charged with a misdemeanor. The City and any individual aggrieved by such a violation may also bring a civil action to remedy the violation and, upon prevailing, be entitled to legal or equitable relief. The living wage ordinance includes prohibitions against retaliation and circumvention.

A study performed by Aaron Yelowitz, entitled "Santa Fe's Living wage Ordinance and the Labor Market" published by the Employment Policies Institute in September 2005 claimed that the Santa Fe living wage was responsible for a 9% increase in the unemployment rate of Santa Fe's least educated workers.

However, when the study was peer reviewed by Jeannette Wicks-Lim and Robert Pollin of the Political Economy Research Institute at the University of Massachusetts at Amherst, they found the Yelowitz study to be misleading and incomplete, based on a misuse of available data. When the peer reviewers re-ran the Yelowitz model using the same data, they found that the living wage ordinance did not produce any decline at all in job availability. On the other hand, the ordinance did increase the earned income of the average worker covered by the ordinance. Thus, the ordinance did improve the income of low-wage workers without sacrificing their employment opportunities.

Where It Stands Today

Santa Fe's living wage increased to $15/hour on March 1, 2025. The New Mexico State minimum wage is $12/hour. The federal minimum wage has remained at $7.25/hour since 2009.

Although Santa Fe was one of the early leaders in setting a living wage ordinance, many cities have since surpassed it including Seattle, Denver, San Francisco, Los Angeles, San Jose, Washington. D. C., New York City, Chicago. and Boston. In these cities, the living wage ranges from $16/hour to more than $23/hour. Enforcement of the living wage ordinance in Santa Fe has not posed a problem to date.

In 2022, the Food Depot issued a report on food scarcity in Santa Fe. Specifically, the group had been charged with coming up with recommendations to make sure that no children in Santa Fe would go to bed hungry. Their report offered a number of recommendations, but the central proposal was that the City needed to increase the living wage.

Since that report was delivered, there have been several efforts, both formal and informal, to come up with a proposal that would respond to the Food Depot's focus on updating the living wage. Most recently, this spring and summer, Mayor Webber has held exploratory discussions with a number of groups, businesses, non-profits, and associations to discuss possible proposals to update the Santa Fe living wage. Meetings included representatives of the Chamber of Commerce, Chainbreakers Collective, AFSCME, the hospitality industry, the construction industry, Christus St. Vincent Hospital, and the Food Depot, among others. Several meetings were held with different representatives of the hospitality industry, which employs 17.6% of the workers in Santa Fe, and account for nearly 11,000 jobs. The purpose of these discussions was to discuss whether the living wage was achieving its initial goals, and, if not, how it could be adjusted to do a better job, without causing economic harm to the city's employers or its economy.

Several shared findings emerged from those discussions. First, most representatives agreed that the current impact of the $15/hour living wage is limited. Many employers are already paying more than the living wage for entry level workers and have been doing so for some time. For example, data from the hospitality industry in 2022 indicated that average wages for hotel reservations agents were $19/hour, lead cooks $18/hour, line cooks $16/hour, food/beverage supervisors $17/hour, employee cafeteria cooks $16/hour, laundry attendants $15.50/hour, and retail clerks $16.25/hour.

A second widely shared comment was that the overall U.S. economy is currently experiencing wide-spread uncertainty. While Santa Fe's economy is steady and strong, economic and trade policies coming out of Washington, D.C. have business leaders concerned that decision-making with regard to their companies is increasingly challenging. Until the macro-economic environment becomes clearer, it is difficult for them to make informed decisions about their business plans.

Nexus Between Living Wages and Housing Costs

Housing costs are the single largest cost burden for low-wage workers in Santa Fe. Over the past 25 years, Santa Fe Market Rent (FMR) levels have consistently trended upward faster than general inflation in the Western United States. While efficiency units have seen the highest annual average increase at 4.7%, a two-bedroom unit (the most widely used

benchmark for housing affordability) has increased at an average of 3.4% per year. The average regional Consumer Price Index (CPI-W) has increased 2.7% annually since 2000.

This suggests that, on average, housing costs in Santa Fe have typically grown 0.7% faster than inflation. Between 2023 and 2024, two-bedroom rents surged by 22.9%, far outpacing the CPI-W increase of just 2.8%. Median incomes in the city have risen 36% since 2016; rents have increased 74%, and home prices by 80% according to housing data from the Santa Fe Forward general plan assessment.

While there are some outliers, such as 2012 and 2016, two years in which Santa Fe experienced rent declines, the data show that indexing the living wage solely to the CPI-W underestimates the actual cost pressures faced by renters in Santa Fe.

One of the consequences of high rental costs in Santa Fe is the displacement of workers to more affordable communities. Simply put, people who work in Santa Fe cannot afford to live in Santa Fe. More than one-third of those employed in Santa Fe live outside the county in more affordable areas, such as Rio Rancho and Espanola, and commute to Santa Fe. According to Zillow, the average rent in Santa Fe is approximately $2,114 per month for a two-bedroom apartment. The H.U.D. definition of being rent burdened is spending more than 30% of gross income on housing. By this definition, one-third of all households in Santa Fe are rent burdened, especially those working in the hospitality, education, and social service professions. Even households with two incomes cannot afford to buy the average single-family home in Santa Fe.

Using the 30% guideline, a worker in Santa Fe would need to earn on the order of $25-30/hour in full-time, year-round employment to afford these rents. An analysis by the National Low Income Housing Coalition found that the wages necessary to afford a modest rental are roughly $25.33/hour for a one-bedroom and $29.52/hour for a two-bedroom unit.

The gold standard for living wage calculations is the M.I.T. Living Wage Calculator. It indicates the hourly rate that an individual in a household must earn to support themselves and/or their family working full time or 2,080 hours per year. In Santa Fe, the M.I.T. living wage calculator calls for $24.42/hour for a family with no children, $43.67/hour for a family with one child, $56.30/hour for a family with two children, and $72.66/ hour for a family with 3 children.

Housing Supply and Demand

Clearly, Santa Fe cannot realistically expect to close the gap between what entry-level wage earners make and what is needed for reasonable housing costs strictly through raising the living wage. That would pose an extreme hardship on businesses in Santa Fe that contribute

the most to the community and would lead to layoffs and unemployment. However, increasing the living wage and adding to the city's housing stock, when combined as a two-pronged strategy, can begin to narrow the gap between what people can afford and what the housing market has to offer. Supply and demand in the housing market does play a critical role in making it more possible for Santa Fe to retain its diverse population and make it affordable for those who work in Santa Fe to live in Santa Fe.

According to a 2025 study included in the Santa Fe Forward general plan assessment, the city is projected to need 3,270 new housing units by 2050 to meet expected population growth, including 1,309 rental units and 1,961 ownership units. This is approximately 133 units per year needed just to keep up with new housing demand. Most of this demand will occur before 2040; it does not take into account the current housing shortfall.

Santa Fe Forward finds that the majority of Santa Fe's lower and moderate-income households (those earning less than the median income of $70,000) are priced out of most home ownership opportunities in the city. There is also a deficit in rental units to serve the number of low-income households in Santa Fe; notably, as a result recent housing construction trends have favored rental apartments rather than single-family homes.

Housing production in Santa Fe decreased after the 2008 recession but has since rebounded. There has been a dramatic uptick in multifamily construction in recent years, with 407 to 840 units per year permitted since 2018, partially due to regulatory changes to the Santa Fe Homes Program which improved development feasibility and offered developers additional ways to meet the inclusionary zoning requirements.

The city is currently experiencing an increase in housing development. Tierra Contenta Phase 3 and the housing development called for in the Midtown Master Plan will account for several thousand new units in those two areas alone. In addition, there are several large multi-family projects of over 300 units currently under construction. Altogether, there are more than 2,500 multifamily units currently under construction and nearly 4,000 more multi-family units in the pipeline, as well as several hundred single family units.

The significant influx of new apartments in the past few years has slowed rent increases. For example, data show that early 2025 rents have risen only about ½% above rents from a year ago. At this pace, rent growth will likely remain limited for several years as new units are completed and occupied. This is a positive trend for rent affordability.

However, while it may indicate a slow-down in the rate at which rents increase, it does not reduce the still sizable gap between what people bring home in their paychecks, and how much they have to spend on housing. That fundamental problem awaits another positive measure, this time adjusting the living wage.

New Housing Affordability

The supply of housing of all types has been and must be a part of any solution designed to help those who work in the city to live in the city. On the supply side, the City has implemented a variety of housing policies to increase the affordability of the new housing units for low-middle income workers. These include:

-The Governing Body proposed, and Santa Fe voters overwhelmingly approved a 3% excise tax on the sale of homes over $1 million, with the proceeds going into the City's Affordable Housing Trust Fund. That provision, which, according to some estimates could yield $7 million per year in new support for affordable housing, is currently being litigated in the New Mexico Courts of Appeals.

- Inclusionary zoning in the Santa Fe Homes program, requires housing developments of more 10 units to provide a percentage of affordable homes in exchange for density bonuses and fee reductions.

-The Governing Body has allocated $3 million per year for the Affordable Housing Trust Fund to provide support a variety of programs aimed at addressing the housing needs of low-income residents.

-Developers can benefit from a variety of incentives for building affordable units, including fee waivers in some cases. The city provides water rights to developers building affordable units, another valuable incentive.

-The City uses Community Development Block Grant (CDBG) funds to fund emergency homeless shelters and services, mortgage reduction loans and renovation and construction of homes for low-income residents.

-In addition, the Santa Fe Civic Housing Authority and Santa Fe County Housing Authority provide roughly 1,300 housing choice vouchers and 750 units of housing to low-income residents in the city.

The Living Wage Ordinance Reform Proposal

Based on discussions with various stakeholders, staff analysis and research performed by economist Reilly S. White, Associate Dean of the Anderson School of Management at the University of New Mexico, Mayor Webber recommends the following changes to the current ordinance:

-Raise the living wage to $17.50/hour in early 2027. Approving the adjustment but delaying its implementation until 2027 allows employers time to prepare for the increase and navigate the current economic uncertainty.

-Continue to include income from tips in calculating the living wage as is currently provided in the Living Wage ordinance. Nonprofit organizations whose primary source of funds is from Medicaid remain exempted. The value of health care and/or childcare benefits continues to count in the calculation of wages paid to employees.

-Following the implementation of the new $17.50/hour living wage, adjust the formula for calculating the annual increase. Rather than using only the Western Region CPI, the new formula would also include the H.U.D Fair Market Rent for a 2-bedroom unit in Santa Fe, combining the two figures on a 50-50 basis. The purpose of adding in the H.U.D Fair Market Rent is to acknowledge the primary role that housing plays in the high cost of living in Santa Fe. Combining the CPI with the Fair Market Rent more accurately addresses the fundamental challenge workers face in being able to live in Santa Fe. The Fair Market Rent figure is published by the U.S. Department of Housing and Urban Development, and is Santa Fe specific and publicly available.

-Cap any annual increase in the living wage at 5% and prohibit any decrease in the living wage if housing costs should dip dramatically in any given year. Historical data suggest that living wage growth will fall within the 2-4% range. The 5% cap would be triggered only in rare years. Similarly, the floor would only apply in deep deflationary cycles.

Year	10th pct (0.00%)	50th pct (2.6%)	90th pct (5.0%)
2025	$15.00	$15.00	$15.00
2026	$15.00	$15.00	$15.00
2027	$17.50	$17.50	$17.50
2028	$17.50	$17.96	$18.38
2029	$17.50	$18.42	$19.29
2030	$17.50	$18.90	$20.26
2031	$17.50	$19.39	$21.27
2032	$17.50	$19.90	$22.33
2033	$17.50	$20.41	$23.45
2034	$17.50	$20.94	$24.62
2035	$17.50	$21.49	$25.86

This chart indicates that the most likely scenario based on historical CPI increases and housing growth is that the proposed living wage will grow at 2.6% per year. If there is little or no inflation and little to no rent increases over the next ten years, the living wage will remain at $17.50/hour. If both rise significantly over the next decade, the annual living wage increase is capped at 5% per year.

Conclusion

Santa Fe's future depends on many factors—none more important than policies that guide who lives here now and in the future. Much of the unique character of Santa Fe derives from the composition of our community. Santa Fe has always been a diverse place, with some families tracing their roots back for many generations and others proud to be new arrivals. The city depends on workers in a variety of jobs and industries whose labor makes the economy go; it also has retirees who contribute their time as volunteers and their support to worthy causes.

Keeping that blend of people through increased housing opportunities and updated living wage—a key population strategy for Santa Fe—will play a critical role in the city's future, its character, its distinctive culture, its quality of life, and its sense of place and livability.

A population strategy has many components, but none is more important than the combination of affordable housing and a living wage.

As this memo lays out, there is a gap between what it costs to live in Santa Fe and what people who work in Santa Fe are paid. The living wage ordinance, adopted in 2002, displayed foresight and courage in addressing what was already seen as a gap back then. In the last 23 years, the gap has grown wider, forcing more working Santa Feans to leave the city where they work and have roots, and relocate to less expensive communities. There are numerous negative consequences—economic, social, and more—of allowing that long-standing trend to continue, not the least of which are the losses of diversity and community continuity in Santa Fe.

Data suggests that City policies on the supply side have had some impact on the cost of rental units in Santa Fe. More production, particularly of multi-family rental units, will continue to have meaningful impact on the reduction of rental costs. The next step is to make an adjustment to the living wage.

This proposal increases the living wage $17.50/hour after a one-year period for planning and observation. It maintains the existing provisions for exceptions. It creates a new blended formula for calculating any annual increase, using both the Consumer Price Index and Fair Market Rent data specific to Santa Fe, a reflection of the key role that housing costs play in what constitutes a living wage. It caps any increase at 5%, guarding against an untenable increase for employees, and establishes a floor of 0% preventing the living wage from going down in the case of an economic crisis.

This two-pronged strategy represents another commitment of the City to address the needs of both employees and employers and puts the City on record as supporting a strategy that will keep Santa Fe, Santa Fe when it comes to who lives and works our the city.



What Should a Living Wage Look Like in Santa Fe?

Five Potential Scenarios

FY 2025 - 2026

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Executive Summary

Santa Fe policymakers are considering a set of options to raise and index the city's minimum wage to better reflect local cost-of-living pressures, particularly driven by rising housing costs. The city's socio-economic fabric is under severe strain as housing affordability lags far behind wages, creating the risk that working families who wish to make Santa Fe their long-term home will be priced out. If this trend continues, Santa Fe could see the gradual displacement of its core workforce, undermining the diversity and stability that define the community. This report evaluates five indexing scenarios to guide that decision, combining historical data modeling, policy mechanics, and practical implementation strategies. Each scenario explores a different approach to annual minimum wage adjustments—including inflation-only, housing-based, blended indices, and capped/floored models.

Summary of Modeled Scenarios

- Scenario A: *CPI-Only Escalator*
  Adjusts annually using Western Region CPI-W. Median wage projected to rise from $15.00 in 2025 to $18.89 by 2034. In high-inflation conditions (90th percentile), the wage reaches $21.81; in low-growth years, only $16.87. Offers stability but fails to address rent pressures.

- Scenario B: *Housing-Only Escalator*
  Pegs wage growth to HUD two-bedroom FMR. Highly volatile. Median projection: $18.90 by 2034, but in a high-rent trajectory, it could reach $38.37—more than double Scenario A. In low-growth years, it drops to $12.97. Strong housing link, but risky without caps.

- Scenario C: *Blended Index (CPI-W + Rent)*
  Equal weighting of CPI and FMR. Aims to reflect general inflation *and* local rent dynamics. Median 2034 projection: $18.89, with a plausible range of $14.80–$28.82 depending on percentile. Balanced but introduces complexity and potential for volatility.

- Scenario D: *Blended Index + $17.50 Floor + 5% Cap*
  Same blended index as Scenario C, but with a starting floor and annual growth ceiling. Median outcome: $20.94 by 2034; upper bound capped at $24.62, even in extreme inflationary environments. Offers stability, fairness, and predictability for workers and employers alike.

- Scenario E: *Phased Path to $17.50, Then Blended Index*
  Raises wage to $17.50 by 2028, then indexes using the blended method. Median projection: $20.42 by 2034. High-end scenario yields $32.72; lower bound remains at $17.50. Provides a gradual on-ramp and long-term responsiveness, but lacks a cap or floor.

Interpretation & Tradeoffs

Wage indexing is a strategic shift—from political discretion to predictable, formula-based adjustments. It enhances transparency and reduces administrative burden. Yet the choice of index (CPI, housing, or both) and the use of guardrails (floors/caps) have profound consequences.

- **Scenario A** is the most stable, but least responsive to local housing cost surges.
- **Scenario B** aligns wages with affordability, but may whipsaw employers year to year.
- **Scenario C** moderates that volatility, blending housing pressure and general inflation.
- **Scenario D** refines Scenario C by anchoring expectations through bounds—widely used in other jurisdictions.
- **Scenario E** offers a smooth transition path to reform, delaying indexing until wages reach $17.50, then allowing future flexibility.

Most years, historical data suggests that growth will fall within the 2%–4% range. However, the 5% cap in Scenario D would only be triggered in rare years—and likewise, the $17.50 floor would only bind in deep deflationary cycles.

Structural Reality: Indexing Alone Won't Solve Housing

While indexing the minimum wage offers a fairer path to wage growth and cost-of-living alignment, it does not address the root cause of Santa Fe's affordability crisis: inadequate housing supply. Over the past decade, demand has outpaced construction due to restrictive zoning, labor and material costs, underbuilt infill areas, and lengthy permitting timelines that reflects a small part of a broader, national issue. The result is rising rents, pushing working families to the margins.

Minimum wage reform, even at its most progressive, addresses symptoms—not causes—of this broader economic dysfunction. A durable affordability strategy must pair income indexing with structural housing reforms that increase production of all kinds of housing.

In conclusion, an indexed minimum wage (particularly one blending inflation and rent data) can enhance stability, support workers, and offer employers predictability. But for lasting change, it must be one part of a broader economic toolkit.

Introduction to Methodologies

'I contend that the controversies over the economics of minimum wages stem from an assumption that when studying labor markets, output prices and nonwage aspects of jobs can be taken as fixed.' – Jeffery Clemens PhD

Public debates on the minimum wage often center on whether raising it will reduce employment. However, focusing solely on short-term job losses oversimplifies how employers adapt to higher labor costs. The reality is more nuanced.

Research increasingly shows that rather than immediately cutting jobs, employers respond in multiple ways—by increasing performance expectations, expanding job duties, reducing hours, limiting flexibility, or shifting hiring toward older, more experienced workers (Clemens, p59). In one study of a $2 increase in Seattle's minimum wage, total hours worked in low-wage jobs declined by 6–7%, even though the number of jobs remained relatively stable (Jardim et al. p2). Another study found that 90% of fast-food managers raised performance standards after a wage hike (Hamdi, Sovich, p1). Furthermore, reductions in employer-provided health insurance have been shown to offset at least 10% of wage gains in low-income jobs (Davis, p1). These changes reflect a more complex adjustment process that goes beyond headcount—affecting the nature of work itself, how workers are managed, and who gets hired.

At the national level, benefit reductions offset at least 10% of wage gains for low-income workers between 2011–2016 (Bossler, Shank, p121). Minimum wage impacts play out slowly: businesses often don't fire, but reduce hiring. Many that end up adopting some form of operational changes—like automation, kiosk systems, or tighter scheduling—take years to fully implement. However, wage compression (e.g., pay differences between new hires and experienced veterans) can reduce morale if not addressed.

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What This Means for Santa Fe's Policy Design

For Santa Fe, the economic effects of a higher minimum wage—especially an increase to $17.50 per hour—are unlikely to result in widespread job loss in the short term, particularly if introduced alongside clear indexing rules. However, the city should anticipate gradual adjustments in how businesses operate and who they hire. Small employers, especially in hospitality or retail, may respond by seeking more productive workers, compressing roles, reducing employee hours, or limiting non-wage benefits. Over time, these shifts may disproportionately affect younger workers, those

without formal credentials, or individuals with limited work experience. Policymakers can mitigate these risks by ensuring predictability—through an indexed formula with a wage floor and annual cap—and by offering complementary support for businesses, such as workforce training incentives or implementation guidance. Recognizing that wage increases often reshape labor markets gradually, not immediately, helps align economic justice goals with long-term business resilience.

Indexing the Living Wage: Blending CPI and Housing Costs

To ensure that the minimum wage keeps pace with the real cost of living in Santa Fe, policymakers are increasingly turning to indexed wage adjustments. Rather than rely on periodic legislative changes, an indexed wage automatically adjusts each year based on a published economic indicator. This approach provides predictability for businesses and stability for workers, while reducing administrative burden on city staff and elected officials.

Two of the most common indexing methods are:

- **Consumer Price Index (CPI):** Specifically, the Western Region CPI-W (for Urban Wage Earners and Clerical Workers) reported by the U.S. Bureau of Labor Statistics. This index reflects inflation in goods and services such as food, transportation, and medical care across 13 Western states. From 2018 to 2024, CPI-W for the region has averaged approximately 3.2% annually https://www.bls.gov/regions/west/news-release/consumerpriceindex_west.htm

- **Housing Cost Indices:** The most relevant for Santa Fe is HUD's Fair Market Rent (FMR) for a one-bedroom apartment in Santa Fe County. This is used to determine housing vouchers and reflects market rental costs for modest housing. In FY2026, HUD set the FMR for a 2-bedroom unit at $1,685/month—up 3.6% from the previous year [HUD FMR Data].

Given that housing is the single largest cost burden for low-wage workers in Santa Fe, and has outpaced general inflation for years, several of the following scenarios incorporate a blended index. A blended approach typically combines CPI-W with a housing index (e.g., 50/50), offering a more complete measure of economic strain. To maintain transparency, the city could anchor this formula in published federal data and update it each January, mirroring practices in other jurisdictions.
In this report, five illustrative indexing scenarios are modeled, including CPI-only, housing-only, and blended escalators—with additional options that apply caps, floors, and phasing to reflect real-world policy needs.

Year	HUD Fair Market Rent									
	Efficiency	% Change	One-Bedroom	% Change	Two-Bedroom	% Change	Three-Bedroom	% Change	Four-Bedroom	% Change
2025	$ 1,235	5.5%	$ 1,368	3.9%	$ 1,627	6.0%	$ 2,057	4.9%	$ 2,157	5.5%
2024	$ 1,171	23.0%	$ 1,317	21.2%	$ 1,535	22.9%	$ 1,960	22.7%	$ 2,044	15.2%
2023	$ 952	13.1%	$ 1,087	11.5%	$ 1,249	12.2%	$ 1,597	12.5%	$ 1,775	2.7%
2022	$ 842	4.7%	$ 975	3.7%	$ 1,113	3.9%	$ 1,419	4.1%	$ 1,729	10.1%
2021	$ 804	0.2%	$ 940	1.3%	$ 1,071	1.3%	$ 1,363	-0.9%	$ 1,571	2.4%
2020	$ 802	-2.0%	$ 928	0.0%	$ 1,057	-1.1%	$ 1,376	-2.1%	$ 1,534	-1.1%
201G	$ 818	5.7%	$ 928	8.7%	$ 1,069	6.3%	$ 1,406	5.4%	$ 1,551	7.0%
2018	$ 774	-4.0%	$ 854	-2.7%	$ 1,006	-4.0%	$ 1,334	-4.2%	$ 1,449	-1.9%
2017	$ 806	11.5%	$ 878	12.3%	$ 1,048	11.1%	$ 1,392	11.2%	$ 1,477	12.4%
2016	$ 723	-2.2%	$ 782	-2.7%	$ 943	-1.0%	$ 1,252	-2.0%	$ 1,314	-3.8%
2015	$ 739	-0.4%	$ 804	-0.4%	$ 953	-0.4%	$ 1,278	-0.4%	$ 1,366	-0.4%
2014	$ 742	-1.9%	$ 807	-1.9%	$ 957	-1.9%	$ 1,283	-1.9%	$ 1,372	-1.9%
2013	$ 756	29.7%	$ 823	13.8%	$ 976	10.9%	$ 1,308	13.5%	$ 1,399	1.6%
2012	$ 583	-9.8%	$ 723	-9.7%	$ 880	-9.7%	$ 1,152	-9.6%	$ 1,377	-9.6%
2011	$ 646	0.8%	$ 801	0.8%	$ 974	0.7%	$ 1,275	0.7%	$ 1,524	0.7%
2010	$ 641	4.2%	$ 795	4.2%	$ 967	4.2%	$ 1,266	4.2%	$ 1,513	4.2%
200G	$ 615	4.9%	$ 763	5.0%	$ 928	5.0%	$ 1,215	5.0%	$ 1,452	5.0%
2008	$ 586	1.4%	$ 727	1.4%	$ 884	1.4%	$ 1,157	1.4%	$ 1,383	1.3%
2007	$ 578	3.4%	$ 717	3.5%	$ 872	3.4%	$ 1,141	3.4%	$ 1,365	3.5%
2006	$ 559	4.7%	$ 693	4.8%	$ 843	3.1%	$ 1,103	6.3%	$ 1,319	21.0%
2005	$ 534	16.8%	$ 661	2.3%	$ 818	2.5%	$ 1,038	-3.2%	$ 1,090	-10.2%
2004	$ 457	0.4%	$ 646	0.3%	$ 798	0.4%	$ 1,072	0.4%	$ 1,214	0.3%
2003	$ 455	2.7%	$ 644	2.5%	$ 795	2.6%	$ 1,068	2.6%	$ 1,210	2.7%
2002	$ 443	3.5%	$ 628	3.5%	$ 775	3.5%	$ 1,041	3.5%	$ 1,178	3.4%
2001	$ 428	1.2%	$ 607	1.2%	$ 749	1.1%	$ 1,006	1.1%	$ 1,139	1.2%
2000	$ 423		$ 600		$ 741		$ 995		$ 1,126	
Average Increase		4.7%		3.5%		3.4%		3.1%		2.8%
Median Increase		3.4%		2.5%		2.6%		2.6%		2.4%

Over the past 25 years, Santa Fe's Fair Market Rent (FMR) levels have consistently trended upward, often rising faster than general inflation in the Western United States. While efficiency units have seen the highest average annual increase at 4.7%, the two-bedroom unit—the most commonly used benchmark for housing affordability—has increased at an average rate of 3.4% per year, compared to a 2.7% average annual increase in the regional Consumer Price Index (CPI-W). This suggests that housing costs in Santa Fe have typically grown 0.7 percentage points faster than inflation, on average. In recent years, the disparity has widened. Between 2023 and 2024, two-bedroom rents surged by 22.9%, far outpacing the CPI-W increase of just 2.8%. The volatility is striking: some years, such as 2012 and 2016, experienced modest rent declines, but these are exceptions in a long-term trend of rising costs. However, when using the median annual increase (50th percentile) rather than the average, rents for two-bedroom units rose by 2.6 percent, nearly identical to the median CPI-W inflation rate of 2.6 percent.

These data points reinforce a critical insight: indexing the minimum wage solely to CPI-W will likely underestimate the actual cost pressures faced by renters in Santa Fe, particularly in the housing market. While efficiency and one-bedroom units show even higher rates of increase, using the two-bedroom rent growth as a standard offers a conservative yet representative benchmark for policy

modeling. The historical record supports the consideration of a blended or housing-weighted escalator, rather than relying on CPI alone. Below, we include a table that compares the HUD Fair Market Rent with the CPI in the Western Region:

Year	HUD Fair Market Rent Two-Bedroom	% Change	CPI (Western Region) Index	% Change
2025	$ 1,627	6.0%		
2024	$ 1,535	22.9%	332.9	2.8%
2023	$ 1,249	12.2%	323.8	4.3%
2022	$ 1,113	3.9%	310.5	8.0%
2021	$ 1,071	1.3%	287.5	4.5%
2020	$ 1,057	-1.1%	275.1	1.7%
201G	$ 1,069	6.3%	270.4	2.7%
2018	$ 1,006	-4.0%	263.3	3.3%
2017	$ 1,048	11.1%	254.7	2.8%
2016	$ 943	-1.0%	247.7	1.9%
2015	$ 953	-0.4%	243.0	1.6%
2014	$ 957	-1.9%	239.1	1.3%
2013	$ 976	10.9%	236.1	1.8%
2012	$ 880	-9.7%	232.0	1.7%
2011	$ 974	0.7%	228.1	2.7%
2010	$ 967	4.2%	222.1	1.3%
200G	$ 928	5.0%	219.3	2.2%
2008	$ 884	1.4%	214.7	0.0%
2007	$ 872	3.4%	214.7	4.1%
2006	$ 843	3.1%	206.2	3.1%
2005	$ 818	2.5%	200.0	3.0%
2004	$ 798	0.4%	194.2	3.1%
2003	$ 795	2.6%	188.3	1.5%
2002	$ 775	3.5%	185.5	2.1%
2001	$ 749	1.1%	181.6	2.5%
2000	$ 741		177.1	

Over the past 25 years, Santa Fe's two-bedroom Fair Market Rent (FMR) has shown a consistent upward trend, but with far more volatility than broader measures of inflation like the Consumer Price Index for the Western Region (CPI-W). While both metrics show a median annual increase of 2.6%, the average increase in FMR—at 3.4%—outpaces the CPI-W average of 2.7%, suggesting housing costs have generally risen faster than overall prices. What's more important, however, is the range: two-bedroom rents have fluctuated between a low of –9.7% (2012) and a high of +22.9% (2024), a span of more than 32 percentage points. CPI-W, in contrast, has moved within a much narrower band, from 0.0% to 8.0%.

This volatility in rents, especially in recent years, underscores the mismatch between using a CPI-only escalator and the lived experience of renters in Santa Fe. The steep increases post-pandemic—22.9% in 2024 and 12.2% in 2023—illustrate how quickly housing costs can shift in response to market pressure, even as CPI-W remains relatively stable. If the goal of indexing the minimum wage is to preserve purchasing power, particularly in housing, then anchoring solely to CPI-W likely understates the burden on renters. A blended or housing-weighted index may provide a more accurate and more equitable long-term policy.

Scenario A: CPI-Only Escalator

Under Scenario A, the City of Santa Fe would annually adjust the minimum wage based solely on the Western Region Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), as published by the U.S. Bureau of Labor Statistics. This index is a well-established national measure of inflation, frequently used in federal benefit programs such as Social Security. In this model, each July, the city would apply the percentage change in the previous calendar year's CPI-W to set the new minimum wage. For example, if the CPI-W increased by 2.6% in 2025, the 2026 minimum wage would be raised accordingly.

How It Works:

- **Adjustment Basis**: Annual change in CPI-W (Western Region), typically around 2–3% per year.
- **Implementation Timeline**: Data from the previous calendar year would inform wage changes effective each **July 1**.
- **Administrative Lead**: The City's Economic Development Department or a designated office would:
    - Pull CPI-W data (already published by BLS).
    - Calculate the new rate using a simple formula.
    - Issue public notice by May or June to allow employer planning.

Based on historical CPI-W data for the Western Region from 2000 to 2025, annual changes have averaged 2.7% with a median of 2.6%. Percentile-based modeling suggests a potential range of minimum wages over the next decade, starting from $15.00 in 2025 and reaching approximately $18.89 by 2034 at the median growth rate. In high inflation years (90th percentile), this could climb as high as $21.81, while in lower growth periods (10th percentile), the wage might only reach $16.87. This provides policymakers with a stable growth trajectory, minimizing the risk of large year-over-year spikes that could destabilize small business operations.

Year	10th pct (1.3%)	25th pct (1.7%)	50th pct (2.6%)	75th pct (3.1%)	90th pct (4.2%)
2025	$15.00	$15.00	$15.00	$15.00	$15.00
2026	$15.20	$15.26	$15.39	$15.47	$15.63
2027	$15.40	$15.52	$15.79	$15.95	$16.29
2028	$15.61	$15.78	$16.20	$16.45	$17.00
2029	$15.81	$16.05	$16.62	$16.96	$17.75
2030	$16.02	$16.32	$17.06	$17.49	$18.50
2031	$16.23	$16.60	$17.50	$18.03	$19.28
2032	$16.44	$16.88	$17.96	$18.58	$20.09
2033	$16.65	$17.17	$18.42	$19.15	$20.93
2034	$16.87	$17.46	$18.89	$19.73	$21.81

Pros:

- **Simplicity & Transparency**: Easy to understand and administer; no new data collection needed.
- **Predictability for Employers**: Allows for budget forecasting and minimizes wage shocks.
- **Alignment with Federal Practices**: Matches the escalation method used in Social Security and federal benefits.

Cons:

- **Housing Mismatch**: CPI does **not directly reflect local housing costs**, which are rising faster than inflation in Santa Fe.
    - Example: In 2024, CPI increased by **2.8%**, while **two-bedroom rents rose 22.9%**.
- **Wage Lag Risk**: Could leave minimum wage workers behind in high-cost years, particularly renters.

While this model provides operational ease and fiscal restraint, it may fall short in addressing affordability in Santa Fe's housing-constrained market. If adopted, it should include a periodic review clause or be paired with other wage or housing interventions to ensure real earnings keep pace with local conditions.

In sum, a CPI-only escalator provides Santa Fe with a clear, low-cost mechanism for updating the minimum wage in line with national inflation. Its predictability benefits both workers and businesses, offering year-ahead wage expectations and avoiding economic shocks. Yet, its simplicity also represents its greatest limitation: it assumes that general price inflation is a sufficient proxy for local affordability, particularly housing. Policymakers adopting this approach may wish to revisit its adequacy regularly—or consider hybrid models that blend CPI with housing-based indicators to better reflect Santa Fe's cost dynamics.

Scenario B: CPI-Only Escalator

Under Scenario B, the City of Santa Fe would adjust its minimum wage annually based on changes in the Fair Market Rent (FMR) for two-bedroom apartments, as reported by the U.S. Department of Housing and Urban Development (HUD). FMR is a robust measure of housing costs used to determine federal rental assistance levels, and is particularly relevant in high-cost markets like Santa Fe, where rent constitutes a significant share of household expenses for low-wage workers. This model directly links wage increases to housing affordability, responding to one of the most pressing economic challenges in the city.

Each July, the city would apply the percentage change in the most recently published two-bedroom FMR to update the minimum wage. For example, if FMR increased by 3.4% in the prior year, the minimum wage would increase by that same amount.

How It Works:

- **Adjustment Basis**: Annual change in HUD two-bedroom Fair Market Rent (Santa Fe County), with a historical median of 2.6% and average of 3.4%.
- **Implementation Timeline**: HUD releases FMR data early each year; new wage would take effect July 1.
- **Administrative Lead**: The City's Economic Development Department or designee would:
    - Retrieve HUD FMR data (publicly available).
    - Calculate the percentage change from the prior year.
    - Announce new wage by May or June to allow business planning.

Based on historical HUD FMR data from 2000 to 2025, the annual increase has varied substantially, ranging from –9.7% to +22.9%, with significant volatility in the past decade. Modeling percentile-based forecasts yields the following wage trajectories over the next decade, beginning at $15.00 in 2025:

Year	10th pct (-1.6%)	25th pct (0.4%)	50th pct (2.6%)	75th pct (5.0%)	90th pct (11.0%)
2025	$15.00	$15.00	$15.00	$15.00	$15.00
2026	$14.76	$15.06	$15.39	$15.75	$16.65
2027	$14.52	$15.12	$15.79	$16.54	$18.48
2028	$14.29	$15.18	$16.20	$17.36	$20.51
2029	$14.06	$15.24	$16.62	$18.23	$22.77
2030	$13.84	$15.30	$17.05	$19.14	$25.28
2031	$13.62	$15.36	$17.50	$20.10	$28.06
2032	$13.40	$15.43	$17.95	$21.11	$31.14
2033	$13.18	$15.49	$18.42	$22.16	$34.57
2034	$12.97	$15.55	$18.90	$23.27	$38.37

Pros:

- **Affordability Linkage**: Reflects actual local cost of living, especially rent burdens that impact low-income households most directly.
- **Data Integrity**: HUD data is credible, publicly available, and widely used in housing policy.
- **Social Equity**: Ensures minimum wage earners are not left behind in Santa Fe's rent-driven economy.

Cons:

- **Volatility Risk**: FMR data shows wide fluctuations year-to-year, which could make planning difficult for employers.
    - E.g., 22.9% increase in 2024; –9.7% in 2012.
- **Lagged Timing**: FMR reflects past-year rents, potentially causing misalignment with current conditions.
- **Downward Adjustments**: Negative rent growth years could technically reduce the minimum wage unless a floor is legislated.

A housing-based escalator aligns wage growth with Santa Fe's dominant affordability issue: housing. It offers a progressive mechanism to ensure that the minimum wage keeps up with living costs faced by renters, particularly low-income families. However, this model introduces volatility—wages may rise steeply in some years and stagnate or even drop in others. For long-term implementation, the City should consider adding guardrails, such as minimum and maximum adjustment caps (e.g., no more than 8%, no less than 1% per year), or multi-year averaging to stabilize swings.

In high-growth scenarios, this model could result in a minimum wage exceeding $38.00 by 2034—hugely disruptive to small businesses. Yet in low-rent-growth scenarios, wages could stagnate or fall. For this reason, many jurisdictions using FMR linkages incorporate hybrid models or smoothing mechanisms. In Santa Fe, where housing affordability remains the defining challenge for working families, a housing-based escalator deserves serious consideration—ideally with policy flexibility built in.

Scenario C: Blended Index

Under Scenario C, the City of Santa Fe would annually adjust the minimum wage using a blended index that reflects both general inflation and local housing costs. Specifically, the minimum wage would rise each year based on an equal-weighted average of (1) the annual percent change in the Western Region Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) and (2) the percent change in Santa Fe's HUD Fair Market Rent (FMR) for a two-bedroom unit. This approach attempts to capture both the broad cost of living and the acute pressure of housing affordability, which is a major concern for Santa Fe residents.

How It Works:

- **Adjustment Basis**: 50% annual change in CPI-W (Western Region) + 50% annual change in Santa Fe FMR (2-bedroom unit).
- **Implementation Timeline**: Changes take effect each July 1, based on finalized data from the previous calendar year.
- **Administrative Lead**:
    - The City's Economic Development Department (or designated body) would:
        - Collect CPI-W data from the U.S. Bureau of Labor Statistics.
        - Pull HUD Fair Market Rent data from the U.S. Department of Housing and Urban Development.
        - Average the percentage increases of both indices.
        - Apply the result to the current wage and publish the new rate by May or June.

Historical data suggests a wide range of possible outcomes for a blended CPI-rent index. Annual increases have ranged from slight declines (10th percentile: -0.15%) to sharp spikes (90th percentile: 7.6%). The median growth rate is 2.6%, with moderate scenarios (25th–75th percentiles) between 1.05% and 4.05%, reflecting typical inflation and rent trends. Based on these, a minimum wage starting at $15.00 in 2025 could evolve over the next ten years as shown:

Year	10th pct (-0.14%)	25th pct (1.06%)	50th pct (2.6%)	75th pct (4.04%)	90th pct (7.6%)
2025	$15.00	$15.00	$15.00	$15.00	$15.00
2026	$14.98	$15.16	$15.39	$15.61	$16.14
2027	$14.96	$15.32	$15.79	$16.24	$17.37
2028	$14.93	$15.48	$16.20	$16.90	$18.69
2029	$14.91	$15.64	$16.62	$17.58	$20.11
2030	$14.89	$15.80	$17.06	$18.29	$21.63
2031	$14.86	$15.97	$17.50	$19.02	$23.26
2032	$14.84	$16.13	$17.96	$19.78	$25.00
2033	$14.82	$16.30	$18.42	$20.57	$26.85
2034	$14.80	$16.47	$18.89	$21.38	$28.82

Pros:

- **More Accurate Reflection of Costs**: Better aligns with local economic realities by including housing costs—Santa Fe's largest cost driver.
- **Balanced Approach**: Mitigates CPI-only lag without fully tying wages to volatile rent increases.
- **Data Availability**: Both CPI-W and FMR data are updated annually by federal agencies.

Cons:

- **Complexity**: Requires multiple datasets and more detailed annual calculations.
- **Volatility Risk**: If FMR rises sharply in a single year, the combined index may still jump noticeably.
- **Uncertain Long-Term Behavior**: If either CPI or FMR shifts structurally (e.g., post-pandemic rent surges), future wages may deviate from expectations.

This model provides a more grounded wage adjustment for Santa Fe, especially for renters, who are disproportionately affected by housing cost spikes. Yet it also introduces complexity in explanation and forecasting. To address this:

- Pair the blended escalator with a guardrail policy—capping annual changes (e.g., no more than 8% per year) or implementing smoothing mechanisms (e.g., three-year moving averages).
- Monitor for wage compression or displacement, especially in businesses with tight margins

Scenario D: Blended with a New Wage Floor ($17.50) and Cap (5%)

Scenario D builds upon the blended index model by incorporating two additional guardrails: a wage floor of $17.50/hour beginning in 2026, which sets the **proposed higher** minimum wage as a starting point, and an annual escalation cap of 5.0%, which limits sharp increases in any given year. This model uses a hybrid of the Western Region CPI-W and HUD two-bedroom Fair Market Rent increases to calculate wage adjustments, reflecting both inflation and local housing pressures. However, it prevents wage drops during deflationary years and avoids economic shocks in volatile inflationary periods.

How It Works:

- **Adjustment Basis:** Same blended index as Scenario C (average of CPI-W and Santa Fe HUD rent growth).
- **Wage Floor:** Starting in 2026, cannot fall below $17.50/hour regardless of inflation or rent changes.
- **Annual Cap:** Increases cannot exceed 5% annually, even in high-cost years.
- **Implementation Timeline:** Annual adjustment effective July 1, using prior year's blended data.
- **Administrative Lead:** City Economic Development Department (or designated office) would:
    - Calculate blended average of CPI-W and HUD rent change.
    - Apply the floor and cap constraints.
    - Announce wage changes by May or June annually.

Under Scenario D, the range of potential wage outcomes from 2025 to 2034 is broad yet carefully managed due to the application of both a floor and a cap. At the lower bound, the 10th percentile—assuming 0.00% blended annual growth—the minimum wage remains unchanged at $17.50 for the entire decade, offering stability during low-inflation or deflationary periods. At the median (50th percentile), where annual blended growth averages 2.6%, wages steadily climb to $22.05 by 2034, aligning with typical historical trends. At the high end, even with compounded 5.0% increases capped each year (90th percentile scenario), wages could reach as high as $24.62 by 2034 in a highly unlikely scenario. This demonstrates the model's ability to respond dynamically to elevated cost pressures while still maintaining a ceiling to avoid sudden burdens on employers. The floor-and-cap design ensures wage progression occurs within a predictable and policy-sensitive range.

Year	10th pct 0.00%	25th pct 1.06%	50th pct 2.60%	75th pct 4.04%	90th pct 5.00%
2025	$15.00	$15.00	$15.00	$15.00	$15.00
2026	$15.00	$15.00	$15.00	$15.00	$15.00
2027	$17.50	$17.50	$17.50	$17.50	$17.50
2028	$17.50	$17.53	$17.96	$18.21	$18.38
2029	$17.50	$17.56	$18.42	$18.94	$19.29
2030	$17.50	$17.58	$18.90	$19.71	$20.26
2031	$17.50	$17.61	$19.39	$20.50	$21.27
2032	$17.50	$17.64	$19.90	$21.33	$22.33
2033	$17.50	$17.67	$20.41	$22.19	$23.45
2034	$17.50	$17.70	$20.94	$23.09	$24.62

Pros:

- **Affordability Assurance:** Protects workers from wage stagnation with a meaningful floor.
- **Volatility Protection:** Prevents 'economic whiplash' for small businesses during high inflation spikes.
- **Balance of Responsiveness and Restraint:** Reflects both housing and inflation pressures while offering fiscal predictability.

Cons:

- **Complexity:** More steps involved in the calculation and communication of annual wage changes.
- **Hard Cap Limitations:** In rare high-cost years, the 5% ceiling could under-adjust relative to real costs.
- **Administrative Attention Needed:** Requires diligence in calculating and publishing blended figures with guardrails annually.

In sum, Scenario D offers a thoughtful compromise between economic responsiveness and policy stability—especially relevant given Santa Fe's proposed $17.50 minimum wage floor. While this floor would likely only be triggered in rare periods of economic stagnation, it ensures that wage erosion does not occur in deflationary years. Similarly, the 5% annual cap acts as a safeguard against extreme year-over-year spikes that could destabilize small businesses—though hitting this upper limit would also be infrequent based on historical data. Most years are expected to fall well within these bounds, allowing for measured, predictable increases that reflect both inflation and housing trends. This model balances worker protections with employer planning needs, offering a durable framework for wage setting through economic uncertainty.

Scenario E: Phased increase to $17.50 by Jan 2027, then indexed

Scenario E proposes a two-step policy: first, a fixed schedule of annual increases raises Santa Fe's minimum wage from $15.00 to $17.50 by January 1, 2027. After this transition period, the wage would be adjusted annually based on a blended index incorporating both CPI-W (Western Region) and local housing cost changes (e.g., HUD Fair Market Rent). This model offers a compromise between immediate cost-of-living adjustments and smoother long-term planning.

Step 1: Phased Increase

- January 1, 2026: $16.00
- January 1, 2027: $16.75
- January 1, 2028: $17.50

Step 2: Blended Index-Based Adjustments (Post-2028)

- Beginning **January 1, 2029**, annual increases are tied to the average growth rate of:
  - The CPI-W (Western Region), and
  - Santa Fe HUD Fair Market Rent for a two-bedroom unit.
- Data from the prior calendar year is used.
- Adjustments are announced by June each year to take effect the following January.

To operationalize this approach, Santa Fe would commit to a clear, stepwise increase in the minimum wage beginning in 2025. Under this scenario, the wage would rise from $15.00 to $16.00 in 2026, reach $16.75 in 2027, and achieve the $17.50 target by 2028. Thereafter, annual adjustments would follow the blended index framework—factoring in both inflation (CPI-W) and local housing costs. This dual mechanism provides both predictability and responsiveness, allowing the wage to evolve with economic conditions while avoiding volatility in the early implementation years. The table below illustrates how the minimum wage might evolve from 2025 through 2034 under different percentile-based growth assumptions drawn from historical data.

	10th pct (0.00%)	25th pct (1.06%)	50th pct (2.6%)	75th pct (4.04%)	90th pct (11.0%)
2025	$15.00	$15.00	$15.00	$15.00	$15.00
2026	$16.00	$16.00	$16.00	$16.00	$16.00
2027	$16.75	$16.75	$16.75	$16.75	$16.75
2028	$17.50	$17.50	$17.50	$17.50	$17.50
2029	$17.50	$17.69	$17.96	$18.21	$19.42
2030	$17.50	$17.88	$18.43	$18.95	$21.56
2031	$17.50	$18.07	$18.91	$19.72	$23.93
2032	$17.50	$18.26	$19.40	$20.52	$26.56
2033	$17.50	$18.45	$19.90	$21.35	$29.48
2034	$17.50	$18.65	$20.42	$22.21	$32.72

Pros:

- **Employer Transition Time:** Gives businesses two full years to adapt to rising labor costs.
- **Clear Schedule:** Reduces uncertainty through 2028 with preset steps.
- **Responsiveness After 2028:** Indexing ensures that wages track local cost of living over time.

Cons:

- **Slow Initial Relief:** Workers may face continued affordability pressure during phase-in.
- **Complex Administration Post-2028:** Dual-index tracking and public communication require capacity.
- **Potential Volatility:** Without a cap or floor, indexing alone may create unpredictable wage swings in outlier years.

This revised Scenario E blends stability with long-term adaptability. By phasing in the wage increases over three years and then tying future adjustments to both inflation and housing costs, it recognizes the lived reality of affordability in Santa Fe while offering employers a measured ramp-up. Unlike Scenario D, this model does not impose a cap or floor on wage growth—an omission that could lead to greater volatility in extreme economic years, particularly if housing costs spike. Yet this openness also reflects a belief in aligning wages more directly with evolving costs. As a transitional framework, Scenario E offers a pragmatic compromise: it delivers near-term wage relief through predictable increases, while laying the groundwork for a responsive, data-driven system that can mature alongside Santa Fe's economy. Whether to introduce caps or additional safeguards remains a key policy question—but this model provides a thoughtful starting point for equitable and sustainable wage setting.

Case Studies

On July 1, 2025, Alaska, Oregon and Washington, D.C. are increasing their minimum wage for almost 900,000 workers. In 2016 Oregon Legislators tied the state's minimum wage floor to the Consumer Price Index - U.S. City Average for All Urban Consumers for All Items presented by the Bureau of Labor Statistics (CPI-W). The policy separates rates for the State, the Portland Metro Area, and Non-Urban Counties. Per the Department of Employment Services Office of Wage and Hour, Washington D.C. will see an increase to its minimum wage floor on July 1, 2025, from $17.50 per hour to $17.95 an hour due to a 2.7% rise of the Consumer Price Index within the Washington Metropolitan Area. Washington D.C. signed its "Fair Shot Minimum Wage Amendment Act" in 2016 which created a minimum wage floor tied to CPI with provisions to increase it further in subsequent years. Chicago, New York City, Portland, California, Connecticut and Washington D.C.'s minimum wages are all projected to surpass $17 an hour by 2027 due to inflation adjustments to minimum wage.

Summer 2025 Locality Minimum Wage Increases

In Summer, 2025, 12 additional cities and localities are increasing their minimum wage with an inflation adjustment ranging from $0.40 to $0.59.

Locality	State	2024 minimum wage	2025 minimum wage	Minimum wage increase	% Increase	Type of increase
Alameda	California	$17.00	$17.46	$0.46	2.71%	Inflation adjustment
Berkeley	California	$18.67	$19.18	$0.51	2.73%	Inflation adjustment
Emeryville	California	$19.36	$19.90	$0.54	2.79%	Inflation adjustment
Fremont	California	$17.30	$17.75	$0.45	2.60%	Inflation adjustment
Los Angeles	California	$17.28	$17.87	$0.59	3.41%	Inflation adjustment
Los Angeles County	California	$17.27	$17.81	$0.54	3.13%	Inflation adjustment
Milpitas	California	$17.70	$18.20	$0.50	2.82%	Inflation adjustment
Pasadena	California	$17.50	$18.04	$0.54	3.09%	Inflation adjustment
San Francisco	California	$18.67	$19.18	$0.51	2.73%	Inflation adjustment
Santa Monica	California	$17.27	$17.81	$0.54	3.13%	Inflation adjustment
Chicago	Illinois	$16.20	$16.60	$0.40	2.47%	Inflation adjustment
Montgomery County	Maryland	$17.15	$17.65	$0.50	2.92%	Inflation adjustment

Data provided by the Economic Policy Institute, June 25, 2025.

Montgomery County, Maryland breaks down the increases by employer size, large employers (51 or more employees) will increase minimum wages by $0.50 to $17.65 an hour, medium sized employers (11-50 employees) by $0.50 to $16 an hour, and small employers (10 or fewer employees) by $0.50 to $15.50 an hour. These increases are based upon the Consumer Price Index for All Urban Wage Earners (CPI-W) in the Washington D.C.- Arlington-Alexandria metro area for the previous calendar year, which was 2.4% in 2024 per the Montgomery County Office of Human Rights. This strategy combines Scenario A and business size. Academic research published in 2022 from the Mannheim Business Panel in Germany studied the effects of increased minimum wages on "microbusinesses" revealed a "minimum wage-induced increase in market exits among microbusinesses with up to four dependent employees" (De Monte et al. 2022).

In Chicago, Illinois, the inflation adjusted increase is applied to businesses with four or more employees, and is based on the Consumer Price Index or 2.5%, whichever is lower, per the Chicago Department of Business Affairs and Consumer Protection. According to the University of California Berkely Labor Center's Inventory of US City and County Minimum Wage Ordinances, Santa Monica, San Francisco, Los Angeles, Los Angeles County, Berkeley, and Alameda increase their minimum wages based upon CPI-W. Pasadena, Milpitas, Fremont, Emeryville are based upon the standard CPI.

Contemporary Research Findings

"How Do Firms Respond to Minimum Wage Increases? Understanding the Relevance of Non-Employment Margins" published in the Journal of Economic Perspectives by Jeffery Clemens in 2021 gives a holistic view of employer responses to changes to the minimum wage. Clemens finds that employers that produce "non-tradable" goods and services face less challenges in adjusting prices in response to an increase in minimum wages (Clemens, p54). Clemens also stipulates that employers

might respond by reducing non-cash benefits to offset the costs of increasing the minimum wage. Research into employer supplied healthcare offerings is sparse as these values are often binary and are not adequately described in terms of quality and comprehension (Clemens 59). Additional non-cash benefits may be reduced as well, schedule flexibility, training opportunities and effort requirements are examples provided by Clemens (p59). Regardless of the employer response, measurable changes to employment, benefits and pass-through are not observable in the short term and continual monitoring is needed.

"The Minimum Wage in Germany: Institutional Setting and a Systematic Review of Key Findings" by Matthias Dütsch, Clemens Ohlert and Arne Baumann published in the Journal of Economics and Statistics in 2025 is a metanalysis of a series of academic research and policy studying the 2015 minimum wage introduction in Germany and subsequent 15% increase on October 1, 2022. The study was heavily impacted by the Covid-19 pandemic. The research posits shifting the theoretical framework from an hourly wage to a monthly wage. A monthly wage is able to capture differences that an hourly wage can not, such as hours worked, schedule flexibility, non-monetary benefits, and productivity. Dütsch et al, cite the Mario Bossler and Thorsten Schank paper titled "Wage Inequality in Germany after the Minimum Wage Introduction" that found "a 10-percentage- point increase in the applicability of the minimum wage caused an increase in monthly wages of approximately 4.4 percent in 2015 and 2016 and approximately 5.4 percent in 2017" (Bossler, Schank, p126).

Dütsch, Ohlert and Baumann, found substantial evidence for short impacts to raising the minimum wage, "Our literature survey shows that existing studies largely find reductions in working time, particularly directly after the introduction and the first increase in the minimum wage" (p128). Further metanalysis found a loss of employment in the year of the minimum wage introduction (2015) but found no effect in the following year, 2016, suggesting a short-term decline of "…0.025 percent in employment for every additional percentage point in the share of minimum wage" (Dütsch et al, p 138). Similarly, a short-term negative impact for investments in businesses was found with no observable "long-lasting negative effects" (Dütsch et al, p143). There is evidence of pass-through and a negative impact on employer profits specifically in businesses with contractual hourly wages, this however was not found in employers who did not have contractual hourly wages (Dütsch et al, p 145).

An analysis of the research conducted by Holger Bonin in 2018 titled "The German Statutory Minimum Wage and Its Effects on Regional Employment and Unemployment" and Nico Pestel, in 2020 titled "Impact of the statutory minimum wage on employment and unemployment" found "…the introduction of the minimum wage reduced overall employment by 0.6 percent in 2016 and by 0.9 percent in 2019 in regions with an above median wage gap (i.e. the difference between the actual wage in 2014 and the minimum wage) compared to regions with a below average wage gap" (Dütsch et al, p138). However, a paper by Christian Dustmann titled "Reallocation Effects of the Minimum

Wage" found that workers who's wages would be increased by the new minimum wage legislation had a "…slightly greater probability of them being employed after the minimum wage had come into force. The authors also observed a reallocation of these workers to larger, higher paying firms due to the minimum wage" (Dütsch et al, p138).

Both the work by Bonin and Pestel found that the effects were more severely felt in locations with comparatively low GDP growth, "These negative employment effects were particularly driven by regions with relatively low GDP growth before the introduction of the minimum wage" (Dütsch et al, p138). The metanalysis found no evidence in an effect of worker productivity, "All the existing studies did not find evidence for minimum wage-induced effects on labour productivity in Germany…" Dütsch et al, p142).

Dütsch, Ohlert and Baumann found notable benefits from the minimum wage introduction and 2022 increase. A metanalysis of the 2023 study conducted by Clemens Ohlert titled "Minimum Wage Effects on Gender Gaps in Working Hours and Earnings in Germany" published in the Society for the Study of Economic Inequality found that "the minimum wage effects on the average hourly wages of women and men in minimum wage establishments differed by 3.6 % points in 2015, which led to a reduction in the gender pay gap in these workplaces" (p126). Indeed it was found that overall wage variance was reduced "…the minimum wage reduced the wage dispersion in Germany" (Dütsch, p145). Dütsch et al conclude that "Due to strong economic growth in the years after its introduction, the minimum wage had no adverse effects on overall employment or unemployment levels" (Dütsch et al, p145).

"Who Pays for the Minimum Wage?" by Peter Harasztosi and Attila Linder published in the American Economic Review in 2019 is a comprehensive analysis of how Hungarian firms responded to minimum wage increases. It found that 75% of the minimum wage increase was paid by consumers as "pass-through" meaning the costs were passed through to consumers, the remaining 25% was paid by employers, though these figures vary by industry. Price responses and pass-through were greater in non-tradable industries than tradeable industries (Clemens, 2021). Santa Fe employers should be able to take advantage of greater pass-through due to the immutable nature of Santa Fe's business sectors, tourism, culture and arts.

Summarized Q&A between Dr. White and the Mayor's Office June through August, 2025.

Q: What housing measure is used in the blended index?

A: The proposal relies on the U.S. Department of Housing and Urban Development's Fair Market Rent (FMR) for a two-bedroom apartment in Santa Fe. This measure is the most conservative published benchmark available, and it directly reflects local market rental conditions. Tying wage adjustments to HUD's FMR ensures that the formula is transparent, consistent, and relevant to Santa Fe's housing realities.

Q: Critics argue that raising the minimum wage will reduce job opportunities, especially for younger or minority workers. Is this a valid concern?

A: This argument is most closely associated with Walter Williams and others who oppose the existence of any minimum wage. It is important to note that every U.S. state, including the most conservative, has a minimum wage; the five states with no state-level wage utilize the federal minimum wage of Research consistently shows that unemployment among Black youth and other groups is shaped primarily by structural inequalities, not wage ordinances. Santa Fe's proposal is not intended to eliminate entry-level work but to ensure wages reflect the cost of living. With the median rent for a one-bedroom apartment now close to $1,400 per month, stagnant wages create a much greater barrier to participation in the workforce than the proposed adjustments.

Q: Is this analysis being conducted by the Bureau of Business and Economic Research (BBER) at UNM?

A: No. The projections were prepared independently by Erebor LLC and Dr. Reilly White. Although Dr. White serves as a faculty member at UNM, the work was not conducted by BBER and is not affiliated with its research portfolio.

Q: How does the proposal address wage compression among workers who already earn more than the living wage?

A: Wage compression is a foreseeable outcome when minimum wages rise. Employers may respond by flattening pay scales, delaying promotions, or adjusting job expectations for staff earning in the $17–20 per hour range. Evidence suggests that large-scale job losses are unlikely. More common responses include modest reductions in hours, tighter scheduling practices, or a preference for hiring more experienced workers. These adjustments must be weighed against the broader gains in worker stability, household spending power, and community well-being.

Q: What will the living wage look like ten years from now under this proposal?

A: Using the blended index with a $17.50 floor in 2027 and a five percent annual cap (Scenario 'D'), the projected living wage in 2034 is approximately $20.94 per hour, or about $21.48 in 2035. Assuming a five percent cap on rates, the maximum possible wage level in 2034 would be $24.62. Applying a Monte Carlo analysis – which simulates the results 10,000 times - produced a very similar central estimate of $21.39 by 2034, reinforcing the reasonableness of these projections.

Q: What would today's living wage be if this formula had been in place since 2004?

A: The 2004 living wage of $8.50 per hour, if indexed under the blended formula, would be approximately $14.40 today. This aligns closely with the actual current living wage of $15.00, suggesting the proposed approach is both realistic and sustainable.

Q: What risks do employers face under the new proposal?

A: The majority of economic studies show that higher minimum wages do not lead to widespread job loss. Where risks emerge, they tend to involve incremental changes such as reduced hours, more restrictive scheduling, or automation in certain industries. Employers may also prioritize older or more experienced applicants. These risks are offset by the benefits of higher wages, including improved worker retention, greater consumer demand, and reduced reliance on public assistance.

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Raising the Living Wage in Santa Fe:

Potential impacts and analysis

This version: August 27, 2025

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Overview

Santa Fe has long been a national leader in implementing a living wage ordinance, establishing higher minimum standards than both state and federal policy. The city's original living wage ordinance, adopted in 2003, was among the first of its kind and quickly became a focal point for both local debates and national scholarship. Today, as the Santa Fe City Council considers another adjustment to the city's living wage, many of the same themes have reemerged: particularly questions about timing, scope, and economic impact. At the same time, the policy conversation is occurring within a new macroeconomic context marked by higher inflation, rising housing costs, and shifting national priorities.

This analysis draws on the history of Santa Fe's ordinance, recent empirical research, and specific concerns voiced by councilors during the most recent work session. The goal is to provide an evidence-based perspective on what a wage adjustment would mean for the city's workers, businesses, and long-term economic, social, and cultural vitality.

Understanding the Santa Fe Economy

Assessing the implications of a living wage adjustment requires situating the policy within Santa Fe's broader economic structure. The city's sectoral composition, seasonal labor market patterns, and public–private balance provide essential context for evaluating potential outcomes.

Santa Fe's economy remains anchored by its strong cultural, tourism, and arts sectors. Employment in Santa Fe is seasonal, with the nonfarm civilian workforce across Santa Fe County rising to 65k in the summer months, driving both increased demand for employment and higher unemployment rates as greater numbers of workers enter the labor force to seek employment.[1] The leisure and hospitality sector, which includes hotels, restaurants, and tourism-related services, is particularly central to the city's economy, representing nearly 20% of total employment. Government remains the single largest sector at 22.8%, education and health services (17.7%) and trade, transportation, and utilities (15.7%). Professional and business services make up 8.3%, while industries such as construction, finance, and manufacturing contribute smaller but steady shares. Taken together, Santa Fe's employment profile reflects its dual identity as both a government and service hub and a tourism-driven economy, with labor market conditions closely tied to seasonal visitor flows and the cultural calendar that sustains the city's broader economic vitality.[2]

Largest Employment Sectors, Santa Fe County

June 2025

Government	14.8	22.8%
Leisure and Hospitality	12.7	19.6%
Education and Health Services	11.5	17.7%
Trade, Transportation, and Utilities	10.2	15.7%
Professional and Business Services	5.4	8.3%
Mining, Logging, and Construction	3.2	4.9%
Other Services	3.2	4.9%
Financial Activities	2.3	3.5%
Manufacturing	0.8	1.2%
Information	0.8	1.2%
Total Nonfarm Labor Force	**64.9**	**100%**

[1] https://www.bls.gov/eag/eag.nm_santafe_msa.htm
[2] https://data.bls.gov/timeseries/SMU35421407000000001

Largest Employers Located in Santa Fe, NM (2024-2025 Estimates)

Rank	Location	Employees	Source
1	State of New Mexico	**5,900**	https://www.spo.state.nm.us/wp-content/uploads/FY24-Compensation-Report.pdf
2	Christus St. Vincent	**2,500**	https://www.bizjournals.com/albuquerque/subscriber-only/2025/01/29/santa-fe-area-employers.html
3	Santa Fe Public Schools	**1,800**	https://www.sfps.info/page/sfps-sustainable
4	City of Santa Fe	**1,500**	https://santafenm.gov/
5	Santa Fe County	**850**	https://www.linkedin.com/company/santa-fe-county/
6	Santa Fe Community College	**661**	https://www.sfcc.edu/fast-facts/mission-vision-governing-board/
7	Presbyterian Santa Fe	**545**	https://www.bizjournals.com/albuquerque/subscriber-only/2025/01/29/santa-fe-area-employers.html
8	Eldorado Hotel	**500**	https://www.bizjournals.com/albuquerque/subscriber-only/2025/01/29/santa-fe-area-employers.html
9	Hotel Chimayo	**500**	https://www.bizjournals.com/albuquerque/subscriber-only/2025/01/29/santa-fe-area-employers.html
10	Hotel St. Francis	**500**	https://www.bizjournals.com/albuquerque/subscriber-only/2025/01/29/santa-fe-area-employers.html

In addition, an estimated 3,500 employees of Los Alamos National Laboratories live in Santa Fe, NM[3]

Santa Fe's employment base is anchored by a mix of government, healthcare, education, and hospitality. The State of New Mexico is by far the largest single employer, with approximately 5,900 employees in the city. Healthcare is also a major driver, led by Christus St. Vincent with 2,500 employees, alongside Presbyterian Santa Fe with 545 employees. Education remains a central pillar, with Santa Fe Public Schools employing 1,800 and Santa Fe Community College supporting 661 faculty and staff. Local government contributes significantly as well, with 1,400 City of Santa Fe employees and 850 working for Santa Fe County. Santa Fe's robust tourism and hospitality sector rounds out the top employers, with large hotel operations such as the Eldorado Hotel, Hotel Chimayo, and Hotel St. Francis, each employing around 500 workers. In addition, an estimated 3,500 employees of Los Alamos National Laboratory live in Santa Fe, contributing to the local labor market despite the lab's physical location in neighboring Los Alamos County.

Prevailing wage data in Santa Fe is accessible via the Bureau of Labor Statistics Occupational Employment and Wage Statistics (OEWS) survey, most recently completed in May 2024.[4] Comparing Santa Fe's occupational wage profile to the United States as a whole highlights both the city's structural reliance on service-oriented employment and the wage disparities that characterize its labor market. Overall, the mean hourly wage in Santa Fe is $29.05, which is $3.61 lower than the U.S. average of $32.66. This differential reflects both sectoral composition and localized pay gaps across multiple occupational categories.

High-skill, high-wage professions in Santa Fe exhibit some of the largest negative differentials relative to the national average. For example, management occupations earn $13.17 less per hour than their national peers, while legal occupations earn $16.50 less per hour. Similar downward gaps are evident in business and financial operations (-$9.49), computer and mathematical occupations (-$10.37), and arts, design, and media (-$7.53). These figures suggest that Santa Fe's position as a cultural and governmental hub does not extend to supporting nationally competitive wages in many knowledge-based fields.

[3] https://losalamosreporter.com/2023/05/05/lanl-report-shows-37-7-percent-of-employees-lived-in-los-alamos-county-as-of-sept-30-2022/
[4] https://www.bls.gov/regions/southwest/news-release/occupationalemploymentandwages_santafe.htm

At the same time, Santa Fe wages are more competitive in several critical areas. Healthcare practitioners and technical workers earn $6.18 more per hour than the national average, reflecting the scarcity of qualified healthcare workers locally and the influence of major employers such as Christus St. Vincent. Wages in food preparation and serving occupations are slightly above the U.S. average (+$0.88), which is notable given the sector's large share of Santa Fe employment (13.6% versus 8.8% nationally). Other large occupational groups, such as office and administrative support, education, and building and grounds maintenance, show wages roughly in line with national averages, with gaps of less than $1 per hour. These sectors, while not highly paid, are crucial to Santa Fe's labor market given their large shares of local employment. The figure below is adapted from the Bureau of Labor Statistics:

Major occupational group	Percent of total employment		Mean hourly wage ($)		Pay Differentials
	United States	Santa Fe	United States	Santa Fe	(SF Pay - US Pay)
Total, all occupations	100.0	100.0	$ 32.66	$ 29.05	$ (3.61)
Management	7.1	7.1	$ 68.15	$ 54.98	$ (13.17)
Business and financial operations	6.7	7.6	$ 45.04	$ 35.55	$ (9.49)
Computer and mathematical	3.4	2.6	$ 56.16	$ 45.79	$ (10.37)
Architecture and engineering	1.7	1.2	$ 49.99	$ 47.09	$ (2.90)
Life, physical, and social science	0.9	1.3	$ 43.12	$ 38.46	$ (4.66)
Community and social service	1.7	1.7	$ 30.31	$ 30.42	$ 0.11
Legal	0.8	1.4	$ 66.19	$ 49.69	$ (16.50)
Educational instruction and library	5.8	4.9	$ 31.69	$ 31.02	$ (0.67)
Arts, design, entertainment, sports, and media	1.4	1.5	$ 37.04	$ 29.51	$ (7.53)
Healthcare practitioners and technical	6.2	5.1	$ 50.59	$ 56.77	$ 6.18
Healthcare support	4.8	3.6	$ 19.06	$ 18.40	$ (0.66)
Protective service	2.4	2.9	$ 29.33	$ 28.41	$ (0.92)
Food preparation and serving related	8.8	13.6	$ 17.32	$ 18.20	$ 0.88
Building and grounds cleaning and maintenance	2.9	4.3	$ 19.01	$ 18.59	$ (0.42)
Personal care and service	2.0	2.4	$ 18.95	$ 18.18	$ (0.77)
Sales and related	8.7	9.5	$ 26.00	$ 21.90	$ (4.10)
Office and administrative support	11.8	14.5	$ 24.12	$ 23.42	$ (0.70)
Farming, fishing, and forestry	0.3	0.2	$ 20.06	$ 20.13	$ 0.07
Construction and extraction	4.1	3.8	$ 30.73	$ 24.51	$ (6.22)
Installation, maintenance, and repair	3.9	3.4	$ 29.63	$ 25.17	$ (4.46)
Production	5.7	2.3	$ 24.08	$ 23.73	$ (0.35)
Transportation and material moving	8.9	5.0	$ 23.44	$ 20.10	$ (3.34)

Rising living costs and a cooling housing market present significant challenges. As of August 2025, the average Santa Fe, NM home sells for $590,845[5], down 0.7% over the prior year and reflective of higher inventories and reduced absorption rates. Despite the slowdown, Santa Fe has emerged as the nation's #2 luxury second-home market[6], with a median listing price in the 90th percentile of nearly $2.7 million with steady demand from affluent buyers and retirees. Mean rents in Santa Fe are currently between $1,735 and $1,860[7] per month. The HUD 40th percentile Fair Market Rent for a two-bedroom rental is $1,685 per month[8].

[5] https://www.zillow.com/home-values/40760/santa-fe-nm/
[6] https://www.realtor.com/research/july-2025-wsj-rdc-luxury-housing-market-ranking/
[7] https://www.apartments.com/rent-market-trends/santa-fe-nm/ and https://www.rentcafe.com/average-rent-market-trends/us/nm/santa-fe/
[8] https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2026_code/2026summary.odn

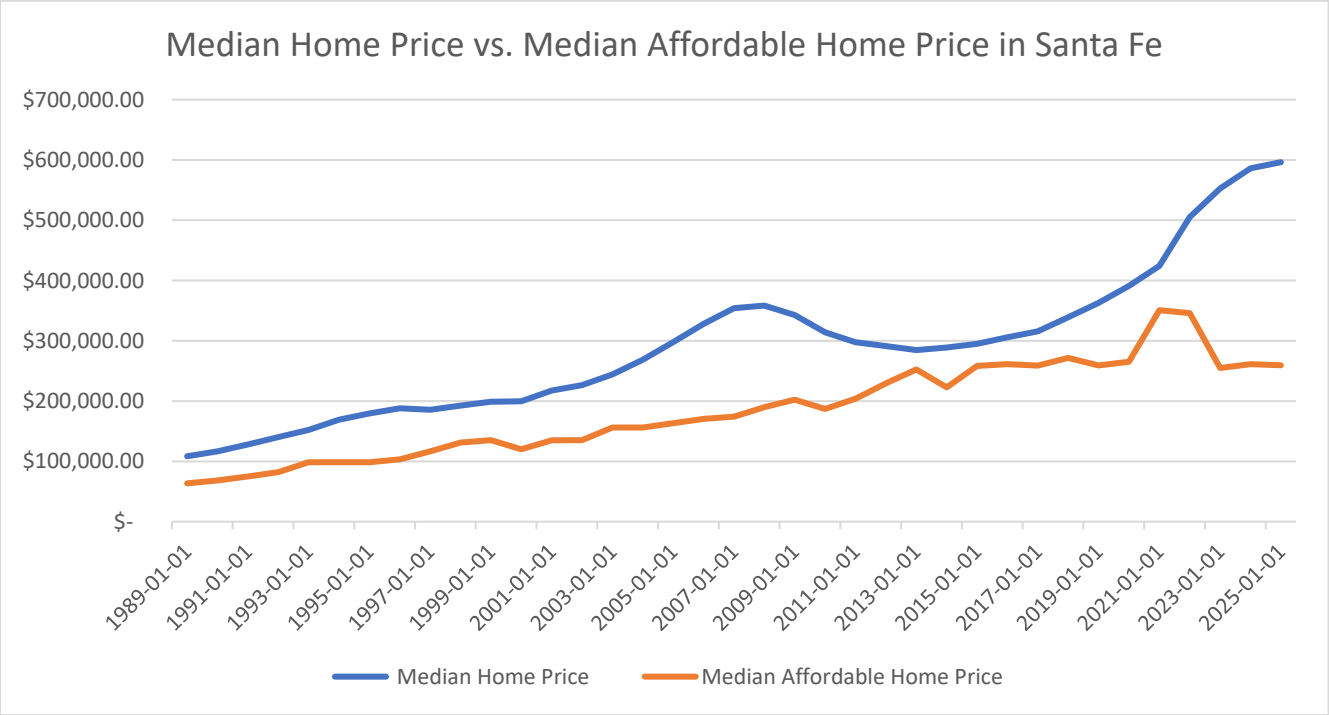
The median household income in Santa Fe was $78,366 in 2023, which, when adjusted for national wage growth, equates to $83,567 in 2025.

- Under the standard 30 percent of gross income housing affordability threshold, a household earning the median income could reasonably afford a home priced at $259,462, given current mortgage rates and property tax levels in Santa Fe.

- By contrast, to afford the median home price in Santa Fe, a household must earn at least $172,375 annually**.** This difference produces an affordability gap of more than 106 percent**,** which is nearly double the 57 percent gap observed nationally**.**

- Approximately 81 percent of households in Santa Fe earn less than $172,375, and therefore fall below the threshold required to afford a median-priced home, underscoring the severity of the city's housing affordability crisis.

The figure below graphs the median home price in Santa Fe since 1989, and the median 'affordable home price' in Santa Fe, determined by the median household income of the town and prevailing tax and mortgage rates:



The high prices of real estate contributes to a cost of living index that is 16% higher than the national average and 28% higher than in New Mexico as a whole.[9] While affordability pressures persist, particularly for working families, New Mexico's broader fiscal picture is more optimistic: energy-driven state revenues have created fiscal flexibility to support housing, education, and infrastructure, indirectly benefiting Santa Fe. Compared to other U.S. regions, Santa Fe's average costs for groceries,

[9] https://www.erieri.com/cost-of-living/united-states/new-mexico/santa-fe

health care, utilities, and transportation are broadly in line with national levels, but housing remains distinctly overpriced relative to the rest of the country, as well as New Mexico.

Evidence from the Literature: Employment, Prices, and Business Impacts

Santa Fe already operates with a city *living wage* that rose to $15.00/hour on March 1, 2025 (the New Mexico state floor remains $12.00). The mayor has proposed raising the city living wage to $17.50, which would represent a 16.7% increase from today's level. Leisure and hospitality (hotels, restaurants, attractions) is an unusually large local employer, comprising nearly 20% of nonfarm jobs. Government employment remains the single biggest sector with nearly 23% of all employment. These shares matter because low-wage exposure (and thus policy sensitivity) is highest in restaurants, hotels, and certain retail services.

What are the benefits to increasing the minimum wage for businesses?

- *Reduced turnover:* Multiple studies show that higher minimum wages lower employee separation rates, particularly in service industries with historically high churn. Lower turnover directly reduces recruitment and training costs, which can be substantial in hospitality and retail where new employee onboarding and skill ramp-up take time. In Santa Fe, where seasonality drives frequent hiring cycles, a reduction in churn could stabilize scheduling and reduce operational disruptions (see Dube et. al. 2016; Hirsch et. al 2015).

- *Training cost savings:* Lower turnover translates into less frequent hiring, which means employers spend less on advertising, onboarding, and job-specific training. These savings are not trivial: research suggests that turnover costs for lower-wage service positions can amount to 16–20 percent of annual pay. Over time, these avoided costs help offset part of the wage increase and allow managers to invest resources elsewhere (see Boushey & Glynn, 2012; Dube et. al, 2016).

- *Productivity and morale gains:* Improved wages reduce financial stress and increase worker engagement, which can lead to measurable productivity improvements. In some studies, modest gains in output per worker have been observed following wage hikes, as employees reciprocate through better performance and attendance. In industries like food service and lodging, where customer satisfaction is tightly tied to staff attentiveness, even small productivity gains can have revenue impacts (See Reich et. al., 2014).

- *Customer service and quality stability:* A more stable and experienced workforce improves consistency in customer-facing roles. In the tourism-driven economy of Santa Fe, restaurants and hotels depend on reliable staff to deliver service quality that supports repeat visits and positive reviews. With higher wages, businesses may see not only smoother operations but also stronger reputational benefit (see Schmitt 2013; Hirsch et. al 2015).

- *Reduced absenteeism***:** Higher wages are associated with lower absenteeism, as workers can better manage transportation, childcare, and health costs. For employers, this means fewer unexpected scheduling gaps and a more predictable workforce. Reliable attendance is particularly important in Santa Fe's leisure and hospitality sector, where understaffing during peak visitor seasons can have outsized consequences (see Boushey & Glynn, 2012; Cooper et. al, 2019).

- *Macro demand effects:* Because low-wage workers tend to spend additional earnings locally, higher wages can feed back into the local economy through stronger consumer demand. In Santa Fe, this dynamic means that wage increases at restaurants, hotels, and retailers can return in part as higher sales revenue in those same sectors, while also broadening the gross receipts tax base for the city (see Aaron et. al. 2008; Renkin et.al. 2022).

What does the research say about how minimum wage effects play out?

- *Employment effects:* The broad U.S. literature finds small to near-zero net job losses around typical increases, with clear wage gains for low-wage workers (Cengiz, Dube, Lindner & Zipperer 2019)[10]. But when increases are larger or rapid, some studies (Jardim et. al. 2022[11]) find reductions in hours at the very bottom of the wage distribution, even as hourly pay rises. In short: modest aggregate employment effects on average, with possible hours compression for some groups at bigger jumps.

- *Prices & pass-through***:** Firms often pass part of higher labor costs to consumers. Classic and newer evidence show measurable but modest price effects in consumer-facing sectors (e.g., restaurants and groceries): roughly 0.3–1.4% price increases for a 10% wage hike (Renkin et. al, 2020[12] Ashenfelter & Jurajda 2021[13], depending on sector, market power, and exposure; fast-food pass-through is documented with minimal impact on entry/exit in some settings. For a 16.7% wage increase, that scale would translate to low-single-digit price changes for many items.

- *Income & poverty:* Minimum-wage hikes raise earnings for affected workers and can reduce poverty in net, though estimates vary with the size and timing of increases as well as the local labor market. The Congressional Budget Office (CBO)'s synthetic national scenarios (for large federal increases) show big wage gains and a mix of modest job loss with net income gains for low-income families, which become useful guardrails for thinking about distributional tradeoffs.[14]

Implications for Santa Fe if the city lifts the minimum wage from $15.00 to $17.50 per hour

- *Who's affected:* The largest immediate exposure is in leisure and hospitality—a sector that is both central to Santa Fe's economy and highly visible to visitors. Because much demand is tourism-driven, local firms often have more scope to pass through small price increases without large demand loss (visitors' price elasticity is lower than residents'). That helps buffer employment impacts versus more tradable sectors.

- *Worker earnings:* A full-time employee at $15 earns approximately $31,200/yr; at $17.50, they earn $36,400, $5,200 more per year. Given Santa Fe's high housing and living costs, these gains directly raise purchasing power for lower-wage households (who also tend to spend locally), supporting gross-receipts-tax bases at the margin. This mechanism is consistent with CBO and broader literature on higher marginal propensity to consume for low-income households.

- *Business costs & prices:* In many cases, expect low-single-digit price adjustments in restaurants/hospitality/retail, phased as menus and rates reset; some firms will also retool operations (shift scheduling, technology adoption, and compressed wage ladders). Evidence from

[10] https://www.nber.org/system/files/working_papers/w25434/w25434.pdf
[11] https://www.nber.org/system/files/working_papers/w23532/w23532.pdf
[12] https://gspp.berkeley.edu/assets/uploads/research/pdf/The_Pass-Through_of_Minimum_Wages_into_US_Retail_Price.pdf
[13] https://gceps.princeton.edu/wp-content/uploads/2021/07/281_Ashenfelter.pdf
[14] https://www.cbo.gov/publication/55410

restaurants (Aaronson 2001[15]) and groceries suggests partial pass-through (Renkin et. al, 2020) rather than a one-for-one move. In a tourism city, those small changes often do not materially deter demand but should still be factored into messaging for resident affordability.

- *Employment/hours risk pockets:* Aggregate job effects are likely small, but risk concentrates among very low-wage hours, marginal firms, and sub-sectors with thin margins. Close monitoring is warranted for independent restaurants, small retailers, and certain personal-services businesses during the first 12–18 months after implementation. Jardim et. al. (2022)[16] flag the relationship between larger minimum wage increases and a reduction in hours for less experienced workers.
- *Sectoral nuance:* Government (the largest local employment sector) is largely insulated, however, spillover effects may arrive as vendors adjust rates on contracts. Health care and education face smaller direct exposure but may see wage compression pressures. The hospitality industry may see significant effects among its lower wage workers, but also has the greatest pricing latitude with visitors.

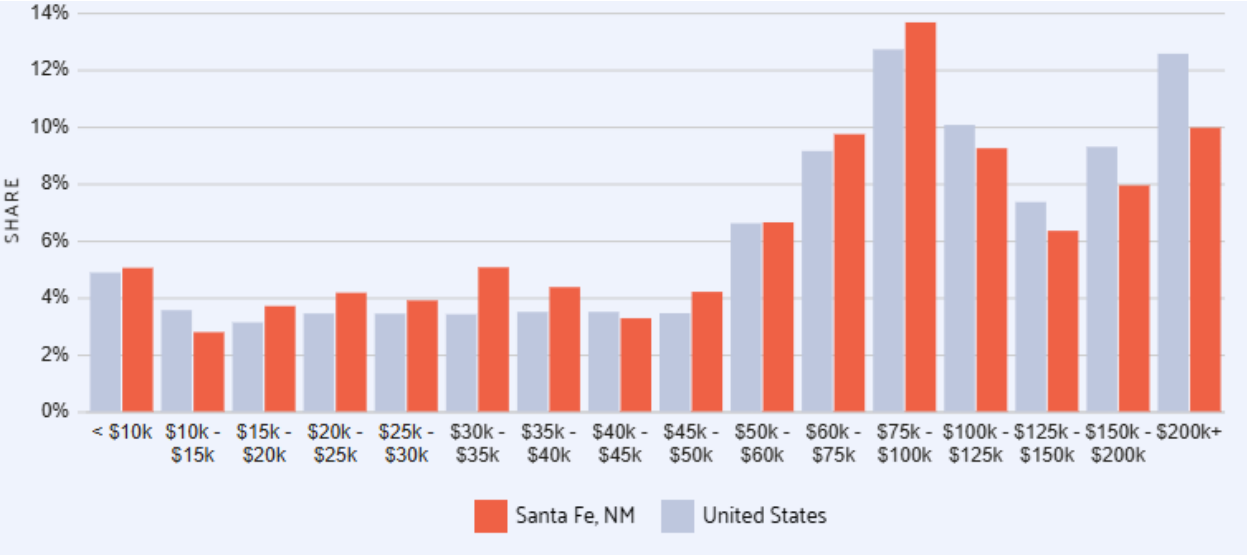
Fiscal Sustainability and Equity

- *City revenues:* Higher wages and prices may lead to more overall spending and the City's gross receipts tax collections could rise slightly. Any losses from businesses cutting back are likely to be small, since national studies show that employment generally holds steady after wage increases (Cengiz et. al. 2019)[17].
- *Distributional effects:* Gains accrue to low-wage workers, mainly in hospitality and services, which aligns with equity goals and can reduce income volatility. Pairing the policy with targeted supports (e.g., small-business tax assistance, phased-in schedules, and enforcement clarity) can mitigate transition frictions.[18]
- *Metrics to watch (quarterly):* Any evaluation of the economic impact of minimum wage adjustments must carefully account for prevailing macroeconomic and local factors to avoid misattribution. Situating the policy discussion within Santa Fe's economic profile – for example, the composition of employment, sectoral dependencies, and seasonal patterns – provides the necessary context for assessing both direct and indirect effects. Data collection in the future should pay particular attention to:
    - Low-wage employment and hours in hospitality and retail sectors;
    - Business openings and closures in food service and lodging sectors;
    - Average menu and room rates vs. regional comps;
    - GRT trends in hospitality-linked NAICS codes;
    - Worker turnover and vacancy durations (research indicates wage hikes often reduce turnover, a potential productivity boost offsetting some cost).

[15] https://direct.mit.edu/rest/article/83/1/158/57251/Price-Pass-Through-and-the-Minimum-Wage
[16] https://www.aeaweb.org/articles?id=10.1257%2Fpol.20180578
[17] https://academic.oup.com/qje/article-abstract/134/3/1405/5484905
[18] https://www.cbo.gov/system/files/2019-07/CBO-55410-MinimumWage2019.pdf

Santa Fe's long history with a local living wage has also been studied by New Mexico researchers. A 2024 review by the University of New Mexico Bureau of Business and Economic Research (BBER) synthesizes decades of national and state findings. BBER concludes that:

- Employment impacts are small to negligible overall, but certain subgroups (especially young workers and those in restaurants) may see reduced hours or hiring opportunities. This aligns with Jardim et al. (2017, 2022) in Seattle, who found hours compression at the very bottom of the wage distribution, even as average pay rose.
- Earnings gains are reliable and disproportionately benefit women, younger workers, and Hispanic workers, groups that are overrepresented in Santa Fe's hospitality and service industries (BBER; see also Allegretto, Dube, & Reich 2011). These distributional effects are particularly salient given Santa Fe's housing affordability crisis.
- Dube and Lindner (2021) find that city-level minimum wages meaningfully reduce wage inequality. Supporting this statement, 2023 Census Bureau's 5-year Estimate analyzed by Data USA comparing the income distribution in Santa Fe against the United States, notes the significant income inequality present[19]:



- Price increases are modest and concentrated in food services, with studies such as Aaronson (2001) and Lemos (2008) finding 0.3–1.0% restaurant price increases for a 10% wage hike. More recent evidence (Renkin et. al. 2020; Ashenfelter & Jurajda 2021) confirms partial but not complete pass-through. For Santa Fe, this suggests restaurants and hotels could adjust rates upward without significantly reducing visitor demand.
- Turnover declines when wages rise, reducing hiring and training costs. Dube, Lester, and Reich (2016) estimate that reduced churn offsets a significant portion of added labor costs. For Santa Fe's seasonally dependent service sector, this may improve business stability and service quality.

[19] https://datausa.io/profile/geo/santa-fe-nm/

What is the impact on the City of Santa Fe?

With data provided by the City's Finance Director, the direct fiscal impact of raising the City's living wage to $17.50 per hour would be minimal. Based on payroll data from HR for the pay period ending August 1, 2025, only 18 City employees were earning below $17.50 per hour. These employees are primarily located in Tourism, Public Works, and Public Utilities, with one additional position in Community Services at $16.96 per hour. The Finance Director calculated the cost of bringing all 18 employees up to $17.50 per hour, including a standard 40% inflator for benefits and annualizing the adjustment over a 2,080-hour work year. The resulting total cost was $13,468 annually, or roughly $15,000 per year as a conservative upper estimate. This represents less than one-tenth of one percent of the City's annual personnel budget, confirming that the budgetary impact would be negligible.

As a side observation, the Finance Director also noted that two-thirds of these employees are women, highlighting a small but meaningful gender equity dimension to the adjustment. While not central to the fiscal analysis, this finding illustrates how wage increases at the bottom of the pay scale can intersect with broader equity considerations.

What about a tiered minimum wage system?

A tiered minimum wage system sets different wage floors for employers depending on their size or type. In practice, this usually means that smaller firms (e.g., under 25 employees) are granted either (a) a lower minimum wage requirement or (b) a slower phase-in schedule than larger firms. Larger firms are expected to comply with the full wage floor earlier or at a higher level. This approach has been implemented in places such as California's state minimum wage law and in earlier versions of Santa Fe's own living wage ordinance (though the latter was later amended to remove size-based tiers). For example, California firms have different minimum wages based on the type of healthcare facility – for example, rural clinics versus large employers and integrated health systems have different minimums.

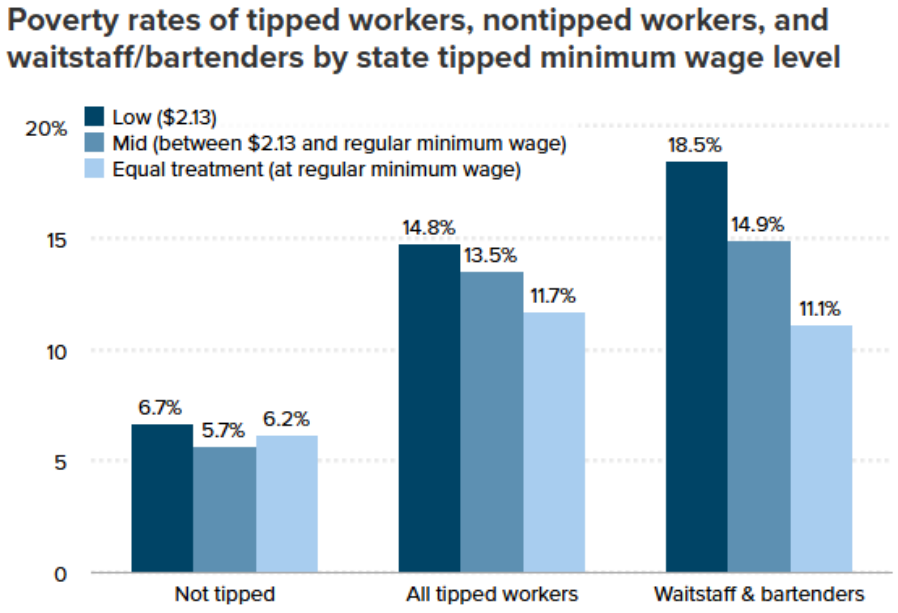
- *Pros to a Tiered System:* Tiered systems acknowledge that small, thin-margin firms often face greater difficulty absorbing cost increases, allowing them more time to adapt. Introducing differential thresholds can ease opposition from business groups, smoothing passage of legislation and helping to build consensus. By phasing in requirements, smaller employers may retain operational stability while larger employers (with more resources and scale) shoulder the burden sooner.

- *Cons to a Tiered System:* Regulators must track firm size, verify compliance, and monitor transitions across thresholds, all of which increase oversight costs. Firms may split operations into smaller legal entities or misreport workforce size ('gaming the system') to avoid crossing into higher-wage categories, undermining fairness and compliance. In 2003, similar systemic gaming was observed in Santa Fe's original living wage bill and consequently removed. Lastly, workers performing the same jobs may be paid differently depending only on the size of their employer, raising equity concerns and eroding clarity in the policy's intent.

In addition to the California system, Nevada's Assembly Bill 456 allowed for a lower tier minimum wage to be paid by employers who offer health benefits; New Jersey maintains a separate minimum wage for agricultural workers. Two-tier minimum wage models are more common in the tipped-wage context, where subminimum rates apply to tipped workers. Empirical evidence demonstrates that eliminating the tier for tipped workers raises earnings, reduces poverty, and diminishes gender and racial disparities,

without discernible negative employment effects (Schmitt, 2013; Hirch, Kaufman, and Zelenska 2015; Alegretto and Nadler 2015).

In data analyzed from the Economic Policy Institute[20], tipped workers in states with equal treatment (where they receive the regular minimum wage before tips earn significantly higher hourly wages) face lower rates of wage theft, and experience greater income stability than their counterparts in states with a separate, lower tipped minimum wage. The figure below demonstrates the variation in poverty rates of tipped workers, nontipped workers, and waitstaff/bartenders by state tipped minimum wage level:



Do benefits count in living wage calculations?

Under Santa Fe's current living wage ordinance, certain employer-provided benefits can be counted toward compliance. Specifically, health insurance and childcare benefits may be included in the calculation of whether an employer meets the living wage requirement. This provision means that the required cash wage can be reduced if the employer contributes a qualifying value of benefits, though in practice the extent of this offset varies depending on the benefit package offered.

What has been the average inflation-only increase since 2008?

Using the overall CPI for the Western Region, 'CPI-W', prices have risen 51.8% since January 2008, or approximately 2.4% average per year.[21]

How many workers and employers in Santa Fe could be affected?

Santa Fe County has over 4,800 employer establishments[22], with at least at least 3,000 in the city itself in 2022. While micro-level wage data is not available, the city's service-oriented economic structure suggests that a significant portion of the labor force would be sensitive to changes in the minimum wage.

[20] https://www.epi.org/publication/gradually-eliminating-the-two-tiered-wage-system-for-tipped-workers-in-new-york-will-improve-working-conditions-and-wages-for-tipped-workers-across-the-state/

[21] https://fred.stlouisfed.org/series/CPIAUCSL

[22] https://data.census.gov/profile/Santa_Fe_County,_New_Me...?g=050XX00US35049

Drawing from national and regional evidence, it is reasonable to estimate that 10–20 percent of Santa Fe's workforce could be directly affected by a higher wage floor through immediate pay adjustments. In addition, a further share of employees earning just above the proposed $17.50 threshold may experience indirect effects, either through wage compression adjustments or to maintain internal equity within firms. Together, this indicates that the policy's reach would extend well beyond those currently earning at or below the living wage level.

What are the ripple effects seen in other cities? Is there a "tipping point"?

The most comprehensive U.S. analyses generally find small to near-zero net employment effects at typical increases (with clear wage gains for affected workers). Some studies show hours reductions for less experienced workers, particularly for larger and faster hikes.

The economic research is clear that there is no single "bright line" beyond which minimum wage increases automatically become damaging. Instead, the threshold depends on local labor market conditions, the pace of increases, and the relative level of the minimum wage compared to median wages.

- The Kaitz Index (*defined roughtly as 'minimum wage ÷ median wage')* is a common benchmark used by economists. In practice, increases that raise the minimum wage to around 50–60% of the median wage are generally viewed as sustainable without significant employment losses. In fact, the UK's Low Pay Commission currently targets about two-thirds of median earnings, with careful monitoring. In Santa Fe, the median hourly wage of was $29.05 in 2024, and a two-thirds level would be approximately $19.35 per hour.

- Beyond two-thirds of the median wage, studies suggest the risk of disemployment, hours compression, and automation rises, particularly for youth and low-skill workers (Neumark & Wascher 2007; Jardim et al. 2017).

- Moving the wage floor from $15 to $17.50 represents a 16–17% increase, large enough to make a material difference in take-home pay for low-wage workers. At the same time, this level keeps Santa Fe's Kaitz index (minimum-to-median wage ratio) in the 0.55–0.60 range, generally considered sustainable by both international practice and U.S. research.

- Service-oriented economies like Santa Fe, where nearly one in five jobs is in hospitality and restaurants, can handle modest price adjustments due to strong tourist demand. But small independent firms with thin margins are more sensitive, meaning that both the level and pace of the increase influence outcomes.

How will this effect small business vs. larger businesses? What are the firm-level effects?

Because this issue touches on multiple dimensions, I have divided the analysis into key subtopics. Each section draws on relevant research studies to provide brief evidence-based insights:

- *Price "spiral"/inflation:* Local studies show partial pass-through to prices rather than a runaway spiral; effects are concentrated in hospitality/food retail and typically low single digits for a 10–20% wage hike.

- *Reduced hours / reduced employment overall:* Average effects are small; some evidence of hours compression for the most affected, especially with larger, rapid increases. Net employment effects often hover near zero in broad data, but local margins vary.

- *Youth employment:* Classic reviews find more sensitivity for teens/very-low-skill groups; findings are mixed, but caution is warranted for youth employment at higher levels. Typically, employers respond by hiring more experienced workers and holding workers accountable to a higher level of productivity.

- *Closures of small/mom-and-pop firms:* Low-margin restaurants and small shops often feel the most strain. However, studies show closure rates do not rise significantly; instead, some firms pass costs to consumers while others absorb them. Larger firms typically adjust more easily, which can heighten competitive pressure on mom-and-pop businesses. At the same time, Santa Fe's strong tourist economy provides an offsetting cushion, as steady visitor demand often helps small firms maintain customer flow and absorb cost adjustments more successfully than similar businesses in non-tourist markets.

- *Relocation to nearby low-wage areas:* Evidence of relocation to nearby areas is weak; businesses in location-specific industries (hotels, restaurants) cannot easily move.

- *Wage compression inside firms:* Raising the floor can compress pay ladders, prompting adjustments for supervisor and near-minimum workers; recent evidence finds intra-firm spillovers upward and some narrowing of wage dispersion.[23]

- *More temp vs. permanent:* Some evidence suggests substitution toward part-time or temporary contracts to maintain flexibility, but it is not widespread.

- *Favoring big over small***:** Larger chains can spread costs and adapt technology faster, which can shift competitive balance.

- *Technology substitution:* Over the long run, higher labor costs can accelerate automation (self-order kiosks, scheduling software), but adoption is incremental, not immediate.

Synthesis: Implications of a Living-Wage Adjustment in Santa Fe

Taken as a whole, the evidence indicates that raising Santa Fe's living wage primarily functions as an income transfer to low-wage workers in a service-intensive economy, with modest price adjustments, small average employment effects, and important distributional gains. National quasi-experimental studies find clear wage increases for directly affected workers and little to no net job loss on average at typical policy magnitudes (Allegretto, Dube, Reich, & Zipperer, 2017; Cengiz, Dube, Lindner, & Zipperer, 2019). Where risks arise, they tend to appear as hours compression at the very bottom of the wage distribution following larger or faster hikes, with youth and very low-experience workers most sensitive (Jardim et al., 2017). On the cost side, firms partially pass through higher labor costs—especially in restaurants and hospitality—producing low single-digit price changes for mid-teens percentage increases in the wage floor (Aaronson, 2001; Lemos, 2008; Renkin, Montialoux, & Siegenthaler, 2020). Offsetting these costs, multiple studies document declines in turnover and improvements in retention that recoup a portion of higher payroll outlays, a channel that is salient in Santa Fe's seasonal, visitor-facing sectors (see summaries in UNM BBER, 2024).

[23] https://elizaforsythe.web.illinois.edu/wp-content/uploads/2023/07/Effect_of_Minimum_Wage_on_Establishments.pdf

With Santa Fe's structure (20% leisure and hospitality employment, large public-sector employment, and elevated housing costs) conditions both the reach of the policy and the channels through which it operates. A material share of the workforce is clustered near the wage floor in food service, lodging, retail, and building/grounds maintenance; consequently, a living-wage adjustment will directly lift earnings for thousands of workers and indirectly raise near-floor wages through internal equity adjustments ("wage compression"). Because a substantial portion of local demand is tourism-based, the city's visitor economy provides greater pricing latitude than in tradable-goods industries, which helps buffer employment impacts even as menu and room rates adjust incrementally. For public finance, higher nominal wages and small price pass-throughs tend to support gross-receipts-tax bases at the margin; the literature and BBER's synthesis suggest little aggregate employment drag, so revenue downside risks are most likely to be sector-specific rather than city-wide (CBO, 2019; UNM BBER, 2024).

Overall, the research indicates that Santa Fe's living wage policy is likely to achieve its core goal: raising earnings for thousands of low-wage workers while producing only modest and manageable adjustments for employers. With a strong tourism base, a large share of public-sector employment, and a diversified service economy, Santa Fe is well positioned to absorb these changes. In practice, the policy functions as a targeted income transfer that strengthens household purchasing power, stabilizes local demand, and supports long-term workforce retention. Far from being a drag on growth, the evidence suggests Santa Fe's living wage can enhance both equity and resilience, ensuring the city's economy remains vibrant while delivering tangible gains for workers and families.

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Summary of Value

This proposal offers the City of Santa Fe a clear, evidence-based framework for evaluating potential minimum wage adjustments. By combining updated scenario modeling, a comprehensive companion analysis, and public engagement, Erebor LLC will provide tools for both policymakers and community stakeholders to better understand the economic tradeoffs at stake. Our approach balances scholarly rigor with practical application, ensuring that projections are grounded in robust data and communicated in accessible terms. This integrated approach reflects Erebor's commitment to supporting transparent, informed policymaking that advances both economic vitality and equity in Santa Fe.

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2025-21

INTRODUCED BY:

Mayor Alan Webber

A BILL

AMENDING SFCC 1987, SECTION 28-1.5 ("LIVING WAGE ORDINANCE"), TO INCREASE THE CITY'S BASE MINIMUM WAGE AND UPDATE THE FORMULA FOR CALCULATING THE MINIMUM WAGE ANNUALLY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Section 28-1.1 of SFCC 1987 (being Ord. No. 2002-13, § 1) is included for reference without amendments:

28-1.1 Short title.

This section may be cited as the "Living Wage Ordinance".

Section 2. Section 28-1.2 of SFCC 1987 (being Ord. No. 2007-43, § 1) is amended to read as follows:

28-1.2 Legislative findings.

A. The governing body of the city [~~has determined that~~] made findings in 2002, amended in 2003, and then amended again in 2007 as follows:

[~~A~~] (1). The public welfare, health, safety and prosperity of Santa Fe require wages and benefits sufficient to ensure a decent and healthy life for

underscored material = new [~~bracketed material~~] = delete

workers and their families;

[~~B~~] (2). Many Santa Fe workers earn wages insufficient to support themselves and their families;

[~~C~~] (3). Many Santa Fe workers cannot participate in civic life or pursue educational, cultural, and recreational opportunities because they must work such long hours to meet their households' most basic needs;

[~~D~~] (4). Minimum wage laws promote the general welfare, health, safety and prosperity of Santa Fe by ensuring that workers can better support and care for their families through their own efforts and without financial governmental assistance;

[~~E~~](5). The average earnings per job in Santa Fe County is twenty-three percent (23%) below the national average and the cost of living is eighteen percent (18%) higher than the national average;

[~~F~~] (6). Housing costs in Santa Fe are much higher than in most other parts of New Mexico, and low income workers must therefore spend a disproportionate percentage of their income sheltering themselves and their families;

[~~G~~] (7). Livable wages also benefit employers and the economy as a whole by improving employee performance, reducing employee turnover, lowering absenteeism, and thereby improving productivity and the quality of the services provided by employees;

[~~H~~] (8). When businesses do not pay a livable wage, the community bears the cost in the form of increased demand for taxpayer-funded social services including homeless shelters, soup kitchens and healthcare for the uninsured. Coupled with high real estate values, low wages reduce

the ability of low- and moderate-income residents to access affordable housing. As a result, the city has had to invest significant tax dollars to support affordable housing including funding to nonprofit organizations, purchasing land, building infrastructure and waiving fees. In addition, the city has allocated significant tax dollars to operate after school and summer recreation programs and to support nonprofit organizations offering an array of human services and children and youth services, all of which are needed by very low-income residents and their families;

[~~I~~] (9). It is in the public interest to require certain employers benefiting from city actions and funding, and from the opportunity to do business in the city, to pay employees a minimum wage, a "living wage", adequate to meet the basic needs of living in Santa Fe;

[~~J~~] (10). According to the 2000 Census, approximately twelve and three-tenths percent (12.3%) of the Santa Fe community lives below the poverty level; and

[~~K~~] (11). According to the New Mexico department of labor, twenty-three and one-half percent (23.5%) of Santa Feans who are employed in the nongovernmental sector earn hourly wages of ten dollars and fifty cents ($10.50) per hour or less.

[~~L~~] (12). The governing body has reviewed the impact of previous minimum wage increases, relevant studies and other appropriate data, and finds that the city's minimum wage should be upwardly adjusted each year to keep pace with increases in the cost of living.

[~~M~~] (13). The governing body has found that limiting coverage of the minimum

wage just to businesses with twenty-five (25) or more employees has hindered compliance and has created an uneven playing field among local businesses.

B. In 2025, the governing body of the city finds as follows:

(1) The legislative findings in SFCC 1987, Section 28-1.2, numbered 1 through 4, 6 through 8, 12, and 13 remain relevant today.

(2) Updating the legislative findings in SFCC 1987, Section 28-1.2, numbered 5 and 9 results as follows:

i. The average earnings per job in Santa Fe County are twelve percent (12%) below the national average.

ii. According to the 2023 Census, approximately twelve and two-tenths percent (12.2%) of the Santa Fe community lives below the poverty level.

(3) According to American Community Survey data, median gross rent for occupied units paying rent in the city of Santa Fe increased by twenty eight percent (28%) between 2015 and 2021, rising from $970 to $1,245.

(4) The city has implemented, or attempted to implement, numerous strategies to address housing affordability, including, but not limited to, the Santa Fe Homes Program, Low Priced Dwelling Units, Affordable Housing Trust Fund, three percent (3%) High-End Excise Tax for Affordable Housing, and donation of City-owned land.

Section 3. Section 28-1.3 of SFCC 1987 (being Ord. No. 2003-8, § 2) is included for reference without amendments:

28-1.3 Authority of the city of Santa Fe.

This Living Wage Ordinance is adopted pursuant to the general welfare and police powers conferred upon the city of Santa Fe by Section 3-17-1 et seq. and Section 3-18-1 et seq. NMSA 1978, pursuant to the powers conferred upon the city of Santa Fe by New Mexico Constitution, Article X §§ 6(D) and 6(E) and the Municipal Charter Act Section 3-15-1 et seq. NMSA 1978, which have been exercised by the city's adoption of its "Santa Fe Municipal Charter".

Section 4. Section 28-1.4 of SFCC 1987 (being Ord. No. 2003-8, § 3) is included for reference without amendments:

28-1.4 Purpose.

The purposes of this section are:

A. To have the city of Santa Fe set an example for the public and private sectors by paying its employees a minimum wage adequate to meet the basic needs of living in Santa Fe.

B. To raise the income of low-income employees of employers who contract with the city, receive grants, subsidies or other benefits from the city or benefit from the opportunity to do business in Santa Fe.

Section 5. Section 28-1.5 of SFCC 1987 (being Ord. No. 2007-43, § 2) is amended to read as follows:

28-1.5 Minimum wage payment requirements.

A. The following entities shall pay the minimum wage:

(1) The city of Santa Fe to all full-time permanent workers employed by the city. However, the provisions of this section are expressly limited by and subject to future union negotiations in compliance with the Fair Labor Standards Act and subsequent appropriations by the governing body in compliance with the Bateman Act;

(2) Contractors for the city, that have a contract requiring the performance of a service including construction services but excluding purchases of goods, shall

pay the minimum wage to their workers and subcontractors performing work under the contract if the total contract amount with the city is, or by way of amendment becomes, equal to or greater than thirty thousand dollars ($30,000.00); and

(3) Businesses receiving assistance relating to economic development in the form of grants, subsidies, loan guarantees or industrial revenue bonds in excess of twenty-five thousand dollars ($25,000.00) to those employed by such entity for the duration of the city grant or subsidy; and

(4) Businesses required to have a business license or business registration from the city of Santa Fe and nonprofit organizations shall pay the minimum wage to their workers for all hours worked within the city of Santa Fe that month. For purposes of this paragraph, worker shall not include any person who is related by blood or by marriage to any person who may have or possess any ownership interest in the business that employs them. For purposes of identifying persons entitled to be paid the minimum wage, all individuals employed by or providing work to the business for compensation, whether on a part-time, full-time or temporary basis, during a given month shall be counted as a worker. This definition shall include contingent or contracted workers, and persons made available to work through the services of a temporary service, staffing or employment agency or similar entity. However, interns working for a business for academic credit in connection with a course of study at an accredited school, college or university or persons working for an accredited school, college or university while also attending that school, college or university, or persons working for a business in connection with a court-ordered community service program such as teen court or workers who are in an apprenticeship program in a 501C(3) organization (such as the Santa Fe opera) shall not be counted as a worker for such purposes.

B. Beginning January 1, 2004, the minimum wage shall be an hourly rate of eight dollars and fifty cents ($8.50). In computing the wage paid for purposes of determining compliance with the minimum wage, the value of health benefits and childcare shall be considered as an element of wages. On January 1, 2006 , the minimum wage shall be increased to an hourly rate of nine dollars and fifty cents ($9.50). Beginning January 1, 2009, and each year thereafter, the minimum wage shall be adjusted upward by an amount corresponding to the previous year's increase, if any, in the consumer price index for the western region for urban wage earners and clerical workers.

C. Beginning January 1, 2027, the minimum wage shall be an hourly rate of seventeen dollars and fifty cents ($17.50). In computing the wage paid for purposes of determining compliance with the minimum wage, the value of health benefits and childcare shall be considered as an element of wages. On March 1, 2028, the minimum wage shall be increased by the average of the annual increase of the following two factors:

(1) the United States Bureau of Labor Statistics Consumer Price Index for All Urban Consumers, the Western Region, as published by the United States Bureau of Labor Statistics ("Western Region CPI-U"); and

(2) Fair Market Rent ("FMR")for a two-bedroom unit in Santa Fe, New Mexico, as published annually by the United States Department of Urban Development ("HUD").

If either factor is unchanged or decreases, then the minimum wage shall increase by a rate that is equal to half the percent increase of the other factor. If both factors are unchanged or decrease, then the minimum wage shall remain the same. In other words, the annual increase to the minimum wage shall be calculated as follows: annual increase = 0.50 (annual percent increase (if there is one) to Western Region CPI-U) + 0.50 (annual percent increase (if there is one) to the HUD's FMR for a two- bedroom unit in Santa Fe). Increases to the minimum wage rate shall not exceed five percent and the minimum wage shall not decrease.

[~~C~~] D. For workers who customarily receive more than one hundred dollars ($100.00) per month in tips or commissions, any tips or commissions received and retained by a worker shall be counted as wages and credited toward[~~s~~] satisfaction of the minimum wage provided that, for tipped workers, all tips received by such workers are retained by the workers, except that the pooling of tips among workers shall be permitted.

[~~D~~]E. Nonprofit organizations whose primary source of funds is from Medicaid waivers are exempt.

[~~E. Staff shall contract for a study or studies to review the impact of changes made to the Living Wage Ordinance approved as Ordinance No. 2007-43 on businesses of less than ten (10) employees and on the student drop-out rate. The study shall be presented to the governing body no later than July 1, 2009.~~]

Section 6. Section 28-1.6 of SFCC 1987 (being Ord. No. 2003-8, § 5) is included for reference without amendments:

28-1.6 Prohibitions against retaliation and circumvention.

A. It shall be unlawful for any employer or employer's agent or representative to take any action against an individual in retaliation for the exercise of or communication of information regarding rights under this section. This section shall also apply to any individual that mistakenly, but in good faith, alleges noncompliance with this section.

B. Taking adverse action against an individual within sixty (60) days of the individual's assertion of or communication of information regarding rights shall raise a rebuttable presumption of having done so in retaliation for the assertion of rights.

C. It shall be unlawful for any business or employer to intentionally circumvent the requirements of this section by contracting portions of its operation or leasing portions of its property.

Section 7. Section 28-1.7 of SFCC 1987 (being Ord. No. 2004-38-, § 1) is included

for reference without amendments:

28-1.7 Reserved.

Editor's note— Former subsection 28-1.7, Compliance Through Collective Bargaining Process, previously codified herein and containing portions of Ordinance No. 2002-13, was repealed in its entirety by Ordinance No. 2004-38.

Section 8. Section 28-1.8 of SFCC 1987 (being Ord. No. 2003-8, § 6) is amended to read:

28-1.8 Enforcement; remedies.

A. *Administrative Enforcement.* The city manager, or [~~his/her~~] their designee, is authorized, as appropriate and as resources permit, to enforce this section. The city manager is authorized to investigate possible violations of this section. Where the city manager, after a proceeding that affords a suspected violator due process, concludes that a violation has occurred, the city manager may issue orders to the employer appropriate to effectuate the complaining person's rights, including but not limited to back pay and reinstatement. The city manager also has the power to order termination of any and all economic benefit derived by any offending party from the city and has the power to revoke the employer's business license or registration.

B. *Criminal Penalty.* A person violating this section shall be guilty of a misdemeanor and, upon conviction, for each offense may be subject to fines and imprisonment as set forth in Section 1-3 SFCC 1987. A person violating any of the requirements of this section shall be guilty of a separate offense for each day or portion thereof and for each worker or person as to which any such violation has occurred.

C. *Other Remedies.* The city, any individual aggrieved by a violation of this section, or any entity the members of which have been aggrieved by a violation of this section, may bring a civil action in a court of competent jurisdiction to restrain, correct, abate or remedy any violation of this section and, upon prevailing, shall be entitled to such legal or equitable relief as may be

appropriate to remedy the violation including, without limitation, reinstatement, the payment of any wages due and an additional amount as liquidated damages equal to twice the amount of any wages due, injunctive relief, and reasonable attorney's fees and costs.

D. *Nonexclusive Remedies and Penalties.* The remedies provided in this section are not exclusive, and nothing in this section shall preclude any person from seeking any other remedies, penalties, or relief provided by law.

Section 9. Section 28-1.9 of SFCC 1987 (being Ord. No. 2002-13, § 9) is included for reference without amendments:

28-1.9 Effect.

Nothing in this Living Wage Ordinance shall be deemed to nor shall be applied in such a manner so as to have a constitutionally prohibited effect as an ex post facto law or impairment of an existing contract within the meaning of New Mexico Constitution, Article II, § 19.

Section 10. Section 28-1.10 of SFCC 1987 (being Ord. No. 2003-8, § 7) is included for reference without amendments:

28-1.10 Severability.

The requirements and provisions of this section and their parts, subparts and clauses are severable. In the event that any requirement, provision, part, subpart or clause of this section, or the application thereof to any person or circumstance, is held by a court of competent jurisdiction to be invalid or unenforceable, it is the intent of the governing body that the remainder of the section be enforced to the maximum extent possible consistent with the governing body's purpose of ensuring a living wage for persons covered by the section.

Section 11. Section 28-1.11 of SFCC 1987 (being Ord. No. 2003-8, § 8) is included for reference without amendments:

28-1.11 Notice; posting; and publication.

Any business subject to the provisions of this section shall as a condition to obtaining and holding

a city of Santa Fe business license or registration, post and display in a prominent location next to its business license or registration on the business premises a notice, in English and Spanish, that the business is in compliance with the provisions of this section and in particular post the text of subsections 28-1.5, 28-1.6 and 28-1.8 SFCC 1987. Failure to comply with this subsection shall be construed a violation of this section and, in addition, shall be considered grounds for suspension, revocation, or termination of the business license or registration.

Section 12. Section 28-1.12 of SFCC 1987 (being Ord. No. 2003-8, § 9) is amended to read as follows:

[~~The city shall conduct a review of this section on or before July 1, 2005. In conducting said review the governing body may, at its discretion and pursuant to a duly adopted resolution, appoint an ad hoc committee to advise and assist in making recommendations regarding this section and to investigate the economic and social effects of this section on Santa Fe. The city will contract with an independent third party to develop an evaluation that will generate objective measures on the effect of the Living Wage Ordinance on the health, security, and livelihood of Santa Feans by March 31, 2003. Data necessary for such an evaluation on Santa Fe city businesses will be compiled and presented to the governing body for their review on or before July 1, 2003. In compiling the data, consideration should be given to potential impacts on youth employment and possible recommendations that might prevent unforeseen consequences hurting children in the community~~] The city shall contract for a study or studies to determine the effects of the Living Wage Ordinance No. 2025-___ including, but not limited to, effects on the following: low-wage employment and hours in hospitality and retail sectors; business openings and closures in food service and lodging sectors; Gross Receipts Tax trends in hospitality linked North American Industry Classification System codes; worker turnover and vacancy durations; and youth employment. The study shall be presented to the governing body no later than July 1, 2029.

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

APPROVED AS TO FORM:

Erin McSherry
Erin McSherry (Sep 4, 2025 11:17:35 MDT)

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/Bill/2025/Living Wage

FIR No. 10707.1

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** X **Resolution:** _____

Short Title(s): Living Wage Ordinance Update

Sponsor(s): Mayor Alan Webber

Reviewing Department(s): City Attorney's Office

Staff Completing FIR: Rod Gould, Senior Advisor and Public Engagement Coordinator
Date: 8/26/2025 **Phone:** 505-637-1907

Reviewed by City Attorney: Erin McSherry Erin McSherry (Sep 4, 2025 11:17:35 MDT) **Date:** 09/04/2025

Reviewed by Finance Director: Emily K. Oster **Date:** 09/04/2025

Summary:
The proposed bill would amend SFCC 1987, Section 28, the Living Wage Ordinance, to increase the living wage in the city of Santa Fe, beginning January 1, 2027, to an hourly wage of seventeen dollars and fifty cents ($17.50). The proposed bill retains the existing exceptions. Additionally, the bill establishes a new formula for calculating annual increases to the living wage by using an average of the rate increases United States Bureau of Labor Statistics' Western Region Consumer Price Index ("Western Region CPI") and the United States Department of Housing and Urban Development's ("HUD") fair market price rental of a two-bedroom unit in Santa Fe. Lastly, the annual adjustments to the living wage would be limited to five percent (5%) of the prior year's wage, and the bill prohibits decreases to the wage, preventing the living wage from going down in the case of an economic crisis.

Departments Affected:
City Attorney's Office, Finance Department, Economic Development Division, Tourism Division, Public Works Department, Public Utilities Department, Constituent Services, and Community Services Division.

Consequences of Not Enacting Legislation:
If this legislation is not adopted, then the City would not update its living wage law to calculate annual increases by using the average of the rate increases of the Western CPI and HUD's fair market rental price of a two-bedroom unit in Santa Fe. The gap between what entry and low-skilled workers are paid and the annual wage required to live in Santa Fe would widen.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
This legislation relates to adopted legislation aimed at increasing the supply of affordable housing in Santa Fe and making living and working in Santa Fe more affordable. Examples of such laws are the Santa Fe Homes Program, requirements for Low Priced Dwelling Units, Affordable Housing Trust Fund, and resolutions donating City-owned land, Community Development Block Grant Funding, and zoning ordinances providing density bonuses for affordable housing.

Performance and Administrative Implications:
None at this time.

Fiscal Implications:
According to the most recent Position Organization Listing from the City's Human Resources Department for the pay period ending August 1, 2025, the City employs eighteen (18) employees whose hourly pay rate was less than $17.50 per hour. These employees work mostly in Tourism, Public Works, and Public Utilities. There is one person in Community Services, who has a pay rate of $16.9591 per hour. Although they all have a significant benefits package that places their compensation for Living Wage purposes above $17.50, it is advisable to bring their base pay to that level. The amount needed to increase all eighteen (18) employees' hourly rates to $17.50, including adding forty percent (40%) for benefits) annualized based on 2080 work hours in a year equates to $13,467.71. The cost to contract for a study or studies to determine the effect of the Living Wage Ordinance would be $50,000 and the study would be presented to the Governing Body no later than July 1, 2029. There also may be changes to the Gross Receipts Tax; however, the details are not currently known.

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 2026	FYE 2027	FYE 2028	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$ 7,000	$	N	R	General	
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$ 50,000			Economic Development	
Operating	$	$	$				$
Total:	$	$ 7,000	$ 50,000				$ 57,000

Expenditure Narrative:

The increase in the Living Wage is to take effect in early 2027. The $7,000 in FYE 2027 is half the annual cost increase for the affected employees. The $50,000 budgeted for FYE 2028 is allocated for the study to determine the effect of the Living Wage Ordinance.

Revenue

Revenue Type	FYE 2025	FYE 2026	FYE 2027	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

None

Signature: 
ROD GOULD (Sep 4, 2025 17:18:54 MDT)

Email: rsgould@santafenm.gov

City of Santa Fe Living Wage Proposal



CITY OF SANTA FE

Key Details of the Proposal

Base Wage increases from $15.00 to $17.50 after a one-year hold on implementation.

There is a 5% cap per year and a 0% floor.

The formula for increase is a combination of CPI and the HUD Fair Market Rent.

Who Benefits the Most?

Studies show that women, ethnically diverse people, and low-income wage earners benefit the most.

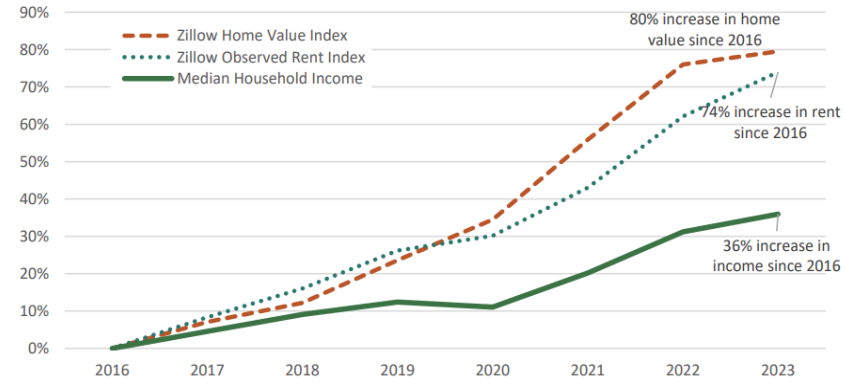


Why are we advancing this proposal?

There is a growing gap between income and housing costs.

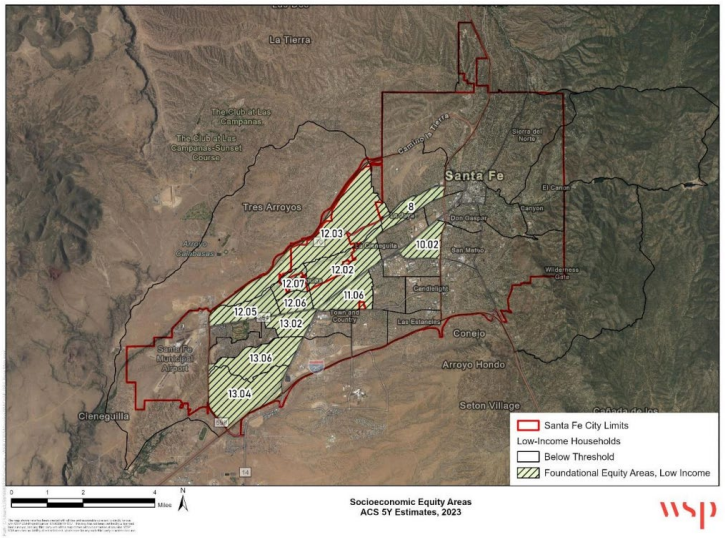
There is an increased risk of displacement concentrated in certain neighborhoods.

Figure 7-25. Changes in Income, Home Value, and Rent in Santa Fe, 2016-2023



Source: 2016-2023 American Community Survey 5-Year Estimates, Table DP04, Zillow

Figure 16-1. Foundational Equity Areas, Low-income Census Tracts



CITY OF SANTA FE

Community Meeting Feedback

Key Themes



There is broad support for the increase.



Residents say wages don't match rising costs.



There are concerns about how this will impact small businesses.

What Are the Expected Impacts?

- A full-time worker earning the minimum wage would see annual income rise from about $31,200 to $36,400 – **an additional $100 per week in income.**

- Studies of **other cities** show little to no job loss; overall effects are small; some employers adjust hours or roles.

- **Business response:** Most businesses benefit from lower turnover and adjust with modest price increases and higher expectations for workers.

Common Concerns and Benefits about Living Wage Laws

- **Will businesses close?** → No. Evidence is they adapt.
- **Will jobs disappear?** → No. Research shows employment remains stable.
- **Will youth lose work opportunities?** → No. There is minimal impact; training and entry jobs and training opportunities continue**.**
- **Will prices spike?** → No. Price increases are modest, usually less than inflation.
- **Will this hurt tourism?** → No. Cities with higher minimum wages remain strong tourist destinations.
- **Will this reduce competitiveness?** → No. Workers earning more spend locally, strengthening small businesses.
- **Are there any benefits regarding job retention?** → Yes. Studies show there is reduced turnover.
- **Are there any benefits that have been generated by living wage ordinances like Santa Fe's?** → Yes. Higher morale, lower turnover and as a result, lower training costs.

CITY OF SANTA FE

Memorandum

Date: July 31, 2025

To: Governing Body; Public Works and Utilities Committee; Finance Committee

From: Jesse Roach, Interim Public Utilities Director JR

RE: Wastewater Rate Updates to Include Connections Outside City Limits

---

SUMMARY:
The proposed bill would amend SFCC 1987, Chapter 22, Exhibit A, Subsection 8, by removing location with respect to Santa Fe's city limits as a criterion in assessing sewer rates. Approximately five percent (5%) of City of Santa Fe's ("City") Public Utilities Department wastewater accounts are located outside of Santa Fe's city limits.

Ordinance No. 2025-13, which was adopted on June 11, 2025, contains the following two categories of water users:

1. users who are located inside Santa Fe's city limits and presumptive city limits and who are connected to City sewer, and
2. users who are located inside Santa Fe's city limits and presumptive city limits and who are *not* connected to City sewer.

The ordinance inadvertently excluded language for users located outside of the city's limits. This bill simplifies the categories for determining sewer rates to users connected to City water and those who are not. Specifically, the categories would be as follows:

1. City sewer users who are connected to the City's water, and
2. City sewer users who are not connected to the City's water.

ATTACHMENTS:
Bill
FIR

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2025-18

INTRODUCED BY:

Mayor Alan Webber

Councilor Romero-Wirth

A BILL

AMENDING CHAPTER 22, EXHIBIT A BY REMOVING LOCATION OF SERVICE AS A CRITERION FOR DETERMINING SEWER SERVICE CHARGES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Chapter 22, Exhibit A, Subsections 1 and 2, SFCC 1987 (being Ordinance 1997-16) is included for reference without proposed changes:

1. Introduction.

The intent of this schedule is to consolidate in one document all information regarding sanitary sewer rates, fees and penalties. In addition, when applicable, formulas and procedures used to arrive at the different dollar figures have been shown in detail.

2. Noncompliance with Notice to Connect to Sewer (Section 22-3.5, SFCC 1987).

2.1. The amount expended by the city shall bear the interest rate of six percent per year from the completion of the work until paid.

underscored material = new [~~bracketed material~~] = delete

Exhibit A has been organized to present the different rates, fees and penalties, along with formulas and procedures used to arrive at them, in a more user-friendly fashion. The different rates, fees and penalties are presented in the same order as they appear in the Code.

Section 2. Chapter 22, Exhibit A, Subsection 8 of SFCC 1987 (being Ordinance 2025-13 § 6) is amended to read as follows:

8. Sewer Service Charges.

A. Connected to City Sewer

Sewer Service Fees and Usage Fees for connections to city sewer are determined by [~~location and~~] connection to city [~~or county utility~~]water and[~~. If not served by city or county utility water, sewer service fees and usage fees shall apply based on the~~] number of unit*s* served by the sewer connection.

[~~a~~]1. [~~In city limits and presumptive city limits and c~~]Connected to city water:

Effective Date	**Monthly Service Fee**	**Monthly Usage Fee**
January 1, 2019	$7.53/unit*	$4.64 per 1,000 gallons water**
July 1, 2025	$7.83/unit*	$4.83 per 1,000 gallons water**
July 1, 2026	$8.14/unit*	$5.02 per 1,000 gallons water**
July 1, 2027	$8.47/unit*	$5.22 per 1,000 gallons water**
July 1, 2028	$8.81/unit*	$5.43 per 1,000 gallons water**
July 1, 2029	$9.16/unit*	$5.65 per 1,000 gallons water**
July 1, 2030	$9.53/unit*	$5.88 per 1,000 gallons water**
July 1, 2031	$9.91/unit*	$6.12 per 1,000 gallons water**
July 1, 2032	$10.31/unit*	$6.36 per 1,000 gallons water**
July 1, 2033	$10.72/unit*	$6.61 per 1,000 gallons water**
July 1, 2034	$11.15/unit*	$6.87 per 1,000 gallons water**

[~~b~~]2. [~~In city limits and presumptive city limits and~~][~~a~~]Not connected to city water:

Effective Date	Monthly Service Fee	Monthly Usage Fee
January 1, 2019	$7.53/unit*	$16.70/unit*
July 1, 2025	$7.83/unit*	$17.37/unit*
July 1, 2026	$8.14/unit*	$18.06/unit*
July 1, 2027	$8.47/unit*	$18.78/unit*
July 1, 2028	$8.81/unit*	$19.53/unit*
July 1, 2029	$9.16/unit*	$20.31/unit*
July 1, 2030	$9.53/unit*	$21.12/unit*
July 1, 2031	$9.91/unit*	$21.96/unit*
July 1, 2032	$10.31/unit*	$22.84/unit*
July 1, 2033	$10.72/unit*	$23.75/unit*
July 1, 2034	$11.15/unit*	$24.70/unit*

In the event that a proposed or existing commercial development does not have a water meter, or the wastewater division director, developer, or customer believes the water meter does not accurately reflect wastewater discharge, the developer or customer may submit, or the director may require the submission of, a study, prepared by a professional engineer, to determine whether installation of a wastewater discharge flow meter would more accurately measure wastewater by the development. Either the developer or customer shall pay for the installation of the wastewater discharge flow meter. Once the developer or customer dedicates the meter to the city, the city shall maintain the wastewater discharge flow meter.

B. Not Connected to City Sewer.

1. Accessible to city sewer system. (As defined in subsection 22-2.1 SFCC 1987.)

Effective Date	Cost per unit*/lot
January 1, 2019	$7.53 per unit* or if no unit* $5.85 per lot
July 1, 2025	$7.83 per unit* or if no unit* $6.08 per lot
July 1, 2026	$8.14 per unit* or if no unit* $6.32 per lot
July 1, 2027	$8.47 per unit* or if no unit* $6.57 per lot
July 1, 2028	$8.81 per unit* or if no unit* $6.83 per lot
July 1, 2029	$9.16 per unit* or if no unit* $7.10 per lot
July 1, 2030	$9.53 per unit* or if no unit* $7.38 per lot
July 1, 2031	$9.91 per unit* or if no unit* $7.68 per lot
July 1, 2032	$10.31 per unit* or if no unit* $7.99 per lot
July 1, 2033	$10.72 per unit* or if no unit* $8.31 per lot
July 1, 2034	$11.15 per unit* or if no unit* $8.64 per lot

2. Not accessible to city sewer system: No charge.

C. Taxes.

Billings under this schedule may be increased by an amount equal to the sum of taxes payable under the Gross Receipts and Compensating Tax Act and of all other taxes, fees, or charges payable by the city and levied or assessed by any governmental authority on the public utility service rendered, or on the right or privilege of rendering the service, or on any object or event incidental to the rendition of the service.

Notes:

* For each of the customer types described below, "unit" means the following:

- *For residential customers*, i.e. customers that meet either the single-family or multi-family service classifications for water, as set forth in Chapter 25 SFCC 1987: one room, or rooms connected together, constituting a separate, independent housekeeping

establishment for owner occupancy, or rental or lease and physically separated from any other rooms or residential units that may be in the same structure and containing independent plumbing facilities. A residential unit may include, but is not limited to, a single-family house, an apartment unit, condominium unit, mobile home, or a guest house.

- *For commercial customers*, i.e. customers that do not meet either the single-family or multi-family service classifications for water as set forth in Chapter 25 SFCC 1987: an area constituting a separate, independent enterprise establishment for owner occupancy, or rental or lease and physically separated from any other commercial units that may be in the same structure and containing independent plumbing facilities.

- *For both residential and commercial purposes,* the term unit does not include a motel or hotel unit or similar transient lodging or rest homes, nursing homes or similar institutional facilities.

** Shown on the water meter readings averaged for the months of December, January, and February of the preceding year. If any of those three (3) months were a zero reading, the water consumption for that month will not be used in the average. For example, if one month has a zero read then the two months consumption will be added and then divided by two. In the case where three zero reads were recorded for December, January, and February, then the previous year water usage will be used. In the event that the previous year also had three zero reads, then the wastewater management division director will estimate the average based on water usage history for that particular customer's residence or business. If any of those three months were a reading less than 1,000 gallons, the water consumption for that month shall be assumed to be 1,000. For example:

December		5,000g water consumption
January	0g water consumption, so	0 gallons assumed
February	900g water consumption, so	1,000 gallons assumed
Total (for the 3 months)		6,000 gallons water consumption
Average (Divide by two since one zero read)		3,000 gallons

[~~*** Shown on the water meter reading for that utility billing cycle.~~]

PASSED, APPROVED, and ADOPTED this _____day of_____.

APPROVED AS TO FORM:

Erin McSherry
Erin McSherry (Aug 6, 2025 12:00:02 MDT)

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Bill /Wastewater Utility Rate Updates to Include Connections Outside City Limits

FIR No. 10703.1

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** x **Resolution:** _____

Short Title(s): Wastewater Utility Rate Updates to Include Connections Outside City Limits

Sponsor(s): Mayor Alan Webber and Councilor Carol Romero-Wirth

Reviewing Department(s): Public Utilities

Staff Completing FIR: Jesse Roach, Interim Public Utilities Director **Date:** July 16, 2025

Phone: (505) 955- 4309

Reviewed by City Attorney: Erin McSherry Erin McSherry (Aug 6, 2025 12:00:02 MDT) **Date:** 08/06/2025

Reviewed by Finance Director: Emily K. Oster **Date:** 08/06/2025

Summary:

The proposed bill would amend SFCC 1987, Chapter 22, Exhibit A, Subsection 8, by removing reference to use location with respect to Santa Fe's city limits as a factor in sewer rates. Approximately five percent (5%) of City of Santa Fe's ("City") Public Utilities Department wastewater accounts are associated with locations outside of Santa Fe's city limits. Ordinance No. 2025-13, which was adopted on June 11, 2025, contains the following two categories of water users:

1. users inside Santa Fe's city limits and presumptive city limits and who are connected to City sewer; and
2. users inside Santa Fe's city limits and presumptive city limits and who are *not* connected to City sewer.

The ordinance invertedly excluded language for users located outside of the city's limits. This bill removes the reference to the city limits, simplifying the categories for determining sewer rates to users connected to City water and those who are not. Specifically, the categories are proposed as follows:

1. City sewer users who are connected to the City's water, and
2. City sewer users who are not connected to the City's water.

Departments Affected:

Public Utilities Department

Consequences of Not Enacting Legislation:

If this legislation is not adopted, Santa Fe City Code will be silent on charges for connections to city sewer outside of city limits.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:

None at this time.

Performance and Administrative Implications:
This clarification will lessen the administrative burden associated with a hole in code around sewer connections outside of city limits that was inadvertently created with the recent wastewater rate increase.

Fiscal Implications:
This amendment will result in revenue increases associated with increased wastewater rates from connections outside city limits, but those increases were assumed when the previous bill was passed, so there are no new fiscal implications.

Fiscal Impact

__x__ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 2026	FYE 2027	FYE 2028	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

Expenditure Narrative:
No additional expenditures beyond what was calculated when the wastewater rates were increased.

Revenue

Revenue Type	FYE 2026	FYE 2027	FYE 2028	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:
No additional revenue beyond what was calculated when the wastewater rates were increased.

Signature: 
Email: jdroach@santafenm.gov

SANTA FE NEW MEXICAN

Founded 1849

CITY OF SANTA FE-MAIN
PO Box 909
Santa Fe, NM 87504-0909

ACCOUNT:	S2460
AD NUMBER:	103682
TAG LINE	LEGAL #94208
P.O.#:	City Clerk

1 TIME(S)	$76.16
AFFIDAVIT	10.00
TAX	7.05
TOTAL	93.21

AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO
COUNTY OF SANTA FE

I, Alejandra Molina, being first duly sworn declare and say that I am Legal Advertising Representative of THE SANTA FE NEW MEXICAN, a daily newspaper published in the English language, and having a general circulation in the Counties of Santa Fe, Rio Arriba, San Miguel, and Los Alamos, State of New Mexico and being a newspaper duly qualified to publish legal notices and advertisements under the provisions of Chapter 167 on Session Laws of 1937; that the Legal No 94208 a copy of which is hereto attached was published in said newspaper 1 day(s) between 09/10/2025 and 09/10/2025 and that the notice was published in the newspaper proper and not in any supplement; the first date of publication being on the 10th day of September, 2025 and that the undersigned has personal knowledge of the matter and things set forth in this affidavit.

ISI _____
LEGAL ADVERTISEMENT RESPRESENTATIVE

Subscribed and sworn to before me on this 10th day of September, 2025

Notary _____

Commission Expires: 4-18-2027

STATE OF NEW MEXICO
NOTARY PUBLIC
JAVIER CHRISTOPHER ROMERO
COMMISSION # 1140160
COMMISSION EXPIRES 04/18/2027

LEGAL #94208

CITY OF SANTA FE
NOTICE OF PUBLIC HEARING

Notice is hereby given that the Governing Body of the City of Santa Fe will hold a public hearing at their regular Governing Body Meeting at 7:00 p.m. on Wednesday, September 24, 2025.

The purpose of the public hearing will be to consider the following:

BILL 2025-18. A Bill Amending Chapter 22, Exhibit A by Removing Location of Service as a Criterion for Determining Sewer Service Charges.

This bill is available in its entirety on the City's web site http://www.santafenm.gov (click on Departments/City Attorney/Legislative Services) or upon request and payment of a reasonable charge, in the City Clerk's Office, City Hall, 200 Lincoln Avenue, from 8:00 a.m. to 5:00 p.m., Monday through Friday.

Interested parties may view the meeting on the City's YouTube Channel: https://www.youtube.com/user/cityofsantafe. An agenda with complete information about meeting attendance and instructions to provide live public comment will be posted on the City's website no later than seventy-two (72) hours before the meeting: https://santafenm.portal.civicclerk.com/.

The Governing Body shall review and consider all public input prior to taking action.

Andréa Salazar,
City Clerk/Director of Community Engagement

PUB.: September 10, 2025

Amarisa Montoya
[redacted]
Santa Fe, New Mexico 87507
[redacted]
September 11, 2025

Mayor's Committee on Disabilities
Mayor Alan Webber
Mayor's Office Santa Fe, New Mexico
Santa Fe, New Mexico 87501

Dear Mr. Mayor and Members of the Selection Committee,

I am writing to express my interest in serving on the Mayor's Committee on Disability. As a 21-year-old individual who lives with the disability of being hard of hearing and relies on hearing aids, I bring both lived experience and a strong desire to advocate for accessibility, inclusion, and equal opportunity for all members of our community.

Growing up with hearing loss has given me firsthand insight into the barriers that individuals with disabilities face in education, employment, public spaces, and daily life. I have learned to navigate challenges with resilience, adaptability, and determination, and I want to use my experiences to help improve systems and resources for others. Serving on this committee would allow me to represent the perspective of young adults with disabilities while collaborating with leaders to make meaningful change.

I am particularly passionate about ensuring that accessibility goes beyond compliance and truly reflects inclusion—whether that means improving communication access, supporting youth with disabilities as they transition into independence, or raising awareness in our community. I believe my perspective, combined with my energy and commitment, will be an asset to the committee's mission.

Thank you for considering my application. I would be honored to contribute to the Mayor's Committee on Disability and help ensure that our city continues to grow as a place where people of all abilities can thrive.

Sincerely,
Amarisa Montoya

Amarisa Montoya
[redacted]
Santa Fe, New Mexico 87507
[redacted]

I am a dedicated and detail-oriented individual looking for an opportunity at a well-reputed organization to gain experience, exposure and expand my knowledge.

Skills

- Customer service
- Workplace safety
- Records management
- Communication
- Safety
- Organization
- Accounting
- Computer Skills
- Teamwork

Professional Experience

Teller | Enterprise Bank & Trust
March 26, 2024 - Present day
301 Griffin St, Santa Fe, NM, 87501

Job duties:

- Open and close the branch and following security practices set by corporate security.
- handling various types of transactions like accepting checks for cash and deposits,verifying cash and endorsements, issuing receipts, accepting deposits including bulk coin/currency , savings and checking deposits,issuing cashier checks, and managing currency orders and shipments
- Keeping proper cash levels in drawers and ensuring cash security
- Balancing the cash drawer daily
- Responding to clients' needs and questions in a timely and friendly manner.
- Balancing ATM, vault, coin, and cash GL Accounts
- Perform account maintenance including debit card maintenance, check ordering,and safe deposit entry.
- Refer clients to a different financial representative when needed to meet their financial goals.
- Educating clients on banking technology such as atm/itm and online banking.
- Assisting team members on imaging and other office duties as needed.
- Following bank policies and practices to insure following legal compliance.
- Other miscellaneous duties as assigned.

Receptionist | Evolution Hair Design
June 16, 2023 – January 24, 2024
6640 Cerrillos Rd Unit B,Santa Fe, NM 87507
Job Duties:

- Greeting guests as they enter, signing them in, and putting them on a waiting list as necessary.
- Leading guests to their barber/stylist.
- Sweeping and cleaning as needed throughout the solan to maintain code.
- Engaging with guests to ensure they're happy with their service.
- Responding to complaints and helping to resolve them.
- Answering phone calls and answering questions.
- Managing stylist schedule by including but not limited to over-the-phone, text, and emails
- Helping out with other closing duties as needed.
- Bookkeeping and payroll experience using spreadsheets.
- experience in using and balancing a cash draw and cash handling experience.
- Laundry and cleaning duties
- customer service experience

Hostess | The Ranch House
February 5, 2022 – July 5, 2023
2571 Cristo's Road, Santa Fe NM 87507
Job Duties:

- Greeting guests as they enter, and putting them on a waiting list as necessary.
- Providing guests with menus and answering any initial questions.
- Seating guests at tables or in waiting areas.
- Assigning guests to tables they prefer, while keeping table rotation in mind so that servers receive the right number of customers.
- Engaging with guests to ensure they're happy with food and service.
- Responding to complaints and helping to resolve them.
- Answering phone calls and answering questions.
- A knowledge of the menu.
- Helping out with other positions in the restaurant as needed.
- Providing great customer service.

Mentor/Tutor lead | Tutor's for teacher

December 15, 2020 – June 5, 2023
(505) 375-1310
Info@tutortoteachers.org
Job Duties:

- Remaining up to date with the school curriculum and subject-specific content.
- Being punctual to all appointments.
- Ensure that any changes that need to be made to meeting times are made within a reasonable time frame.
- Researching learning resources to use during lessons.
- Planned activities for students.
- Created lesson plans for students.
- Assisted students on one and also in the classroom.

Education

Santa Fe High School | Santa Fe, NM
08/2019 - 08/2023
Obtained High School Diploma | General Studies

Santa Fe Community College | General Studies / Early Childhood Education
08/2023 - 12/2023 Plan to Continue

Volunteer Work

Event Coordinating and Execution | Blaze Christian Fellowship, Santa Fe

VBS Teacher | Blaze Christian Fellowship, Santa Fe

Special Needs Prom | Santa Fe Public Schools, Santa Fe

Pack Food For Distribution | Santa Fe Food Depot, Santa Fe

References available upon request