



Town of Waterford
Director of Fire Services

204 Boston Post Road
Waterford, CT 06385

November 4, 2021

First Selectman Rob Brule
15 Rope Ferry Road
Waterford, CT 06385

Re: Merging of two CNR lines

On behalf of the Waterford Fire Services, I would like to request the merging of two lines in our Capital Non-Recurring (CNR) Designated, under line #20523-57733 Oswegatchie Building Improvements and line # 20523-57792 Oswegatchie Building Renovations into one project. This project is currently in the evaluating stage, and needs assessment for a new station. Recommended we merge into 20523-57733.

Director of Fire Services

Michael J. Howley

C: Kim Allen, Director of Finance

OSWEGATCHIE BUILDING IMPROVEMENS & RENOVATIONS

20523-57733 OSWEGATCHIE FIRE BUILDING IMPROVEMENTS

DESIGNATED	1,000,000
APPROPRIATED	500
EXPENDED	500
BALANCE AVAILABLE	999,500

20523-57792 OSWEGATCHIE BUILDING RENOVATIONS

DESIGNATED	1,990,000
APPROPRIATED	213,700
EXPENDED	213,700
BALANCE AVAILABLE	1,776,300

20507-59205 FUNDING OFFSETS FY18 DEDBT SERVICE OSWEGATCHIE FIRE
3,000,000

**REQUEST: TO MOVE \$1,776,300 FROM DESIGNED LINE 20523-57792 INTO
DESIGNATED LINE 20523-57733 AND THEN CLOSE OUT PROJECT
20523-57792 (OSWEGATCHIE BUILDING RENOVATIONS)**

JANSSEN SETTLEMENT AGREEMENT

This settlement agreement dated as of July 21, 2021 (the “*Agreement*”) sets forth the terms of settlement between and among the Settling States, Participating Subdivisions, and Janssen (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, Janssen, and Participating Subdivisions. This Agreement will then be filed as part of Consent Judgments 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:

1. “*Abatement Accounts Fund*” means a component of the Settlement Fund described in subsection VI.E.
2. “*Additional Restitution Amount*” means the amount available to Settling States listed in Exhibit N of \$67,307,692.
3. “*Agreement*” means this agreement as set forth above, inclusive of all exhibits.
4. “*Alleged Harms*” means the alleged past, present, and future financial, societal, and related expenditures arising out of the alleged misuse and abuse of opioid 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 Janssen.
5. “*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 State and/or its Subdivisions. In addition to modifying the allocation, as set forth in subsection VI.D.2, an Allocation Statute may, without limitation, contain a Statutory Trust, further restrict expenditure 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.
6. “*Annual Payment*” means the total amount payable to the Settlement Fund by Janssen on the Payment Date each year in 2023 and onward, as calculated by the Settlement Fund Administrator pursuant to Section V. For the avoidance of doubt, this term does not include the Additional Restitution Amount or amounts paid pursuant to Section XI.
7. “*Appropriate Official*” means the official defined in subsection XIII.E.

8. *"Attorney Fee Fund"* means an account consisting of funds allocated to pay attorneys' fees and costs pursuant to the agreement on attorneys' fees and costs attached as Exhibit R.
9. *"Bar"* means either (1) a ruling by the highest court of the State or the intermediate court of appeals when not subject to further review by the highest court of the State in a State with a single intermediate court of appeals setting forth the general principle that no Subdivisions or Special Districts in the State may maintain Released Claims against Released Entities, whether on the ground of the Agreement (or the release in it) or otherwise; (2) a law barring Subdivisions and Special Districts in the State from maintaining or asserting Released Claims against Released Entities (either through a direct bar or through a grant of authority to release claims and that authority is exercised in full); or (3) a Settlement Class Resolution in the State with full force and effect. For the avoidance of doubt, a law or ruling that is conditioned or predicated upon payment by a Released Entity (apart from payments by Janssen incurred under the Agreement) shall not constitute a Bar.
10. *"Case-Specific Resolution"* means either (1) a law barring specified Subdivisions or Special Districts from maintaining Released Claims against Released Entities (either through a direct bar or through a grant of authority to release claims and that authority is exercised in full); (2) a ruling by a court of competent jurisdiction over a particular Subdivision or Special District that has the legal effect of barring the Subdivision or Special District from maintaining any Released Claims at issue against Released Entities, whether on the ground of the Agreement (or the release in it) or otherwise; or (3) in the case of a Special District, a release consistent with Section IV below. For the avoidance of doubt, a law, ruling, or release that is conditioned or predicated upon a post-Effective Date payment by a Released Entity (apart from payments by Janssen incurred under the Agreement or injunctive relief obligations incurred by it) shall not constitute a Case-Specific Resolution.
11. *"Claim"* means any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, penalty, judgment, right, obligation, dispute, suit, contract, controversy, agreement, parens patriae claim, promise, performance, warranty, omission, 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, 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.

12. “*Claim Over*” means 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.
13. “*Compensatory Restitution Amount*” means the aggregate amount of payments by Janssen hereunder other than amounts paid as attorneys’ fees and costs or identified pursuant to subsection VI.B.2 as being used to pay attorneys’ fees and investigation costs or litigation costs.
14. “*Consent Judgment*” means a state-specific consent judgment in a form to be agreed upon by the Settling States, Participating Subdivisions, and Janssen prior to the Initial Participation Date that, among other things, (1) approves this Agreement and (2) provides for the release set forth in Section IV, including the dismissal with prejudice of any Released Claims that the Settling State has brought against Released Entities.
15. “*Court*” means the respective court for each Settling State to which the Agreement and the Consent Judgment are presented for approval and/or entry as to that Settling State, or the Northern District of Ohio for purposes of administering the Attorney Fee Fund and any related fee and cost agreements.
16. “*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 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, misstatement, misleading statement or other activity) relating in any way to (a) 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; (b) the characteristics, properties, risks, or benefits of any Product; (c) the reporting, disclosure, non-reporting or non-disclosure to federal, state or other regulators of orders for any Product placed with any Released Entity; (d) the 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 (e) diversion control programs or suspicious order monitoring related to any Product.

17. “*Designated State*” means New York.
18. “*Effective Date*” means the date sixty (60) days after the Reference Date.
19. “*Enforcement Committee*” means 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 subsection XIII.O shall be provided when there are changes in membership or contact information.
20. “*Global Settlement Abatement Amount*” means the abatement amount of \$4,534,615,385.
21. “*Global Settlement Amount*” means \$5 billion, which shall be divided into the Global Settlement Abatement Amount, the Additional Restitution Amount, and the Global Settlement Attorney Fee Amount.
22. “*Global Settlement Attorney Fee Amount*” means the attorney fee amount of \$398,076,923.
23. “*Incentive A*” means the incentive payment described in subsection V.E.4.
24. “*Incentive B*” means the incentive payment described in subsection V.E.5.
25. “*Incentive C*” means the incentive payment described in subsection V.E.6.
26. “*Incentive D*” means the incentive payment described in subsection V.E.7.
27. “*Incentive Payment Final Eligibility Date*” means, with respect to a Settling State, the date that is the earliest of (1) three years after the Effective Date; (2) the date of completion of opening statements in a trial of any action brought by a Subdivision in that State that includes a Released Claim against a Released Entity when such date is more than two (2) years after the Effective Date; or (3) two (2) years after the Effective Date in the event a trial of an action brought by a Subdivision in that State that includes a Released Claim against a Released Entity began after the Initial Participation Date but before two (2) years after the Effective Date.
28. “*Initial Participating Subdivision*” means a Subdivision that meets the requirements set forth in subsection VII.D.
29. “*Initial Participation Date*” means the date one hundred twenty (120) days after the Preliminary Agreement Date, unless it is extended by written agreement of Janssen and the Enforcement Committee.

30. *"Initial Year Payment"* means the total amount payable to the Settlement Fund by Janssen on each of the two Payment Dates in 2022, as calculated by the Settlement Fund Administrator pursuant to Section V. For the avoidance of doubt, this term does not include the Additional Restitution Amount or amounts paid pursuant to Section XI.
31. *"Injunctive Relief Terms"* means the terms described in Section III and set forth in Exhibit P.
32. *"Janssen"* means Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc.
33. *"Later Litigating Special District"* means a Special District (or Special District official asserting the right of or for the Special District to recover for alleged harms to the Special District and/or the people thereof) that is not a Litigating Special District and that files a lawsuit bringing a Released Claim against a Released Entity, or that adds such a claim to a pre-existing lawsuit, after the Preliminary Agreement Date. It may also include a Litigating Special District whose claims were resolved by a judicial Bar or Case-Specific Resolution which is later revoked following the execution date of this Agreement, when such Litigating Special District takes any affirmative step in its lawsuit other than seeking a stay or removal.
34. *"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 is not a Litigating Subdivision and that files a lawsuit bringing a Released Claim against a Released Entity, or that adds such a claim to a pre-existing lawsuit, after the Trigger Date. It may also include a Litigating Subdivision whose claims were resolved by a judicial Bar or Case-Specific Resolution which is later revoked following the execution date of this Agreement, when such Litigating Subdivision takes any affirmative step in its lawsuit other than seeking a stay or removal.
35. *"Later Participating Subdivision"* means a Participating Subdivision that meets the requirements of subsection VII.E but is not an Initial Participating Subdivision.
36. *"Litigating Special District"* means a Special District (or Special District official) that brought any Released Claims against any Released Entities on or before the Preliminary Agreement Date that were not separately resolved prior to that date. A list of Litigating Special Districts will be agreed to by the parties and attached hereto as of the Preliminary Agreement Date.
37. *"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 Released Claim against any Released Entity prior to the Trigger Date that were not separately resolved prior to that

Trigger Date. A Prior Litigating Subdivision shall not be considered a Litigating Subdivision. Exhibit C is an agreed list of the 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.

38. “*National Arbitration Panel*” means the panel described in subsection XII.F.
39. “*National Disputes*” means the disputes described in subsection XII.F.
40. “*Non-Litigating Special District*” means a Special District that is neither a Litigating Special District nor a Later Litigating Special District.
41. “*Non-Litigating Subdivision*” means a Subdivision that is neither a Litigating Subdivision nor a Later Litigating Subdivision.
42. “*Non-Participating Subdivision*” means a Subdivision that is not a Participating Subdivision.
43. “*Non-Party Covered Conduct Claim*” means 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).
44. “*Non-Party Settlement*” means a settlement by any Releasor that settles any Non-Party Covered Conduct Claim and includes a release of any Non-Released Entity.
45. “*Non-Released Entity*” means an entity that is not a Released Entity.
46. “*Non-Settling State*” means a State that is not a Settling State.
47. “*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 the opioid abuse crisis, including on those injured as a result of the opioid abuse crisis. 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.
48. “*Overall Allocation Percentage*” means a Settling State’s percentage as set forth in Exhibit F. The aggregate Overall Allocation Percentages of all States (including Settling States and Non-Settling States) shall equal 100%.
49. “*Participating Special District*” means a Special District that executes a release consistent with Section IV below and meets the requirements for becoming a Participating Special District under Section VII.

50. *"Participating Subdivision"* means a Subdivision that meets the requirements for becoming a Participating Subdivision under Section VII. Participating Subdivisions include both Initial Participating Subdivisions and Later Participating Subdivisions. Subdivisions eligible to become Participating Subdivisions are listed in Exhibit G. A Settling State may add additional Subdivisions to Exhibit G at any time prior to the Initial Participation Date.
51. *"Participation Tier"* means the level of participation in this Agreement as determined pursuant to subsection VIII.C using the criteria set forth in Exhibit H.
52. *"Parties"* means Janssen and the Settling States (each, a *"Party"*).
53. *"Payment Date"* means the date on which Janssen makes its payments pursuant to Section V and Exhibit M.
54. *"Payment Year"* means the calendar year during which the applicable Initial Year Payments or Annual Payments are due pursuant to subsection V.B. Payment Year 1 is 2022, Payment Year 2 is 2023 and so forth. References to payment *"for a Payment Year"* mean the Initial Year Payments or Annual Payment due during that year. References to eligibility *"for a Payment Year"* mean eligibility in connection with the Initial Year Payments or Annual Payment due during that year.
55. *"Preliminary Agreement Date"* means the date on which Janssen gives notice to the Settling States and MDL PEC of its determination that a sufficient number of States have agreed to be Settling States. This date shall be no more than fourteen (14) days after the end of the notice period to States, unless it is extended by written agreement of Janssen and the Enforcement Committee.
56. *"Primary Subdivision"* means a Subdivision that has a population of 30,000 or more. A list of Primary Subdivisions in each State is provided in Exhibit I.
57. *"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 Released Claim against any Released Entity prior to the Trigger Date and all such Released Claims were separately settled or finally adjudicated prior to the Trigger 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, Janssen and the State of the relevant Subdivision may agree in writing that such Subdivision shall not be considered a Prior Litigating Subdivision.
58. *"Product"* means 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 an opioid or opiate, as well as any product containing any such substance. It also includes: 1) the following when used in combination with opioids or opiates: benzodiazepine, carisoprodol, zolpidem, or gabapentin; and 2) a combination or

“cocktail” of any stimulant or other chemical substance prescribed, sold, bought, or dispensed to be used together that includes opioids or opiates. For the avoidance of doubt, “Product” does not include benzodiazepine, carisoprodol, zolpidem, or gabapentin when not used in combination with opioids or opiates. “Product” includes but is not limited to any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, naloxone, naltrexone, oxycodone, oxymorphone, tapentadol, tramadol, opium, heroin, carfentanil, any variant of these substances, or any similar substance. “Product” also includes any natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, and any related intermediate products used or created in the manufacturing process for any of the substances described in the preceding sentence.

59. “*Reference Date*” means the date on which Janssen is to inform the Settling States and MDL PEC of its determination whether there is sufficient resolution of claims and potential claims at the Subdivision level to go forward with the settlement. The Reference Date shall be thirty (30) days after the Initial Participation Date, unless it is extended by written agreement of Janssen and the Enforcement Committee.
60. “*Released Claims*” means any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct occurring prior to the Reference Date. Without limiting the foregoing, “Released Claims” include any Claims that have been asserted against the Released Entities by any Settling State or any of its Litigating Subdivisions or Litigating Special Districts in any federal, state or local action or proceeding (whether judicial, arbitral, or administrative) based on, arising out of or relating to, in whole or in part, the Covered Conduct, or any such Claims that could be or could have been asserted now or in the future in those actions or in any comparable action or proceeding brought by a State, any of its Subdivisions or Special Districts, or any Releasors (whether or not such State, Subdivision, Special District, or Releasor has brought such action or proceeding). Released Claims also include all Claims asserted in any proceeding to be dismissed pursuant to the Agreement, whether or not such claims relate to Covered Conduct. The Parties intend that “Released Claims” be interpreted broadly. This Agreement does not release Claims by private individuals. 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 Later Litigating Subdivision or other non-party Subdivision or Special District that would have been Released Claims if they had been brought by a Releasor against a Released Entity.
61. “*Released Entities*” means Janssen and (1) all of Janssen’s past and present direct or indirect parents, subsidiaries, divisions, predecessors, successors, assigns, including Noramco, Inc. and Tasmanian Alkaloids PTY. LTD.; (2) the past and present direct or indirect subsidiaries, divisions, and joint ventures, of any of the foregoing; (3) all of Janssen’s insurers (solely in their role as insurers with respect

to the Released Claims); (4) all of Janssen's, or of any entity described in subsection (1), past and present joint ventures; and (5) the respective past and present officers, directors, members, shareholders (solely in their capacity as shareholders of the foregoing entities), partners, trustees, agents, and employees of any of the foregoing (for actions that occurred during and related to their work for, or employment with, Janssen). Any person or entity described in subsections (3)-(5) 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. For the avoidance of doubt, the entities listed in Exhibit Q are not Released Entities; *and provided further* that any joint venture partner of Janssen or Janssen's subsidiary is not a Released Entity unless it falls within subsections (1)-(5) above. A list of Janssen's present subsidiaries and affiliates can be found at <https://johnsonandjohnson.gcs-web.com/static-files/f61ae5f3-ff03-46c1-bfc9-174947884db2>. Janssen's predecessor entities include but are not limited to those entities listed on Exhibit J. For the avoidance of doubt, any entity acquired, or joint venture entered into, by Janssen after the Reference Date is not a Released Entity.

62. "Releasers" means (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 their official capacity whether elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, (b) any public entities, public instrumentalities, public educational institutions, unincorporated districts, fire districts, irrigation districts, water districts, law enforcement districts, emergency services districts, school districts, hospital 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 the Agreement. The inclusion of a specific reference to a type of entity in this definition shall not be construed as meaning that the entity is not a Subdivision. In addition to being a Releaser as provided herein, a Participating Subdivision shall also provide the Subdivision Settlement Participation Form or the Election and Release Form referenced in Section VII providing for a release to the fullest extent of the Participating Subdivision's authority, which shall be attached as an exhibit to the Agreement. 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 the Representation and Warranty subsection of Section IV.
63. "Revocation Event" means with respect to a Bar, Settlement Class Resolution, or Case-Specific Resolution, a legislative amendment or 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 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.

64. “*Settlement Class Resolution*” means a class action resolution in a court of competent jurisdiction in a Settling State with respect to a class of Subdivisions and Special Districts in that State that (1) conforms with that Settling State’s statutes, case law, and/or rules of procedure regarding class actions; (2) is approved and entered as an order of a court of competent jurisdiction in that State and has become final as defined in “State-Specific Finality”; (3) is binding on all Non-Participating Subdivisions and Special Districts in that State (other than opt outs as permitted under the next sentence); (4) provides that all such Non-Participating Subdivisions or Special Districts may not bring Released Claims against Released Entities, whether on the ground of the Agreement (or the releases herein) or otherwise; and (5) does not impose any costs or obligations on Janssen other than those provided for in the Agreement, or contain any provision inconsistent with any provision of the Agreement. If applicable state law requires that opt-out rights be afforded to members of the class, a class action resolution otherwise meeting the foregoing requirements shall qualify as a Settlement Class Resolution unless Subdivisions collectively representing more than 1% of the total population of all of that State’s Subdivisions listed in Exhibit G opt out. In seeking certification of any Settlement Class, the applicable 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.
65. “*Settlement Fund*” means the interest-bearing fund established under the Agreement into which all payments by Janssen are made other than amounts paid as attorneys’ fees and costs or identified pursuant to subsection VI.B.2 as being used to pay attorneys’ fees and costs. The Settlement Fund comprises the Abatement Accounts Fund, State Fund, and Subdivision Fund.
66. “*Settlement Fund Administrator*” means the entity that determines the Annual Payments (including calculating Incentive Payments pursuant to Section V) and any amounts subject to suspension or offset pursuant to Sections V and IX), determines the Participation Tier, and administers and distributes amounts into the Settlement Fund. The duties of the Settlement Fund Administrator shall be governed by this Agreement. Prior to the Initial Participation Date, the Parties shall agree to selection and removal processes for and a detailed description of the Settlement Fund Administrator’s duties, 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.

67. “*Settlement Fund Escrow*” means the interest-bearing escrow fund established pursuant to this Agreement to hold disputed or suspended payments made under this Agreement.
68. “*Settlement Payment Schedule*” means the schedule of payments attached to this Agreement as Exhibit M. A revised Settlement Payment Schedule will be substituted for Exhibit M after any offsets, reductions, or suspensions under Sections V and IX are determined.
69. “*Settling State*” means any State that has entered the Agreement.
70. “*Special District*” means a formal and legally recognized sub-entity of a State that is authorized by State law to provide one or a limited number of designated functions, including but not limited to school districts, fire districts, healthcare & hospital districts, and emergency services districts. Special Districts do not include sub-entities of a State that provide general governance for a defined area that would qualify as a Subdivision.
71. “*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”).
72. “*State Fund*” means a component of the Settlement Fund described in subsection VI.C.
73. “*State-Specific Finality*” means, with respect to the Settling State in question:
- a. the Agreement and the Consent Judgment have been approved and entered by the Court as to Janssen, including the release of all Released Claims against Released Entities as provided in this Agreement;
 - b. for all lawsuits brought by the Settling State against Released Entities for Released Claims, either previously filed or filed as part of the entry of the Consent Judgment, the Court has stated in the Consent Judgment or otherwise entered an order finding that all Released Claims against Released Entities asserted in the lawsuit have been resolved by agreement; and
 - c. (1) the time for appeal or to seek review of or permission to appeal from the approval and entry as described in subsection (a) hereof and entry of such order described in subsection (b) hereof has expired; or (2) in the event of an appeal, the appeal has been dismissed or denied, or the approval and entry described in (a) hereof and the order described in subsection (b) hereof have been affirmed in all material respects (to the extent challenged in the appeal) by the court of last resort to which such appeal has been taken and such dismissal or affirmance has become no

longer subject to further appeal (including, without limitation, review by the United States Supreme Court).

74. “*State-Subdivision Agreement*” means an agreement that a Settling State reaches with the Subdivisions in that State regarding the allocation, distribution, and/or use of funds allocated to that State and to Participating Subdivisions in that State. 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 State and its Subdivisions may revise, supplement, or refine a State-Subdivision Agreement if approved pursuant to the provisions of Exhibit O or if adopted by statute.
75. “*Statutory Trust*” means a trust fund established by state law to receive funds allocated to a State’s Abatement Accounts Fund and restrict their expenditure to Opioid Remediation purposes subject to reasonable administrative expenses. A State may give a Statutory Trust authority to allocate one or more of the three Settlement Funds, but this is not required.
76. “*Subdivision*” means a formal and legally recognized sub-entity of a State that provides general governance for a defined area, including a county, parish, city, town, village, or similar entity. Unless otherwise specified, “Subdivision” includes all functional counties and parishes and other functional levels of sub-entities of a State that provide general governance for a defined area. Historic, non-functioning sub-entities of a State (such as Connecticut counties) are not Subdivisions, unless the entity has filed a lawsuit that includes a Released Claim against a Released Entity in a direct, parens patriae, or any other capacity. For purposes of this Agreement, the term Subdivision does not include Special Districts. A list of Subdivisions by state will be agreed to prior to any Subdivision sign-on period.
77. “*Subdivision Allocation Percentage*” means for Subdivisions in a Settling State that are eligible to receive an allocation from the Subdivision Fund pursuant to subsection VI.C or subsection VI.D, the percentage as set forth in Exhibit G. The aggregate Subdivision Allocation Percentage of all Subdivisions receiving a Subdivision Allocation Percentage in each State shall equal 100%. Immediately upon the effectiveness of any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by subsection VI.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by subsection VI.D.3) that addresses allocation from the Subdivision Fund, or upon any, 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 subsection VII.A, except upon the effectiveness of any State-

Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by subsection VI.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by subsection 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.

78. “*Subdivision Fund*” means a component of the Settlement Fund described in subsection VI.C.
79. “*Subdivision Settlement Participation Form*” means the form attached as Exhibit K that Participating Subdivisions must execute and return to the 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 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.
80. “*Threshold Motion*” means 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.
81. “*Trigger Date*” means, in the case of a Primary Subdivision, the Reference Date, or, in the case of all other Subdivisions, the Preliminary Agreement Date.

II. Participation by States and Condition to Preliminary Agreement

- A. *Notice to States.* On July 22, 2021 this Agreement shall be distributed to all States. The States’ Attorneys General shall then have a period of thirty (30) days to decide whether to become Settling States. States that determine to become Settling States shall so notify the National Association of Attorneys General and Janssen 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 Janssen and the Enforcement Committee.
- B. *Condition to Preliminary Agreement.* Following the notice period set forth in subsection II.A above, Janssen shall determine on or before the Preliminary Agreement Date whether, in its sole discretion, enough States have agreed to become Settling States to proceed with notice to Subdivisions as set forth in Section VII below. If Janssen determines that this condition has been satisfied, and that notice to the Litigating Subdivisions should proceed, it will so notify the Settling States by providing notice to the Enforcement Committee and Settlement Fund Administrator on the Preliminary Agreement Date. If Janssen determines that this condition has not been satisfied, it will so

notify the Settling States by providing notice to the Enforcement Committee and Settlement Fund Administrator, and this Agreement will have no further effect and all releases and other commitments or obligations contained herein will be void.

- C. *Later Joinder by States.* After the Preliminary Agreement Date, a State may only become a Settling State with the consent of Janssen, in its sole discretion. If a State becomes a Settling State more than sixty (60) days after the Preliminary Agreement Date, but on or before January 1, 2022, the Subdivisions and Special Districts in that State that become Participating Subdivisions and Participating Special Districts within ninety (90) days of the State becoming a Settling State shall be considered Initial Participating Subdivisions or Initial Participating Special Districts. A State may not become a Settling State after January 1, 2022.

III. Injunctive Relief

- A. *Entry of Injunctive Relief.* As part of the Consent Judgment, the Parties agree to the injunctive relief terms attached as Exhibit P.

IV. Release

- A. *Scope.* As of the Effective Date, the Released Entities will be 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) will, on or before the Effective Date, absolutely, unconditionally, and irrevocably covenant not to bring, file, or claim, or to cause, assist in bringing, or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Agreement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability 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. The Release shall be a complete bar to any Released Claim.
- B. *Claim Over and Non-Party Settlement.*
1. *Statement of Intent.* 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 Settlement Agreement;
 - b. the payments made under this Settlement 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 Settlement 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.
 - e. The provisions of this subsection IV.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.
2. *Contribution/Indemnity 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, 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.
3. *Non-Party Settlement.* 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 (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 substantially equivalent to that required from Janssen in subsection IV.B.2, 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.
4. *Claim-Over.* In the event that any Releasor obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Entity that does not contain a prohibition like that in subsection IV.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 subsection IV.B.3, and such Non-Released Entity asserts a Claim-Over against a Released Entity, that Releasor and Janssen shall take the following actions to ensure that the Released Entities do not pay more with respect to Covered Conduct to Releasors or to Non-Released Entities than the amounts owed under this Settlement Agreement by Janssen:
- a. Janssen shall notify that Releasor of the Claim-Over within sixty (60) days of the assertion of the Claim-Over or sixty (60) days of the Effective Date of this Settlement Agreement, whichever is later;
 - b. Janssen and that Releasor shall meet and confer concerning the means to hold Released Entities harmless and ensure that it is not required to pay

more with respect to Covered Conduct than the amounts owed by Janssen under this Settlement Agreement;

- c. That Releasor and Janssen 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 Janssen under this Settlement Agreement. Such steps may include, where permissible:
 - (1) Filing of motions to dismiss or such other appropriate motion by Janssen or Released Entities, and supported by Releasors, in response to any claim filed in litigation or arbitration;
 - (2) 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 that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity;
 - (3) Placement into escrow of funds paid by the Non-Released Entities such that those funds are available to satisfy the Claim-Over;
 - (4) Return of monies paid by Janssen to that Releasor under this Settlement Agreement to permit satisfaction of a judgment against or settlement with the Non-Released Entity to satisfy the Claim-Over;
 - (5) Payment of monies to Janssen by that 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;
 - (6) Credit to Janssen under this Settlement Agreement to reduce the overall amounts to be paid under the Settlement Agreement such that it is held harmless from the Claim-Over; and
 - (7) Such other actions as that Releasor and Janssen may devise to hold Janssen harmless from the Claim Over.
- d. The actions of that Releasor and Janssen taken pursuant to paragraph (c) must, in combination, ensure Janssen is not required to pay more with respect to Covered Conduct than the amounts owed by Janssen under this Settlement Agreement.
- e. In the event of any dispute over the sufficiency of the actions taken pursuant to paragraph (c), that Releasor and Janssen 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 Releasors 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, Janssen shall have a claim for breach of this Settlement Agreement by Releasors, with the remedy being payment of sufficient funds to hold Janssen harmless from the Claim-Over. For the avoidance of doubt, the prior sentence does not limit or eliminate any other remedy that Janssen may have.

5. To the extent that the Claim-Over is based on a contractual indemnity, the obligations under subsection IV.B.4 shall extend solely to a Non-Party Covered Conduct Claim against a pharmacy, clinic, hospital or other purchaser or dispenser of Products, a manufacturer that sold Products, a consultant, and/or a pharmacy benefit manager or other third-party payor. Janssen 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. *General Release.* In connection with the releases provided for in the 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 that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may thereafter 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 the Agreement or the Participating Subdivisions' decision to participate in the Agreement.

- D. *Res Judicata.* Nothing in the Agreement shall be deemed to reduce the scope of the res judicata or claim preclusive effect that the settlement memorialized in the Agreement,

and/or any Consent Judgment or other judgment entered on the Agreement, gives rise to under applicable law.

- E. *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) 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; (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, commissions, and instrumentalities are those that are under the executive authority or direct control of the State's Governor. Also, for the purposes of clause (3), a release from a State's Governor is sufficient to demonstrate that the appropriate releases have been obtained.
- F. *Effectiveness.* The releases set forth in the Agreement shall not be impacted in any way by any dispute that exists, has existed, or may later exist between or among the 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.
- G. *Cooperation.* Releasors (i) will not encourage any person or entity to bring or maintain any Released Claim against any Released Entity and (ii) will reasonably cooperate with and not oppose any effort by a Released Entity to secure the prompt dismissal of any and all Released Claims.
- H. *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 and any claims arising under the Agreement for enforcement of the Agreement.

V. Monetary Relief and Payments

A. Structure of Payments

1. 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.
2. Janssen shall pay into the Settlement Fund the sum of Four Billion, Five Hundred Thirty-Four Million, Six Hundred Fifteen Thousand, Three Hundred Eighty-Five

Dollars (\$4,534,615,385) minus (1) the offsets and credits specified in subsection V.C below, (2) any unearned incentive payments under subsection V.E below, and (3) any adjustments under Section IX below.

3. The payments to the Settlement Fund shall be divided into base and incentive payments as provided in subsections V.D and V.E below.

B. Payment Process

1. Except as otherwise provided in this Agreement, Janssen shall make two Initial Year Payments and nine (9) Annual Payments. The Initial Year Payments will consist of base payments. The first Annual Payment shall consist of incentive payments and subsequent Annual Payments shall each consist of base and incentive payments. The amount of all Initial Year Payments and Annual Payments shall be determined by the Settlement Fund Administrator applying Section V and Exhibit M. The Payment Date for the first Initial Year Payment shall be no later than ninety (90) days after the Effective Date. The Payment Date for the second Initial Year Payment shall be no later than July 15, 2022. The Payment Date for the first Annual Payment shall be no later than one year and sixty days following the Effective Date; the Payment Date for the second Annual Payment shall be no later than two years and sixty days following the Effective Date, and so forth, until all Annual Payments are made.
2. All data relevant to the determination of each such payment shall be submitted to the Settlement Fund Administrator sixty (60) days prior to the Payment Date for each payment. Prior to the Initial Participation Date, the Parties will include an exhibit to the Agreement setting forth in detail the process for submitting such data to the Settlement Fund Administrator prior to each Payment Date. The Settlement Fund Administrator shall then determine the Initial Year Payment or Annual Payment and the amount to be paid to each Settling State and its Participating Subdivisions, consistent with the provisions in Exhibit L, by:
 - a. determining, for each Settling State, the amount of base and incentive payments to which the State is entitled by applying the criteria in this Section;
 - b. applying any reductions, suspensions, or offsets required by Sections V and IX; and
 - c. determining the total amount owed by Janssen to all Settling States and Participating Subdivisions.
3. The Settlement Fund Administrator shall then allocate the Initial Year Payment or Annual Payment pursuant to Section VI among the Settling States, among the separate types of funds for each Settling State (if applicable), and among the Participating Subdivisions.

4. As soon as possible, but no later than fifty (50) days prior to the Payment Date for each payment and following the determination described in subsection V.B.2, the Settlement Fund Administrator shall give notice to Janssen, the Settling States, and the Enforcement Committee of the amount of the Initial Year Payment or Annual Payment, 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 Settling State's Participating Subdivisions.
5. Within twenty-one (21) days of the notice provided by the Settlement Fund Administrator, any party may dispute, in writing, the calculation of the Initial Year Payment or Annual Payment, or the amount to be received by a Settling State and/or its Participating Subdivisions. Such disputing party must provide a written notice of dispute to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Janssen identifying the nature of the dispute, the amount of money that is disputed, and the Settling State(s) affected.
6. Within twenty-one (21) 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 Janssen identifying the basis for disagreement with the notice of dispute.
7. If no response is filed, the Settlement Fund Administrator shall adjust the amount calculated consistent with the written notice of dispute, and Janssen shall pay the adjusted amount as the Initial Year Payment or Annual 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 Janssen 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 maximum amount of base and incentive payments for that payment as set forth in Exhibit M. For the avoidance of doubt, a transfer of suspended payments from the Settlement Fund Escrow does not count toward determining whether the amount to be paid is higher than the maximum amount of base and incentive payments for that payment as set forth in Exhibit M.
8. The Settlement Fund Administrator shall place any disputed amount of the preliminary amount paid by Janssen into the Settlement Fund Escrow and shall disburse any undisputed amount to each Settling State and its Participating Subdivisions receiving direct allocations within fifteen (15) days of the Payment Date or at such later time as directed by each Settling State.
9. Disputes described in this subsection (other than those for which no response is filed under subsection V.B.6) shall be resolved in accordance with the terms of Section XII.

10. The process described in this subsection V.B shall also apply to accelerated payments made pursuant to Incentive A under subsection V.E.4.
11. For the avoidance of doubt, Subdivisions not listed on Exhibit G shall not receive an allocation from the Subdivision Fund.

C. Offsets for Non-Settling States and Credits

1. An offset equal to Four Billion, Five Hundred Thirty-Four Million, Six Hundred Fifteen Thousand, Three Hundred Eighty-Five Dollars (\$4,534,615,385) times the percentage allocation assigned to each Non-Settling State in Exhibit F shall be deducted from the total amount to be paid by Janssen to the Settlement Fund under subsection V.A.2 above.
2. In addition to the offset, a credit of Two Hundred and Seventy Million Dollars (\$270,000,000) shall be deducted from the maximum Settlement Fund amount to be paid by Janssen under subsection V.A.2 above and applied to the payment amounts as specified by Exhibit M. For the avoidance of doubt, the base payments and maximum incentive payment amounts shown on Exhibit M already reflect the deduction of the offset.
3. Notwithstanding any other provision of this Agreement or any other agreement, in the event that: (1) Janssen enters into an agreement with any Settling State that resolves with finality such Settling State's Claims consistent with Section IV of this Agreement and such agreement has an effective date prior to the Effective Date of this Agreement (such agreement, a "State-Specific Agreement") and (2) pursuant to the terms of the State-Specific Agreement, any payments, or any portion thereof, made by Janssen thereunder are made in lieu of any payments (for the avoidance of doubt, including the Additional Restitution Amount), or any portion thereof, to be made under this Agreement and Janssen makes such a payment pursuant to the State-Specific Agreement, then Janssen will reduce any payments allocable to such Settling State (whether made to the Settlement Fund Escrow or the Settlement Fund) made pursuant to this Agreement to the extent such amount was already paid pursuant to the terms of the State-Specific Agreement. This provision includes but is not limited to any corresponding amounts already paid to the Qualified Settlement Fund established under the Agreement between Janssen and the State of New York dated June 25, 2021.
4. Non-Settling States shall not be eligible for any payments or have any rights in connection with this Agreement. Accordingly, the stated maximum dollar amounts of the payments specified in Exhibit M are reduced by the aggregate Overall Allocation Percentage of Non-Settling States as set forth in Exhibit F.

D. Base Payments

1. Janssen shall make base payments into the Settlement Fund totaling One Billion, Nine Hundred Forty-Two Million, Three Hundred Forty-Six Thousand, One Hundred Fifty-Five Dollars (\$1,942,346,155) minus the offsets and credits

specified in subsection V.C above. The base payments will be paid in accordance with the payment schedule specified by Exhibit M, subject to potential acceleration and potential deductions as provided herein.

2. The base payments will be allocated by Settling State proportionate to each Settling State's assigned percentages in Exhibit F, adjusted for any Non-Settling States.
3. If a State qualifies for Incentive A (described below), Janssen will accelerate the base payment schedule so that the State receives its Payment Year 1-4 base payment allocations and full Payment Year 1-4 Incentive A payment amounts within ninety (90) days of notice, on or after the Effective Date, of the Bar's implementation. Payment Year 5-10 payments are made annually and cannot be accelerated.
4. The exemplar payment schedule in Exhibit M does not account for deductions for offsets or unearned incentives, which will be separately calculated for each payment.

E. Incentive Payments

1. Janssen shall make incentive payments into the Settlement Fund potentially totaling up to Two Billion, Three Hundred Twenty-Two Million, Two Hundred Sixty-Nine Thousand, Two Hundred Thirty Dollars (\$2,322,269,230), consisting of \$2,109,038,461 for Incentive A (or, alternatively up to \$2,109,038,461 for combined Incentives B and C if Incentive A is not achieved) and \$213,230,769 for Incentive D, prior to being adjusted for credits if every State is a Settling State and were to satisfy the requirements specified below to earn its maximum incentive amount. The incentive payments will be paid in accordance with the payment schedule in Exhibit M, subject to potential acceleration and potential deductions as provided herein.
2. The maximum incentive amount for any Settling State shall be \$2,322,269,230 times the percentage allocation assigned that Settling State in Exhibit F.
3. A Settling State may qualify to receive incentive payments in addition to base payments if, as of the Incentive Payment Final Eligibility Date, it meets the incentive eligibility requirements specified below. Settling States may qualify for incentive payments in four ways. If a Settling State qualifies for "Incentive A," it will become entitled to receive the maximum Incentive A payment allocable to the State as stated in subsection V.E.1. If a Settling State does not qualify for Incentive A, it can alternatively qualify for "Incentive B" and/or "Incentive C." A Settling State can qualify for "Incentive D" regardless of whether it qualifies for another incentive payment. The Incentive Payment Final Eligibility Date is not relevant to Incentive D.

4. *Incentive A: Accelerated Incentive Payment for Full Participation.*

- a. A Settling State shall receive an accelerated Incentive A payment allocable to the State for full participation as described in subsection V.E.4.b.
- b. A State qualifies for Incentive A by: (1) complete participation in the form of releases consistent with Section IV above from all Litigating Subdivisions and Litigating Special Districts, Non-Litigating Subdivisions with population over 10,000, and Non-Litigating Covered Special Districts (as defined in subsection V.E.7.e); (2) a Bar; or (3) a combination of approaches in clauses (1)-(2) that achieves the same level of resolution of Subdivision and Special District claims (e.g., a law barring future litigation combined with full joinder by Litigating Subdivisions and Litigating Special Districts). For purposes of Incentive A, a Subdivision or Special District is considered a "Litigating Subdivision" or "Litigating Special District" if it has brought Released Claims against Released Entities on or before the Reference Date; all other Subdivisions and Special Districts are considered "Non-Litigating." For purposes of Incentive A, Non-Litigating Special Districts shall not include a Special District with 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.
- c. Qualification for Incentive A entitles the qualifying Settling State to expedited payment of base payments and incentive payments for Payment Years 1-4, which Janssen shall pay into the Settlement Fund within ninety (90) days after receiving notice from the Settlement Fund Administrator that a State has qualified for Incentive A, but in no event less than ninety (90) days from the Effective Date. Base and incentive payments for Payment Years 5-10 will not be expedited.
- d. If a Settling State qualifies for Incentive A after receiving an incentive payment under Incentives B or C, described below, the Settling State's payments under Incentive A will equal the remainder of its total Incentive A payments less any payments previously received under Incentives B or C. A Settling State that receives all of its maximum incentive allocation under Incentive A shall not receive additional incentive payments under Incentives B or C.
- e. A Settling State that is not eligible for Incentive A as of the Incentive Payment Final Eligibility Date shall not be eligible for Incentive A for that Payment Year or any subsequent Payment Years.

5. *Incentive B: Early Participation or Released Claims by Litigating Subdivisions and Litigating Special Districts.*
- a. If a Settling State does not qualify for Incentive A, it may still qualify to receive up to 60% of its total potential Incentive A payment allocation under Incentive B.
 - b. A Settling State can qualify for an Incentive B payment if Litigating Subdivisions and Litigating Special Districts collectively representing at least 75% of the Settling State's litigating population are either Participating Subdivisions or have their claims resolved through Case-Specific Resolutions.
 - (1) A Settling State's litigating population is the sum of the population of all Litigating Subdivisions and Litigating Special Districts. A Settling State's litigating population shall include all Litigating Subdivisions and Litigating Special Districts whose populations overlap in whole or in part with other Litigating Subdivisions and Litigating Special Districts, for instance in the case of a Litigating Special District, city, or township contained within a county.
 - (2) For example, if a Litigating Special District and a city that is a Litigating Subdivision are located within a county that is a Litigating Subdivision, then each of their individual populations would be added together to determine the total litigating population. Special District populations shall be counted in the manner set forth in subsection XIII.B. If each qualifies as a Litigating Subdivision or Litigating Special District and the county has a population of 10, the City has a population of 8, and the Special District has a population of 1, the total litigating population would be 19.
 - c. The following time periods apply to Incentive B payments:
 - (1) Period 1: Zero to two hundred ten (210) days after the Effective Date.
 - (2) Period 2: Two hundred eleven (211) days to one year after the Effective Date.
 - (3) Period 3: One year and one day to two years after the Effective Date.
 - d. Within Period 1: If Litigating Subdivisions and Litigating Special Districts collectively representing at least 75% of a Settling State's litigating population are Participating Subdivisions or have their claims resolved through Case-Specific Resolutions during Period 1, a sliding scale will determine the share of the funds available under Incentive B, with a

maximum of 60% of the Settling State's total potential incentive payment allocation available. Under that sliding scale, if Litigating Subdivisions and Litigating Special Districts collectively representing 75% of a Settling State's litigating population become Participating Subdivisions or achieve Case-Specific Resolution status by the end of Period 1, a Settling State will receive 50% of the total amount available to it under Incentive B. If more Litigating Subdivisions and Litigating Special Districts become Participating Subdivisions or achieve Case-Specific Resolution status, the Settling State shall receive an increased percentage of the total amount available to it under Incentive B as shown in the table below.

Participation or Case-Specific Resolution Levels (As percentage of litigating population)	Incentive B Award (As percentage of total amount available to State under Incentive B)
75%	50%
76%	52%
77%	54%
78%	56%
79%	58%
80%	60%
85%	70%
90%	80%
95%	90%
100%	100%

- e. Within Period 2: If a Settling State did not qualify for an Incentive B payment in Period 1, but Litigating Subdivisions and Litigating Special Districts collectively representing at least 75% of the Settling State's litigating population become Participating Subdivisions or achieve Case-Specific Resolution status by the end of Period 2, then the Settling State qualifies for 75% of the Incentive B payment it would have qualified for in Period 1.
- f. Within Period 3: If a Settling State did not qualify for an Incentive B payment in Periods 1 or 2, but Litigating Subdivisions and Litigating Special Districts collectively representing at least 75% of the Settling State's litigating population become Participating Subdivisions or achieve Case-Specific Resolution status by the end of Period 3, then the Settling State qualifies for 50% of the Incentive B payment it would have qualified for in Period 1.
- g. A Settling State that receives the Incentive B payment for Periods 1 and/or 2 can receive additional payments if it secures participation from additional Litigating Subdivisions and Litigating Special Districts (or Case-Specific Resolutions of their claims) during Periods 2 and/or 3.

Those additional payments would equal 75% (for additional participation or Case-Specific Resolutions during Period 2) and 50% (for additional participation or Case-Specific Resolutions during Period 3) of the amount by which the increased litigating population levels would have increased the Settling State's Incentive B payment if they had been achieved in Period 1.

- h. If Litigating Subdivisions and Litigating Special Districts that have become Participating Subdivisions or achieved Case-Specific Resolution status collectively represent less than 75% of a Settling State's litigating population by the end of Period 3, the Settling State shall not receive any Incentive B payment.
- i. If there are no Litigating Subdivisions or Litigating Special Districts in a Settling State, and that Settling State is otherwise eligible for Incentive B, that Settling State will receive its full allocable share of Incentive B.
- j. Incentives earned under Incentive B shall accrue after each of Periods 1, 2, and 3. After each period, the Settlement Fund Administrator shall conduct a look-back to assess which Settling States vested an Incentive B payment in the preceding period. Based on the look-back, the Settlement Fund Administrator will calculate the incentives accrued under Incentive B for the period; *provided* that the percentage of Incentive B for which a Settling State is eligible as of the Incentive Payment Final Eligibility Date shall cap its eligibility for that Payment Year and all subsequent Payment Years.

6. *Incentive C: Early Participation of Subdivisions*

- a. If a Settling State does not qualify for Incentive A, it may still qualify to receive up to 40% of its total potential Incentive A payment allocation under Incentive C, which has two parts.
 - (1) Part 1: Under Incentive C, Part 1, a Settling State can receive up to 75% of its Incentive C allocation. A Settling State can qualify for a payment under Incentive C, Part 1 only if Primary Subdivisions (whether Litigating Primary Subdivisions or Non-Litigating Primary Subdivisions as of the Reference Date) representing at least 60% of the Settling State's Primary Subdivision population become Participating Subdivisions or achieve Case-Specific Resolution status.
 - (2) A Settling State's Primary Subdivision population is the sum of the population of all Primary Subdivisions (whether Litigating Primary Subdivisions or Non-Litigating Primary Subdivisions as of the Reference Date). Because Subdivisions include Subdivisions whose populations overlap in whole or in part with other

Subdivisions, for instance in the case of a city or township contained within a county, the Settling State's Primary Subdivision population is greater than Settling State's total population. (Special Districts are not relevant for purposes of Incentive C calculations.)

- (3) A sliding scale will determine the share of the funds available under Incentive C, Part 1 to Settling States meeting the minimum 60% threshold. Under that sliding scale, if a Settling State secures participation or Case-Specific Resolutions from Primary Subdivisions representing 60% of its total Primary Subdivision population, it will receive 40% of the total amount potentially available to it under Incentive C, Part 1. If a Settling State secures participation or Case-Specific Resolutions from Primary Subdivisions representing more than 60% of its Primary Subdivision population, the Settling State shall be entitled to receive a higher percentage of the total amount potentially available to it under Incentive C, Part 1, on the scale shown in the table below. If there are no Primary Subdivisions, and that Settling State is otherwise eligible for Incentive C, that Settling State will receive its full allocable share of Incentive C, Part 1.

Participation or Case-Specific Resolution Levels (As percentage of total Primary Subdivision population)	Incentive C Award (As percentage of total amount available to State under Incentive C, Part 1)
60%	40%
70%	45%
80%	50%
85%	55%
90%	60%
91%	65%
92%	70%
93%	80%
94%	90%
95%	100%

- b. Part 2: If a Settling State qualifies to receive an incentive under Incentive C, Part 1, the State can also qualify to receive an additional incentive amount equal to 25% of its total potential Incentive C allocation by securing 100% participation of the ten (10) largest Subdivisions by population in the Settling State. (Special Districts are not relevant for purposes of this calculation.) If a Settling State does not qualify for any amount under Incentive C, Part 1, it cannot qualify for Incentive C, Part 2.
- c. Incentives earned under Incentive C shall accrue on an annual basis up to three years after the Effective Date. At one, two, and three years after the

Effective Date, the Settlement Fund Administrator will conduct a look-back to assess which Subdivisions had agreed to participate or had their claim resolved through a Case-Specific Resolution that year. Based on the look-back, the Settlement Fund Administrator will calculate the incentives accrued under Incentive C for the year; *provided* that the percentage of Incentive C for which a Settling State is eligible as of the Incentive Payment Final Eligibility Date shall cap its eligibility for that Payment Year and all subsequent Payment Years.

7. *Incentive D: Release of Payments if No Qualifying Special District Litigation.*

- a. \$213,230,769 shall be available for potential Incentive D payments according to the terms specified in this subsection V.E.7.
- b. If, within five years of the Reference Date, a Covered Special District files litigation against any Released Entity, Janssen shall, within thirty (30) days of Janssen being served, provide notice of the litigation to the Settling State in which the Covered Special District sits, which shall file a motion to intervene in the litigation and use its best efforts to obtain either dismissal of the litigation in cooperation with Janssen, or a release consistent with Section IV of the Special District's Claims.
- c. A Settling State shall receive its allocation of the Incentive D payment if, within five years after the Effective Date (the "look-back date"), no Covered Special District within the Settling State has filed litigation which has survived a Threshold Motion and remains pending as of the look-back date, unless the dismissal after the litigation survived the Threshold Motion is conditioned or predicated upon payment by a Released Entity (apart from payments by Janssen incurred under the Agreement or injunctive relief obligations incurred by it).
- d. Prior to the look-back date, a Released Entity shall not enter into a settlement with a Covered Special District unless the State in which the Covered Special District sits consents to such a settlement or unreasonably withholds consent of such a settlement.
- e. "*Covered Special Districts*" are school districts, healthcare/hospital districts, and fire districts, subject to the following population thresholds:
 - (1) For school districts, the K-12 student enrollment must be 25,000 or 0.12% of a State's population, whichever is greater;
 - (2) For fire districts, the district must 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 sources and agreed to between the State and Janssen, 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.

- (3) For healthcare/hospital districts, the district must have at least 125 hospital beds in one or more hospitals rendering services in that district.

VI. Allocation and Use of Settlement Funds

- A. *Components of Settlement Fund.* The Settlement Fund shall be comprised of an Abatement Accounts Fund, a State Fund, and a Subdivision Fund for each Settling State. The payments under Section V into the Settlement Fund shall be initially allocated among those three (3) sub-funds and distributed and used as provided below or as provided for by a State-Subdivision Agreement (or other State-specific allocation of funds). Unless otherwise specified herein, payments placed into the Settlement Fund do not revert back to Janssen.
- 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 listed in Exhibit G be for Opioid Remediation, subject to limited exceptions that must be documented in accordance with subsection VI.B.2. In no event may less than 86.5% of Janssen's maximum amount of payments pursuant to Sections V, X, and XI 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 Participating Subdivision listed 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 listed 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 shall identify such amounts and report to the Settlement Fund Administrator and Janssen 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 subsection VI.B.2 shall be available to the public. For the avoidance of doubt, (a) any amounts not identified under this subsection 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 subsection VI.F and (b) Participating Subdivisions not listed on Exhibit G or Participating Special Districts that receive monies from the Settlement Fund indirectly may only use such 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 States and their Subdivisions, Settling States and Participating 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 listed on Exhibit G, 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 subsection V.D among the Settling States in proportion to their respective Overall Allocation Percentages. Base payments for each Settling State will then be allocated 15% to its State Fund, 70% to its Abatement Accounts Fund, and 15% to its Subdivision Fund. Amounts may be reallocated and will be distributed as provided in subsection VI.D.
 2. Incentive Payments. The Settlement Fund Administrator will treat incentive payments under subsection V.E on a State-specific basis. Incentive payments for which a Settling State is eligible under subsection V.E will be allocated 15% to its State Fund, 70% to its Abatement Accounts Fund, and 15% to its Subdivision Fund. Amounts may be reallocated and will be distributed as provided in subsection VI.D.
 3. Application of Adjustments. If a reduction, offset, or suspension under Section IX applies with respect to a Settling State, the reduction, offset, or suspension shall be applied proportionally to all amounts that would otherwise be apportioned and distributed to the State Fund, the Abatement Accounts Fund, and the Subdivision Fund for that State.
 4. Settlement Fund Administrator. Prior to the Initial Participation Date, Janssen 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 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 with regard to Janssen's payments to the Settlement Fund shall be paid out of interest accrued on the Settlement Fund and from the Settlement Fund should such interest prove insufficient.
- 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 subsections VI.D.1-2, then the default provisions of subsection VI.D.4 apply. It is not necessary that a State-Subdivision Agreement or other means of allocating funds pursuant to subsections VI.D.1-2 address all of the Settlement Fund sub-funds. For example, a Statutory Trust might only address disbursements from a Settling State's Abatement Accounts Fund.

1. Distribution by State-Subdivision Agreement. If a Settling State has a State-Subdivision Agreement, amounts apportioned to that State's State Fund, Abatement Accounts Fund, and Subdivision Fund under subsection 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: (1) that all amounts be used for Opioid Remediation, except as allowed by subsection VI.B.2, and (2) that at least 70% of amounts be used solely for future Opioid Remediation (references to "future Opioid Remediation" include 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). For a State-Subdivision Agreement to be applied to the relevant portion of an Initial Year Payment or an Annual Payment, notice must be provided to Janssen and the Settlement Fund Administrator at least sixty (60) 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 State's State Fund, Abatement 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 subsection VI.B.2, and (2) at least 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 State's State Fund, Abatement Accounts Fund, and Subdivision Fund under subsection 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 in subsection VI.D.4 of any such unaddressed fund. For example, if an Allocation Statute or Statutory Trust that meets the requirements of this subsection VI.D.2 only addresses funds restricted to abatement, then the default provisions in 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 State would still apply, while the distribution of the applicable State's Abatement 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 Abatement Accounts Fund. A Participating Subdivision listed on Exhibit G may choose to reallocate all or a portion of its

allocation from the Subdivision Fund to the State's Abatement Accounts Fund or to another Participating Subdivision or Participating Special District. For a voluntary redistribution to be applied to the relevant portion of an Initial Year Payment or an Annual Payment, notice must be provided to the Settling Distributors and the Settlement Fund Administrator at least sixty (60) days prior to the Payment Date.

4. Distribution in the Absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust. If subsections VI.D.1-2 do not apply, amounts apportioned to that State's State Fund, Abatement Accounts Fund, and Subdivision Fund under subsection VI.C shall be distributed as follows:
 - a. Amounts apportioned to that State's State Fund shall be distributed to that State.
 - b. Amounts apportioned to that State's Abatement Accounts Fund shall be distributed consistent with subsection 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 Abatement 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 Abatement 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 State's Abatement Accounts Fund to the Statutory Trust.
 - c. Amounts apportioned to that State's Subdivision Fund shall be distributed to Participating Subdivisions in that State listed on Exhibit G per the Subdivision Allocation Percentage listed in Exhibit G. Subsection VII.I shall govern amounts that would otherwise be distributed to Non-Participating Subdivisions listed in Exhibit G.
 - d. Special Districts shall not be allocated funds from the Subdivision Fund, except through a voluntary redistribution allowed by subsection VI.D.3. A Settling State may allocate funds from its State Fund or Abatement Accounts Fund for Special Districts.
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 in excess of what is permissible under subsection VII.E. 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 Abatement 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 subsection VI.D.1 or by an Allocation Statute or a Statutory Trust described in subsection VI.D.2.

E. *Provisions Regarding Abatement 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 State's Abatement Accounts Fund so long as it complies with the requirements of subsection VI.D.1 or VI.D.2 as applicable, and all direct payments to Subdivisions comply with subsections VII.E-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 Abatement Accounts Fund will be used solely for future Opioid Remediation and the following shall apply with respect to a Settling State:
 - a. *Regional Remediation.*
 - (1) At least 50% of distributions for remediation from a State's Abatement Accounts Fund shall be annually allocated and tracked to the regional level. A Settling State may allow the Advisory Committee established pursuant to subsection VI.E.2.d to define its regions and assign regional allocations percentages. Otherwise, a Settling State shall (1) define its initial regions, which shall consist of one (1) or more 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 State for opioid abuse treatment or other public health purposes; and (2) assign initial regional allocation percentages to the regions based on the Subdivision Allocation Percentages in Exhibit G and an assumption that all Subdivisions listed on Exhibit G will become Participating Subdivisions.
 - (2) This minimum regional expenditure percentage is calculated on the Settling State's initial Abatement Accounts Fund allocation and does not include any additional amounts a Settling State has directed to its Abatement Accounts Fund from its State Fund, or any other amounts directed to the fund. A Settling State may dedicate more than 50% of its Abatement Accounts Fund to the regional expenditure and may annually adjust the percentage of its Abatement Accounts Fund dedicated to regional expenditures as long as the percentage remains above the minimum amount.

- (3) The Settling State (1) has the authority to adjust the definition of the regions, and (2) may annually revise the percentages allocated to each region to reflect the number of Subdivisions in each region that are Non-Participating Subdivisions.
- b. *Subdivision Block Grants.* Certain Subdivisions listed on Exhibit G shall be eligible to receive regional allocation funds in the form of a block grant for future Opioid Remediation. A Participating Subdivision listed on Exhibit G eligible for block grants is a county or parish (or in the case of 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 listed on Exhibit G eligible to receive block grants shall be assigned its own region.
- c. *Small States.* Notwithstanding the provisions of subsection VI.E.2.a, Settling States with populations under four (4) million that do not have existing regions described in subsection VI.E.2.a shall not be required to establish regions. However, such a Settling State that contains one (1) or more Subdivisions listed on Exhibit G eligible for block grants under subsection VI.E.2.b shall be divided regionally so that each block-grant eligible Subdivision listed on Exhibit G 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 Abatement 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:
 - (1) 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;
 - (2) Composition that includes at least an equal number of local representatives as state representatives;
 - (3) A process for receiving input from Subdivisions and other communities regarding how the opioid crisis is affecting their

communities, their abatement needs, and proposals for abatement strategies and responses; and

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

3. Abatement Accounts Fund Reporting. The Settlement Fund Administrator shall track and assist in the report of remediation disbursements as agreed to among the Parties.

F. *Nature of Payment.* Janssen, the Settling States, the Participating Subdivisions, and the Participating Special Districts, acknowledge and agree that notwithstanding anything to the contrary in this Agreement, including, but not limited to, the scope of the Released Claims:

1. Janssen has entered into this Agreement to avoid the delay, expense, inconvenience, and uncertainty of further litigation;
2. The Settling States, the Participating Subdivisions, and the Participating Special Districts sought compensatory restitution (within the meaning of 26 U.S.C. § 162(f)(2)(A)) as damages for the Alleged Harms allegedly suffered by the Settling States and Participating Subdivisions;
3. By executing this Agreement the Settling States, the Participating Subdivisions, and the Participating Special Districts certify that: (a) the Compensatory Restitution Amount is no greater than the amount, in the aggregate, of the Alleged Harms allegedly suffered by the Settling States and Participating Subdivisions; and (b) the portion of the Compensatory Restitution Amount received by each Settling State or Participating Subdivision is no greater than the amount of the Alleged Harms allegedly suffered by such Settling State or Participating Subdivision;
4. The payment of the Compensatory Restitution Amount by Janssen constitutes, and is paid for, compensatory restitution (within the meaning of 26 U.S.C. § 162(f)(2)(A)) for alleged damage or harm (as compensation for alleged damage or harm arising out of alleged bodily injury) allegedly caused by Janssen;
5. The Compensatory Restitution Amount is being paid as compensatory restitution (within the meaning of 26 U.S.C. § 162(f)(2)(A)) in order to restore, in whole or in part, the Settling States and Participating Subdivisions to the same position or condition that they would be in had the Settling States and Participating Subdivisions not suffered the Alleged Harms;
6. For the avoidance of doubt: (a) no portion of the Compensatory Restitution Amount represents reimbursement to any Settling State, Participating Subdivision, Participating Special District, or other person or entity for the costs of any investigation or litigation, (b) the entire Compensatory Restitution Amount

is properly characterized as described in subsection VI.F, and (c) no portion of the Compensatory Restitution Amount constitutes disgorgement or is properly characterized as the payment of statutory or other fines, penalties, punitive damages, other punitive assessments, or attorneys' fees; and

7. New York, on behalf of all Settling States, Participating Subdivisions, and Participating Special Districts (the "Form 1098-F Filer") shall complete and file Form 1098-F with the Internal Revenue Service on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the order entering this Agreement becomes binding. On the Form 1098-F, the Form 1098-F Filer shall identify the entire Compensatory Restitution Amount received by the Form 1098-F Filer as remediation/restitution. The Form 1098-F Filer shall also, on or before January 31 of the year following the calendar year in which the order entering this Agreement becomes binding, furnish Copy B of such Form 1098-F (or an acceptable substitute statement) to Janssen.

VII. Participation by Subdivisions and Special Districts

- A. *Notice.* No later than fifteen (15) days after the Preliminary Agreement Date, the Settling States, with the cooperation of Janssen, shall send individual written notice of the opportunity to participate in this Agreement and the requirements of participation to all Subdivisions in the Settling States of this Agreement that are (1) Litigating Subdivisions or (2) Non-Litigating Subdivisions listed on Exhibit G as eligible to become Participating Subdivisions. Janssen's share of costs of the written notice to such Subdivisions shall be advanced by Janssen and deducted from its initial settlement payment. Notice shall also be provided simultaneously to counsel of record for Litigating Subdivisions and Non-Litigating Subdivisions listed on Exhibit G as eligible to become Participating Subdivisions. The Settling States, with the cooperation of Janssen, will also provide general notice reasonably calculated to alert Non-Litigating Subdivisions listed on Exhibit G 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 national 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 that is listed on Exhibit G may become a Participating Subdivision by returning an executed Subdivision Settlement Participation Form 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, and (4) that the Subdivision submits to the jurisdiction of the court where the Consent Judgment is filed

for purposes limited to that court's role under the 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 Settlement Fund Administrator and upon prompt dismissal of its legal action. A Settling State may require each Litigating Subdivision in that State to specify on the Subdivision Settlement Participation Form whether its counsel has waived any contingency fee contract with that Participating Subdivision and intends to seek fees according to Exhibit R. The Settlement Fund Administrator shall provide quarterly reports of this information to the parties organized by Settling State. Except for trials begun before the Initial Participation Date, a Litigating Subdivision or a Later Litigating Subdivision may not become a Participating Subdivision after the completion of opening statements in a trial of a legal action 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 subsections VII.B or VII.C by the Initial Participation Date. Provided however, all Subdivision Settlement Participation Forms shall be held by the Settlement Fund Administrator until Janssen provides the notice in subsection VIII.B that it intends to proceed with the settlement, at which time the obligations created by such forms become effective.
- 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 after the Initial Participation Date and agreeing to be subject to the terms of a State-Subdivision Agreement (if any) or any other structure adopted or applicable pursuant to subsections VI.D or VI.E. 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 base or incentive payments paid to the Subdivision Fund that were due before it became a Participating Subdivision.
 2. A Later Participating Subdivision that becomes a Participating Subdivision after July 15, 2022 shall receive 75% of the share of future base or incentive payments that it would have received had it become a Later Participating Subdivision before that date (unless the Later Participating Subdivision is subject to subsections VII.E.3 or VII.E.4 below).
 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 50%

of the share of future base 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 payment.

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 25% of the share of future base 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 Janssen.
- G. *Ineligible Subdivisions.* Subdivisions in Non-Settling States and Prior Litigating Subdivisions are not eligible to be Participating Subdivisions.
- H. *Non-Participating Subdivisions.* Non-Participating Subdivisions shall not directly receive any portion of any base or incentive payments, including from the State Fund and direct distributions from the Abatement Accounts Fund; however, a Settling State may choose to fund future Opioid Remediation that indirectly benefits Non-Participating Subdivisions.
- I. *Unpaid Allocations to Later Participating and Non-Participating Subdivisions.* Any base payment and incentive payments allocated pursuant to subsection VI.D to a Later Participating or Non-Participating Subdivision that cannot be paid pursuant to this Section VII, will be allocated to the Abatement 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.
- J. *Requirements for Becoming a Participating Special District: Non-Litigating Special Districts.* A Non-Litigating Special District may become a Participating Special District by either executing a release consistent with Section IV or by having its claims extinguished by operation of law or released by a Settling State.
- K. *Requirements for Becoming a Participating Special District: Litigating Special Districts/Later Litigating Special Districts.* A Litigating Special District or Later Litigating Special District in a Settling State may become a Participating Special District by either executing a release consistent with Section IV and upon prompt dismissal of its legal action or by having its claims extinguished by operation of law or released by a Settling State.
- L. *Initial Participating Special Districts.* A Special District qualifies as an Initial Participating Special District if it meets the applicable requirements for becoming a Participating Special District by the Initial Participation Date.

- M. *Later Participating Special Districts.* A Special District that is not an Initial Participating Special District may become a Later Participating Special District by meeting the applicable requirements for becoming a Participating Special District after the Initial Participation Date and agreeing to be subject to the terms of any agreement reached by the applicable Settling State with Initial Participating Special Districts. A Later Participating Special District shall not receive any share of any base or incentive payments paid to the Settlement Fund that were due before it became a Participating Special District.

VIII. Condition to Effectiveness of Agreement and Filing of Consent Judgment

- A. *Determination to Proceed With Settlement.* Janssen will determine on or before the Reference Date whether there has been a 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 Janssen and may be based on any criteria or factors deemed relevant by Janssen.
- B. *Notice by Janssen.* On or before the Reference Date, Janssen shall inform the Settling States and MDL PEC of its determination pursuant to subsection VIII.A. If Janssen determines to proceed, the Parties will proceed to file the Consent Judgments. If Janssen determines not to proceed, this Agreement will have no further effect and all releases (including those given by Participating Subdivisions) and other commitments or obligations contained herein will be void.
- C. *Determination of the Participation Tier.*
1. On the Reference Date, provided that Janssen determines to proceed with this Agreement, the Settlement Fund Administrator shall determine the Participation Tier. The criteria used to determine the Participation Tier are set forth in Exhibit H. Any disputes as to the determination of the Participation Tier shall be decided by the National Arbitration Panel.
 2. The Participation Tier shall be redetermined by the Settlement Fund Administrator annually as of the Payment Date, beginning with Payment Year 1, pursuant to the criteria set forth in Exhibit H.
 3. After Payment Year 3, the Participation Tier cannot move higher, unless this restriction is waived by Janssen.
 4. In the event that a Participation Tier redetermination moves the Participation Tier higher, and that change is in whole or in part as a result of the post-Reference Date enactment of a Bar and there is later a Revocation Event with respect to that Bar, then on the next Payment Date that is at least one hundred eighty (180) days after the Revocation Event, the Participation Tier shall move down to the Participation Tier that would have applied had the Bar never been enacted, unless the Bar is reinstated or all Subdivisions affected by the Revocation Event become Participating Subdivisions within one hundred eighty (180) days of the

Revocation Event. This is the sole circumstance in which, on a nationwide basis, the Participation Tier can move down.

5. In the event that there is a post-Reference Date Revocation Event with respect to a Bar that was enacted in a Settling State prior to the Reference Date, then, on the next Payment Date that is at least one hundred eighty (180) days after the Revocation Event, unless the Bar is reinstated or all Subdivisions affected by the Revocation Event become Participating Subdivisions within one hundred eighty (180) days of the Revocation Event, the Participation Tier shall decrease – solely for the State in which the Revocation Event occurred – to the Participation Tier commensurate with the percentage of Litigating Subdivisions in that State that are Participating Subdivisions and the percentage of Non-Litigating Subdivisions that are both Primary Subdivisions and Participating Subdivisions, according to the criteria set forth in Exhibit H, except that the calculations shall be performed as to that State alone. For the avoidance of doubt and solely for the calculation in this subparagraph, the Settling States Column of Exhibit H shall play no role. This is the sole circumstance in which one Settling State will have a different Participation Tier than other Settling States.
6. The redetermination of the Participation Tier under subsection VIII.C.2 shall not affect payments already made or suspensions or offsets already applied.

IX. Potential Payment Adjustments

A. Later Litigating Subdivisions.

1. If a Later Litigating Subdivision in a Settling State with a population above 10,000 brings a lawsuit or other legal proceeding against Released Entities asserting Released Claims, Janssen shall, within thirty (30) days of the lawsuit or other legal proceeding being served on Janssen, provide notice of the lawsuit or other legal proceeding to the Settlement Fund Administrator and the Settling State in which the Later Litigating Subdivision sits and provide the Settling State an opportunity to intervene in the lawsuit or other legal proceeding. A Released Entity shall not enter into a settlement with a Later Litigating Subdivision unless the State in which the Later Litigating Subdivision sits consents to such a settlement or unreasonably withholds consent to such a settlement.
2. If no Participation Tier applies and the Later Litigating Subdivision's lawsuit or other legal proceeding survives a Threshold Motion before Janssen makes its last settlement payment to the Settling State, the following shall apply:
 - a. Janssen will, from the date of the entry of the order denying the Threshold Motion and so long as the lawsuit or other legal proceeding is pending, be entitled to a suspension of the following payments it would otherwise owe the Settling State in which the Later Litigating Subdivision is located: (1) all remaining incentive payments to the relevant state; and (2) the last two scheduled base payments, if not already paid (the "Suspended Payments").

- b. For each Payment Year that Janssen is entitled to a suspension of payments, the Settlement Fund Administrator shall calculate the Suspended Payments applicable to the next Payment due from Janssen. The Suspended Payments shall be paid into the Settlement Fund Escrow account.
 3. If a Participation Tier applies at the time the Threshold Motion is denied, Janssen will be entitled to a suspension of the following percentages of Suspended Payments depending on the applicable Tier—75% for Tier 1, 50% for Tier 2, 35% for Tier 3, and 25% for Tier 4. Otherwise, the requirements of subsection IX.A.2 apply.
 4. If the Released Claim is resolved with finality without requirement of payment by a Released Entity, the placement of any remaining balance of the Suspended Payments into the Settlement Fund Escrow shall cease and the Settlement Fund Administrator shall immediately transfer amounts in the Settlement Fund Escrow on account of the suspension to the Settling State at issue and its Participating Subdivisions listed on Exhibit G. The lawsuit will not cause further suspensions unless the Released Claim is reinstated upon further review, legislative action, or otherwise.
 5. If the Released Claim is resolved with finality on terms requiring payment by a Released Entity (*e.g.*, if the lawsuit in which the Released Claim is asserted results in a judgment against Janssen or a settlement with Janssen), the Settlement Fund Administrator will transfer the amounts in the Settlement Fund Escrow on account of the suspension to Janssen necessary to satisfy 75% of the payment obligation of the Released Entity to the relevant Later Litigating Subdivision. The Settlement Fund Administrator shall immediately transfer any remaining balance in the Settlement Fund Escrow on account of the suspension to the Settling State at issue and its Participating Subdivisions listed on Exhibit G. If the amount to be transferred to Janssen exceeds the amounts in the Settlement Fund Escrow on account of the suspension, Janssen shall receive a dollar-for-dollar offset for the excess amount against its obligation to pay any remaining payments that would be apportioned to the Settling State at issue and to its Participating Subdivisions listed on Exhibit G.
- B. *Settlement Class Resolution Opt Outs.* If a Settling State is eligible for Incentive 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 Released Claim against a Released Entity, the following shall apply. If the lawsuit asserting a Released Claim either survives a Threshold Motion or has an unresolved Threshold Motion fewer than sixty (60) days prior to the scheduled start of a trial involving a Released Claim, and is resolved with finality on terms requiring payment by the Released Entity, Janssen shall receive a dollar-for-dollar offset for the amount paid against its obligation to make remaining Incentive A payments that would be apportioned to that State or Participating Subdivisions listed on Exhibit G. For the avoidance of doubt, an offset shall not be

applicable under this subsection if it is applicable under subsection IX.A with respect to the Subdivision at issue.

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

1. If Janssen made a payment as a result of the existence of a Bar, Settlement Class Resolution, or Case-Specific Resolution in a Settling State, and that Bar, Settlement Class Resolution, or Case-Specific Resolution is subject to a Revocation Event, Janssen shall receive a dollar-for-dollar offset against its obligation to make remaining payments that would be apportioned to that State or Participating Subdivisions listed on Exhibit G. This offset will be calculated as the dollar amount difference between (1) the total amount of incentive payments paid by Janssen during the time the Bar, Settlement Class Resolution, or Case-Specific Resolution subject to the Revocation Event was in effect, and (2) the total amount of Incentive Payments that would have been due from Janssen during that time without the Bar, Settlement Class Resolution, or Case-Specific Resolution subject to the Revocation Event being in effect. The amount of incentive payments that would have been due, referenced in (2) above, will be calculated based on considering any Subdivision that provides a release within one hundred eighty (180) days after the Revocation Event as having been a Participating Subdivision (in addition to all other Participating Subdivisions) during the time that the Bar, Settlement Class Resolution, or Case-Specific Resolution subject to the Revocation Event was in effect. If a Revocation Event causes a Settling State to no longer qualify for Incentive D, the Settling State shall return to Janssen all payments made under Incentive D.
2. Notwithstanding anything to the contrary in paragraph 1 above, if a Bar or Case-Specific Resolution is reinstated by the Settling State, either through the same or different means as the initial Bar or Case-Specific Resolution, Janssen's right to an offset is extinguished and any amounts withheld to offset amounts paid on account of the revoked, rescinded, reversed, or overruled Bar or Case-Specific Resolution shall be returned to the Settling State, less and except any incentive payments that would have been paid during the period in which the Bar or Case-Specific Resolution was revoked, rescinded, reversed, or overruled.

X. **Additional Restitution Amount**

- A. *Additional Restitution Amount.* Pursuant to the schedule set forth below and subject to the reduction specified in subsection X.B below, Janssen shall pay an Additional Restitution Amount to the Settling States listed in Exhibit N. Such funds shall be paid on the schedule set forth on Exhibit M on the Payment Date for each relevant Payment Year to such Settling States as allocated by the Settlement Fund Administrator pursuant to Exhibit N.

Payment Year 1	\$15,384,615.38
Payment Year 2	\$26,923,076.92

Payment Year 3 \$25,000,000.00

- B. *Reduction of Additional Restitution Amount.* In the event that any Non-Settling State appears on Exhibit N, the amounts owed by Janssen pursuant to this Section X shall be reduced by the allocation set forth on Exhibit N for any such Non-Settling States.
- C. *Use of Funds.* All funds paid as an Additional Restitution Amount shall be part of the Compensatory Restitution Amount, shall be used for Opioid Remediation, except as allowed by subsection VI.B.2, and shall be governed by the same requirements as specified in subsection VI.F.

XI. Plaintiffs' Attorneys' Fees and Costs

- A. The Agreement on Attorneys' Fees, Expenses and Costs is set forth in Exhibit R and incorporated herein by reference. The Agreement on the State Outside Counsel Fee Fund and Agreement on the State Cost Fund Administration are set forth in Exhibit U and Exhibit S, respectively, and are incorporated herein by reference.

XII. Enforcement and Dispute Resolution

- A. *Enforceability.* The terms of the Agreement and Consent Judgment applicable to or in a Settling State will be enforceable solely by that Settling State and Janssen. Settling States or Participating Subdivisions shall not have enforcement rights with respect either to the terms of this Agreement that apply only to or in other States or to any Consent Judgment entered into by another Settling State. Participating Subdivisions shall not have enforcement rights against Janssen with respect to the Agreement or any Consent Judgment except as to payments that would be allocated to the Subdivision Fund or Abatement Accounts Fund pursuant to Section VI; *provided, however*, that each Settling State shall allow Participating Subdivisions in that State to notify it of any perceived violations of the Agreement or Consent Judgment.
- B. *Jurisdiction.* Janssen consents to the jurisdiction of the court in which the Consent Judgment is filed, limited to resolution of disputes identified in subsection XII.F.2 for resolution in the court in which the Consent Judgment is filed.
- C. *Specific Terms Dispute Resolution.*
 - 1. Any dispute that is addressed by the provisions set forth in the Injunctive Relief terms in Exhibit P shall be resolved as provided therein.
 - 2. In the event Janssen believes the 86.5% threshold established in subsection VI.B.1 is not being satisfied, any Party may request that Janssen and the Enforcement Committee meet and confer regarding the use of funds under subsection VI.B.1. The completion of such meet-and-confer process is a precondition to further action regarding any such dispute. Further action concerning subsection VI.B.1 shall: (i) be limited to Janssen seeking to reduce its Annual Payments by no more than 5% of the difference between the actual amount of Opioid Remediation and the 86.5% threshold established in subsection VI.B.1; (ii) only reduce Annual

Payments to those Settling States and its Participating Subdivisions that are below the 86.5% threshold established in subsection VI.B.1; and (iii) not reduce Annual Payments restricted to future Opioid Remediation.

D. *State-Subdivision Enforcement.*

1. A Participating Subdivision shall not have enforcement rights against a Settling State in which it is located with respect to the Agreement or any Consent Judgment except: (1) as provided for in a State-Subdivision Agreement, Allocation Statute, or Statutory Trust with respect to intrastate allocation; or (2) in the absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust, as to allegations that: (a) the Settling State's use of Abatement Accounts Fund monies were not used for uses similar to or in the nature of those uses contained in Exhibit E; or (b) a Settling State failed to pay funds directly from the Abatement Accounts Fund to a Participating Subdivision eligible to receive a block grant pursuant to subsection VI.E.2.b.
2. A Settling State shall have enforcement rights against a Participating Subdivision located in its territory: (1) as provided for in a State-Subdivision Agreement, Allocation Statute, or Statutory Trust; or (2) in the absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust, as to allegations that the uses of Abatement Accounts Fund monies by Participating Subdivisions listed on Exhibit G were not for uses similar to or in the nature of those uses contained in Exhibit E.
3. As between 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 Payment Enforcement.* A Participating Subdivision shall have the same right as a Settling State pursuant to subsection XII.F.4.a(4) to seek resolution of any failure by Janssen to make its required base and/or incentive payments in a Payment Year.

F. *Other Dispute Resolution Terms.*

1. Except as provided in subsection XII.C, 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 XII.F to resolve the dispute.
2. Except as provided in subsections XII.C and XII.F.4, disputes not resolved informally shall be resolved in either the court that entered the relevant Consent Judgment or, if no Consent Judgment was entered, a state or territorial court with jurisdiction located wherever the seat of state government is located. State court proceedings shall be governed by the rules and procedures of the forum. For the avoidance of doubt, disputes to be resolved in state court include, but are not limited to, the following:

- a. disputes concerning whether expenditures qualify for Opioid Remediation;
 - b. disputes between a Settling State and Participating Subdivisions located in such Settling State as provided by subsection XII.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;
 - 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 requirements of a Bar, a Case-Specific Resolution, State-Specific Finality, Later Litigating Subdivision, Litigating Subdivision, or a Threshold Motion have been met; and
 - f. all other disputes not specifically identified in subsections XII.C and XII.F.4.
3. 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) 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.
 4. National Disputes involving a Settling State, Participating Subdivision, and/or Janssen shall be resolved by a National Arbitration Panel.
 - a. "National Disputes" are disputes that are exceptions to subsection XII.F.2's presumption of resolution in state courts because they involve issues of interpretation of Agreement terms applicable to all Settling States without reference to a particular State's law. Disputes between a State and any Participating Subdivisions shall not be considered National Disputes. National Disputes are limited to the following:
 - (1) the amount of offset and/or credit attributable to Non-Settling States and Tribes;
 - (2) issues involving the scope and definition of "Product";

- (3) interpretation and application of the terms “Covered Conduct” and “Released Entities”;
 - (4) disputes over a given year’s payment or the payment of the Additional Restitution Amount to all Settling States (for the avoidance of doubt, disputes between a Settling State and Janssen over the amounts owed to only that State shall not be considered National Disputes);
 - (5) questions regarding the performance and/or removal of the Settlement Fund Administrator;
 - (6) disputes involving liability of successor entities;
 - (7) disputes that require a determination of sufficient Subdivision and Special District participation to qualify for Incentives A, B, C, or D, as well as disputes over qualification for Participation Tiers;
 - (8) disputes that require interpretation of Agreement terms (i) that concretely affect four (4) or more Settling States; and (ii) do not turn on unique definitions and interpretations under State law; and
 - (9) any dispute subject to resolution under subsection XII.F.2 but for which all parties to the dispute agree to arbitration before the National Arbitration Panel under the provisions of this subsection XII.F.4.
- b. The “*National Arbitration Panel*” shall be comprised of three (3) neutral arbitrators. One (1) arbitrator shall be chosen by Janssen, one (1) arbitrator shall be chosen by the Enforcement Committee with due input from Participating Subdivisions, 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.
- (1) The National Arbitration Panel shall make reasonable best efforts to decide all matters within one hundred eighty (180) days of filing, and in no event shall it take longer than one (1) year.
 - (2) 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.
 - (3) To the extent allowed under state law, a Settling State, Participating Subdivision, 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.

- (4) 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, Participating Subdivision, or Janssen on a state law issue.
 - (5) The decisions of the National Arbitration Panel shall be binding on Settling States, Participating Subdivisions, Janssen, and the Settlement Fund Administrator. In any proceeding before the National Arbitration Panel involving a dispute between a Settling State and Janssen whose resolution could prejudice the rights of a Participating Subdivision(s) or Participating Special District(s) in that Settling State, such Participating Subdivision(s) or Participating Special District(s) shall be allowed to file a statement of view in the proceeding.
 - c. Nothing herein shall be construed so as to limit or otherwise restrict a State from seeking injunctive or other equitable relief in state court to protect the health, safety, or welfare of its citizens.
 - d. Each party shall bear its own costs in any arbitration or court proceeding arising under this subsection XII.F. 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 Janssen and Settling States/Participating Subdivisions shall be split 50% by Janssen and 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 50% by the Settling State and 50% by any Participating Subdivisions that are party to the dispute.
5. Prior to initiating an action to enforce pursuant to this subsection XII.F, the complaining party must:
- a. Provide written notice to the Enforcement Committee 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) 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) days after the date that the Enforcement Committee establishes for obtaining additional information from the involved parties.
- 6. If the parties to a dispute cannot agree on the proper forum for resolution of the dispute under the provisions of subsections XII.F.2 or XII.F.4, a committee comprising the Enforcement Committee and sufficient representatives of Janssen 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) days of receiving notification of the dispute relating to the proper forum. The forum identified by such committee shall be the sole forum for determining where the dispute shall be heard, and the committee's identification of such forum shall not be entitled to deference by the forum selected.
- G. *No Effect.* Nothing in this Agreement shall be interpreted to limit the Settling State's 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 Janssen reserves all of its rights in connection with a CID or investigative subpoena issued pursuant to such authority.

XIII. Miscellaneous

- A. *No Admission.* Janssen 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 Janssen.
- B. *Population of Subdivisions.* The population figures for Subdivisions 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.
- C. *Population of Special Districts.* For any purpose in this Agreement in which the population of a Special District is used, other than the use of "Covered Special District": (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 25% of discharges; and (c) all other Special Districts' (including Fire Districts' and Library Districts') population will be measured at 10% of the population served.
- D. *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 20% of the capacity of the jail(s) operated by the sheriff.

E. *Tax Reporting and Cooperation.*

1. Upon request by Janssen, the Settling States, Participating Subdivisions, and Participating Special Districts agree to perform such further acts and to execute and deliver such further documents as may be reasonably necessary for Janssen to establish the statements set forth in subsection VI.E.3 to the satisfaction of their tax advisors, their independent financial auditors, the Internal Revenue Service, or any other governmental authority, including as contemplated by Treasury Regulations Section 1.162-21(b)(3)(ii) and any subsequently proposed or finalized relevant regulations or administrative guidance.
2. Without limiting the generality of subsection VI.C.1, each Settling State, Participating Subdivision, and Participating Special District shall cooperate in good faith with Janssen with respect to any tax claim, dispute, investigation, audit, examination, contest, litigation, or other proceeding relating to this Agreement.
3. The Designated State, on behalf of all Settling States, Participating Subdivisions, and Participating Special Districts, shall designate one of its officers or employees to act as the "appropriate official" within the meaning of Treasury Regulations Section 1.6050X-1(f)(1)(ii)(B) (the "Appropriate Official").
4. For the avoidance of doubt, neither Janssen nor the Settling States, Participating Subdivisions, and Participating Special Districts make any warranty or representation to any Settling jurisdiction 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 a Settling State or Released Entity. No Settling State may 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, its exhibits and any other attachments, including the attorneys' fees and cost agreement in Exhibit R, 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 signatories to this Agreement warrants and represents that it freely and voluntarily entered into this Agreement without any degree of duress or compulsion. The Parties 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. *No Prevailing Party.* The Parties 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 have reached a good faith settlement. The Parties 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.
- N. *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.
- O. *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:

1. For the Attorney(s) General:

Ashley Moody,
Attorney General
State of Florida
The Capitol,
PL-01
Tallahassee, FL 32399

Josh Stein, Attorney General
North Carolina Department of Justice
Attn: Daniel Mosteller
PO Box 629
Raleigh, NC 27602
Dmosteller@ncdoj.gov

2. For the Plaintiffs' Executive Committee:

Paul F. Farrell
Farrell Law
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Huntington, WV 25714-1180

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112 Madison Avenue, 7th Floor
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3. For Janssen:

Charles C. Lifland
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Phone: (213) 430-6000
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Daniel R. Suvor
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Phone: (213) 430-6000
dsuvor@omm.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 subsection.

- P. *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.
- Q. *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 agrees that it shall not make or cause to be made in any forum any assertion to the contrary.
- R. *Successors.* This Agreement shall be binding upon, and inure to the benefit of, Janssen and its respective successors and assigns. Janssen shall not sell the majority of its voting stock or substantially all its assets without obtaining the acquiror's agreement that it will constitute a successor with respect to Janssen's obligations under this Agreement.
- S. *Modification, Amendment, Alteration.* 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 Janssen along with the signatures of at least thirty-seven (37) of those then-serving 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 subsection VI.E.2, by a State-Subdivision Agreement, or by statute) voted in favor of the modification, amendment, or alteration of this Agreement including at least one Participating Subdivision-appointed member; or (2) in States without any advisory committee, that 50.1% of the Participating Subdivisions by population expressed approval of the modification, amendment, or alteration of this Agreement in writing.

Provided, however, in the event the modification, amendment, or alteration relates to injunctive relief, interstate allocation between the Settling States, intrastate allocation in a particular Settling State, or fees or costs of Settling States and Participating Subdivisions, then every Settling State and each Participating Subdivision affected by that modification, amendment, or alteration must assent in writing. Provided further that, in the event the modification, amendment, or alteration relates to injunctive relief, then such amendment, modification, or alteration of injunctive relief against Janssen will not be effective unless and until any Consent Judgment is modified by a court of competent jurisdiction, except as otherwise provided by the Injunctive Terms.

T. Termination.

1. Unless otherwise agreed to by Janssen and the Settling State in question, this Agreement and all of its terms (except subsection XIII.N 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 the Settling State by a court of competent jurisdiction on or before one hundred eighty (180) 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 and its Participating Subdivisions for whatever reason pursuant to subsection XIII.T.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 Janssen and the Settling State in question 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. Janssen and the Settling State and its Participating Subdivisions in question 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 Janssen and the Settling State and its Participating Subdivisions in question 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 Janssen 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 to all Parties as of the Payment Date for Payment Year 9, *provided* that Janssen has performed its payment obligations under the Agreement as of that date. Notwithstanding any other provision in this Agreement, all releases under this Agreement will remain effective despite any termination under this paragraph.

U. *Governing Law.* Except (1) as otherwise provided in the 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 Janssen or against which Janssen 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.

EXHIBIT A

Alleged Harms

The following expert reports that were filed in connection with the case captioned *In re National Prescription Opiate Litigation*, No. 1-17-md-02804 (N.D. Ohio):

1. Expert report of Professor David Cutler, dated March 25, 2019.
2. Expert report of Dr. Jeffrey B. Liebman, dated March 25, 2019.
3. Expert report of Professor Thomas McGuire regarding damages to Bellwethers, dated March 25, 2019.
4. Report of Professor Thomas McGuire regarding public nuisance, dated March 25, 2019.

EXHIBIT B

Enforcement Committee Organization Bylaws

ARTICLE I

These bylaws constitute the code of rules adopted by the Settling States and Participating Subdivisions for the creation of an Enforcement Committee (the "Committee") to exist and operate during the term of the Agreement in connection with Janssen and shall control the regulation and management of the Committee's affairs.

ARTICLE II

Purpose

The Committee is organized for the sole purpose of evaluating and taking such action as deemed reasonable, necessary, and appropriate by the members of the Committee on the matters delegated to the Committee under that certain Settlement Agreement between the Settling States and Janssen dated July 21, 2021.

ARTICLE III

Members of the Committee

(1) Number of Members

The Committee will consist of seventeen (17) members (the "Members"). Upon majority resolution of the Committee, the number of Members may be increased or decreased from time to time, but in no event shall a decrease have the effect of decreasing the total number of Members to less than seven Members.

(2) Initial Members

The Committee initially will consist of eleven Settling State Members and six Participating Subdivision Members; three of the Participating Subdivisions shall be counties and three shall be municipalities. The initial Settling State Members are representatives from: Connecticut, Delaware, Florida, Georgia, Massachusetts, New York, North Carolina, Ohio, Pennsylvania, Tennessee, and Texas. The initial Participating Subdivision Members are: (a) Bexar County, Texas; (b) Broward County, Florida; (c) Chicago, Illinois; (d) Cincinnati, Ohio; (e) Nashville, Tennessee; and (f) Nassau County, New York. Until the Reference Date contained in the Settlement Agreement, the Participating Subdivisions may designate their outside counsel to serve as their representative. After the Reference Date, an employee or official of the Participating Subdivision must be the designated as the representative of the Participating Subdivision.

(3) Term of Members

The term of office for Members of the Committee will be until the end of the term of the Settlement Agreement, nine (9) years, unless and until a Member withdraws or resigns from the Committee.

(4) Resignation

Any Member may resign at any time by delivering written notice to the Chairperson of the Committee. Such resignation shall take effect upon receipt or, if later, at the time specified in the notice.

(5) Removal

(a) Any Member may be removed without cause, at any time, by a majority of the entire Committee, at a Regular or Special Meeting called for that purpose. Any Member under consideration of removal must first be notified about the consideration by written notice at least five days prior to the meeting at which the vote takes place.

(b) In the event that any Member is not a Settling State or a Participating Subdivision or the Member subsequently becomes a Later Litigating Subdivision, the Member shall be removed immediately without notice or vote of the Committee.

(6) Vacancies

In the event of a vacancy, the Members of the same type (Settling State or Participating Subdivision) shall select another Settling State or Participating Subdivision to fill that Member's position.

(7) Compensation

Members shall not receive any salaries or other compensation for their services, but, by resolution of the Committee, may be reimbursed for any actual expenses incurred in the performance of their duties for the Committee, as long as a majority of disinterested Members approve the reimbursement. Any reimbursement shall be sought from the Settlement Fund Administrator.

ARTICLE IV

Conflicts of Interest and Code of Ethics

If a Member, agent, or employee of the Committee has a conflict of interest, he or she may not participate in a vote, discussion, or decision about the matter. Each Member shall follow any applicable state or local law with respect to conflicts, gifts, and ethics.

ARTICLE V

Committee Meetings

(1) Place of Meetings

Meetings of the Committee will be held at any place that the Chairperson may designate, including by telephonic or electronic means.

(2) Regular Meetings

Regular meetings of the Committee shall be held as deemed necessary by the Chairperson or any three members.

- (3) **Notice of Meetings**
Written notice of the date, time, place and subject of each meeting must be provided to the Members at least 72 hours before the scheduled time of the meeting, except when there is an emergency or urgent public necessity.
- (4) **Quorum**
A majority of the incumbent Members (not counting vacancies) shall constitute a quorum for the purposes of convening a meeting or conducting business.
- (5) **Voting and Proxy**
When it is necessary to vote on any matter before the Committee, Members may vote by electronic means as provided in these Bylaws. Proxy voting is permitted. In order for a matter to pass, the matter must have a majority vote of Members present and must have at least one vote from a Settling State Member and a Participating Subdivision Member. In the event that there is a Quorum, but no Settling State or Participating Subdivision Member is present, then a matter may pass with a simple majority vote.
- (6) **Minutes**
The Committee shall prepare and keep minutes. The minutes must state the subject of each deliberation and indicate each vote, order, decision, or other action taken.

ARTICLE VI

Officers

- (1) **Roster of Officers**
The Committee shall have a Chairperson, a Vice Chairperson, and a Secretary. The Committee may have at its discretion, such other officers as may be appointed by the Members of the Committee. One person may hold two or more offices, except those serving as Chairperson.
- (2) **Election and Removal of Officers**
All officers shall serve two-year terms. The election shall be conducted at the first meeting of the fiscal year. Officers shall remain in office until their successors have been selected. Officers may serve consecutive terms without limit. The election of officers shall be by majority vote of the Members of the Committee attending the meeting.
- (3) **Vacancies**
If a vacancy occurs during the term of office for any elected officer, the Members of the Committee shall elect a new officer to fill the remainder of the term as soon as practical, by majority vote of Members present.
- (4) **Chairperson**
The Chairperson will supervise and control the affairs of the Committee and shall exercise such supervisory powers as may be given him/her by the Members of the Committee. The Chairperson will perform all duties incident to such office and such other duties as may be provided in these bylaws or as may be prescribed from time to time by the Committee. The

Chairperson shall preside at all meetings and shall exercise parliamentary control in accordance with Robert's Rules of Order.

(5) Vice Chairperson

The Vice Chairperson shall act in place of the Chairperson in the event of the Chairperson's absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required by the Committee. The Vice Chairperson shall serve as the parliamentarian and interpret any ambiguities of the bylaws.

(6) Secretary

The Secretary will keep and maintain all records related to the Committee and take minutes of all meetings.

(7) Records

All elected officers and committee chairpersons shall relinquish their records to the Chairperson immediately upon the completion of their term of office or completion of a project.

(8) Resignation

An officer may resign the office while not resigning membership from the Committee, by submitting a letter to the Chairperson. Vacancies occurring in any office shall be appointed for the remainder of the term.

ARTICLE VII
Duties

(1) Prior to the Reference Date

The Committee shall be responsible for any additional negotiations with Janssen, including, but not limited to, negotiating extensions of any periods created by the Settlement Agreement.

(2) After the Enforcement Date

The Committee shall establish procedures for the receipt of notices that a dispute exists concerning the Agreement and review of such disputes, pursuant to Section XII of the Agreement. Members may engage with Janssen, Settling States, and Participating Subdivisions attempting to resolve any dispute without further action by the Committee. The Committee may request additional information from Janssen, Settling States, and Participating Subdivisions to the extent the Committee believes such information is necessary to understand, resolve, or provide advice related to a dispute. The Committee shall endeavor to provide advice relative to the dispute no later than 60 days after receipt of notice.

ARTICLE VIII
Rules of Procedure

The proceedings and business of the Committee shall be governed by Robert's Rules of Order unless otherwise waived by the Committee.

ARTICLE IX
Operations

(1) Records

The Committee will keep correct and complete records and will also keep minutes of the proceedings of the Committee meetings and Committees. The Committee will keep such records at its principal place of business at a place designated by the Chairperson.

All elected officers and committee chairpersons shall relinquish their records to the Chairperson, immediately upon the completion of their term of office.

(2) Inspection of Books and Records

The minutes of a meeting are public records and shall be available for public inspection and copying on request to the Committee's Chairperson or the Chairperson's designee.

(3) Amendments

The bylaws may be amended at any time by a vote of a majority of Members present and must have at least one vote from a Settling State Member and a Participating Subdivision Member. In the event that there is a Quorum, but no Settling State or Participating Subdivision Member is present, then a matter may pass with a simple majority vote.

EXHIBIT C

Litigating Subdivision List

[Will be added by Janssen prior to Preliminary Agreement Date]

EXHIBIT D

[Intentionally Omitted]

EXHIBIT E

List of Opioid Remediation Uses

Schedule A Core Strategies

States and Qualifying Block Grantees shall choose from among the abatement strategies listed in Schedule B. However, priority shall be given to the following core abatement strategies ("*Core Strategies*").¹

**A. NALOXONE OR OTHER FDA-APPROVED DRUG TO
REVERSE OPIOID OVERDOSES**

1. Expand training for first responders, schools, community support groups and families; and
2. Increase distribution to individuals who are uninsured or whose insurance does not cover the needed service.

**B. MEDICATION-ASSISTED TREATMENT ("MAT")
DISTRIBUTION AND OTHER OPIOID-RELATED
TREATMENT**

1. Increase distribution of MAT to individuals who are uninsured or whose insurance does not cover the needed service;
2. Provide education to school-based and youth-focused programs that discourage or prevent misuse;
3. Provide MAT education and awareness training to healthcare providers, EMTs, law enforcement, and other first responders; and
4. Provide treatment and recovery support services such as residential and inpatient treatment, intensive outpatient treatment, outpatient therapy or counseling, and recovery housing that allow or integrate medication and with other support services.

¹ As used in this Schedule A, words like "expand," "fund," "provide" or the like shall not indicate a preference for new or existing programs.

C. PREGNANT & POSTPARTUM WOMEN

1. Expand Screening, Brief Intervention, and Referral to Treatment (“*SBIRT*”) services to non-Medicaid eligible or uninsured pregnant women;
2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for women with co-occurring Opioid Use Disorder (“*OUD*”) and other Substance Use Disorder (“*SUD*”)/Mental Health disorders for uninsured individuals for up to 12 months postpartum; and
3. Provide comprehensive wrap-around services to individuals with OUD, including housing, transportation, job placement/training, and childcare.

D. EXPANDING TREATMENT FOR NEONATAL ABSTINENCE SYNDROME (“*NAS*”)

1. Expand comprehensive evidence-based and recovery support for NAS babies;
2. Expand services for better continuum of care with infant-need dyad; and
3. Expand long-term treatment and services for medical monitoring of NAS babies and their families.

E. EXPANSION OF WARM HAND-OFF PROGRAMS AND RECOVERY SERVICES

1. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments;
2. Expand warm hand-off services to transition to recovery services;
3. Broaden scope of recovery services to include co-occurring SUD or mental health conditions;
4. Provide comprehensive wrap-around services to individuals in recovery, including housing, transportation, job placement/training, and childcare; and
5. Hire additional social workers or other behavioral health workers to facilitate expansions above.

F. TREATMENT FOR INCARCERATED POPULATION

1. Provide evidence-based treatment and recovery support, including MAT for persons with OUD and co-occurring SUD/MH disorders within and transitioning out of the criminal justice system; and
2. Increase funding for jails to provide treatment to inmates with OUD.

G. PREVENTION PROGRAMS

1. Funding for media campaigns to prevent opioid use (similar to the FDA's "Real Cost" campaign to prevent youth from misusing tobacco);
2. Funding for evidence-based prevention programs in schools;
3. Funding for medical provider education and outreach regarding best prescribing practices for opioids consistent with the 2016 CDC guidelines, including providers at hospitals (academic detailing);
4. Funding for community drug disposal programs; and
5. Funding and training for first responders to participate in pre-arrest diversion programs, post-overdose response teams, or similar strategies that connect at-risk individuals to behavioral health services and supports.

H. EXPANDING SYRINGE SERVICE PROGRAMS

1. Provide comprehensive syringe services programs with more wrap-around services, including linkage to OUD treatment, access to sterile syringes and linkage to care and treatment of infectious diseases.

I. EVIDENCE-BASED DATA COLLECTION AND RESEARCH ANALYZING THE EFFECTIVENESS OF THE ABATEMENT STRATEGIES WITHIN THE STATE

Schedule B Approved Uses

Support treatment of Opioid Use Disorder (OUD) and any co-occurring Substance Use Disorder or Mental Health (SUD/MH) conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

PART ONE: TREATMENT

A. TREAT OPIOID USE DISORDER (OUD)

Support treatment of Opioid Use Disorder (“OUD”) and any co-occurring Substance Use Disorder or Mental Health (“SUD/MH”) conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:²

1. Expand availability of treatment for OUD and any co-occurring SUD/MH conditions, including all forms of Medication-Assisted Treatment (“MAT”) approved by the U.S. Food and Drug Administration.
2. Support and reimburse evidence-based services that adhere to the American Society of Addiction Medicine (“ASAM”) continuum of care for OUD and any co-occurring SUD/MH conditions.
3. Expand telehealth to increase access to treatment for OUD and any co-occurring SUD/MH conditions, including MAT, as well as counseling, psychiatric support, and other treatment and recovery support services.
4. Improve oversight of Opioid Treatment Programs (“OTPs”) to assure evidence-based or evidence-informed practices such as adequate methadone dosing and low threshold approaches to treatment.
5. Support mobile intervention, treatment, and recovery services, offered by qualified professionals and service providers, such as peer recovery coaches, for persons with OUD and any co-occurring SUD/MH conditions and for persons who have experienced an opioid overdose.
6. Provide treatment of trauma for individuals with OUD (*e.g.*, violence, sexual assault, human trafficking, or adverse childhood experiences) and family members (*e.g.*, surviving family members after an overdose or overdose fatality), and training of health care personnel to identify and address such trauma.
7. Support evidence-based withdrawal management services for people with OUD and any co-occurring mental health conditions.

² As used in this Schedule B, words like “expand,” “fund,” “provide” or the like shall not indicate a preference for new or existing programs.

8. Provide training on MAT for health care providers, first responders, students, or other supporting professionals, such as peer recovery coaches or recovery outreach specialists, including telementoring to assist community-based providers in rural or underserved areas.
9. Support workforce development for addiction professionals who work with persons with OUD and any co-occurring SUD/MH conditions.
10. Offer fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.
11. Offer scholarships and supports for behavioral health practitioners or workers involved in addressing OUD and any co-occurring SUD/MH or mental health conditions, including, but not limited to, training, scholarships, fellowships, loan repayment programs, or other incentives for providers to work in rural or underserved areas.
12. Provide funding and training for clinicians to obtain a waiver under the federal Drug Addiction Treatment Act of 2000 (“DATA 2000”) to prescribe MAT for OUD, and provide technical assistance and professional support to clinicians who have obtained a DATA 2000 waiver.
13. Disseminate web-based training curricula, such as the American Academy of Addiction Psychiatry’s Provider Clinical Support Service–Opioids web-based training curriculum and motivational interviewing.
14. Develop and disseminate new curricula, such as the American Academy of Addiction Psychiatry’s Provider Clinical Support Service for Medication–Assisted Treatment.

B. SUPPORT PEOPLE IN TREATMENT AND RECOVERY

Support people in recovery from OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the programs or strategies that:

1. Provide comprehensive wrap-around services to individuals with OUD and any co-occurring SUD/MH conditions, including housing, transportation, education, job placement, job training, or childcare.
2. Provide the full continuum of care of treatment and recovery services for OUD and any co-occurring SUD/MH conditions, including supportive housing, peer support services and counseling, community navigators, case management, and connections to community-based services.
3. Provide counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it to persons with OUD and any co-occurring SUD/MH conditions.

4. Provide access to housing for people with OUD and any co-occurring SUD/MH conditions, including supportive housing, recovery housing, housing assistance programs, training for housing providers, or recovery housing programs that allow or integrate FDA-approved medication with other support services.
5. Provide community support services, including social and legal services, to assist in deinstitutionalizing persons with OUD and any co-occurring SUD/MH conditions.
6. Support or expand peer-recovery centers, which may include support groups, social events, computer access, or other services for persons with OUD and any co-occurring SUD/MH conditions.
7. Provide or support transportation to treatment or recovery programs or services for persons with OUD and any co-occurring SUD/MH conditions.
8. Provide employment training or educational services for persons in treatment for or recovery from OUD and any co-occurring SUD/MH conditions.
9. Identify successful recovery programs such as physician, pilot, and college recovery programs, and provide support and technical assistance to increase the number and capacity of high-quality programs to help those in recovery.
10. Engage non-profits, faith-based communities, and community coalitions to support people in treatment and recovery and to support family members in their efforts to support the person with OUD in the family.
11. Provide training and development of procedures for government staff to appropriately interact and provide social and other services to individuals with or in recovery from OUD, including reducing stigma.
12. Support stigma reduction efforts regarding treatment and support for persons with OUD, including reducing the stigma on effective treatment.
13. Create or support culturally appropriate services and programs for persons with OUD and any co-occurring SUD/MH conditions, including new Americans.
14. Create and/or support recovery high schools.
15. Hire or train behavioral health workers to provide or expand any of the services or supports listed above.

**C. CONNECT PEOPLE WHO NEED HELP TO THE HELP THEY NEED
(CONNECTIONS TO CARE)**

Provide connections to care for people who have—or are at risk of developing—OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Ensure that health care providers are screening for OUD and other risk factors and know how to appropriately counsel and treat (or refer if necessary) a patient for OUD treatment.
2. Fund SBIRT programs to reduce the transition from use to disorders, including SBIRT services to pregnant women who are uninsured or not eligible for Medicaid.
3. Provide training and long-term implementation of SBIRT in key systems (health, schools, colleges, criminal justice, and probation), with a focus on youth and young adults when transition from misuse to opioid disorder is common.
4. Purchase automated versions of SBIRT and support ongoing costs of the technology.
5. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments.
6. Provide training for emergency room personnel treating opioid overdose patients on post-discharge planning, including community referrals for MAT, recovery case management or support services.
7. Support hospital programs that transition persons with OUD and any co-occurring SUD/MH conditions, or persons who have experienced an opioid overdose, into clinically appropriate follow-up care through a bridge clinic or similar approach.
8. Support crisis stabilization centers that serve as an alternative to hospital emergency departments for persons with OUD and any co-occurring SUD/MH conditions or persons that have experienced an opioid overdose.
9. Support the work of Emergency Medical Systems, including peer support specialists, to connect individuals to treatment or other appropriate services following an opioid overdose or other opioid-related adverse event.
10. Provide funding for peer support specialists or recovery coaches in emergency departments, detox facilities, recovery centers, recovery housing, or similar settings; offer services, supports, or connections to care to persons with OUD and any co-occurring SUD/MH conditions or to persons who have experienced an opioid overdose.
11. Expand warm hand-off services to transition to recovery services.
12. Create or support school-based contacts that parents can engage with to seek immediate treatment services for their child; and support prevention, intervention, treatment, and recovery programs focused on young people.
13. Develop and support best practices on addressing OUD in the workplace.
14. Support assistance programs for health care providers with OUD.

15. Engage non-profits and the faith community as a system to support outreach for treatment.
16. Support centralized call centers that provide information and connections to appropriate services and supports for persons with OUD and any co-occurring SUD/MH conditions.

D. ADDRESS THE NEEDS OF CRIMINAL JUSTICE-INVOLVED PERSONS

Address the needs of persons with OUD and any co-occurring SUD/MH conditions who are involved in, are at risk of becoming involved in, or are transitioning out of the criminal justice system through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Support pre-arrest or pre-arraignment diversion and deflection strategies for persons with OUD and any co-occurring SUD/MH conditions, including established strategies such as:
 1. Self-referral strategies such as the Angel Programs or the Police Assisted Addiction Recovery Initiative (“*PAARF*”);
 2. Active outreach strategies such as the Drug Abuse Response Team (“*DART*”) model;
 3. “Naloxone Plus” strategies, which work to ensure that individuals who have received naloxone to reverse the effects of an overdose are then linked to treatment programs or other appropriate services;
 4. Officer prevention strategies, such as the Law Enforcement Assisted Diversion (“*LEAD*”) model;
 5. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network or the Chicago Westside Narcotics Diversion to Treatment Initiative; or
 6. Co-responder and/or alternative responder models to address OUD-related 911 calls with greater SUD expertise.
2. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH conditions to evidence-informed treatment, including MAT, and related services.
3. Support treatment and recovery courts that provide evidence-based options for persons with OUD and any co-occurring SUD/MH conditions.
4. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are incarcerated in jail or prison.

5. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are leaving jail or prison or have recently left jail or prison, are on probation or parole, are under community corrections supervision, or are in re-entry programs or facilities.
6. Support critical time interventions (“CTP”), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.
7. Provide training on best practices for addressing the needs of criminal justice-involved persons with OUD and any co-occurring SUD/MH conditions to law enforcement, correctional, or judicial personnel or to providers of treatment, recovery, harm reduction, case management, or other services offered in connection with any of the strategies described in this section.

E. ADDRESS THE NEEDS OF PREGNANT OR PARENTING WOMEN AND THEIR FAMILIES, INCLUDING BABIES WITH NEONATAL ABSTINENCE SYNDROME

Address the needs of pregnant or parenting women with OUD and any co-occurring SUD/MH conditions, and the needs of their families, including babies with neonatal abstinence syndrome (“NAS”), through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Support evidence-based or evidence-informed treatment, including MAT, recovery services and supports, and prevention services for pregnant women—or women who could become pregnant—who have OUD and any co-occurring SUD/MH conditions, and other measures to educate and provide support to families affected by Neonatal Abstinence Syndrome.
2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for uninsured women with OUD and any co-occurring SUD/MH conditions for up to 12 months postpartum.
3. Provide training for obstetricians or other healthcare personnel who work with pregnant women and their families regarding treatment of OUD and any co-occurring SUD/MH conditions.
4. Expand comprehensive evidence-based treatment and recovery support for NAS babies; expand services for better continuum of care with infant-need dyad; and expand long-term treatment and services for medical monitoring of NAS babies and their families.
5. Provide training to health care providers who work with pregnant or parenting women on best practices for compliance with federal requirements that children born with NAS get referred to appropriate services and receive a plan of safe care.

6. Provide child and family supports for parenting women with OUD and any co-occurring SUD/MH conditions.
7. Provide enhanced family support and child care services for parents with OUD and any co-occurring SUD/MH conditions.
8. Provide enhanced support for children and family members suffering trauma as a result of addiction in the family; and offer trauma-informed behavioral health treatment for adverse childhood events.
9. Offer home-based wrap-around services to persons with OUD and any co-occurring SUD/MH conditions, including, but not limited to, parent skills training.
10. Provide support for Children's Services—Fund additional positions and services, including supportive housing and other residential services, relating to children being removed from the home and/or placed in foster care due to custodial opioid use.

PART TWO: PREVENTION

F. PREVENT OVER-PRESCRIBING AND ENSURE APPROPRIATE PRESCRIBING AND DISPENSING OF OPIOIDS

Support efforts to prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Funding medical provider education and outreach regarding best prescribing practices for opioids consistent with the Guidelines for Prescribing Opioids for Chronic Pain from the U.S. Centers for Disease Control and Prevention, including providers at hospitals (academic detailing).
2. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.
3. Continuing Medical Education (CME) on appropriate prescribing of opioids.
4. Providing Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.
5. Supporting enhancements or improvements to Prescription Drug Monitoring Programs ("PDMPs"), including, but not limited to, improvements that:
 1. Increase the number of prescribers using PDMPs;
 2. Improve point-of-care decision-making by increasing the quantity, quality, or format of data available to prescribers using PDMPs, by improving the interface that prescribers use to access PDMP data, or both; or

3. Enable states to use PDMP data in support of surveillance or intervention strategies, including MAT referrals and follow-up for individuals identified within PDMP data as likely to experience OUD in a manner that complies with all relevant privacy and security laws and rules.
6. Ensuring PDMPs incorporate available overdose/naloxone deployment data, including the United States Department of Transportation's Emergency Medical Technician overdose database in a manner that complies with all relevant privacy and security laws and rules.
7. Increasing electronic prescribing to prevent diversion or forgery.
8. Educating dispensers on appropriate opioid dispensing.

G. PREVENT MISUSE OF OPIOIDS

Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Funding media campaigns to prevent opioid misuse.
2. Corrective advertising or affirmative public education campaigns based on evidence.
3. Public education relating to drug disposal.
4. Drug take-back disposal or destruction programs.
5. Funding community anti-drug coalitions that engage in drug prevention efforts.
6. Supporting community coalitions in implementing evidence-informed prevention, such as reduced social access and physical access, stigma reduction—including staffing, educational campaigns, support for people in treatment or recovery, or training of coalitions in evidence-informed implementation, including the Strategic Prevention Framework developed by the U.S. Substance Abuse and Mental Health Services Administration (“SAMHSA”).
7. Engaging non-profits and faith-based communities as systems to support prevention.
8. Funding evidence-based prevention programs in schools or evidence-informed school and community education programs and campaigns for students, families, school employees, school athletic programs, parent-teacher and student associations, and others.
9. School-based or youth-focused programs or strategies that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids.

10. Create or support community-based education or intervention services for families, youth, and adolescents at risk for OUD and any co-occurring SUD/MH conditions.
11. Support evidence-informed programs or curricula to address mental health needs of young people who may be at risk of misusing opioids or other drugs, including emotional modulation and resilience skills.
12. Support greater access to mental health services and supports for young people, including services and supports provided by school nurses, behavioral health workers or other school staff, to address mental health needs in young people that (when not properly addressed) increase the risk of opioid or another drug misuse.

H. PREVENT OVERDOSE DEATHS AND OTHER HARMS (HARM REDUCTION)

Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Increased availability and distribution of naloxone and other drugs that treat overdoses for first responders, overdose patients, individuals with OUD and their friends and family members, schools, community navigators and outreach workers, persons being released from jail or prison, or other members of the general public.
2. Public health entities providing free naloxone to anyone in the community.
3. Training and education regarding naloxone and other drugs that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, community support groups, and other members of the general public.
4. Enabling school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.
5. Expanding, improving, or developing data tracking software and applications for overdoses/naloxone revivals.
6. Public education relating to emergency responses to overdoses.
7. Public education relating to immunity and Good Samaritan laws.
8. Educating first responders regarding the existence and operation of immunity and Good Samaritan laws.
9. Syringe service programs and other evidence-informed programs to reduce harms associated with intravenous drug use, including supplies, staffing, space, peer support services, referrals to treatment, fentanyl checking, connections to care, and the full range of harm reduction and treatment services provided by these programs.

10. Expanding access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.
11. Supporting mobile units that offer or provide referrals to harm reduction services, treatment, recovery supports, health care, or other appropriate services to persons that use opioids or persons with OUD and any co-occurring SUD/MH conditions.
12. Providing training in harm reduction strategies to health care providers, students, peer recovery coaches, recovery outreach specialists, or other professionals that provide care to persons who use opioids or persons with OUD and any co-occurring SUD/MH conditions.
13. Supporting screening for fentanyl in routine clinical toxicology testing.

PART THREE: OTHER STRATEGIES

I. FIRST RESPONDERS

In addition to items in section C, D and H relating to first responders, support the following:

1. Education of law enforcement or other first responders regarding appropriate practices and precautions when dealing with fentanyl or other drugs.
2. Provision of wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events.

J. LEADERSHIP, PLANNING AND COORDINATION

Support efforts to provide leadership, planning, coordination, facilitations, training and technical assistance to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following:

1. Statewide, regional, local or community regional planning to identify root causes of addiction and overdose, goals for reducing harms related to the opioid epidemic, and areas and populations with the greatest needs for treatment intervention services, and to support training and technical assistance and other strategies to abate the opioid epidemic described in this opioid abatement strategy list.
2. A dashboard to (a) share reports, recommendations, or plans to spend opioid settlement funds; (b) to show how opioid settlement funds have been spent; (c) to report program or strategy outcomes; or (d) to track, share or visualize key opioid- or health-related indicators and supports as identified through collaborative statewide, regional, local or community processes.
3. Invest in infrastructure or staffing at government or not-for-profit agencies to support collaborative, cross-system coordination with the purpose of preventing

overprescribing, opioid misuse, or opioid overdoses, treating those with OUD and any co-occurring SUD/MH conditions, supporting them in treatment or recovery, connecting them to care, or implementing other strategies to abate the opioid epidemic described in this opioid abatement strategy list.

4. Provide resources to staff government oversight and management of opioid abatement programs.

K. TRAINING

In addition to the training referred to throughout this document, support training to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, those that:

1. Provide funding for staff training or networking programs and services to improve the capability of government, community, and not-for-profit entities to abate the opioid crisis.
2. Support infrastructure and staffing for collaborative cross-system coordination to prevent opioid misuse, prevent overdoses, and treat those with OUD and any co-occurring SUD/MH conditions, or implement other strategies to abate the opioid epidemic described in this opioid abatement strategy list (*e.g.*, health care, primary care, pharmacies, PDMPs, etc.).

L. RESEARCH

Support opioid abatement research that may include, but is not limited to, the following:

1. Monitoring, surveillance, data collection and evaluation of programs and strategies described in this opioid abatement strategy list.
2. Research non-opioid treatment of chronic pain.
3. Research on improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to opioid use disorders.
4. Research on novel harm reduction and prevention efforts such as the provision of fentanyl test strips.
5. Research on innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.
6. Expanded research on swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (*e.g.*, Hawaii HOPE and Dakota 24/7).

7. Epidemiological surveillance of OUD-related behaviors in critical populations, including individuals entering the criminal justice system, including, but not limited to approaches modeled on the Arrestee Drug Abuse Monitoring (“ADAM”) system.
8. Qualitative and quantitative research regarding public health risks and harm reduction opportunities within illicit drug markets, including surveys of market participants who sell or distribute illicit opioids.
9. Geospatial analysis of access barriers to MAT and their association with treatment engagement and treatment outcomes.

EXHIBIT F

List of States and Overall Allocation Percentages

Alabama	1.6491291250%
Alaska	0.2619596435%
American Samoa	0.0174609943%
Arizona	2.3755949882%
Arkansas	0.9713856799%
California	9.9213830698%
Colorado	1.6616291219%
Connecticut	1.3399918096%
Delaware	0.4951498892%
District of Columbia	0.2078293111%
Florida	7.0259134409%
Georgia	2.7882080114%
Guam	0.0513089852%
Hawaii	0.3443244815%
Idaho	0.5297889112%
Illinois	3.3263363702%
Indiana	2.2168933059%
Iowa	0.7611448951%
Kansas	0.8077259480%
Kentucky	2.1047890943%
Louisiana	1.5229786769%
Maine	0.5651006743%
Maryland	2.1106090494%
Massachusetts	2.3035761083%
Michigan	3.4020234989%
Minnesota	1.2972597706%
Mississippi	0.8942157086%
Missouri	2.0056475170%
Montana	0.3457758645%
N. Mariana Islands	0.0188110001%
Nebraska	0.4313919963%
Nevada	1.2547155559%
New Hampshire	0.6311550689%
New Jersey	2.7551354545%
New Mexico	0.8623532836%
New York	5.3903813405%

North Carolina	3.2502525994%
North Dakota	0.1878951417%
Ohio	4.3567051408%
Oklahoma	0.3053135060%
Oregon	1.4309172888%
Pennsylvania	4.5882419559%
Puerto Rico	0.7295764154%
Rhode Island	0.4942737092%
South Carolina	1.5905629933%
South Dakota	0.2193860923%
Tennessee	2.6881474977%
Texas	6.2932157196%
Utah	1.1945774957%
Vermont	0.2876050633%
Virgin Islands	0.0343504215%
Virginia	2.2801150757%
Washington	2.3189040182%
West Virginia	1.1438786260%
Wisconsin	1.7582560561%
Wyoming	0.1987475390%

EXHIBIT G

Subdivisions Eligible to become Participating Subdivisions and Default Subdivision Fund Allocation Percentages

The Subdivisions set forth on this Exhibit G are eligible to become Participating Subdivisions. By default, the Subdivisions set forth on this Exhibit G shall include: (1) all Litigating Subdivisions; (2) all counties and parishes in States with functional counties or parishes; (3) all Subdivisions that are the highest level of general purpose government in States without functional counties or parishes; and (4) all other Subdivisions with a population of 10,000 or greater. A State may elect to add any additional Subdivisions to this Exhibit G at any time prior to the Initial Participation Date.

Immediately upon the effectiveness of any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by subsection VI.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by subsection VI.D.3) that addresses allocation from the Subdivision Fund, whether before or after the Initial Participation Date, this 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 subsection VI.D.3.

For the avoidance of doubt, inclusion on this Exhibit G shall not create any claim for any amount of the Settlement Fund, and no such amounts shall be allocated or distributed to any Subdivision included herein if such Subdivision does not otherwise meet all requirements to receive any such funds pursuant to the Agreement.

The Parties recognize the benefits of remediation funds reaching all communities, including through direct payments from the Subdivision Fund. However, to promote efficiency in the use of such funds and avoid administratively-burdensome disbursements that would be too small to add a meaningful abatement response, certain Subdivisions do not receive a direct allocation from the Subdivision Fund. However, such Subdivisions will benefit from Opioid Remediation in their community, and are eligible to receive direct benefits from the Abatement Accounts Fund in their State. All settlement funds, whether allocated to a Settling State, an Abatement Accounts Fund or a Subdivision listed on this Exhibit G can be used for Opioid Remediation in communities not listed herein.

As provided by subsection VI.D.4.c, the Allocation Percentages shown below apply to distribution of each Settling State's Subdivision Fund in the absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust. The allocation that would have otherwise gone to Subdivisions not listed below as receiving a direct allocation shall be (1) directed to the county or parish in which such Subdivision is located in Settling States with functional counties or parishes if the relevant county or parish is a Participating Subdivision or (2) to the highest-level general purpose government in which such Subdivision is located in Settling States without functional counties or parishes if the relevant highest-level general purpose government is a Participating Subdivision. Where the relevant county, parish or highest-level General Purpose Government is not a Participating Subdivision, allocations of General Purpose Subdivisions not

listed below as eligible to become Participating Subdivisions shall be allocated pursuant to subsection VII.I. The redirecting of funds described in this paragraph is intended to promote the efficient use of Opioid Remediation funds while keeping, where possible, local control of the distribution of those funds.

This Exhibit G will be updated with Subdivisions eligible to become Participating Subdivisions pursuant to subsection I.77.

EXHIBIT H

Participation Tier Determination*

Participation Tier	Settling States as of the Payment Date (beginning in Payment Year 1)	Percentage of Litigating Subdivisions that Are Participating Subdivisions and/or Subdivisions Subject to a Bar, Case-Specific Resolution, or Settlement Class Resolution in effect as of the Payment Date (beginning in Payment Year 1)	Percentage of Non-Litigating Subdivisions with Populations over 10,000 that Are Participating Subdivisions and/or Subdivisions Subject to a Bar, Case-Specific Resolution, or Settlement Class resolution in effect as of the Payment Date (beginning in Payment Year 1)
1	44	95%	90%
2	45	96%	96%
3	46	97%	97%
4	48	98%	97%

* The following conditions apply to the determination of Participation Tiers:

1. For the sole purpose of the Participation Tier determination under this Exhibit, the States used to calculate each criterion (including the percentages of Litigating and Non-Litigating Subdivisions in Settling States that are Participating Subdivisions) will include each of the 50 states in the United States, excluding the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.
2. Assessment of Subdivision participation percentage will be national in scope.
3. For purposes of determining Participation Tiers, "Litigating Subdivisions" includes Special Districts that have brought any Released Claims against any Released Entities. Special Districts shall have their population measured as set forth in subsection XIII.C.
4. The percentage of Litigating Subdivisions and percentage of Non-Litigating Subdivisions with populations over 10,000 will be calculated as follows: Each Litigating Subdivision and each Non-Litigating Subdivision with a population over 10,000 in the States used to calculate the Participation Tier will be assigned a metric reflecting both population and severity (the "Population-Severity Metric"). The Population-Severity Metric shall be the Subdivision's population plus the Subdivision's population multiplied by the severity factor for the State of the Subdivision (the severity factors for each State are attached as Exhibit T hereto) and then divided in two, thus giving 50% weight to each of population and population multiplied by the severity factor. The denominator for each percentage shall be the sum total of the Population-Severity Metric for all the Subdivisions in the

relevant category (Litigating Subdivisions or Non-Litigating Subdivisions with populations over 10,000) in the Settling States, notwithstanding that persons may be included within the population (and therefore the Population-Severity Metric) of more than one Subdivision. The numerator will be the sum total of the Population-Severity Metrics of all Subdivisions in the relevant category of Subdivision (*i.e.*, Litigating Subdivisions or Non-Litigating Subdivisions with populations over 10,000) in the Settling States that are either Participating Subdivisions or are subject to a Bar, Case-Specific Resolution, or Settlement Class Resolution, notwithstanding that persons may be included within the population of more than one Subdivision. For the avoidance of doubt, Subdivisions in Non-Settling States are excluded from both the denominator and numerator of the calculations for the percentage of Litigating Subdivisions and percentage of Non-Litigating Subdivisions with populations over 10,000.

5. When the Participation Tier is redetermined annually, Later Participating Subdivisions described in Section VII.E.3 or Section VII.E.4 shall not be included as Participating Subdivisions, and for Subdivisions subject to a Bar, Case-Specific Resolution, or Settlement Class Resolution to be included, the Bar, Case-Specific Resolution, or Settlement Class Resolution must have been in effect both as of the relevant Payment Date and for the entire period since the prior Payment Date.
6. Subdivisions with populations over 10,000 are listed on Exhibit I.

EXHIBIT I

Primary Subdivisions and Subdivisions over 10,000

[Distributor Agreement Exhibit I to be inserted]

EXHIBIT J

Janssen Predecessors and Former Affiliates

The following includes a non-exclusive list of Janssen's predecessors and former affiliates:

1. Janssen Pharmaceutica, Inc.
2. Janssen Pharmaceutica N.V.
3. Janssen-Cilag Manufacturing, LLC
4. Janssen Global Services, LLC
5. Janssen Ortho LLC
6. Janssen Products, LP
7. Janssen Research & Development, LLC
8. Janssen Supply Group, LLC
9. Janssen Scientific Affairs, LLC
10. JOM Pharmaceutical Services, Inc.
11. OMJ Pharmaceuticals, Inc.
12. Ortho-McNeil Finance Co.
13. Ortho-McNeil Pharmaceutical
14. Ortho-McNeil-Janssen Pharmaceuticals
15. Ortho-McNeil Pharmaceutical Services Division
16. Ortho-McNeil Neurologic
17. Patriot Pharmaceuticals, LLC
18. Pricara, Ortho-McNeil-Janssen Pharmaceuticals
19. Alza Corp.
20. Alza Development Corp.
21. Janssen Supply Chain, Alza Corp.
22. Noramco, Inc.
23. Tasmanian Alkaloids PTY LTD.

EXHIBIT K

Settlement Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above ("Governmental Entity"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated July 21, 2021 ("Janssen Settlement"), and acting through the undersigned authorized official, hereby elects to participate in the Janssen Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Janssen Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Janssen Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Janssen Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Janssen Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Janssen Settlement 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 provided in, and for resolving disputes to the extent provided in, the Janssen Settlement.
7. The Governmental Entity has the right to enforce the Janssen Settlement as provided therein.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Janssen Settlement, including but not limited to all provisions of Section IV (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity 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 any forum whatsoever. The releases provided for in the Janssen Settlement 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 the Governmental Entity to release claims. The Janssen Settlement shall be a complete bar to any Released Claim.
9. In connection with the releases provided for in the Janssen Settlement, 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, 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 the Janssen Settlement.

10. Nothing herein is intended to modify in any way the terms of the Janssen Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Janssen Settlement in any respect, the Janssen Settlement controls.

I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

EXHIBIT L

Settlement Fund Administrator

This Exhibit L will be appended to the Agreement prior to the Initial Participation Date pursuant to subsection I.66.

EXHIBIT M

Settlement Payment Schedule

Payment # /Year	Suspension Applies to:	Atty Fee, Costs & Additional Restitution Amount	Base	Incentives A, B & C (maximum)	Incentive D (Lookback Payment)	Credit	Total
Payment 1 ED+90 days	None	\$103,244,576	\$282,175,271	---	---	\$14,580,153	\$400,000,000
Payment 2 July 2022	None	---	\$658,320,615	---	---	---	\$658,320,615
Payment 3 July 2023	Bonus	\$93,629,192	---	\$526,905,161	---	\$71,145,032	\$691,679,385
Payment 4 July 2024	Bonus	\$93,629,191	\$259,273,971	\$549,768,597	---	\$47,328,241	\$950,000,000
Payment 5 July 2025	Bonus	\$43,720,414	\$262,463,219	\$634,274,384	---	\$59,541,983	\$1,000,000,000
Payment 6 July 2026	Bonus	\$43,720,414	\$105,720,216	\$54,325,273	---	\$12,900,764	\$216,666,667
Payment 7 July 2027	Bonus & lookback	\$43,720,414	\$63,074,061	\$54,325,273	\$42,646,154	\$12,900,765	\$216,666,667
Payment 8 July 2028	Bonus & lookback	\$43,720,414	\$63,074,060	\$54,325,272	\$42,646,154	\$12,900,766	\$216,666,667
Payment 9 July 2029	Bonus & lookback	---	\$82,748,246	\$78,371,501	\$42,646,154	\$12,900,766	\$216,666,667
Payment 10 July 2030	Base, bonus & lookback	---	\$82,748,248	\$78,371,500	\$42,646,154	\$12,900,765	\$216,666,667
Payment 11 July 2031	Base, bonus & lookback	---	\$82,748,248	\$78,371,500	\$42,646,153	\$12,900,765	\$216,666,667
Total		\$465,384,615	\$1,942,346,155	\$2,109,038,461	\$213,230,769	\$270,000,000	\$5,000,000,000

NOTES:

1. Any adjustments to attorneys' fees and costs will be addressed in the separate attorneys' fees and costs agreement.

2. The attorneys' fees and costs included in the schedule include the Additional Restitution Amount, which will be paid in lieu of attorneys' fees to Settling States listed on Exhibit N.
3. Any offsets under Section V would also be deducted from the base, Incentive B & C maximum, and Incentive D lookback payments and applied proportionately to all payments.
4. Accelerated payments for Incentive A would adjust figures for base and Incentive B & C payments.
5. The dates of payments shown on the schedule are approximate, and will be determined by subsection V.B.1.

EXHIBIT N

Additional Restitution Amount Allocation

Alabama	2.1169269268%
Alaska	0.3443798454%
American Samoa	0.0219613287%
Arizona	2.9452135100%
California	13.1510781360%
Colorado	2.1897380150%
Connecticut	1.7275419499%
Delaware	0.6508743856%
District of Columbia	0.2811929384%
Georgia	3.7040606512%
Guam	0.0665280480%
Hawaii	0.4710748102%
Illinois	4.3924998997%
Indiana	2.7750263890%
Iowa	1.0610119129%
Kansas	1.0960862986%
Louisiana	2.0857625133%
Maine	0.7470015721%
Maryland	2.6658205590%
Massachusetts	2.9180077435%
Michigan	4.3144215263%
Minnesota	1.7616910858%
Missouri	2.5748706956%
Montana	0.4612247807%
N. Mariana Islands	0.0240110183%
Nebraska	0.5931074216%
New York	8.4314865530%
North Carolina	4.1880762974%
North Dakota	0.2646479540%
Oregon	1.8098698760%
Pennsylvania	5.6817646992%
Rhode Island	0.6444665757%
South Carolina	2.0610356358%
Tennessee	3.3570652958%
Texas	10.8573789344%
Utah	1.5481963920%

Vermont	0.3893298238%
Virgin Islands	0.0453295506%
Virginia	3.0182689455%
Wisconsin	2.2927931680%
Wyoming	0.2691763371%

EXHIBIT O

Adoption of a State-Subdivision Agreement

A State-Subdivision Agreement shall be applied if it meets the requirements of Section VI and is approved by the State and by the State's Subdivisions as follows:

1. *Requirements for Approval.* A State-Subdivision Agreement shall be deemed as agreed to when it has been approved by the State and either (a) Subdivisions whose aggregate "Population Percentages," determined as set forth below, total more than sixty percent (60%), or (b) Subdivisions whose aggregate Population Percentages total more than fifty percent (50%) provided that these Participating Subdivisions also represent fifteen percent (15%) or more of the State's counties or parishes (or, in the case of Settling States whose counties and parishes do not function as local governments, 15% of or more of the Settling State's non-county Subdivisions), by number.
2. *Approval Authority.* Approval by the State shall be by the Attorney General. Approval by a Subdivision shall be by the appropriate official or legislative body pursuant to the required procedures for that Subdivision to agree to a legally binding settlement.
3. *Population Percentage Calculation.* For purposes of this Exhibit O only, Population Percentages shall be determined as follows: For States with functional counties or parishes³, the Population Percentage of each county or parish shall be deemed to be equal to (a) (1) 200% of the population of such county or parish, minus (2) the aggregate population of all Primary Incorporated Municipalities located in such county or parish, divided by (b) 200% of the State's population. A "Primary Incorporated Municipality" means a city, town, village or other municipality incorporated under applicable state law with a population of at least 25,000 that is not located within another incorporated municipality. The Population Percentage of each Primary Incorporated Municipality shall be equal to its population (including the population of any incorporated or unincorporated municipality located therein) divided by 200% of the State's population; *provided* that the Population Percentage of a Primary Incorporated Municipality that is not located within a county shall be equal to 200% of its population (including the population of any incorporated or unincorporated municipality located therein) divided by 200% of the State's population. For all States that do not have functional counties or parishes, the Population Percentage of each non-county Subdivision (including any incorporated or unincorporated municipality located therein), shall be equal to its population divided by the State's population.
4. *Preexisting Agreements and Statutory Provisions.* A State may include with the notice to its Subdivisions an existing agreement, a proposed agreement, or statutory provisions regarding the distribution and use of settlement funds and have the acceptance of such an agreement or statutory provision be part of the requirements to be an Initial Participating Subdivision.

³ Certain states do not have counties or parishes that have functional governments, including: Alaska, Connecticut, Massachusetts, Rhode Island, and Vermont.

5. *Revised Agreements.* A State-Subdivision Agreement that has been revised, supplemented, or refined shall be applied if it meets the requirements of Section VI and is approved by the State and by the State's Subdivisions pursuant to the terms above.

EXHIBIT P

Injunctive Relief

A. Definitions Specific to this Exhibit

1. “*Cancer-Related Pain Care*” means care that provides relief from pain resulting from a patient’s active cancer or cancer treatment as distinguished from treatment provided during remission.
2. “*Janssen*” means Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. (collectively, “Janssen”), including all of their subsidiaries, predecessors, successors, current officers, directors, employees, representatives, agents, affiliates, parents, and assigns acting on behalf of Janssen in the United States.
3. “*End-of-Life Care*” means care for persons with a terminal illness or at high risk for dying in the near future in hospice care, hospitals, long-term care settings, or at home.
4. “*Health Care Provider*” means any U.S.-based physician or other health care practitioner who is licensed to provide health care services or to prescribe pharmaceutical products and any medical facility, practice, hospital, clinic, or pharmacy.
5. “*In-Kind Support*” means payment or assistance in the form of goods, commodities, services, or anything else of value.
6. “*Lobby*” and “*Lobbying*” shall have the same meaning as “lobbying activities” and “lobbying contacts” under the federal lobbying disclosure act, 2 U.S.C. § 1602 *et seq.*, and any analogous state or local provisions governing the person or entity being lobbied. As used in this document, “Lobby” and “Lobbying” include Lobbying directly or indirectly, through grantees or Third Parties.
7. “*Opioid(s)*” means all naturally occurring, synthetic, or semisynthetic substances that interact with opioid receptors and act like opium. For the avoidance of doubt, the term “Opioid(s)” does not include Imodium.
8. “*Opioid Product(s)*” means all current and future medications containing Opioids approved by the U.S. Food & Drug Administration (FDA) and listed by the DEA as Schedule II, III, or IV drugs pursuant to the federal Controlled Substances Act (including but not limited to buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, oxycodone, oxymorphone, tapentadol, and tramadol). The term “Opioid Products(s)” shall not include (i) methadone and other substances when used exclusively to treat opioid abuse, addiction, or overdose; or (ii) raw materials, immediate precursors, and/or active pharmaceutical ingredients (APIs) used in the manufacture or study of Opioids or Opioid Products, but only when such materials, immediate precursors, and/or

APIs are sold or marketed exclusively to DEA-licensed manufacturers or DEA-licensed researchers.

9. “*OOD*” means opioid use disorder defined in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5)*, as updated or amended.
10. “*Product(s) for the Treatment of Opioid-Induced Side Effects*” means any over-the-counter or prescription remedy used to treat those side effects identified on the FDA label for any Opioid Product, except that, for purposes of the Agreement, Product(s) for the Treatment of Opioid-Induced Side Effects shall not include products that treat OUD or respiratory depression.
11. “*Promote*,” “*Promoting*,” “*Promotion*,” and “*Promotional*” means dissemination of information or other practices intended or reasonably anticipated to increase sales, prescriptions, or that attempts to influence prescribing practices in the United States. These terms shall not include the provision of scientific information or data in response to unsolicited requests from Health Care Providers or payors as allowed in subsection C.2.e-h.
12. “*Third Party(ies)*” means any person or entity other than Janssen or a government entity.
13. “*Treatment of Pain*” means the provision of therapeutic modalities to alleviate or reduce pain.
14. “*Unbranded Information*” means any information that does not identify a specific branded or generic product.

B. Ban on Selling and Manufacturing Opioids

1. Janssen shall not manufacture or sell any Opioids or Opioid Products for distribution in the United States. Janssen represents that prior to the Effective Date, it de-listed all of its Opioid Products and no longer ships any of them to or within the United States. Janssen shall provide notice to the Settling States when the last of the inventory Janssen has shipped has expired.
2. Notwithstanding subsection B.1, above, Janssen may continue to manufacture Nucynta and Nucynta ER (collectively “Nucynta”) in accordance with the terms of its April 2, 2015 contract with Depomed, Inc., rights to which were assigned to Collegium Pharmaceutical, Inc. (“Collegium”) on February 13, 2020, so long as Janssen is not Promoting Nucynta, or selling Nucynta to anyone other than Collegium. Janssen shall not extend, amend, or otherwise alter the terms of its April 2, 2015 contract or enter into any similar agreement related to Nucynta or any other Opioid or Opioid Product. For the term of its April 2, 2015 contract, or until the expiration of subsection B.1, whichever is shorter, Janssen shall make an annual report to the Settling States showing the amount of Nucynta manufactured in accordance with the April 2, 2015 contract.

C. Ban on Promotion

1. Janssen shall not engage in Promotion of Opioids or Opioid Products including but not limited to, by:
 - a. Employing or contracting with sales representatives or other persons to Promote Opioids or Opioid Products to Health Care Providers or patients, or to persons involved in determining the Opioid Products included in formularies;
 - b. Using speakers, key opinion leaders, thought leaders, lecturers, and/or speaking events for Promotion of Opioids or Opioid Products;
 - c. Sponsoring, or otherwise providing financial support or In-Kind Support to medical education programs for Promotion of Opioids or Opioid Products;
 - d. Creating, sponsoring, operating, controlling, or otherwise providing financial support or In-Kind Support to any website, network, and/or social or other media account for the Promotion of Opioids or Opioid Products;
 - e. Creating, sponsoring, distributing, or otherwise providing financial support or In-Kind Support for materials Promoting Opioids or Opioid Products, including but not limited to brochures, newsletters, pamphlets, journals, books, and guides;
 - f. Creating, sponsoring, or otherwise providing financial support or In-Kind Support for advertisements that Promote Opioids or Opioid Products, including but not limited to internet advertisements or similar content, and providing hyperlinks or otherwise directing internet traffic to advertisements; and
 - g. Engaging in internet search engine optimization or other techniques designed to Promote Opioids or Opioid Products by improving rankings or making content appear among the top results in an internet search or otherwise be more visible or more accessible to the public on the internet.
2. Notwithstanding subsection C.1 directly above, Janssen may:
 - a. Maintain a corporate website;
 - b. Maintain a website for any Opioid Product that contains principally the following content: the FDA-approved package insert, medication guide, and labeling, and a statement directing patients or caregivers to speak with a licensed Health Care Provider;

- c. Provide information or support the provision of information as expressly required by law or any state or federal government agency with jurisdiction in [State];
- d. Provide the following by mail, electronic mail, on or through Janssen's corporate or product websites or through other electronic or digital methods: FDA-approved package insert, medication guide, approved labeling for Opioid Products, or other prescribing information for Opioid Products that are published by a state or federal government agency with jurisdiction in [State];
- e. Provide scientific and/or medical information in response to an unsolicited request by a Health Care Provider consistent with the standards set forth in the FDA's Draft Guidance for Industry, *Responding to Unsolicited Requests for Off-Label Information About Prescription Drugs and Medical Devices* (Dec. 2011) as updated or amended by the FDA, and Guidance for Industry, *Good Reprint Practices for the Distribution of Medical Journal Articles and Medical or Scientific Reference Publications on Unapproved New Uses of Approved Drugs and Approved or Cleared Medical Devices* (Jan. 2009) as updated or amended by the FDA;
- f. Provide a response to any unsolicited question or request from a patient or caregiver, directing the patient or caregiver to the FDA-approved labeling or to speak with a licensed Health Care Provider without describing the safety or effectiveness of Opioids or any Opioid Product or naming any specific provider or healthcare institution; or directing the patient or caregiver to speak with their insurance carrier regarding coverage of an Opioid Product;
- g. Provide Health Care Economic Information, as defined at 21 U.S.C. § 352(a), to a payor, formulary committee, or other similar entity with knowledge and expertise in the area of health care economic analysis consistent with standards set forth in the FDA's Draft Questions and Answers Guidance for Industry and Review Staff, *Drug and Device Manufacturer Communications With Payors, Formulary Committees, and Similar Entities* (Jan. 2018), as updated or amended by the FDA;
- h. Provide information relating solely to the pricing of any Opioid Product;
- i. Sponsor or provide financial support or In-Kind Support for an accredited or approved continuing medical education program required by either an FDA-approved Risk Evaluation and Mitigation Strategy (REMS) program or other federal or state law or regulation applicable in [State] through an independent Third Party, which shall be responsible for the program's content without the participation of Janssen; and

- j. Provide information in connection with patient support information on co-pay assistance and managing pain in End-of-Life Care and/or Cancer-Related Pain Care relating to the use of Opioids for managing such pain, as long as the information identifies Janssen as the source of the information.
- 3. Janssen shall not engage in the Promotion of Products for the Treatment of Opioid-Induced Side Effects, including but not limited to:
 - a. Employing or contracting with sales representatives or other persons to Promote Products for the Treatment of Opioid-Induced Side Effects to Health Care Providers or patients;
 - b. Using speakers, key opinion leaders, thought leaders, lecturers, and/or speaking events to Promote Products for the Treatment of Opioid-Induced Side Effects;
 - c. Sponsoring, or otherwise providing financial support or In-Kind Support to medical education programs that Promote Products for the Treatment of Opioid-Induced Side Effects;
 - d. Creating, sponsoring, or otherwise providing financial support or In-Kind Support for advertisements that Promote Products for the Treatment of Opioid-Induced Side Effects, including but not limited to internet advertisements or similar content, and providing hyperlinks or otherwise directing internet traffic to advertisements.
 - 4. Notwithstanding subsection C.3 directly above, Janssen may Promote Products for the Treatment of Opioid-Induced Side Effects so long as such Promotion does not associate the product with Opioids or Opioid Products.
 - 5. Treatment of Pain
 - a. Janssen shall not, either through Janssen or through Third Parties, engage in any conduct that Promotes the Treatment of Pain, except that Janssen may continue to Promote the Treatment of Pain with branded non-Opioids, including Tylenol and Motrin.
 - b. Janssen shall not, either through Janssen or through Third Parties, engage in any conduct that Promotes the concept that pain is undertreated, except in connection with Promoting the use of branded non-Opioids, including Tylenol and Motrin, for the Treatment of Pain.
 - c. Janssen shall not disseminate Unbranded Information, including Unbranded Information about a medical condition or disease state, that contains links to branded information about Opioid Products or that otherwise Promotes Opioids or Opioid Products.

6. Notwithstanding subsection C.5 above:
 - a. Janssen may Promote or provide educational information about the Treatment of Pain with non-Opioids or therapies such as acetaminophen or non-steroidal anti-inflammatory drugs (NSAIDs), including Promoting or providing educational information about such non-Opioids or therapies as alternatives to Opioid use, or as part of multimodal therapy which may include Opioid use, so long as such non-Opioid Promotional or educational information does not Promote Opioids or Opioid Products.
 - b. Janssen may provide educational information about the Treatment of Pain related to medical procedures involving devices manufactured or sold by Janssen, including educational information about Opioids or Opioid Products, so long as such information does not Promote Opioids or Opioid Products.
7. The Promotional conduct prohibited in subsection C is not prohibited insofar as it relates to the Promotion of Opioids or Opioid Products for Cancer-Related Pain Care or End-of-Life Care only, and so long as Janssen is identified as the sponsor or source of such Promotional conduct.

D. No Financial Reward or Discipline Based on Volume of Opioid Sales

1. Janssen shall not provide financial incentives to its sales and marketing employees or discipline its sales and marketing employees based upon sales volume or sales quotas for Opioid Products;
2. Janssen shall not offer or pay any remuneration (including any kickback, bribe, or rebate) directly or indirectly, to any person in return for the prescribing, sale, use, or distribution of an Opioid Product; and
3. Janssen's compensation policies and procedures shall ensure compliance with the Agreement.

E. Ban on Funding/Grants to Third Parties

1. Janssen shall not directly or indirectly provide financial support or In-Kind Support to any Third Party that primarily engages in conduct that Promotes Opioids, Opioid Products, or Products for the Treatment of Opioid-Induced Side Effects (subject to subsections C.2, C.4, and C.6), including educational programs or websites that Promote Opioids, Opioid Products, or Products for the Treatment of Opioid-Induced Side Effects, excluding financial support otherwise required by the Agreement, a court order, or by a federal or state agency.
2. Janssen shall not create, sponsor, provide financial support or In-Kind Support to, or otherwise operate or control any medical society or patient advocacy group that primarily engages in conduct that Promotes Opioids, Opioid Products, or Products for the Treatment of Opioid-Induced Side Effects.

3. Janssen shall not provide links to any Third Party website or materials or otherwise distribute materials created by a Third Party for the purpose of Promoting Opioids, Opioid Products, or Products for the Treatment of Opioid-Induced Side Effects (subject to subsections C.2, C.4, and C.6).
4. Janssen shall not use, assist, or employ any Third Party to engage in any activity that Janssen itself would be prohibited from engaging in pursuant to the Agreement. To the extent Janssen supports trade groups engaged in Lobbying, Janssen shall stipulate that such support not be used for any purpose prohibited by the Agreement.
5. Janssen shall not enter into any contract or agreement with any person or entity or otherwise attempt to influence any person or entity in such a manner that has the purpose or foreseeable effect of limiting the dissemination of information regarding the risks and side effects of using Opioids.
6. Janssen shall not compensate or support Health Care Providers or organizations to advocate for formulary access or treatment guideline changes for the purpose of increasing access to any Opioid Product through third-party payors, i.e., any entity, other than an individual, that pays or reimburses for the dispensing of prescription medicines, including but not limited to managed care organizations and pharmacy benefit managers.
7. No officer or management-level employee of Janssen may concurrently serve as a director, board member, employee, agent, or officer of any entity that primarily engages in conduct that Promotes Opioids, Opioid Products, or Products for the Treatment of Opioid-Induced Side Effects. For the avoidance of doubt, nothing in this provision shall preclude an officer or management-level employee of Janssen from concurrently serving on the board of a hospital.
8. Janssen shall play no role in appointing persons to the board, or hiring persons to the staff, of any entity that primarily engages in conduct that Promotes Opioids, Opioid Products, or Products for the Treatment of Opioid-Induced Side Effects. For the avoidance of doubt, nothing in this paragraph shall prohibit Janssen from fully and accurately responding to unsolicited requests or inquiries about a person's fitness to serve as an employee or Board member at any such entity.

F. Lobbying Restrictions

1. Janssen shall not Lobby for the enactment of any federal, state, or local legislative or regulatory provision that:
 - a. Encourages or requires Health Care Providers to prescribe Opioids or sanctions Health Care Providers for failing to prescribe Opioids or failing to treat pain with Opioids;
 - b. Has the effect of limiting access to any non-Opioid alternative pain treatments; or

- c. Pertains to the classification of any Opioid or Opioid Product as a scheduled drug under the Controlled Substances Act.
- 2. Janssen shall not Lobby against the enactment of any federal, state or local legislative or regulatory provision that supports:
 - a. The use of non-pharmacologic therapy and/or non-Opioid pharmacologic therapy to treat chronic pain over or instead of Opioid use, including but not limited to third party payment or reimbursement for such therapies;
 - b. The use and/or prescription of immediate release Opioids instead of extended release Opioids when Opioid use is initiated, including but not limited to third party reimbursement or payment for such prescriptions;
 - c. The prescribing of the lowest effective dose of an Opioid, including but not limited to third party reimbursement or payment for such prescription;
 - d. The limitation of initial prescriptions of Opioids to treat acute pain;
 - e. The prescribing and other means of distribution of naloxone to minimize the risk of overdose, including but not limited to third party reimbursement or payment for naloxone;
 - f. The use of urine testing before starting Opioid use and annual urine testing when Opioids are prescribed, including but not limited to third party reimbursement or payment for such testing;
 - g. Evidence-based treatment (such as using medication-assisted treatment with buprenorphine or methadone in combination with behavioral therapies) for OUD, including but not limited to third party reimbursement or payment for such treatment; or
 - h. The implementation or use of Opioid drug disposal systems.
- 3. Janssen shall not Lobby against the enactment of any federal, state or local legislative or regulatory provision expanding the operation or use of PDMPs, including but not limited to provisions requiring Health Care Providers to review PDMPs when Opioid use is initiated and with every prescription thereafter.
- 4. Notwithstanding the foregoing restrictions in subsections F.1-3, the following conduct is not restricted:
 - a. Challenging the enforcement of or suing for declaratory or injunctive relief with respect to legislation, rules, or regulations referred to in subsection F.1;
 - b. Communications made by Janssen in response to a statute, rule, regulation, or order requiring such communication;

- c. Communications by a Janssen representative appearing before a federal or state legislative or administrative body, committee, or subcommittee as a result of a mandatory order or subpoena commanding that person to testify;
 - d. Responding, in a manner consistent with the Agreement, to an unsolicited request for input on the passage of legislation or the promulgation of any rule or regulation when such request is submitted in writing specifically to Janssen from a government entity directly involved in the passage of that legislation or promulgation of that rule or regulation; or
 - e. Lobbying for or against provisions of legislation or regulation that address other subjects in addition to those identified in subsections F.1-3, so long as the company does not support specific portions of such legislation or regulation covered by subsection F.1 or oppose specific portions of such legislation or regulation covered by subsections F.2-3.
5. Janssen shall provide notice of the prohibitions in subsection F to all employees engaged in Lobbying; shall incorporate the prohibitions in subsection F into trainings provided to Janssen employees engaged in Lobbying; and shall certify to the Settling States that it has provided such notice and trainings to Janssen employees engaged in Lobbying.

G. Ban on Prescription Savings Programs

- 1. Janssen shall not directly or indirectly offer any discounts, coupons, rebates, or other methods which have the effect of reducing or eliminating a patient's co-payments or the cost of prescriptions (e.g., free trial prescriptions) for any Opioid Product.
- 2. Janssen shall not directly or indirectly provide financial support to any Third Party for discounts, coupons, rebates, or other methods which have the effect of reducing or eliminating a patient's co-payments or the cost of prescriptions (e.g., free trial prescriptions) for any Opioid Product.
- 3. Janssen shall not directly or indirectly assist patients, Health Care Providers, or pharmacies with the claims and/or prior authorization process required for third-party payors to approve payment for any Opioid Product.

H. General Terms

- 1. Janssen shall not make any written or oral statement about Opioids or any Opioid Product that is unfair, false, misleading, or deceptive as defined under the law of [State]. For purposes of this paragraph, "Opioid Product" shall also include methadone and other substances when used exclusively to treat opioid abuse, addiction, or overdose.

2. Janssen shall not represent that Opioids or any Opioid Product(s) have approvals, characteristics, uses, benefits, or qualities that they do not have. For purposes of this paragraph, "Opioid Product" shall also include methadone and other substances when used exclusively to treat opioid abuse, addiction, or overdose.
3. For the avoidance of doubt, the Agreement shall not be construed or used as a waiver or limitation of any defense otherwise available to Janssen in any action, and nothing in the Agreement is intended to or shall be construed to prohibit Janssen in any way whatsoever from taking legal or factual positions with regard to any Opioid Product(s) in defense of litigation or other legal proceedings.
4. Upon the request of the [State] Attorney General, Janssen shall provide the [State] Attorney General with copies of the following, within thirty (30) calendar days of the request:
 - a. Any litigation or civil or criminal law enforcement subpoenas or Civil Investigative Demands relating to Janssen's Opioid Product(s); and
 - b. Warning or untitled letters issued by the FDA regarding Janssen's Opioid Product(s) and all correspondence between Janssen and the FDA related to such letters.
5. The Agreement applies to conduct that results in the Promotion of Opioids or Opioid Products, or the Treatment of Pain inside the United States.
6. Janssen will enter into the Agreement solely for the purpose of settlement, and nothing contained therein may be taken as or construed to be an admission or concession of any violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of which Janssen expressly denies. No part of the Agreement, including its statements and commitments, shall constitute evidence of any liability, fault, or wrongdoing by Janssen. The Agreement is not intended for use by any third party for any purpose, including submission to any court for any purpose.
7. Nothing in the Agreement shall be construed to limit or impair Janssen's ability to:
 - a. Communicate its positions and respond to media inquiries concerning litigation, investigations, reports or other documents or proceedings relating to Janssen or its Opioid Products.
 - b. Maintain a website explaining its litigation positions and responding to allegations concerning its Opioid Products, including the website, www.factsaboutourprescriptionopioids.com.

I. Compliance with All State Laws and Regulations Relating to the Sale, Promotion, and Distribution of Any Opioid Product

1. Janssen shall comply with all applicable state laws and regulations that relate to the sale, promotion, distribution, and disposal of Opioids or Opioid Products, including conduct permitted by subsection B.2, provided that nothing in this paragraph requires Janssen to violate federal law or regulations, including but not limited to:
 - a. [State] Controlled Substances Act, including all guidance issued by the applicable state regulator(s);
 - b. [State] Consumer Protection Laws;
 - c. [State] laws, regulations, and guidelines related to opioid prescribing, distribution, and disposal; and
 - d. [State Specific Laws].

J. Clinical Data Transparency

1. Janssen agrees to continue sharing clinical trial data under the Yale University Open Data Access (YODA) Project to allow researchers qualified under the program to access the company's proprietary data under the terms of the project.
2. In the event Yale University discontinues or withdraws from the YODA Project agreement with Janssen, Janssen shall make its clinical research data regarding Opioids and Opioid Products, and any additional clinical research data that Janssen sponsors and controls regarding Opioids and Opioid Products, available to an independent entity that is the functional equivalent of the YODA Project under functionally equivalent terms.

K. Enforcement

1. For the purposes of resolving disputes with respect to compliance with this Exhibit, should any of the Settling States have a reasonable basis to believe that Janssen has engaged in a practice that violates a provision of this Exhibit subsequent to the Effective Date, such Settling State shall notify Janssen in writing of the specific objection, identify with particularity the provision of the Agreement that the practice appears to violate, and give Janssen thirty (30) days to respond in writing to the notification; provided, however, that a Settling State may take any action if the Settling State believes that, because of the specific practice, a threat to health or safety of the public requires immediate action.
2. Upon receipt of written notice, Janssen shall provide a good faith written response to the Settling State's notification, containing either a statement explaining why Janssen believes it is in compliance with this Exhibit of the Agreement, or a detailed explanation of how the alleged violation occurred and a statement

explaining how Janssen intends to remedy the alleged breach. Nothing in this section shall be interpreted to limit the [State's] civil investigative demand ("CID") or investigative subpoena authority, to the extent such authority exists under applicable law, and Janssen reserves all of its rights in responding to a CID or investigative subpoena issued pursuant to such authority. If Janssen notifies the Settling States in writing that two or more Settling States have notified Janssen of alleged violations, the Settling States that provided notice of alleged violations shall work in good faith to collectively resolve the alleged violation with Janssen before taking any enforcement action(s).

3. The Settling States may agree, in writing, to provide Janssen with additional time beyond thirty (30) days to respond to a notice provided under subsection K.1, above, without Court approval.
4. Upon giving Janssen thirty (30) days to respond to the notification described above, the Settling State shall also be permitted reasonable access to inspect and copy relevant, non-privileged, non-work product records and documents in possession, custody, or control of Janssen that relate to Janssen's compliance with each provision of the Agreement pursuant to that Settling State's CID or investigative subpoena authority.
5. The Settling State may assert any claim that Janssen has violated the Agreement in a separate civil action to enforce compliance with the Agreement, or may seek any other relief afforded by law for violations of the Agreement, but only after providing Janssen an opportunity to respond to the notification described in subsection K.1, above; provided, however, the Settling State may take any action if the Settling State believes that, because of the specific practice, a threat to the health or safety of the public requires immediate action.
6. In the event of a conflict between the requirements of the Agreement and any other law, regulation, or requirement such that Janssen cannot comply with the law without violating the terms of the Agreement or being subject to adverse action, including fines and penalties, Janssen shall document such conflicts and notify the Settling State of the extent to which it will comply with the Agreement in order to eliminate the conflict within thirty (30) days of Janssen's discovery of the conflict. Janssen shall comply with the terms of the Agreement to the fullest extent possible without violating the law.
7. Janssen or any Settling State may request that Janssen and any Settling State meet and confer regarding the resolution of an actual or potential conflict between the Agreement and any other law, or between interpretations of the Agreement by different courts. Nothing herein is intended to modify or extend the jurisdiction of any single judicial authority as provided by law.

L. Compliance Duration

1. Subsections B-J shall be effective for 10 years from the Effective Date.

2. Nothing in this Agreement shall relieve Janssen of its independent obligation to fully comply with the laws of [State] after expiration of the 10-year period specified in this subsection.

M. Compliance Deadlines

1. Janssen must be in full compliance with the provisions included this Agreement by the Effective Date. Nothing herein shall be construed as permitting Janssen to avoid existing legal obligations.

EXHIBIT Q

Non-Released Entities

The following includes a non-exclusive list of non-Released Entities:

1. Actavis LLC
2. Actavis Pharma, Inc.
3. Allergan PLC
4. Allergan Finance, LLC
5. AmerisourceBergen Corporation
6. AmerisourceBergen Drug Corporation
7. Anda, Inc.
8. Cardinal Health, Inc.
9. Cephalon, Inc.
10. Collegium Pharmaceuticals
11. CVS Health Corp.
12. CVS Pharmacy, Inc.
13. Endo Pharmaceuticals Inc.
14. Endo Health Solutions Inc.
15. Mallinckrodt LLC
16. McKesson Corporation
17. McKinsey & Company Inc.
18. Par Pharmaceutical, Inc.
19. Par Pharmaceutical Companies, Inc.
20. Purdue Pharma L.P.
21. Purdue Pharma Inc.
22. SpecGx LLC
23. Teva Pharmaceuticals USA, Inc.
24. The Purdue Frederick Company
25. Walgreen Co.
26. Walgreens Boots Alliance, Inc.
27. Walmart Inc.
28. Watson Laboratories, Inc.

EXHIBIT R

Agreement on Attorneys' Fees, Costs, and Expenses

This Agreement on Attorneys' Fees, Expenses and Costs ("Fee Agreement"), is entered between Janssen and the Plaintiffs' Executive Committee appointed in the multidistrict litigation in the Northern District of Ohio, *In re National Prescription Opiate Litigation*, No. 1:17-MD-2804 ("MDL PEC"), in connection with the Janssen Master Settlement Agreement ("Janssen Agreement"). This Fee Agreement becomes effective on the Effective Date of the Janssen Agreement or the date that the Consent Judgments anticipated under the Janssen Agreement become final in 25 Settling States (whichever is later). However, the costs specified in paragraphs II.I.1 and II.I.4 of this Fee Agreement that are to be funded pre-Effective Date by Janssen are effective upon agreement in writing with Janssen.

I. Definitions

- A. This Fee Agreement incorporates all defined terms in the Janssen Agreement, unless otherwise defined herein, and shall be interpreted in a manner consistent with the Janssen Agreement.
- B. "*Attorney.*" Any of the following retained through a legal contract: a solo practitioner, multi-attorney law firm, or other legal representative of a Participating Subdivision.
- C. "*Attorney Fee Fund.*" An account consisting of funds allocated to pay attorneys' fees approved pursuant to Section II of this Fee Agreement established by Order of and under the ongoing jurisdiction of the MDL Court, as provided below.
- D. "*Common Benefit Fund.*" The sub fund of the Attorney Fee Fund described in Section II.C.
- E. "*Contingency Fee Fund.*" The sub fund of the Attorney Fee Fund described in Section II.D.
- F. "*Cost and Expense Fund Administrator.*" The administrator appointed by the MDL Court to administer the MDL Expense Fund and Litigating Subdivision Cost Fund as provided in the Fee Agreement.
- G. "*Cost Funds.*" Collectively, the MDL Expense Fund and Litigating Subdivision Cost Fund.
- H. "*Fee Entitlement.*" Any right, entitlement or expectation, including but not limited to a fee contract, contingent fee contract, agreement, referral arrangement, co-counsel arrangement, State Back-Stop agreement, or any other arrangement by which counsel could receive compensation or other consideration. For the avoidance of doubt, the scope of Fee Entitlement under paragraph II.G.3.a does not include any Attorneys' fees associated with representation of a State.

- I. *"Fee Panel."* The three-person panel appointed by the MDL Court to administer the Attorney Fee Fund and its sub funds as provided in the Fee Agreement.
- J. *"Litigating Subdivision Cost Fund."* The cost fund described in Section II.E herein.
- K. *"MDL Court."* United States District Court for the Northern District of Ohio Eastern Division, Case No. 1:17-md-2804, Judge Dan Aaron Polster.
- L. *"MDL Expense Fund."* The cost fund described in Section II.F below.
- M. *"MDL PEC."* The Plaintiffs' Executive Committee appointed by the MDL Court.
- N. *"Non-Participating Litigating Subdivision."* A Litigating Subdivision that is not a Participating Subdivision.
- O. *"Participating Litigating Subdivision."* A Litigating Subdivision that is also a Participating Subdivision.
- P. *"Participation Agreement."* An agreement executed by an Attorney that acknowledges the obligation to pay an appropriate MDL Common Benefit Assessment.
- Q. *"Qualifying Representation."* Legal services provided for representation of a Participating Litigating Subdivision regarding Released Claims against Released Entities.
- R. *"State Back-Stop Agreement."* Any agreement by a Settling State and private counsel for Participating Subdivisions in that State (or legislation enacted in that State) to provide, adjust, or guarantee attorneys' fees and costs, whether from the Attorney Fee Fund or any other source recognized in the agreement or legislation.

II. Fees and Costs

A. *Total Attorneys' Fees and Costs.*

1. Total attorneys' fees and costs to be paid by Janssen to Attorneys in each of the relevant Payment Years under this Agreement shall be up to the following amounts, subject to the provisions set forth below, including with respect to the division of the Attorney Fee Fund into its sub funds:

	Attorney Fee Fund (Contingency Fee Fund and Common Benefit Fund)	MDL Expense Fund	Litigating Subdivision Cost Fund
Payment Year 1	\$32,391,518.74	\$9,615,384.61	\$10,000,000.00
Payment Year 2	\$35,936,883.63		\$10,000,000.00
Payment Year 3	\$64,482,248.52		\$10,000,000.00
Payment Year 4	\$43,720,414.21		
Payment Year 5	\$43,720,414.21		
Payment Year 6	\$43,720,414.21		
Payment Year 7	\$43,720,414.21		

2. The sub funds within the Attorney Fee Fund shall include the Common Benefit Fund and the Contingency Fee Fund. The Cost Funds shall include the MDL Expense Fund, and the Litigating Subdivision Cost Fund. The State Counsel Fee Fund and the State Cost Fund shall be separate funds under the control of the Settling States.
3. The Contingency Fee Fund and the Common Benefit Fund shall be administered by a Fee Panel to be appointed by the MDL Court that will be governed by the provisions of this Fee Agreement and shall design the process and procedures for the allocation of fees pursuant to this Fee Agreement and the MDL Court's Order. The Cost Funds shall be administered by the Cost and Expense Fund Administrator to be appointed by the MDL Court who will be governed by the provisions of this Fee Agreement and shall design the process and procedures for the allocation of costs pursuant to this Agreement and the MDL Court's Order.
4. The fees and costs to be paid under this Fee Agreement are available for Attorneys engaged in Qualifying Representations only. Fees and costs to be paid under this Fee Agreement are not available prior to the Effective Date of the Janssen Agreement or if the Janssen Agreement does not proceed past Janssen's determination in Section VIII.A of the Janssen Agreement. Fees and costs to be paid under this Fee Agreement are not available for representation of Non-Participating Subdivisions or Non-Litigating Subdivisions and are not available for representation of private hospitals, third-party payors, NAS claimants, personal injury/wrongful death claimants, or any entity other than Participating Litigating Subdivisions. In addition, fees and costs under this Fee Agreement are not available for representation of

any individual or entity in matters other than those claims against Released Entities, but may include a reasonable share of representations that involve development of facts for pursuit of opioid-related claims against multiple defendants in the pharmacy, manufacturing, and distribution chain.

B. *Attorney Fee Fund and Sub Funds*

1. There shall be a split of the Attorney Fee Fund into the Contingency Fee Fund and the Common Benefit Fund. The split shall be 40% to the Contingency Fee Fund and 60% to the Common Benefit Fund.
2. In no event shall Janssen be required to pay more into the Attorney Fee Fund in any Payment Year than the maximum amount specified for that Payment Year in paragraph II.A.1, which amounts are reflected in Exhibit M to the Janssen Agreement. The amounts allocated to the Contingency Fee Fund and the Common Benefit Fund set by the Fee Panel shall be subject to the reductions and offsets set forth below.
3. Awards of fees from the Contingency Fee Fund shall be available to Attorneys with Qualifying Representations of Participating Litigating Subdivisions eligible to receive an allocation under the Janssen Agreement, as set forth in Exhibit G to the Janssen Agreement, and shall be made applying the Mathematical Model attached as Exhibit "A" to this Fee Agreement. The collection of the data and calculations for the Mathematical Model has been a cooperative effort among private counsel for a large number of Litigating Subdivisions. The analysis has been spearheaded by Joseph Tann and Andrew Arnold. The Fee Panel is encouraged to continue working with those counsel in application of the Model. The Fee Panel shall oversee the application of the Model and resolve any questions or disputes concerning the eligibility of a Counsel to participate as required in Section II.G. The Panel is empowered to hear disputes concerning and ensure the accuracy of the mathematical calculation.
4. As to awards from the Contingency Fee Fund, there shall be no right of appeal.
5. Any appeal of an award of the Fee Panel from the Common Benefit Fund will be made to the MDL Court and be reviewed under an abuse of discretion standard.

C. *Common Benefit Fund (60% of the Attorney Fee Fund.)*

1. Funds in the Attorney Fee Fund shall be allocated to the Common Benefit Fund according to the schedule set forth below, subject to the adjustments described in paragraph II.C.5. The payments are to be made on the following yearly schedule, subject to the adjustments set forth below:

Payment Year 1	\$19,434,911.24
Payment Year 2	\$21,562,130.18
Payment Year 3	\$38,689,349.11
Payment Year 4	\$26,232,248.53
Payment Year 5	\$26,232,248.53
Payment Year 6	\$26,232,248.53
Payment Year 7	\$26,232,248.53
Total:	\$184,615,384.64

2. The Common Benefit Fund shall be available to compensate Attorneys engaged in Qualifying Representations of Participating Litigating Subdivisions who:
 - a. have performed work for the common benefit of all subdivisions pursuant to the guidelines established by Judge Polster set forth in MDL 2804 and the Order dated June 19, 2018, under docket number 636, which is included herein by reference; and
 - b. satisfy the eligibility criteria set forth in Section II.G.

For purposes of Common Benefit Fund distribution, notwithstanding paragraph II.A.4, Attorneys representing Tribal Nations litigating against Janssen that have reached a settlement for Released Claims with Janssen and/or Released Entities and meet the eligibility criteria in Section II.G shall be eligible.

3. The Common Benefit Fund shall be overseen by the Fee Panel, which shall determine the allocation of funds to eligible Attorneys consistent with this Fee Agreement and the June 19, 2018 Order;
4. In assessing the benefits that an Attorney has conferred to Participating Subdivisions (including non-Litigating Subdivisions) and/or Tribes for purposes of any compensation decision, the Fee Panel shall give significant weight to the extent to which (i) the Attorney and his or her clients have contributed to increasing (or reducing) the Initial Participation Tier achieved through participation in the Janssen Agreement, (ii) the Attorney and his or her clients have contributed to increasing (or reducing) the amounts achieved under Incentive Payments A-D through participation in the Janssen Agreement, and (iii) the Attorney and his or her clients have contributed to the potential triggering of any suspension, reduction, or offset of Settlement payment amounts under the Janssen Agreement. The panel may also consider additional fee recoveries the Attorney may potentially obtain, including, but not limited to, from State Back-Stop Agreements, representations of States or Tribal Nations, representations of other clients in opioids-related matters, or through the representation of Subdivision clients,

whether they participated in the Janssen Agreement or not. It is the intent of this provision to recognize that the goal of the Janssen Agreement is to provide for maximum participation by the Subdivisions, maximum abatement funding for all Subdivisions nationally, and the maximum peace for Released Entities. Therefore, representing a Non-Participating Subdivision does not further the goal of the Janssen Agreement, and should not be considered Common Benefit because it does not increase funds available to Participating Subdivisions' abatement programs. Representing Later Litigating Subdivisions is antithetical to the Janssen Settlement, detracts from Common Benefit, and is addressed by the ethics opinion discussed in paragraph II.I.4. The Fee Panel shall consider this concept of "common detriment" set forth in this paragraph in all of its decision making with respect to the allocation of the Attorney Fee Fund among Attorneys, as well as, in its discretion, any offsets provided to Janssen as set forth in paragraph II.C.6 and Section II.H. The Fee Panel shall consider the totality of the Attorney's Participating Litigating Subdivisions as compared to the Attorney's Non-Participating Litigating Subdivisions; the Parties recognize that, although the goal is for 100% participation, Attorneys with a higher number of clients have a higher probability of having one or more non-Participating Litigating Subdivision. As used in this paragraph II.C.4, "client" or "representing" a Subdivision shall include any Litigating Subdivision as to which the Attorney has a Fee Entitlement.

5. As set forth in paragraph II.C.6 and Section II.H, the Fee Panel must consider the factors described in paragraph II.C.4 to determine how and whether to reduce the amounts to be paid by Janssen under this Fee Agreement and to determine how to allocate funds among Attorneys. They may also, at their discretion, consider other factors. Any reduction in payment obligation or credit to be given Janssen in this Fee Agreement shall be applied against Payment Year 7 and working backwards. Any reduction to an Attorney not credited to Janssen shall be allocated to attorneys whose Litigating Subdivision clients participated in the settlement by the Initial Participation Date.
6. The amounts to be provided as a credit or offset to Janssen from the Common Benefit Fund shall depend on the relevant Participation Tier achieved, set forth in Exhibit H of the Janssen Agreement, as follows:
 - a. At Participation Tier 1 or below, the Common Benefit Fund payments to be paid by Janssen shall be reduced as follows:
 - i. With respect to any Attorney seeking payment from the Common Benefit Fund, the Fee Panel shall compare the aggregate allocation that Participating Litigating Subdivisions with which the Attorney has a Fee Entitlement would receive using the negotiating class allocation metrics with the aggregate amount that all Litigating Subdivisions (Participating and Non-Participating) with which the Attorney has a

Fee Entitlement would receive using the negotiating class allocation metrics, provided that only Litigating Subdivisions in Settling States shall be considered for this ratio. The Fee Panel will multiply the amount to be paid to that Attorney from the Common Benefit Fund by that ratio, reduce the Attorney's award by a maximum reduction of 15%, and the dollar amount of such reduction shall be deducted, dollar-for-dollar, from the amount owed by Janssen to the Common Benefit Fund of the Attorney Fee Fund.

- ii. In the event that any Non-Participating Subdivision that is (a) under the jurisdiction of the MDL Court or (b) represented by an Attorney that is obligated to pay into the MDL Common Benefit Fund pursuant to a Participation Agreement, an order of the MDL Court, or any other arrangement settles with or wins a judgment against a Released Entity separate from the Janssen Agreement, and such settlement or judgment results in a common benefit fee assessment or fee payment into the MDL Common Benefit Fund during the time of Janssen's obligation to pay fees under this Fee Agreement, Janssen's obligation to pay into the Common Benefit Fund shall be reduced dollar-for-dollar for any amount of such fee assessments or payments (in the aggregate based on all reductions in this subparagraph II.C.6.a.ii) that exceed the reductions in subparagraph II.C.6.a.i.
 - iii. For the avoidance of doubt, in Tier 1 for each settlement or judgment with Janssen that results in an assessment or payment to the MDL Common Benefit Fund, that payment shall result in an offset for Janssen, unless the assessment or payment occurs after the Payment Date for Year 7.
- b. At Participation Tier 2, the Common Benefit Fund payments to be made by Janssen shall be reduced only as follows:
- i. Reduction by the Fee Panel. With respect to all Attorneys making an application that seeks payment from the Common Benefit Fund, the Fee Panel shall, following a determination that an Attorney is eligible under Section II.G, apply the criteria specified in paragraph II.C.4 in determining whether the lack of participation by Subdivisions with which an Attorney has a Fee Entitlement has resulted in a reduction in the Participation Tier achieved, reduction in benefit to Participating Subdivisions as a result of reductions in Incentives A-D, and/or potential triggering of a suspension, reduction, or offset under the Janssen Agreement. If the Fee Panel concludes that such a reduction has occurred, it must consider (1) the relative size of the Non-Participating Subdivision, as adjusted by the severity measures reflected in Exhibit H (governing the Participation Tiers) of the Janssen Agreement, and the impact of its non-participation on the

Janssen Agreement as a whole (including amounts of Incentive Payments and triggering of suspensions, reductions, or offsets); (2) whether and by how much the payment to the Attorney from the Common Benefit Fund should be reduced as a result of the impact of such non-participation on Participating Subdivisions; and (3) whether some or all of said reduction should revert to Janssen due to the reduction in peace obtained from the Janssen Agreement. Consideration of the factors discussed in this subparagraph and paragraph II.C.4 is mandatory. The decision whether to (and by how much) to reduce payments by Janssen or to reduce the payment to any Attorney based on the factors in paragraph II.C.4 shall be in the sole discretion of the Fee Panel.

ii. Offsets.

- (1) In the event that any Non-Participating Subdivision that is (a) under the jurisdiction of the MDL Court or (b) represented by an Attorney that is obligated to pay into the MDL Common Benefit Fund pursuant to a Participation Agreement, an order of the MDL Court, or any other arrangement settles with or wins a judgment against a Released Entity separate from the Janssen Agreement, and such settlement or judgment results in a common benefit fee assessment or fee payment into the MDL Common Benefit Fund during the time of Janssen's obligation to pay Common Benefit Fees under this Fee Agreement, Janssen's obligation to pay into the Common Benefit Fund shall be reduced dollar-for-dollar up to the amount of the fee assessment or payment, except that such amount shall be capped at 7.5% of the amount of the settlement or judgment. Such reduction shall be taken first from Payment Year 7 of Janssen's payments to the Common Benefit Fund of the Attorney Fee Fund up to the full amount of Janssen's payment obligation in Payment Year 7, then from Payment Year 6, and so on.
 - (2) For the avoidance of doubt, for each settlement or judgment with Janssen that results in an assessment or payment to the MDL Common Benefit Fund, that payment shall result in an offset for Janssen, unless the assessment or payment occurs after the Payment Date for Payment Year 7.
- c. At Participation Tier 3, the reductions to the Attorney Fee Fund shall be the same as set forth in subparagraph II.C.6.b, except that the cap on each offset shall be 5% of the amount of such settlement or judgment.
 - d. At Participation Tier 4, there shall be no reductions to Janssen's obligations to make payment into the Common Benefit Fund, but the principles set forth in paragraph II.C.4 shall continue to apply.

D. *Contingency Fee Fund.* (40% of the Attorney Fee Fund.)

1. Funds from the Attorney Fee Fund shall be allocated to the Contingency Fee Fund on the following yearly schedule, subject to the adjustments set forth below:

Payment Year 1	\$12,956,607.50
Payment Year 2	\$14,374,753.45
Payment Year 3	\$25,792,899.41
Payment Year 4	\$17,488,165.68
Payment Year 5	\$17,488,165.68
Payment Year 6	\$17,488,165.68
Payment Year 7	\$17,488,165.68
Total:	\$123,076,923.09

2. The Contingency Fee Fund shall be available to compensate Attorneys engaged in Qualifying Representations of Participating Litigating Subdivisions that meet the criteria set forth in Section II.G.
3. The Contingency Fee Fund shall be available to Attorneys who
 - a. represent Litigating Subdivisions that are Participating Subdivisions, whether their actions are filed in state or federal court, and
 - b. meet the eligibility criteria of Section II.G.
 - c. Participation in the Contingency Fee Fund by counsel that have a case that is not subject to the jurisdiction of the MDL Court shall not create, provide, or waive jurisdiction of the MDL Court over that Litigating Subdivision, that case or Attorneys, other than to oversee the fairness of the distribution process, and enforcement of this Fee Agreement.
4. The amounts owed by Janssen to the Contingency Fee Fund shall depend on the relevant Participation Tier set forth in Exhibit H of the Janssen Agreement as follows:
 - a. At Participation Tiers 1, 2 and 3, the Contingency Fee Fund payments shall be reduced as follows:
 - i. For Non-Settling States, the Contingency Fee Fund payments shall first be reduced by the amounts identified by the Fee Panel, pursuant to paragraph II.H.6, that would have been owed to counsel for Litigating Subdivisions in Non-Settling States, had those States and those Litigating Subdivisions been Settling States and Participating Subdivisions.

- ii. Following the calculation in subparagraph II.D.4.a.i, the Contingency Fee Fund payments shall be reduced to reflect the non-joinder of Litigating Subdivisions in Settling States by subtracting the amounts identified by the Fee Panel, pursuant to paragraph II.H.6, that would have been owed to counsel for Non-Participating Litigating Subdivisions in Settling States had such Litigating Subdivisions been Participating Subdivisions.
- b. At Participation Tier 4, there shall be no reductions in the Contingency Fee Fund.
- c. In the event that Janssen, prior to the Effective Date of the Janssen Agreement, settles with any Litigating Subdivision and, under such settlement agreement pays attorneys' fees, the Fee Panel shall treat those Litigating Subdivisions as Participating Litigating Subdivisions and, applying the same criteria applicable to all Attorneys for Participating Litigating Subdivisions, determine what amount they would have been paid from the Contingency Fee Fund if they had become Participating Subdivisions under the Janssen Agreement without such prior settlement. That sum, rather than being paid to the Attorney for the previously settling Litigating Subdivision, shall be credited and/or returned to Janssen as if determined under (a)(ii) above, except that such credit shall not be greater than the amount to the Attorneys paid under the Litigating Subdivision's prior settlement agreement.

E. *Litigating Subdivision Cost Fund.*

1. Janssen shall pay \$30,000,000.00 into the Litigating Subdivision Cost Fund, according to the schedule set forth below:

Payment Year 1	\$10,000,000.00
Payment Year 2	\$10,000,000.00
Payment Year 3	\$10,000,000.00
Total	\$30,000,000.00

2. The Litigating Subdivision Cost Fund shall be available to compensate Attorneys for costs and expenses arising out of representation of Participating Litigating Subdivisions or to compensate Participating Litigating Subdivisions for direct in-house costs for expenditures related to their litigation against Janssen including the cost of in-house employees. No funds in the Litigating Subdivision Cost Fund may be used to compensate the costs incurred by Non-Participating Subdivisions or Non-Litigating Subdivisions or costs and expenses arising out of representation of any such Subdivision. In allocating the Litigating Subdivision Cost Fund, the Administrator shall not allocate any funds for costs incurred after July 21, 2021.

3. During the period between July 21, 2021, and the Effective Date, the MDL PEC, as well as Litigating Subdivisions eligible to claim costs from the Litigating Subdivision Cost Fund, shall make best efforts to cease litigation activity against Janssen, including by jointly seeking stays or severance of claims against Janssen, where feasible, or postponements if a motion to stay or sever is not feasible or is denied, so long as such actions are not otherwise detrimental to the Litigating Subdivision.
4. In the event that Janssen, prior to the Effective Date of the Janssen Agreement, settles with any Litigating Subdivision and, under such settlement agreement pay costs to the Litigating Subdivision or its Attorney, the MDL Cost and Expense Fund Administrator shall treat those Litigating Subdivisions as Participating Litigating Subdivisions and, using the same criteria applicable to all applicants to the Litigating Subdivision Cost Fund, determine what amount in costs the Litigating Subdivision or its Attorney would have been paid from the Subdivision Cost Fund if they had settled under the Janssen Agreement. That sum, rather than being paid to the Attorney or the previously settling Litigating Subdivision, shall be credited and/or returned to Janssen, except that such sum shall not be greater than the amount paid under the previously settled Litigating Subdivision's settlement agreement.
5. The MDL Court shall appoint a Cost and Expense Fund Administrator, who shall develop a process and criteria, with input from participating counsel, by which to a) determine the distribution of amounts from the MDL Expense Fund in pursuit of the claims against Janssen; and b) receive and evaluate applications from Participating Litigating Subdivisions, whether filed in Federal Court or State Court, to seek reimbursement from the Litigating Subdivision Cost Fund for eligible costs under Section II.E.2 in pursuit of the claims against Janssen. The Cost and Expense Fund Administrator shall require transparency from all applicants as to any other sources for compensating Attorneys for Litigating Subdivisions for costs incurred. The Cost and Expense Fund Administrator shall be compensated from the Fund.
6. In the event that the total amount of reimbursements from the Litigating Subdivision Cost Fund approved as reasonable by the Cost and Expense Administrator is less than the \$30,000,000.00, any remaining funds shall revert to Janssen.

F. *MDL Expense Fund.*

1. In Payment Year 1 of the Janssen Settlement, Janssen shall pay the following amount into the MDL Expense Fund:

MDL Expense Fund	\$9,615,384.61
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2. The MDL Expense Fund shall be released following the Effective Date of this Fee Agreement without any delay to reimburse the MDL Counsel for an agreed-to portion of the expenses incurred, as approved by the Cost and Expense Fund Administrator. The MDL Expense Fund will be paid directly to the MDL Cost Account, set up by MDL Order and will be administered under the ongoing jurisdiction of the MDL Court, as provided below. No funds may be used to compensate the costs incurred by Non-Participating Subdivisions or to compensate any Attorney for costs incurred in representing one or more Non-Participating Subdivisions.
3. In allocating the MDL Expense Fund, the Administrator shall not allocate any funds for costs incurred after July 21, 2021, unless the Administrator determines that there are sufficient funds to cover all subdivision costs incurred prior to July 21, 2021 and that special circumstances exist to justify costs incurred following the public announcement of the Janssen Agreement.

G. Eligibility.

1. It is the intention of all parties participating in the Fee Panel process that there should be total transparency to the Fee Panel and to all fund participants. In connection with the process to be developed by the Fee Panel, any and all monies in attorney's fees, including referral fees, expenses paid, promises for payment, or any other Fee Entitlement, to any applicant in any opioid litigation shall be disclosed to the Fee Panel as a condition of participating in the Attorney Fee Fund and prior to an award from the Fee Panel. Any payment, expectation of payment or perceived entitlement to participate in a State Back-Stop Agreement or any other agreement reached with a Settling State or any Subdivision or any other source regarding payment of fees must be disclosed to the Fee Panel. Similarly, any right to payment from any other fund, for example a fund for payment to lawyers representing Settling States or Tribal Nations or Subdivisions shall be disclosed to the Fee Panel. Because it is anticipated that there will be multiple firms listed on contingent fee agreements with Litigating Subdivisions, the Fee Panel shall establish procedures, with input from Attorneys for Participating Litigating Subdivisions, for who should petition for fees from such groups and to whom the fee shall be paid and thereafter distributed to co-counsel in accordance with applicable agreements. For the avoidance of doubt, all Attorneys that are part of such groups must meet the eligibility criteria in paragraph II.G.3, must be subject to the criteria set forth in paragraph II.C.4, and must be disclosed to the Fee Panel.
2. An Attorney may apply for and recover attorneys' fees from the Common Benefit Fund, the Contingency Fee Fund, and the Litigating Subdivision Cost Fund and any fund created by a past or future State Back-Stop Agreement, provided the Attorney satisfies the requirements relevant to each such fund and requirements for disclosure to the Fee Panel.

3. An Attorney may not receive any payment from the Attorney Fee Fund (which includes both the Contingency Fee Fund and the Common Benefit Fund) unless the following eligibility criteria are met and annually certified by the Attorney:
 - a. The Attorney must expressly waive the enforcement against the Litigating Subdivision client of all Fee Entitlements (other than under State Back-Stop Agreements) arising out of or related to any or all Qualifying Representations of any Participating Litigating Subdivision prior to applying for attorneys' fees from the Attorney Fee Fund or costs from the Cost Funds. All applications for attorneys' fees or costs under this Fee Agreement shall include an affirmation by the Attorney of such waiver and notice to the client(s) of such waiver. Such waiver shall not preclude the Attorney from submitting such Fee Entitlements to the Fee Panel as a factor for consideration in allocating payments from the Attorney Fee Fund or in connection with a State Back-Stop Agreement. For the avoidance of doubt, no Attorney may recover fees or costs under this Fee Agreement unless the Attorney expressly agrees not to enforce Fee Entitlements as to each and every Participating Litigating Subdivision represented by that Attorney, but such Attorneys may participate in and receive funds from a State Back-Stop Agreement.
 - b. The Attorney must represent that s/he has no present intent to represent or participate in the representation of any Later Litigating Subdivision or any Releasor with respect to Released Claims against Released Entities.
 - c. The Attorney must represent that s/he has not and will not engage in any advertising or solicitation related to Released Claims against Released Entities where such advertising or solicitation relates to a representation that the Attorney could not undertake consistent with the ethics opinion referenced in paragraph II.I.4.
 - d. The Attorney must represent s/he will not charge or accept any referral fees for any Released Claims brought against Released Entities by Later Litigating Subdivisions. For the avoidance of doubt, this representation shall not prohibit Attorneys from receiving allocated shares of any future common benefit assessments arising out of settlements or judgments with Later Litigating Subdivisions represented by other Attorneys that are the result of the MDL Court's Common Benefit order.
 - e. The Attorney may not have and must represent that s/he does not have a Fee Entitlement related to a Later Litigating Subdivision.

- f. The Attorney must certify that s/he has reviewed the ethics opinion referenced in paragraph II.I.4 and will act in conformity with such opinion.
 - g. The Attorney must fully disclose the participation, or the anticipation of participation, in any agreement with a Settling State or Participating Subdivision concerning fees arising out of or related to the Janssen Agreement, including any fees paid or anticipated to be paid or any State Back-Stop Agreement.
 - h. The Attorney must identify for the Fee Panel whether s/he utilized state litigation work product or MDL work product, including but not limited to ARCOS data, document repositories, experts developed in the MDL, and deposition transcripts. The Attorney must identify whether s/he signed the MDL Participation Agreement, and for which case(s) it was signed.
 - i. Any Attorney who applies for fees from one or both Funds must represent that, having exercised his/her independent judgment, s/he believes the Janssen Agreement to be fair and will make or has made best efforts to recommend the Janssen Agreement to his or her Subdivision clients in Settling States. For avoidance of doubt, each Attorney is expected to exercise his or her independent judgment in the best interest of each client individually before determining whether to recommend joining the settlement. All applications for attorneys' fees or costs under this section shall include an affirmation by the Attorney in compliance with this Subsection.
- 4. No Attorney receiving fees under this Fee Agreement may apply for or recover from the Attorney Fee Fund fees arising from representing a Non-Settling State or a Non-Participating Subdivision. All applications for attorneys' fees under this Section shall include an affirmation by the Attorney of compliance with this Section.
 - 5. An Attorney who has filed an application under this section and received an award of attorneys' fees shall provide a certification of compliance with the Sections of this Fee Agreement annually during the years upon which they are still entitled to receive attorneys' fee payments.
 - 6. If, at any time, the Attorney is unable to make the representations set forth in this Section, such representations become untrue, or the Attorney falsely represents compliance with the eligibility criteria, the Attorney shall cease to be eligible to receive funds from the Attorney Fee Fund until further review by the Fee Panel of the Attorney's eligibility under and compliance with this Section II.

7. If an Attorney has a Fee Entitlement with a Later Litigating Subdivision or otherwise becomes unable to reaffirm compliance with the eligibility criteria set forth above, the Attorney shall notify Janssen and the Fee Panel. For the avoidance of doubt, any Attorney who undertakes any new representation of, or has a Fee Entitlement with, a Later Litigating Subdivision shall be prohibited from receiving any future funds from the Attorney Fee Fund. If an Attorney fails to notify Janssen and the Fee Panel of such Fee Entitlement with a Later Litigating Subdivision, the Attorney shall be required to refund amounts previously paid.
8. In the event that an Attorney is deemed ineligible by the Fee Panel (whether based on its initial application or subsequent recertification), the Fee Panel shall provide notice to the Attorney and give the Attorney 30 days to provide additional information such that the Fee Panel could re-consider the Attorney's eligibility.
9. To the extent that an Attorney has a Fee Entitlement with a Participating Subdivision and is authorized to bring Released Claims against Released Entities, but such authorization is, in scope, less broad than the category of Released Claims set forth in the Janssen Agreement, such Attorney may participate fully in both the Contingency Fee Fund and the Common Benefit Fund, without any reduction imposed by the Fee Panel due to the scope of the authorization, so long as the Participating Subdivision fully releases all Released Claims against Released Entities.
10. Attorneys applying to the Attorney Fee Fund knowingly and expressly agree to be bound by the decisions of the Fee Panel, subject to the limited appeal rights set forth in this Fee Agreement, and waive the ability to assert the lack of enforceability of the allocation reached through the arbitration procedures outlined herein.

H. *Calculation of Amounts Due.*

1. The Fee Panel shall be solely responsible for determining the amount of fees to be paid to each Attorney and each Participating Subdivision that applies under this Section. None of the Released Entities shall have any responsibility, obligation, or liability of any kind whatsoever with respect to how attorneys' fees are calculated under this Section, except that the Fee Panel may receive information from Janssen as to (a) the identity of Participating, Non-Participating, Litigating, Later Litigating, and Non-Litigating Subdivisions; (b) the impact of non-participation by a Litigating Subdivision as is relevant to the Fee Panel's determination in paragraph II.C.4; and (c) such other information as Janssen may voluntarily elect to provide.

2. The Fee Panel shall establish procedures for the arbitration process consistent with this Fee Agreement and orders of the MDL Court. Such procedures may include submission of documentary and/or other evidence, interviews with applicants and/or other counsel (including counsel for Janssen) that the Fee Panel deems appropriate, and/or other means of creating a record upon which fee awards will be based.
3. In making determinations under this Fee Agreement, the Fee Panel must apply the eligibility criteria set forth in Section II.G of this Fee Agreement and the criteria set forth in Section II. In addition, the Fee Panel will give consideration in regard to Common Benefit awards to the *Johnson* factors, as well as the following factors (which factors may be applied and given relative weight in the Fee Panel's discretion):
 - a. The Attorney's contemporaneously recorded time and labor dedicated to Qualifying Representations along with the Attorney's financial commitment to such Qualifying Representations. Claimed "time" will not be automatically accepted by the Fee Panel but will be critically reviewed and given substantially more weight and consideration if such time was subject to the audit process described in any Pretrial Order(s) governing the collection of common benefit time;
 - b. The novelty, time, and complexity of the Qualifying Representations;
 - c. The skill requisite to perform legal services properly and undesirability of the case;
 - d. The preclusion of other employment by the Attorney due to time dedicated to Qualifying Representations;
 - e. The "common benefit," if any, alleged to have been conferred by the Attorney and whether such common benefit work product by that Attorney was used by others in parallel litigations against Released Entities whether within or outside the MDL, provided that any Attorney claiming that s/he substantially benefited cases other than those in which s/he entered an appearance as counsel must substantiate such claims by proffering factual support, such as proper supporting affidavits or other documents as determined by the Fee Panel with input from Attorneys for Participating Litigating Subdivisions;
 - f. Any "common detriment," as set forth in paragraph II.C.4.
 - g. Any contingent fee agreement or other Fee Entitlement with Participating Subdivisions, enforcement of which, except for State Back-Stop Agreements, are waived in conjunction with the application, the nature and extent of any work for those Participating Subdivisions, whether such

Participating Subdivisions actively litigated and, if so, the nature and procedural history of such case(s);

- h. The experience, reputation, and ability of the Attorney;
- i. Whether the Attorney's clients brought Released Claims against Released Entities;
- j. The status of discovery in cases primarily handled by the Attorney;
- k. The nature of any work by the Attorney on "bellwether" cases or cases that were similarly active in litigation;
- l. Any pressure points successfully asserted by the Attorney in cases against Janssen or any risk for Janssen created by the Attorney in cases against them;
- m. Any risk for defendants created by applicants in cases against Janssen;
- n. Successful and unsuccessful motion practice in cases worked on by the Attorney;
- o. The date of filing of any cases filed by the Attorney;
- p. Obtaining consolidation of the litigation in the Attorney's jurisdiction;
- q. The number and population of entities represented by the Attorney and the fees that would have been awarded under extinguished contingent fee arrangements;
- r. Whether the Attorney's clients brought claims against Janssen;
- s. Whether the Attorney has had a leadership role in the litigation, whether in state or federal court;
- t. Whether the Attorney has had a leadership role in any negotiations aimed at resolving the litigation;
- u. Whether the Attorney's cases have survived motions to dismiss;
- v. The extent to which the Attorney contributed to the work product used for the common benefit of opioids litigants, including, without limitation, work on ARCOS data, Prescription Data Monitoring Programs, IQVIA data, depositions, document production and analysis experts, motions, briefs and pleadings, trial preparations, and trials;

- w. The extent to which litigation was done prior to and contributed to completion of settlement negotiations, as distinct from litigation that was done litigating after the announcement of the Janssen Agreement, such latter litigation both being of less value and potentially resulting a common detriment to the settlement process; and
 - x. Any other factors that the Fee Panel finds to be appropriate to consider after input from applicants to the Attorney Fee Fund.
4. The Fee Panel shall develop procedures for receiving a single application, which may be updated or amended based on new information (such as participation by additional Litigating Subdivisions) from each Attorney seeking compensation from the Attorney Fee Fund pursuant to processes and procedures developed by the Fee Panel, which shall not be inconsistent with this Fee Agreement. Any request for attorneys' fees not included on the single application or through the updating/amendment process designed by the Fee Panel shall be deemed waived. For purposes of transparency and to permit the Fee Panel to conduct its work, the application from each Attorney shall, at a minimum, require each Attorney to
- a. Identify all Litigating Subdivisions for which s/he is seeking payment from the Attorney Fee Fund;
 - b. Identify all Subdivisions in both Settling and Non-Settling States (and, where applicable, Tribal Nations) with respect to which s/he has a Fee Entitlement with respect to Relevant Claims against Released Entities, and identify all co-counsel in such cases;
 - c. Identify which of those Subdivisions are Participating Subdivisions and which are not (with similar information for Tribal Nations, where applicable);
 - d. Specify the specific fund or funds within the Attorney Fee Fund from which the Attorney is seeking compensation;
 - e. Demonstrate his or her eligibility for compensation from the relevant sub funds within the Attorney Fee Fund pursuant to the criteria set forth for the relevant sub fund;
 - f. Identify any and all Fee Entitlements from representations of States, Tribal Nations, or other plaintiffs related to Released Claims against Released Entities or in opioids-related matters;
 - g. Notwithstanding "a-f" above, the Panel may consider a supplemental application if the Attorney shows good cause why circumstances exist that will lead to consideration for additional Common Benefit award.

Examples would include, but are not limited to, an Attorney having Non-Participating Litigating Subdivision clients that subsequently become Participating Subdivisions, a Bar Date passes that increases participation or the Participation Tier, or an Allocation Agreement is reached.

5. With respect to the Common Benefit Fund, the Fee Panel shall (subject to any applicable MDL Court Order):
 - a. Review the applications of all Attorneys seeking compensation from the Common Benefit Fund, including determining eligibility for each Attorney as set forth in Section II.G.
 - b. Reduce, on an annual basis, Janssen's payment obligations, as set forth in paragraph II.C.5. The Panel shall inform Janssen and the MDL PEC of all such amounts and adjust Janssen's payment obligations accordingly.
 - c. Using criteria set forth in Sections II.C and II.I, allocate amounts from the Common Benefit Fund to eligible Attorneys, including payment amounts for each Payment Year. In making such allocations (regardless of the Participation Tier achieved), the Panel shall apply the principles set forth in paragraph II.C.4 and shall allocate any reduction in the payments of Janssen specified in paragraph II.C.5 to the amounts paid to Attorneys with a Fee Entitlement to Litigating Subdivisions that are not Participating Subdivisions.
6. With respect to the Contingency Fee Fund, the Fee Panel shall:
 - a. Review the applications of all Attorneys seeking compensation from the Litigating Subdivision Fee Fund, including determining eligibility for each Attorney as set forth in Section II.G.
 - b. Apply the Mathematical Model in Exhibit A.
 - c. Use such allocations to reduce payments, on an annual basis, the payment obligations of Janssen to the Attorney Fee Fund as set forth in paragraph II.D.4, and distributions therefrom, and inform Janssen and the MDL PEC of all such adjustments.
7. To the extent that there is a dispute about the calculations of the Fee Panel related to the amounts that Janssen is required to pay (including application of any reductions or offsets under this Fee Agreement), such disputes shall be presented to the Fee Panel and any disputed funds be paid into/held in escrow. The Fee Panel shall resolve such disputes expeditiously, with either Party having the right to seek review from the MDL Court.

8. For purposes of determination of fee or cost awards, allocations, reductions, and possible reversions under this Fee Agreement, unless specified otherwise a Subdivision will be considered a Non-Participating Subdivision if it is not a Participating Subdivision as of the deadline for the application for the fee or cost award at issue (or, if the determination does not involve a specific application, the date on which the record for such determination closes).
9. In the event that the Fee Panel, through the use of the Mathematical Model set forth in Exhibit A, allocates funds from the Contingency Fee Fund for an Attorney based on a Qualifying Representation of a Participating Litigating Subdivision or allocates cost to such Participating Litigating Subdivision and that Subdivision is in a Settling State in which the Consent Judgment has not been approved, such funds shall be placed into escrow until the Consent Judgment is approved, after which time they shall be released.

I. *Miscellaneous.*

1. The costs associated with the Fee Panel prior to the Effective Date of the Attorney Fee Agreement shall be funded by Janssen. The Fee Panel shall charge an hourly rate that previously has been approved by a federal or state court and shall provide a budget and a cap for such work prior to the Effective Date, which shall be approved by Janssen and such approval shall not be unreasonably withheld. Janssen shall receive a refund for any such payment of pre-Effective Date costs from interest that accrues on the monies in the Attorney Fee Fund (including interest that accrues during such time as the Attorney Fee Fund monies are in escrow prior to the Effective Date of the Janssen Agreement), up to the amount of such costs. Post-Effective Date, the cost of the Fee Panel shall be charged against the applicable Fee Fund based on allocation by the Fee Panel and shall not be otherwise funded by Janssen. The costs associated with the Cost and Expense Fund Administrator shall be paid from funds in the MDL Expense Fund and the Litigating Subdivision Cost Fund and shall not be otherwise funded by Janssen.
2. The MDL PEC will seek, and the Attorneys General for Settling States and Janssen will not oppose, a Common Benefit Fee Order requiring an assessment of 7.5% on the gross recovery (by judgment or settlement) of any Non-Participating Subdivision that is subject to the federal court jurisdiction, represented by a MDL PEC firm, represented by any Attorney receiving fees from the Common Benefit Fund, represented by any Attorney that signed a Participation Agreement or paid in a case otherwise under the jurisdiction of the MDL Court.
3. The MDL PEC shall provide to Janssen information they have that identifies Attorneys who represent Litigating Subdivisions who are not Participating Subdivisions and who have an obligation to pay a common benefit assessment, either due to the MDL Court's orders or having signed a Participation Agreement.

4. The MDL PEC shall retain ethics counsel of its choice to provide an opinion that addresses the compliance of its ethical obligations, as it relates to the Janssen Agreement. Such opinion shall address the issue of the potential conflict of interest for an Attorney that had represented a Participating Subdivision also representing a Later Litigating Subdivision as defined in the Janssen Agreement. This Subsection shall be enforceable to the extent permitted by the equivalent to Rules 1.16 and 5.6 of the ABA Model Rules of Professional Conduct in the relevant jurisdictions. The opinion shall be provided to Janssen as soon as it is completed and, in any event, prior to July 31, 2021 and shall be disseminated to counsel eligible to apply to the Attorney Fee Fund within 30 days of the announcement of the Janssen Agreement. The MDL PEC represents that it will comply with this opinion until the Reference Date and thereafter if the Janssen Agreement proceeds.
5. Participating Subdivisions agree to instruct their counsel to treat information, work product and expert materials as secret under Rule 1.6 of the ABA Model Rules of Professional Conduct. Accordingly, an Attorney shall not share information or work product with, or experts or materials to, non-participants (other than the Attorney's own current clients or their lawyers, consultants, experts or other representatives or agents). However, nothing herein shall prevent MDL Leadership or PEC Counsel from fulfilling their obligations in any MDL and the MDL Court Order.

III. Miscellaneous

A. *Termination.* If the Janssen Agreement does not proceed past the Reference Date, whether because Janssen does not determine to proceed or for any other reason, this Fee Agreement shall be null and void, Janssen shall have no obligation to make any payments under this Fee Agreement, and Janssen and the PEC shall take such steps as are necessary to restore the *status quo ante*.

B. *MDL Court Consideration.* This Fee Agreement shall be attached as an exhibit to the Janssen Agreement. This Fee Agreement shall also be submitted by Janssen and the MDL PEC to the MDL Court for approval pursuant to the motion and order that shall be attached, prior to the Preliminary Agreement Date of the Janssen Agreement, as Exhibit B.

1. In the event that the MDL Court, through an order, makes any change to the amounts potentially to be paid by Janssen under this Fee Agreement, makes any change to the Fee Panel's consideration of the factors set forth in paragraph II.C.4, or any other material change to the draft Order attached as part of Exhibit B or the terms of this Fee Agreement, Janssen and the MDL PEC shall meet and confer concerning such changes.
2. If Janssen and the MDL PEC are unable to reach agreement and revisions to this Fee Agreement in the event discussed in paragraph III.B.1, this Fee

Agreement shall be null and void, Janssen shall have no obligation to make any payments under this Fee Agreement, and Janssen and the MDL PEC shall take such steps as are necessary to restore the *status quo ante*.

C. *Amendment.* Once the MDL Court has entered an order implementing this Fee Agreement, this Fee Agreement can only be amended by (1) written agreement of Janssen and the MDL PEC and (2) approval by the MDL Court.

D. *Jurisdiction and Enforcement.* The MDL Court shall have exclusive and ongoing jurisdiction over the enforcement and implementation of this Fee Agreement as set forth herein. The MDL PEC shall be the Authorized Party to enforce this Fee Agreement, as to the payment obligations of Janssen as set forth in this section, and as to Attorneys making application to the Funds under this Fee Agreement. Solely for purposes of assessing or allocating common benefit fees, the MDL Court will continue to have jurisdiction over the work product developed in the MDL Court by and under the direction of the MDL PEC with respect to claims against Janssen, including data and documents, depositions, expert reports, briefs and pleadings; and the MDL Court's protective orders, management orders, and other decisions regarding such discovery and other work product, including but not limited to, conditions on its use, will continue in full force and effect. Nothing in this paragraph authorizes the MDL Court to act contrary to this Agreement or to share any of the work product, or provides the MDL Court with jurisdiction over the Janssen Agreement.

EXHIBIT S

Agreement on the State Cost Fund Administration

1. **Creation of a State Cost Fund.** Janssen and the Settling States agree to the creation of a state cost fund to pay litigation costs and expenses associated with litigation and investigation related to the opioid litigation (hereinafter the "State Cost Fund"). This agreement is a material part of the Settlement Agreement. The State Cost Fund shall be administered separately from the Common Benefit Fund, the Contingency Fee Fund, the State Counsel Fee Fund, Subdivision Costs Fund, and the MDL Expense Fund. No funds may be released from the State Cost Fund to Non-Settling States.
2. **State Cost Fund Amount.** In Payment 1 of the Settlement, Janssen shall pay into the State Cost Fund \$13,461,539 (the "State Cost Fund Amount"). Janssen's State Cost Fund payment shall be a component of its Global Settlement Attorney Fee Amount payable to the Attorney Fee Fund, for Payment 1.
3. **State Cost Fund Committee.** A committee of Attorneys General from Settling States or their designated representatives (hereinafter the "State Cost Fund Committee") shall oversee the State Cost Fund. The committee shall initially consist of the following states: (a) Delaware; (b) Florida; (c) Georgia; (d) New York; (e) North Carolina; (f) Ohio; (g) Tennessee; and (h) Texas. The Settling State Attorneys General may by majority vote add or change the composition of the State Cost Fund Committee, including replacing any above State, if that State is not a Settling State.
4. **State Cost Fund Administrator.** The State Cost Fund Committee shall select an administrator (the "State Cost Fund Administrator"). The State Cost Fund Administrator may be different from the Settlement Administrator under the Settlement Agreement. The State Cost Fund Administrator shall be responsible for administering the State Cost Fund and making payments to Settling States.
5. **State Cost Fund Guidelines.** Monies in the State Cost Fund shall be released without any delay to reimburse Settling States for documented opioid litigation and investigation costs incurred or paid. In allocating the State Cost Fund, no funds shall be allocated for costs incurred after July 21, 2021. The State Cost Fund Committee shall establish guidelines for the submission and approval of expenses eligible for reimbursement from the State Cost Fund. The State Cost Fund Administrator shall, in accordance with such guidelines, receive from Settling States records sufficient to demonstrate the incurrence and/or payment of each expense attributable to investigation or litigation related to the opioid litigation, including any outstanding National Association of Attorneys General grant.
6. **State Cost Fund Payment Priorities and Residual.** To the extent that that the aggregate eligible submissions of costs and expenses from Settling States exceed the State Cost Fund Amount, payments to Settling States shall be paid in the following order until the State

Cost Fund is exhausted. If the State Cost Fund is unable to fully pay costs at any of the following levels, then Settling States with costs at that level shall be paid on a proportional basis. All expenses with a lesser priority from the level where the State Cost Fund is exhausted will not be reimbursed from the State Cost Fund. Costs shall be paid in the following order: (a) the reasonable costs of the State Cost Fund Administrator, if any; (b) repayment of the National Association of Attorneys General grants connected to opioid litigation; (c) costs incurred or paid by outside counsel for a Settling State litigating against Janssen apart from any fee owed; (d) litigation-related costs attributable to the Janssen case incurred or paid by a Settling State litigating against Janssen; (e) pre-suit investigation-related costs attributable to a Janssen investigation incurred or paid by either a Settling State outside counsel (not including any amount of fees or any costs which have already been reimbursed pursuant to clause (c), above) or a Settling State investigating Janssen; (f) costs incurred or paid by a Settling State or outside counsel litigating against another opioid defendant other than a cost share entered into by a Settling State, which costs have not yet been paid under a preceding clause of this paragraph; (g) the amounts paid by a Settling State as part of cost share related to the filing of a proof of claim in the Purdue Pharma, L.P. bankruptcy; and (h) the amounts paid by a Settling State as part of any other cost share, including, but not limited to the cost share entered into by the Non-Consenting States in the Purdue Pharma, L.P. bankruptcy. If the State Cost Fund has additional monies after payment of the State Cost Fund Administrator's and all Settling States' submitted costs, then the remaining funds will be provided to the National Association of Attorneys General to be placed in the Financial Services Fund for the purpose of funding grants for consumer protection or healthcare-related enforcement or training activities. In determining what costs are attributable to Janssen, the State Fund Committee shall develop a guideline that ensures that all Settling States are treated equitably.

EXHIBIT T

Severity Factors

State	Severity Factor
Alabama	108.5243%
Alaska	107.8614%
American Samoa	102.7639%
Arizona	107.7129%
Arkansas	103.2818%
California	82.8688%
Colorado	95.2263%
Connecticut	121.0971%
Delaware	155.5946%
District of Columbia	88.3270%
Florida	107.9604%
Georgia	86.6675%
Guam	96.8019%
Hawaii	77.1051%
Idaho	93.0570%
Illinois	86.6318%
Indiana	108.6768%
Iowa	78.2056%
Kansas	89.6374%
Kentucky	150.0126%
Louisiana	105.2878%
Maine	132.7534%
Maryland	115.2160%
Massachusetts	110.3001%
Michigan	112.4239%
Minnesota	75.9148%
Mississippi	96.7243%
Missouri	107.8496%
Montana	99.7815%
N. Mariana Islands	100.2421%
Nebraska	71.9045%
Nevada	130.5519%
New Hampshire	144.4997%
New Jersey	102.3701%
New Mexico	128.9295%
New York	91.4472%

North Carolina	102.2754%
North Dakota	76.0864%
Ohio	123.0063%
Oklahoma	129.3047%
Oregon	108.9094%
Pennsylvania	118.2821%
Puerto Rico	73.9803%
Rhode Island	143.8802%
South Carolina	99.6801%
South Dakota	76.4482%
Tennessee	129.9078%
Texas	71.6286%
Utah	119.5878%
Vermont	140.2239%
Virgin Islands	100.4396%
Virginia	88.1611%
Washington	100.5007%
Wisconsin	99.6616%
Wyoming	100.9659%

EXHIBIT U

Agreement on the State Outside Counsel Fee Fund

1. **Creation of a State Outside Counsel Fee Fund.** Janssen and the Settling States agree to the creation of a state outside counsel fee fund to pay reasonable attorney's fees of Settling States with outside counsel in connection with litigation against Janssen (the "State Outside Counsel Fee Fund"). This agreement is a material part of the Settlement Agreement. All terms utilized in this Agreement shall have the same meaning as in the Settlement Agreement unless otherwise indicated.
2. **State Outside Counsel Fee Fund Administration.** The State Outside Counsel Fee Fund shall be administered separately from the Common Benefit Fund, the Contingency Fee Fund, the State Cost Fund, and the MDL Expense Fund. A committee of Attorneys General shall oversee the State Outside Counsel Fee Fund ("Fee Fund Committee"). The Fee Fund Committee shall initially consist of the following: (a) Arkansas; (b) Florida; (c) New Jersey; and (d) Puerto Rico. The Fee Fund Committee shall select a settlement fund administrator (who may or may not be different from the Settlement Administrator under the Distributor Agreement) (the "Fee Fund Administrator") who shall administer the State Outside Counsel Fee Fund according to the guidelines and directives of the Fee Fund Committee.
3. **State Outside Counsel Fee Eligibility.** To participate in the State Outside Counsel Fee Fund, an outside counsel for a Settling State must have filed and be maintaining an action in the name of a Settling State or its attorney general against Janssen in a state or federal court as of June 1, 2021. No Settling State can draw attorney's fees from both the State Outside Counsel Fee Fund and the similarly sized fund to reimburse Settling State's without outside counsel.
4. **State Outside Counsel Fee Fund Amount.** Janssen shall pay funds in the State Outside Counsel Fee Fund according to the schedule set forth below, as part of its annual Global Settlement Attorney Fee Amount payable to the Attorney Fee Fund, subject to the adjustments described below:

Payment Year 1	\$32,391,518.74
Payment Year 2	\$30,769,230.77
Payment Year 3	\$ 4,146,942.80
5. **State Outside Counsel Fee Fund Availability and Calculation of Amount.**
 - a. The State Outside Counsel Fee Fund shall be available to compensate private counsel for State Attorneys General for approved fees arising out of representation of the State pursuant to the schedule developed by the Fee Fund Committee and provided to Janssen.

- b. Fees shall be calculated by adding two components: (a) a fixed amount consisting of fifty (50%) of the amount allocated to a State utilizing the allocation percentage in the Settlement Agreement multiplied times 4.5%; and (b) a proportional percentage of the remaining fee due under that Settling State's contract assuming that fifty (50%) of the State's recovery is allocable to a Settling State (versus allocable to the Settling State's Subdivisions) so that the fees of all Settling States (minus the base amount that would have been due to any of Non-Settling States) exhausts the State Outside Counsel Fee Fund. The proportional share percentage will be the same for each Settling State included in the State Outside Counsel Fee Fund. All amounts paid will be less any costs or fees of the Fee Fund Administrator.

6. Payment by the Fee Fund Administrator.

- a. If a Settling State and a Settling State's outside counsel agree that the amount calculated in paragraph 5 above satisfies in full amounts owed to all Settling State outside counsel, then upon written notice of that agreement and counsel waiving in writing any entitlement to any additional fee, the Fee Fund Administrator shall pay that Settling State's outside counsel pursuant to the calculation and any schedule created by the Fee Fund Committee.
- b. If a Settling State's outside counsel does not agree that the amount calculated in Paragraph 5 above satisfies in full amounts owed by the Settling State, then the Settling State's share shall be placed in an interest bearing escrow account (less reasonable expenses of the Fee Fund Administrator) and held unless and until the Settling State and its outside counsel agree in a signed writing to a resolution of the amount outstanding or there is a final judgment entered that is no longer appealable.
- c. Upon being provided a signed, written agreement or the final non-appealable judgment, the Fee Fund Administrator shall release monies from the State Outside Counsel Fee Fund in either the amount held by the Fee Fund Administrator, if the amount of the agreement or judgment is equal to or more than the amount held, or the amount indicated in the agreement or in the final judgment, if the amount in the agreement or judgment is less than the amount held.
- d. Nothing herein, including the amounts listed in paragraph 5 above, shall prevent a Settling State from arguing in any proceeding with its outside counsel that (a) its recovery was less than fifty (50%) percent of the recovery in the Settlement Agreement down to and including fifteen (15%) percent of the total recovery; (b) any payment should be discounted by an appropriate discount rate commensurate to the risk of the Settlement Agreement and the timeline that the Settling State is receiving its payments; (c) the settlement amount should be lower because a Settling State's amounts were reduced because a Settling State's outside counsel failed to obtain joinder from a Settling State's Subdivision(s) who(m) the outside counsel also represented;

or (d) any limitation placed by Janssen bars payment of a higher fee to outside counsel.

- e. In the event the amount due to the Settling State's outside counsel from an escrow account is less than the total amount of funds escrowed on the account of the Settling State, the balance shall be paid to the Settling State. In no event, other than a State not being a Settling State, shall funds revert to Janssen.
- f. Amounts owed by Janssen to the State Outside Counsel Fee Fund shall be reduced and/or credited to Janssen by the amount specified in paragraph 7, below, for any Non-Settling outside counsel States.

7. Reversion or Reduction of Amounts owed to Non-Settling States. Amounts owed by Janssen to the State Outside Counsel Fee Fund shall be reduced on account of Non-Settling States as follows:

- a. If the State of Washington does not become a Participating State and eleven (11) of the other outside counsel States in the table below become Participating States, then the amount Janssen owes under paragraph 4 will be reduced by the State of Washington's Fixed Amount in the table below.
- b. If ten (10) outside counsel States in the table below become Participating States, then the amount Janssen owes under paragraph 4 will be reduced by the allocated Fixed Amount in the table below for each Non-Settling State.
- c. If nine (9) or fewer of the outside counsel States in the table below become Participating States, then the amount Janssen owes under paragraph 4 will be reduced by each Non-Settling State's allocated Fixed Amount plus half the difference between the Non-Settling State's full share of the "Fee Amount if all OC States Join" and the Fixed Amount for each Non-Settling State.

	JJ Allocation %	JJ Payment Amount	State Share	Contract Rate	Full Contract Amount	Fixed Amount	Fee Amount if all OC States Join
Arkansas	0.9663486633%	\$44,048,604.48	\$22,024,302.24	TIPAC	\$4,452,430.22	\$991,093.60	\$3,608,210.22
Florida	7.0259134409%	\$318,598,151.79	\$159,299,075.89	TIPAC	\$11,464,953.79	\$7,168,458.42	\$10,417,038.57
Idaho	0.5254331620%	\$24,023,889.47	\$12,011,944.74	10%	\$1,201,194.47	\$540,537.51	\$1,040,060.24
Kentucky	2.0929730531%	\$95,444,090.08	\$47,722,045.04	TIPAC	\$4,636,102.25	\$2,147,492.03	\$4,029,130.22
Mississippi	0.8898883053%	\$40,549,243.09	\$20,274,621.55	TIPAC	\$4,277,462.16	\$912,357.97	\$3,456,713.24
Nevada	1.2486754235%	\$56,896,524.63	\$28,448,262.31	19%	\$5,405,169.84	\$1,280,171.80	\$4,399,082.82
New Hampshire	0.6258752503%	\$28,620,454.86	\$14,310,277.43	27%	\$3,863,761.41	\$643,960.23	\$3,078,451.90
New Jersey	2.7551354545%	\$124,934,796.18	\$62,467,398.09	33%	\$20,614,241.37	\$2,811,032.91	\$16,272,038.83
New Mexico	0.8557238713%	\$39,104,404.67	\$19,552,202.33	24	\$4,692,528.56	\$879,849.11	\$3,762,616.04
Ohio	4.3567051408%	\$197,559,821.57	\$98,779,910.78	TIPAC	\$8,438,995.54	\$4,445,095.99	\$7,464,883.44
Puerto Rico	0.7263201134%	\$33,083,484.37	\$16,541,742.19	25%	\$4,135,435.55	\$744,378.40	\$3,308,356.71
South Dakota	0.2169945907%	\$9,948,315.49	\$4,974,157.75	12%	\$596,898.93	\$233,837.10	\$505,909.15
Washington	2.3189040182%	\$105,153,378.36	\$52,576,689.18	13.5%	\$7,097,853.04	\$2,365,951.01	\$5,943,742.14

8. In the event that the Fee Fund Administrator has received from Janssen part or all of the amount that Janssen is entitled to offset under paragraph 7 above, the Fee Fund Administrator shall return to Janssen the amount so received.

FIFTEEN ROPE FERRY ROAD
WATERFORD, CT 06385-2386



PHONE: 860-442-0553
www.waterfordct.org

October 26, 2021

Board of Selectmen
Town of Waterford
15 Rope Ferry Road
Waterford, CT 06385

Re: FY22 Additonal Appropriation Requests for Pump Out Boat

Jody & Beth,

The Save The River-Save The Hills non-profit organization has need of a new pump out boat. This boat plays an integral role in keeping the Niantic River Clean. The boat provides a vital service to all boaters on the river between the towns of Waterford and East Lyme.

The Save The River-Save The Hills organization was awarded a federal grant through the Connecticut Department of Energy & Environmental Protection in the amount of \$124,672.50. A portion of the grant will be used to purchase a new pump out boat. However, the grant stipulates a match of \$25,000 towards the purchase of the new boat. The Town of East Lyme has promised a contribution of \$12,500 and the Save The River -Save the Hills has requested that the Town of Waterford match their contribution.

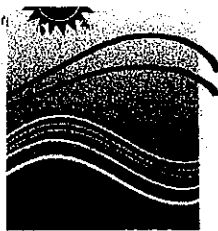
On behalf of the Town of Waterford, I am requesting an additional appropriation of \$12,500 for a town match towards the purchase of a new pump out boat.

Regards,

Robert J. Brule

Robert J. Brule
First Selectman

C: Kim Allen, Director of Finance



Connecticut Department
of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

October 8, 2021

Mr. James Paganetti
Save The River – Save The Hills, Inc.
7 Plant Drive
Waterford, CT 06385

RE: Clean Vessel Act Grant Program, 2022 Boating Season

Dear Mr. Paganetti:

Thank you for your interest in and application for the Federal Clean Vessel Act (CVA) Grant Program in Connecticut. This year, Connecticut DEEP received 43 applications for funding valued at over \$1.4 million under this State-Federal partnership. DEEP has fewer federal funds available than that which was requested by the grantees, making this the most competitive grant cycle in Connecticut's Clean Vessel Act Program history. I am pleased to inform you that your proposal for \$124,672.50 was selected for funding in the amount of \$124,672.50.

We will be contacting you within the next few weeks with details on grant award procedures. You will receive a contract for your review and signature. Instructions for processing the contract in the most expedient fashion will also be included.

Please be aware that once you receive this paperwork, it is very important that you complete the required materials, sign the appropriate documentation, and return it to us promptly. We are striving to have contracts fully executed by January 1, 2022. Any project expenses incurred prior to the execution of your contract for services will not be eligible for reimbursement. Only expenses incurred in calendar year 2022 will be considered eligible for reimbursement.

If you have any further questions, please contact me at (860) 447-4340. Congratulations on your forthcoming grant award. Thank you for participating in this important program to help protect water quality in Connecticut.

Sincerely,

Kate Brown

Kate Hughes Brown
BIG/CVA Program Coordinator
Navigation Boating Infrastructure Unit

KHB/pbf

Boating Division
PO Box 280 • Old Lyme, CT 06371-0280
www.ct.gov/deep
Affirmative Action/Equal Opportunity Employer

Save the River-Save the Hills, Inc.
Clean Vessel Act Application 2022
Itemized Spreadsheet

Cost Category	Expense	Detail		Total
1 – Personnel	Administrator	\$8,500.00/year	\$ 8,500.00	
	Coxswain	\$112.00/day * 80	\$ 8,960.00	
	Deckhand	\$104.00/day * 80	\$ 8,320.00	
	Personnel Total			\$ 25,780.00
2 – Contractual	N/A			
3 – Operating	Gas / Oil	\$3,000.00		
	Cell Phone	\$750.00		
	Operating Exp Total			\$3,750.00
4 – Boat Expenses	Dockage/Storage	\$950.00		
	Insurance	\$4,600.00		
	Boat Expenses Total			\$5,550.00
5 – Equipment	Spring Commissioning	\$500.00		
	Fall Power Wash & Trailer Haul	\$900.00		
	Winterize, Shrink Wrap, Oil Change	\$1,800.00		
	Haul for Repairs	\$900.00		
	Repair Labor	\$1,000.00		
	Equipment Total			\$5,100.00
6 – Sewage Waste Removal	N/A			
7 – Supplies	Hand Soap, Boat Soap, Other PPE, Misc.			\$600.00
8 – Construction /Installation	N/A			
Subtotal				\$40,730.00
9 – Other	New Boat Purchase			\$125,500.00
Grand Total				\$166,230.00

CHECK ONE:

- ☒ GRANT
☐ PERSONAL SERVICE AGREEMENT

1. THE STATE BUSINESS UNIT AND THE CONTRACTOR AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO AND SUBJECT TO THE PROVISIONS OF SECTION 4-98 OF THE CONNECTICUT GENERAL STATUTES AS APPLICABLE.

2. ACCEPTANCE OF THIS CONTRACT IMPLIES CONFORMANCE WITH TERMS AND CONDITIONS SET FORTH BY THE OFFICE OF POLICY AND MANAGEMENT PERSONAL SERVICE AGREEMENT STANDARDS AND PROCEDURES.

(1) ☒ ORIGINAL ☐ AMENDMENT	(2) IDENTIFICATION #s. P.S. 2021-30 P.O.
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CONTRACTOR	(3) CONTRACTOR NAME Save the River - Save the Hills Inc.	(4) ARE YOU PRESENTLY A STATE EMPLOYEE? ☐ YES ☒ NO
	CONTRACTOR ADDRESS 35 Oswegatchie Road, Waterford, CT 06385	
STATE AGENCY	(5) AGENCY NAME AND ADDRESS DEEP - Bureau of Outdoor Recreation, 79 Elm Street, Hartford, CT 06106-5127	(6) Dept No. DEP43000

CONTRACT PERIOD	(7) DATE (FROM) Upon execution	THROUGH (TO) 12/31/2021	(8) INDICATE ☐ MASTER AGREEMENT ☐ CONTRACT AWARD NO. ☒ NEITHER
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COMPLETE DESCRIPTION OF SERVICE	(9) CONTRACTOR AGREES TO: (Include special provisions - Attach additional blank sheets if necessary.)		
	1. Performance: Do, conduct, perform or cause to be performed in a satisfactory and proper manner as determined by the Commissioner of Energy and Environmental Protection, all work described in Appendix A, which is attached hereto and made a part hereof. Appendix A consists of four pages numbered A-1 through A-4 inclusive. Page 1 of 10 Standard Terms and Conditions are contained in Pages 2 through 10 and are attached hereto and made a part hereof. Operation and Maintenance of a Pumpout Vessel		

COST AND SCHEDULE OF PAYMENTS	(10) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES.		
	Cost and Schedule of Payments is attached hereto as Appendix B, and made a part hereof. (Appendix B consists of one page numbered B-1). Total Payments Not to Exceed the Maximum Amount of \$29,325.00.		

(11) OBLIGATED AMOUNT \$29,325.00											
(12) Amount	(13) Dept	(14) Fund	(15) SID	(16) Program	(17) Project	(18) Activity	(19) Bud Ref	(20) Agency CF 1	(21) Agency CF 2	(22) Account	
\$29,325.00	DEP44434	12060	20954	64012	DEPA00002007113	155058					55050

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code Section 3121 (d) (2). Individuals performing services as independent contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

ACCEPTANCES AND APPROVALS	(23) STATUTORY AUTHORITY CGS Sec. 4-8 as amended; CGS Sec. 22a-6(a)(2) as amended CGS Sec. 7-148(c) as amended (mun. auth.)
(24) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE) <i>James C. Paganetti</i>	TITLE Pumpout Administrator DATE 1-14-2021
(25) AGENCY (AUTHORIZED OFFICIAL)	TITLE Chief, Bureau of Outdoor Recreation DATE
(26) ATTORNEY GENERAL (APPROVED AS TO FORM)	DATE

1. Definitions:

- (a) State. The State of Connecticut, including the Department of Energy and Environmental Protection and any office, department, board, council, commission, institution or other agency of the State.
 - (b) Commissioner. The Commissioner of Energy and Environmental Protection or the Commissioner's designated agent.
 - (c) Parties. The Department of Energy and Environmental Protection (DEEP or Agency) and the Contractor.
 - (d) Contractor Parties. Contractor Parties shall be defined as a Contractor's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract and the Contractor intends for such other person or entity to Perform under the Contract in any capacity. To the extent that any Contractor Party is to participate or Perform in any way, directly or indirectly in connection with the Contract, any reference in the Contract to the "Contractor" shall also be deemed to include "Contractor Parties", as if such reference had originally specifically included "Contractor Parties" since it is the Parties' intent for the terms "Contractor Parties" to be vested with the same respective rights and obligations as the terms "Contractor."
 - (e) Contract. This agreement, as of its Effective Date, between the Contractor and the State for any or all goods or services as more particularly described in Appendix A.
 - (f) Execution. This contract shall be fully executed when it has been signed by authorized representatives of the parties, and if it is for an amount of Twenty-five thousand dollars (\$25,000.00) or more, by the authorized representative of the state Attorney General's office.
 - (g) Exhibits. All attachments, appendices or exhibits referred to in and attached to this Contract are incorporated in this Contract by such reference and shall be deemed to be a part of it as if they had been fully set forth in it.
 - (h) Records. For the purposes of this Contract, records are defined as all working papers and such other information and materials as may have been accumulated by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.
 - (i) Confidential Information. Confidential Information shall mean any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Confidential Information shall also include any information that the Department classifies as "confidential" or "restricted." Confidential Information shall not include information that may be lawfully obtained from publicly available sources or from federal, state, or local government records which are lawfully made available to the general public.
 - (j) Confidential Information Breach. Confidential Information Breach shall mean, generally, an instance where an unauthorized person or entity accesses Confidential Information in any manner, including but not limited to the following occurrences: (1) any Confidential Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Confidential Information that is not encrypted or protected without prior written authorization from the State; (3) the unauthorized acquisition of encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (4) if there is a substantial risk of identity theft or fraud to the client, the Contractor, the Department or State.
 - (k) Claim. Claim shall mean, all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.
2. Audit Requirements for Recipients of State Financial Assistance. For purposes of this paragraph, the word "contractor" shall be deemed to mean "nonstate entity," as that term is defined in Section 4-230 of the Connecticut General Statutes. The contractor shall provide for an annual financial audit acceptable to the Agency for any expenditure of state-awarded funds made by the contractor. Such audit shall include management letters and audit recommendations. The State Auditors of Public Accounts shall have access to all records and accounts for the fiscal year(s) in which the award was made. The contractor will comply with federal and state single audit standards as applicable.
3. Forum and Choice of Law. The parties deem the Contract to have been made in the City of Hartford, State of Connecticut. Both parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.
4. Termination.
- (a) Notwithstanding any provisions in this Contract, the Agency, through a duly authorized employee, may Terminate the Contract whenever the Agency makes a written determination that such Termination is in the best interests of the State. The Agency shall notify the Contractor in writing of Termination pursuant to this section, which notice shall specify the effective date of Termination and the extent to which the Contractor must complete its Performance under the Contract prior to such date.

- (b) Notwithstanding any provisions in this Contract, the Agency, through a duly authorized employee, may, after making a written determination that the Contractor has breached the Contract, Terminate the Contract in accordance with the provisions in the Breach section of this Contract.
 - (c) The Agency shall send the notice of Termination via certified mail, return receipt requested, to the Contractor at the most current address which the Contractor has furnished to the Agency for purposes of correspondence, or by hand delivery. Upon receiving the notice from the Agency, the Contractor shall immediately discontinue all services affected in accordance with the notice, undertake all commercially reasonable efforts to mitigate any losses or damages, and deliver to the Agency all Records. The Records are deemed to be the property of the Agency and the Contractor shall deliver them to the Agency no later than thirty (30) days after the Termination of the Contract or fifteen (15) days after the Contractor receives a written request from the Agency for the Records. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to, ASCII or .TXT.
 - (d) Upon receipt of a written notice of Termination from the Agency, the Contractor shall cease operations as the Agency directs in the notice, and take all actions that are necessary or appropriate, or that the Agency may reasonably direct, for the protection, and preservation of the Goods and any other property. Except for any work which the Agency directs the Contractor to Perform in the notice prior to the effective date of Termination, and except as otherwise provided in the notice, the Contractor shall terminate or conclude all existing subcontracts and purchase orders and shall not enter into any further subcontracts, purchase orders or commitments.
 - (e) The Agency shall, within forty-five (45) days of the effective date of Termination, reimburse the Contractor for its Performance rendered and accepted by the Agency, in addition to all actual and reasonable costs incurred after Termination in completing those portions of the Performance which the notice required the Contractor to complete. However, the Contractor is not entitled to receive and the Agency is not obligated to tender to the Contractor any payments for anticipated or lost profits. Upon request by the Agency, the Contractor shall assign to the Agency, or any replacement contractor which the Agency designates, all subcontracts, purchase orders and other commitments, deliver to the Agency all Records and other information pertaining to its Performance, and remove from State premises, whether leased or owned, all of Contractor's property, equipment, waste material and rubbish related to its Performance, all as the Agency may request.
 - (f) For breach or violation of any of the provisions in the section concerning Representations and Warranties, the Agency may Terminate the Contract in accordance with its terms and revoke any consents to assignments given as if the assignments had never been requested or consented to, without liability to the Contractor or Contractor Parties or any third party.
 - (g) Upon Termination of the Contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the sections which survive Termination. All representations, warranties, agreements and rights of the parties under the Contract shall survive such Termination to the extent not otherwise limited in the Contract and without each one of them having to be specifically mentioned in the Contract.
 - (h) Termination of the Contract pursuant to this section shall not be deemed to be a breach of contract by the Agency.
5. Tangible Personal Property.
- (a) The Contractor on its behalf and on behalf of its Affiliates, as defined below, shall comply with the provisions of Conn. Gen. Stat. §12-411b, as follows:
 - (1) For the term of the Contract, the Contractor and its Affiliates shall collect and remit to the State of Connecticut, Department of Revenue Services, any Connecticut use tax due under the provisions of Chapter 219 of the Connecticut General Statutes for items of tangible personal property sold by the Contractor or by any of its Affiliates in the same manner as if the Contractor and such Affiliates were engaged in the business of selling tangible personal property for use in Connecticut and had sufficient nexus under the provisions of Chapter 219 to be required to collect Connecticut use tax;
 - (2) A customer's payment of a use tax to the Contractor or its Affiliates relieves the customer of liability for the use tax;
 - (3) The Contractor and its Affiliates shall remit all use taxes they collect from customers on or before the due date specified in the Contract, which may not be later than the last day of the month next succeeding the end of a calendar quarter or other tax collection period during which the tax was collected;
 - (4) The Contractor and its Affiliates are not liable for use tax billed by them but not paid to them by a customer; and
 - (5) Any Contractor or Affiliate who fails to remit use taxes collected on behalf of its customers by the due date specified in the Contract shall be subject to the interest and penalties provided for persons required to collect sales tax under chapter 219 of the general statutes.
 - (b) For purposes of this section of the Contract, the word "Affiliate" means any person, as defined in section 12-1 of the general statutes, which controls, is controlled by, or is under common control with another person. A person controls another person if the person owns, directly or indirectly, more than ten per cent of the voting securities of the other person. The word "voting security" means a security that confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business, or that is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. "Voting security" includes a general partnership interest.
 - (c) The Contractor represents and warrants that each of its Affiliates has vested in the Contractor plenary authority to so bind the Affiliates in any agreement with the State of Connecticut. The Contractor on its own behalf and on behalf of its Affiliates shall also provide, no later than 30 days after receiving a request by the State's contracting authority, such information as the State may require to ensure, in the State's sole determination, compliance with the provisions of Chapter 219 of the Connecticut General Statutes, including, but not limited to, §12-411b.

6. Indemnification.

- (a) The Contractor shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Contractor's obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Contractor's bid, proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance.
- (b) The Contractor shall not be responsible for indemnifying or holding the State harmless from any liability arising due to the negligence of the State or any other person or entity acting under the direct control or supervision of the State.
- (c) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such Claims.
- (d) The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
- (e) The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall cause the State to be named as an additional insured on the policy and shall provide (1) a certificate of insurance, (2) the declaration page and (3) the additional insured endorsement to the policy to the State and the Client Agency all in an electronic format acceptable to the State prior to the Effective Date of the Contract evidencing that the State is an additional insured. The Contractor shall not begin Performance until the delivery of these three documents to the Client Agency. Contractor shall provide an annual electronic update of the three documents to the Client Agency and the State on or before each anniversary of the Effective Date during the Contract term. State shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that State is contributorily negligent.
- (f) This section shall survive the Termination of the Contract and shall not be limited by reason of any insurance coverage.

7. Sovereign Immunity. The parties acknowledge and agree that nothing in the Solicitation or the Contract shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this section conflicts with any other section, this section shall govern.

8. Audit and Inspection of Plants, Places of Business and Records.

- (a) The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract.
- (b) The Contractor shall maintain, and shall require each of the Contractor Parties to maintain, accurate and complete Records. The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.
- (c) The State shall make all requests for any audit or inspection in writing and shall provide the Contractor with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.
- (d) The Contractor will pay for all costs and expenses of any audit or inspection which reveals information that, in the sole determination of the State, is sufficient to constitute a breach by the Contractor under this Contract. The Contractor will remit full payment to the State for such audit or inspection no later than 30 days after receiving an invoice from the State. If the State does not receive payment within such time, the State may setoff the amount from any moneys which the State would otherwise be obligated to pay the Contractor in accordance with this Contract's Setoff provision.
- (e) The Contractor shall keep and preserve or cause to be kept and preserved all of its and Contractor Parties' Records until three (3) years after the latter of (i) final payment under this Contract, or (ii) the expiration or earlier termination of this Contract, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Contractor shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.
- (f) The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
- (g) The Contractor shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Contractor Party.

9. Campaign Contribution Restriction. For all State contracts as defined in C.G.S. § 9-612 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this

Contract expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice, as set forth in "Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations," attached as Exhibit C.

10. Confidential Information. The Agency will afford due regard to the Contractor's request for the protection of proprietary or confidential information which the Agency receives. However, all materials associated with the Bid and the Contract are subject to the terms of the Connecticut Freedom of Information Act ("FOIA") and all corresponding rules, regulations and interpretations. In making such a request, the Contractor may not merely state generally that the materials are proprietary or confidential in nature and not, therefore, subject to release to third parties. Those particular sentences, paragraphs, pages or sections that the Contractor believes are exempt from disclosure under the FOIA must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with the FOIA must accompany the request. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the Contractor that would result if the identified material were to be released and the reasons why the materials are legally exempt from release pursuant to the FOIA. To the extent that any other provision or part of the Contract, especially including the Bid, the Records and the specifications, conflicts or is in any way inconsistent with this section, this section controls and shall apply and the conflicting provision or part shall not be given effect. If the Contractor indicates that certain documentation is submitted in confidence, by specifically and clearly marking said documentation as CONFIDENTIAL," the Agency will endeavor to keep said information confidential to the extent permitted by law. The Agency, however, has no obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to a FOIA request. The Contractor shall have the burden of establishing the availability of any FOIA exemption in any proceeding where it is an issue. In no event shall the Agency or the State have any liability for the disclosure of any documents or information in its possession which the Agency believes are required to be disclosed pursuant to the FOIA or other requirements of law.
11. Protection of Confidential Information.
 - (a) Contractor and Contractor Parties, at their own expense, have a duty to and shall protect from a Confidential Information Breach any and all Confidential Information which they come to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.
 - (b) Each Contractor or Contractor Party shall develop, implement and maintain a comprehensive data - security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of the Agency or State concerning the confidentiality of Confidential Information. Such data-security program shall include, but not be limited to, the following:
 - (1) A security policy for employees related to the storage, access and transportation of data containing Confidential Information;
 - (2) Reasonable restrictions on access to records containing Confidential Information, including access to any locked storage where such records are kept;
 - (3) A process for reviewing policies and security measures at least annually;
 - (4) Creating secure access controls to Confidential Information, including but not limited to passwords; and
 - (5) Encrypting of Confidential Information that is stored on laptops, portable devices or being transmitted electronically.
 - (c) The Contractor and Contractor Parties shall notify the Agency and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Confidential Information which Contractor or Contractor Parties have come to possess or control has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, the Agency and the Connecticut Office of the Attorney General, for review and approval. Such credit monitoring or protection plan shall be made available by the Contractor at its own cost and expense to all individuals affected by the Confidential Information Breach. Such credit monitoring or protection plan shall include, but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Confidential Information Breach. The Contractors' costs and expenses for the credit monitoring and protection plan shall not be recoverable from the Agency, any State of Connecticut entity or any affected individuals.
 - (d) The Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Confidential Information in the same manner as provided for in this Section.
 - (e) Nothing in this Section shall supersede in any manner Contractor's or Contractor Party's obligations pursuant to HIPAA or the provisions of this Contract concerning the obligations of the Contractor as a Business Associate of Covered Entity.
12. Executive Orders. This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. The Contract may also be subject to Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order No. 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order 14 and/or Executive Order 49 are applicable, they are deemed to be incorporated into and are made a part of the

Contract as if they had been fully set forth in it. At the Contractor's request, the Client Agency or DAS shall provide a copy of these orders to the Contractor.

13. Non-Discrimination.

(a) For purposes of this Section, the following terms are defined as follows:

- (1) "Commission" means the Commission on Human Rights and Opportunities;
- (2) "Contract" and "contract" include any extension or modification of the Contract or contract;
- (3) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
- (4) "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.
- (5) "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
- (6) "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
- (7) "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced;
- (8) "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
- (9) "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
- (10) "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, unless the contract is a municipal public works contract or quasi-public agency project contract, (2) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in C.G.S. § 1-267, (3) the federal government, (4) a foreign government, or (5) an agency of a subdivision, state or government described in the immediately preceding enumerated items (1), (2), (3), or (4).

- (b) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status as a veteran, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status as a veteran, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this Section and C.G.S. §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to C.G.S. §§ 46a-56, 46a-68e, 46a-68f, and 46a-86; and (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and C.G.S. § 46a-56. If the contract is a public works contract, municipal public works contract or contract for a quasi-public agency project, the Contractor agrees and warrants that he or she will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works or quasi-public agency projects.
- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith

efforts.

- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and in every subcontract entered into in order to fulfill any obligation of a municipal public works contract or for a quasi-public agency project, and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with C.G.S. § 46a-56, as amended; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission regarding a State contract, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
 - (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
 - (g) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to C.G.S. § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and C.G.S. § 46a-56.
 - (h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with C.G.S. § 46a-56 as amended; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission regarding a State contract, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- 14. Antitrust Provision. Contractor hereby irrevocably assigns to the State of Connecticut all rights, title and interest in and to all Claims associated with this Contract that Contractor now has or may or will have and that arise under the antitrust laws of the United States, 15 USC Section 1, *et seq.* and the antitrust laws of the State of Connecticut, Connecticut General Statute § 35-24, *et seq.*, including but not limited to any and all Claims for overcharges. This assignment shall become valid and effective immediately upon the accrual of a Claim without any further action or acknowledgment by the parties.
 - 15. State Liability. The State of Connecticut shall assume no liability for payment for services under the terms of this agreement until the contractor is notified that this agreement has been accepted by the contracting agency and, if applicable, approved by the Office of Policy and Management (OPM) or the Department of Administrative Services (DAS) and by the Attorney General of the State of Connecticut.
 - 16. Distribution of Materials. The Contractor shall obtain written approval from the Commissioner prior to the distribution or publication of any materials prepared under the terms of this Contract. Such approval shall not be unreasonably withheld.
 - 17. Change in Principal Project Staff. Any changes in the principal project staff must be requested in writing and approved in writing by the Commissioner at the Commissioner's sole discretion. In the event of any unapproved change in principal project staff, the Commissioner may, in the Commissioner's sole discretion, terminate this Contract.
 - 18. Further Assurances. The Parties shall provide such information, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Contract and which do not involve the vesting of rights or assumption of obligations other than those provided for in the Contract, in order to give full effect to the Contract and to carry out the intent of the Contract.
 - 19. Recording and Documentation of Receipts and Expenditures. Accounting procedures must provide for accurate and timely recording of receipt of funds by source, expenditures made from such funds, and of unexpended balances. Controls must be established which are adequate to ensure that expenditures under this Contract are for allowable purposes and that documentation is readily available to verify that such charges are accurate.
 - 20. Assignability. The Contractor shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the Commissioner thereto: provided, however, that claims for money due or to become due the Contractor from the Commissioner under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Commissioner.
 - 21. Third Party Participation. The Contractor may make sub-awards, using either its own competitive selection process or the values established in the state's competitive selection process as outlined in DAS General Letter 71, whichever is more restrictive, to conduct any of the tasks in the Scope of Work contained in Appendix A. The Contractor shall advise the Commissioner of the proposed sub-awardee and the amount allocated, at least two (2) weeks prior to the making of such awards. The Commissioner reserves the right to disapprove

such awards if they appear to be inconsistent with the program activities to be conducted under this grant. As required by Sec. 46a-68j-23 of the Connecticut Regulations of State Agencies the Contractor must make a good faith effort, based upon the availability of minority business enterprises in the labor market area, to award a reasonable proportion of all subcontracts to such enterprises. When minority business enterprises are selected, the Contractor shall provide DEEP with a copy of the Affidavit for Certification of Subcontractors as Minority Business Enterprises (MBE) along with a copy of the purchase order or contract engaging the Subcontractor. The Contractor shall be the sole point of contact concerning the management of the Contract, including performance and payment issues. The Contractor is solely and completely responsible for adherence by any subcontractor to all the applicable provisions of the Contract.

22. Set Aside. State agencies are subject to the requirements of CGS sec. 4a-60g. Unless otherwise specified by the invitation to bid, general contractors intending to subcontract any portion of work under this Contract shall subcontract 25% of the total contract value to small contractors certified by the Department of Administrative Services (DAS) and are further required to subcontract 25% of that 25% to minority and women small contractors certified as minority business enterprises by DAS. Selected general contractors that are certified by DAS as small contractors, minority business enterprises, or both are excused from this requirement but must comply with CGS sec. 4a-60g(e) and complete a minimum of 30% of the work by dollar value with their own workforces and ensure at least 50% of the work overall by dollar value is completed by contractors or subcontractors certified as small contractors or minority business enterprises by DAS.
23. Procurement of Materials and Supplies. The Contractor may use its own procurement procedures which reflect applicable State and local law, rules and regulations provided that procurement of tangible personal property having a useful life of more than one year and an acquisition cost of one thousand dollars (\$1,000.00) or more per unit be approved by the Commissioner before acquisition.
24. Americans with Disabilities Act. The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 ("Act"), to the extent applicable, during the term of the Contract. The DEEP may cancel the Contract if the Contractor fails to comply with the Act.
25. Affirmative Action and Sexual Harassment Policies. The Contractor agrees to comply with the Departments Affirmative Action and Sexual Harassment Policies available on DEEP's web site. Hard copies of the policy statements are available upon request at DEEP.
26. Breach. If either Party breaches the Contract in any respect, the non-breaching Party shall provide written notice of the breach to the breaching Party and afford the breaching Party an opportunity to cure within ten (10) days from the date that the breaching Party receives the notice. In the case of a Contractor breach, any other time period which the Agency sets forth in the notice shall trump the ten (10) days. The right to cure period shall be extended if the non-breaching Party is satisfied that the breaching Party is making a good faith effort to cure but the nature of the breach is such that it cannot be cured within the right to cure period. The notice may include an effective Contract Termination date if the breach is not cured by the stated date and, unless otherwise modified by the non-breaching Party in writing prior to the Termination date; no further action shall be required of any Party to effect the Termination as of the stated date. If the notice does not set forth an effective Contract Termination date; then the non-breaching Party may Terminate the Contract by giving the breaching Party no less than twenty four (24) hours' prior written notice. If the Agency believes that the Contractor has not performed according to the Contract, the Agency may withhold payment in whole or in part pending resolution of the Performance issue, provided that the Agency notifies the Contractor in writing prior to the date that the payment would have been due.
27. Severability. If any term or provision of the Contract or its application to any person, entity or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of the Contract or the application of such term or provision shall not be affected as to persons, entities or circumstances other than those as to whom or to which it is held to be invalid or unenforceable. Each remaining term and provision of the Contract shall be valid and enforced to the fullest extent possible by law.
28. Contractor Guarantee. The Contractor shall: perform the Contract in accordance with the specifications and terms and conditions of the Scope of Work, furnish adequate protection from damage for all work and to repair any damage of any kind, for which he or his workmen are responsible, to the premises or equipment, to his own work or to the work of other contractors; pay for all permits, licenses, and fees, and to give all notices and comply with all laws, ordinances, rules and regulations of the city and the State.
29. Force Majeure. The Parties shall not be excused from their obligation to perform in accordance with the Contract except in the case of Force Majeure events and as otherwise provided for in the Contract. A Force Majeure event materially affects the cost of the Goods or Services or the time schedule for performance and is outside the control nor caused by the Parties. In the case of any such exception, the nonperforming Party shall give immediate written notice to the other, explaining the cause and probable duration of any such nonperformance.
30. Entirety of Contract. The Contract is the entire agreement between the Parties with respect to its subject matter, and supersedes all prior agreements, proposals, offers, counteroffers and understandings of the Parties, whether written or oral. The Contract has been entered into after full investigation, neither Party relying upon any statement or representation by the other unless such statement or representation is specifically embodied in the Contract.
31. Interpretation. The Contract contains numerous references to statutes and regulations. For purposes of interpretation, conflict resolution and otherwise, the content of those statutes and regulations shall govern over the content of the reference in the Contract to those statutes and regulations.
32. Discharge of sewage to waters of the state. In accordance with Section 22a-430-3(k) of the Regulations of Connecticut State Agencies, within two hours of any discharge of sewage from a pumpout facility to a water of the state or to the ground, the owner or operator of such facility shall report such discharge to the Director of the Permitting, Enforcement and Remediation Division of the DEEP during normal business hours at (860) 424-3018, to the Department's Emergency Response Unit at all other times at (860) 424-3338, and to the Director of Health in each affected municipality.
33. Registration for DEEP Stormwater General Permit. If Contractor has a stormwater point discharge, the Contractor is required by Section 22a-430b of The General Statutes of Connecticut to register for the stormwater general permit for industrial activity. A stormwater pollution prevention plan must also be prepared, and sampling of runoff conducted once a year during a rain event.

34. Sale of Docking Facility. The owner or operator of a docking facility to receive grant funds will, if the docking facility is to be sold, and upon sale of the docking facility, ensure that conditions of this Contract be made part of any sale agreement with new owner.
35. Title to Equipment. Title to equipment purchased under this Agreement shall vest in the Contractor. If the Contractor determines that it cannot use the equipment for the stated grant purposes at any point prior to the end of the equipment's useful life, but after the end of this Contract period and any extensions thereof, the Contractor shall inform the DEEP in writing within 30 days of such determination. Such equipment shall be transferred by the Contractor to a third party approved by the DEEP for use for grant purposes in accordance with applicable provisions of state and federal law. Should the equipment not be transferred to a new operator in accordance with this provision, the equipment shall either be returned to the DEEP for use for grant purposes or it shall be disposed in accordance with 50 CFR Part 85; and 2 CFR Part 200 as applicable and as adopted in regulation by 2 CFR 1402.100.
36. Non-Federal Match Documentation. The Contractor shall contribute at least 25% of the Total Project Cost as cost sharing or non-federal match. Such cost sharing or match may be provided as cash costs or third party in-kind services provided such services are reasonable and necessary for grant purposes. Allowability of any cost sharing or match shall be determined in accordance with 50 CFR Part 85; and 2 CFR Part 200 as applicable and as adopted in regulation by 2 CFR 1402.100. The Contractor shall maintain records that adequately document the valuation of non-federal match/in-kind services in accordance with 50 CFR Part 85; and 2 CFR Part 200 as applicable and as adopted in regulation by 2 CFR 1402.100. The Contractor shall submit a summary of the valuation to DEEP.
37. Program Income. Income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period is defined as program income per 50 CFR Part 85; and 2 CFR 200 as applicable and as adopted in regulation by 2 CFR 1402.100. Program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs. Program income that the subgrantee did not anticipate at the time of the award shall be used to reduce the Federal/State share and grantee contributions rather than to increase the funds committed to the project.
38. Allowable Costs. All costs charged by the Contractor and subcontractors must be eligible, necessary, and reasonable for performing the tasks outlined in the approved project work plan. The costs, including match, must be incurred during the period of performance of the project. The costs also must be allowable and well documented, in conformance with specific federal requirements (50 CFR Part 85; and 2 CFR Part 200 as applicable and as adopted in regulation by 2 CFR 1402.100. Applicable CFRs are located at the following websites:
<https://www.gpo.gov/fdsys/pkg/CFR-2015-title2-vol1/pdf/CFR-2015-title2-vol1-subtitleA-chapII.pdf>
<https://www.gpo.gov/fdsys/pkg/CFR-2015-title50-vol9/pdf/CFR-2015-title50-vol9-part85.pdf>
39. Entertainment Costs. In accordance with Circular A-122 (non-profits) and A-87 (State, Local, and Indian Tribal Governments) the cost of amusement, diversion, social activities, ceremonials, and costs relating thereto, such as meals, lodging, rentals, transportation, gratuities and alcoholic beverages are not allowable expenses.
40. Contract Work Hours and Safety Standards Act. If this Contract funds construction that exceed \$100,000.00 or other work that involves the employment of mechanics or laborers that exceeds \$2,500.00, the Contractor shall ensure that the wages of every mechanic and laborer shall be computed on the basis of a standard work week of 40 hours pursuant to sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. No laborer or mechanic shall be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. Information on the Contract Work Hours and Safety Standards Act can be found on the Department of Labor web-site at:
<https://www.dol.gov/whd/govcontracts/cwhssa.htm>.
41. Suspension and Debarment. The Contractor shall make no Contracts with parties listed on the General Services Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. The Contractor may access the Excluded Parties List System at <http://epls.arnet.gov/>. By signing this Contract the Contractor certifies that neither the Contractor nor its principal(s) are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
42. Copeland "Anti-Kickback" Act. (18 U.S.C. 874 and 40 U.S.C. 276c)—If this Contract is in excess of \$100,000.00 for construction or repair, the Contractor shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (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"). The Act provides that each Contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The Contractor shall include language requiring compliance with this provision in any subcontract awarding funds provided in this Contract in excess of \$100,000.00. The Commissioner shall report all suspected or reported violations to the U.S. Fish & Wildlife Service.
43. Certifications Regarding Lobbying. Byrd Anti-Lobbying Amendment: The Contractor shall not use any of the funds provided in this Contract to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following Federal actions:
- a. The awarding of any Federal contract.
 - b. The making of any Federal grant.
 - c. The making of any Federal loan.
 - d. The entering into of any cooperative agreement.

- e. The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. If this Contract is in excess of \$100,000.00 the Contractor and any subcontractors awarded funds from this Contract in excess of \$100,000.00 shall file the declaration required by 31 U.S.C. 1352 (b). Each tier certifies to the tier above that it will 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 contract, 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 Commissioner.
44. Drug Free Workplace. The Contractor shall provide a Drug Free Workplace in compliance with 41 USC Section 702. The Contractor agrees to make a good faith effort, on a continuing basis, to maintain a drug-free workplace as a condition for receiving federal funds under this Contract. The specific measures the Contractor must take in this regard are described in more detail in 43 CFR Part 43. Briefly, those measures are to:
- a. Publish a drug-free workplace statement and establish a drug-free awareness program for its employees (Sec. 43.205 through 43.220);
 - b. Take actions concerning employees who are convicted of violating drug statutes in the workplace (Sec. 43.225); and
 - c. Identify all known workplaces under its Federal awards (Sec. 43.230).
45. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended: — the Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). The Commissioner shall report violations to the Fish & Wildlife Service and the Regional Office of the Environmental Protection Agency (EPA).
46. Contractor Responsibility. The Contractor shall be responsible for the entire Performance under the Contract regardless of whether the Contractor itself Performs. The Contractor shall be the sole point of contact with DEEP concerning the management of the Contract, including Performance and payment issues. The Contractor is solely and completely responsible for adherence by the Contractor Parties to all applicable provisions of the Contract. The Contractor shall be the sole point of contact concerning the management of the Contract, including Performance and payment issues.
47. Provisions of Law Incorporated by Reference. Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted and made a part of this Contract and this Contract shall be read and enforced as though such provisions were incorporated into this Contract. For purposes of interpretation, conflict resolution and otherwise, the content of those statutes and regulations shall govern over the content of the reference in the Contract to those statutes and regulations.

APPENDIX A

SCOPE OF WORK

Purpose:

Operation and Maintenance of a Pumpout Vessel: To operate and maintain in good operating condition, one marine sewage pumpout vessel in the Niantic River and Niantic Bay for the 2021 calendar year boating season. Each such pumpout vessel shall be available at no-cost to the recreational boating public. Save the River – Save the Hills Inc. (the Contractor) shall administer a Pumpout vessel program which shall include: providing trained staff to operate the Pumpout vessel, maintaining the Pumpout vessel in good operating condition, and properly disposing of waste collected.

Definitions:

“Pumpout vessel” means one or more marine sewage pumpout boat(s) designed, purchased, installed, constructed, renovated, operated, repaired or maintained with these grant funds.

“Marine Sewage Disposal Facility” or “MSDF” means each and every pumpout facility designed, purchased, installed, constructed, renovated, operated, repaired or maintained with these grant funds, stationary pumpout units, portable pumpout units and dump stations.

Services: The Contractor agrees to provide the following services:

A. Operation and Maintenance of a Pumpout Vessel

1. **Administration:** The Contractor shall administer a Pumpout vessel program to provide at no charge convenient pumpout service utilizing a marine sewage Pumpout vessel in Waterford, CT. The boat must be used for the collection of vessel sewage only (no bilge or oily waste shall be collected).
2. **Disposal of Waste from the Pumpout Vessel:** The Contractor shall own, or have a written agreement with, one or more land based MSDF, allowing the Pumpout vessel to properly dispose of the waste material collected. In the case of a land based MSDF owned by the Contractor, the Contractor shall (1) obtain and maintain approval for increased flow to a publicly-owned treatment works (wastewater treatment plant); or (2) obtain and maintain a valid contract, with a schedule for the removal of sewage from a storage tank by a licensed septage hauler and for the transport and ultimate disposal of such septage at a municipal sewage receiving/treatment facility. A storage tank installed for the purpose of receiving and storing MSDF waste shall not be used to receive or store waste from any other source. In the event of a written agreement, a copy of such agreement must be filed with the DEEP prior to receiving reimbursement payments for any operations and maintenance costs.
3. **Signs and symbols:** The Contractor shall install and/or maintain signs/lettering on the boat clearly visible to boaters advertising the availability of the service and telephone number/radio frequency identifying how to contact the Pumpout vessel. Appropriate information signs shall be prepared, installed and maintained, restrictions, hours of operation, and a contact name and phone number to call. All such signs shall acknowledge that the facility was constructed, improved, operated or maintained with funds from the Clean Vessel Act and shall include logos acknowledging support of the Sport Fish Restoration Program and Clean Vessel Act. Logos are available from DEEP in electronic format upon request of the Contractor.

Suggested language for such acknowledgment is: "This pumpout vessel is operated and maintained with funds provided by the Connecticut Department of Energy & Environmental Protection, authorized by the Federal Clean Vessel Act." Contractor must obtain written approval from DEEP prior to distribution or publication of any printed material prepared under the terms of this contract.

4. **Public Access to Pumpout Vessel:** The Contractor shall allow all recreational vessels access to and service from any Pumpout vessel designed, purchased, constructed, renovated, operated, repaired, or maintained with these grant funds, for the full period of their useful life of the Pumpout vessel.
5. **Operations and Maintenance of Pumpout Vessel:** The Contractor shall safely operate and maintain any Pumpout vessel designed, purchased, constructed, renovated, operated, repaired, or maintained with such grant funds to function for the full period of their useful life and in a manner that provides adequate service, promotes use, and protects public health. Such operation shall include having trained personnel to operate the Pumpout vessel with all federally required safety equipment; provide and ensure appropriate personal protective equipment usage (such as gloves, eye protection, rubber boots, and personal flotation devices) and hand-washing facilities to protect the operator; and a schedule for maintenance. Reimbursable labor costs under this contract include only the actual time spent designing, constructing, renovating, operating, maintaining or repairing the Pumpout vessel and administering the program.

The Contractor shall provide a U.S. Coast Guard approved personal flotation device (PFD) to persons on board and require that persons on board wear an approved PFD at ALL times while performing their duties including on docks and customer vessels while vessels are being serviced. The PFD must properly fit each individual. Prior to each use, personal flotation devices shall be inspected for dry rot, chemical damage, or other defects which may affect their strength and buoyancy. Defective personal flotation devices shall not be used.

6. **Records:** The Contractor shall maintain written records of the use and maintenance of each Pumpout vessel operated and maintained with these grant funds over the full period of the useful life of each such Pumpout vessel. Such records shall include date, day of week, and number of gallons pumped for each use of each such Pumpout vessel; date and description of maintenance conducted; and the date, volume of sewage removed from a storage tank, the identity of the person(s) that removed and transports such sewage, and the identity and location of the facility to which such sewage was transported (See Appendix D). Such records shall be available to the DEEP promptly upon request.
 - a) The Contractor shall submit the records (See Appendix D) and invoice (See Appendix E) to the DEEP no later than January 15, 2022. During the period of this contract and any amendment thereto, such records shall also include a summary of payroll records documenting operations and maintenance activities.
 - b) Following expiration of this contract or any amendment thereto, the Contractor shall submit the records (See Appendix D) annually on or before January 15 of the following year for the useful life of each such Pumpout vessel.
7. **Completion of Project:** The Contractor shall complete all project elements as specified in the scope of work. Failure to implement the entire project within the agreed schedule may result in the recovery by DEEP of any funds paid to the Contractor under this agreement.
8. **Hours of Operation:** The Contractor shall operate the Pumpout vessel from May 23rd through September 4th, Friday through Monday and September 5th through October 24th, Saturday and Sunday from 9:00am to 5:00pm of each year, weather and safety permitting, unless DEEP

provides written permission specifically allowing otherwise, in response to a written request by the Contractor. Hours of operation must be clearly posted in informational material available to the public.

9. **Boating Accident Report:** All operators of vessels, including Pumpout vessels, involved in an accident must remain at the scene and assist any other vessel or person involved, if possible, without endangering their own vessel or the people aboard. The operator must also give his/her name, address and vessel identification number to the other operator(s) or owner of the damaged property.

Operators involved in a boating accident which results in any of the circumstances noted below shall ***immediately*** notify the nearest law enforcement agency with jurisdiction in the area and, ***not later than 48 hours after the accident***, report the matter on a form provided by the DEEP Boating Division.

- a) The death of any person from whatever cause.
- b) The disappearance of any person from on board.
- c) The injury of any person sufficient to require medical attention beyond simple first aid.

Any accident in which the total damages to all property affected is in excess of \$500 must be reported by the operator not later than ***5 days after the accident*** on forms provided by the DEEP. The form can be downloaded by visiting the DEEP website: www.ct.gov/deep/boataccidentreport. The operator of the vessel must make out the report, if they cannot do so, the vessel's owner or a survivor of the accident must initiate the report.

B. Generally Applicable Terms and Conditions

1. **Budget:** The Contractor may not exceed the budget which is included in this Contract (see Appendix C). If the Contractor would like to change or add additional funds to the original budget, such request must be sent in writing to Kate Brown, Department of Energy and Environmental Protection (DEEP) shall determine the availability of funding to cover the additional services. If funding is available, DEEP may award this contract accordingly.
2. **Fee charges:** The Contractor may not charge a fee for each use of the service funded with such grant funds. The Contractor shall make a good faith effort to promote use of the service funded with such grant funds, and is encouraged to include as part of this promotion the provision of free Pumpout. A fee shall not be charged without the prior approval of the DEEP.
3. **Compliance with statutes, regulations and permit requirements:** The Contractor shall maintain compliance with all relevant statutes, regulations and permit requirements. The Commissioner of the DEEP has the right to withhold funds if any service is found to be out of compliance with such statutes, regulations or permit requirements.
4. **Extensions/Amendments:** Formal written amendment of the contract is required for extensions to the final date of the contract period and to terms and conditions specifically stated in the original contract and any prior amendments, including but not limited to:
 - a) revisions to the maximum contract payment,
 - b) the total unit cost of service,
 - c) the contract's objectives, services, or plan,
 - d) due dates for reports,
 - e) completion of objectives or services, and
 - f) any other Contract revisions determined material by DEEP.

5. ADA Publication Statement:

For all public notices printed in newspapers, the following ADA and Title VI Publication Statement should be used:

The Connecticut Department of Energy and Environmental Protection is an Affirmative Action and Equal Opportunity Employer that is committed to complying with the Americans with Disabilities Act. To request an accommodation contact us at (860) 418-5910 or <mailto:deep.accommodations@ct.gov>

If there is not a meeting or event associated with the material(s) being published, the following ADA and Title VI Publication Statement should be used:

The Connecticut Department of Energy and Environmental Protection is an Affirmative Action/Equal Opportunity Employer that is committed to complying with the requirements of the Americans with Disabilities Act. Please contact us at (860) 418-5910 or deep.accommodations@ct.gov if you: have a disability and need a communication aid or service; have limited proficiency in English and may need information in another language; or if you wish to file an ADA or Title VI discrimination complaint.

If the material(s) being published have a meeting or event associated with them, the following ADA and Title VI Publication Statement should be used:

The Connecticut Department of Energy and Environmental Protection is an Affirmative Action/Equal Opportunity Employer that is committed to complying with the requirements of the Americans with Disabilities Act. Please contact us at (860) 418-5910 or deep.accommodations@ct.gov if you: have a disability and need a communication aid or service; have limited proficiency in English and may need information in another language; or if you wish to file an ADA or Title VI discrimination complaint. Any person needing a hearing accommodation may call the State of Connecticut relay number - 711. Requests for accommodations must be made at least two weeks prior to any agency hearing, program or event.

For videos that will be published on the DEEP website, the following ADA and Title VI statement and the following line should be included on the DVD cover and the title page of the video:

The Connecticut Department of Energy and Environmental Protection is an Affirmative Action and Equal Opportunity Employer that is committed to complying with the requirements of the Americans with Disabilities Act. To request an accommodation contact us at (860) 418-5910 or deep.accommodations@ct.gov.

This video with closed captioning is available at www.ct.gov/deep.

APPENDIX B
SCHEDULE OF PAYMENTS

The maximum amount payable under this Contract is twenty-nine thousand three hundred twenty-five dollars (\$29,325.00).

The payments by the Commissioner shall allow for use of funds to meet allowable financial obligations incurred in conjunction with this Project, prior to expiration of this Contract, and shall be scheduled as follows provided that the total sum of all payments shall not exceed the maximum Contract amount noted above.

- a) The contractor will be responsible to ensure the correct Appendix E Invoice is used (cash and non-cash) or (cash only).
- b) DEEP will pay contractor for amounts properly supported by invoices submitted by contractor not to exceed maximum amount stated in this Contract.
- c) Following completion of each year's boating season, but not later than January 15, 2022, the Contractor shall submit such documentation to:

Kate Brown
DEEP – Boating Division
P.O. Box 280, 333 Ferry Road
Old Lyme, CT 06371-0280

The DEEP shall review the Logs and Invoices and may, at its discretion, deny or reduce payment to the Contractor if the Logs or Invoice contains insufficient information or erroneous data. Expenses incurred prior to January 1, 2021 or contract execution (whichever comes later) will not be reimbursed nor can they be calculated as match toward the Reimbursement Amount.

APPENDIX C**Budget Information**

Contract/PSA #: 2021-30 **PO #:** _____
Vendor Name: Save the River - Sav **Program:** CVA
Contract Period: Upon execution - 12/31/2021
Please select/check only one Award Type:

Check "x" Below

Operation and Maintenance Costs Associated with a Land Based MSDF**X**Operation and Maintenance Costs Associated with a Pumpout Boat

Construction/Purchase/Installation of a New MSDF or Repair or Upgrade of an Existing MSDF
(including purchase or repair/upgrade of a pumpout boat)

Cost Categories	Funding Awarded (Federal Share) 75% of Total Budget	Match Budget (Non-Federal Share) 25% of Total Budget	Total Budget
Personnel:			
Administrative	\$ 6,375.00	\$ 2,125.00	\$ 8,500.00
Program	\$ 10,200.00	\$ 3,400.00	\$ 13,600.00
Contractual	\$ -	\$ -	\$ -
Operating	\$ 2,812.50	\$ 937.50	\$ 3,750.00
Boat Expenses	\$ 4,162.50	\$ 1,387.50	\$ 5,550.00
Equipment (including repairs & upgrades/purchases)	\$ 5,325.00	\$ 1,775.00	\$ 7,100.00
Sewage Waste Removal	\$ -	\$ -	\$ -
Supplies	\$ 450.00	\$ 150.00	\$ 600.00
Construction/Installation Cost	\$ -	\$ -	\$ -
Other	\$ -	\$ -	\$ -
Grand Total	\$ 29,325.00	\$ 9,775.00	\$ 39,100.00

Page ____ of ____

[illegible]

Facility Name: _____
Boating Season: _____
Page _____ of _____

Boating Season: _____

Page _____ of _____

D-2

Facility Name: _____
Boating Season: _____
Page _____ of _____

[illegible]

APPENDIX E

CVA Billing Form

Contract/PSA #: 2021-30 Request #: _____
Vendor Name: Save the River - Save the Hills Award Type: Operation and Maintenance Costs Associated with a Project Site
Period Through: _____ Invoice Date: _____

Form Terms:

1. Cash - Cash transactions refer to any payments made via cash, check, or credit card. Cash transactions also include payroll expenses.
2. Non-Cash - Non-cash transactions include donated material goods or volunteered time to provide services in support of CVA sponsored contract activities.

INSTRUCTIONS:

Handwritten Submissions:

1. If submitted as a handwritten form, ONLY the "INPUT" columns of Sections 1 and 2, and Section 5 are required for your completion. The final reimbursement amount will be calculated by DEEP.
2. Mail a signed hard copy of this form to Kate Brown (see address below) along with supporting documentation.

Electronic Submissions:

Section 1: Expense Report - Cash. This section is to be used to reimburse contractors for approved CVA expenses incurred and paid for according to your DEEP Executed Contract for CVA activity.

1. Please input in Column "B" ONLY to provide the total cost, per cost category, that you wish to be considered for reimbursement.

Please attach supporting documentation.

[Only expenses for cash transactions can be reimbursed using federal funding according to your approved budget. Expenses should be summed by Cost Category and entered on the form consistent with the approved budget line items contained in your executed contract. The form will calculate both the Match and Federal Share of expenses for all cash transactions by cost category.]

Section 2: Expense Report - Non-Cash. This section is to be used to report non-cash transactions. (If you do not have any non-cash transactions to report, please skip this section.)

1. Using Column "A", please list the non-cash goods/services received. (If you need more rows, please attach another form listing your additional non-cash items.)

2. Using Column "B", please enter the value of the respective good/service listed in Column "A".

Please provide supporting detail for non-cash transactions. Include names of individuals/organizations who donated materials or volunteered time (this may be attached,) along with the dates the goods/services were received.

*If preferred, you may enter the total value of all non-cash transactions on one row. Please be sure to attach the appropriate supporting detail.

Once Sections 1-2 are complete, your reimbursement amount will calculate automatically. If your reimbursement amount causes your cumulative reimbursements to exceed your federal budget, that excess amount will be applied to your match share.

Section 3: Budget Report. This section provides you with the budget of your contract and remaining balances based on current and previous reimbursement amounts. There is no need to enter anything into this section. Data will calculate automatically.

Section 4: Contract Budget Summary. This section summarizes all financial activity completed in Sections 1-3. The purpose of the contract budget summary is to compare expenses with approved budgets for the total federal expenses paid, and match contributions incurred for both cash and non-cash items. Once Sections 1-3 are completely filled out, all financial activity will be summarized accordingly in Section 4. Therefore, there is no need to enter anything into this section. It will calculate automatically.

Section 5: Certification.

1. Please read, sign and date this section.

ONCE YOU HAVE COMPLETED SECTIONS 1-5, PLEASE EMAIL THIS FORM TO KATE.BROWN@CT.GOV. PLEASE THEN PRINT AND ATTACH SUPPORTING DOCUMENTATION, WHICH CAN BE SENT TO:

Kate Hughes Brown
Navigation and Boating Infrastructure Unit, Boating Division
Department of Energy and Environmental Protection
333 Ferry Road, P.O. Box 280
Old Lyme, CT 06371
(p) 860.447.4340
(f) 860.434.3501

SECTION 1: Expense Report - Cash

Input Sheet: Please Provide Info Below in Columns B-D				Analysis of Allocable CVA Share				Adjustment(s)	
Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I	Column J
	INPUT			(FOR DEEP USE ONLY)				(FOR DEEP USE ONLY)	
	Please Enter Total Costs per Cost Category Below for Each Award Type				Formula - DO NOT INPUT (Col. B + Col. C + Col. D)	Formula - DO NOT INPUT (Col. F * 25%)	Formula - DO NOT INPUT (Col. F * 75%)	For DEEP Use Only - DO NOT INPUT	For DEEP Use Only - DO NOT INPUT
Cost Category	Total Costs - O&M Associated with a Land Based MSDF	Total Costs - O&M Associated with a Pumpout Vessel	Total Costs - Construction/ Purchase/ Installation/ Repair/ Upgrade		Total Costs	Match	Fed Share Reimbursement	Matched (material) based on additional non-cash transactions	Federal Share Reimbursement (material) based on non-cash transactions
Cash Costs:									
Administrative Personnel									
Current Request:					\$ -	\$ -	\$ -	\$ -	\$ -
Program Personnel									
Current Request:					\$ -	\$ -	\$ -	\$ -	\$ -
Contractual									
Current Request:					\$ -	\$ -	\$ -	\$ -	\$ -
Operating									
Current Request:					\$ -	\$ -	\$ -	\$ -	\$ -
Vessel Expenses									
Current Request:					\$ -	\$ -	\$ -	\$ -	\$ -
Equipment (including repairs & upgrades/purchases)									
Current Request:					\$ -	\$ -	\$ -	\$ -	\$ -
Sewage Waste Removal									
Current Request:					\$ -	\$ -	\$ -	\$ -	\$ -
Supplies									
Current Request:					\$ -	\$ -	\$ -	\$ -	\$ -
Construction/Installation Costs									
Current Request:					\$ -	\$ -	\$ -	\$ -	\$ -
Other									
Current Request:					\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal Cash Costs by Award Type									
Type	\$ -	\$ -	\$ -		\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal All Cash Costs									
					\$ -	\$ -	\$ -	\$ -	\$ -

SECTION 2: Expense Report - Non-Cash

Input Sheet: Please Provide Info Below in Columns A through D				(FOR DEEP USE ONLY)				(FOR DEEP USE ONLY)	
Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I	Column J
Non-Cash Transactions:				Allocation of Non-Cash Transactions:					
Description of Non-Cash Items / Date Received	Total Costs - O&M Associated with a Land Based MSDF	Total Costs - O&M Associated with a Pumpout Vessel	Total Costs - Construction/ Purchase/ Installation/ Repair/ Upgrade	Total	Match	Federal			
				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal Non-Cash Transactions				Subtotal	\$ -	\$ -	\$ -	\$ -	\$ -
Grand Total Cash and Non-Cash Transactions				Grand Total	\$ -	\$ -	\$ -	\$ -	\$ -
				Calculation of Reimbursement					
Notes:				Total Costs				\$ -	
1. Non-cash transactions include donated material goods or volunteered time to provide services in support of CVA sponsored contract activities.				Proposed Fed Share Based on 75% of Total Costs				\$ -	
2. Non-cash items can be reported as match, however, per federal regulations, they are not reimbursable. The federal cost share reimbursement must only be for cash expenses.				Actual Federal Reimbursement not to Exceed				\$ -	
				Total Cash Costs				\$ -	
				Reimbursement Amount				\$ -	

SECTION 3: Budget Report
(FOR DEEP USE ONLY)

	Total Budget	Match Budget	Prior Cumulative Match Billing	Current Match Billing	Total Match Billings Reported	Remaining Match Balance	Federal Budget	Prior Cumulative Federal Billing	Current Federal Billing	Total Federal Billings Reported	Remaining Federal Balance	Total Remaining Balance
Cash Costs:	\$ 39,100.00	\$ 9,775.00	\$ -	\$ -	\$ -	\$ -	\$ 29,325.00	\$ -	\$ -	\$ -	\$ -	\$ -
Non-Cash Costs:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Grand Total	\$ 39,100.00	\$ 9,775.00	\$ -	\$ -	\$ -	\$ -	\$ 29,325.00	\$ -	\$ -	\$ -	\$ -	\$ -

SECTION 4: Contract Budget Summary
(FOR DEEP USE ONLY)

	Non-Cash Match	Cash Match Share	Total Match	Federal Share - Cash	Total Reported
(A) Contract Budget:	\$ -	\$ 9,775.00	\$ 9,775.00	\$ 29,325.00	\$ 39,100.00
(B) Prior Cumulative Billing	\$ -	\$ -	\$ -	\$ -	\$ -
(C) Current Bill	\$ -	\$ -	\$ -	\$ -	\$ -
(D) Total Reported per Above	\$ -	\$ -	\$ -	\$ -	\$ -
(E) Remaining Balance (A-D)	\$ -	\$ 9,775.00	\$ 9,775.00	\$ 29,325.00	\$ 39,100.00
Cumulative Cost Share %					

SECTION 5: Certification

Certification: Funding provided through your Contract is received through the U.S. Fish and Wildlife Service, Clean Vessel Act Program, administered through Connecticut's Department of Energy and Environmental Protection - Boating Division. Funds awarded are restricted to be used solely for allowable costs and expenses as identified per the terms of your Contract. Any funding provided under the terms of your Contract are subject to audit and investigation by the Office of the Inspector General (OIG) and the State of Connecticut Attorney General's Office (AGO), as well as Connecticut's Department of Energy and Environmental Protection (DEEP). Any instances of potential fraud, waste, theft or abuse will be reported by DEEP to the OIG and the AGO's office for investigation and prosecution.

Upon submission of your reimbursement request, the Contractor shall affirm, by signing the form on the signature line provided, all of the following:

- The form is complete and accurate.
- All reported costs and expenses were used solely for allowable costs and expenses.
- All reported costs and expenses are supported with original receipts, invoices or other supporting documentation.
- There have been no instances of fraud, theft, waste, abuse, mismanagement or misconduct regarding the funds provided through this Contract.

Print Name and Title of Authorized Representative

Signature of Authorized Representative

Date

Signature of DEEP Authorized Representative

Date



Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations

This notice is provided under the authority of Connecticut General Statutes §9-612 (f) (2) and is for the purpose of informing state contractors and prospective state contractors of the following law (*italicized words* are defined on the reverse side of this page).

CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor*, with regard to a *state contract or state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder, of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall **knowingly solicit** contributions from the state contractor's or prospective state contractor's employees or from a *subcontractor or principals of the subcontractor* on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

DUTY TO INFORM

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

PENALTIES FOR VIOLATIONS

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—Up to \$2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to \$2,000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than \$5,000 in fines, or both.

CONTRACT CONSEQUENCES

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may result in the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information may be found on the website of the State Elections Enforcement Commission, www.ct.gov/seec. Click on the link to "Lobbyist/Contractor Limitations."

DEFINITIONS

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fundraising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee, serving on the committee that is hosting a fundraising event, introducing the candidate or making other public remarks at a fundraising event, being honored or otherwise recognized at a fundraising event, or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

"Subcontractor" means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty first of the year in which the subcontract terminates. "Subcontractor" does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a subcontractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has *managerial or discretionary responsibilities with respect to a subcontract with a state contractor*, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.



TOWN OF WATERFORD TRANSFER REQUEST FORM

Out of Series Transfer Request

10102 ROV

DEPARTMENT

Line No.	Org. Code	Object Code	Object Description	APPROVED Budget Amount	CURRENT Available Budget	ACCOUNT INCREASE	ACCOUNT DECREASE	REVISED Available Budget
1	51320		Election Activities	6,657.00	(302.25)	303.00		0.75
2	52050		Dues, Conference Education	1,110.00	950.00		(303.00)	647.00
3								0.00
4								0.00
5								0.00
6								0.00
7								0.00
8								0.00
9								0.00
10								0.00
								0.00
								0.00
TOTAL						303.00	(303.00)	

Explanation

Department Head
Kim Allen
Director of Finance

Date
12/15/21
Date

First Selectman

Date

Commission/Board Approval

Date



12/15/2021 13:02
kallen

Town of Waterford, CT
YEAR-TO-DATE BUDGET REPORT

P 1
glytdbud

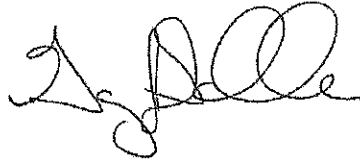
FOR 2022 13

ACCOUNTS FOR: 101 GENERAL FUND
ORIGINAL APPROP TRANS/ADJSMTS

	REVISD BUDGET	YTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	% USED
10102 REGISTRAR OF VOTERS					
10102 51010 ELECTED OFFICIALS					
47,848.00	47,848.00	23,923.56	0.00	23,924.44	50.0%
10102 51310 VOTER REGISTRATION					
3,500.00	3,500.00	1,496.50	0.00	2,003.50	42.8%
10102 51320 ELECTION ACTIVITIES					
6,657.00	6,657.00	6,959.25	0.00	-302.25	104.5%*
10102 51920 F.I.C.A.					
4,437.00	4,437.00	2,477.02	0.00	1,959.98	55.8%
10102 52010 ADVERTISING					
1.00	1.00	0.00	0.00	1.00	.0%
10102 52020 POSTAGE					
1,300.00	1,300.00	559.94	0.00	740.06	43.1%
10102 52040 SERVICE CONT. AND REPAIRS					
2,250.00	2,250.00	2,250.00	0.00	0.00	100.0%
10102 52050 DUES, CONFERENCES & EDUCAT					
1,110.00	1,110.00	160.00	0.00	950.00	14.4%
10102 52070 REIMBURSABLE EXPENSES					
885.00	885.00	107.89	0.00	777.11	12.2%
10102 52080 TELEPHONE					
1.00	1.00	0.00	0.00	1.00	.0%
10102 53020 OTHER SUPPLIES					
6,518.00	6,518.00	644.85	5,732.00	141.15	97.8%
10102 54180 VOTING MACHINES					
1.00	1.00	0.00	0.00	1.00	.0%
TOTAL REGISTRAR OF VOTERS					
74,508.00	74,508.00	38,579.01	5,732.00	30,196.99	59.5%
TOTAL GENERAL FUND					
74,508.00	74,508.00	38,579.01	5,732.00	30,196.99	59.5%
TOTAL EXPENSES					
74,508.00	74,508.00	38,579.01	5,732.00	30,196.99	

INTER-OFFICE MEMORANDUMTOWN OF WATERFORD

To: Kim Allen, Finance Director
From: Gary J. Schneider, Director of Public Works
Date: October 27, 2021
Re: Supplemental Facility Projects



The Department has identified the following items pertaining to our facilities. Items 1 are critical and funding is requested outside the budget cycle. If funds are not available, items 3 and 4 will be placed in the FY23 Capital Project request.

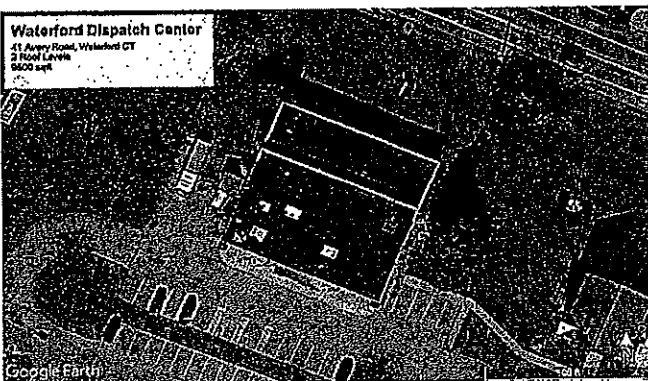
Public Safety Facility - \$409,400

1. Replacement of the HVAC Unit that services Fire Services \$50,000.
The Public Safety Building has 3 zones. The roof top unit that services the front of the building is in failure mode and in need of replacement. The existing unit is barely functioning and provides cooling and outside air exchanges. Plans and specifications have been prepared. Roof top units are long lead items. Placement in the FY 23 Capital Request is not recommended. The Unit needs to be replaced before the next cooling season.
2. Replacement of the Roof \$329,400
Installed in 1995, this roof is experiencing leaks which have increased over the years. Eight areas have been identified as wet and need to be addressed. The roof is nearing its life expectancy. The estimated cost to replace the roof is estimated at \$32/sf or \$305,000. Engineering fees are estimated at 8% of the construction cost or another \$24,400.
3. HVAC Building wide \$30,000
An evaluation of the building's HVAC system was completed for the Town in 2020. The report's findings were "due to the age and poor condition of the existing mechanical systems and equipment serving the Public Safety Complex, full system replacement is the recommended course of action". The Department is requesting funding of \$30,000 to prepare the design to a 30% level at which time cost estimates would be prepared for funding of final design and construction.

Town Hall and Youth Services Bureau - \$250,000

4. The Department has also identified the needs to recondition the elevators in Town Hall and Youth Services Bureau. In 2019, a review of each car was conducted. The elevators are the original cars installed in 1983. The only modification was the installation of the emergency phone in the Town Hall elevator. The project would involve installing new controllers, door operators, power units, solid state starters and minor finish work.

Location: Waterford Public Dispatch Center



GENERAL INFORMATION:

ROOF AREAS: 2 Roofing Sections
SQUARE FOOTAGE: 9400 square feet (approx.)
DATE INSTALLED: 1995 (est.)

ROOF COMPOSITION:

MEMBRANE: EPDM
INSULATION: Polyisocyanurate
DECK: Metal

Inspector Notes:

At this time the roof system overall is performing in poor to fair condition. We identified a total of (8) wet areas combined for 200square feet to be repaired. The perimeters and flashing terminations throughout the roof are becoming brittle, exposed reinforcements, and open causing leaks (some severe). There is also defective and unused equipment to be renewed or removed. Recommend immediate repairs & restoration.

RECOMMENDATIONS: Repairs & Restoration

Restoration Solutions

Tremco Inc. Representative: Michael Boudreau

Alpha Guard BIO Full Reinforced Roof Restoration: Powerwash all roofing areas clean if all debris & oils. Replace all found wet insulation areas and replace in kind. Remove all perimeter edge metals and defective membrane. Reinstall new metals and fully adhere new membranes. Apply Alpha Guard BIO Base coat to all roofing areas at 3gl/sq embedding reinforcements to all roofing areas. After initial coat has cured properly, install Alpha Guard Top coat at 2gl/sq to all roof surfaces to complete. Provide a 20year QA Watertight Warranty with inspections at years 2, 5, 10, & 15. On year 20, the Tremco Field Advisor will provide warranty extension or recoat solutions to prolong the existing roof system.

ROOF CATEGORY: Restoration and Replacement

BUDGET ESTIMATE:

Roof Name	Roof Square Feet	Restoration	Replacement
YEAR 2022			
1	6200	\$110,000	\$200,000
2	3200	\$54,000	\$105,000

Tremco Inc. Representative: Michael Boudreau

Town of Waterford, Connecticut

Evaluation of HVAC Systems Police Department and Public Safety Complex Buildings

41 Avery Ln,
Waterford, CT 06385

Final Report: January 10, 2020

Prepared by:



Silver/Petrucelli + Associates
Architects / Engineers / Interior Designers
3190 Whitney Avenue
Hamden, CT 06518

Waterford Public Safety Complex Evaluation of HVAC Systems

Date: 11/26/19
Job No.: 18.218

204 Boston Post Road
Owner: Town of Waterford

OPINION OF PROBABLE CONSTRUCTION COST OPTION #1

9,400 APPROXIMATE TOTAL NET SQUARE FOOTAGE (Area of Work)

SECTION NUMBER	WORK CATEGORIES/DESCRIPTIONS	QTY.	UNIT	MATERIAL & LABOR COST		TOTALS
				UNIT COST	TOTAL	
OTHER COSTS						
	Permit (0.5% of construction cost)	1	LS			\$2,809
	Bonds (1.5% of construction cost)	1	LS			\$8,383
	Insurance (0.25% of construction cost)	1	LS			\$1,897
				OTHER COSTS SUBTOTAL		\$12,580
DIVISION 20 DEMOLITION						
	Dumpsters	3	EA	\$1,000.00	\$3,000.00	\$3,000
				DIVISION 20 SUBTOTAL		\$3,000
DIVISION 23 HVAC/MECHANICAL						
	Demolition	1	LS		\$35,250.00	\$35,250
	Roof Top Units	1	LS		\$143,400.00	\$143,400
	Air Handling Unit with DX, Hot Water Duct Coil, VFD	1	LS		\$36,400.00	\$36,400
	Refrigerant Piping	1	LS		\$4,700.00	\$4,700
	Ductwork, Duct Insulation & Duct Accessories	1	LS		\$15,000.00	\$15,000
	VAV Terminal Units	1	LS		\$38,058.75	\$38,059
	Exhaust Fans	1	LS		\$9,400.00	\$9,400
	Underground Fuel Oil Storage Tank	1	LS		\$60,760.00	\$60,760
	Fuel Oil Piping - Interior & Exterior	1	LS		\$8,000.00	\$8,000
	Electronic Gauging & Leak Detection	1	LS		\$8,500.00	\$8,500
	Boilers	1	LS		\$42,000.00	\$42,000
	Hot Water System Pumps	1	LS		\$23,625.00	\$23,625
	Hot Water Piping, Pipe Insulation & Pipe Accessories	1	LS		\$8,500.00	\$8,500
	Hot Water Fin Tube Radiation	1	LS		\$28,500.00	\$28,500
	Controls	1	LS		\$47,000.00	\$47,000
	Duct Cleaning	1	LS		\$1,600.00	\$1,600
	Testing and Balancing	1	LS		\$10,000.00	\$10,000
	Crate Service	1	LS	\$5,000.00	\$5,000.00	\$5,000
				DIVISION 23 SUBTOTAL		\$574,489
DIVISION 26 ELECTRICAL						
	Demolition	1	LS		\$2,000.00	\$2,000
	Electrical wiring, conduits, connections, etc.	1	LS		\$12,000.00	\$12,000
				DIVISION 26 SUBTOTAL		\$14,000
DIVISION 31 EARTH MOVING						
	Earth Moving	1	LS		\$16,000.00	\$16,000
				DIVISION 31 SUBTOTAL		\$16,000
DIVISION 32 TURF & GRASS						
	Turf & Grass	1	LS		\$1,205.00	\$1,205
				DIVISION 32 SUBTOTAL		\$1,205
SUBTOTAL						\$574,489
CONTINGENCY						10.00% \$57,449
GEN. CONDITIONS						5.00% \$28,724
OVERHEAD						10.00% \$57,449
PROFIT						10.00% \$57,449
CONSTRUCTION TOTAL						\$725,560

SILVERI TRUCELLI & ASSOCIATES
Architects / Engineers / Interiors / Builders

2700 Whitney Avenue, Hamden, CT 06518
Tel 203 230-9600 Fax 203 230-9347
res@silveritrucelli.com



SILVER/PETRUCELLI & ASSOCIATES
 Architects/Engineers/Interior Designers
 3700 Whitney Avenue, New Haven, CT 06511
 Tel: 203 239-9900 Fax: 203 239-9341
 www.silverpetrucelli.com



Mr. Joseph P. Mancini
Director of Finance

Mr. Thomas W. Glard III
Superintendent of Schools

October 5, 2021

This request is for an appropriation in the amount of \$170,000 from Capital and Non-recurring designated line 20560-57822 IT Learning Boards. Please note that this request is asking for \$10,603 more than the estimate, as the vendor is giving indications of a price increase of 6.5%.

This request is for the fourth installment of the five part project to replace all of the learning boards in the Waterford Schools. The useful life on these systems is roughly 10 years. This is the last elementary school to have the IT Learning Boards installed.

In the elementary schools we are going with a solution from Promethean, this solution is essentially a very large IPAD with incredible software. At Great Neck we will be installing 33 of these systems throughout the school, this will be a replacement of the 11 year old promethean boards.

This work will be done late winter / early spring of 2022. Much like the high school turf field project where we are appropriating money yearly to pay for the large expense in a few years, for this project we are appropriating \$200,000 per year to cover all the schools. The remaining \$30,000 will not be requested until we begin the high school project in two years.

Respectively,


Joseph Mancini
Director of Finance



4.B. Right of Revision – Pro AV Systems has the right to revise this proposal if information was gained from site visits and other sources that were not available at the time this proposal was created.

4.C. Freight - Shipment fees are ground service only. If the customer requires expedited shipping, the additional fees will be prepaid and added to invoice(s).

4.D. Labor – Labor rates are quoted as regular rates that are non-prevailing wage rates and non-union rates. A change order can be processed for a job that requires the technician to be paid prevailing wage rates or require a union technician(s) to account for the difference in labor expenses.

4.E. Project Initiation Terms and Payments – Payment term details are described in the Proposal. A customer purchase order or signed proposal is required to begin the project. Invoices will be issued according to the terms outlined in the Proposal. For jobs requiring initial deposits, such deposit is due upon receipt of first invoice and no product will be ordered until the required deposit payment is received. All further invoice billing is due Net (30). Owner agrees that the terms outlined in these Contract Terms and Conditions take precedence over any other terms issued such as those that may be issued as part of a customer Purchase Order.

4.F. Credit Card Payments – Please note there will be a processing fee of 3.25% for payments made by credit card.

Section 5 – Warranty and Other

5.A. Warranty - Pro AV Systems warrants installed systems for a period of 90 days from date of acceptance or first beneficial use. During this time, Pro AV Systems will correct any problems at no charge. After the initial 90-day period, any additional service needs will be billed at the current service rate. To provide comprehensive coverage, Pro AV Systems offers extended warranty packages on all installed systems at an additional charge. All warranties do not cover misuse or abuse of the system components or issues caused by owner furnished equipment and interconnected systems provided by others. Interconnected systems include but are not limited to building network infrastructure, telephony (VOIP servers), fire alarms, paging, lighting, security, electrical systems and software. In the event that any of these systems are found to negatively effect the AV system performance, Pro AV Systems shall charge standard service rates on a time and materials basis (minimum 2 hours).

Extended Warranty Package

Pro Care – This warranty covers any and all defects or issues that your system could incur under normal use during the stated warranty period. This includes but is not limited to programming defects, hardware failures, workmanship, warranty processing and exchanges, and any labor required to restore the system to operational order. Hardware warranty replacements are based upon standard manufacturer warranties and replacement policies. Standard ground shipping is included. Standard response times apply.

5.B. Force Majeure – Neither Pro AV Systems or the customer will be responsible for delays that are outside the control of either parties, listed below:

1. Acts of Civil/Military Authorities
2. Floods/Fires/Epidemics or any other acts of God
3. Governmental Rules/Regulations
4. War/Riots
5. Delays in transportation
6. Shortages in raw materials/other products
7. Labor Disputes

5.C. Hours – All services will be provided during normal business hours unless otherwise specified in the proposal: Monday-Friday, 8:00am-5:00pm. National and State Holidays are excluded.

5.D. Suspension of Service Right – If the customer's payment(s) is past due, Pro AV Systems reserves the right to discontinue and/or modify any current or future service either temporarily or permanently.

5.E. Limitation of Liability – Pro AV Systems will not be responsible for any damages from delay of delivery, loss of revenue, data business or goodwill. Pro AV Systems will not be liable for any claim that arose more than one (1) year prior to the institution of suit therein.

Kimberly Allen

From: Kimberly Allen
Sent: Tuesday, April 13, 2021 10:16 AM
To: Ginny Bielucki
Subject: Journal Entry
Attachments: Xerox Scan_04132021095517.PDF

Ginny,

Attached is all the backup for the following journal entry.

77,730.56
Please move ~~\$73,832.04~~ from 10123-51410 to 23322-51410.
Please move ~~\$5,648.15~~ from 10123-51920 to 23322-51920.

5,946.39
Thank you.

Kimberly Allen
Finance Director
Town of Waterford
15 Rope Ferry Road
Waterford, CT 06385
kallen@waterfordct.org
860.444.5840
860.440.0579 (fax)



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Pro AV Systems
AUDIO VISUAL TECHNOLOGIES

Sales

Design

Install

74 Cotton Mill Hill
Suite 335
Brattleboro, VT 05301
www.proavsi.com

Prepared by: John Missale

Number: -040221JM
Modified: 4/2/2021
Revision: 0

Contract:
Pricing Valid for 30 Days

Great Neck E.S.

Great Neck Elementary School
15 Rope Ferry Rd
Waterford, CT 06385 United States
860-444-5801

Attention:
Ed Crane
ecrane@waterfordschools.org

Great Neck E.S. - 75" Promethean Height Adjustable Wall Mount - Budgeting Quote



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consent of Pro AV Systems, Inc.*



All Electrical and Network infrastructure to be provided by others unless otherwise noted



Classrooms 1

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
1	Pro AV Systems Miscellaneous - Parts Parts needed for a complete system - Raceway and Boxes - Terminations - Adapters - 90 degree corner - 5' Panduit	\$25.00
1	Pro AV Systems Installation - PW Installation Service for Complete System - OFE Systems Will Be Removed By Facilities And Cables Provided By School	\$525.00

Classrooms 1 Total: \$4,800.00

Classrooms 2

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
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Classrooms 2 Total: \$4,800.00



Classrooms 3

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
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Classrooms 3 Total: \$4,800.00

Classrooms 4

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
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Classrooms 4 Total: \$4,800.00



Classrooms 5

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
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Classrooms 5 Total: \$4,800.00

Classrooms 6

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
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Classrooms 6 Total: \$4,800.00



Classrooms 7

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight included	\$4,250.00
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Classrooms 7 Total: \$4,800.00

Classrooms 8

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight included	\$4,250.00
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Classrooms 8 Total: \$4,800.00



Classrooms 9

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
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Classrooms 9 Total: \$4,800.00

Classrooms 10

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Classrooms 10 Total: \$4,800.00



Classrooms 11

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Classrooms 11 Total: \$4,800.00

Classrooms 12

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
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Classrooms 12 Total: \$4,800.00



Classrooms 13

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Classrooms 13 Total: \$4,800.00

Classrooms 14

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Classrooms 14 Total: \$4,800.00



Classrooms 15

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Classrooms 15 Total: \$4,800.00

Classrooms 16

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Classrooms 16 Total: \$4,800.00



Classrooms 17

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Classrooms 17 Total: \$4,800.00

Classrooms 18

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Classrooms 18 Total: \$4,800.00



Classrooms 19

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Classrooms 19 Total: \$4,800.00

Classrooms 20

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Classrooms 20 Total: \$4,800.00



Classrooms 21

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Classrooms 21 Total: \$4,800.00

Classrooms 22

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
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Classrooms 22 Total: \$4,800.00



Classrooms 23

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
1	Pro AV Systems Miscellaneous - Parts Parts needed for a complete system - Raceway and Boxes - Terminations - Adapters - 90 degree corner - 5' Panduit	\$25.00
1	Pro AV Systems Installation - PW Installation Service for Complete System - OFE Systems Will Be Removed By Facilities And Cables Provided By School	\$525.00

Classrooms 23 Total: \$4,800.00

Classrooms 24

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
1	Pro AV Systems Miscellaneous - Parts Parts needed for a complete system - Raceway and Boxes - Terminations - Adapters - 90 degree corner - 5' Panduit	\$25.00
1	Pro AV Systems Installation - PW Installation Service for Complete System - OFE Systems Will Be Removed By Facilities And Cables Provided By School	\$525.00

Classrooms 24 Total: \$4,800.00



Classrooms 25

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
1	Pro AV Systems Miscellaneous - Parts Parts needed for a complete system - Raceway and Boxes - Terminations - Adapters - 90 degree corner - 5' Panduit	\$25.00
1	Pro AV Systems Installation - PW Installation Service for Complete System - OFE Systems Will Be Removed By Facilities And Cables Provided By School	\$525.00

Classrooms 25 Total: \$4,800.00

Classrooms 26

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
1	Pro AV Systems Miscellaneous - Parts Parts needed for a complete system - Raceway and Boxes - Terminations - Adapters - 90 degree corner - 5' Panduit	\$25.00
1	Pro AV Systems Installation - PW Installation Service for Complete System - OFE Systems Will Be Removed By Facilities And Cables Provided By School	\$525.00

Classrooms 26 Total: \$4,800.00



Classrooms 27

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
1	Pro AV Systems Miscellaneous - Parts Parts needed for a complete system - Raceway and Boxes - Terminations - Adapters - 90 degree corner - 5' Panduit	\$25.00
1	Pro AV Systems Installation - PW Installation Service for Complete System - OFE Systems Will Be Removed By Facilities And Cables Provided By School	\$525.00

Classrooms 27 Total: \$4,800.00

Classrooms 28

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
1	Pro AV Systems Miscellaneous - Parts Parts needed for a complete system - Raceway and Boxes - Terminations - Adapters - 90 degree corner - 5' Panduit	\$25.00
1	Pro AV Systems Installation - PW Installation Service for Complete System - OFE Systems Will Be Removed By Facilities And Cables Provided By School	\$525.00

Classrooms 28 Total: \$4,800.00



Classrooms 29

- | | | |
|---|--|------------|
| 1 | Promethean 75" Display With Height Adjustable Wall Mount/Floor Support | \$4,250.00 |
| | ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included | |
| | ActivInspire Professional Edition available FOC | |
| | Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 | |
| | Freight Included | |
| 1 | Pro AV Systems Miscellaneous - Parts | \$25.00 |
| | Parts needed for a complete system | |
| | - Raceway and Boxes | |
| | - Terminations | |
| | - Adapters | |
| | - 90 degree corner | |
| | - 5' Panduit | |
| 1 | Pro AV Systems Installation - PW | \$525.00 |
| | Installation Service for Complete System - OFE Systems Will Be Removed By Facilities And | |
| | Cables Provided By School | |

Classrooms 29 Total: \$4,800.00

Classrooms 30

- | | | |
|---|--|------------|
| 1 | Promethean 75" Display With Height Adjustable Wall Mount/Floor Support | \$4,250.00 |
| | ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included | |
| | ActivInspire Professional Edition available FOC | |
| | Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 | |
| | Freight Included | |
| 1 | Pro AV Systems Miscellaneous - Parts | \$25.00 |
| | Parts needed for a complete system | |
| | - Raceway and Boxes | |
| | - Terminations | |
| | - Adapters | |
| | - 90 degree corner | |
| | - 5' Panduit | |
| 1 | Pro AV Systems Installation - PW | \$525.00 |
| | Installation Service for Complete System - OFE Systems Will Be Removed By Facilities And | |
| | Cables Provided By School | |

Classrooms 30 Total: \$4,800.00



Classrooms 31

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
1	Pro AV Systems Miscellaneous - Parts Parts needed for a complete system - Raceway and Boxes - Terminations - Adapters - 90 degree corner - 5' Panduit	\$25.00
1	Pro AV Systems Installation - PW Installation Service for Complete System - OFE Systems Will Be Removed By Facilities And Cables Provided By School	\$525.00

Classrooms 31 Total: \$4,800.00

Classrooms 32

1	Promethean 75" Display With Height Adjustable Wall Mount/Floor Support ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included ActivInspire Professional Edition available FOC Adjustable Wall Mount System with Floor Support for use with ActivPanel 75" and 86 Freight Included	\$4,250.00
1	Pro AV Systems Miscellaneous - Parts Parts needed for a complete system - Raceway and Boxes - Terminations - Adapters - 90 degree corner - 5' Panduit	\$25.00
1	Pro AV Systems Installation - PW Installation Service for Complete System - OFE Systems Will Be Removed By Facilities And Cables Provided By School	\$525.00

Classrooms 32 Total: \$4,800.00



Mobile

1	Promethean 75" Display Mobile	\$3,948.00
	ActivPanel Nickel 75" - 1 x Pen, Vesa Mount, WIFI Module & cable pack included	
	ActivInspire Professional Edition available FOC	
	Fixed Height Mobile Display Stand/Cart for use with ActivPanel	
	Side Mounted Laptop Shelf for use with Promethean Display Stand Systems	
	Freight Included	
1	Pro AV Systems Installation - PW	\$450.00
	Installation Service for Complete System - OFE Systems Will Be Removed By Facilities And Cables Provided By School	

Mobile Total: \$4,398.00

Professional Development

1	Promethean PROFDEV	\$999.00
	On Site Face-To-Face Full Day	

Professional Development Total: \$999.00

Trash - Recycling

1	Pro AV Systems Misc Expense	\$400.00
	Misc Expense - 15 Yard Roll Off Dumpster	

Trash - Recycling Total: \$400.00

Project Subtotal: \$159,397.00



Project Summary

Equipment:	\$142,147.00
Unassigned Labor:	\$17,250.00
Grand Total:	\$159,397.00

Payment Schedule

	Amount	Due Date
Initial Invoice Upon Equipment Ordered (Due Prior to Install)	\$111,577.90	
Final Invoice Upon Completion (NET 30)	\$47,819.10	

Acceptance:

I hereby state that I am an authorized representative to approve the purchase and acceptance of the items quoted in the attached documentation along with the above payment terms.

Name:

Title:

Signature:

Date:



PRO AV SYSTEMS RESPONSIBILITIES: *The following items are required by Pro AV Systems:*

1. Pro AV Systems will install all equipment in accordance with the manufacturers' specifications, national and local regulation ordinances and codes, including all OSHA guidelines. Unless specifically stated, all work will be performed during the normal working hours of Monday through Friday, between 8:00AM and 5:00PM, except for recognized holidays.
2. Pro AV Systems staff and contractors will conduct themselves in a professional, courteous manner, maintaining a clean-cut appearance and acceptable dress. All Pro AV Systems staff is expected to check in and out with you or an assigned contact at the beginning and end of the workday.
3. Pro AV Systems staff will maintain a clean and safe work environment. All unused materials, containers, tools and equipment will be removed whenever possible. Pro AV Systems will take precautions to protect all floors, walls, windows and other surfaces from stains, marring or other damage.
4. Pro AV Systems cannot be responsible for the operation, performance or warranty of equipment outside this contract. Pro AV Systems does not warrant that equipment supplied by others can be connected or will function properly except as specified by the project documentation.
5. Pro AV Systems will provide customer with all operation manuals and warranty documents.
6. Pro AV Systems will acquire, assemble, deliver and test all specified equipment and components to provide you with a fully functional system.

CUSTOMER RESPONSIBILITIES: *The following items are required by the Customer:*

1. Customer to provide a 120 VAC circuit to all specified equipment locations. These circuits should not be "shared" with other items, such as lighting, phone systems, etc.
2. Customer to provide all computer equipment and peripheral cables (mouse and keyboard cables), designated as OFE or "provided by others" if required.
3. Pro AV Systems strongly recommends that all electrical circuits supplying power to the system originate from the same power panel and phase. Pro AV Systems will take precautions to prevent hum or distortions created by ground differential, electromagnetic or electrostatic fields and to supply adequate ventilation to all equipment as specified by the manufacturer. Pro AV Systems will notify you of any hum or distortions beyond our control caused by interference with the building structure, electrical or existing equipment and advise you of the alternatives to alleviate the problem. Pro AV Systems will advise you of any unsatisfactory operating condition due to temperature, humidity, ventilation, mechanical structure or other safety concern.
4. Pro AV Systems assumes no responsibility for, and will not perform any work related to, electrical wiring (120 VAC and above).
5. Any additional work not listed in the original scope of work (per customer RFP) will require a Change Order.
6. All network configurations for any equipment connected to the customer network including but not limited to QOS, VLAN, Routing, Firewalls, Multicast, IGMP.
7. All server configurations if required for Active Directory, Exchange, O365, Azure AD, MS Teams, Zoom.
8. Software licenses or accounts required for an operational system including but not limited to Zoom Rooms and Teams Rooms.

TERMS & CONDITIONS:

Section 1 – Proposal Description

1.A. Proposal Description - The project description and specific work to be performed by Pro AV Systems is contained in the document and from herein referred to as the Proposal.

1.B. Proposal Documents - All work covered by this Proposal shall be contained in the Proposal documents including any special provisions, specifications, drawings, addenda, change orders, written interpretations and written orders. Work not covered by contract documents will not be required unless required by reasonable inference as being necessary to produce the intended result. The costs associated with any related work or materials, including, but not limited to electrical, drywall, painting, cabinets etc. are not included unless specifically documented in the Proposal.

Project Name: Great Neck E.S. - 75" Promethean Height
Adjustable Wall Mount - Budgeting Quote
Project No.: 040221JM

4/2/2021

Page 21 of 23



1.C. Proposal Changes - The owner may order changes, additions or modifications without invalidating the contract. Such changes must be in writing and signed by the owner. Pro AV Systems will provide the owner in writing the amount of additional costs or reductions resulting from changes ordered within 15 working days unless this requirement is waived in writing by owner. Change Orders shall be paid in full upon acceptance of change and shall not alter the contract's payment schedule. In the case of product unavailability or discontinuation, Pro AV Systems reserves the right to substitute equipment of equal or better quality with owner approval. Pro AV Systems will be held blameless in the case of product unavailability or discontinuation.

Section 2 - General Facility Conditions

2.A. Room Availability - Rooms in which installation is occurring should be made available for the exclusive use of Pro AV Systems during the day(s) of scheduled installation. The room will be available during normal working hours (M-F, 8:00am-5:00pm) in eight (8) continuous hour segments. Any delay in schedule that is due to limited access or client usage that results in a return trip by the technician(s) will be subject to an additional expense charge.

2.B. Electrical Outlets and Pathways - Before audiovisual equipment is installed, the customer will need to provide the following requirements: electrical outlets, floor boxes, conduits and core drills in areas according to specification. Additionally, all power runs are to be clean and properly grounded. All electrical work pertaining to the audiovisual system will need to run on one phase and be installed to code (NEC). Pro AV Systems is not responsible for installing any conduit, floor boxes, trenches or other appurtenances associated with high voltage (120vac and over) equipment.

2.C. Structural Vibrations - Ceiling, walls and floors as well as all other building structures that support audiovisual equipment are to be vibration free. At an additional cost, dampening devices can be made available if needed.

2.D. Furniture - Furniture is to be removed prior to construction. If certain furniture cannot be removed, then it will need to be covered and protected sufficiently by the customer.

2.E. Ceiling Tiles - The customer is to provide extra ceiling tiles of the same pattern and patch number in any room where suspended ceiling tiles are already installed. Ceiling tiles are assumed to be either 2'x2' or 2'x4' in dimension. Other tile sizes may require additional cost for mounting solutions in the form of a change order.

2.F. Merchandise Ownership & Storage - The customer is to provide extra ceiling tiles of the same pattern and patch number in any room where suspended ceiling tiles are already installed in the event of accidental damage or installation requirement. Ceiling tiles are assumed to be either 2'x2' or 2'x4' in dimension. Other tile sizes may require additional cost for mounting solutions in the form of a change order.

2.G. Exclusion - The following items are not covered under this agreement and may be subject to additional costs:

1. Acts of Nature: Such as water damage and/or damages caused by fire
2. System abuse or misuse that is determined by Pro AV Systems.
3. User errors - Problems caused by unacceptable connection of equipment, determined by Pro AV Systems.
4. Shipping - Expedited shipping for accelerated time lines or repaired parts.
5. Accessories - Hardware, software and/or accessories not provided or sold by Pro AV Systems.

Section 3 - Existing Equipment

3.A. Documentation - When integrating and/or installing pre-existing equipment into a new system, the customer is asked to provide any documentation that may be required to complete a proper installation. This may include any available source control code or drawings.

3.B. Good Working Order - Pro AV Systems is not responsible for any damage of existing hardware/equipment. The project may be delayed, or a change order may be required if any defective material is found.

3.C. Customer Hardware and Software - Pro AV Systems will not load software of any kind on the customers' computer. Unless stated otherwise, the customer is responsible for all Internet connectivity and computer hardware. In addition, the customer is responsible for the installation of computer software and drivers, all LAN provisioning, switches, network connections, and routers. Customer is required to install all operating systems and systems integration that is needed to run the installed interactive or other hardware devices and display equipment.

3.D. Owner Furnished Equipment - If owner is providing equipment (OFE) that Pro AV Systems is required to install, configure and/or control in order to provide a functional system, Pro AV Systems reserves the right to charge additional labor hours if the OFE equipment does not perform as originally specified at the time of Proposal acceptance or according to the manufacturer specification.

Section 4 - Schedule, Payments and Business Terms

4.A. Delays and Postponements - Regarding schedule completion of the job, time is of the essence. If Pro AV Systems is delayed at any time in the process of the work by owner change orders, construction delays, delivery delays, fire, project postponement, unavoidable casualties and/or other causes beyond the control of Pro AV Systems, the completion schedule for the Proposal shall be extended at a minimum by the same amount of the time caused by the delay.

John R. Morgan
7 West Strand Road
Waterford, Connecticut 06385

December 15, 2021

First Selectman Robert J. Brule
15 Rope Ferry Road
Waterford, Connecticut 06385

Dear First Selectman Brule,

I am writing to express my concern over the recently placed obstruction of access along the coastline between the beach east of the Seaside and the Seaside itself.

I am involved with a host of other property owners whose deeded rights are manifestly infringed upon by this choice of fencing. Please see the attached Notice of Infringement to the State's Tuberculosis Commission, dated July 26, 1937 and placed in the Waterford Land Records October 6, 1938, and note, in particular, the line:

"We wish to call your attention to this infringement of beach rights . . . in order to protect our interests in the future, and in order that in case of further purchases of land in this direction, our beach rights may be considered."

This Notice was signed by my maternal grandmother, Damaris (Brooks) Getchell, and nine of her ten then-living siblings, all taxpaying landowners on what is now West Strand Road. It refers to a deed granted in 1881 by their grandfather, Ezekiel Brooks, to his twin brother, Ephraim Brooks, reserving the legal right of "leaving the beach undivided" in the area where the State intended to built the current wall.

Not incidentally, every parcel owned by my grandmother and her siblings remains owned and, in all but three cases, occupied by one of their direct descendants. In fact, I live in her house and am raising my two sons here. From my grandmother to her grandfather, this matter has involved generations of a Waterford Great Neck lineage that extends, on these same properties, back to James Rogers in the 1660s.

The attached maps from 1920 of the Estate of Ephraim Brooks identifies his five children and their division of parcels inherited from him. Interestingly, Emma (Brooks) Hempstead, whose waterfront parcel was sold to the State in 1931, is the direct ancestor of Waterford's Corbeil family--another local legacy connection.

While all of the above provides the underpinnings for legacy and sentimentality regarding long recognized and respected rights of waterfront access across the line between personal and State properties, it also informs the following legal considerations:

- The Notice of Infringement clarifies a controlling, deeded principle of continuing a pre-existing free access that has prevailed ever since, albeit with walking across a stone jetty;
- Under Connecticut law, a right-of-way for continued use by prescriptive easement may be acquired as an "adverse use" if "the use has been continued uninterrupted for fifteen years" (C.G.S. Chapter 822, Sec. 47-37);
- Under the legal concept of "tacking," a change of ownership does not reset the fifteen-year clock for adverse use for either a property owner or a claimant; and
- Nothing exists in the Waterford Land Records, by either the State or the adjacent owner, countering the rights asserted in this Notice of Infringement in the 83 years since its recording.

My understanding of the current status of this fencing is that the personal interest of a single new owner of the property adjacent to the Seaside is positioned to violate, with Town support, at least one Waterford family's legacy interest in waterfront access along the beach to the Seaside.

But this matter is not just an affront to those with Brooks/Rogers bloodlines.

I am writing to you in the hopes that you will see that the interest of the greater public will be best served now and in the future by lending your clear support to all 20,000 or so Waterford residents over a single property owner in order that the public retain its uninterrupted use of what it has come to expect: to walk in either direction between the Seaside and Harkness, two great State parks, along a matchless stretch of open sand along the clearest ocean-fed waterfront in all of Connecticut.

Your legacy as First Selectman will include public awareness of whether you stood for all residents and the greater public, or supported one owner's move to squelch a longstanding public right.

Will present and future generations be blocked from safe, easy access to the Seaside on your watch?

Should the State declare its Seaside waterfront restricted, it would be within the power of the State to bar access. However, until and unless the State does so, the sort of fencing under consideration is governed exclusively by private ownership rights and Town judgments of permitted fencing.

Regardless, the public interest in access along the waterline to the Seaside is paramount here, and unless the State uses its power to exclude the public from the Seaside property, the continued, customary use that has been in existence for over ten generations alone in my family line must prevail.

It makes me heartsick to think that I am living to see the probable termination of the deed-protected use of a section of beach area that I have enjoyed as a family birthright since I was a toddler.

It further saddens me that my teenage sons may yet see a rare piece of family heritage treated as insignificant by our Town, and thereby serve as an example that at our Town Hall, money trumps legacy (and legal rights) because, well, "that's progress."

I firmly believe the judgment of the courts would be in favor of letting the current property owner know that any fencing cannot restrict the general public from enjoying its longstanding waterfront access to the Seaside property.

In the unlikely event the court deems there are grounds for a public restriction, I still believe it would apply the facts above to grant a prescriptive easement to the current owners of the properties owned by those who signed the Notice of Infringement for continued, unobstructed use.

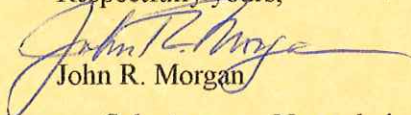
Regardless, I am confident that the public at large would be outraged to find its longstanding rights were summarily revoked.

Please let me know that you support safe, easy access to the Seaside for the public over the precedent of squelching existing public and private rights along our waterfront for an adjacent property owner.

I look forward to hearing your thoughts on how to resolve this to everyone's satisfaction, including your office's requesting proposals by the State to redesign the Seaside wall, as it has several times since the 1930s, in a way that not only accommodates proper access rights, but also ensures that the adjacent owner's privacy and insurance liability concerns are met.

At a minimum, until these issues are resolved, including those involving the State as both the owner of the Seaside property and through the oversight of its Department of Energy and Environmental Protection (DEEP), the Town should deny any application for a permit to erect any fencing that restricts access along the waterfront to the Seaside's beach as required by the Town's Zoning Regulation 25.4.2 (a.) 4.

Respectfully yours,


John R. Morgan

cc: Selectwomen Nazarchyk and Sabilia, Brechin Morgan, Laura (Morgan) Peterson, Scott Morgan, Susan and John McGuire, Mildred Condinio, Bruce Klug, Joel Stocker, Walter Whitesides, Jan Burdick, Pam Maxson, Teresa Johnson, Page Tyler, Alan and Colette Skinner, Mark Briggs, Jim Fetrow, Gillian Beebe, George Ulrich

recorded by

Frederick T. Davis
Asst. Town Clerk.

NOTICE OF INFRINGEMENT

Waterford, Conn.

July 26, 1937.

The Tuberculosis Commission
of the State of Connecticut,
Hartford, Conn.

Gentlemen,

It has recently come to our attention that in a deed of 1881 of Ezekiel Brooks to Ephraim Brooks (Land Records, Town of Waterford, Book 17, page 432), the following right was reserved: "leaving the beach undivided, reserving the privilege of dividing sea weed or other things on the beach".

It seems that the State purchased, at the eastern side of Sanitarium property in the town of Waterford, a 70 foot strip of land once owned by Ephraim Brooks and included in the deed above referred to. A Jetty was then built, including a wall which extends well above high water mark, thus apparently dividing the beach.

We wish to call your attention to this infringement of beach rights, as it seems to us, in order to protect our interests in the future, and in order that in case of further purchases of land in this direction, our beach rights may be considered.

This is done most respectfully by the heirs and assigns of Ezekiel Brooks.

Jessie W. Osier
Nancy Brooks Burdick
Albert Henry Brooks
Mattie H. Tracy
Martha E. Baker
Damaris B. Getchell
Mary D. Sanctuary
Phoebe E. Briggs
James T. Brooks
Le Roy D. Brooks

Received for record October 6, 1938 at 2:00 o'clock P.M. and

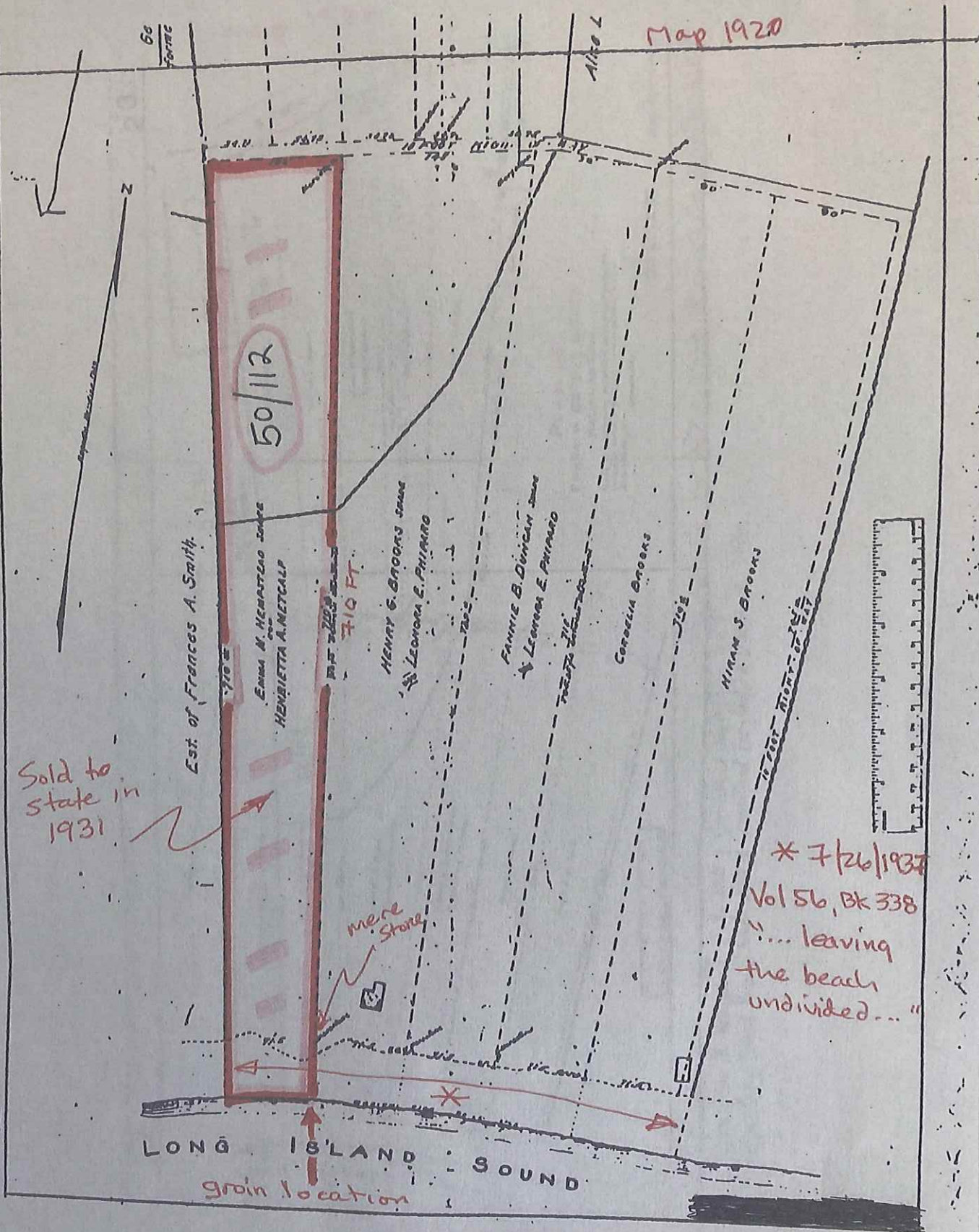
recorded by

Frederick T. Davis
Asst. Town Clerk.

QUIT CLAIM DEED

TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE, That I, J. Taylor Douglas of the Town of Waterford, County of New London, State of Connecticut, for the consideration of one dollar (\$1.00) and other valuable considerations, received to my full satisfaction of Laura S. ...



[illegible]

grain location

50/112 Emma M. Hemmstead to the State of Connecticut (why Dad?) d 8-5-31
52/180 George Vincent Rogers to the State of Connecticut (why Dad?) d 6-27-36 R 7-1-36

**MINUTES
BOARD OF SELECTMEN
Regular Meeting
December 7, 2021
5:00 P.M.
Waterford Town Hall (APPLEBY ROOM)**

RECEIVED FOR RECORD
DEC 10 2021
PM 4:17
TOWN CLERK

(Procedural Action: Check register to be signed by Board of Selectmen in accordance with CGS 7-83)

Members Present: First Selectman Robert Brule, Selectwoman Elizabeth Sabilia and Selectwoman Jody Nazarchyk

1. **Call to Order & Roll Call-** First Selectman Brule called the meeting to order at 5:00pm
2. **Pledge of Allegiance**
3. **Public Comment: N/A**
4. **First Selectman's Office:** To consider and act on a recommendation from the First Selectman, Rob Brule, to approve the adoption of the Waterford Community Park Master Plan (dated October, 2021).

MOTION by Nazarchyk, and seconded by Sabilia, VOTING IN FAVOR:
unanimous **VOTE:3-0**

5. **First Selectman's Office:** To consider and act on a recommendation from the First Selectman, Rob Brule, to dissolve the Waterford Town Center Development Ad-Hoc Committee.

MOTION by Nazarchyk, and seconded by Sabilia, VOTING IN FAVOR:
unanimous **VOTE:3-0**

6. **Public Works:** To consider and act on a request for an In Series Transfer from the Director of Public Works, Gary Schneider, in the amount of \$65,000.

MOTION by Nazarchyk, and seconded by Sabilia, VOTING IN FAVOR:
unanimous **VOTE:3-0**

7. Library: To consider and act on a request for an Out of Series Transfer from the Director of the Waterford Library, Chris Johnson, in the amount of \$2000, and forward to the Board of Finance.

MOTION by Nazarchyk, and seconded by Sabilia, VOTING IN FAVOR:
unanimous **VOTE:3-0**

8. Appointments and Resignations:

8a. To consider and act on the appointment of Rob Brule, First Selectman to the Retirement Commission to fill the term from 12/01/2021 -12/1/2022.

MOTION by Nazarchyk, and seconded by Sabilia, VOTING IN FAVOR:
unanimous **VOTE:3-0**

9. Correspondence:

9a Letter from Carolyn Battista

9b. Waterford Economic Development Commission-Cannabis Policy Recommendations

10. New Business:

10a. Further information **9b**

November 14th Planning and Zoning Commission-Cannabis Policy

11. Consent Agenda

11a. Tax refund-NA

11b. Minutes November 16, 2021-APPROVED

14. Adjournment- was made by Ms. Nazarchyk and seconded by Sabilia to adjourn at 6:10pm. VOTING IN FAVOR; unanimous, **VOTE:3-0**

Respectfully Submitted,



Cindy Dupointe
Recording Secretary

