

**NATIONAL OPIOID ABATEMENT**

**TRUST II AGREEMENT**

**Dated as of June 16, 2022**

*Pursuant to the Debtors' Fourth Amended Joint Chapter 11  
Plan of Reorganization (with Technical  
Modifications) Dated February 18, 2022*

**NATIONAL OPIOID ABATEMENT TRUST II AGREEMENT**

**TABLE OF CONTENTS**

	<u>Page</u>
<b>ARTICLE 1 AGREEMENT OF TRUST .....</b>	<b>2</b>
Section 1.1 Creation and Name .....	2
Section 1.2 Purposes .....	3
Section 1.3 Transfer of Assets .....	4
Section 1.4 Acceptance of Assets .....	4
Section 1.5 NOAT II Beneficiaries .....	5
Section 1.6 Jurisdiction .....	6
<b>ARTICLE 2 POWERS AND TRUST ADMINISTRATION.....</b>	<b>6</b>
Section 2.1 Powers .....	6
Section 2.2 General Administration.....	9
Section 2.3 Accounting.....	10
Section 2.4 Financial Reporting.....	10
Section 2.5 Opioid Abatement Reporting.....	10
Section 2.6 Beneficiary Reporting.....	11
Section 2.7 Limitation of the Trustees' Authority.....	12
<b>ARTICLE 3 ACCOUNTS, INVESTMENTS, ADMINISTRATIVE EXPENSES .....</b>	<b>12</b>
Section 3.1 Accounts.....	12
Section 3.2 Investment Guidelines .....	12
Section 3.3 Payment of NOAT II Operating Expenses .....	13
<b>ARTICLE 4 ABATEMENT DISTRIBUTIONS.....</b>	<b>13</b>
Section 4.1 Abatement Distributions .....	13
Section 4.2 Manner of Payment of Abatement Distributions.....	13
Section 4.3 Delivery of Abatement Distributions.....	14
<b>ARTICLE 5 TRUSTEES AND DELAWARE TRUSTEE.....</b>	<b>15</b>
Section 5.1 Number of Trustees; Managing Trustee.....	15
Section 5.2 Term of Service, Successor Trustees.....	15
Section 5.3 Trustee Meetings.....	17
Section 5.4 Compensation and Expenses of Trustees.....	18
Section 5.5 Trustees' Independence.....	18
Section 5.6 Standard of Care; Exculpation.....	19
Section 5.7 Protective Provisions.....	20
Section 5.8 Indemnification.....	20

<b>Section 5.9</b>	<b>Bond</b> .....	<b>21</b>
<b>Section 5.10</b>	<b>Delaware Trustee</b> .....	<b>21</b>
<b>Section 5.11</b>	<b>Meeting Minutes; Rights of Inspection</b> .....	<b>24</b>
<b>ARTICLE 6 GENERAL PROVISIONS</b> .....		<b>24</b>
<b>Section 6.1</b>	<b>Irrevocability</b> .....	<b>24</b>
<b>Section 6.2</b>	<b>Term; Termination</b> .....	<b>24</b>
<b>Section 6.3</b>	<b>Taxes</b> .....	<b>25</b>
<b>Section 6.4</b>	<b>Modification</b> .....	<b>26</b>
<b>Section 6.5</b>	<b>Communications</b> .....	<b>27</b>
<b>Section 6.6</b>	<b>Severability</b> .....	<b>27</b>
<b>Section 6.7</b>	<b>Notices</b> .....	<b>27</b>
<b>Section 6.8</b>	<b>Successors and Assigns</b> .....	<b>28</b>
<b>Section 6.9</b>	<b>Limitation on Transferability; NOAT II Beneficiaries' Interests</b> .....	<b>28</b>
<b>Section 6.10</b>	<b>Exemption from Registration</b> .....	<b>29</b>
<b>Section 6.11</b>	<b>Entire Agreement; No Waiver</b> .....	<b>29</b>
<b>Section 6.12</b>	<b>Headings</b> .....	<b>29</b>
<b>Section 6.13</b>	<b>Governing Law</b> .....	<b>29</b>
<b>Section 6.14</b>	<b>Dispute Resolution</b> .....	<b>30</b>
<b>Section 6.15</b>	<b>Sovereign Immunity</b> .....	<b>31</b>
<b>Section 6.16</b>	<b>Waiver of Jury Trial</b> .....	<b>31</b>
<b>Section 6.17</b>	<b>Effectiveness</b> .....	<b>31</b>
<b>Section 6.18</b>	<b>Counterpart Signatures</b> .....	<b>31</b>
<b>EXHIBIT 1 AGGREGATE NOAT II CONSIDERATION</b> .....		<b>33</b>
<b>EXHIBIT 2 RESERVED</b> .....		<b>34</b>
<b>EXHIBIT 3 INVESTMENT GUIDELINES</b> .....		<b>35</b>
<b>EXHIBIT 4 NATIONAL OPIOID ABATEMENT TRUST II TRUST DISTRIBUTION PROCEDURES</b> .....		<b>38</b>
<b>EXHIBIT 5 STATE OPIOID ATTORNEYS' FEE FUND</b> .....		<b>40</b>

# NATIONAL OPIOID ABATEMENT

## TRUST II AGREEMENT

This National Opioid Abatement Trust II (“**NOAT II**” or the “**Trust**”) Agreement (together with all Exhibits hereto, this “**Trust Agreement**”), dated as of June 16, 2022 and effective as of the Effective Date,<sup>1</sup> implements certain of the terms of the *Fourth Amended Joint Plan of Reorganization (with Technical Modifications) of Mallinckrodt plc and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code*, dated February 18, 2022 (as may be further modified, amended, or supplemented from time to time, and together with all exhibits and schedules thereto, the “**Plan**”), confirmed by an order entered on March 2, 2022 [Docket No. 6660] (the “**Confirmation Order**”) by the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) in the Chapter 11 Cases of Mallinckrodt plc and its affiliated Debtors<sup>2</sup> (each a “**Debtor**” and collectively, the “**Debtors**,” or the “**Settlers**”), jointly administered under Case No. 20-12522 (JTD) and is entered into by the Settlers, the initial trustees of the National Opioid Abatement Trust II who are further identified on the signature pages hereto (together with any successor trustee serving in such capacity, the “**Trustees**”), and the Delaware Trustee (together with any successor serving in such capacity, the “**Delaware Trustee**”).

### RECITALS

**WHEREAS**, the Debtors have reorganized under the provisions of Chapter 11 of the Bankruptcy Code.

**WHEREAS**, the Plan provides, inter alia, for the establishment of an Opioid Creditor Trust with respect to State Opioid Claims in accordance with Article IV.X of the Plan and Municipal Opioid Claims in accordance with Article IV.X of the Plan.

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<sup>1</sup> Capitalized terms used but not herein defined shall have the meaning ascribed to them in the Plan or the Confirmation Order, or any Exhibits attached hereto, as applicable.

<sup>2</sup> The Debtors in these cases are as follows: Mallinckrodt plc; Achthar IP Unlimited Company; IMC Exploration Company; Infacare Pharmaceutical Corporation; INO Therapeutics LLC; Ludlow LLC; MAK LLC; Mallinckrodt APAP LLC; Mallinckrodt ARD Finance LLC; Mallinckrodt ARD Holdings Inc.; Mallinckrodt ARD Holdings Limited; Mallinckrodt ARD IP Unlimited Company; Mallinckrodt ARD LLC; Mallinckrodt Brand Pharmaceuticals LLC; Mallinckrodt Buckingham Unlimited Company; Mallinckrodt Canada ULC; Mallinckrodt CB LLC; Mallinckrodt Critical Care Finance LLC; Mallinckrodt Enterprises Holdings, Inc.; Mallinckrodt Enterprises LLC; Mallinckrodt Enterprises UK Limited; Mallinckrodt Group S.a.r.l.; Mallinckrodt Holdings GmbH; Mallinckrodt Hospital Products Inc.; Mallinckrodt Hospital Products IP Unlimited Company; Mallinckrodt International Finance SA; Mallinckrodt International Holdings S.a.r.l.; Mallinckrodt IP Unlimited Company; Mallinckrodt LLC; Mallinckrodt Lux IP S.a.r.l.; Mallinckrodt Manufacturing LLC; Mallinckrodt Pharma IP Trading Unlimited Company; Mallinckrodt Pharmaceuticals Ireland Limited; Mallinckrodt Pharmaceuticals Limited; Mallinckrodt Quincy S.a.r.l.; Mallinckrodt UK Finance LLP; Mallinckrodt UK Ltd; Mallinckrodt US Holdings LLC; Mallinckrodt US Pool LLC; Mallinckrodt Veterinary, Inc.; Mallinckrodt Windsor Ireland Finance Unlimited Company; Mallinckrodt Windsor S.a.r.l.; MCCCH LLC; MEH, Inc.; MHP Finance LLC; MKG Medical UK Ltd; MNK 2011 LLC; MUSHI UK Holdings Limited; Ocera Therapeutics, Inc.; Petten Holdings Inc.; SpecGx Holdings LLC; SpecGx LLC; ST Operations LLC; ST Shared Services LLC; ST US Holdings LLC; ST US Pool LLC; Stratatech Corporation; Sucampo Holdings Inc.; Sucampo Pharma Americas LLC; Sucampo Pharmaceuticals, Inc.; Therakos, Inc.; Vtesse LLC; WebsterGx Holdco LLC; and Mallinckrodt Equinox Finance LLC.

**WHEREAS**, the Confirmation Order has been entered by the Bankruptcy Court and is in full force and effect.

**WHEREAS**, pursuant to the Plan and the Confirmation Order, the Trust shall be established to (i) assume all liability for the State Opioid Claims and Municipal Opioid Claims, (ii) collect distributions made on account of the State and Municipal Government Opioid Claims Share in accordance with the Trust Documents (as defined in Section 1.1), (iii) administer State Opioid Claims and Municipal Opioid Claims, (iv) make Abatement Distributions to Authorized Recipients for Approved Uses, including to Holders of State Opioid Claims and Municipal Opioid Claims, in each case in accordance with the NOAT II Trust Distribution Procedures attached hereto as **Exhibit 4** (the “**NOAT II TDP**”), and (v) carry out such other matters as are set forth in the Trust Documents.

**WHEREAS**, the Plan provides that on the Effective Date, any and all liability of the Debtors for any and all State Opioid Claims and Municipal Opioid Claims shall automatically, and without further act, deed or court order, be channeled to and assumed by the Trust.

**WHEREAS**, pursuant to the Plan and the Confirmation Order, the Trust shall (i) hold, manage and invest all funds and other Trust Assets (as defined in Section 1.3) received by the Trust from the Opioid MDT II (“**MDT II**”) for the benefit of the beneficiaries of the Trust; (ii) hold and maintain the NOAT II Operating Reserve (as defined in Section 1.2(g)(ii) below); (iii) administer, process, and resolve all State Opioid Claims and Municipal Opioid Claims in accordance with the NOAT II TDP; and (iv) pay all NOAT II Operating Expenses as defined in Section 1.2(g)(ii).

**WHEREAS**, the Plan and Confirmation Order provide that, on the Effective Date and continuing thereafter until fully funded by the Debtors in accordance with the Plan, the Aggregate NOAT II Consideration (as defined in Section 1.3), as described in **Exhibit 1**, shall be transferred to and vested in the Trust free and clear of all Claims, Liens or other recourse or encumbrances, and shall not be subject to disgorgement or recoupment by any Person.

**WHEREAS**, all rights of the Holders of State Opioid Claims and Municipal Opioid Claims arising under this Trust Agreement and the NOAT II TDP shall vest upon the Effective Date.

**WHEREAS**, the Bankruptcy Court has determined that the Trust and the Plan satisfy all the prerequisites for issuance of an injunction pursuant to Section 105(a) of the Bankruptcy Code with respect to any and all State Opioid Claims and Municipal Opioid Claims, and such injunction (the “**Channeling Injunction**”) shall be fully effective and enforceable as provided in the Plan.

**NOW, THEREFORE**, it is hereby agreed as follows:

## **ARTICLE 1 AGREEMENT OF TRUST**

**Section 1.1** Creation and Name. The Settlers hereby create the Trust which is provided for and referred to in Article IV.X of the Plan. The Trustees may transact the business and affairs of the Trust in the name of NOAT II, and references herein to the Trust shall include the Trustees

acting on behalf of the Trust. It is the intention of the parties hereto that the Trust constitute a statutory trust under Chapter 38 of title 12 of the Delaware Code, 12 Del. C. Section 3801 *et seq.* (the “**Act**”) and that the Confirmation Order, the Plan, this Trust Agreement, and the NOAT II TDP (collectively, the “**Trust Documents**”), constitute the governing instruments of the Trust. A Certificate of Trust was executed and filed with the Delaware Secretary of State on May 5, 2022 by the Trustees and the Delaware Trustee and such execution and filing is hereby ratified.

**Section 1.2** Purposes. The purposes of the Trust are to

- (a) assume all liability for the State Opioid Claims and Municipal Opioid Claims;
- (b) collect distributions made on account of the State and Municipal Government Opioid Claims Share in accordance with the Trust Documents;
- (c) administer, process, and resolve State Opioid Claims and Municipal Opioid Claims. For the avoidance of doubt, each State Opioid Claim and Municipal Opioid Claim shall be asserted exclusively against the Trust and resolved solely in accordance with the terms, provisions and procedures of the NOAT II TDP;
- (d) make Abatement Distributions to Authorized Recipients for Approved Uses, including to Holders of State Opioid Claims and Municipal Opioid Claims, in each case in accordance with the NOAT II TDP;
- (e) hold, manage and invest all funds and other Trust Assets received by the Trust from the Debtors and the MDT II in accordance with the terms of the Trust Documents for the benefit of the NOAT II Beneficiaries (as defined in Section 1.5(a) below);
- (f) qualify at all times as a qualified settlement fund within the meaning of the QSF Regulations (as defined in Section 6.3) and be treated consistently for state and local tax purposes to the extent applicable;
- (g) use the Trust Assets to:
  - (i) make Abatement Distributions to States and Municipal Units as defined in the Plan in accordance with this Trust Agreement and the NOAT II TDP such that Holders of State Opioid Claims and Municipal Opioid Claims are treated fairly, equitably, and reasonably in light of the finite assets available to disburse on account of such State Opioid Claims and Municipal Opioid Claims;
  - (ii) hold and maintain reserves to pay the fees and expenses incurred with respect to administering the Trust (including the NOAT II TDP) and managing the Trust Assets (together, the “**NOAT II Operating Expenses**”) of the Trust (such reserves, the “**NOAT II Operating Reserve**”) which shall

- be (a) funded with Cash and cash equivalents held by the Trust in accordance with the Trust Documents and (b) held by the Trust in a segregated account and administered by the Trustees;
- (iii) pay the NOAT II Operating Expenses from the NOAT II Operating Reserve; and
  - (iv) release or replenish periodically, until the dissolution of the Trust, the NOAT II Operating Reserve from Cash held or received by the Trust to the extent deemed necessary by the Trustees to satisfy and pay estimated future NOAT II Operating Expenses in accordance with the Trust Documents.

**Section 1.3** Transfer of Assets. Pursuant to Section 3.4 of the Master Trust Distribution Procedures attached as Exhibit A to the MDT II Agreement (the “**Master II TDP**”), the Trust shall receive the State and Municipal Government Opioid Claims Share (the “**Aggregate NOAT II Consideration**” and, together with any income or gain earned thereon and proceeds derived therefrom, collectively, the “**Trust Assets**”). The Aggregate NOAT II Consideration shall be transferred free and clear of all Claims, Liens or other recourse or encumbrances, and shall not be subject to attachment, disgorgement or recoupment by any Person. The Debtors shall be authorized pursuant to the Plan to execute and deliver such documents to the Trust as the Trustees reasonably request to transfer and assign any assets comprising all or a portion of the Aggregate NOAT II Consideration to the Trust.

**Section 1.4** Acceptance of Assets.

(a) In furtherance of the purposes of the Trust, the Trustees, on behalf of the Trust, hereby expressly accept the transfer to the Trust of the Aggregate NOAT II Consideration and any other transfers contemplated by the Plan and the Master II TDP and subject to the terms of the Plan and the Master II TDP. The Trust shall succeed to all of the Debtors’ respective right, title and interest, including all legal privileges, in the Aggregate NOAT II Consideration and neither the Debtors nor any other person or entity transferring such Aggregate NOAT II Consideration will have any further equitable or legal interest in, or with respect to, the Trust Assets, including the Aggregate NOAT II Consideration or the Trust.

(b) In furtherance of the purposes of the Trust, the Trust expressly assumes all liabilities and responsibility for all State Opioid Claims and Municipal Opioid Claims (except as set forth in the Plan) subject to the Trust Documents, and none of the Debtors, or the MDT II shall have any further financial or other responsibility or liability therefor. Except as otherwise provided in this Trust Agreement, the NOAT II TDP, the Plan, or the Master II TDP, the Trust shall have and retain any and all defenses, cross-claims, offsets, and recoupments regarding the State Opioid Claims and Municipal Opioid Claims, as well as any and all rights of indemnification, contribution, subrogation, and similar rights, that the Debtors and the Released Parties, as applicable, have or would have had under applicable law; provided that no such claims, defenses or rights may be

used to seek any affirmative monetary recovery from any party. For the avoidance of doubt, all Class 8(a) State Opioid Claims and Class 8(b) Municipal Opioid Claims asserted, or assertable, against Debtors in the Chapter 11 Cases shall be resolved exclusively in accordance with the NOAT II TDP.

(c) Notwithstanding anything to the contrary herein, no provision in this Trust Agreement or the NOAT II TDP shall be construed or implemented in a manner that would cause the Trust to fail to qualify as a qualified settlement fund within the meaning of the QSF Regulations.

(d) Nothing in this Trust Agreement shall be construed in any way to limit (i) the scope, enforceability, or effectiveness of the Channeling Injunction, or (ii) subject to the provisions of Section 1.4(b) herein, the Trust's assumption of all liability for State Opioid Claims and Municipal Opioid Claims.

(e) In this Trust Agreement and the NOAT II TDP, the words "must," "will," and "shall" are intended to have the same mandatory force and effect, while the word "may" is intended to be permissive rather than mandatory.

#### **Section 1.5** NOAT II Beneficiaries.

(a) The beneficial owners (within the meaning of the Act) of the Trust shall be:

- (i) The States of the United States, the District of Columbia, and those territories of the United States identified on **Schedule C** of the NOAT II TDP (each a "**State**" or a "**State Beneficiary**"); and
- (ii) Each county, city, town, parish, village and municipality whose Claims in Class 8(b) (Municipal Opioid Claims) are channeled to the Trust under the Plan (collectively the, "**Local Governments**") (all such Local Governments together with all State Beneficiaries, the "**NOAT II Beneficiaries**").

(b) Each of the NOAT II Beneficiaries is either a state of the United States or a political subdivision thereof, the District of Columbia, or the government of a possession of the United States, or a political subdivision thereof, within the meaning of Section 115 of the IRC.

(c) The NOAT II Beneficiaries shall have only such rights with respect to the Trust and the Trust Assets as are set forth in the NOAT II TDP and no greater or other rights, including upon dissolution, liquidation or winding up of the Trust, shall be deemed to apply to such NOAT II Beneficiaries. The NOAT II Beneficiaries are enjoined from asserting against any Debtor any State Opioid Claim or Municipal Opioid Claim, and may not proceed in any manner against any Debtor on account of any State Opioid Claim or Municipal Opioid Claim in any forum whatsoever, including any state, federal or non-U.S. court or administrative or arbitral forum, and



are required to pursue State Opioid Claims and Municipal Opioid Claims exclusively against the Trust, solely as and to the extent provided in the NOAT II TDP.

(d) The NOAT II Beneficiaries shall be subject to the terms of this Trust Agreement, including without limitation, Article 4 and the terms of the NOAT II TDP.

**Section 1.6** Jurisdiction. The Bankruptcy Court shall have continuing jurisdiction over the Trust, provided, however, the courts of the State of Delaware, including any federal court located therein, shall also have jurisdiction over the Trust; provided further (i) only the Bankruptcy Court shall have jurisdiction with respect to Government Participation Mechanism notices (described in Section 6 of the NOAT II TDP); (ii) either the Bankruptcy Court or a State court with jurisdiction in the applicable State shall have jurisdiction with respect to an Objection to an Allocation in Non-SAA States (described in Section 6(F) of the NOAT II TDP); and (iii) any dispute with respect to a Statewide Abatement Agreement shall be subject exclusively to any jurisdictional provisions set forth in such Statewide Abatement Agreement (described in Section 5(A)(2) of the NOAT II TDP). Subject to the foregoing sentence, an applicable State court shall have jurisdiction with respect to any matter arising under the NOAT II TDP involving that State and one or more of its counties, cities, towns, parishes, villages, municipalities or any Region.

## **ARTICLE 2**

### **POWERS AND TRUST ADMINISTRATION**

#### **Section 2.1** Powers.

(a) The Trustees are and shall act as fiduciaries to the Trust in accordance with the provisions of this Trust Agreement. The Trustees shall, at all times, administer the Trust in accordance with the purposes set forth in Section 1.2 above. Subject to the limitations set forth in the Trust Documents, the Trustees shall have the power to take any and all actions that, in the judgment of the Trustees, are necessary or advisable to fulfill the purposes of the Trust, including, without limitation, each power expressly granted in this Section 2.1, any power reasonably incidental thereto and any trust power now or hereafter permitted under the laws of the State of Delaware. In the event of any ambiguity or conflict between the terms of this Trust Agreement or the NOAT II TDP, the NOAT II TDP shall control. In the event of ambiguity or conflict between the provisions of this Trust Agreement, the provisions of the Plan, or the Confirmation Order, each document shall control in the following order: (1) the Confirmation Order; (2) the Plan, (3) the NOAT II TDP, and (4) this Trust Agreement. For the avoidance of doubt, this Trust Agreement shall be construed and implemented in accordance with the Plan, regardless of whether any provision herein explicitly references the Plan.

(b) Except as required by applicable law or the Trust Documents, the Trustees need not obtain the order or approval of any court in the exercise of any power or discretion conferred hereunder.

(c) Without limiting the generality of Section 2.1(a) above, and except as limited in the Trust Documents and by applicable law, the Trustees shall have the power to:

- (i) receive and hold the Trust Assets and exercise all rights with respect thereto;
- (ii) invest the monies and other Trust Assets held from time to time by the Trust, subject to the limitations set forth in Section 3.2 below;
- (iii) sell, transfer or exchange any or all of the Trust Assets at such prices and upon such terms as the Trustees may determine consistent with the other terms of this Trust Agreement;
- (iv) enter into leasing, financing or other agreements with third parties as deemed by the Trustees, in their discretion, to be reasonably necessary in carrying out the purposes of the Trust;
- (v) determine and pay liabilities and NOAT II Operating Expenses;
- (vi) establish accounts and reasonable reserves within the Trust, as deemed by the Trustees, in their discretion, to be useful in administering the Trust;
- (vii) bring any action in any court of competent jurisdiction including the Bankruptcy Court;
- (viii) initiate, prosecute, defend and resolve all legal actions and other proceedings related to any Trust Asset, liability or responsibility of the Trust. Such legal actions and other proceedings shall be limited solely to those required for purposes of reconciling, administering or defending against the State Opioid Claims and Municipal Opioid Claims channeled to the Trust and for enforcing the rights of the Trust under the Plan and the Definitive Documents;
- (ix) supervise and administer the Trust in accordance with the Trust Documents, including without limitation monitor the Abatement Distribution recipients' compliance with the NOAT II TDP requirements for Approved Opioid Abatement Uses and Approved Administrative Expenses;
- (x) appoint such officers and retain such employees, consultants, advisors, independent contractors, experts and agents and engage in such legal, financial, administrative, accounting, investment, auditing and alternative dispute resolution services and activities as the Trust requires, and

delegate to such persons such powers and authorities as the fiduciary duties of the Trustees permit and as the Trustees, in their discretion, deem advisable or necessary in order to carry out the terms of this Trust Agreement;

- (xi) pay reasonable compensation and expenses to any of the Trust's employees, consultants, advisors, independent contractors, experts and agents for legal, financial, administrative, accounting, investment, auditing and alternative dispute resolution services and activities as the Trust requires;
- (xii) compensate the Trustees, Delaware Trustee, and their employees, consultants, advisors, independent contractors, experts and agents, and reimburse the Trustees and the Delaware Trustee for all reasonable out-of-pocket costs and expenses incurred by such persons in connection with the performance of their duties hereunder;
- (xiii) execute and deliver such instruments as the Trustees consider necessary or desirable in administering the Trust;
- (xiv) enter into such other arrangements with third parties as are deemed by the Trustees to be advisable or necessary in carrying out the purposes of the Trust, provided such arrangements do not conflict with any other provision of this Trust Agreement;
- (xv) in accordance with Section 5.8 below, defend, indemnify and hold harmless (and purchase insurance indemnifying) the Trust Indemnified Parties (as defined in Section 5.6(a) below) to the maximum extent permitted by law;
- (xvi) delegate any or all of the authority herein conferred with respect to the investment of all or any portion of the Trust Assets to any one or more reputable institutional investment advisors or investment managers without liability for any action taken or omission made because of any such delegation, except as provided in Section 5.6 below; provided that such investment advisors and investment managers shall be in compliance with the Investment Guidelines (as defined in Section 3.2) at all times;
- (xvii) make, join, pursue (by litigation or otherwise), collect, compromise, settle, or otherwise resolve, in the name of the Trust, any claim, right, action or cause of action of the Trust,

before any court of competent jurisdiction and without approval of the Bankruptcy Court;

- (xviii) engage and compensate tax professionals (“**Tax Professionals**”) to assist the Trustees (a) with the Trust’s tax reporting obligations, audits and all other tax and accounting-related issues, including, in the event that the Trustees determine to request a private letter ruling from the Internal Revenue Service and any necessary or appropriate state governmental agency: (1) that the Trust will be treated as a qualified settlement fund under 26 C.F.R. § 1.468B-1; (2) that the Aggregate NOAT II Consideration will be excluded from the Trust’s gross income; (3) that all income and gain earned on the Trust Assets will be excludible from the Trust’s gross income under Section 115 of the IRC, and corresponding provisions of state law; and (4) on any other matter of federal or state tax law that the Tax Professionals believe is advisable with respect to the Trust (“**Private Letter Ruling(s)**”), and (b) in taking such actions as may be reasonably necessary to secure any such Private Letter Ruling(s) and thereafter ensuring that the Trust complies with the conditions of any such Private Letter Ruling(s);
- (xix) contract for the establishment and continuing maintenance of (a) a secure method of internet-based communications for the Trust and the NOAT II Beneficiaries as described in Section 6.5 (the “**NOAT II Portal**”) and (b) a public-facing website to publish all information required to be published under the Trust Documents (the “**NOAT II Website**”); and
- (xx) exercise any and all rights of the Trustees, and take any and all actions as are permitted, in accordance with and subject to the terms of this Trust Agreement and the Plan.

(d) The Trustees shall not have the power to cause the Trust to guarantee any debt of other Persons.

(e) Except as otherwise set forth in the Trust Documents, and subject to retention of jurisdiction by the Bankruptcy Court as provided in the Plan, but without prior or further authorization, the Trustees may control and exercise authority over the Trust Assets and over the protection, conservation and disposition thereof. No person dealing with the Trust shall be obligated to inquire into the authority of the Trustees in connection with the protection, conservation or disposition of the Trust Assets.

**Section 2.2** General Administration. The Trustees shall act in accordance with the Trust Documents. The mailing address of the Trust is National Opioid Abatement Trust II, c/o Campbell

& Levine, LLC, 310 Grant Street, Suite 1700 Pittsburgh, PA 15219 Attn: Douglas A. Campbell, Esq. The Trustees shall provide notice to the NOAT II Beneficiaries upon establishment of any office by posting such information on the NOAT II Website.

**Section 2.3** Accounting. The fiscal year of the Trust shall begin on January 1 and shall end on December 31 of each calendar year. The Trustees shall maintain the books and records relating to the Trust Assets, the income and the payment of expenses of and liabilities against the Trust, and the amount and allocation of all Abatement Distributions made pursuant to Article 4. The detail of these books and records and the duration of time during which the Trustees shall keep such books and records shall be such as to allow the Trustees to make a full and accurate accounting of all Trust Assets, as well as to comply with applicable provisions of law and standard accounting practices necessary or appropriate to produce an annual report containing special purpose financial statements of the Trust, including, without limitation, the assets and liabilities of the Trust as of the end of such fiscal year and the additions, deductions and cash flows for such fiscal year (the “**Annual Report**”); provided, however, that the Trustees shall maintain such books and records until the wind-up of the Trust’s affairs and satisfaction of all of the Trust’s liabilities.

**Section 2.4** Financial Reporting.

(a) The Trustees shall engage a firm of independent certified public accountants (the “**Independent Auditors**”) selected by the Trustees, to audit the Annual Report. Within one hundred and twenty (120) days following the end of each calendar year, the Trustees shall file with the Bankruptcy Court the Annual Report audited by the Independent Auditors and accompanied by an opinion of such firm as to the fairness in all material respects of the special-purpose financial statements. The Trustees shall (i) publish a copy of such Annual Report on the NOAT II Website and (ii) deliver a copy to the States via the NOAT II Portal when such report is filed with the Bankruptcy Court.

(b) All materials filed with the Bankruptcy Court pursuant to this Section 2.4 need not be served on any parties in the Chapter 11 Cases but shall be available for inspection by the public in accordance with Article IV.X.4 of the Plan.

**Section 2.5** Opioid Abatement Reporting.

(a) Within one hundred and twenty (120) days following the end of each calendar year, the Trustees shall cause to be prepared and filed with the Bankruptcy Court an annual report on the Approved Opioid Abatement Uses with respect to such period, together with such additional information as the Trustees determine necessary or appropriate in their discretion (each, a “**NOAT II Opioid Abatement Report**”). The Trustees shall (i) post a copy of the NOAT II Opioid Abatement Report on the NOAT II Website and (ii) deliver such NOAT II Opioid Abatement Report to MDT II, in each case when such report is filed with the Bankruptcy Court.

(b) For the avoidance of doubt, the Trustees shall not be required to include in any NOAT II Opioid Abatement Report any abatement matters of any Abatement Trust created under the Plan other than the Trust.

(c) The Trustees shall publish on the NOAT II Website each State Beneficiary’s “lead agency” pursuant to Section 5(A)(1)(i) of the NOAT II TDP.

**Section 2.6** Beneficiary Reporting.

(a) Reporting of Approved Opioid Abatement Uses by NOAT II Beneficiaries shall be required to the extent set forth in the Confirmation Order and consistent with the NOAT II TDP. The Trustees shall establish the form, content, and due dates of periodic reports with respect to Approved Opioid Abatement Uses to be submitted by the NOAT II Beneficiaries (each, a “**Beneficiary Abatement Use Report**”) to the Trustees through the NOAT II Portal (or delivered by other means approved by the Trustees). The Trustees shall endeavor to implement appropriate mechanisms, in their discretion consistent with the Trust Documents, to obtain efficiency in reporting by applicable NOAT II Beneficiaries with respect to NOAT II and other comparable opioid abatement trusts benefitting the NOAT II Beneficiaries. Each Beneficiary Abatement Use Report shall contain the information necessary to:

- (i) enable the Trust to satisfy the audited Annual Report requirements described in Section 2.4 above;
- (ii) enable the Trust to satisfy the NOAT II Opioid Abatement Report requirements described in Section 2.5(a) above; and
- (iii) enable NOAT II Beneficiaries to satisfy their reporting requirements to the Trust under Section 7.1 (annual State reporting) and Section 7.2 (annual Qualifying Block Grantee reporting), respectively, of the NOAT II TDP, as applicable.

(b) Beneficiary Abatement Use Reports provided pursuant to Section 7 of the NOAT II TDP and this Section 2.6 shall be required of the States and the Qualifying Block Grantees.

(c) In providing Beneficiary Abatement Use Reports pursuant to Section 7 of the NOAT II TDP and this Section 2.6, on behalf of the States and Qualifying Block Grantees, it is anticipated that authorized persons shall make appropriate certifications on such reports as to the compliance with Approved Uses and the reporting, audit, and accountability requirements of the NOAT II TDP, as shall be set forth in the Beneficiary Abatement Use Reports.

(d) The Trustees shall establish such reporting deadlines as they determine are reasonable and appropriate for States and Qualifying Block Grantees to provide Beneficiary Abatement Use Reports to NOAT II and thereby allow the Trustees to prepare the annual NOAT II Opioid Abatement Report required under Section 2.5 hereof.

(e) The Trustees, in consultation with the States as appropriate, shall establish such reporting deadlines as they determine reasonable and appropriate for Local Governments that are not Qualified Block Grantees to provide Beneficiary Abatement Use Reports to NOAT II or to the relevant State and thereby allow the Trustees to prepare the annual NOAT II Opioid Abatement Report required under Section 2.5 hereof.

**Section 2.7** Limitation of the Trustees' Authority. The Trustees are not authorized to engage in any trade or business with respect to the Trust Assets or proceeds therefrom. The foregoing limitation shall not prevent the Trustees from managing the investment of the Trust Assets in accordance with the Trust Documents.

**ARTICLE 3**  
**ACCOUNTS, INVESTMENTS, ADMINISTRATIVE EXPENSES**

**Section 3.1** Accounts.

(a) The Trustees shall maintain one or more accounts (“**Trust Accounts**”) on behalf of the Trust with one or more financial depository institutions (each a “**Financial Institution**”). Candidates for the positions of Financial Institution shall fully disclose to the Trustees any interest in or relationship with the Debtors, their affiliated persons, Covidien, any Opioid Creditor Trust (other than NOAT II or TAFT II), or any Released Parties. Any such interest or relationship shall not be an automatic disqualification for the position, but the Trustees shall take any such interest or relationship into account in selecting a Financial Institution.

(b) The Trustees may, from time to time, create such accounts and reasonable reserves within the Trust Accounts as authorized in this Section 3.1 and as they may deem necessary, prudent or useful in order to provide for Abatement Distributions to NOAT II Beneficiaries and the payment of NOAT II Operating Expenses and may, with respect to any such account or reserve, restrict the use of money therein for a specified purpose (the “**Trust Subaccounts**”). Any such Trust Subaccounts established by the Trustees shall be held as Trust Assets and are not intended to be subject to separate entity tax treatment as a “disputed claims reserve” within the meaning of the IRC or the Treasury Regulations, or a “disputed ownership fund” within the meaning of the Treasury Regulations, or otherwise.

(c) The Trustees may replace any retained Financial Institution with a successor Financial Institution at any time, and such successor shall be subject to the considerations set forth in Section 3.1(a).

(d) The Trustees shall establish a separate subaccount of the Trust to receive funds designated under the Plan for the State Opioid Attorneys' Fee Fund, which subaccount shall be subject to separate administration exclusively in accordance with the terms set forth on **Exhibit 5** (the “**State Opioid Attorneys' Fee Fund**”); provided, however, that it is acknowledged that the Trust holds such funds for administrative convenience and the Trustees have no responsibility to invest such funds or discretion to vary from the processes and determinations set forth in Exhibit 5; provided further that the Fund Committee may direct the Trustees in writing to invest such funds in one or more specified interest bearing accounts, and the Trustees shall invest the funds accordingly. To the extent the Trustees do not receive any such written direction, the Trustees shall invest the funds in the designated default account at BlackRock Fed Fund (CUSIP 09248U700).

**Section 3.2** Investment Guidelines. The Trustees may invest the Trust Assets in accordance with the Investment Guidelines, attached hereto as **Exhibit 3**, (the “**Investment**

**Guidelines**”). Notwithstanding any contrary provision of the Trust Documents, this Section 3.2 and the Investment Guidelines cannot be modified or amended.

**Section 3.3** Payment of NOAT II Operating Expenses. All NOAT II Operating Expenses shall be payable out of the NOAT II Operating Reserve. None of the Trustees, Delaware Trustee, the NOAT II Beneficiaries, nor any of their employees, officers, consultants, advisors, independent contractors, experts or agents shall be personally liable for the payment of any NOAT II Operating Expense or any other liability of the Trust.

#### **ARTICLE 4** **ABATEMENT DISTRIBUTIONS**

**Section 4.1** Abatement Distributions. The Trustees shall make Abatement Distributions only as, and to the extent set forth in this Article 4 and the NOAT II TDP. For the avoidance of doubt, Abatement Distributions shall not be made directly to each and every NOAT II Beneficiary, but rather certain NOAT II Beneficiaries shall, by virtue of being a county, city, town, parish, village, municipality, or Region, that is a Local Government within a State, be an indirect beneficiary of certain Abatement Distributions in accordance with the provisions of the NOAT II TDP.

**Section 4.2** Manner of Payment of Abatement Distributions.

(a) The Trustees shall endeavor to provide ten (10) days’ notice to the NOAT II Beneficiaries of any upcoming Abatement Distribution, which such notice may be provided through the NOAT II Portal; provided, however, that the Trustees may shorten such notice period in their discretion.

(b) The Trustees shall make Abatement Distributions, as set forth in this Article 4, at the following intervals: (i) with respect to the first Abatement Distribution, no earlier than the date that an SAA becomes effective with regard to a State or Local Government, and in any event, promptly after the day that is eighty (80) days from the Effective Date of the Plan, and (ii) with respect to all subsequent Abatement Distributions, not later than seventy-five (75) days after receipt of a distribution from the MDT II. The deadlines set forth in this Section 4.2(b) may be modified by the Trustees to the extent they determine it prudent to do so, taking into account factors that may be relevant at the time of a possible Abatement Distribution (which for the avoidance of doubt may consider funds to be received and/or distributed by other comparable opioid abatement trusts benefitting the NOAT II Beneficiaries).

(c) Abatement Distributions made pursuant to Sections 4.1 and 4.2 herein shall be made solely to (i) States, for further distribution within such State as set forth in the NOAT II TDP, (ii) Qualifying Block Grantees, pursuant to a Statewide Abatement Agreement if so directed therein or pursuant to Section 5(A)(1)(vi) of the NOAT II TDP, or (iii) Local Governments directly if so directed by a Statewide Abatement Agreement.

(d) Abatement Distributions shall be made in accordance with one of the following alternative models, as applicable:



- (i) if clause (ii) of this Section 4.2(d) does not apply, either (x) the Default Allocation Mechanism, as set forth in Section 5(A)(1) of the NOAT II TDP (with respect to Non-SAA States), provided a Government Participation Mechanism notice has been timely filed with the Bankruptcy Court to the extent required by the NOAT II TDP and is then effective, or (y) the provisions of Section 5(B) of the NOAT II TDP (with respect to Territories and the District of Columbia); or
- (ii) an applicable Statewide Abatement Agreement, as set forth in Section 5(A)(2) of the NOAT II TDP, provided an agreed and binding Statewide Abatement Agreement has been timely filed with the Bankruptcy Court and is then effective.

(e) Abatement Distributions may be made by the Trustees or by a Disbursement Agent retained by the Trust to make Abatement Distributions on its behalf (the “**Disbursement Agent**”). Abatement Distributions shall be made in accordance with the NOAT II TDP on the dates approved for distribution by the Trustees.

(f) The Trustees may cause Abatement Distributions to be withheld with respect to any NOAT II Beneficiary that has failed to deliver timely a completed Beneficiary Abatement Use Report, as described in Section 2.6(a) herein, by the applicable due date. The Trustees shall allow for a reasonable period of time to cure any delinquent Beneficiary Abatement Use Report not to exceed thirty (30) days from the due date thereof, provided further, the Trustees shall cause withheld Abatement Distributions to be made no later than fifteen (15) days after receipt of any delinquent Beneficiary Abatement Use Report.

#### **Section 4.3** Delivery of Abatement Distributions.

(a) All Abatement Distributions under this Trust Agreement shall be made in accordance with the electronic transfer information provided by the NOAT II Beneficiaries through the NOAT II Portal (or by other means approved by the Trustees). Changes to such electronic transfer information must be provided to NOAT II or the Disbursement Agent in writing at least five (5) business days prior to any upcoming Abatement Distribution date; provided that the Trustees and Disbursement Agent shall have the authority, in their discretion, to seek further direction from the NOAT II Beneficiaries regarding the transfer information of Abatement Distributions under this Trust Agreement.

(b) In the event that any Abatement Distribution is undeliverable, no further Abatement Distribution shall be made unless and until the Trustees have been notified of the then current wire instructions or address, as applicable, as directed by such NOAT II Beneficiary, at which time such distribution shall be made without interest. The Trustees shall take reasonable efforts to obtain a current address or wire instructions, as applicable, for any NOAT II Beneficiary with respect to which any distribution is undeliverable, but shall have no obligation to make further inquiry with respect to designated recipients of such NOAT II Beneficiaries.

(c) No Trust Asset or any unclaimed property shall escheat to any federal, state or local government or any other entity.

**ARTICLE 5**  
**TRUSTEES AND DELAWARE TRUSTEE**

**Section 5.1** Number of Trustees; Managing Trustee.

(a) **Number.** In addition to the Delaware Trustee appointed pursuant to Section 5.10, there shall be three (3) Trustees. The initial Trustees shall be those persons named on the signature page hereof.

(b) **Managing Trustee.** At their first meeting, the initial Trustees shall designate one of their number to serve as the Managing Trustee of the Trust, with such administrative duties as the Trustees may determine. The Trustees may change the designation of the individual to serve as Managing Trustee from time to time as circumstances warrant. The Managing Trustee or, in the Managing Trustee's absence, another Trustee selected by the Trustees shall preside at meetings of the Trustees. The Managing Trustee, or the Trustee presiding over such meeting, shall be responsible for taking meeting minutes at each meeting of the Trustees and for performing such other administrative duties and services as shall be assigned to or required of the Managing Trustee by the Trustees. The Managing Trustee shall maintain a list of current Trustees, including their addresses and contact information.

**Section 5.2** Term of Service, Successor Trustees.

(a) **Term.** Each Trustee shall serve until the earlier of (i) his or her death, (ii) his or her resignation or removal pursuant to Section 5.2(c) below, or (iii) the termination of the Trust pursuant to the terms of this Trust Agreement. The term of a newly appointed Trustee shall commence upon his or her acceptance of trusteeship.

(b) Appointment of Successor Trustees.

(i) In the event of the death, resignation or removal of a Trustee, a vacancy shall be deemed to exist and a successor shall be appointed by the other two (2) Trustees, subject to the approval of the Bankruptcy Court. Such appointment shall specify the date on which such appointment shall be effective.

(ii) Notice of the appointment of any successor Trustee shall be filed with the Bankruptcy Court and shall be published on the NOAT II Website when it is filed with the Bankruptcy Court.

(iii) In filling any vacancy in the position of a Trustee, the remaining Trustees shall apply the following standard to any successor Trustee: the successor Trustee shall be a

disinterested, independent individual with experience in one or more of the following areas: public policy/public health, law enforcement, ethics and compliance, finance, general business and/or corporate governance.

- (iv) Immediately upon the appointment of any successor Trustees, all rights, titles, duties, powers and authority of the predecessor Trustees hereunder shall be vested in, and undertaken by, the successor Trustees without any further act. No successor Trustees shall be liable personally for any act or omission of his or her predecessor Trustee. No successor Trustee shall have any duty to investigate the acts or omissions of his or her predecessor Trustee.
- (v) Any successor Trustee appointed in accordance with this Trust Agreement shall execute an instrument accepting its appointment and shall deliver a counterpart thereof to the Bankruptcy Court for filing and, in case of a Trustee's resignation, to the resigning Trustee. Thereupon, such successor Trustee shall, without any further act, become vested with all the liabilities, duties, powers, rights, title, discretion and privileges of its predecessor in the Trust with like effect as if originally named an initial Trustee and shall be deemed appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code. The resigning or removed Trustee shall duly assign, transfer and deliver to such successor Trustee all property and money held by such resigning or removed Trustee hereunder and shall, as directed by the Bankruptcy Court or reasonably requested by such successor Trustee, execute and deliver an instrument or instruments conveying and transferring to such successor Trustee upon the trusts herein expressed, all the liabilities, duties, powers, rights, title, discretion and privileges of such resigning or removed Trustee.

(c) **Resignation or Removal.** A Trustee may resign by giving written notice to either of the other Trustees and the trustees of the MDT II, specifying the effective date of the resignation or, if there are no other Trustees, to the Delaware Trustee. Such notice shall specify a date when such resignation shall take effect, which, except in the case of incapacity or disability, shall not be less than ninety (90) days after the date such notice is given, where practicable. A Trustee may be removed by unanimous vote of the remaining Trustees in the event that he or she becomes unable to discharge his or her duties hereunder due to accident, physical deterioration, mental incompetence or for other good cause, provided such Trustee has received reasonable notice and an opportunity to be heard by the remaining Trustees. Other good cause shall mean fraud, self-dealing, intentional misrepresentation, willful misconduct, indictment for or conviction of a felony in each case whether or not connected to the Trust, any substantial failure to comply

with the administration of the Trust or a consistent pattern of neglect and failure to perform or participate in performing the duties of a Trustee hereunder. For the avoidance of doubt, any removal of a Trustee pursuant to this Section 5.2(c) shall require the approval of the Bankruptcy Court and shall take effect at such time as the Bankruptcy Court shall determine.

### **Section 5.3** Trustee Meetings.

(a) **Regular Meetings.** The Trustees shall hold regular meetings not less than quarterly, which may be held without notice at such times and at such places as may be determined from time to time by the Trustees. For the avoidance of doubt, the Delaware Trustee shall not be required or permitted to attend any meetings of the Trustees contemplated by this Section 5.3.

(b) **Special Meetings.** Special meetings of the Trustees may be called by any Trustee by giving written notice to each other Trustee not less than one (1) business day prior to the date of the meeting. Any such notice shall include the time, place and purpose of the meeting, given to each Trustee by overnight courier, personal delivery, facsimile, electronic mail or other similar means of communication. Notice shall be addressed or delivered to each Trustee at the Trustee's address as shown upon the records of the Trust or as may have been given to Trustees by the Trustee for purposes of notice. If a Trustee's address is not shown on such records or is not readily ascertainable, notice to the Trustee may be given care of the principal office of the Trust. Notice by overnight courier shall be deemed to have been given one (1) business day after the time that written notice is provided to such overnight courier. Any other written notice shall be deemed to have been given at the time it is personally delivered to the recipient or actually transmitted by the person giving the notice by electronic means to the recipient.

(c) **Action and Quorum.** In all matters pertaining to the affairs of the Trust, the Trustees shall act by a vote of a majority of the number of Trustees then in office, which such majority shall constitute a quorum of the Trustees for the transaction of business, except to adjourn as provided in Section 5.3(f).

(d) **Participation in Meetings by Telephone Conference.** Trustees may participate in a meeting of the Trustees by conference telephone or similar communications equipment (which shall include virtual meetings via video conferencing software), as long as all Trustees participating in such meeting can hear one another. Participation by a Trustee in a meeting pursuant to this Section 5.3(d) shall constitute presence in person at such meeting.

(e) **Waiver of Notice.** Notice of a meeting need not be given to any Trustee who signs a waiver of notice, whether before or after the meeting. All such waivers shall be filed with the Trust's records or made a part of the minutes of the meeting. Attendance at a meeting by a Trustee shall constitute a waiver of notice of such meeting except when the Trustee attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business on the ground that the meeting was not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any Trustee meeting need be specified in any waiver of notice.

(f) **Adjournment.** A majority of the Trustees present, whether or not a quorum exists, may adjourn any Trustees' meeting to another time and place.

(g) **Action by Unanimous Written Consent.** Any action required or permitted to be taken at any meeting of the Trustees may be taken without a meeting, if all of the Trustees then in office consent thereto in writing or by Electronic Transmission, which writing may be executed in one or more counterparts, and the writing or Electronic Transmission are filed with the meeting minutes of the Trustees. As used herein, “**Electronic Transmission**” means any form of communication not directly involving the physical transmission of paper that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.

**Section 5.4 Compensation and Expenses of Trustees.** The Trustees shall receive compensation from the Trust for their services as Trustees. The initial compensation of the Trustees shall be \$225,000 per annum per Trustee; provided that the Managing Trustee shall receive an additional \$25,000 per annum for his or her services as Managing Trustee. The annual compensation of the Trustees may be increased each year after the first anniversary of the Effective Date, provided however that such annual increase shall not exceed the greater of 3% or the percentage equal to the most recently announced Social Security Administration cost-of-living adjustment. The Trust shall also, upon receipt of appropriate documentation, reimburse all reasonable out-of-pocket costs and expenses incurred by each Trustee in the course of carrying out their duties as Trustees in accordance with reasonable policies and procedures as may be adopted from time to time, including in connection with attending meetings of the Trustees. The amounts paid to the Trustees for compensation and expenses shall be disclosed in the Annual Report, and any modifications to Trustee compensation shall be separately published on the NOAT II Website.

**Section 5.5 Trustees’ Independence.**

(a) The Trustees shall not, during their service, hold a financial interest in, act as attorney or agent for or serve as any other professional for Debtors, their affiliated persons, any Opioid Creditor Trust (other than their services as Trustees for NOAT II and other comparable opioid abatement trusts benefitting the NOAT II Beneficiaries), Covidien or any Released Parties. No Trustee shall act as an attorney for, or otherwise represent, any Person who holds a claim in the Chapter 11 Cases. For the avoidance of doubt, this provision shall not apply to the Delaware Trustee.

(b) The Trustees, and the Delaware Trustee, shall be indemnified by the Trust in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order or other paper or document believed by them to be genuine and to have been signed or presented by the proper party or parties.

(c) Persons dealing with the Trust, the Trustees, and the Delaware Trustee with respect to the affairs of the Trust, shall have recourse only to the Trust Assets to satisfy any liability incurred by the Trust, the Trustees or the Delaware Trustee to such Person in carrying out the terms of this Trust Agreement, and neither the Trustees, the Delaware Trustee, the NOAT II Beneficiaries, nor any of their professionals, advisors, officers, agents, consultants or lawyers shall have any personal obligation to satisfy any such liability.

**Section 5.6** Standard of Care; Exculpation.

(a) As used herein, the term “**Trust Indemnified Party**” shall mean each Trustee, the Delaware Trustee, and each of their respective members, officers, employees, professionals, including the Tax Professionals, and consultants (in each case exclusive of counsel) or a Designated Indemnitee. For the avoidance of doubt, “Trust Indemnified Party” shall not include any outside counsel to any Trustee, the Delaware Trustee, or the Trust unless such outside counsel is a “Designated Indemnitee.”

(b) As used herein, the term “**Designated Indemnitee**” shall mean any counsel (including any outside counsel) designated by action of the Trustees as a Designated Indemnitee. The Trustees may delegate to any Trustee its authority to designate individuals as Designated Indemnitees subject to any such limitations as the Trustees may specify in such delegation; provided, however, that no Person shall be a “Designated Indemnitee” with respect to such Person’s service in any role prior to the Effective Date, including as an employee, agent or representative of any Debtor or any subsidiary of any Debtor.

(c) To the maximum extent permitted by applicable law, the Trust Indemnified Parties shall not have or incur any liability for actions taken or omitted in their capacities as Trust Indemnified Parties, or on behalf of the Trust, except those acts found by Final Order to be arising out of their willful misconduct, bad faith, gross negligence or fraud, and shall be entitled to indemnification and reimbursement for reasonable fees and expenses in defending any and all of their actions or inactions in their capacity as Trust Indemnified Parties, or on behalf of the Trust, and for any other liabilities, losses, damages, claims, costs and expenses arising out of or due to the implementation or administration of the Plan or the Trust Agreement (other than taxes in the nature of income taxes imposed on compensation paid to such persons), in each case except for any actions or inactions found by Final Order to be arising out of their willful misconduct, bad faith, gross negligence or fraud. Any valid indemnification claim of any of the Trust Indemnified Parties shall be satisfied from the Trust.

(d) To the extent that, at law or in equity, the Trust Indemnified Parties have duties (including fiduciary duties) or liability related thereto, to the Trust or the NOAT II Beneficiaries, it is hereby understood and agreed by the parties hereto and the NOAT II Beneficiaries that such duties and liabilities are eliminated to the fullest extent permitted by applicable law, and replaced by the duties and liabilities expressly set forth in this Trust Agreement with respect to the Trust Indemnified Parties; provided, however, that with respect to the Trust Indemnified Parties other than the Delaware Trustee the duties of care and loyalty are not eliminated but are limited and subject to the terms of this Trust Agreement, including but not limited to this Section 5.6 and its subparts.

(e) The Trust will maintain appropriate insurance coverage for the protection of the Trust Indemnified Parties, as determined by the Trustees in their discretion.

**Section 5.7** Protective Provisions.

(a) Every provision of this Trust Agreement relating to the conduct or affecting the liability of or affording protection to Trust Indemnified Parties shall be subject to the provisions of this Section 5.7.

(b) In the event the Trustees retain counsel (including at the expense of NOAT II), the Trustees shall be afforded the benefit of the attorney-client privilege with respect to all communications with such counsel, and in no event shall the Trustees be deemed to have waived any right or privilege including, without limitation, the attorney-client privilege even if the communications with counsel had the effect of guiding the Trustees in the performance of duties hereunder. A successor to any of the Trustees shall succeed to and hold the same respective rights and benefits of the predecessor for purposes of privilege, including the attorney-client privilege. No NOAT II Beneficiary or other party may raise any exception to the attorney-client privilege discussed herein as any such exceptions are hereby waived by all parties.

(c) To the extent that, at law or in equity, the Trustees have duties (including fiduciary duties) and liabilities relating hereto, to the Trust or to the NOAT II Beneficiaries, it is hereby understood and agreed by the Parties and the NOAT II Beneficiaries that such duties and liabilities are eliminated to the fullest extent permitted by applicable law, including Section 3806 of the Act, and replaced by the duties and liabilities expressly set forth in this Trust Agreement with respect to the Trustees; provided, however, that the duties of care and loyalty are not eliminated but are limited and subject to the terms of this Trust Agreement, including but not limited to Section 5.6 herein.

(d) No Trust Indemnified Party shall be personally liable under any circumstances, except for their own willful misconduct, bad faith, gross negligence or fraud as finally judicially determined by a court of competent jurisdiction.

(e) No provision of this Trust Agreement shall require the Trust Indemnified Parties to expend or risk their own personal funds or otherwise incur financial liability in the performance of their rights, duties and powers hereunder.

(f) In the exercise or administration of the Trust hereunder, the Trust Indemnified Parties (i) may act directly or through their respective agents or attorneys pursuant to agreements entered into with any of them, and the Trust Indemnified Parties shall not be liable for the default or misconduct of such agents or attorneys if such agents or attorneys have been selected by the Trust Indemnified Parties in good faith and with due care, and (ii) may consult with counsel, accountants and other professionals to be selected by them in good faith and with due care and employed by them, and shall not be liable for anything done, suffered or omitted in good faith by them in accordance with the advice or opinion of any such counsel, accountants or other professionals.

**Section 5.8** Indemnification.

(a) To the maximum extent permitted by applicable law, the Trust Indemnified Parties shall be entitled to indemnification and reimbursement for reasonable fees and expenses

(including attorneys' fees and costs but excluding taxes in the nature of income taxes imposed on compensation paid to the Trust Indemnified Parties) in defending any and all of their actions or inactions in their capacity as Trust Indemnified Parties, or on behalf of the Trust, and for any other liabilities, losses, damages, claims, costs and expenses arising out of or due to the implementation or administration of the Plan or the Trust Agreement (other than taxes in the nature of income taxes imposed on compensation paid to such persons), in each case, except for any actions or inactions found by Final Order to be arising out of their willful misconduct, bad faith, gross negligence or fraud. Any valid indemnification claim of any of the Trust Indemnified Parties shall be satisfied from the Trust.

(b) Reasonable expenses, costs and fees (including attorneys' fees and costs) incurred by or on behalf of the Trust Indemnified Parties in connection with any action, suit or proceeding, whether civil, administrative or arbitral, from which they are indemnified by the Trust shall be paid by the Trust in advance of the final disposition thereof upon receipt of an undertaking, by or on behalf of the Trust Indemnified Parties, to repay such amount in the event that it shall be determined ultimately by Final Order of the Bankruptcy Court that the Trust Indemnified Parties or any other potential indemnitee are not entitled to be indemnified by the Trust.

(c) The Trustees shall purchase and maintain appropriate amounts and types of insurance on behalf of the Trust Indemnified Parties, as determined by the Trustees, which may include liability asserted against or incurred by such individual in that capacity or arising from his or her status as a Trust Indemnified Party, and/or as an employee, agent, lawyer, advisor or consultant of any such person.

(d) The indemnification provisions of this Trust Agreement with respect to any Trust Indemnified Party shall survive the termination of such Trust Indemnified Party from the capacity for which such Trust Indemnified Party is indemnified. Termination or modification of this Trust Agreement shall not affect any indemnification rights or obligations in existence at such time. In making a determination with respect to entitlement to indemnification of any Trust Indemnified Party hereunder, the person, persons or entity making such determination shall presume that such Trust Indemnified Party is entitled to indemnification under this Trust Agreement, and any person seeking to overcome such presumption shall have the burden of proof to overcome the presumption.

(e) The rights to indemnification hereunder are not exclusive of other rights which any Trust Indemnified Party may otherwise have at law or in equity, including common law rights to indemnification or contribution.

**Section 5.9** Bond. The Trustees and the Delaware Trustee shall not be required to post any bond or other form of surety or security unless otherwise ordered by the Bankruptcy Court.

**Section 5.10** Delaware Trustee.

(a) There shall at all times be a Delaware Trustee. The Delaware Trustee shall either be (i) a natural person who is at least twenty-one (21) years of age and a resident of the State of Delaware or (ii) a legal entity that has its principal place of business in the State of Delaware,



otherwise meets the requirements of applicable Delaware law to be eligible to serve as the Delaware Trustee and shall act through one or more persons authorized to bind such entity. The initial Delaware Trustee shall be Wilmington Trust, National Association. If at any time the Delaware Trustee shall cease to be eligible in accordance with the provisions of this Section 5.10, it shall resign immediately in the manner and with the effect hereinafter specified in Section 5.10(c) below. For the avoidance of doubt, the Delaware Trustee will only have such rights, duties and obligations as expressly provided by reference to the Delaware Trustee hereunder. The Trustees shall have no liability for the acts or omissions of any Delaware Trustee.

(b) The Delaware Trustee shall not be entitled to exercise any powers, nor shall the Delaware Trustee have any of the duties and responsibilities of the Trustees set forth herein. The Delaware Trustee shall be a trustee of the Trust for the sole and limited purpose of fulfilling the requirements of Section 3807(a) of the Act and for taking such actions as are required to be taken by a Delaware Trustee under the Act. The duties (including fiduciary duties), liabilities and obligations of the Delaware Trustee shall be limited to accepting legal process served on the Trust in the State of Delaware and the execution of any certificates required to be filed with the Secretary of State of the State of Delaware that the Delaware Trustee is required to execute under Section 3811 of the Act. There shall be no other duties (including fiduciary duties) or obligations, express or implied, at law or in equity, of the Delaware Trustee. To the extent that, at law or in equity, the Delaware Trustee has duties (including fiduciary duties) and liabilities relating to the Trust or the NOAT II Beneficiaries, such duties and liabilities are replaced by the duties and liabilities of the Delaware Trustee expressly set forth in this Trust Agreement. The Delaware Trustee shall have no liability for the acts or omissions of any Trustee. Any permissive rights of the Delaware Trustee to do things enumerated in this Trust Agreement shall not be construed as a duty and, with respect to any such permissive rights, the Delaware Trustee shall not be answerable for other than its willful misconduct, bad faith, gross negligence or fraud. The Delaware Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Trust Agreement at the request or direction of the Trustees or any other person pursuant to the provisions of this Trust Agreement unless the Trustees or such other person shall have offered to the Delaware Trustee security or indemnity (satisfactory to the Delaware Trustee in its discretion) against the costs, expenses and liabilities that may be incurred by it in compliance with such request or direction. The Delaware Trustee shall be entitled to request and receive written instructions from the Trustees and shall have no responsibility or liability for any losses or damages of any nature that may arise from any action taken or not taken by the Delaware Trustee in accordance with the written direction of the Trustees. The Delaware Trustee may, at the expense of the Trust, request, rely on and act in accordance with officer's certificates and/or opinions of counsel, and shall incur no liability and shall be fully protected in acting or refraining from acting in accordance with such officer's certificates and opinions of counsel.

(c) The Delaware Trustee shall serve until such time as the Trustees remove the Delaware Trustee or the Delaware Trustee resigns and a successor Delaware Trustee is appointed by the Trustees in accordance with the terms of Section 5.10(d) below. The Delaware Trustee may resign at any time upon the giving of at least sixty (60) days' advance written notice to the Trustees; provided that such resignation shall not become effective unless and until a successor Delaware Trustee shall have been appointed by the Trustees in accordance with Section 5.10(d) below; provided further, that if any amounts due and owing to the Delaware Trustee hereunder remain

unpaid for more than ninety (90) days, the Delaware Trustee shall be entitled to resign immediately by giving written notice to the Trustees. If the Trustees do not act within such sixty (60) day period, the Delaware Trustee, at the expense of the Trust, may apply to the Court of Chancery of the State of Delaware or any other court of competent jurisdiction for the appointment of a successor Delaware Trustee.

(d) Upon the resignation or removal of the Delaware Trustee, the Trustees shall appoint a successor Delaware Trustee by delivering a written instrument to the outgoing Delaware Trustee. Any successor Delaware Trustee must satisfy the requirements of Section 3807 of the Act. Any resignation or removal of the Delaware Trustee and appointment of a successor Delaware Trustee shall not become effective until a written acceptance of appointment is delivered by the successor Delaware Trustee to the outgoing Delaware Trustee and the Trustees, and any fees and expenses due to the outgoing Delaware Trustee are paid. Following compliance with the preceding sentence, the successor Delaware Trustee shall become fully vested with all of the rights, powers, duties and obligations of the outgoing Delaware Trustee under this Trust Agreement, with like effect as if originally named as Delaware Trustee, and the outgoing Delaware Trustee shall be discharged of his or her duties and obligations under this Trust Agreement. The successor Delaware Trustee shall make any related filings required under the Act, including filing a Certificate of Amendment to the Certificate of Trust of the Trust in accordance with Section 3810 of the Act.

(e) Notwithstanding anything herein to the contrary, any business entity into which the Delaware Trustee may be merged or converted or with which it may be consolidated or any entity resulting from any merger, conversion or consolidation to which the Delaware Trustee shall be a party, or any entity succeeding to all or substantially all of the corporate trust business of the Delaware Trustee, shall be the successor of the Delaware Trustee hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto.

(f) The Delaware Trustee shall be entitled to compensation for its services as agreed pursuant to a separate fee agreement between the Trust and the Delaware Trustee, which compensation shall be paid by the Trust. Such compensation is intended for the Delaware Trustee's services as contemplated by this Trust Agreement. The terms of this paragraph shall survive termination of this Trust Agreement and/or the earlier resignation or removal of the Delaware Trustee.

(g) The Delaware Trustee shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument or document, other than this Trust Agreement, whether or not, an original or a copy of such agreement has been provided to the Delaware Trustee. The Delaware Trustee shall have no duty to know or inquire as to the performance or nonperformance of any provision of any other agreement, instrument or document, other than this Trust Agreement. Neither the Delaware Trustee nor any of its directors, officers, employees, agents or affiliates shall be responsible for nor have any duty to monitor the performance or any action of the Trust, the Trustees or any other person, or any of their directors, members, officers, agents, affiliates or employee, nor shall it have any liability in connection with the malfeasance or nonfeasance by such party. The Delaware Trustee may assume performance by all such persons of their respective obligations. The Delaware Trustee shall have no enforcement

or notification obligations relating to breaches of representations or warranties of any other person. The Delaware Trustee shall have no responsibilities (except as expressly set forth herein) as to the validity, sufficiency, value, genuineness, ownership or transferability of any Trust Asset, written instructions, or any other documents in connection therewith, and will not, be regarded as making nor be required to make, any representations thereto.

(h) The Delaware Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Trust Agreement arising out of, or caused, directly or indirectly, by circumstances beyond its control, including without limitation, any act or provision of any present or future law or regulation or governmental authority; acts of God; earthquakes; fires; floods; wars; terrorism; civil or military disturbances; sabotage; epidemics; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility.

**Section 5.11** Meeting Minutes; Rights of Inspection.

(a) The minutes of proceedings of the Trustees shall be kept in written form (which may be electronic) at such place or places designated by the Trustees, or, in the absence of such designation, at the principal office of the Trust.

(b) Every Trustee shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the Trust.

**ARTICLE 6**  
**GENERAL PROVISIONS**

**Section 6.1** Irrevocability. To the fullest extent permitted by applicable law, the Trust is irrevocable. The Settlers shall not (i) retain any ownership or residual interest whatsoever with respect to any Trust Assets, including, but not limited to, the funds transferred to fund the Trust, and (ii) have any rights or role with respect to the management or operation of the Trust, or the Trustees' administration of the Trust.

**Section 6.2** Term; Termination.

(a) The term for which the Trust is to exist shall commence on the date of the filing of the Certificate of Trust and shall terminate pursuant to the provisions of this Section 6.2.

(b) The Trust shall automatically dissolve, as soon as practicable, but no later than ninety (90) days after the date on which the Bankruptcy Court approves the dissolution of the Trust upon the satisfaction of the purposes of the Trust and the following conditions having been satisfied: (i) all reasonably expected assets have been collected by the Trust, (ii) all Abatement Distributions have been made to the extent set forth in the NOAT II TDP, (iii) necessary arrangements and reserves have been made to discharge all anticipated remaining Trust obligations

and NOAT II Operating Expenses in a manner consistent with the Trust Documents, and (iv) a final accounting has been filed and approved by the Bankruptcy Court (the “**Dissolution Date**”).

(c) On the Dissolution Date or as soon as reasonably practicable thereafter, after the wind-up of the Trust’s affairs by the Trustees and payment of all of the Trust’s liabilities have been provided for as required by applicable law including Section 3808 of the Act, all monies remaining in the Trust shall be distributed to the NOAT II Beneficiaries in accordance with the NOAT II TDP. Notwithstanding any contrary provision of the Plan and related documents, including this Trust Agreement, this Section 6.2(c) cannot be modified or amended.

(d) Following the dissolution and distribution of the assets of the Trust, the Trust shall terminate, and the Trustees, or any one of them, shall execute and cause a Certificate of Cancellation of the Certificate of Trust of NOAT II to be filed in accordance with the Act. Notwithstanding anything to the contrary contained in this Trust Agreement, the existence of the Trust as a separate legal entity shall continue until the filing of such Certificate of Cancellation. Notice of the dissolution of NOAT II and the filing of the Certificate of Cancellation shall be given to the Delaware Trustee promptly following such filing.

### **Section 6.3** Taxes.

(a) The Trust is intended to qualify as a “qualified settlement fund” within the meaning of Section 1.468B-1 *et seq.* of the Treasury Regulations promulgated under Section 468B of the IRC, as amended (the “**QSF Regulations**”), and, to the extent permitted under applicable law, for state and local income tax purposes. Notwithstanding anything to the contrary herein, no provision in this Trust Agreement or the NOAT II TDP shall be construed or implemented in a manner that would cause the Trust to fail to qualify as a qualified settlement fund within the meaning of the QSF Regulations.

(b) The Managing Trustee shall be the “administrator” of the Trust within the meaning of Section 1.468B-2(k)(3) of the Treasury Regulations and, in such capacity, such administrator shall (i) prepare and timely file, or cause to be prepared and timely filed, such income tax and other tax returns and statements required to be filed and shall timely pay all taxes required to be paid by the Trust out of the Trust Assets, which assets may be sold by the Trustees to the extent necessary to satisfy tax liabilities of the Trust and (ii) comply with all applicable tax reporting and withholding obligations.

(c) Subject to Section 6.3(b) above, following the Effective Date, the Trustees shall be responsible for all of the Trust’s tax matters, including, without limitation, tax audits, claims, defenses and proceedings. The Trustees may request an expedited determination under Section 505(b) of the Bankruptcy Code for all tax returns filed by or on behalf of the Trust for all taxable periods through the dissolution of the Trust. The Trustees shall be responsible for causing the Trust to satisfy all requirements necessary to qualify and maintain qualification of the Trust as a qualified settlement fund within the meaning of the QSF Regulations and shall take no action that could cause the Trust to fail to qualify as a qualified settlement fund within the meaning of the QSF Regulations.

(d) The Trustees may authorize the Tax Professionals to submit an application and all necessary supporting materials to obtain the Private Letter Ruling(s) from the Internal Revenue Service or state governmental agencies. Within seven (7) business days after receipt of any Private Letter Ruling(s) from the Internal Revenue Service or state governmental agencies, the Trustees shall advise the NOAT II Beneficiaries through the NOAT II Portal.

(e) The Trust and the Reorganized Debtors shall reasonably cooperate in good faith with each other, MDT II, the Public Schools' Special Education Initiative, and each of their respective representatives with respect to the reporting required pursuant to Section 6050X of the IRC regarding the payments or transfers of property required under the Plan. If permitted under applicable law, the MDT II, NOAT II and the Public Schools' Special Education Initiative may appoint a single appropriate official to file a single information return in accordance with Treasury Regulation Sections 1.6050X-1(b)(3) and 1.6050X-1(f)(1)(ii)(B). The MDT II shall provide to the Reorganized Debtors a draft of any information return it has determined that it (or the single appropriate official referenced in the prior sentence) is required to file with the IRS with respect to payments or transfer of property to it under the Plan, no later than thirty (30) days prior to the deadline for filing such information return. The MDT II shall consider in good faith any and all comments timely received from the Reorganized Debtors with respect thereto. If, after consultation with its tax advisors, the MDT II trustees (or analogous authorized persons, in the case of the single appropriate official) reasonably determine in good faith that any such comments should not be reflected in such filing, the MDT II and the Reorganized Debtors shall use reasonable best efforts to negotiate in good faith as to reach a mutually agreeable resolution, and cooperate with, as applicable, NOAT II and the Public Schools' Special Education Initiative. If the parties are unable to reach a mutually agreeable resolution, the matter shall be resolved as directed by the Bankruptcy Court.

#### **Section 6.4** Modification.

(a) Material modifications to this Trust Agreement may be made only pursuant to an order of the Bankruptcy Court; provided, however, that the Trustees may amend this Trust Agreement by unanimous consent of the Trustees from time to time without the consent, approval or other authorization of, but with notice to, the Bankruptcy Court, to make: (i) minor modifications or clarifying amendments necessary to enable the Trustees to effectuate the provisions of this Trust Agreement; or (ii) modifications to satisfy any requirements, conditions or guidelines contained in any opinion, directive, order, statute, ruling or regulation of any federal, state or foreign governmental entity. Notwithstanding the foregoing proviso, no amendment or waiver of this Trust Agreement shall modify this Trust Agreement in a manner that is inconsistent with the Plan or the Confirmation Order other than to make minor modifications or clarifying amendments as necessary to enable the Trustees to effectuate the provisions of this Trust Agreement. The Trustees shall provide to the NOAT II Beneficiaries notice of any proposed modification to this Trust Agreement, whether material or minor, through the NOAT II Portal at the time of notice to the Bankruptcy Court and not less than ten (10) business days before such modification becomes effective; provided, however, that the Trustees may shorten such notice period only in the event that a ten (10) day notice period would be materially adverse to the Trust and the NOAT II Beneficiaries.

(b) Notwithstanding anything set forth in this Trust Agreement to the contrary, none of this Trust Agreement, nor any document related thereto shall be modified or amended in any way that could jeopardize or impair (i) the applicability of section 105 of the Bankruptcy Code to the Plan, Confirmation Order, or the Trust, (ii) the efficacy or enforceability of the Channeling Injunction or any other injunction or release issued or granted in connection with the Plan and Confirmation Order, (iii) the Trust's status as a qualified settlement fund within the meaning of the QSF Regulations, or (iv) the rights, duties, liabilities and obligations of the Delaware Trustee without the written consent of the Delaware Trustee.

**Section 6.5** Communications. The Trustees shall establish and maintain the NOAT II Portal so as to (i) enable NOAT II Beneficiaries to deliver the required documentation under the Beneficiary Abatement Use Reports in an electronic format and (ii) enable secure communications between the Trustees and the NOAT II Beneficiaries.

**Section 6.6** Severability. If any provision of this Trust Agreement or application thereof to any person or circumstance shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Trust Agreement, or the application of such provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Trust Agreement shall be valid and enforced to the fullest extent permitted by law.

**Section 6.7** Notices.

(a) Any notices or other communications required or permitted hereunder to the following parties shall be in writing and delivered at the addresses designated below, or sent by email or facsimile pursuant to the instructions listed below, or mailed by overnight courier, addressed as follows, or to such other address or addresses as may hereafter be furnished in writing to each of the other parties listed below in compliance with the terms hereof.

To the Trustees:

Prof. David Hickton  
c/o Campbell & Levine, LLC  
310 Grant Street, Suite 1700  
Pittsburgh, PA 15219  
Email: Trustees@NationalOpioidAbatementTrust.com

Hon. Gerald B. Lee (Ret.)  
c/o Campbell & Levine, LLC  
310 Grant Street, Suite 1700  
Pittsburgh, PA 15219  
Email: Trustees@NationalOpioidAbatementTrust.com

Dr. Megan L. Ranney  
c/o Campbell & Levine, LLC  
310 Grant Street, Suite 1700

Pittsburgh, PA 15219  
Email: [Trustees@NationalOpioidAbatementTrust.com](mailto:Trustees@NationalOpioidAbatementTrust.com)

with a copy (which shall not constitute notice) to:

Campbell & Levine, LLC  
310 Grant Street, Suite 1700  
Pittsburgh, PA 15219  
Attn: Douglas A. Campbell, Esq.  
Email: [dcampbell@camlev.com](mailto:dcampbell@camlev.com)

To the Delaware Trustee:

Wilmington Trust, N.A.  
1100 North Market Street  
Wilmington, DE 19890  
Attn: Michael Bochanski Jr.  
Email: [mbochanski@wilmingtontrust.com](mailto:mbochanski@wilmingtontrust.com)

with a copy (which shall not constitute notice) to:

Morris James, LLP  
500 Delaware Avenue, Suite 1500  
Wilmington, DE 19801  
Attn: Ross Antonacci, Esq.  
Email: [RAntonacci@morrisjames.com](mailto:RAntonacci@morrisjames.com)

(b) All such notices and communications, if mailed, shall be effective when physically delivered at the designated addresses, or if electronically transmitted, shall be effective upon transmission.

**Section 6.8** Successors and Assigns. The provisions of this Trust Agreement shall be binding upon and inure to the benefit of the Trust, the Trustees, the Delaware Trustee and their respective successors and assigns, except that none of such persons may assign or otherwise transfer any of its, or their, rights or obligations under this Trust Agreement except, in the case of the Trust and the Trustees, as contemplated by Section 2.1 and Section 5.2 above, and in the case of the Delaware Trustee, as contemplated by Section 5.10.

**Section 6.9** Limitation on Transferability; NOAT II Beneficiaries' Interests. NOAT II Beneficiaries' interests in the Trust shall not (a) be assigned, conveyed, hypothecated, pledged or otherwise transferred, voluntarily or involuntarily, directly or indirectly and any purported assignment, conveyance, pledge or transfer shall be null and void *ab initio*; (b) be evidenced by a certificate or other instrument; (c) possess any voting rights; (d) give rise to any right or rights to participate in the management or administration of the Trust or the Trust Assets; (e) entitle the holders thereof to seek the removal or replacement of any Trustee, whether by petition to the Bankruptcy Court or any other court or otherwise; (f) entitle the holders thereof to receive any

interest on Abatement Distributions; and (g) give rise to any rights to seek a partition or division of the Trust Assets. In accordance with the Act, NOAT II Beneficiaries shall have no interest of any kind in any of the Trust Assets; rather, NOAT II Beneficiaries shall have an undivided beneficial interest only in cash assets of the Trust but only to the extent such cash assets are declared by the Trust Trustees to be distributable as Abatement Distributions in accordance with the Trust Documents. For the avoidance of doubt, NOAT II Beneficiaries shall have only such rights as expressly set forth in this Trust Agreement.

**Section 6.10** Exemption from Registration. The Parties hereto intend that the rights of the NOAT II Beneficiaries arising under this Trust Agreement shall not be “securities” under applicable laws, but none of the Parties hereto represent or warrant that such rights shall not be securities or shall be entitled to exemption from registration under applicable securities laws. If it should be determined that any such interests constitute “securities,” the Parties hereto intend that the exemption provisions of Section 1145 of the Bankruptcy Code will be satisfied and the offer and sale under the Plan of the beneficial interests in the Trust will be exempt from registration under the Securities Act, all rules and regulations promulgated thereunder, and all applicable state and local securities laws and regulations.

**Section 6.11** Entire Agreement; No Waiver. The entire agreement of the parties relating to the subject matter of this Trust Agreement is contained herein and in the documents referred to herein, and this Trust Agreement and such documents supersede any prior oral or written agreements concerning the subject matter hereof. No failure to exercise or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any further exercise thereof or of any other right, power or privilege. The rights and remedies herein provided are cumulative and are not exclusive of rights under law or in equity.

**Section 6.12** Headings. The headings used in this Trust Agreement are inserted for convenience only and do not constitute a portion of this Trust Agreement, nor in any manner affect the construction of the provisions of this Trust Agreement.

**Section 6.13** Governing Law. This Trust Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, without regard to the conflicts of law provisions thereof which would purport to apply the law of any other jurisdiction. For the avoidance of doubt, none of the following provisions of Delaware law shall apply to the extent inconsistent with the terms of the Trust Documents: (a) the filing with any court or governmental body or agency of trustee accounts or schedules of trustee fees and charges, (b) affirmative requirements to post bonds for trustees, officers, agents or employees of a trust, (c) the necessity for obtaining court or other governmental approval concerning the acquisition, holding or disposition of property, (d) fees or other sums payable to trustees, officers, agents or employees of a trust, (e) the allocation of receipts and expenditures to income or principal, (f) restrictions or limitations on the permissible nature, amount or concentration of trust investments or requirements relating to the titling, storage or other manner of holding of Trust Assets, (g) the existence of rights or interests (beneficial or otherwise) in Trust Assets, (h) the ability of beneficial owners or other persons to terminate or dissolve a trust, and (i) the establishment of fiduciary or other standards or responsibilities or limitations on the acts or powers of trustees or beneficial owners that are



inconsistent with the limitations on liability or authorities and powers of the Trustees, set forth or referenced in this Trust Agreement. Section 3540 of Title 12 of the Act shall not apply to the Trust.

**Section 6.14** Dispute Resolution.

(a) Unless otherwise expressly provided for herein, the dispute resolution procedures of this Section 6.14 shall be the exclusive mechanism to resolve any dispute between or among the parties hereto, and the NOAT II Beneficiaries hereof, arising under or with respect to this Trust Agreement.

(b) **Informal Dispute Resolution.** Any dispute under this Trust Agreement shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when a disputing party sends to the counterparty or counterparties a written notice of dispute (“**Notice of Dispute**”). Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed thirty (30) days from the date the Notice of Dispute is received by the counterparty or counterparties, unless that period is modified by written agreement of the disputing party and counterparty or counterparties. If the disputing party and the counterparty or counterparties cannot resolve the dispute by informal negotiations, then the disputing party may invoke the formal dispute resolution procedures as set forth below.

(c) **Formal Dispute Resolution.** The disputing party shall invoke formal dispute resolution procedures, within the time period provided in the preceding subparagraph, by serving on the counterparty or counterparties a written statement of position regarding the matter in dispute (“**Statement of Position**”). The Statement of Position shall include, but need not be limited to, any factual data, analysis or opinion supporting the disputing party’s position and any supporting documentation and legal authorities relied upon by the disputing party. Each counterparty shall serve its Statement of Position within thirty (30) days of receipt of the disputing party’s Statement of Position, which shall also include, but need not be limited to, any factual data, analysis or opinion supporting the counterparty’s position and any supporting documentation and legal authorities relied upon by the counterparty. If the disputing party and the counterparty or counterparties are unable to consensually resolve the dispute within thirty (30) days after the last of all counterparties have served its Statement of Position on the disputing party, the disputing party may file with the Bankruptcy Court a motion for judicial review of the dispute in accordance with Section 6.14(d).

(d) **Judicial Review.** The disputing party may seek judicial review of the dispute by filing with the Bankruptcy Court (or, if the Bankruptcy Court shall not have jurisdiction over any dispute, such court as has jurisdiction under Section 1.6) and serving on the counterparty or counterparties and the Trustees, a motion requesting judicial resolution of the dispute. The motion must be filed within forty-five (45) days of receipt of the last counterparty’s Statement of Position pursuant to the preceding subparagraph. The motion shall contain a written statement of the disputing party’s position on the matter in dispute, including any supporting factual data, analysis, opinion, documentation and legal authorities, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly administration of the Trust. Each counterparty shall respond to the motion within the time period allowed by the rules the

court, and the disputing party may file a reply memorandum, to the extent permitted by the rules of the court.

**Section 6.15** Sovereign Immunity. Nothing set forth in the Trust Documents shall be construed as a waiver of a claim of sovereign immunity in any dispute resolution, action or proceeding, including without limitation, any dispute resolution, action or proceeding occurring after the Effective Date.

**Section 6.16** Waiver of Jury Trial. Each party hereto and each NOAT II Beneficiary hereof hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to a trial by jury in any legal proceeding arising out of or relating to this Trust Agreement.

**Section 6.17** Effectiveness. This Trust Agreement shall not become effective until the Effective Date of the Plan and it has been executed and delivered by all the parties hereto.

**Section 6.18** Counterpart Signatures. This Trust Agreement may be executed in any number of counterparts, each of which shall constitute an original, but such counterparts shall together constitute but one and the same instrument. A signed copy of this Trust Agreement or any amendment hereto delivered by facsimile, email or other means of Electronic Transmission, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, the parties have executed this Trust Agreement as of the date first set forth above to be effective as of the Effective Date.


**SETTLORS**

Mallinckrodt plc, Acthar IP Unlimited Company, IMC Exploration Company, INO Therapeutics LLC, Infacare Pharmaceutical Corporation, Ludlow LLC, MAK LLC, MCCH LLC, MEH, Inc., MHP Finance LLC, MKG Medical UK Ltd, MNK 2011 LLC, MUSHI UK Holdings Limited, Mallinckrodt ARD Holdings Inc., Mallinckrodt ARD Holdings Limited, Mallinckrodt ARD IP Unlimited Company, Mallinckrodt ARD LLC, Mallinckrodt Brand Pharmaceuticals LLC, Mallinckrodt Buckingham Unlimited Company, Mallinckrodt CB LLC, Mallinckrodt Critical Care Finance LLC, Mallinckrodt Enterprises UK Limited, Mallinckrodt Holdings GmbH, Mallinckrodt Hospital Products IP Unlimited Company, Mallinckrodt Hospital Products Inc., Mallinckrodt IP Unlimited Company, Mallinckrodt International Finance SA, Mallinckrodt International Holdings S.a.r.l., Mallinckrodt Lux IP S.a.r.l., Mallinckrodt Manufacturing LLC, Mallinckrodt Pharma IP Trading Unlimited Company, Mallinckrodt Pharmaceuticals Ireland Limited, Mallinckrodt Pharmaceuticals Limited, Mallinckrodt Quincy S.a.r.l., Mallinckrodt UK Finance LLP, Mallinckrodt UK Ltd, Mallinckrodt US Holdings LLC, Mallinckrodt US Pool LLC, Mallinckrodt Veterinary, Inc., Mallinckrodt Windor S.a.r.l., Mallinckrodt Windsor Ireland Finance Unlimited Company, Ocera Therapeutics, Inc., Petten Holdings Inc., ST Operations LLC, ST Shared Services LLC, ST US Holdings LLC, ST US Pool LLC, Stratatech Corporation, Sucampo Holdings Inc., Sucampo Pharma Americas LLC, Sucampo Pharmaceuticals, Inc., Therakos, Inc., Vtesse LLC

By:  \_\_\_\_\_  
Name: Bryan Reasons  
Title: President

Mallinckrodt APAP LLC, Mallinckrodt ARD Finance LLC, Mallinckrodt Enterprises Holdings, Inc., Mallinckrodt Enterprises LLC, Mallinckrodt Equinox Finance LLC, Mallinckrodt LLC, SpecGx Holdings LLC, SpecGx LLC, WebsterGx Holdco LLC

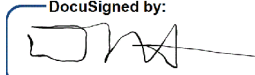
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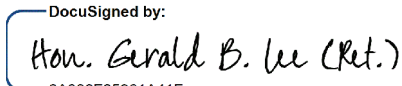
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Name: Stephen Welch

Title: President

**TRUSTEES**

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By: F1610330E5964ED...  
Name: David Hickton

DocuSigned by:  
  
By: 75AB0CFD6C8D460...  
Name: Megan Ranney, M.D.

DocuSigned by:  
  
By: 6A006F85961A41F...  
Name: Hon. Gerald B. Lee (Ret.)

**DELAWARE TRUSTEE**

**WILMINGTON TRUST, NATIONAL  
ASSOCIATION**

DocuSigned by:

*Michael Bochanski Jr.*

By: 9AF5A87A03A54A5...

Name: Michael Bochanski Jr.

Title: Assistant Vice President

## **EXHIBIT 1**

### **AGGREGATE NOAT II CONSIDERATION**

- 97.1% of the first \$625 million received on account of the Public Opioid Creditor Share Distributable Value, less the Public School Distribution Adjustment.
- 97.05% of amounts received in excess of \$625 million and up to and including \$1.25 billion on account of the Public Opioid Creditor Share Distributable Value.
- 97.0% of amounts received in excess of \$1.25 billion on account of the Public Opioid Creditor Share Distributable Value.

**EXHIBIT 2**

**[RESERVED]**



### EXHIBIT 3

#### INVESTMENT GUIDELINES

**In General.** Only the following investments will be permitted:

- (i) Demand and time deposits, such as certificates of deposit, in banks or other savings institutions whose deposits are federally insured;
- (ii) U.S. Treasury bills, bonds, and notes, including, but not limited to, long-term U.S. Treasury bills, bonds, notes, and other Government Securities as defined under Section 2(a)(16) of the Investment Company Act of 1940, 15 U.S.C. § 80a-2(a)(16), including, but not limited to, Fannie Mae, Freddie Mac, Federal Home Loan Bank, and Federal Farm Credit;
- (iii) Repurchase agreements for U.S. Treasury bills, bonds, and notes;
- (iv) Commercial Paper (rated A1/P-1 by Standard & Poor's and Moody's);
- (v) AA or AAA corporate bonds (with the rating awarded by at least two of the three major rating agencies (Standard & Poor's, Moody's, or Fitch)); or
- (vi) Open-ended mutual funds owning only assets described in subparts (i) through (v) of this subsection.

The value of bonds of any single company and its affiliates owned by the Trust directly rather than through a mutual fund shall not exceed 10% of the investment portfolio at time of purchase; this restriction does not apply to any of the following: Repurchase Agreements; Money Market Funds; U.S. Treasuries; and U.S. Government Agencies.

Any such investments shall be made consistently with the Uniform Prudent Investor Act. The determination of the rating of any investments shall be made by the Trust's financial advisor on the date of acquisition of any such investment or on the date of re-investment. The Trust's financial advisor shall reconfirm that all investments of Trust Assets still meet the original rating requirement on a quarterly basis. If the Trust's financial advisors determine that any particular investment no longer meets the rating requirement, there shall be a substitution of that investment with an investment that meets the ratings requirement as promptly as practicable, but in no event later than the next reporting period. Previously purchased securities downgraded below AA may be held for a reasonable and prudent period of time if the Trust's financial advisor believes it is in the interest of the Trust to do so.

The borrowing of funds or securities for the purpose of leveraging, shorting, or other investments is prohibited. Investment in non-U.S. dollar denominated bonds is prohibited. The standing default investment instruction for all cash in any account or subaccount that holds any Trust Assets in cash shall be invested in the BlackRock Fed Fund (CUSIP 09248U700).

See example fund-level requirements table on following page.

### **Fund Level Requirements**

1. OTC Derivatives Counterparty Exposure – Not allowed
2. Non-U.S. dollar denominated bonds – Not allowed

TYPE OF INVESTMENT	ELIGIBLE	PROHIBITED	COMMENTS
U.S. Treasury Securities	X		
U.S. Agency Securities	X		
Mortgage-Related Securities		x	
Asset-Backed Securities		x	
Corporate Securities (public)	X		
Municipal bonds	X		
<b>DERIVATIVES:</b>	No investment, including futures, options and other derivatives, may be purchased if its return is directly or indirectly determined by an investment prohibited elsewhere in these guidelines.		
Futures		x	
Options		x	
Currency Forwards		x	
Currency Futures		x	
Currency Options		x	
Currency Swaps		x	
Interest Rate Swaps		x	
Total Return Swaps		x	
Structured Notes		X	
Collateralized Debt Obligations		x	
Credit Default Swaps		X	
Mortgage-Related Derivatives		X	
<b>FOREIGN / NON-U.S. DOLLAR:</b>			
Foreign CDs		X	
Foreign U.S. Dollar Denominated Securities		X	
Non-U.S. Dollar Denominated Bonds		X	
Supranational U.S. Dollar Denominated Securities		X	
<b>COMMINGLED VEHICLES (except STIF):</b>			
Collective Funds		X	
Commingled Trust Funds (open ended mutual funds only)		X	
Common Trust Funds		X	
Registered Investment Companies		X	
<b>MONEY MARKET SECURITIES:</b>			
Qualified STIF		x	
Interest Bearing Bank Obligations Insured by a Federal or State Agency	X		
Commercial Paper		x	
Master Note Agreements and Demand Notes		x	
Repurchase Agreements		x	
<b>OTHER:</b>			

Bank Loans		x	
Convertibles (e.g., Lyons)		x	
Municipal Bonds	X		
Preferred Stock		x	
Private Placements (excluding 144A)	X		
Rule 144A Issues	X		
Zero Coupon Bonds	X		
Commodities		X	
Catastrophe Bonds		X	

**EXHIBIT 4**

**NATIONAL OPIOID ABATEMENT TRUST II TRUST DISTRIBUTION PROCEDURES**

**NOAT II Trust Distribution Procedures**

**Attached**

## NATIONAL OPIOID ABATEMENT TRUST II DISTRIBUTION PROCEDURES

Issue	Description
<p><b>1. APPLICABILITY OF AGREEMENT</b></p>	<p>These terms shall apply to the allocation of the Non-Federal Governmental Opioid Claims Share of the MDT II Consideration that will be received by NOAT II under the plan of reorganization (the “<b>Chapter 11 Plan</b>” or the “<b>Plan</b>”) in the Chapter 11 Cases of Mallinckrodt plc and its affiliates (collectively, “<b>Mallinckrodt</b>”) pending in the U.S. Bankruptcy Court for the District of Delaware (the “<b>Bankruptcy Court</b>”) on account of the claims of holders of Class 8(a) State Opioid Claims and Class 8(b) Municipal Opioid Claims,<sup>1</sup> which shall be distributed among (i) the states, territories and the District of Columbia (each a “<b>State</b>” as defined in the Plan, provided that distributions to the territories (with the exception of Puerto Rico) and the District of Columbia shall be as set forth in Section 5(a)(2) herein), and (ii) each non-state governmental unit county, city, town, parish, village, and municipality that is a Municipal Unit as defined in the Plan (collectively, the “<b>Local Governments</b>”), whose Claims in Class 8(b) (Municipal Opioid Claims), along with all State Opioid Claims, are channeled to the National Opioid Abatement Trust II (“<b>NOAT II</b>”) under the Plan. To the extent not explicitly reflected in the Chapter 11 Plan, the terms set forth herein will be deemed incorporated into the Chapter 11 Plan, the trust agreement for the National Opioid Abatement Trust II (the “<b>NOAT II Agreement</b>”) and the NOAT II Documents, as applicable.</p> <p>These terms set forth the manner in which NOAT II shall make Abatement Distributions to States and Local Governments (such entities, “<b>Authorized Recipients</b>”), which may be used exclusively on the parameters set forth herein.</p>
<p><b>2. PURPOSE</b></p>	<p>Virtually all governmental creditors in the Mallinckrodt Chapter 11 Cases recognize the need for and value in developing a comprehensive abatement strategy to address the opioid crisis as the most effective use of the Non-Federal Governmental Opioid Claims Share of the MDT II Consideration provided by Mallinckrodt under the Plan on account of opioid claims (including without limitation cash, insurance proceeds, proceeds of sales of warrants or Mallinckrodt stock, and proceeds of claims against certain third parties). Because of the unique impact the crisis has had throughout all regions of the United States, distribution of the Non-Federal Governmental Opioid Claims Share of the MDT II Consideration should occur through an established governmental structure, with the use of such funds strictly limited to abatement purposes as provided herein. This approach recognizes that funding abatement efforts – which would benefit</p>

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Chapter 11 Plan or NOAT II Agreement, as applicable.

Issue	Description
	<p>most creditors and the public by reducing future effects of the crisis through treatment and other programs – is a much more efficient use of limited funds than dividing thin slices among all opioid creditors with no obligation to use it to abate the opioid crisis. Because maximizing abatement of the opioid crisis requires coordination of efforts by all levels of government, particularly when the abatement needs far exceed the available funds, this structure requires a collaborative process between each State and its Local Governments.</p> <p>These distribution procedures (these “<b>National Opioid Abatement Trust II Distribution Procedures</b>”) are intended to establish the mechanisms for the distribution and allocation of funds distributed by NOAT II to the States and Local Governments. All funds described in the foregoing sentence are referred to herein as “<b>NOAT II Funds.</b>” 100% of the NOAT II Funds distributed under the Chapter 11 Plan (and not otherwise dedicated to the attorneys’ fee fund set forth in Section 4 herein) shall be used to abate the opioid crisis in accordance with the terms hereof. Specifically, (i) no less than ninety five percent (95%) of the NOAT II Funds distributed under the Chapter 11 Plan shall be used for abatement of the opioid crisis by funding opioid or substance use disorder-related projects or programs that fall within the list of uses in <b>Schedule B</b> (the “<b>Approved Opioid Abatement Uses</b>”); (ii) priority should be given to the core abatement strategies (“<b>Core Strategies</b>”) as identified on <b>Schedule A</b>; and (iii) no more than five percent (5%) of the NOAT II Funds may be used to fund expenses incurred in administering the distributions for the Approved Opioid Abatement Uses, including the process of selecting programs to receive distributions of NOAT II Funds for implementing those programs and in connection with the Government Participation Mechanism<sup>2</sup> (“<b>Approved Administrative Expenses</b>”) and together with the other Authorized Abatement Purposes set forth in Approved Uses and Core Strategies, “<b>Approved Uses</b>”.</p> <p>NOAT II shall, in accordance with the Plan, the Confirmation Order and the NOAT II Documents, distribute NOAT II Funds to States and Local Governments exclusively for Approved Uses. Decisions concerning NOAT II Funds made by States and Local Governments will consider the need to ensure that underserved urban and rural areas, as well as minority communities, receive equitable access to the funds.</p> <p>Notwithstanding anything in these National Opioid Abatement Trust II Distribution Procedures that might imply to the contrary, projects or programs that constitute Approved Opioid Abatement Uses may be</p>

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<sup>2</sup> Capitalized terms not defined where first used shall have the meanings later ascribed to them in these National Opioid Abatement Trust II Distribution Procedures.

Issue	Description
	provided by States, State agencies, Local Governments, Local Government agencies or nongovernmental parties and funded from NOAT II Funds.
<b>3. DISBURSEMENT OF FUNDS</b>	The Chapter 11 Plan shall provide for the establishment of NOAT II and the appointment of NOAT II Trustees. <sup>3</sup> The NOAT II Trustees shall distribute the NOAT II Funds consistent with the allocation attached as <b><u>Schedule C</u></b> and in accordance with the NOAT II Agreement.
<b>4. ATTORNEYS' FEES AND COSTS FUND</b>	Pursuant to Article IV.X.9 of the Plan, among other things, the Plan will establish the Opioid Attorneys' Fee Fund, which shall be used to pay qualifying costs and expenses (including attorneys' fees) of Holders of State Opioid Claims, Municipal Opioid Claims, and Tribe Opioid Claims (including ad hoc groups thereof).
<b>5. DIVISION OF NOAT II FUNDS</b>	<p>NOAT II Funds shall be allocated among the States, the District of Columbia, and Territories in the percentages set forth on <b><u>Schedule C</u></b>.</p> <p>A. Except as set forth below in Section 5(B) for the District of Columbia and Territories, each State's Schedule C share shall then be allocated within the State in accordance with the following:<sup>4</sup></p> <ol style="list-style-type: none"> <li>1. <b>Default Allocation Mechanism (excluding Territories and DC addressed below).</b> The NOAT II Funds allocable to a State that is not party to a Statewide Abatement Agreement as defined in Section 5(A)(2) below (each a "<b>Non-SAA State</b>") shall be allocated as between the State and its Local Governments to be used only for <b>Approved Uses</b>, in accordance with this Section 5(A)(1) (the "<b>Default Allocation Mechanism</b>").</li> </ol>

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<sup>3</sup> The NOAT II Trustees shall be selected by the Governmental Plaintiff Ad Hoc Committee and the MSGE Group. The NOAT II Agreement shall provide that: (i) the Trustees shall receive compensation from NOAT II for their services as Trustees; (ii) the amounts paid to the Trustees for compensation and expenses shall be disclosed in the Annual Report; (iii) the Trustees shall not be required to post any bond or other form of surety or security unless otherwise ordered by the Bankruptcy Court; (iv) the Trustees shall have the power to appoint such officers and retain such employees, consultants, advisors, independent contractors, experts, and agents and engage in such legal, financial, accounting, investment, auditing, and alternative dispute resolution services and activities as NOAT II requires, and delegate to such persons such powers and authorities as the fiduciary duties of the Trustees permit and as the Trustees, in their discretion, deem advisable or necessary in order to carry out the terms of this Trust Agreement; and (v) the Trustees shall have the power to pay reasonable compensation and expenses to any such employees, consultants, advisors, independent contractors, experts, and agents for legal, financial, accounting, investment, auditing, and alternative dispute resolution services and activities.

<sup>4</sup> Notwithstanding anything to the contrary contained herein, Puerto Rico shall be treated as a State for purposes of allocating its portion of NOAT II Funds set forth on Schedule C within Puerto Rico in accordance with this Section 5.



Issue	Description
	<p>i. <b>Regions.</b> Except as provided in the final sentence of this paragraph, each Non-SAA State shall be divided into “<b>Regions</b>” as follows: (a) each Qualifying Block Grantee (as defined below) shall constitute a Region; and (b) the balance of the State shall be divided into Regions (such Regions to be designated by the State agency with primary responsibility (referred to herein as a “<b>lead agency</b>”)<sup>5</sup> for opioid use disorder services employing, to the maximum extent practical, existing regions established in that State for opioid use disorder treatment or similar public health purposes); such non-Qualifying Block Grantee Regions are referred to herein as “<b>Standard Regions</b>”. The Non-SAA States which have populations under four (4) million and do not have existing regions described in the foregoing clause (b) shall not be required to establish Regions;<sup>6</sup> such a State that does not establish Regions but which does contain one or more Qualifying Block Grantees shall be deemed to consist of one Region for each Qualifying Block Grantee and one Standard Region for the balance of the State.</p> <p>ii. <b>Regional Apportionment.</b> NOAT II Funds shall be allocated to each Non-SAA State as (a) a Regional Apportionment or (b) a Non-Regional Apportionment based on the amount of NOAT II Funds dispersed under a confirmed Chapter 11 Plan as follows:</p> <p>A. <b>First \$260 million</b> – 70% Regional Apportionment /30% Non-Regional Apportionment</p> <p>B. <b>\$260 million – \$650 million</b>– 64% Regional Apportionment /36% Non-Regional Apportionment</p> <p>C. <b>\$650 million – \$910 million</b>– 60% Regional Apportionment /40% Non-Regional Apportionment</p> <p>D. <b>Above \$910 million</b>– 50% Regional Apportionment /50% Non-Regional Apportionment</p>

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<sup>5</sup> A list of lead agencies will be made available on the NOAT II website.

<sup>6</sup> To the extent they are not parties to a Statewide Abatement Agreement and do not have existing regions described in clause (b), the following States will qualify as a Non-SAA State that does not have to establish Regions: Alaska, Arkansas, Connecticut, Delaware, Hawai’i, Kansas, Idaho, Iowa, Maine, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Puerto Rico, Rhode Island, South Dakota, Utah, Vermont, West Virginia, and Wyoming.

Issue	Description
	<p>iii. <b>Qualifying Block Grantee.</b> A “<b>Qualifying Local Government</b>” means a county or parish (or in the cases of States that do not have counties or parishes that function as political subdivisions, a city), that (a) 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 (b) has funded or otherwise manages an established, health care and/or treatment infrastructure (e.g., health department or similar agency) to evaluate, award, manage and administer a Local Government Block Grant.<sup>7</sup> Where a city, county or parish does not meet the threshold population requirement but would otherwise be a Qualifying Local Government, the Government Participation Mechanism (defined below) may recommend treating that city, county or parish as a Qualifying Local Government eligible to receive a Local Government Block Grant. If the SAA Filing Deadline has passed and no SAA has been filed for a State, any Qualifying Local Government that is eligible to receive NOAT II Funds through Local Government Block Grants shall have until the later of (a) (60) sixty days after the SAA Filing Deadline or (b), for any city, county, or parish that a Government Participation Mechanism has recommended treating as a Qualifying Local Government pursuant to the foregoing sentence, (60) sixty days after the relevant city, county or parish becomes eligible to receive a Local Government Block Grant (the “<b>Block Grant Deadline</b>”) to elect whether to receive NOAT II Funds through Local Government Block Grants, and if it elects to receive Local Government Block Grants, whether to receive its Local Government Block Grants directly from NOAT II or from the State in which the Qualifying Local Government is located. Each Qualifying Local Government shall inform the NOAT II Trustees of its election in writing or in such other form prescribed by the NOAT II Trustees on the NOAT II website. If a Qualifying Local Government that is eligible to receive a Local Government Block Grant fails to make the foregoing election by the Block Grant Deadline, such failure to make an election will constitute an election not to receive a Local Government Block Grant. A Qualifying Local Government that elects to receive NOAT II Funds through Local</p>

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<sup>7</sup> As noted in footnote 11, the population for each State shall refer to published U. S. Census Bureau population estimates as of July 1, 2019, released March 2020, and shall remain unchanged during the term of this agreement. These estimates can currently be found at <https://www.census.gov/data/datasets/time-series/demo/popest/2010s-counties-total.html>.

Issue	Description
	<p>Government Block Grants is referred to herein as a “<b>Qualifying Block Grantee</b>”.</p> <p>iv. <b>Proportionate Shares of Regional Apportionment.</b> As used herein, the “<b>Proportionate Share</b>” of each Region in each Non-SAA State shall be (a) for States in which counties or parishes function as Local Governments, the aggregate shares of the counties or parishes located in such Region under an allocation model (the “<b>Allocation Model</b>”),<sup>8</sup> divided by the aggregate shares for all counties or parishes in the State under that Allocation Model; and (b) for all other States, the aggregate shares of the cities and towns in that Region under that Allocation Model’s intra-county allocation formula, divided by the aggregate shares for all cities and towns in the State under that Allocation Model.</p> <p>v. <b>Expenditure or Disbursement of Regional Apportionment.</b> Subject to Section 5(A)(1)(ix) below regarding Approved Administrative Expenses, all Regional Apportionments shall be disbursed or expended in the form of Local Government Block Grants or otherwise for Approved Opioid Abatement Uses in the Standard Regions of each Non-SAA State.</p> <p>vi. <b>Qualifying Block Grantees.</b> Each Qualifying Block Grantee shall receive its Regional Apportionment as a block grant (a “<b>Local Government Block Grant</b>”).</p> <p>Local Government Block Grants shall be used only for Approved Opioid Abatement Uses by the Qualifying Block Grantee or for grants to organizations within its jurisdiction for Approved Opioid Abatement Uses and for Approved Administrative Expenses in accordance with Section 5(A)(1)(ix) below. Where a municipality located wholly within a Qualifying Block Grantee would independently qualify as a block grant recipient (an “<b>Independently Qualifying Municipality</b>”), the Qualifying Block Grantee and Independently Qualifying Municipality must make a substantial</p>

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<sup>8</sup> The Allocation Model shall be the allocation model available at [Dkt. No. 7391, Exh. A] developed in In re: National Prescription Opiates Litigation, MDL No. 2804 (N.D. Ohio) (the “**Negotiation Class Allocation Model**”), provided, however, that notwithstanding the foregoing, a State and its Local Governments may instead agree to utilize the model developed by Christopher J. Ruhm, Professor of Public Policy and Economics at the University of Virginia (the “**Ruhm Allocation Model**”), available at [Dkt. No. 7391, Exh. B]. The GPM Notice (defined herein) filed by a State and its Local Governments (or the NOAT II Trustees on their behalf) will specify whether such State and its Local Governments have agreed to use the Negotiation Class Allocation Model or the Ruhm Allocation Model.

Issue	Description
	<p>and good faith effort to reach agreement on use of NOAT II Funds as between the qualifying jurisdictions. If the Independently Qualifying Municipality and the Qualifying Block Grantee cannot reach such an agreement on or before the effective date of the Chapter 11 Plan (the “<b>Effective Date</b>”), the Qualifying Block Grantee will receive the Local Government Block Grant for its full Proportionate Share and commit programming expenditures to the benefit of the Independently Qualifying Municipality in general proportion to Proportionate Shares (determined as provided in Section 5(A)(2)(iv) above) of the municipalities within the Qualifying Block Grantee. Notwithstanding the allocation of the Proportionate Share of each Regional Apportionment to the Qualifying Block Grantee, a Qualifying Block Grantee may choose to contribute a portion of its Proportionate Share towards a statewide program.</p> <p>vii. <b>Standard Regions.</b> The portions of each Regional Apportionment not disbursed in the form of Local Government Block Grants shall be expended throughout the Standard Regions of each Non-SAA State in accordance with 95%-105% of the respective Proportionate Shares of such Standard Regions. Such expenditures will be in a manner that will best address opioid abatement within the State as determined by the State with the input, advice and recommendations of the Government Participation Mechanism described in Section 6 below. This regional spending requirement may be met by delivering Approved Opioid Abatement Use services or programs to a Standard Region or its residents. Delivery of such services or programs can be accomplished directly or indirectly through many different infrastructures and approaches, including without limitation the following:</p> <ul style="list-style-type: none"> <li>A. State agencies, including local offices;</li> <li>B. Local governments, including local government health departments;</li> <li>C. State public hospital or health systems;</li> <li>D. Health care delivery districts;</li> <li>E. Contracting with abatement service providers, including nonprofit and commercial entities; or</li> <li>F. Awarding grants to local programs.</li> </ul>

Issue	Description
	<p>viii. <b>Expenditure or Disbursement of NOAT II Funds Other Than Regional Apportionment.</b> All NOAT II Funds allocable to a Non-SAA State that are not included in the State’s Regional Apportionment shall be expended only on Approved Uses. The expenditure of such funds shall be at the direction of the State’s lead agency (or other point of contact designated by the State) and may be expended on a statewide and/or localized manner, including in the manners described herein. Qualifying Block Grantees will be eligible to participate in or receive the benefits of any such expenditures on the same basis as other <b>Regions</b>.</p> <p>ix. <b>Approved Administrative Expenses.</b> States may use up to five percent (5%) of their Non-Regional Apportionments plus five percent (5%) of the Regional Apportionment not used to fund Local Government Block Grants, for Approved Administrative Expenses. Qualifying Block Grantees may use up to five percent (5%) of their Local Government Block Grants to fund their Approved Administrative Expenses.</p> <p>2. <b>Statewide Abatement Agreement.</b> Each State and its Local Governments will have until (60) sixty days after the Effective Date of the Plan (such date, the “<b>SAA Filing Deadline</b>”) to file with the Bankruptcy Court or authorize the NOAT II Trustees to file with the Bankruptcy Court on their behalf, an agreed-upon allocation or method for allocating the NOAT II Funds for that State dedicated only to Approved Uses (each a “<b>Statewide Abatement Agreement</b>” or “<b>SAA</b>”).<sup>9</sup> The NOAT II Trustees will file any SAAs submitted to the NOAT II Trustees for filing within (5) five business days of receipt. Any dispute regarding allocation within a State that has adopted a Statewide Abatement Agreement will be resolved as provided by that Statewide Abatement Agreement; <i>provided</i> that no Statewide Abatement Agreement may remove or otherwise limit the reporting requirements set forth in any of the</p>

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<sup>9</sup> Any Non-SAA State that later reaches agreement on a SAA as set forth in and in compliance with Section 5(A)(2) herein shall file with the Bankruptcy Court, or authorize the NOAT II Trustees to file on its behalf, a notice with the Bankruptcy Court stating that a SAA has been agreed to, and such SAA will become effective fourteen (14) days after the notice being filed. Thereafter, the State shall no longer be considered a Non-SAA State for the purposes of these National Opioid Abatement Trust II Distribution Procedures, and the SAA will replace any previously-agreed to GPM solely with respect to any future distributions made by NOAT II. If a SAA becomes effective for a State prior to any distributions being made by NOAT II to such State, such SAA shall apply to all distributions made by NOAT II for such State (unless such SAA is otherwise amended or modified). All obligations of States and Local Governments under these National Opioid Abatement Trust II Distribution Procedures and the NOAT II Agreement shall continue to apply to all NOAT II Funds distributed before any SAA becomes effective.

Issue	Description
	<p>NOAT II Documents, including without limitation in the NOAT II Agreement and Sections 5(A)(3) and 7 hereof.</p> <p>A Statewide Abatement Agreement shall be agreed when it has been approved by the State and either (a) representatives<sup>10</sup> of its Local Governments whose aggregate Population Percentages, determined as set forth below, total more than sixty percent (60%), or (b) representatives of its Local Governments whose aggregate Population Percentages total more than fifty percent (50%) provided that these Local Governments also represent fifteen percent (15%) or more of the State’s counties or parishes (or, in the case of States whose counties and parishes that do not function as Local Governments, fifteen percent (15%) of or more of the State’s incorporated cities or towns), by number.<sup>11</sup></p> <p>Population Percentages shall be determined as follows:</p> <p>For States with counties or parishes that function as Local Governments,<sup>12</sup> 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 “<b>Primary Incorporated Municipality</b>” 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; <i>provided</i> 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</p>

<sup>10</sup>An authorized “representative” of local, or even State, government can differ in these National Opioid Abatement Trust II Distribution Procedures depending on the context.

<sup>11</sup>All references to population in these National Opioid Abatement Trust II Distribution Procedures shall refer to published U. S. Census Bureau population estimates as of July 1, 2019, released March 2020, and shall remain unchanged during the term of this agreement. These estimates can currently be found at <https://www.census.gov/data/datasets/time-series/demo/popest/2010s-counties-total.html>.

<sup>12</sup> Certain states do not have counties or parishes that function as Local Governments, including: Alaska, Connecticut, Massachusetts, Rhode Island, and Vermont. All other States have counties or parishes that function as Local Governments.

Issue	Description
	<p>not have counties or parishes that function as Local Governments, the Population Percentage of each incorporated municipality (including any incorporated or unincorporated municipality located therein), shall be equal to its population divided by the State’s population.</p> <p>The Statewide Abatement Agreement will become effective fourteen (14) days after filing, unless otherwise ordered by the Bankruptcy Court. No distributions shall be made to any State or Local Government prior to the earlier of (a) eighty (80) days after the Effective Date or (b) the date that the SAA covering such State or Local Government becomes effective. All subsequent distributions shall be made in accordance with all SAAs then in effect.</p> <p>A State and its Local Governments may revise, supplement, or refine a Statewide Abatement Agreement by filing, or authorizing the NOAT II Trustees to file on their behalf, an amended Statewide Abatement Agreement that has been approved by the State and sufficient Local Governments to satisfy the approval standards set forth above with the Bankruptcy Court, which shall become effective fourteen (14) days after filing, unless otherwise ordered by the Bankruptcy Court.</p> <p>3. <b>Records.</b> The States shall maintain records of abatement expenditures and their required reporting, as set forth in further detail in Section 7, will include data on regional expenditures so it can be verified that the Regional Distribution mechanism guarantees are being met. Qualifying Block Grantees shall maintain records of abatement expenditures and shall provide those records periodically to their State for inclusion in their State’s required periodic reporting.</p> <p>B. <b>Allocation for Territories other than Puerto Rico and the District of Columbia Only.</b> The allocation of NOAT II Funds within a Territory or the District of Columbia (the “<b>Territory/DC Allocation Mechanism</b>”) will be determined by its local legislative body, unless that legislative body is not in session, in which case, the allocation of NOAT II Funds shall be distributed pursuant to the direction of the Territory’s or District of Columbia’s executive, in consultation – to the extent applicable – with its Government Participation Mechanism. Each Territory and the District of Columbia will file a notice with the Bankruptcy Court, or authorize the NOAT II Trustees to file on their behalf, a notice of its Territory/DC Allocation Mechanism, which will become effective fourteen (14) days after filing the notice. The NOAT II Trustees will file any notices of Territory/DC Allocation</p>



Issue	Description
	<p>Mechanisms submitted to the NOAT II Trustees for filing within (5) five business days of receipt.<sup>13</sup> No NOAT II Funds will be distributed to Territories (other than Puerto Rico) and the District of Columbia until the notice of the Territory/DC Allocation Mechanism is effective, and such funds will be reserved by NOAT II until the notice of the Territory/DC Allocation Mechanism is effective.</p>
<p><b>6. GOVERNMENT PARTICIPATION MECHANISM</b></p>	<p>In each Non-SAA State, as defined in Section 5(A)(1) above, there shall be a process, preferably pre-existing, whereby the State shall allocate funds under the Regional Distribution mechanism only after meaningfully consulting with its respective Local Governments. Each such State shall identify its mechanism (whether be it a council, board, committee, commission, taskforce, or other efficient and transparent structure) for consulting with its respective Local Governments (the “<b>Government Participation Mechanism</b>” or “<b>GPM</b>”) in a notice filed with the Bankruptcy Court identifying what GPM has been formed and describing the participation of its Local Governments in connection therewith (the “<b>GPM Notice</b>”). A State may file the GPM Notice with the Bankruptcy Court itself or authorize the NOAT II Trustees to file the GPM Notice. The NOAT II Trustees will file any GPM Notices submitted to the NOAT II Trustees for filing within (5) five business days of receipt.<sup>14</sup> States may combine these notices into one or more notices for filing with the Bankruptcy Court. These notices are reviewable by the Bankruptcy Court upon the motion of any Local Government in that State asserting that no GPM has been formed.</p> <p>The GPM will become effective fourteen (14) days after filing, unless otherwise ordered by the Bankruptcy Court.</p> <p><b>Government Participation Mechanisms</b> shall conform to the following:</p> <p>A. <i>Composition.</i> For each State,</p> <ol style="list-style-type: none"> <li>1. the State, on the one hand, and State’s Local Governments, on the other hand, shall have equal representation on a GPM;</li> <li>2. Local Government representation on a GPM shall be weighted in favor of the Standard Regions but can include representation from the State’s Qualifying Block Grantees;</li> </ol>

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<sup>13</sup> A Territory or the District of Columbia that has submitted its Territory/DC Allocation Mechanism to the NOAT II Trustees for filing with the Bankruptcy Court may also file the Territory/DC Allocation Mechanism with the Bankruptcy Court itself if it has not yet been filed by the NOAT II Trustees.

<sup>14</sup> A State that has submitted its GPM Notice to the NOAT II Trustees for filing with the Bankruptcy Court may also file the GPM Notice with the Bankruptcy Court itself if it has not yet been filed by the NOAT II Trustees.



Issue	Description
	<p data-bbox="570 243 1471 310">3. the GPM will be chaired by a non-voting chairperson appointed by the State;</p> <p data-bbox="570 348 1471 453">4. Groups formed by the States’ executive or legislature may be used as a GPM, provided that the group has equal representation by the State and the State’s Local Governments.</p> <p data-bbox="521 491 1471 667">A GPM should have appointees such that as a group they possess experience, expertise and education with respect to one or more of the following: public health, substance abuse, healthcare equity and other related topics as is necessary to assure the effective functioning of the GPM.</p> <p data-bbox="521 705 1471 1104">B. <b>Consensus.</b> Members of the GPMs should attempt to reach consensus with respect to GPM Recommendations and other actions of the GPM. Consensus is defined in this process as a general agreement achieved by the members that reflects, from as many members as possible, their active support, support with reservations, or willingness to abide by the decision of the other members. Consensus does not require unanimity or other set threshold and may include objectors. In all events, however, actions of a GPM shall be effective if supported by at least a majority of its members. GPM Recommendations and other actions shall note the existence and summarize the substance of objections where requested by the objector(s).</p> <p data-bbox="521 1142 1471 1390">C. <b>Proceedings.</b> Each GPM shall hold no fewer than four (4) public meetings annually, to be publicized and located in a manner reasonably designed to facilitate attendance by residents throughout the State. Each GPM shall function in a manner consistent with its State’s open meeting, open government or similar laws, and with the Americans with Disabilities Act. GPM members shall be subject to State conflict of interest and similar ethics in government laws.</p> <p data-bbox="521 1428 1471 1642">D. <b>Consultation and Discretion.</b> The GPM shall be a mechanism by which the State consults with community stakeholders, including Local Governments (including those not a part of the GPM), state and local public health officials and public health advocates, in connection with opioid abatement priorities and expenditure decisions for the use of NOAT II Funds on Approved Opioid Abatement Uses.</p> <p data-bbox="581 1680 1471 1927">The GPM is authorized to identify and recommend that non-Qualifying Local Government(s) (individually or in combination) should be considered for a block grant to be funded from an applicable Regional Apportionment. “<b>Non-Qualifying Local Government(s)</b>” individually or in combination are Local Governments that are not Qualifying Local Governments but they fund or otherwise manage an established, health care and/or treatment infrastructure (<i>e.g.</i>, health</p>

Issue	Description
	<p>department or similar agency) to evaluate, award, manage and administer a block grant for programs <b>constituting Approved Uses</b>.</p> <p>E. <b>Recommendations</b>. A GPM shall make recommendations regarding specific opioid abatement priorities and expenditures for the use of NOAT II Funds on Approved Opioid Abatement Uses to the State or the agency designated by a State for this purpose (“<b>GPM Recommendations</b>”). In carrying out its obligations to provide GPM Recommendations, a GPM may consider local, state and federal initiatives and activities related to education, prevention, treatment and services for individuals and families experiencing and affected by opioid use disorder; recommend priorities to address the State’s opioid epidemic, which recommendations may be Statewide or specific to Regions; recommend Statewide or Regional funding with respect to specific programs or initiatives; recommend measurable outcomes to determine the effectiveness of funds expended for Approved Opioid Abatement Uses; and monitor the level of Approved Administrative Expenses expended from NOAT II Funds.</p> <p>The goal is for a process that produces GPM Recommendations that are recognized as being an efficient, evidence-based approach to abatement that addresses the State’s greatest needs while also including programs reflecting particularized needs in local communities. It is anticipated that such a process, particularly given the active participation of State representatives, will inform and assist the State in making decisions about the spending of the NOAT II Funds. To the extent a State chooses not to follow a GPM Recommendation, it will make publicly available within fourteen (14) days after the decision is made a written explanation of the reasons for its decision, and allow seven (7) days for the GPM to respond.</p> <p>F. <b>Non-SAA States Review</b>. In Non-SAA States, Local Governments and States may object to any apportionment, allocation, use or expenditure of NOAT II Funds (an “<b>Allocation</b>”) solely on the basis that: the Allocation at issue (i) is inconsistent with the provisions of Section 5(A)(1)(ii) hereof with respect to the levels of Regional Apportionments and Non-Regional Apportionments, (ii) is inconsistent with the provisions of Section 5(A)(1) hereof with respect to the amounts of Local Government Block Grants or Regional Apportionment expenditures, (iii) is not for an Approved Use or (iv) violates the limitations set forth herein with respect to Approved Administrative Expenses. The objector shall have the right to bring that objection to either (a) a state court with jurisdiction within the applicable State (“<b>State Court</b>”) or (b) the Bankruptcy Court if the Mallinckrodt Chapter 11 Cases have not been closed (each an “<b>Objection</b>”). If an Objection is filed within fourteen (14) days of</p>

Issue	Description
	<p>approval of an Allocation, then no funds shall be distributed on account of the aspect of the Allocation that is the subject of the Objection until the Objection is resolved or decided by the Bankruptcy Court or State Court, as applicable. There shall be no other basis for bringing an Objection to the approval of an Allocation.</p>
<p><b>7. COMPLIANCE, REPORTING, AUDIT AND ACCOUNTABILITY</b></p>	<ol style="list-style-type: none"> <li data-bbox="526 472 1474 905">1. At least annually, each State shall publish on its lead agency’s website and/or on its Attorney General’s website and deliver to NOAT II, a report detailing for the preceding time period, respectively (i) the amount of NOAT II Funds received, (ii) the allocation of awards approved (indicating the recipient, the amount of the allocation, the program to be funded and disbursement terms), and (iii) the amounts disbursed on approved allocations, to Qualifying Local Governments for Local Government Block Grants and Approved Administrative Expenses. Such annual reports for NOAT II may be combined with any reports submitted by a State as required in the National Opioid Abatement Trust Distribution Procedures, to the extent set forth in guidance to be provided by the NOAT II Trustees.<sup>15</sup></li> <li data-bbox="526 947 1474 1379">2. At least annually, each Qualifying Block Grantee which has elected to take a Local Government Block Grant shall publish on its lead agency’s or Local Government’s website, and deliver to NOAT II, a report detailing for the preceding time period, respectively (i) the amount of Local Government Block Grants received, (ii) the allocation of awards approved (indicating the recipient, the amount of the grant, the program to be funded and disbursement terms), and (iii) the amounts disbursed on approved allocations. Such annual reports for NOAT II may be combined with any reports submitted by a Qualifying Block Grantee as required in the National Opioid Abatement Trust Distribution Procedures, to the extent set forth in guidance to be provided by the NOAT II Trustees.</li> <li data-bbox="526 1421 1474 1556">3. As applicable, each State or Local Government shall impose reporting requirements on each recipient to ensure that NOAT II Funds are only being used for Approved Uses, in accordance with the terms of the allocation.</li> <li data-bbox="526 1598 1474 1766">4. NOAT II shall prepare an annual report (an “<b>Annual Report</b>”) that shall be audited by independent auditors as provided in the NOAT II Agreement, which audited Annual Report shall be filed annually with the Bankruptcy Court, and the States and Qualifying Block Grantees shall provide NOAT II with any information reasonably required</li> </ol>

<sup>15</sup> The National Opioid Abatement Trust Distribution Procedures are filed in *In re Purdue Pharma L.P., et al.*, Case No. 19-23649 (RDD), at Dkt. No. 3232. The National Opioid Abatement Trust established in the *Purdue* bankruptcy cases shall be referred to herein as “**NOAT.**”

Issue	Description
	<p>regarding the expenditure and disbursement of NOAT II Funds to satisfy the requirements of such an audited Annual Report of NOAT II.</p> <p>5. (a) A State Court or (b) the Bankruptcy Court if the Mallinckrodt Chapter 11 Cases have not been closed shall have jurisdiction to enforce the terms of these National Opioid Abatement Trust II Distribution Procedures, and as applicable, a Statewide Abatement Agreement or default mechanism; <i>provided</i> that nothing herein is intended to expand the scope of the Bankruptcy Court’s post-confirmation jurisdiction. For the avoidance of doubt, the Bankruptcy Court shall have continuing jurisdiction over NOAT II, <i>provided, however,</i> the courts of the State of Delaware, including any federal court located therein, shall also have jurisdiction over NOAT II, <i>provided further,</i> that the foregoing shall not preclude State Court jurisdiction in any State with respect to any matter arising under the National Opioid Abatement Trust II Distribution Procedures involving that State and one or more of its political subdivisions or agencies.</p> <p>6. The NOAT II Trustees shall have the power to take any and all actions that in the judgment of the Trustees are necessary or proper to fulfill the purposes of NOAT II, including the requirement that 100% of the NOAT II Funds distributed under the Chapter 11 Plan (and not otherwise dedicated to the attorneys’ fee fund set forth in Section 4 herein) shall be used to abate the opioid crisis in accordance with the terms hereof.</p>

**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**”).<sup>1</sup>

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. 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.

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

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<sup>1</sup> As used in this Schedule A, words like “expand,” “fund,” “provide” or the like shall not indicate a preference for new or existing programs. Priorities will be established through the mechanisms described in the National Opioid Abatement Trust II Distribution Procedures.

3. Provide comprehensive wrap-around services to individuals with Opioid Use Disorder (OUD) including housing, transportation, job placement/training, and childcare.

D. **EXPANDING TREATMENT FOR NEONATAL ABSTINENCE SYNDROME**

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
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**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, the following<sup>1</sup>:

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. 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.

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<sup>1</sup> As used in this Schedule B, words like “expand,” “fund,” “provide” or the like shall not indicate a preference for new or existing programs. Priorities will be established through the mechanisms described in the National Opioid Abatement Trust II Distribution Procedures.



8. 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. Fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.
11. Scholarships and supports for behavioral health practitioners or workers involved in addressing OUD and any co-occurring SUD 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. Dissemination of 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. Development and dissemination of 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 following:

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. 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 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, the following:

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 Screening, Brief Intervention and Referral to Treatment (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. 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, the following:

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 (PAARI);
  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 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 (CTI), 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, the following:

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. Training for obstetricians or other healthcare personnel that 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; 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 Neonatal Abstinence Syndrome get referred to appropriate services and receive a plan of safe care.
6. Child and family supports for parenting women with OUD and any co-occurring SUD/MH conditions.

7. Enhanced family supports 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. 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
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**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. Fund 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. Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.
5. Support 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. Increase electronic prescribing to prevent diversion or forgery.
8. Educate 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. Fund 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. Fund community anti-drug coalitions that engage in drug prevention efforts.
6. Support 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. Engage non-profits and faith-based communities as systems to support prevention.
8. Fund 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 of 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. Increase 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. Enable school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.
5. Expand, improve, or develop 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. Educate 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. Expand access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.
11. Support 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. Provide 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. Support screening for fentanyl in routine clinical toxicology testing.

PART THREE: OTHER STRATEGIES
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**I. FIRST RESPONDERS**

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

1. Educate 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, the following:

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.

**Schedule C**  
**State Allocation Percentages**

<b>State</b>	<b>Final Percentage Division of Funds</b>
Alabama	1.5958653635%
Alaska	0.2283101787%
American Samoa*	0.0171221696%
Arizona	2.3755949882%
Arkansas	0.9322152924%
California	9.8347649255%
Colorado	1.6616291219%
Connecticut	1.3010642872%
Delaware	0.4490315873%
District of Columbia	0.1799774824%
Florida	7.0259134409%
Georgia	2.7882080114%
Guam*	0.0480366565%
Hawaii	0.3246488040%
Idaho	0.4919080117%
Illinois	3.3263363702%
Indiana	2.2168933059%
Iowa	0.7419256132%
Kansas	0.7840793410%
Kentucky	2.0059653429%
Louisiana	1.4650905059%
Maine	0.5354480863%
Maryland	2.1106090494%
Massachusetts	2.3035761083%
Michigan	3.4020234989%
Minnesota	1.2972597706%
Mississippi	0.8624327860%
Missouri	2.0056475170%
Montana	0.3125481816%
N. Mariana Islands*	0.0167059202%
Nebraska	0.4171546352%
Nevada	1.2090024165%
New Hampshire	0.5854539780%
New Jersey	2.7551354545%
New Mexico	0.8057440820%
New York	5.3903813405%
North Carolina	3.2502525994%
North Dakota	0.1700251989%
Ohio	4.3567051408%
Oklahoma	1.5400628332%
Oregon	1.3741405009%

Pennsylvania	4.5882419559%
Puerto Rico**	0.7101195950%
Rhode Island	0.4527927277%
South Carolina	1.5393083548%
South Dakota	0.1982071487%
Tennessee	2.6881474977%
Texas	6.2932157196%
Utah	1.1535777967%
Vermont	0.2597674231%
Virgin Islands*	0.0315673573%
Virginia	2.2801150757%
Washington	2.3189040182%
West Virginia	1.0660758910%
Wisconsin	1.7582560561%
Wyoming	0.1668134842%

\* Allocations for American Samoa, Guam, N. Mariana Islands, and Virgin Islands are 100% based on population because of lack of available information for the other metrics.

\*\* Allocations for Puerto Rico are 25% based on MMEs and 75% based on population because of lack of available information for the other metrics.

The allocations set forth above are based on a formula developed through extensive negotiations among the Attorneys General of various states. The allocation formula consists of the following metrics, each of which are described in more detail below, weighted as indicated, and subject to reallocation as described herein: (a) 85% sub-allocated among (i) 25% amount of prescription opioid sales as measured by morphine milligram equivalents (“MME”), (ii) 22% number of persons suffering from pain reliever use disorder, (iii) 22% number of overdose deaths, (iv) 31% population and (b) 15% based on the Opioid MDL Plaintiffs’ proposed “negotiation class” metrics. Each metric is described in greater detail below.

All states agreed to place 1% of their allocation into an “Intensity Fund,” which is redistributed to the following small, hard-hit States: Connecticut, Delaware, Kentucky, Maine, Nevada, New Hampshire, Oklahoma, Rhode Island, Utah, Vermont, and West Virginia. The resulting percentage allocation for each State is set forth in in Schedule C above.

The metrics noted above are calculated as follows:

**A. Amount of Prescription Opioids Sold as Measured by MME**

The MME metric reflects the intensity of prescription opioid sales by state over a nine-year period from 2006 to 2014. This measure accounts for the flow of prescription opioids from manufacturers to distributors to pharmacies. The MME metric uses sales data for 12 categories of prescription opioids and was collected in a standardized manner by the Drug Enforcement Administration (DEA) in its Automation of Reports and Consolidated Orders System (ARCOS) database. As part of the National Prescription Opiate Litigation Multi-District Litigation, Case No. 1:17-MD-2804 (N.D. Ohio) (Opioid MDL), the DEA agreed to produce the nine years of data from 2006-2014, which encompassed the peak years of opioid sales in most states. The ARCOS

data is standardized by converting data from varying products and prescription strengths into uniform MME totals to accurately reflect higher doses and stronger drugs in the data.

#### B. Pain Reliever Use Disorder

This metric consists of the number of people in each state with pain reliever use disorder, as identified by the annual National Survey on Drug Use and Health conducted by the federal Substance Abuse and Mental Health Services Administration (SAMHSA). The SAMHSA survey is widely used by federal and other agencies. This metric included all three prior years in which pain reliever use disorder was broken down by state, 2015-2017, and included both people receiving treatment and those who are not.

#### C. Overdose Deaths

The overdose death metric includes two measures: (1) overdose deaths caused by opioids and (2) overdose deaths caused by all drugs. The overdose death figures used for the metric are from the years 2007-2017, with data drawn from a database compiled by the Centers for Disease Control and Prevention (“CDC”). The CDC database does not adjust for local reporting problems that differ from state to state and over time. To mitigate this data collection issue, figures for all drug overdose deaths, which captures some unidentified opioid overdoses as well as overdoses unrelated to opioids.

#### D. Population

Population is measured by the 2018 U.S. Census estimate.

#### E. Negotiation Class Metrics

The Opioid MDL Plaintiffs’ proposed “negotiation class” metrics weighting factor consists of the Negotiating Class Allocation Model (defined below) applied at the state level.

##### ii. Intrastate Allocation of NOAT II Abatement Funds

Each State and its Local Governments will have until (60) sixty days after the Effective Date of the Plan (the “**SAA Filing Deadline**”) to file with the Bankruptcy Court or authorize the NOAT II Trustees to file with the Bankruptcy Court on their behalf, an agreed-upon allocation or method for allocating the NOAT II Funds for that State dedicated only to Approved Uses (each a “**Statewide Abatement Agreement**” or “**SAA**”). The NOAT II Trustees will file any SAAs submitted to the NOAT II Trustees within (5) five business days of receipt. Any dispute regarding allocation within a State will be resolved as provided by the Statewide Abatement Agreement; *provided* that no Statewide Abatement Agreement may remove or otherwise limit the reporting requirements set forth in any of the NOAT II Documents, including without limitation in the NOAT II Agreement.

A Statewide Abatement Agreement shall be agreed when it has been approved by the State and either (a) representatives of its Local Governments whose aggregate Population

Percentages, determined as set forth below, total more than sixty percent (60%), or (b) representatives of its Local Governments whose aggregate Population Percentages total more than fifty percent (50%) provided that these Local Governments also represent 15% or more of the State's counties or parishes (or, in the case of States whose counties and parishes that do not function as Local Governments, 15% of or more of the State's incorporated cities or towns), by number.

Population Percentages shall be determined as follows: For States with counties or parishes that function as Local Governments,<sup>1</sup> 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 counties or parishes that function as Local Governments, the Population Percentage of each incorporated municipality (including any incorporated or unincorporated municipality located therein), shall be equal to its population divided by the State's population.

The Statewide Abatement Agreement will become effective fourteen (14) days after filing, unless otherwise ordered by the Bankruptcy Court.

A State and its Local Governments may revise, supplement, or refine a Statewide Abatement Agreement by filing, or authorizing the NOAT II Trustees to file on their behalf, an amended Statewide Abatement Agreement that has been approved by the State and sufficient Local Governments to satisfy the approval standards set forth above with the Bankruptcy Court, which shall become effective fourteen (14) days after filing, unless otherwise ordered by the Bankruptcy Court

Under the Plan, NOAT II Funds allocated to each Non-SAA State are allocated between a "**Regional Apportionment**" and a "**Non-Regional Apportionment.**" The Proportionate Share of the Regional Apportionment for each Region in a Non-SAA State is determined by reference to the aggregate shares of counties (as used herein, the term county includes parishes), and cities or towns in the cases of a Non-SAA States in which counties do not function as Local

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<sup>1</sup> Certain states do not have counties or parishes that function as Local Governments, including: Alaska, Connecticut, Massachusetts, Rhode Island, and Vermont. All other States have counties or parishes that function as Local Governments.

Governments, in the Region either (i) under the allocation model available at [Dkt. No. 7391-1] that was developed as part of the establishment of a negotiation class procedure developed in *In re: National Prescription Opiates Litigation*, MDL No. 2804 (N.D. Ohio) (the “**Negotiating Class Allocation Model**”), or (ii) the model developed by Christopher J. Ruhm, Professor of Public Policy and Economics at the University of Virginia (the “**Ruhm Allocation Model**”), available at [Dkt. No. 7391-2], (collectively with the Negotiating Class Allocation Model, the “**Allocation Models.**”).

a. The Negotiating Class Allocation Model

The Negotiating Class Allocation Model employs a three-factor analysis to allocate potential opioids settlement proceeds among counties. The three factors are:

- A. Opioid Use Disorder (“**OUD**”). Under this factor, each county is assigned a percentage derived by dividing the number of people in the county with OUD by the total number of people nationwide with OUD. The Model uses data reported in the National Survey on Drug Use and Health (“**NSDUH**”) for 2017. The data is accessible at <https://bit.ly/2HqF554>.
- B. Overdose Deaths. This factor assigns to each county a percentage of the nation’s opioid overdose deaths. The percentage is based on Multiple Causes of Death (“**MCOD**”) data reported by the National Center for Health Statistics (“**NCHS**”), the Centers for Disease Control (“**CDC**”) and the Department of Health and Human Services (“**DHHS**”). The data so reported is adjusted using a standard, accepted method (the “**Ruhm Adjustment**”) designed to address the well-established under-reporting of deaths by opioids overdose.
- C. Amount of Opioids. This factor assigns to each county a percentage of the national opioids shipments during 2006-2016 (expressed as morphine molecule equivalents, or MMEs) that produced a negative outcome. This percentage is based on data reported by the U.S. Drug Enforcement Agency (“**DEA**”) in its ARCOS (Automation of Reports and Consolidated Orders System) database. Each county’s share of national shipments is multiplied by the higher of two ratios: (1) the ratio of the percentage of people in the county with OUD to the percentage of people nationwide with OUD; or (2) the ratio of the percentage of people in the county who died of an opioids overdose between 2006-2016 to the national percentages of opioids overdose deaths during that time.

The Negotiating Class Allocation Model gives equal weight to each of these factors. Thus, a hypothetical county with an OUD percentage of .3%, and overdose deaths percentage of .2% and an amounts of opioids percentage of .16% would receive an overall allocation of .22%.

Where a county and its cities and towns are unable to reach agreement regarding the sharing of the county's overall allocation, the Negotiating Class Allocation Model provides for such sharing based on how the county and its cities and towns have historically split funding for opioids abatement. This historical analysis employs data reported by the U.S. Census Bureau on local government spending by certain functions. The Negotiating Class Allocation Model assigns to each incorporated city and town a portion of the county's overall allocation based on this historical data.

b. The Ruhm Allocation Model

The Ruhm Allocation Model employs a three-factor analysis to allocate potential opioids settlement proceeds among counties. The three factors are:

- A. Number of Persons with Opioid Use Disorder (“**OUD**”). **NSDUH** data from 2007-2016 is used to estimate the number of persons in the state with OUD. The county share of OUD cases was assumed to be the same as its share of opioid-involved overdose deaths, calculated as described in (B) below.
- B. Opioid-Related Overdose Deaths. This factor assigns to each county a percentage of the nation's opioid overdose deaths. The percentage is based on **MCOD** data reported by the **NCHS, CDC** and **DHHS**. The data so reported is adjusted using the **Ruhm Adjustment** designed to address the well-established under-reporting of deaths by opioids overdose.
- C. Opioid Shipments. This factor assigns to each county a percentage of the national opioids shipments during 2006-2016 (expressed as morphine molecule equivalents, or MMEs) that produced a negative outcome. This percentage is based on data reported by the **DEA** in its **ARCOS**. No additional adjustments are used.

Under the Plan, the Allocation Models' shares of each county in a Region are aggregated. Those aggregate Allocation Model shares are then divided by the total Allocation Model shares for all Regions in the State to determine the subject Region's Proportionate Share. For Non-SAA States in which counties do not function as Local Governments, the Allocation Model shares for each city and town in a Region are aggregated, and the aggregate is divided by the total Allocation Model shares for all cities and towns in the State to determine the Region's Proportionate Share.



## EXHIBIT 5

### State Opioid Attorneys' Fee Fund

1. **Creation of a State Fee and Cost Funds.** Pursuant to Section IV.X.9.C of the Plan, MDT II shall pay 4.5% of each distribution on account of the Public Opioid Creditor Share into the State Opioid Attorneys' Fee Fund, until the aggregate amount paid to the State Opioid Attorneys' Fee Fund reaches \$90 million. The State Opioid Attorneys' Fee Fund shall pay reasonable attorney's fees and costs of States in lieu of recovering amounts from the abatement funds allocated under the Plan.

2. **Fund Administration.** The State Opioid Attorneys' Fee Fund shall be administered by a bipartisan committee of Attorneys General that shall oversee the State Opioid Attorneys' Fee Fund (the "Fund Committee"). The Fund Committee shall initially consist of the following states: (a) Florida; (b) Kentucky; (c) New York; (d) North Carolina; (e) Tennessee; and (f) Vermont. The membership of the Fund Committee may be increased or changed by a vote of the Attorneys General at a meeting of the National Association of Attorneys General, so long as the Fund Committee's membership remains bipartisan. The Fund Committee shall select a settlement fund administrator (the "Fund Administrator") who shall administer the State Opioid Attorneys' Fee Fund according to the guidelines and directives of the Fund Committee.

3. **State Cost Guidelines.** Each distribution received by the State Opioid Attorneys' Fee Fund, until the aggregate amount paid to the State Opioid Attorneys' Fee Fund reaches \$10 million, shall be allocated to reimburse reasonable costs incurred by States prior to the Petition Date attributable to investigation or litigating related to the opioid litigation that have not been reimbursed by another source. The Fund Committee shall establish guidelines for the submission and approval of reasonable costs eligible for reimbursement from the State Opioid Attorneys' Fee Fund. The Fund Administrator shall, in accordance with such guidelines, receive from 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 grants. The Fund Administrator shall also coordinate with administrators of funds established as part of resolutions with other opioid defendants to reimburse States' costs to reduce its administrative costs and submission burdens for States.

4. **State Cost Payment Priorities and Residual.** To the extent that that the costs of the Fund Administrator and aggregate eligible submissions of costs from States exceed \$10 million, costs shall be paid in the following order. If the fund is unable to fully pay costs at any of the following levels, then States with costs at that level shall be paid on a proportional basis. All expenses with a lesser priority from the level where the \$10 million is exhausted will not be reimbursed. Costs shall be paid in the following order: (a) the reasonable costs of the 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 State litigating

against Mallinckrodt apart from any fee owed; (d) litigation-related costs attributable to Mallinckrodt incurred or paid by a State litigating against Mallinckrodt; (e) pre-suit investigation-related costs attributable to Mallinckrodt incurred or paid by either a State outside counsel (not including any amount of fees or any costs which have already been reimbursed pursuant to clause (c), above) or a State investigating Mallinckrodt; (f) the amounts paid by a State as part of any interstate cost share related to opioid investigations and litigation; and (g) costs incurred or paid by a State or outside counsel litigating against another opioid defendant other than a cost share entered into by a State, which costs have not yet been paid under a preceding clauses of this paragraph. If the Fund Administrator's and all States' eligible submitted costs are less than \$10 million, then the remaining funds will be allocated pursuant to Paragraph 5. In determining what costs are attributable to Mallinckrodt, the State Fund Committee shall develop a guideline that ensures that all States are treated equitably and consistent with any similar guideline developed for funds established as part of resolutions with other opioid defendants to reimburse States' costs.

5. **State Fee Guidelines.** Each distribution received by the State Opioid Attorneys' Fee Fund, after the aggregate amount paid to the State Opioid Attorneys' Fee Fund exceeds \$10 million, shall be allocated to compensate both inside staff and private counsel who have performed legal work for a State Attorney General in connection with the Mallinckrodt litigation or investigation. The Fund Committee shall create a schedule of the fees payable to each State. If there is a dispute over the schedule or calculation, the decision of the Fund Committee shall be final and no other amounts shall be utilized to pay fees.

6. **Payment by the Fund Administrator.** The Fund Administrator shall pay each State its share of funds allocated to fees on a proportional basis as relevant distributions are received by the State Opioid Attorneys' Fee Fund. A State may redirect its payment to NOAT II as an addition to the abatement funds to be disbursed in that State pursuant to the NOAT II TDP.