

Recorder's Office Cover Sheet

Recording Requested By:

Name: Doug Ritchie

Department: District Attorney's Office

Item ID/Agreement #: DC-849-2024



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SHAWNYNE GARREN, RECORDER

Type of Document: (please select one)

- Agreement
- Contract
- Grant
- Change Order
- Easement
- Other

specify: _____



Subdivision Participation and Release Form

BY DEPUTY

Governmental Entity: DOUGLAS COUNTY	State: Nevada
Authorized Official: Jenifer Davidson, County Manager	
Address 1: 1594 Esmeralda Avenue	
Address 2:	
City, State, Zip: Minden, Nevada 89423	
Phone: 775-782-9821	
Email: jrdavidson@douglasnv.us	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated March 22, 2024 (“*Kroger Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Kroger Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Kroger Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Kroger Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event no later than 14 days after the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice substantially in the form found at <https://nationalopioidsettlement.com/>.
3. The Governmental Entity agrees to the terms of the Kroger Settlement pertaining to Participating Subdivisions as defined therein.
4. By agreeing to the terms of the Kroger Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Kroger Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity’s state where the Consent Judgment is filed for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Kroger Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the Kroger Settlement.

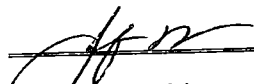
7. The Governmental Entity has the right to enforce the Kroger Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Kroger Settlement, including without limitation all provisions of Section XI (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Kroger Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Kroger Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Kroger Settlement.
10. In connection with the releases provided for in the Kroger Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

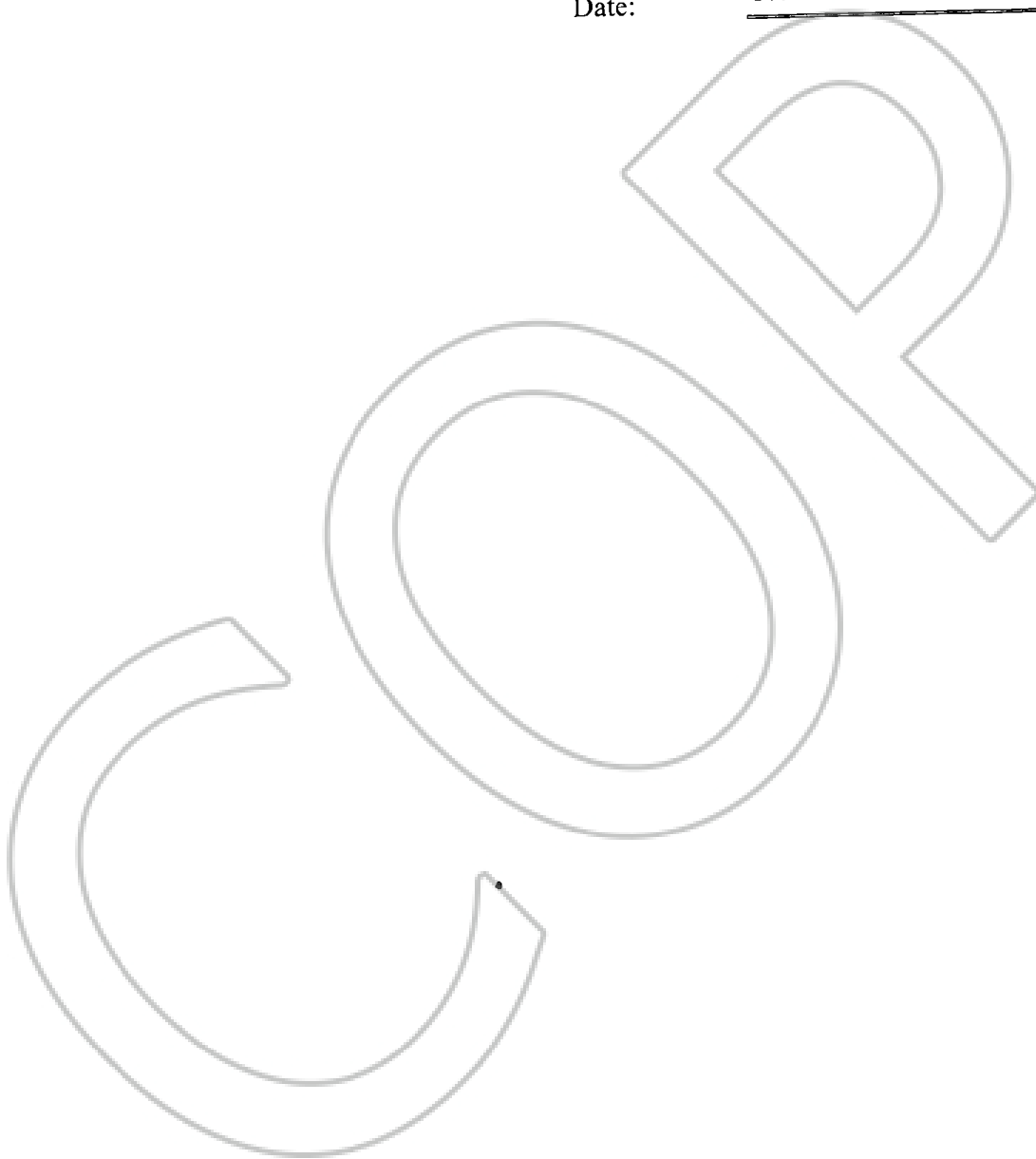
General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Kroger Settlement.
11. Nothing herein is intended to modify in any way the terms of the Kroger Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release

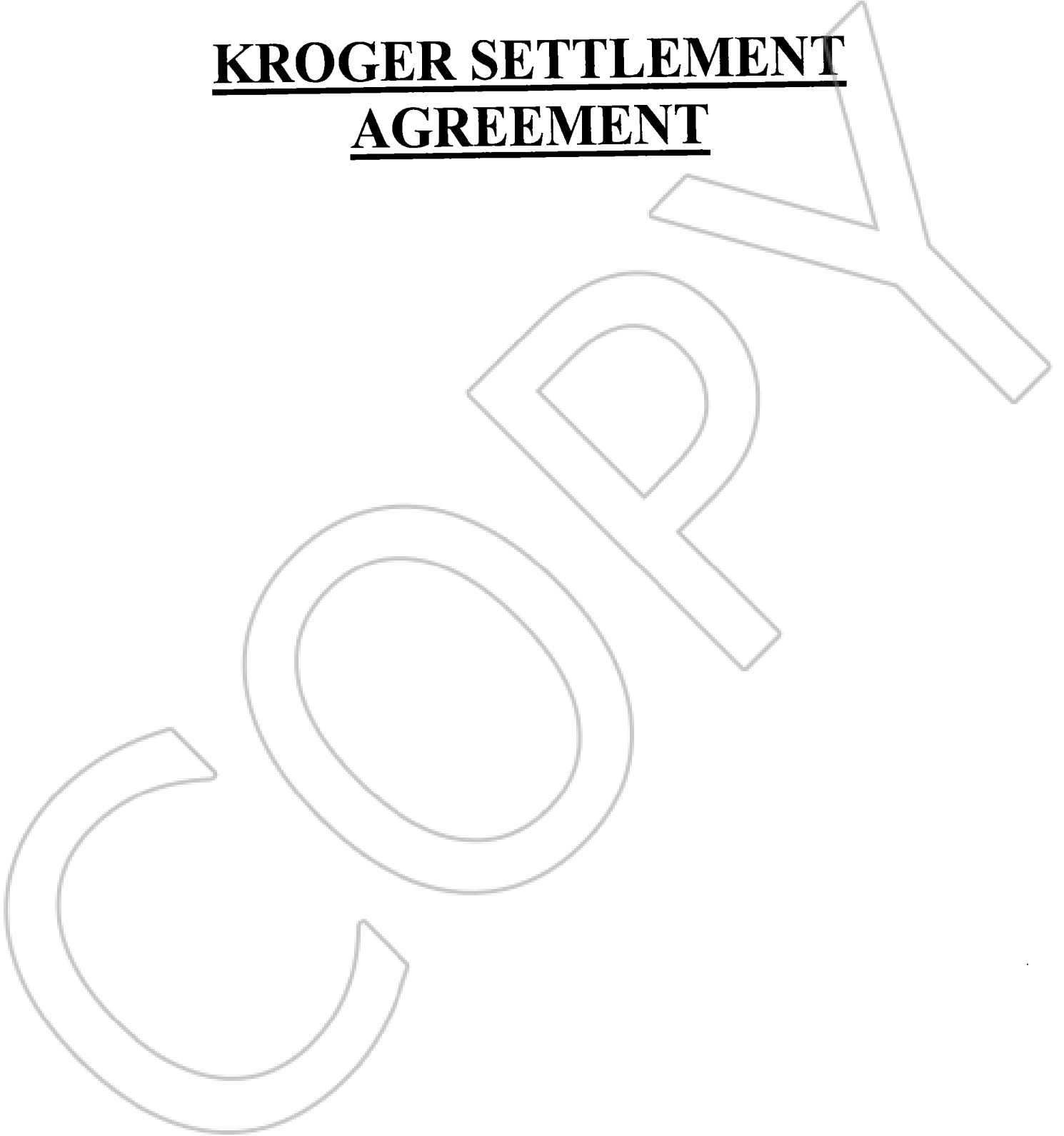
Form is interpreted differently from the Kroger Settlement in any respect, the Kroger Settlement controls.

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

Signature: 
Name: Jenifer Davidson
Title: County Manager
Date: 07/18/2024



KROGER SETTLEMENT
AGREEMENT



KROGER SETTLEMENT AGREEMENT

This Settlement Agreement, dated as of March 22, 2024 (the “*Agreement*”), sets forth the terms of settlement between and among the Settling States, the Participating Subdivisions, and Kroger (as those terms are defined below). Upon satisfaction of the conditions set forth in Sections II and VIII, this Agreement will be binding on the Settling States, Kroger, and the Participating Subdivisions. This Agreement will then be filed as part of a Consent Judgment in the respective courts of each of the Settling States, pursuant to the terms set forth in Section VIII.

I. Definitions

Unless otherwise specified, the following definitions apply:

A. “*Additional Remediation Amount.*” The amount available to the Settling States totaling up to \$8,000,000.00, to be paid in accord with the payment schedule at Exhibit M-3.

B. “*Adjusted State Remediation Payment.*” The State Remediation Payment reduced by the Overall State Allocation for each Non-Settling State on Exhibit F.

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

D. “*Alleged Harms.*” The alleged past, present, and future financial, societal, and public nuisance harms and related expenditures arising out of the alleged misuse and abuse of Products, non-exclusive examples of which are described in the documents listed on Exhibit A, that have allegedly arisen as a result of the physical and bodily injuries sustained by individuals suffering from opioid-related addiction, abuse, death, and other related diseases and disorders, and that have allegedly been caused by Released Entities.

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

F. “*Annual Fees Payment.*” The amounts payable by Kroger in each Payment Year comprised of the State AG Fees and Costs payment, the Additional Remediation Amount payment, and the Private Attorney Fees payment, and not including the Annual Remediation Payment.

G. *“Annual Remediation Maximum.”* The total amount available to Eligible States for Annual Remediation Payments in each Payment Year as set forth in the “Maximum Annual Remediation Payment” column of Exhibit M-1. In no event shall an Annual Remediation Payment in Payment Years 1-2, or 5-10 exceed the Annual Remediation Maximum for that Payment Year set forth in Exhibit M-1. For Payment Years 3-4, the Annual Remediation Payment may exceed the Annual Remediation Maximum for that Payment Year only to the extent needed for the Incentive Payment A Catch-up Payment for a Settling State that has not earned some or all of Incentive Payment BC in prior Payment Years, having resulted in correspondingly lower Annual Remediation Payments in those prior Payment Years. For Payment Year 11, the Annual Remediation Payment may exceed the Annual Remediation Maximum for that Payment Year only to the extent needed to pay the Incentive Payment Earn-Back provided by Section IV.H.7.

H. *“Annual Remediation Payment.”* The amount payable to the Settlement Fund by Kroger for Settling States’ Base Payments and Incentive Payments on the Payment Date for each Payment Year, as calculated by the Settlement Fund Administrator.

I. *“Appropriate Official.”* As defined in Section XIII.F.3.

J. *“Bankruptcy Code.”* Title 11 of the United States Code, 11 U.S.C. § 101, et seq.

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

L. *“Base Payment.”* As defined in Section IV.G.

M. *“Case-Specific Resolution.”* Either: (1) a law barring the Subdivision at issue from maintaining any Released Claims against any Released Entities (either through a direct bar or through a grant of authority to release claims and the exercise of such authority in full); or (2) a ruling by a court of competent jurisdiction over the Subdivision at issue that the Subdivision may not maintain any Released Claims at issue against any Released Entities, whether on the ground of this Agreement (or the release in it) or otherwise. For the avoidance of doubt, a law or ruling that is conditioned or predicated upon payment by a Released Entity (apart from the annual payments by Kroger under this Agreement) shall not constitute a Case-Specific Resolution.

N. *“Claim.”* Any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, penalty, judgment, right, obligation, dispute, suit, contract, controversy, agreement, *parens patriae* claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law, statute, regulation,

guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including, but not limited to, any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, remediation, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative, or regulatory remedy whatsoever.

O. *"Claim-Over."* A Claim asserted by a Non-Released Entity against a Released Entity on the basis of contribution, indemnity, or other claim-over on any theory relating to a Non-Party Covered Conduct Claim asserted by a Releasor.

P. *"Compensatory Restitution Amount."* The aggregate amount paid or incurred by Kroger hereunder for Opioid Remediation, which includes each Annual Remediation Payment and does not include amounts paid as attorneys' fees and costs or identified pursuant to Section V.B.2 as being used to pay attorneys' fees, investigation costs or litigation costs, which shall be up to the amount of the Adjusted State Remediation Payment.

Q. *"Consent Judgment."* A consent judgment in a form to be agreed by the Settling States and Kroger prior to the Effective Date that, among other things, (1) approves this Agreement and (2) provides for the release set forth in Section X.A, including the dismissal with prejudice of any Released Claims that the Settling State has brought against Released Entities.

R. *"Covered Conduct."* Any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity of any kind whatsoever from the beginning of time through the Initial Participation Date (and any past, present, or future consequence of any such act, failure to act, negligence, statement, error, omission, breach of duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity) relating in any way to (1) compounding, counseling and documentation relating to any Product or class of Products (2) the discovery, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, recall, withdrawal, distribution, delivery, monitoring, reporting, supply, sale, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to, any Product, or any system, plan, policy or advocacy relating to any Product or class of Products, including, but not limited to, any unbranded promotion, marketing, programs, or campaigns relating to any Product or class of Products; (3) the characteristics, properties, risks, or benefits of any Product; (4) the reporting, disclosure, non-reporting or nondisclosure to federal, state or other regulators of orders placed with any Released Entity; or (5) diversion control programs or suspicious order monitoring.

S. *"Designated State."* The State of Tennessee.

T. *"Effective Date."* The date sixty (60) calendar days after the Reference Date.

U. *“Eligible States.”* The thirty-three (33) states of the United States listed in Exhibit F, and the District of Columbia.

V. *“Enforcement Committee.”* A committee consisting of representatives of the Settling States and of the Participating Subdivisions. Exhibit B contains the organizational bylaws of the Enforcement Committee. Notice pursuant to Section XIII.R shall be provided when there are changes in membership or contact information.

W. *“Final Order.”* An order or judgment of a court of competent jurisdiction with respect to the applicable subject matter (1) which has not been reversed or superseded by a modified or amended order, is not currently stayed, and as to which any right to appeal or seek certiorari, review, reargument, stay, or rehearing has expired, and as to which no appeal or petition for certiorari, review, reargument, stay, or rehearing is pending, or (2) as to which an appeal has been taken or petition for certiorari, review, reargument, stay, or rehearing has been filed and (a) such appeal or petition for certiorari, review, reargument, stay, or rehearing has been resolved by the highest court to which the order or judgment was appealed or from which certiorari, review, reargument, stay, or rehearing was sought, or (b) the time to appeal further or seek certiorari, review, reargument, stay, or rehearing has expired and no such further appeal or petition for certiorari, review, reargument, stay, or rehearing is pending.

X. *“Global Settlement Amount.”* The Global Settlement Amount is \$1,372,800,000, which is comprised of the State Remediation Payment, Private Attorney Fees, State AG Fees and Costs, and Additional Remediation Amount.

Y. *“Implementation Administrator.”* Rubris, Inc., which is the vendor that will be retained by Kroger for costs of up to \$1,500,000, to provide notice pursuant to Section VII.A and to manage the initial joinder period for Subdivisions, including the issuance and receipt of Subdivision Participation Agreements.

Z. *“Incentive Payment A.”* The incentive payment described in Section IV.H.4.

AA. *“Incentive Payment A Catch-up Payment.”* As defined in Section IV.H.4.f.

BB. *“Incentive Payment BC.”* The incentive payment described in Section IV.H.5.

CC. *“Incentive Payment D.”* The incentive payment described in Section IV.H.6.

DD. *“Incentive Payment Earn-Back.”* The incentive payment described in Section IV.H.7.

EE. *“Initial Participating Subdivision.”* A Subdivision that meets the requirements set forth in Section VII.D.

FF. *“Initial Participation Date.”* The date ninety (90) calendar days after the Preliminary Agreement Date, unless it is extended by written agreement of Kroger and the Enforcement Committee.

GG. *“Injunctive Relief Terms.”* The terms described in Section III and set forth in Exhibit P.

HH. *“Kroger.”* The Kroger Co.

II. *“Later Litigating Subdivision.”* A Subdivision (or Subdivision official asserting the right of or for the Subdivision to recover for Alleged Harms to the Subdivision and/or the people thereof) that: (1) first files a lawsuit bringing a Released Claim against a Released Entity after the Trigger Date; or (2) adds a Released Claim against a Released Entity after the Trigger Date to a lawsuit brought before the Trigger Date that, prior to the Trigger Date, did not include any Released Claims against a Released Entity; or (3) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a legislative Bar or legislative Case-Specific Resolution as of the Trigger Date, (b) such legislative Bar or legislative Case-Specific Resolution is subject to a Revocation Event after the Trigger Date, and (c) the earlier of the date of completion of opening statements in a trial in an action brought by a Subdivision in that Settling State that includes a Released Claim against a Released Entity or one hundred eighty (180) days from the Revocation Event passes without a Bar or Case-Specific Resolution being implemented as to that Litigating Subdivision or the Litigating Subdivision's Released Claims being dismissed; or (4) (a) was a Litigating Subdivision whose Released Claims against Released Entities were resolved by a judicial Bar or judicial Case-Specific Resolution as of the Trigger Date, (b) such judicial Bar or judicial Case-Specific Resolution is subject to a Revocation Event after the Trigger Date, and (c) such Litigating Subdivision takes any action in its lawsuit asserting a Released Claim against a Released Entity other than seeking a stay or dismissal.

JJ. *“Later Participating Subdivision.”* A Participating Subdivision that is not an Initial Participating Subdivision, but meets the requirements set forth in Section VII.E.

KK. *“Litigating Subdivision.”* A Subdivision (or Subdivision official) that brought any Released Claim against any Released Entity prior to the Trigger Date; *provided, however*, that a Subdivision (or Subdivision official) that is a Prior Litigating Subdivision shall not be considered a Litigating Subdivision. Exhibit C is an agreed list of all Litigating Subdivisions. Exhibit C will be updated (including with any corrections) periodically, and a final version of Exhibit C will be attached hereto as of the Reference Date.

LL. *“National Arbitration Panel.”* The panel comprised as described in Section VI.F.2.b.

MM. *“National Disputes.”* As defined in Section VI.F.2.a.

NN. *“Non-Eligible State.”* Any state or territory of the United States of America that is not an Eligible State.

OO. *“Non-Litigating Subdivision.”* Any Subdivision that is neither a Litigating Subdivision nor a Later Litigating Subdivision.

PP. *“Non-Litigating Threshold Subdivisions.”* Primary Subdivisions (a) with populations greater than 30,000 that have not sued Kroger as of the Initial Participation Date and (b) with populations between 10,000 and 30,000 that have not sued Kroger but did sue McKesson, AmerisourceBergen, Cardinal or Janssen prior to July 1, 2021 related to any allegations regarding the Products for Covered Conduct Attached as Exhibit W is a list of the Non-Litigating Threshold Subdivisions in each Eligible State. Exhibit W will be updated (including with any corrections) periodically, and a final version of Exhibit W will be attached hereto as of the Initial Participation Date.

QQ. *“Non-Participating Subdivision.”* Any Subdivision that is not a Participating Subdivision.

RR. *“Non-Party Covered Conduct Claim.”* A Claim against any Non-Released Entity involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity).

SS. *“Non-Party Settlement.”* A settlement by any Releasor that settles any Non-Party Covered Conduct Claim and includes a release of any Non-Released Entity.

TT. *“Non-Released Entity.”* An entity that is not a Released Entity.

UU. *“Non-Settling State.”* Any Eligible State that is not a Settling State.

VV. *“Opioid Remediation.”* Care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures¹ except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to (1) address the misuse and abuse of opioid products in the Settling States, (2) treat or mitigate opioid use or related disorders in the Settling States, or (3) mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic in the Settling States. Exhibit E provides a non-exhaustive list of expenditures that qualify as being paid for Opioid Remediation. Qualifying expenditures may include reasonable related administrative expenses in connection with the above.

WW. *“Opioid Tax.”* Any tax, assessment, license fee, surcharge or any other fee (other than a fixed prospective excise tax or similar tax or fee that has no restriction on pass-through) imposed by a Settling State on Kroger on the sale, transfer or distribution of opioid products; *provided, however*, that none of the following as currently enacted shall be considered an Opioid Tax for purposes of this Agreement: 16 Del. Code Chapter 48B; fees assessed by the Minnesota Board of Pharmacy under Minnesota Statutes section 151.065; any penalty assessed under Minnesota’s Opiate Product Registration Fee law, Minnesota Statutes section 151.066; the MinnesotaCare Wholesale Drug Distributor and Use Tax, Minnesota Statutes section 292.52; the Excise Tax on sale of Opioids, Article 20-D of New York’s Tax Law; the Opioid Stewardship Act, Article 33, Title 2-A of New York’s Public Health Law; and Rhode Island’s Opioid Stewardship Act, R.I. Gen. Laws §§ 21-28.10, *et seq.*

¹ Reimbursement includes amounts paid to any governmental entities for past expenditures or programs

XX. *“Overall Allocation Percentage.”* A Settling State’s percentage as set forth in Exhibit F.

YY. *“Participating Subdivision.”* Any Subdivision that meets the requirements for becoming a Participating Subdivision under Section VII.B and Section VII.C. Participating Subdivisions include both Initial Participating Subdivisions and Later Participating Subdivisions.

ZZ. *“Participation Percentage of Incentive BC Eligible Subdivision Population.”* As defined in Section IV.H.5.e.

AAA. *“Parties.”* Kroger and the Settling States (each, a *“Party”*).

BBB. *“Payment Date.”* March 31 for each Payment Year, which is the date by which Kroger makes the Annual Remediation Payment and the Annual Fees Payment.

CCC. *“Payment Year.”* The calendar year during which the applicable Annual Remediation Payment and the Annual Fees Payment is due. Payment Year 1 is 2024, Payment Year 2 is 2025 and so forth. References to payment *“for a Payment Year”* mean the Annual Remediation Payment and/or Annual Fees Payment due during that year. References to eligibility *“for a Payment Year”* mean eligibility in connection with the Annual Remediation Payment and/or Annual Fees Payment due during that year.

DDD. *“Potential Earn-Back Amount.”* As defined in Section IV.H.7.

EEE. *“Preliminary Agreement Date.”* The date on which Kroger is to inform the Settling States of their determination whether the condition in Section II.B has been satisfied. The Preliminary Agreement Date shall be no more than ten (10) calendar days after the end of the notice period to Eligible States, unless it is extended by written agreement of Kroger and the Enforcement Committee.

FFF. *“Primary Fire District.”* A fire district that covers a population of 25,000, or 0.20% of an Eligible State’s population if an Eligible State’s population is greater than 18 million. If not easily calculable from state data sources and agreed to between the Eligible State and Kroger, a fire district’s population is calculated by dividing the population of the county or counties a fire district serves by the number of fire districts in the county or counties. *“Primary Fire Districts”* shall mean fire districts as identified in connection with the implementation of the July 21, 2021 Janssen Settlement Agreement.

GGG. *“Primary Subdivision.”* A Subdivision that is a General Purpose Government (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore, or any other entities that provide municipal-type government) with population over 10,000. Attached as Exhibit I is an agreed list of the Primary Subdivisions in each Eligible State.

HHH. *“Prior Litigating Subdivision.”* A Subdivision (or Subdivision official) that brought any Released Claim against any Released Entity prior to the Trigger Date and all such Released Claims were separately settled or finally adjudicated prior to the Trigger Date; *provided, however,*

that if the final adjudication was pursuant to a Bar, such Subdivision shall not be considered a Prior Litigating Subdivision. Notwithstanding the prior sentence, Kroger and the Settling State of the relevant Subdivision may agree in writing that the Subdivision shall not be considered a Prior Litigating Subdivision.

III. *"Private Attorney Fees"* are the amount to be paid by Kroger for private attorneys' litigation fees and costs on behalf of Participating Subdivisions. The maximum amount of Private Attorney Fees are \$148,800,000. For avoidance of doubt, Private Attorney Fees do not include State AG Fees and Costs or Additional Remediation Amount.

JJJ. *"Product."* Any chemical substance, whether used for medicinal or non-medicinal purposes, and whether natural, synthetic, or semi-synthetic, or any finished pharmaceutical product made from or with such substance, that is: (1) an opioid or opiate, as well as any product containing any such substance; or (2) benzodiazepine, carisoprodol, or gabapentin; or (3) a combination or "cocktail" of chemical substances prescribed, sold, bought, or dispensed to be used together that includes opioids or opiates. "Product" shall include, but is not limited to, any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, oxycodone, oxymorphone, tapentadol, tramadol, opium, heroin, carfentanil, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triazolam, temazepam, midazolam, carisoprodol, gabapentin, or any variant of these substances or any similar substance. Notwithstanding the foregoing, nothing in this section prohibits a Settling State from taking administrative or regulatory action related to benzodiazepine (including, but not limited to, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triazolam, temazepam, and midazolam), carisoprodol, or gabapentin that is wholly independent from the use of such drugs in combination with opioids, *provided* such action does not seek money (including abatement and/or remediation) for conduct prior to the Initial Participation Date.

KKK. *"Reference Date."* The date on which Kroger is to inform the Settling States of its determination whether the condition in Section VIII has been satisfied. The Reference Date shall be no later than thirty (30) calendar days after the Initial Participation Date, unless it is extended by written agreement of Kroger and the Enforcement Committee.

LLL. *"Released Claims."* Any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct occurring prior to the Initial Participation Date. Without limiting the foregoing, Released Claims include any Claims that have been asserted against Released Entities, by a Settling State or Litigating Subdivision in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) based on, arising out of, or relating to, in whole or in part, the Covered Conduct, or any such Claims that could be or could have been asserted prior to the Initial Participation Date by a Settling State, Subdivision, or Releasor (whether or not such Settling State, Subdivision, or Releasor has brought such action or proceeding). The Parties intend that this term, "Released Claims," be interpreted broadly. This Agreement does not release Claims by private individuals. It is the intent of the Parties that Claims by private individuals be treated in accordance with applicable law. Released Claims is also used herein to describe claims brought by a Later Litigating Subdivision or other non-party Subdivision that would have been Released Claims if they had been brought by a Releasor against a Released Entity.

MMM. “*Released Entities.*” With respect to Released Claims, Kroger and (1) all past and present subsidiaries, divisions, predecessors, successors, and assigns (in each case, whether direct or indirect) of Kroger; (2) all past and present subsidiaries and divisions (in each case, whether direct or indirect) of any entity described in subsection (1); (3) the respective past and present officers, directors, members, trustees, and employees of any of the foregoing (each for actions that occurred during and related to their work for, or employment with, any of Kroger or the foregoing entities); (4) all past and present joint ventures (whether direct or indirect) of Kroger or its subsidiaries, including in any subsidiary’s capacity as a participating member in such joint venture; (5) all direct or indirect parents and shareholders of Kroger (solely in their capacity as parents or shareholders of Kroger with respect to Covered Conduct); and (6) any insurer of Kroger or any person or entity otherwise described in subsections (1)-(5) (solely in its role as insurer of such person or entity and subject to the last sentence of Section X.C). An illustrative list of Kroger’s joint ventures, subsidiaries and affiliates and predecessor entities is set forth in Exhibit J. Any person or entity described in subsections (3)-(6) shall be a Released Entity solely in the capacity described in such clause and shall not be a Released Entity with respect to its conduct in any other capacity. Notwithstanding any other provision of this Agreement, Albertsons Companies, Inc. (and its joint ventures, subsidiaries, divisions, and affiliates, and the predecessors, successors, assigns, and agents of Albertsons Companies, Inc., its joint ventures, subsidiaries, divisions, and affiliates) is not a Released Entity and will not become a Released Entity if acquired by Kroger. Any other entity acquired, or joint venture entered into, by Kroger after the Initial Participation Date is not a Released Entity. Further and notwithstanding anything else in this paragraph, no entity sued in *In re: National Prescription Opiate Litigation*, No. 1:17-md-2804 (N.D. Ohio) is included as a Released Entity other than the entities listed on Exhibit J.

NNN. “*Releasors.*” With respect to Released Claims, (1) each Settling State; (2) each Participating Subdivision; and (3) without limitation and to the maximum extent of the power of each Settling State’s Attorney General’s and/or Participating Subdivision to release Claims, (a) the Settling State’s and Participating Subdivision’s departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and attorneys, including its Attorney General, and any person in his or her official capacity whether elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, (b) any public entities, public instrumentalities, public educational institutions, unincorporated districts, fire districts, irrigation districts, and other Special Districts in a Settling State, and (c) any person or entity acting in a *parens patriae*, sovereign, quasi-sovereign, private attorney general, *qui tam*, taxpayer, or other capacity seeking relief on behalf of or generally applicable to the general public with respect to a Settling State or Subdivision in a Settling State, whether or not any of them participate in this Agreement. The inclusion of a specific reference to a type of entity in this definition shall not be construed as meaning that the entity is not a Subdivision. Each Settling State’s Attorney General represents that he or she has or has obtained (or will obtain no later than the Initial Participation Date) the authority set forth in Section X.G. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide the Subdivision Settlement Participation Form referenced in Section VII providing for a release to the fullest extent of the Participating Subdivision’s authority.

OOO. “*Remediation Accounts Fund.*” The component of the Settlement Fund described in Section V.

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

QQQ. “*Settlement Class Resolution.*” A class action resolution in a court of competent jurisdiction in a Settling State (that is not successfully removed to federal court) with respect to a class of Subdivisions in that Settling State that (1) conforms with that Settling State’s statutes, case law, and rules of procedure regarding class actions; (2) is approved and entered as an order of a court of competent jurisdiction in that Settling State and such order has become a Final Order; (3) is binding on all Non-Participating Subdivisions in that Settling State (other than opt outs as permitted under the next sentence); (4) provides that all such Non-Participating Subdivisions may not bring any Released Claims against any Released Entities, whether on the ground of this Agreement (or the releases herein) or otherwise; and (5) does not impose any costs or obligations on Kroger other than those provided for in this Agreement, or contain any provision inconsistent with any provision of this Agreement. If applicable state law requires that opt-out rights be afforded to members of the class, a class action resolution otherwise meeting the foregoing requirements shall qualify as a Settlement Class Resolution unless Subdivisions collectively representing more than one percent (1%) of the total population of that Settling State opt out. In seeking certification of any Settlement Class, the applicable Settling State and Participating Subdivisions shall make clear that certification is sought solely for settlement purposes and shall have no applicability beyond approval of the settlement for which certification is sought. Nothing in this Agreement constitutes an admission by any Party that class certification would be appropriate for litigation purposes in any case or for purposes unrelated to this Agreement.

RRR. “*Settlement Fund.*” The interest-bearing fund established at U.S. Bank pursuant to this Agreement into which the Annual Remediation Payments are made under Section IV, which is intended to be classified as a “qualified settlement fund” within the meaning of 26 C.F.R. §§ 1.468B-1 *et seq.* and which shall be approved by any Settling State in accordance with the requirements of 26 C.F.R. § 1.468B-1.

SSS. “*Settlement Fund Administrator.*” BrownGreer PLC, which is the entity that annually determines the Annual Remediation Payment (including calculating offset or reduction and Incentive Payments pursuant to Section IV and any amounts subject to offset or reduction pursuant to Section XII) and Additional Remediation Amount, administers the Settlement Fund, and distributes amounts into the Remediation Accounts Fund, State Fund, and Subdivision Fund pursuant to this Agreement. The duties of the Settlement Fund Administrator shall be governed by this Agreement. Prior to the Effective Date, Kroger and the Enforcement Committee shall agree to a detailed description of the Settlement Fund Administrator’s duties and responsibilities, including a detailed mechanism for paying the Settlement Fund Administrator’s fees and costs, all of which shall be appended to the Agreement as Exhibit L.

TTT. “*Settlement Fund Escrow.*” The interest-bearing escrow fund established pursuant to this Agreement to hold disputed payments made under this Agreement.

UUU. "*Settlement Payment Schedule.*" The schedule attached to this Agreement as Exhibit M-1, Exhibit M-2, and Exhibit M-3.

VVV. "*Settling State.*" An Eligible State that has entered into this Agreement and delivers executed releases in accordance with Section VIII.A.

WWW. "*State Allocation.*" The State Remediation Payment multiplied by the percentage for each Eligible State listed in Exhibit F. The allocation percentages in Exhibit F reflect a re-allocation to only states in which the Released Entities operate because any and all potential claims and/or liability against the Released Entities arise from alleged Covered Conduct related to Products in those states.

XXX. "*State AG Fees and Costs.*" The amount to be paid by Kroger to the Settling States for their litigation fees and costs pursuant to Exhibit S and Exhibit T. The State AG Fees and Costs are 2% times the State Remediation Payment, minus the Additional Remediation Amount, with the maximum amount being \$16,000,000.00.

YYY. "*State Fund.*" The component of the Settlement Fund described in Section V.

ZZZ. "*Statewide Payment Amount.*" The amount from an Annual Remediation Payment to be paid to a Settling State, its separate types of funds (if applicable), and its Participating Subdivision listed on Exhibit G.

AAAA. "*State Remediation Payment.*" The maximum amount owed by Kroger to the Settling States and Subdivisions, exclusive of the Private Attorney Fees, State AG Fees and Costs, Additional Remediation Amount, and is in the amount of \$1,200,000,000.

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

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

DDDD. "*Subdivision.*" Any (1) General Purpose Government (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore, or any other entities that provide municipal-type government), School District, or Special District within a Settling State, and (2) any other subdivision, subdivision official (acting

in an official capacity on behalf of the subdivision) or sub-entity of or located within a Settling State (whether political, geographical or otherwise, whether functioning or non-functioning, regardless of population overlap, and including, but not limited to, Nonfunctioning Governmental Units and public institutions) that has filed a lawsuit that includes a Released Claim against a Released Entity in a direct, *parens patriae*, or any other capacity. “General Purpose Government,” “School District,” and “Special District” shall correspond to the “five basic types of local governments” recognized by the U.S. Census Bureau and match the 2017 list of Governmental Units.² The three (3) General Purpose Governments are county, municipal, and township governments; the two (2) special purpose governments are School Districts and Special Districts.³ “Fire District,” “Health District,” “Hospital District,” and “Library District” shall correspond to categories of Special Districts recognized by the U.S. Census Bureau.⁴ References to a Settling State’s Subdivisions or to a Subdivision “in,” “of,” or “within” a Settling State include Subdivisions located within the Settling State even if they are not formally or legally a sub-entity of the Settling State; *provided, however*, that a “Health District” that includes any of the following words or phrases in its name shall not be considered a Subdivision: mosquito, pest, insect, spray, vector, animal, air quality, air pollution, clean air, coastal water, tuberculosis, and sanitary.

EEEE. “*Subdivision Allocation Percentage.*” The portion of a Settling State’s Subdivision Fund set forth in Exhibit G that a Subdivision will receive pursuant to Section V if it becomes a Participating Subdivision. The aggregate Subdivision Allocation Percentage of all Subdivisions receiving a Subdivision Allocation Percentage in each Settling State shall equal one hundred percent (100%). Immediately upon the effectiveness of any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section V.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section V.D.3) that addresses allocation from the Subdivision Fund, whether before or after the Initial Participation Date, Exhibit G will automatically be amended to reflect the allocation from the Subdivision Fund pursuant to the State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section V.D.3. The Subdivision Allocation Percentages contained in Exhibit G may not change once notice is distributed pursuant to Section VII.A, except upon the effectiveness of any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section V.D.3 (or upon the effectiveness of an amendment to any State-Subdivision Agreement,

² <https://www.census.gov/data/datasets/2017/econ/gus/public-use-files.html>.

³ *E.g.*, U.S. Census Bureau, “Technical Documentation: 2017 Public Use Files for State and Local Government Organization” at 7 (noting that “the Census Bureau recognizes five basic types of local governments,” that three of those are “general purpose governments” (county governments, municipal governments, and township governments), and that the other two are “school district and special district governments”), https://www2.census.gov/programs-surveys/igus/datasets/2017/2017_gov_org_meth_tech_doc.pdf.

⁴ A list of 2017 Government Units provided by the Census Bureau identifies 38,542 Special Districts and categorizes them by “FUNCTION_NAME.” “Govt_Units_2017_Final” spreadsheet, “Special District” sheet, included in “Independent Governments - list of governments with reference information,” <https://www.census.gov/data/datasets/2017/econ/gus/public-use-files.html>. As used herein, “Fire District” corresponds to Special District function name “24 — Local Fire Protection,” “Health District” corresponds to Special District function name “32 — Health,” “Hospital District” corresponds to Special District function name “40 — Hospitals,” and “Library District” corresponds to Special District function name “52 — Libraries.” *See id.*

Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section V.D.3) that addresses allocation from the Subdivision Fund. For the avoidance of doubt, no Subdivision not listed on Exhibit G shall receive an allocation from the Subdivision Fund and no provision of this Agreement shall be interpreted to create such an entitlement.

FFFF. *"Subdivision Fund."* The component of the Settlement Fund described in Section V.A.

GGGG. *"Subdivision Settlement Participation Form."* The form attached as Exhibit K that Participating Subdivisions must execute and return to the Implementation Administrator or Settlement Fund Administrator, and which shall (1) make such Participating Subdivisions signatories to this Agreement, (2) include a full and complete release of any and of such Subdivision's claims, and (3) require the prompt dismissal with prejudice of any Released Claims that have been filed by any such Participating Subdivision

HHHH. *"Threshold Motion."* A motion to dismiss or equivalent dispositive motion made at the outset of litigation under applicable procedure. A Threshold Motion must include as potential grounds for dismissal any applicable Bar or the relevant release by a Settling State or Participating Subdivision provided under this Agreement and, where appropriate under applicable law, any applicable limitations defense.

IIII. *"Total Unearned Incentive Payments."* As defined in Section IV.H.7.

JJJJ. *"Trigger Date."* In the case of a Primary Subdivision, the Reference Date. In the case of all other Subdivisions, the Preliminary Agreement Date.

II. Participation by Eligible States and Condition to Preliminary Agreement

A. *Notice to Eligible States.* On March 25, 2024, this Agreement shall be distributed to all Eligible States. The Attorneys General of the Eligible States shall then have until April 24, 2024 to decide whether to become Settling States. Eligible States that determine to become Settling States shall so notify Kroger and shall further commit to obtaining any necessary additional state releases prior to the Reference Date. This notice period may be extended by written agreement of Kroger and the Enforcement Committee.

B. *Condition to Preliminary Agreement.* Following the notice period set forth in Section II.A, Kroger shall determine whether, in its sole discretion, enough Eligible States have agreed to become Settling States to proceed with notice to Subdivisions as set forth in Section VII. If Kroger determines that this condition has been satisfied, and that notice to the Subdivisions should proceed, it will so notify the Settling States by providing notice to the Enforcement Committee on the Preliminary Agreement Date. If Kroger determine that this condition has not been satisfied, and this Agreement will have no further effect and all releases and other commitments or obligations contained herein will be void.

C. *Later Joinder by Eligible States.* After the Preliminary Agreement Date, an Eligible State may only become a Settling State with the consent of Kroger and the Enforcement Committee. If an Eligible State becomes a Settling State more than sixty (60) calendar days after

the Preliminary Agreement Date, but on or before the Reference Date, the Subdivisions in that Eligible State that become Participating Subdivisions within ninety (90) calendar days of the Eligible State becoming a Settling State shall be considered Initial Participating Subdivisions. An Eligible State may not become a Settling State after the Reference Date.

D. *Litigation Activity.* Following the Preliminary Agreement Date, Eligible States that determine to become Settling States shall make reasonable efforts to cease litigation activity against Kroger, including by jointly seeking stays or, where appropriate, severance of claim against Kroger, where feasible, and otherwise to minimize such activity by means of agreed deadline extensions and agreed postponement of depositions, document productions, and motion practice if a motion to stay or sever is not feasible or is denied.

III. Injunctive Relief

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

IV. Settlement Payments

A. *Settlement Fund.* All payments under this Section IV shall be made into the Settlement Fund, except that, where specified, they shall be made into the Settlement Fund Escrow. The Settlement Fund shall be allocated and used only as specified in Section V.

B. Annual Remediation Payments

1. Kroger shall make eleven (11) Annual Remediation Payments, each comprised of Base Payments and Incentive Payments as provided in this Section IV and as determined by the Settlement Fund Administrator as set forth in this Agreement, *provided that* the Annual Remediation Payment in Payment Year 1 shall consist solely of Base Payments. The payment schedule for the Annual Remediation Payments is attached hereto as Exhibit M-2.

2. In no instance shall Kroger's Annual Remediation Payment obligation exceed the Annual Remediation Maximum, reduced for Non-Settling States, except as specified in the definition of "Annual Remediation Maximum" for Payment Years 3, 4, and 11. In no instance shall the sum of Kroger's Annual Remediation Payment obligations for Payment Years 1-11 exceed the sum of Kroger's Annual Remediation Maximums for Payment Years 1-11, reduced for Non-Settling States.

C. Settlement Fund Payment Process

1. To determine each Annual Remediation Payment for Payment Year 2 forward, the Settlement Fund Administrator shall use the data as of sixty (60) days prior to the Payment Date for each payment, unless another provision of the Agreement specifies a different date. Prior to the Effective Date, the Parties will include an exhibit to the Agreement setting forth in detail the process for the Settlement Fund Administrator obtaining relevant data and for

distributing funds to the Settling States and their Participating Subdivisions listed on Exhibit G consistent with the terms of this Agreement as quickly as practical.

2. The Settlement Fund Administrator shall determine the Annual Remediation Payment and the Statewide Payment Amount for each Settling State, consistent with the provisions in Exhibit L, by:

a. Determining, for each Settling State, the amount of Base Payments and Incentive Payments to which the Settling State is entitled by applying the criteria under Section IV.F, Section IV.G, and Section IV.H;

b. applying any offsets, credits or reductions as specified under Section IV and Section XII;

c. determining the total amount owed by Kroger to all Settling States and the Participating Subdivisions listed on Exhibit G; and

d. the Settlement Fund Administrator shall then allocate, after subtracting the portion of any Settlement Fund Administrator costs and fees owed out of funds from the Settlement Fund pursuant to Section V.C.5, the Annual Remediation Payment pursuant to Section V among the Settling States, among the separate types of funds for each Settling State (if applicable), and among the Participating Subdivisions listed on Exhibit G.

3. If, no later than fifty (50) days prior to the Payment Date, Kroger and the Enforcement Committee inform the Settlement Fund Administrator that they agree on the amount of the Annual Remediation Payment and the Statewide Payment Amount for each Settling State, Kroger shall pay the agreed-upon Annual Remediation Payment amount on the Payment Date and the Settlement Fund Administrator shall treat those amounts as the determination described in Section IV.C.2. If the Settlement Fund Administrator is not so informed, it shall give notice to Kroger, the Settling States, and the Enforcement Committee of the amount of the Annual Remediation Payment, and the Statewide Payment Amount for each Settling State, following the determination described in Section IV.C.2, and the following timeline shall apply:

a. Within twenty-one (21) calendar days of the notice provided by the Settlement Fund Administrator, Kroger, any Settling State or the Enforcement Committee may dispute, in writing, the calculation of the Annual Remediation Payment or the Statewide Payment Amount for a Settling State. Such disputing party must provide a written notice of dispute to the Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Kroger identifying the nature of the dispute, the amount of money that is disputed, and the Settling State(s) affected.

b. Within twenty-one (21) calendar days of the sending of a written notice of dispute, any affected party may submit a response, in writing, to the

Settlement Fund Administrator, the Enforcement Committee, any affected Settling State, and Kroger identifying the basis for disagreement with the notice of dispute.

c. If no response is filed, the Settlement Fund Administrator shall adjust the amount calculated consistent with the written notice of dispute, and Kroger shall pay the adjusted amount, collectively totaling that year's Annual Remediation Payment, on the Payment Date. If a written response to the written notice of dispute is timely sent to the Settlement Fund Administrator, the Settlement Fund Administrator shall notify Kroger of the preliminary amount to be paid, which shall be the greater of the amount originally calculated by the Settlement Fund Administrator or the amount that would be consistent with the notice of dispute, *provided, however*, that in no circumstances shall the preliminary amount to be paid be higher than the Annual Remediation Maximum. For the avoidance of doubt, a transfer of payments from the Settlement Fund Escrow for other Payment Years does not count toward determining whether the amount to be paid is higher than the Annual Remediation Maximum.

d. The Settlement Fund Administrator shall place any disputed amount of the preliminary amount paid by Kroger into the Settlement Fund Escrow and shall disburse any undisputed amount to each Settling State and its Participating Subdivisions listed on Exhibit G pursuant to Section IV.C.4.

4. If a Settling State informs the Settlement Fund Administrator that it and its Participating Subdivisions listed on Exhibit G have agreed on the amount of its Statewide Payment Amount, determined pursuant to Section IV.C.2 or Section IV.C.3, to be distributed to the Settling State, among its separate types of funds (if applicable), and among its Participating Subdivisions listed on Exhibit G, the Settlement Fund Administrator shall disburse the Statewide Payment Amount pursuant to the consensus distribution amounts provided by the Settling State as quickly as practical. For a Settling State that does not so notify the Settlement Fund Administrator, the Settlement Fund Administrator shall allocate the Settling State's Statewide Payment Amount, pursuant to Section V, among the separate types of funds for the Settling State (if applicable), and among its Participating Subdivisions listed on Exhibit G using the following procedures:

a. As soon as possible for each payment and following the determination described in Section IV.C.2 or Section IV.C.3, the Settlement Fund Administrator shall give notice to the relevant Settling States and their Participating Subdivisions listed on Exhibit G of the amount to be received by each Settling State, the amount to be received by the separate types of funds for each Settling State (if applicable), and the amount to be received by each Participating Subdivision listed on Exhibit G for each Settling State.

b. Within twenty-one (21) days of the notice provided by the Settlement Fund Administrator, any Settling State or Participating Subdivision listed on Exhibit G may dispute, in writing, the calculation of the amount to be received by the relevant Settling State and/or its Participating Subdivision listed on Exhibit G. A dispute will be deemed invalid and disregarded if it challenges the

allocations adopted by a State-Subdivision Agreement approved pursuant to the provisions of Exhibit O or by statute. Such disputing party must provide a written notice of dispute to the Settlement Fund Administrator, any affected Settling State, and any affected Participating Subdivision identifying the nature of the dispute, the amount of money that is disputed, and the Settling State(s) affected.

c. Within twenty-one (21) days of the sending of a written notice of dispute, any affected Settling State or any affected Participating Subdivision may submit a response, in writing, to the Settlement Fund Administrator, any affected Settling State and any affected Participating Subdivision identifying the basis for disagreement with the notice of dispute.

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

e. The Settlement Fund Administrator shall place any disputed amount into the Settlement Fund Escrow and shall disburse any undisputed amount to the Settling State and its Participating Subdivisions eligible for payment.

5. Disputes described in this subsection shall be resolved in accordance with the terms of Section VI.F.

6. The Settlement Fund Administrator may combine the disbursements of Annual Remediation Payments with disbursement of funds under other comparable opioid settlements. In determining when disbursements for each Annual Remediation Payment will be made, the Settlement Fund Administrator may take into account the timeline for the availability of disbursements under other comparable opioid settlements.

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

D. *Procedure for Annual Remediation Payment and Annual Fees Payment in Payment Year 1.* The process described in Section IV.C shall not apply to Payment Year 1. The procedure in lieu of Section IV.C for Payment Year 1 is as set forth below:

1. The Payment Date for Payment Year 1 is March 31, 2024. Kroger shall deposit into a segregated interest-bearing bank account it establishes the "Maximum Base Payment" for Payment Year 1 as specified in Exhibit M-2. Kroger shall also deposit into two (2) separate segregated interest-bearing bank accounts it establishes: (a) the "Maximum Exhibit R Attorney Fee and Cost Funds" for Payment Year 1 as specified in Exhibit M-3; and (b) the sum of the "State Cost Fund," the "Maximum State Outside Counsel Fee Fund," and the "Maximum Additional Remediation Amount" for Payment Year 1 as specified in Exhibit M-3. Kroger shall separately account for the interest earned on each of the three (3) accounts.

2. Kroger shall provide proof to the Enforcement Committee of the deposits required by Section IV.D.1 by March 31, 2024. Kroger shall not remove any money from the segregated bank accounts, except as provided by Section IV.D.3 and Section IV.D.4.

3. In the event that an Eligible State does not agree to become a Settling State by the Preliminary Agreement Date, such State's share of the funds held in the segregated bank account holding the "Maximum Base Payment" for Payment Year 1 shall immediately revert to Kroger. This amount shall be calculated by multiplying the aggregate Overall Allocation Percentage attributable to Eligible States that have not agreed to become Settling State by the Preliminary Agreement Date by the "Maximum Base Payment" amount specified in Exhibit M-2 for Payment Year 1. In the event that, in accordance with the terms of Section VIII.B, Kroger determines not to proceed with the Settlement, or the Settlement does not become effective for any other reason, the funds held in the segregated bank accounts shall immediately revert to Kroger.

4. If the condition set forth in Section VIII.B is met, Kroger shall transfer into the Settlement Fund, no later than five (5) business days after the Reference Date (unless the Enforcement Committee specifies a later date), the amount in the segregated account holding the "Maximum Base Payment" for Payment Year 1 (including all interest accrued on that account) plus the total amount of the Base Payment owed in Payment Year 1 for the Eligible States that newly agreed to become a Settling State between the Preliminary Agreement Date and the Reference Date, which shall be calculated by multiplying those Settling States' Overall Allocation Percentage by the amount specified in Exhibit M-2 for Payment Year 1. If the condition set forth in Section VIII.B is met, Kroger also shall transfer into the relevant funds as directed by the Enforcement Committee, no later than five (5) business days after the Reference Date (unless the Enforcement Committee specifies a later date), the amount in the segregated account holding the "Maximum Exhibit R Attorney Fee and Cost Funds" for Payment Year 1 (including all interest accrued on that account), and the amount in the segregated account holding the sum of the "State Cost Fund," the "Maximum State Outside Counsel Fee Fund," and the "Maximum Additional Remediation Amount" for Payment Year 1 (including all interest accrued on that account), except that any reductions provided by Section IX.B and Exhibits R, S, and T shall revert to Kroger. Kroger shall provide an accounting to the Enforcement Committee of the transfers, including Statewide Payment Amount for Payment Year 1 for each Eligible State that newly agreed to become a Settling State between the Preliminary Agreement Date and the Reference Date.

5. The Annual Remediation Payment for Payment Year 1 transferred by Kroger into the Settlement Fund pursuant to Section IV.D.4 shall be disbursed by the Settlement Fund Administrator after the Effective Date to each Settling State and to its Initial Participating Subdivisions listed on Exhibit G pursuant to Section IV.C.4 through Section IV.C.7; *provided, however*, that for any Settling State where the Consent Judgment has not been entered as of the Effective Date, the funds allocable to that Settling State and its Participating Subdivisions listed on Exhibit G shall not be disbursed until ten (10) calendar days after the entry of the Consent Judgment in that Settling State.

E. *Payment Date for Payment Years 2 through 11.* The Payment Date for Payment Year 2 is March 31, 2025. The Payment Date for Payment Years 3 through 11 shall be each successive March 31. The Annual Remediation Payments for those Payment Years shall be made pursuant to the process set forth in Section IV.C.

F. *Offsets to Annual Remediation Payments to the Settlement Fund for Non-Settling States.* An offset equal to \$1,200,000,000 times the Overall Allocation Percentage assigned to each Non-Settling State in Exhibit F shall be deducted from the total amount to be paid by Kroger to the Settlement Fund. For the avoidance of doubt, the Adjusted State Remediation Payment is calculated in a way that reflects this offset. The Base Payments and Incentive Payments are also subject to offset and reduction as provided in Section XII.

G. *Base Payments.*

1. Subject to the offset and reduction provisions set forth in Section XII, Kroger shall make Base Payments into the Settlement Fund in an amount equal to thirty-eight percent (38%) of the Adjusted State Remediation Payment. The maximum total for Base Payments is \$456,000,000. The Base Payments shall be due in installments consistent with Exhibit M-2 over the eleven (11) Payment Years, subject to potential offsets for Non-Settling States as provided in Section IV.F.

2. The Base Payment for any Settling State in each Payment Year shall be the Base Payment for that Payment Year specified in Exhibit M-2 times the Settling State's Overall Allocation Percentage specified in Exhibit F.

H. *Incentive Payments.*

1. Subject to the offset and reduction provisions set forth in Section XII, Kroger shall make potential additional incentive payments totaling up to a maximum of sixty-two percent (62%) of the Adjusted State Remediation Payment, with the Incentive Payment amount depending on whether and the extent to which the criteria set forth below are met in each Settling State. The maximum total for Incentive Payments is \$744,000,000.

2. A Settling State qualifies to receive Incentive Payments in addition to Base Payments if it meets the incentive eligibility requirements specified below. With the exception of the Incentive Payment Earn-Back, the maximum total Incentive Payment for any Settling State shall be no more than the maximum total for Incentive Payments listed in Section IV.H.1 times the Settling State's Overall Allocation Percentage specified in Exhibit F. With the exception of the Incentive Payment Earn-Back, Incentive Payments are state-specific, with the actual amount depending on whether and the extent to which the criteria set forth below are met in such Settling State.

3. The incentive payments shall be divided among four (4) categories, referred to as Incentive Payments A, BC and D, and the Incentive Payment Earn-Back. Incentive Payments A and BC will be due in installments over the ten (10) Payment Years beginning with Payment Year 2, and Incentive Payment D will be due in installments over Payment Years 6 through 11, as shown on Exhibit M-2. The Incentive Payment Earn-Back will be

due, if earned pursuant to Section IV.H.7, in Payment Year 11. The total amount of incentive payments in an Annual Remediation Payment shall be the sum of the incentive payments for which the individual Settling States are eligible for that Payment Year under the criteria set forth below. The incentive payments shall be made with respect to a specific Settling State based on its eligibility for that Payment Year under the criteria set forth below. For the avoidance of doubt, eligibility for Incentive Payments A, BC, and D shall be determined on a Settling State-by-Settling State basis.

4. Incentive Payment A.

a. Incentive Payment A is mutually exclusive with Incentive Payments BC and D; if a Settling State receives Incentive Payment A in an Annual Remediation Payment, such Settling State is not eligible for Incentive Payments BC or D in that Annual Remediation Payment. A Settling State that receives Incentive Payment A is eligible to receive the Incentive Payment Earn-Back, if the requirements of Section IV.H.7 are met.

b. Incentive Payment A shall be equal to sixty-two percent (62%) of the Adjusted State Remediation Payment, provided all Settling States satisfy the requirements of Incentive Payment A. Incentive Payment A will be due to a Settling State as part of the Annual Remediation Payment over ten (10) Payment Years, starting in Payment Year 2, and shall equal a total potential maximum of \$744,000,000 if all Eligible States qualify for Incentive Payment A. Each Settling State's share of Incentive Payment A in a given year, *provided* that Settling State qualifies, shall equal the total maximum amount available for Incentive Payment A for that year as reflected in Exhibit M-2 times the Settling State's Overall Allocation Percentage.

c. Qualification for Incentive Payment A is as follows: A Settling State qualifies for Incentive Payment A if, as of two (2) years of the Effective Date: (i) there is a Bar in that Settling State in full force and effect, (ii) there is a Settlement Class Resolution in that Settling State in full force and effect, (iii) the Released Claims of all of the following entities are released through the execution of Subdivision Settlement Participation Forms, or there is a Case-Specific Resolution against such entities: all Primary Subdivisions, Litigating Subdivisions, School Districts with a K-12 student enrollment of at least 25,000 or .10% of a Settling State's population, whichever is greater, Hospital Districts that have at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district, and Primary Fire Districts; or (iv) a combination of the actions in clauses (i)-(iii) has achieved the same level of resolution of Claims by Subdivisions (*e.g.*, a Bar against future litigation combined with full joinder by Litigating Subdivisions). For the avoidance of doubt, subsection (iv) cannot be satisfied unless all Litigating Subdivisions are Participating Subdivisions or there is a Case-Specific Resolution against any such Subdivisions that are not Participating Subdivisions. Kroger and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Initial Participation Date.

d. A Settling State that does not qualify for Incentive Payment A as of two (2) years after the Effective Date shall not be eligible for Incentive Payment A for that Payment Year or any subsequent Payment Years.

e. Kroger shall indicate before the Initial Participation Date whether existing legislation in a Settling State is sufficient to qualify as a Bar.

f. If a Settling State does not qualify for Incentive Payment A as of the Payment Date for Payment Year 2, and becomes eligible for Incentive Payment A as of Payment Date for Payment Year 3, it shall receive the payment that it would have received for Incentive Payment A for Payment Year 2 (the “Incentive Payment A Catch-up Payment”) on the Payment Date for Payment Year 3. If a Settling State is not eligible for Incentive Payment A as of the Payment Date for Payment Year 3, and becomes eligible for Incentive Payment A as of two (2) years after the Effective Date, it shall receive the payment that it would have received for Incentive Payment A for Payment Years 2 and 3 (also an “Incentive Payment A Catch-up Payment”) on the Payment Date for Payment Year 4. The Incentive Payment A Catch-up Payment shall be reduced by any amounts paid to the Settling State under Incentive Payment BC prior to the Settling State’s eligibility for Incentive Payment A.

g. If Kroger made a payment under Incentive Payment A solely on the basis of a Bar or Settlement Class Resolution in a Settling State and that Bar or Settlement Class Resolution is subsequently removed, revoked, rescinded, reversed, overruled, interpreted in a manner to limit the scope of the release, or otherwise deprived of force or effect in any material respect, that Settling State shall not be eligible for Incentive Payment A thereafter, unless the Settling State requalifies for Incentive Payment A through any method pursuant to Section IV.H.4.c, in which case the Settling State shall be eligible for Incentive Payment A less any litigation fees and costs incurred by Kroger in the interim, except that, if the re-imposition occurs after the completion of opening statements in a trial involving a Released Claim, the Settling State shall not be eligible for Incentive Payment A (unless this exception is waived by Kroger).

5. Incentive Payment BC.

a. Incentive Payment BC shall be available to Settling States that do not qualify for Incentive Payment A.

b. Incentive Payment BC shall be up to a maximum of fifty-nine percent (59%) of the Settling State’s State Allocation. Incentive Payment BC will be due to a Settling State as part of the Annual Remediation Payment over ten (10) Payment Years, starting in Annual Remediation Payment 2. Subject to Section IV.F, Incentive Payment BC shall equal a total potential maximum of \$708,000,000 if all states are eligible.

c. A Settling State may earn Incentive Payment BC in Annual Remediation Payments 2 through 11 and may receive, when combined with the Settling State's Base Payment, a maximum of up to ninety-seven 97% of the Settling State's State Allocation. The maximum Incentive Payment BC for any Settling State in a given Payment Year shall be the Incentive Payment BC for that Payment Year specified in Exhibit M-2 times the Settling State's Overall Allocation Percentage specified in Exhibit F, provided such Settling State becomes eligible for Incentive Payment BC by sixty (60) days before the Payment Date for Payment Year 6.

d. The amount of Incentive Payment BC for which a Settling State is eligible shall be determined based on the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of all the Settling State's Incentive BC Subdivisions. The Settling State's Incentive BC Subdivisions are (i) all Litigating Subdivisions (including School Districts and Special Districts) and (ii) all Non-Litigating Threshold Subdivisions (collectively, all Litigating Subdivisions and all Non-Litigating Threshold Subdivisions are "*Incentive BC Subdivisions*").

e. The percentage of the Settling State's maximum Incentive Payment BC for the Payment Year provided by Section IV.H.5.c to which the Settling State is entitled shall be determined according to the table of Incentive BC payment levels below:

Participation Percentage of Incentive BC Eligible Subdivision Population⁵	Incentive Payment BC Percentage for the Relevant Payment Year
Less than 85%	0%
85% or more but less than 86%	3.57%
86% or more but less than 87%	8.93%

⁵ The "Participation Percentage of Incentive BC Eligible Subdivision Population" shall be determined by the aggregate population of the Settling State's Incentive BC Subdivisions that are Participating Subdivisions, or have had their claims resolved through a Case-Specific Resolution, divided by the aggregate population of the Settling State's Incentive BC Subdivisions. In calculating the Settling State's population that resides in Incentive BC Subdivisions, the population of the Settling State's Incentive BC Subdivisions shall be the sum of the population of all Incentive BC Subdivisions in the Settling State, notwithstanding that persons may be included within the population of more than one Incentive BC Subdivision. An individual Subdivision shall not be included more than once in the numerator, and shall not be included more than once in the denominator, of the calculation regardless if it (or any of its officials) is named as multiple plaintiffs in the same lawsuit; provided, however, that for the avoidance of doubt, no Subdivision will be excluded from the numerator or denominator under this sentence unless a Subdivision otherwise counted in the denominator has the authority to release the Claims (consistent with Section X) of the Subdivision to be excluded.

87% or more but less than 88%	14.29%
88% or more but less than 89%	19.64%
89% or more but less than 90%	25%
90% or more but less than 91%	30.36%
91% or more but less than 92%	35.71%
92% or more but less than 93%	41.07%
93% or more but less than 94%	46.43%
94% or more but less than 95%	51.79%
95% or more but less than 96%	60.71%
96% or more but less than 97%	68.75%
97% or more but less than 98%	76.79%
98% or more but less than 99%	84.82%
99% or more but less than 100%	92.86%
100%	100%

f. For Payment Years 2-5, the percentage of the available Incentive Payment BC amount for which a Settling State is eligible will be based on the Participation Percentage of Incentive BC Eligible Subdivision Population as of sixty (60) days before the Payment Date. For Payment Years 6-11, the percentage of the available Incentive Payment BC amount for which a Settling State is eligible will be based on the Participation Percentage of Incentive BC Eligible Subdivision Population as of sixty (60) days before the Payment Date for Payment Year 6. If Incentive BC Eligible Subdivisions that have become Participating Subdivisions, or achieved Case-Specific Resolution status, collectively represent less than eighty-five percent (85%) of a Settling State's Incentive BC Eligible Subdivision population by sixty (60) days before the Payment Date for Payment Year 6, the Settling State shall not receive any Incentive Payment BC.

g. If there are no Incentive BC Eligible Subdivisions in a Settling State, and that Settling State is otherwise eligible for Incentive Payment BC because it is not eligible for Incentive Payment A, that Settling State will receive its maximum

Incentive Payment BC for that Annual Remediation Payment provided by Section IV.H.5.c.

6. Incentive Payment D.

a. Incentive Payment D shall be available to Settling States that do not qualify for Incentive Payment A.

b. Incentive Payment D shall be equal to up to a maximum of ten percent (10%) of the Adjusted State Remediation Payment, with the actual amount depending whether and the extent to which the criteria set forth below are met in each Settling State. The maximum total for Incentive Payment D is \$120,000,000.⁶

c. Incentive Payment D shall be paid starting at Payment Year 6 and the amount of Incentive Payment D in Payment Years 6-11 will depend on (i) the Settling State meeting the qualifications set out in Section IV.H.6.d and (ii) the Participation Percentage of Incentive BC Eligible Subdivision Population achieved by the Settling State as of sixty (60) days prior to the Payment Date for Payment Year 6.

d. A Settling State qualifies for Incentive Payment D if no Later Litigating Subdivision (for purposes of Incentive Payment D, Later Litigating Subdivisions are limited to (i) a Primary Subdivision, (ii) a school district with a K-12 student enrollment of at least 25,000 or 0.10% of the Settling State's population, whichever is greater; (iii) a health district or hospital district that has at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district; and (iv) Primary Fire Districts) in that Settling State has a lawsuit against a Released Entity survive more than six (6) months after denial in whole or in part of a Threshold Motion.

e. A Settling State's qualification for Incentive Payment D shall be determined as of sixty (60) calendar days prior to the Payment Date ("*Incentive Payment D Look-Back Date*"). If a Later Litigating Subdivision's lawsuit in that Settling State survives more than six (6) months after denial in whole or in part a Threshold Motion after that date, that Settling State shall not be eligible for Incentive Payment D for the Payment Year in which that occurs and any subsequent Payment Year.

f. The Incentive Payment D for any Settling State qualifying for Incentive Payment D in Payment Years 6-11 shall be equal to between three percent (3%) and ten percent (10%) of the of the State Remediation Payment times the Settling State's Overall Allocation Percentage specified in Exhibit F. The

⁶ The Incentive Payment BC table specified in Section IV.H.5.e and Incentive Payment D table specified in Section IV.H.6.f operate so that the combined amount of Incentive Payment BC and Incentive Payment D cannot exceed sixty-two percent (62%) of the Adjusted State Remediation Payment over the term of the Agreement. Kroger will have no obligation to pay more than \$744,000,000 for the combined amounts of Incentive Payment BC and Incentive Payment D minus any offsets for Non-Settling States specified in Section IV.F.

applicable percentage shall be determined based on the Participation Percentage of Incentive BC Eligible Subdivision Population achieved by the Settling State as of sixty (60) days prior to the Payment Date for Payment Year 6 as shown in the table below:

Participation Percentage of Incentive BC Eligible Subdivision Population as of sixty (60) days prior to the Payment Date for Payment Year 6	Each Eligible Settling State's Applicable Incentive Payment D Percentage
Participation of less than 95%	10% of State Allocation
Participation of 95% but less than 96%	9% of State Allocation
Participation of 96% but less than 97%	8% of State Allocation
Participation of 97% but less than 98%	7% of State Allocation
Participation of 98% but less than 99%	6% of State Allocation
Participation of 99% but less than 100%	5% of State Allocation
Participation of 100%	3% of State Allocation

g. Incentive Payment D shall be paid in six equal installments. Prior to making the Annual Remediation Payment for Payment Years 6-11, the Settlement Fund Administrator shall determine a Settling State's qualification for Incentive Payment D as of the Incentive Payment D Look-Back Date for that Payment Year. Prior to the Incentive Payment D Look-Back Date for each Payment Year, Kroger may provide the Settlement Fund Administrator and the Enforcement Committee with notice identifying any Settling State(s) it believes do not qualify for Incentive Payment D and information supporting its belief.

h. Notwithstanding Section IV.H.6.d and Section IV.H.6.e, a Settling State can become re-eligible for Incentive Payment D if the lawsuit that survived a Threshold Motion is dismissed pursuant to a later motion on grounds included in the Threshold Motion, in which case the Settling State shall be eligible for Incentive Payment D less any litigation fees and costs incurred by Kroger in the interim, except that if the dismissal motion occurs after the completion of opening statements in such action, the Settling State shall not be eligible for Incentive Payment D.

7. Incentive Payment Earn-Back. Upon calculation of Incentive Payments A, BC, and D for Payment Year 11, all Incentive Payment amounts that have been unearned by any Settling State under this Agreement for Payment Years 2-11 will be aggregated to determine the Total Unearned Incentive Payments for all Settling States. In Payment Year 11, the Settling States can collectively qualify to receive the Total Unearned Incentive Payments, up to a maximum of 2% of the State Remediation Payment (\$24,000,000) (the "Potential Earn-Back Amount"), if there has been no lawsuit for Covered Conduct against a Released Entity by a Non-Eligible State or Subdivision in a Non-Eligible State that survived more than six (6) months after denial in whole or in part of a Threshold Motion. If, at any point prior to Payment Year 11, any lawsuit for Covered Conduct against a Released Entity by a Non-Eligible State or Subdivision in a Non-Eligible State survives more than (6) months

after denial in whole or in part of a Threshold Motion, no Settling State is eligible for any portion of the Potential Earn-Back Amount. If no lawsuit for Covered Conduct against a Released Entity by a Non-Eligible State or Subdivision in a Non-Eligible State survives more than six (6) months after denial in whole or in part of a Threshold Motion, then the Settling States will receive the Potential Earn-Back Amount in accordance with the Overall Allocation Percentages in Exhibit F.

I. In no event shall any Settling State receive Base Payments and Incentive Payments A, BC, and D totaling more than one hundred percent (100%) of its respective Overall Allocation Percentage specified in Exhibit F times the State Remediation Payment. However, if the requirements in Section IV.H.7 are met by the Settling States, a Settling State may receive Base Payments and Incentive Payments totaling more than one hundred percent (100%) of its respective Overall Allocation Percentage specified in Exhibit F times the State Remediation Payment.

V. Allocation and Use of Settlement Payments

A. *Components of Settlement Fund.* The Settlement Fund shall be funded by the Annual Remediation Payments and comprised of a Remediation Accounts Fund, a State Fund, and a Subdivision Fund for each Settling State. The payments made under Section IV into the Settlement Fund shall be initially allocated among those three (3) sub-funds and distributed and used as provided below. Payments placed into the Settlement Fund do not revert back to Kroger.

B. *Use of Settlement Payments.*

1. It is the intent of the Parties that the payments disbursed from the Settlement Fund to Settling States and Participating Subdivisions be for Opioid Remediation, subject to exceptions that must be documented in accordance with Section V.B.2. In no event may less than ninety-five (95%) of Kroger's maximum amount of payments pursuant to Section IV as set forth on Exhibit M-2 over the entirety of all Payments Years (but not any single Payment Year) be spent on Opioid Remediation.

2. While disfavored by the Parties, a Settling State or a Participating Subdivision set forth on Exhibit G may use monies from the Settlement Fund (that have not been restricted by this Agreement solely to future Opioid Remediation) for purposes that do not qualify as Opioid Remediation. If, at any time, a Settling State or a Participating Subdivision set forth on Exhibit G uses any monies from the Settlement Fund for a purpose that does not qualify as Opioid Remediation, such Settling State or Participating Subdivision set forth on Exhibit G shall identify such amounts and report to the Settlement Fund Administrator and Kroger how such funds were used, including if used to pay attorneys' fees, investigation costs, litigation costs, or costs related to the operation and enforcement of this Agreement, respectively. It is the intent of the Parties that the reporting under this Section V.B.2 shall be available to the public. For the avoidance of doubt, (a) any amounts not identified under this Section V.B.2 as used to pay attorneys' fees, investigation costs, or litigation costs shall be included in the Compensatory Restitution Amount for purposes of Section V.F and (b) Participating Subdivisions not listed on Exhibit G may only use monies from the Settlement Fund for purposes that qualify as Opioid Remediation.

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

1. Base Payments. The Settlement Fund Administrator will allocate Base Payments under Section IV.G among the Settling States pursuant to Section IV.G.2. Base payments for each Settling State will then be allocated fifteen percent (15%) to its State Fund, seventy percent (70%) to its Remediation Accounts Fund, and fifteen percent (15%) to its Subdivision Fund. Amounts may be reallocated and will be distributed as provided in Section V.D.

2. Incentive Payments. The Settlement Fund Administrator will treat Incentive Payments under Section IV.H on a state-specific basis. Incentive Payments for which a Settling State is eligible under Section IV.H will be allocated fifteen percent (15%) to its State Fund, seventy percent (70%) to its Remediation Accounts Fund, and fifteen percent (15%) to its Subdivision Fund. Amounts may be reallocated and will be distributed as provided in Section V.D.

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

4. Settlement Fund Administrator. Prior to the Effective Date, Kroger and the Enforcement Committee will agree to a detailed mechanism consistent with the foregoing for the Settlement Fund Administrator to follow in allocating, apportioning, and distributing payments, which shall then be appended hereto as Exhibit L.

5. Settlement Fund Administrator Costs. Any costs and fees associated with or arising out of the duties of the Settlement Fund Administrator as described in Exhibit L shall be paid from the interest accrued in the Settlement Fund Escrow and the Settlement Fund; *provided, however,* that if such accrued interest is insufficient to pay the entirety of any such costs and fees, Kroger shall pay fifty percent (50%) of the additional amount and fifty percent (50%) shall be paid out of the Settlement Fund.

D. *Settlement Fund Reallocation and Distribution.* As set forth below, within a particular Settling State's account, amounts contained in the Settlement Fund sub-funds may be reallocated and distributed per a State-Subdivision Agreement or other means. If the apportionment of amounts is not addressed and controlled under Section V.D.1 and Section V.D.2, then the default provisions of Section V.D.4 apply. It is not necessary that a State-Subdivision Agreement or other means of allocating funds pursuant to Section V.D.1 and Section V.D.2

address all of the Settlement Fund sub-funds. For example, a Statutory Trust might only address disbursements from a Settling State's Remediation Accounts Fund.

1. Distribution by State-Subdivision Agreement. If a Settling State has a State-Subdivision Agreement, amounts apportioned to that Settling State's State Fund, Remediation Accounts Fund, and Subdivision Fund under Section V.C shall be reallocated and distributed as provided by that agreement. Any State-Subdivision Agreement entered into after the Preliminary Agreement Date shall be applied only if it requires: (a) that all amounts be used for Opioid Remediation, except as allowed by Section V.B.2, and (b) that at least seventy percent (70%) of amounts be used solely for future Opioid Remediation.⁷ For a State-Subdivision Agreement to be applied to the relevant portion of an Annual Payment, notice must be provided to Kroger and the Settlement Fund Administrator at least sixty (60) calendar days prior to the Payment Date.

2. Distribution by Allocation Statute. If a Settling State has an Allocation Statute and/or a Statutory Trust that addresses allocation or distribution of amounts apportioned to such Settling State's State Fund, Remediation Accounts Fund, and/or Subdivision Fund and that, to the extent any or all such sub-funds are addressed, requires (1) all amounts to be used for Opioid Remediation, except as allowed by Section V.B.2, and (2) at least seventy percent (70%) of all amounts to be used solely for future Opioid Remediation then, to the extent allocation or distribution is addressed, the amounts apportioned to that Settling State's State Fund, Remediation Accounts Fund, and Subdivision Fund under Section V.C shall be allocated and distributed as addressed and provided by the applicable Allocation Statute or Statutory Trust. For the avoidance of doubt, an Allocation Statute or Statutory Trust need not address all three (3) sub-funds that comprise the Settlement Fund, and if the applicable Allocation Statute or Statutory Trust does not address distribution of all or some of these three (3) sub-funds, the applicable Allocation Statute or Statutory Trust does not replace the default provisions described in Section V of any such unaddressed fund. For example, if an Allocation Statute or Statutory Trust that meets the requirements of this Section V.D.2 only addresses funds restricted to remediation, then the default provisions of this Agreement concerning allocation among the three (3) sub-funds comprising the Settlement Fund and the distribution of the State Fund and Subdivision Fund for that Settling State would still apply, while the distribution of the applicable State's Remediation Accounts Fund would be governed by the qualifying Allocation Statute or Statutory Trust.

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

4. Distribution in the Absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust. If Section V.D.1 and Section V.D.2 do not apply, amounts apportioned to that

⁷ Future Opioid Remediation includes amounts paid to satisfy any future demand by another governmental entity to make a required reimbursement in connection with the past care and treatment of a person related to the Alleged Harms

Settling State's State Fund, Remediation Accounts Fund, and Subdivision Fund under Section V.C shall be distributed as follows:

a. Amounts apportioned to that Settling State's State Fund shall be distributed to that Settling State.

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

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

d. Special Districts shall not be allocated funds from the Subdivision Fund, except through a voluntary redistribution allowed by Section V.D.3 to Special Districts that are Participating Subdivisions. A Settling State may allocate funds from its State Fund or Remediation Accounts Fund for Special Districts that are Participating Subdivisions.

5. Restrictions on Distribution. No amounts may be distributed from the Subdivision Fund contrary to Section VII, i.e., no amounts may be distributed directly to Non-Participating Subdivisions or to Later Participating Subdivisions to the extent such a distribution would violate Section VII.E through Section VII.H. Amounts allocated to the Subdivision Fund that cannot be distributed by virtue of the preceding sentence shall be distributed into the sub-account in the Remediation Accounts Fund for the Settling State in which the Subdivision is located, unless those payments are redirected elsewhere by a State-Subdivision Agreement described in Section V.D.1 or by an Allocation Statute or a Statutory Trust described in Section V.D.2.

E. *Provisions Regarding the Remediation Accounts Fund.*

1. State-Subdivision Agreement, Allocation Statute, and Statutory Trust Fund Provisions. A State-Subdivision Agreement, Allocation Statute, or Statutory Trust may govern the operation and use of amounts in that Settling State's Remediation Accounts Fund so long as it complies with the requirements of Section V.D.1 or Section V.D.2, as applicable, and all direct payments to Subdivisions comply with Section VII.E through Section VII.H.

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

a. Regional Remediation.

(i) At least fifty percent (50%) of distributions for remediation from a Settling State's Remediation Accounts Fund shall be annually allocated and tracked to the regional level. A Settling State may allow the Advisory Committee established pursuant to Section V.E.2.d to define its regions and assign regional allocations percentages. Otherwise, the Settling State shall (A) define its initial regions, which shall consist of one (1) or more General Purpose Subdivisions and which shall be designated by the state agency with primary responsibility for substance abuse disorder services employing, to the maximum extent practical, existing regions established in that Settling State for opioid abuse treatment or other public health purposes; (B) assign initial regional allocation percentages to the regions based on the Subdivision Allocation Percentages in Exhibit G and an assumption that all Subdivisions included on Exhibit G will become Participating Subdivisions.

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

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

b. Subdivision Block Grants. Certain Subdivisions shall be eligible to receive regional allocation funds in the form of a block grant for future Opioid Remediation. A Participating Subdivision eligible for block grants is a county or parish (or in the case of Settling States that do not have counties or parishes that

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

c. *Small Settling States.* Notwithstanding the provisions of Section V.E.2.a, Settling States with populations under four (4) million that do not have existing regions described in Section V.E.2.a shall not be required to establish regions. However, such a Settling State that contains one (1) or more Subdivisions eligible for block grants under Section V.E.2.b shall be divided regionally so that each block-grant eligible Subdivision is a region and the remainder of the state is a region.

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

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

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

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

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

3. Remediation Accounts Fund Reporting. The Settlement Fund Administrator shall track and assist in the report of remediation disbursements as agreed to between Kroger and the Enforcement Committee

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

1. They have entered into this Agreement to avoid the delay, expense, inconvenience, and uncertainty of further litigation;

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

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

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

VI. Enforcement

A. *Enforceability.* This Agreement is enforceable only by the Settling States and Kroger; *provided, however*, that Released Entities may enforce Section X and Participating Subdivisions listed on Exhibit G have the enforcement rights described later in this paragraph and in Section VI.D. Except to the extent allowed by the Injunctive Relief Terms, Settling States and Participating Subdivisions shall not have enforcement rights against Kroger with respect to either the terms of this Agreement that apply only to or in other Settling States or any Consent Judgment entered into by another Settling State. Participating Subdivisions shall not have enforcement rights against Kroger with respect to this Agreement or any Consent Judgment except that Participating Subdivisions listed on Exhibit G shall have enforcement rights as set forth herein as to payments

that would be allocated to the Participating Subdivisions or the Remediation Accounts Fund in such Settling State; *provided, however*, that each Settling State shall allow Participating Subdivisions in such Settling State to notify it of any perceived violations of this Agreement or the applicable Consent Judgment.

B. *Jurisdiction.* Kroger consents to the jurisdiction of the court in which each Settling State files its Consent Judgment, limited to resolution of disputes identified in Section VI.F.1 for resolution in that court.

C. *Specific Terms Dispute Resolution.*

1. Any dispute that is addressed by the provisions set forth in the Injunctive Relief Terms shall be resolved as provided therein.

2. In the event that Kroger believes that the ninety-five percent (95%) threshold established in Section V.B.1 is not being satisfied, any Party may request that Kroger and the Enforcement Committee meet and confer regarding the use of funds to implement Section V.B.1. The completion of such meet-and-confer process is a precondition to further action regarding any such dispute. Further action concerning Section V.B.1 shall: (i) be limited to Kroger seeking to reduce its Annual Remediation Payments by no more than five percent (5%) of the difference between the actual amount of Opioid Remediation and the ninety-five percent (95%) threshold established in Section V.B.1; (ii) only reduce Annual Remediation Payments to those Settling States and their Participating Subdivision(s) that are below the ninety-five percent (95%) threshold established in Section V.B.1; and (iii) not reduce Annual Remediation Payments restricted to future Opioid Remediation.

D. *State-Subdivision Enforcement.*

1. A Subdivision shall not have enforcement rights against a Settling State in which it is located with respect to this Agreement or any Consent Judgment except that a Participating Subdivision listed on Exhibit G shall have enforcement rights (a) as provided for in a State-Subdivision Agreement, Allocation Statute, or Statutory Trust with respect to intrastate allocation or (b) in the absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust, to allegations that (i) the Settling State's use of Remediation Accounts Fund monies were not used for uses similar to or in the nature of those uses contained in Exhibit E; or (ii) a Settling State failed to pay funds directly from the Remediation Accounts Fund to a Participating Subdivision eligible to receive a block grant pursuant to Section V.E.2. b.

2. A Settling State shall have enforcement rights against a Participating Subdivision located in its territory (a) as provided for in a State-Subdivision Agreement, Allocation Statute, or Statutory Trust; or (b) in the absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust, to allegations that the Participating Subdivisions' uses of Remediation Accounts Fund monies were not used for purposes similar to or in the nature of those uses contained in Exhibit E.

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

E. *Subdivision Kroger Payment Enforcement.* A Participating Subdivision listed on Exhibit G shall have the same right as a Settling State to seek resolution regarding the failure by Kroger to make its Annual Remediation Payment in a Payment Year.

F. *Other Terms Regarding Dispute Resolution.*

1. Except to the extent provided by Section VI.C or Section VI.F.2, all disputes shall be resolved in either the court that entered the relevant Consent Judgment or, if no such Consent Judgment was entered, a state or territorial court with jurisdiction located wherever the seat of the relevant state government is located.

a. State court proceedings shall be governed by the rules and procedures of the relevant forum.

b. For the avoidance of doubt, disputes to be resolved in state court include, but are not limited to, the following:

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

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

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

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

(v) whether the definition of a Bar, a Case-Specific Resolution, Final Order, lead state agency as described in Section V.D.4.b, Later Litigating Subdivision, Litigating Subdivision, or Threshold Motion have been met; and

(vi) all other disputes not specifically identified in Section VI.C or Section VI.F.2.

c. Any Party may request that the National Arbitration Panel provide an interpretation of any provision of the settlement that is relevant to the state court determination, and the National Arbitration Panel shall make reasonable best

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

2. National Disputes involving a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VI.A, and/or Kroger shall be resolved by the National Arbitration Panel.

a. National Disputes are disputes that are not addressed by Section VI.C, and which are exceptions to Section VI.F.1's presumption of resolution in state courts because they involve issues of interpretation of terms contained in this Agreement applicable to all Settling States without reference to a particular state's law. Disputes between a Settling State and any Participating Subdivision shall not be considered National Disputes. National Disputes are limited to the following:

- (i) the amount of offset and/or credit attributable to Non-Settling States;
- (ii) issues involving the scope and definition of Product;
- (iii) interpretation and application of the terms "Covered Conduct," "Released Entities," and "Released Claims";
- (iv) the failure by Kroger to pay the Annual Remediation Payment or the Additional Restitution Amount in a Payment Year, but for the avoidance of doubt, disputes between Kroger and a Settling State over the amounts owed only to that state that do not affect any other Settling State shall not be considered National Disputes;
- (v) the interpretation and application of any most-favored-nation provision in Section XIII.D;
- (vi) questions regarding the performance and/or removal of the Settlement Fund Administrator;
- (vii) disputes involving liability of successor entities;
- (viii) disputes that require a determination of the sufficiency of participation in order to qualify for Incentive Payments A, BC or D;
- (ix) disputes involving a Releasor's compliance with, and the appropriate remedy under, Section X.B.4.c;

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

(xi) any dispute subject to resolution under Section VI.F.1 but for which all parties to the dispute agree to arbitration before the National Arbitration Panel under the provisions of this Section VI.F.2.

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

c. The National Arbitration Panel shall make reasonable best efforts to decide all matters within one hundred eighty (180) calendar days of filing, and in no event shall it take longer than one (1) year.

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

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

f. The arbitrators will give due deference to any authoritative interpretation of state law, including any declaratory judgment or similar relief obtained by a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section VI.A, or Kroger on a state law issue.

g. The decisions of the National Arbitration Panel shall be binding on Settling States, Participating Subdivisions, Kroger, and the Settlement Fund Administrator. In any proceeding before the National Arbitration Panel involving a dispute between a Settling State and Kroger whose resolution could prejudice the rights of a Participating Subdivision(s) in that Settling State, such Participating Subdivision(s) shall be allowed to file a statement of view in the proceeding.

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

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

3. Prior to initiating an action to enforce pursuant to this Section VI.F, the complaining party must:

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

b. Wait to commence any enforcement action until thirty (30) calendar days after the date that the Enforcement Committee establishes for obtaining additional information from the involved parties.

4. If the parties to a dispute cannot agree on the proper forum for resolution of the dispute under the provisions of Section VI.F.1 or Section VI.F.2, a committee comprising the Enforcement Committee and sufficient representatives of Kroger such that the members of the Enforcement Committee have a majority of one (1) member will determine the forum where the dispute will be initiated within twenty-eight (28) calendar days of receiving notification of the dispute relating to the proper forum. The forum identified by such committee shall be the sole forum for litigating the issue of which forum will hear the substantive dispute, and the committee's identification of such forum in the first instance shall not be entitled to deference by the forum selected.

G. To the extent allowed by applicable law, this Settlement Agreement shall not be deemed to create a lien or encumbrance against any real property owned by Kroger or its affiliates, unless in the event of a default or breach of the payment provisions by Kroger. Nothing in this

Section shall be construed to limit any remedy of any Settling State or Participating Subdivision in the event of a default or breach of this Agreement by Kroger.

H. *No Effect.* Nothing in this Agreement shall be interpreted to limit the Settling States' Civil Investigative Demand ("*CID*") or investigative subpoena authority, to the extent such authority exists under applicable state law and the *CID* or investigative subpoena is issued pursuant to such authority, and Kroger reserve all of its rights in connection with a *CID* or investigative subpoena issued pursuant to such authority.

VII. Participation by Subdivisions

A. *Notice.* No later than fifteen (15) calendar days after the Preliminary Agreement Date, the Implementation Administrator shall send individual written notice (which may be delivered via e-mail or other electronic means and may be combined with distribution of the Subdivision Settlement Participation Form) of the opportunity to participate in this Agreement and the requirements of participation to all Subdivisions in the Settling States that are (1) Litigating Subdivisions or (2) Non-Litigating Subdivisions listed on Exhibit G. To the extent a Special District is entitled to an allocation for a direct payment through its inclusion in Exhibit G pursuant to a State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution, the Implementation Administrator, with the cooperation of the Settling States shall also send individual written notice (which may be delivered via e-mail or other electronic means) of the opportunity to participate in this Agreement and the requirements of participation to such Special Districts. Unless otherwise agreed by the Parties, the version of Exhibit G used for notice shall be the one in place as of the Preliminary Agreement Date. Notice (which may be delivered via e-mail or other electronic means) shall also be provided simultaneously to counsel of record for Litigating Subdivisions and known counsel for Non-Litigating Subdivisions and Special Districts listed on Exhibit G. Up to \$1,500,000 of the costs of the Implementation Administrator shall be paid for by Kroger. The Settling States, with the cooperation of Kroger, may also provide general notice reasonably calculated to alert Non-Litigating Subdivisions in the Settling States to this Agreement, the opportunity to participate in it, and the requirements for participation. Such notice may include publication and other standard forms of notification, as well as notice to state and county organizations such as the National Association of Counties and the National League of Cities. The notice will include that the deadline for becoming an Initial Participating Subdivision is the Initial Participation Date. Nothing contained herein shall preclude a Settling State from providing further notice to or otherwise contacting any of its Subdivisions about becoming a Participating Subdivision, including beginning any of the activities described in this paragraph prior to the Preliminary Agreement Date.

B. *Requirements for Becoming a Participating Subdivision—Non-Litigating Subdivisions.* A Non-Litigating Subdivision in a Settling State may become a Participating Subdivision by returning an executed Subdivision Settlement Participation Form to the Implementation Administrator or Settlement Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) specifying (1) that the Subdivision agrees to the terms of this Agreement pertaining to Subdivisions, (2) that the Subdivision releases all Released Claims against all Released Entities, (3) that the Subdivision agrees to use monies it receives, if any, from the Settlement Fund pursuant to the applicable requirements of Section V; *provided, however*, that Non-Litigating Subdivisions

may only use monies originating from the Settlement Fund for purposes that qualify as Opioid Remediation, and (4) that the Subdivision submits to the jurisdiction of the court where the applicable Consent Judgment is filed for purposes limited to that court's role under this Agreement. The required Subdivision Settlement Participation Form is attached as Exhibit K.

C. *Requirements for Becoming a Participating Subdivision—Litigating Subdivisions/Later Litigating Subdivisions.* A Litigating Subdivision or Later Litigating Subdivision in a Settling State may become a Participating Subdivision by returning an executed Subdivision Settlement Participation Form to the Implementation Administrator or Settlement Fund Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Fund Administrator) and upon prompt dismissal with prejudice of its lawsuit following the Reference Date or the date on which the conditions for effectiveness in Section VIII.B have been met, whichever is later. A Settling State may require each Litigating Subdivision in that Settling State to specify on the Subdivision Settlement Participation Form whether its counsel has waived any contingency fee contract with that Participating Subdivision and whether, if eligible, it intends to seek fees pursuant to Exhibit R. The Settlement Fund Administrator shall provide quarterly reports of this information to the parties organized by Settling State. A Litigating Subdivision or Later Litigating Subdivision may not become a Participating Subdivision after the completion of opening statements in a trial of the lawsuit it brought that includes a Released Claim against a Released Entity.

D. *Initial Participating Subdivisions.* A Subdivision qualifies as an Initial Participating Subdivision if it meets the applicable requirements for becoming a Participating Subdivision set forth in Section VII.B or Section VII.C by the Initial Participation Date. All Subdivision Settlement Participation Forms shall be held in escrow by the Implementation Administrator until the Reference Date. If, for any reason, the Agreement does not become effective, all obligations created by such forms and releases in them shall be void *ab initio* and/ all Subdivision Participation Agreements shall be returned to Counsel for Litigating Subdivisions or to the Subdivisions not represented by counsel or destroyed to the extent that such destruction is not prohibited by then existing document preservation obligations.

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

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

2. A Later Participating Subdivision that becomes a Participating Subdivision after January 31, 2025, shall receive seventy-five percent (75%) of the share of future Base Payments or Incentive Payments that it would have received had it become a Later Participating Subdivision prior to that date (unless the Later Participating Subdivision is subject to Section VII.E.3 or Section VII.E.4).

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

4. A Later Participating Subdivision that becomes a Participating Subdivision while a Bar or Case-Specific Resolution involving a different Subdivision exists in its state shall receive twenty-five percent (25%) of the share of future Base Payments or Incentive Payments that it would have received had it become a Later Participating Subdivision without such Bar or Case-Specific Resolution.

F. *No Increase in Payments.* Amounts to be received by Later Participating Subdivisions shall not increase the payments due from Kroger.

G. *Ineligible Subdivisions.* Prior Litigating Subdivisions whose claims have already been resolved, Subdivisions located in Non-Settling States, and Subdivisions not located in Eligible States cannot be Participating Subdivisions.

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

I. *Unpaid Allocations to Later Participating Subdivisions and Non-Participating Subdivisions.* Any Base Payment and Incentive Payments allocated pursuant to Section V.D to a Later Participating Subdivision or Non-Participating Subdivision that cannot be paid pursuant to this Section VII, including the amounts that remain unpaid after the reductions required by Section VII.E.2 through Section VII.E.4, will be allocated to the Remediation Accounts Fund for the Settling State in which the Subdivision is located, unless those payments are redirected elsewhere by a State-Subdivision Agreement or by a Statutory Trust.

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

A. *Determination to Proceed with Settlement—Settling States.* Following the Initial Subdivision Participation Date, the Settling States on the Enforcement Committee shall determine whether to proceed with the Agreement. No later than fifteen (15) calendar days prior to the Reference Date, the Settling States shall provide notice to Kroger and the Enforcement Committee of their decision. If the Settling States elect not to proceed, this Agreement will have no further effect, and all releases (including those contained in Subdivision Participation Agreements) and other commitments or obligations contained herein or in Subdivision Settlement Participation Forms will be void. Within seven (7) calendar days of informing Kroger that there is sufficient participation to proceed, the Settling States will deliver all signatures and releases required by the Agreement to be provided by the Settling States to Kroger.

B. *Determination to Proceed with Settlement—Kroger.* If the Settling States elect to proceed, Kroger will then determine on or before the Reference Date whether there is sufficient Eligible State participation, sufficient Subdivision participation, and sufficient resolution of the Claims of the Litigating Subdivisions in the Settling States (through participation under Section VII, Case-Specific Resolution(s) and Bar(s)) to proceed with this Agreement. The determination shall be in the sole discretion of Kroger and may be based on any criteria or factors deemed relevant by Kroger.

C. *Notice by Kroger.* On or before the Reference Date, Kroger shall inform the Settling States of its determination pursuant to Section VIII.B. If Kroger determines to proceed, the Parties will proceed to file the Consent Judgments and the obligations in the Subdivision Settlement Participation Forms will be effective and binding as of the Reference Date. If Kroger determines not to proceed, this Agreement will have no further effect, any amounts deposited for Payment Year 1, including funds referenced in Section IV.D.1 and Exhibit M, shall revert to Kroger, and all releases (including those contained in Subdivision Settlement Participation Forms) and other commitments or obligations contained herein or in Subdivision Settlement Participation Forms will be void.

IX. Settling State and Participating Subdivision Attorneys' Fees and Costs and Additional Remediation Amount

A. The Agreement on Subdivision Attorneys' Fees, Expenses and Costs is set forth in Exhibit R and incorporated herein by reference. Agreed terms concerning the State Outside Counsel Fee Fund and the State Cost Fund are set forth in Exhibit S and Exhibit T, respectively, and are incorporated herein by reference.

B. *Additional Remediation Amount.*

1. Subject to and without exceeding the maximum payment amounts set forth in the "Additional Remediation Amount" column of Exhibit M-3 and subject to the reduction specified in Section IX.B.2, Kroger shall pay an Additional Remediation Amount to the Settling States listed in Exhibit N. Such funds shall be paid, on the schedule set forth in Exhibit M-3, as allocated by the Settlement Fund Administrator pursuant to Exhibit N.

2. *Reduction of Additional Remediation Amount.* The amounts owed by Kroger pursuant to this Section IX.B shall be reduced by the allocations set forth on Exhibit N for Non-Settling States.

3. For the avoidance of doubt, (1) a Settling State that retained outside counsel in connection with the investigation of Kroger that receives an Additional Remediation Amount because the Settling State was not otherwise eligible to receive funds from the State Outside Counsel Fee Fund may choose to have the Additional Remediation Amount designated to pay the Settling State's outside counsel, and may instruct the Settlement Fund Administrator to pay those funds directly to the Settling State's outside counsel, and (2) Additional Remediation Amount funds, including funds designated by a Settling State to pay its outside counsel under this paragraph, shall not be subject to allocation as provided in Section V.C through Section V.E.

C. All payments addressed by this Section IX will be made on March 31 for each Payment Year in which they are due pursuant to Exhibit M-3.

X. Release

A. *Scope.* As of the Effective Date, the Released Entities are hereby released and forever discharged from all of the Releasers' Released Claims. Each Settling State (for itself and its Releasers) and Participating Subdivisions hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in this Agreement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of each Settling State and its Attorney General to release claims. This Agreement shall be a complete bar to any Released Claim.

B. *Claim-Over and Non-Party Settlement.*

1. It is the intent of the Parties that:

a. Released Entities should not seek contribution or indemnification (other than pursuant to an insurance contract), from other parties for their payment obligations under this Agreement;

b. the payments made under this Agreement shall be the sole payments made by the Released Entities to the Releasers involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity);

c. Claims by Releasers against non-Parties should not result in additional payments by Released Entities, whether through contribution, indemnification or any other means; and

d. the Agreement meets the requirements of the Uniform Contribution Among Joint Tortfeasors Act and any similar state law or doctrine that reduces or discharges a released party's liability to any other parties.

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

2. No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner; *provided* that a Released Entity shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

3. To the extent that, on or after the Reference Date, any Releasor enters into a Non-Party Settlement, including in any bankruptcy case or through any plan of reorganization (whether individually or as a class of creditors), the Releasor will include (or in the case of a Non-Party Settlement made in connection with a bankruptcy case, will cause the debtor to include), unless prohibited from doing so under applicable law, in the Non-Party Settlement a prohibition on contribution or indemnity of any kind substantially equivalent to that required from Kroger in Section X.B.2, or a release from such Non-Released Entity in favor of the Released Entities (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.

4. In the event that any Releasor obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Entity that does not contain a prohibition like that described in Section X.B.3 or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in Section X.B.3, and such Non-Released Entity asserts a Claim-Over against a Released Entity, the Released Entity shall be relieved of the prohibition in Section X.B.2 with respect to that Non-Released Entity and that Releasor and Kroger shall take the following actions to ensure that the Released Entities do not pay more with respect to Covered Conduct to Releasors or to Non-Released Entities than the amounts owed under this Settlement Agreement by Kroger:

a. Kroger shall notify that Releasor of the Claim-Over within sixty (60) calendar days of the assertion of the Claim-Over or sixty (60) calendar days of the Effective Date of this Settlement Agreement, whichever is later;

b. Kroger and that Releasor shall meet and confer concerning the means to hold Released Entities harmless and ensure that they are not required to pay more with respect to Covered Conduct than the amounts owed by Kroger under this Agreement;

c. That Releasor and Kroger shall take steps sufficient and permissible under the law of the state of the Releasor to hold Released Entities harmless from the Claim-Over and ensure Released Entities are not required to pay more with respect to Covered Conduct than the amounts owed by Kroger under this Agreement. Such steps may include, where permissible:

(i) Filing of motions to dismiss or such other appropriate motion by Kroger or Released Entities, and supported by Releasors, in response to any claim filed in litigation or arbitration;

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

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

(iv) Return of monies paid by Kroger to that Releasor under this Settlement Agreement to permit satisfaction of a judgment against or settlement with the Non-Released Entity to satisfy the Claim-Over;

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

(vi) Credit to Kroger under this Agreement to reduce the overall amounts to be paid under the Agreement such that they are held harmless from the Claim-Over; and

(vii) Such other actions as that Releasor and Kroger may devise to hold Kroger harmless from the Claim-Over.

d. The actions of that Releasor and Kroger taken pursuant to paragraph (c) must, in combination, ensure Kroger is not required to pay more with respect to Covered Conduct than the amounts owed by Kroger under this Agreement.

e. In the event of any dispute over the sufficiency of the actions taken pursuant to paragraph (c), that Releasor and Kroger may seek review by the National Arbitration Panel, provided that, if the parties agree, such dispute may be heard by the state court where the relevant Consent Judgment was filed. The National Arbitration Panel shall have authority to require Releasors to implement a remedy that includes one or more of the actions specified in paragraph (c) sufficient to hold Released Entities fully harmless. In the event that the Panel's actions do not result in Released Entities being held fully harmless, Kroger shall have a claim for breach of this Agreement by Releasors, with the remedy being payment of sufficient funds to hold Kroger harmless from the Claim-Over. For the avoidance of doubt, the prior sentence does not limit or eliminate any other remedy that Kroger may have.

5. To the extent that the Claim-Over is based on a contractual indemnity, the obligations under Section X.B.4 shall extend solely to a Non-Party Covered Conduct Claim against a clinic, hospital or other purchaser, distributor or dispenser of Products, a manufacturer that sold Products, a consultant, and/or a pharmacy benefit manager or other third-party payor. Kroger shall notify the Settling States, to the extent permitted by applicable law, in the event that any of these types of Non-Released Entity asserts a Claim-Over arising out of contractual indemnity against it.

C. *Indemnification and Contribution Prohibited.* No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory, from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

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

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that if known by him or her, would have materially affected his or her settlement with the debtor or released party.

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

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

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

G. *Representation and Warranty.* The signatories hereto on behalf of their respective Settling States expressly represent and warrant that they have (or have obtained, or will obtain no later than the Initial Participation Date) the authority to settle and release, to the maximum extent of the Settling State's power, all Released Claims of (1) their respective Settling States, (2) all past and present executive departments, state agencies, divisions, boards, commissions and

instrumentalities with the regulatory authority to enforce state and federal controlled substances acts, and (3) any of their respective Settling State's past and present executive departments, agencies, divisions, boards, commissions, and instrumentalities that have the authority to bring Claims related to Covered Conduct seeking money (including abatement and/or remediation) or revocation or suspension of a pharmaceutical distribution or dispensing license. For the purposes of clause (3) above, executive departments, agencies, divisions, boards, commissions, and instrumentalities are those that are under the executive authority or direct control of the Settling State's Governor. Also for the purposes of clause (3), a release from a Settling State's Governor as set forth in Exhibit X is sufficient to demonstrate that the appropriate releases have been obtained.

H. *Effectiveness.* The releases set forth in this Agreement shall not be impacted in any way by any dispute that exists, has existed, or may later exist between or among the Releasors. Nor shall such releases be impacted in any way by any current or future law, regulation, ordinance, or court or agency order limiting, seizing, or controlling the distribution or use of the Settlement Fund or any portion thereof, or by the enactment of future laws, or by any seizure of the Settlement Fund or any portion thereof.

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

J. *Non-Released Claims.* Notwithstanding the foregoing or anything in the definition of Released Claims, this Agreement does not waive, release or limit any criminal liability, workers' compensation Claims, Claims for liability under tax law, Claims under securities law by a Settling State Releasor as investor, Claims against parties who are not Released Entities, Claims by private individuals, and any claims arising under this Agreement for enforcement of this Agreement.

XI. Later Litigating Subdivisions

A. *Released Claims against Released Entities.* If a Later Litigating Subdivision in a Settling State maintains a lawsuit for a Released Claim against a Released Entity after the Reference Date, the following shall apply subject to Section XI.B:

1. The Released Entity shall take ordinary and reasonable measures to defend the action, including filing a Threshold Motion with respect to the Released Claim. The Released Entity shall further notify the Settling State and Settlement Fund Administrator immediately upon notice of a Later Litigating Subdivision bringing a lawsuit for a Released Claim and shall not oppose a Settling State's submission in support of the Threshold Motion. Kroger shall give the relevant Settling State a reasonable opportunity to extinguish the Released Claims without any payment or any other obligations being imposed upon any Released Entities (apart from the Global Settlement Amount payable by Kroger under the Agreement or the Injunctive Relief Terms incurred by it). The relevant Settling State and Kroger shall confer and use reasonable efforts to

promptly resolve the lawsuit so that it is dismissed with prejudice. Nothing in this subsection creates an obligation for a Settling State to make a monetary payment or incur any other obligation to an entity filing a lawsuit.

2. If the lawsuit asserting a Released Claim is resolved with finality on terms requiring payment by the Released Entity, Kroger shall receive a dollar-for-dollar offset against Incentive Payment D for the amount paid. The offset shall be applied against the relevant portion of the Annual Remediation Payments starting in Payment Year 11 and working backwards.

3. For the avoidance of doubt, any offset pursuant to this Section XI in a Settling State that at the time is not eligible for Incentive Payment A shall continue to apply even if the Settling State at issue subsequently becomes eligible for Incentive Payment A.

4. “*Terms requiring payment*” shall mean (i) a final monetary judgment or (ii) a settlement; *provided* that the Released Entity sought the applicable State Attorney General's consent to the settlement and such consent was either obtained or unreasonably withheld. Should the judgment or settlement resolve claims that are not Released Claims, the offset shall be for the Released Claims portion only, which shall be distinguishable in the judgment or settlement.

B. *Exceptions*

1. Section XI.A shall not apply where the Settling State at issue meets the eligibility criteria for and is entitled to Incentive Payment A for the Payment Year at issue, except as expressly provided therein.

2. An offset under Section XI.A.2 shall not apply where the Later Litigating Subdivision opted out of a Settlement Class Resolution in the Settling State at issue that was in full force and effect in that Settling State as of the due date of the payment for Payment Year 2 and remains in full force and effect; *provided* that an offset relating to that Subdivision may apply under Section XII.

3. Section XI.A shall not apply where the Later Litigating Subdivision seeks less than \$10 million, or so long as its total claim is reduced to less than \$10 million, in the lawsuit for a Released Claim at issue.

C. *No Effect on Other Provisions.* An offset under Section XI.A shall not affect the Injunctive Relief Terms or the Consent Judgment.

D. *No Effect on Other States.* An offset under Section XI.A applicable to one State shall not affect the allocation or payment of the Annual Remediation Payment to other Settling States.

E. *Litigating Subdivisions in Non-Eligible States.* The Settling States will not encourage, facilitate, or assist in any manner whatsoever claims for Covered Conduct against Kroger in any Settling, Non-Settling, or Non-Eligible State, regardless of whether those claims were filed against Kroger prior to, on, or after the Effective Date.

XII. Other Reductions/Offsets

A. *Settlement Class Resolution Opt Outs.* If a Settling State is eligible for Incentive Payment A on the basis of a Settlement Class Resolution, and a Primary Subdivision that opted out of the Settlement Class Resolution maintains a lawsuit asserting a Released Claim against a Released Entity, the following shall apply. If the lawsuit asserting a Released Claim either survives a Threshold Motion or has an unresolved Threshold Motion fewer than sixty (60) calendar days prior to the scheduled start of a trial involving a Released Claim, and is resolved with finality on terms requiring payment by the Released Entity, Kroger shall receive a dollar-for-dollar offset for the amount paid against its obligation to make remaining Incentive Payment A payments that would be apportioned to that Settling State and to its Subdivisions. For the avoidance of doubt, an offset shall not be applicable under this subsection if it is applicable under Section XI.A with respect to the Subdivision at issue.

B. *Revoked Bar, Settlement Class Resolution, or Case-Specific Resolution.* If Kroger made any Annual Remediation Payments that included any incentive payments earned as a result of the existence of a Bar, Settlement Class Resolution, or Case-Specific Resolution in a Settling State, and there is subsequently a Revocation Event with respect to that Bar, Settlement Class Resolution, or Case-Specific Resolution after the determination of the amount of such Annual Remediation Payment, Kroger shall receive a dollar-for-dollar offset against the portion of remaining Annual Remediation Payments that would be allocated to that Settling State and its Participating Subdivisions. This offset will be calculated as the dollar amount difference between (1) the total amount of incentive payments paid by Kroger by virtue of the Bar, Settlement Class Resolution, or Case-Specific Resolution subject to the Revocation Event and (2) the total amount of incentive payments that would have been due from Kroger during that time had the Bar, Settlement Class Resolution, or Case-Specific Resolution subject to the Revocation Event not been in effect. The amount of incentive payments that would have been due, referenced in clause (2) above, will be calculated one hundred eighty (180) calendar days after the Revocation Event; for purposes of calculating the amount of incentive payments that would have been due, any relevant Subdivision shall be included as a Participating Subdivision if: (1) its Released Claims are extinguished by any subsequent Bar, Settlement Class Resolution, or Case-Specific Resolution in effect as of the date of such calculation, or (2) it becomes a Participating Subdivision (in addition to all other Participating Subdivisions) prior to the date of such calculation.

C. *Certain Taxes.* Amounts paid by Kroger under an Opioid Tax in a Settling State in a Payment Year shall give rise to a dollar-for-dollar offset against Kroger obligation to pay its share of the Annual Remediation Payment in that Payment Year that would be allocated to the taxing Settling State or its Participating Subdivisions. If such amounts paid exceed the Annual Remediation Payment allocable to the taxing Settling State or its Participating Subdivisions in that Payment Year, the excess shall carry forward as an offset against its remaining Annual Remediation Payments that would be allocated to the taxing Settling State or its Participating Subdivisions. Kroger represents that as of March 4, 2024, there is no Opioid Tax currently in effect in any Eligible State that would give rise to this offset provision.

XIII. Miscellaneous

A. *Population of General Purpose Governments.* The population figures for General Purpose Governments shall be the published U.S. Census Bureau's population estimates for July

1, 2019, released May 2020. These population figures shall remain unchanged during the term of this Agreement.

B. *Population of Special Districts.* For any purpose in this Agreement in which the population of a Special District is used other than Section IV.H.4.c and Section IV.H.6.d: (a) School Districts' population will be measured by the number of students enrolled who are eligible under the Individuals with Disabilities Education Act ("*IDEA*") or Section 504 of the Rehabilitation Act of 1973; (b) Health Districts' and Hospital Districts' population will be measured at twenty-five percent (25%) of discharges; and (c) all other Special Districts' (including Fire Districts' and Library Districts') population will be measured at ten percent (10%) of the population served.⁸ For the avoidance of doubt, this means that California healthcare districts will be measured at ten percent (10%) of their membership. Kroger and the Enforcement Committee shall meet and confer in order to agree on data sources for purposes of this Section prior to the Preliminary Agreement Date.

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

D. *Most-Favored-Nation Provision*

1. If, after the Effective Date, Kroger enters into any settlement agreement with any Non-Settling State that resolves Claims similar in scope to the Claims released by a Settling State under this Agreement on overall payment terms that are more favorable to such Non-Settling State than the overall payment terms of the Agreement (after due consideration of relevant differences in population or other appropriate factors), then the Settling States, individually or collectively, may elect to seek review, pursuant to Section XIII.D.3, of the overall payment terms of this Agreement and the Non-Settling State agreement so that such Settling State(s) may obtain overall payment terms at least as favorable as those obtained by such Non-Settling State. "Overall payment terms" refers to consideration of all payment terms of the two agreements, taken together, including, but not limited to the amount of payments, the timing of payments, and conditions or contingencies on payments.

2. For any settlement with a Non-Settling State involving Released Claims that is entered into after the Effective Date, Kroger shall provide the Enforcement Committee with a copy of the settlement agreement or relevant consent judgment within thirty (30) calendar days of the consummation of such settlement. The Enforcement Committee will promptly distribute such copy to all Settling States.

3. In the event that one or more Settling State(s) believes that the overall payment terms of an agreement by Kroger with a Non-Settling State are more favorable to the Non-Settling State, when compared based on the totality of the consideration set forth in Section XIII.D.1, the Settling State(s) and Kroger shall engage in the following process:

⁸ The estimates for counties and parishes were accessed at <https://www.census.gov/data/datasets/time-series/demo/popest/2010s-counties-total.html>. The estimates for cities and towns can currently be found at <https://www.census.gov/data/datasets/time-series/demo/popest/2010s-total-cities-and-towns.html>.

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

b. Kroger shall, within thirty (30) calendar days, provide a response to the Settling State(s), explaining its position, in detail, as to whether the Settling State(s) are entitled to more favorable overall payment terms than those provided for in this Agreement.

c. In the event the Settling State(s) and Kroger do not reach agreement as to the application of Section XIII.D.1, the Settling State(s) may petition the National Arbitration Panel to seek a ruling from the Panel as to the applicability of Section XIII.D.1, provided that the Settling State(s) may seek such review only if at least five (5) Settling States co-sign the petition. The Panel shall consider submissions and argument by the parties pursuant to the procedures set forth in Section VI.F.2.

d. The Settling State and Kroger shall be bound by the determination of the National Arbitration Panel of the overall payment terms of this Agreement and the Non-Settling State agreement so that such Settling State(s) may obtain, with respect to Kroger, overall payment terms at least as favorable as those obtained by such Non-Settling State.

4. This Section XIII.D does not apply to, and there is no ability of any Settling State to seek or obtain revision of this Agreement based on, any agreement with Kroger that is entered into with a Non-Settling State: (a) either the earlier of (i) after the close of expert discovery or (ii) after a date ninety (90) calendar days prior to the scheduled start date of a trial between Kroger and the Non-Settling State, or any severed or bifurcated portion thereof, provided that, where, in order to complete a settlement, a Non-Settling State and Kroger jointly request an adjournment of the scheduled start date of a trial within ninety (90) days of that date, this exception will apply as if the trial date had not been adjourned; (b) that previously litigated to judgment a case related to opioids against any manufacturer, distributor, or pharmacy; (c) the earlier of (i) after a Non-Settling State that has obtained any court order or judicial determination that grants judgment (in whole or in part) against Kroger in the Non-Settling State's case; (ii) after a sanctions ruling against Kroger in the Non-Settling State's case against Kroger; or (iii) after any ruling has issued in the Non-Settling State's case against any manufacturer, distributor, or pharmacy on the issue of joint and several liability. The National Arbitration Panel shall have no power to review agreements that satisfy any of the conditions described in this paragraph.

5. This Section XIII.D does not apply to, and there is no ability of any Settling State to seek or obtain revision of this Agreement based on, any agreement between Kroger and Non-Participating Subdivisions or Non-Participating Special Districts.

6. This Section XIII.D will not apply to any agreement entered into more than eighteen (18) months after the Effective Date.

E. *No Admission.* Kroger does not admit liability or wrongdoing. Neither this Agreement nor the Consent Judgments shall be considered, construed or represented to be (1) an admission, concession or evidence of liability or wrongdoing or (2) a waiver or any limitation of any defense otherwise available to Kroger.

F. *Tax Cooperation and Reporting.*

1. Upon request by Kroger, the Settling States and Participating Subdivisions agree to perform such further acts and to execute and deliver such further documents as may be reasonably necessary for Kroger to establish the statements set forth in Section V.F to the satisfaction of their tax advisors, their independent financial auditors, the Internal Revenue Service, or any other governmental authority, including as contemplated by 26 C.F.R. § 1.162-21(b)(3)(ii) and any subsequently proposed or finalized relevant regulations or administrative guidance.

2. Without limiting the generality of Section XIII.F.1, each Settling State and Participating Subdivision shall cooperate in good faith with Kroger with respect to any tax claim, dispute, investigation, audit, examination, contest, litigation, or other proceeding relating to this Agreement.

3. Pursuant to 26 C.F.R. § 1.6050X-1(a) and (b), the Designated State, on behalf of all Settling States and Participating Subdivisions, shall designate one of its officers or employees to act as the “appropriate official” within the meaning of 26 C.F.R. § 1.6050X-1(f)(1)(ii)(B) (the “Appropriate Official”). The Designated State shall direct and ensure that the Appropriate Official timely (a) files (i) at the time this Agreement becomes binding on the Parties, an IRS Form 1098-F in the form attached as Exhibit U with respect to Kroger and (ii) any legally required forms, returns or amended returns with any applicable governmental authority, or any returns requested by Kroger, and (b) provides to Kroger a copy of (i) the IRS Form 1098-F filed with respect to Kroger and (ii) any legally required written statement pursuant to any applicable law and any other document referred to in clause (a)(ii) above. Any such forms, returns, or statements shall be prepared and filed in a manner fully consistent with Section V.F. and as set forth in Section XIII.F.4.

4. Any form, return, amended return, or written statement filed or provided pursuant to Section XIII.F.3, and any similar document, shall be prepared and filed in a manner consistent with reporting the Global Settlement Amount as the “Total amount to be paid” pursuant to this Agreement in Box 1 of IRS Form 1098-F and the Compensatory Restitution Amount as “Restitution/remediation amount” in Box 3 of IRS Form 1098-F, as reflected in the attached Exhibit U. If the Designated State or Appropriate Official shall be required to file any form, return, amended return, or written statement contemplated by this Section

XIII.F other than an IRS Form 1098-F in the form attached as Exhibit U, the Designated State shall direct and ensure that the Appropriate Official provides to Kroger a draft of such form, return, amended return, or written statement no later than sixty (60) calendar days prior to the due date thereof, and shall accept any reasonable revisions from Kroger on the return, amended return, or written statement.

5. For the avoidance of doubt, neither Kroger nor the Settling States and Participating Subdivisions make any warranty or representation to any Settling State, Participating Subdivision, or Releasor as to the tax consequences of the payment of the Compensatory Restitution Amount (or any portion thereof).

G. *No Third-Party Beneficiaries.* Except as expressly provided in this Agreement, no portion of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not the Settling State or Released Entity. Settling States may not assign or otherwise convey any right to enforce any provision of this Agreement.

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

I. *Construction.* None of the Parties and no Participating Subdivision shall be considered to be the drafter of this Agreement or of any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement. The headings of the provisions of this Agreement are not binding and are for reference only and do not limit, expand, or otherwise affect the contents or meaning of this Agreement.

J. *Cooperation.* Each Party and each Participating Subdivision agrees to use its best efforts and to cooperate with the other Parties and Participating Subdivisions to cause this Agreement and the Consent Judgments to become effective, to obtain all necessary approvals, consents and authorizations, if any, and to execute all documents and to take such other action as may be appropriate in connection herewith. Consistent with the foregoing, each Party and each Participating Subdivision agrees that it will not directly or indirectly assist or encourage any challenge to this Agreement or any Consent Judgment by any other person, and will support the integrity and enforcement of the terms of this Agreement and the Consent Judgments.

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

L. *Execution.* This Agreement may be executed in counterparts and by different signatories on separate counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Agreement. One or more counterparts of this Agreement may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart hereof. One or more counterparts of this Agreement may be signed by electronic signature.

M. *Good Faith and Voluntary Entry.* Each Party warrants and represents that it negotiated the terms of this Agreement in good faith. Each of the Parties and Participating Subdivisions warrants and represents that it freely and voluntarily entered into this Agreement without any degree of duress or compulsion. The Parties and Participating Subdivisions state that no promise of any kind or nature whatsoever (other than the written terms of this Agreement) was made to them to induce them to enter into this Agreement

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

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

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

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

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

For the Attorney(s) General:

Josh Stein, Attorney General
North Carolina Department of Justice
Attn: Daniel Mosteller, Deputy General Counsel

PO Box 629
Raleigh, NC 27602
Dmosteller@ncdoj.gov

Jonathan Skrmetti, Attorney General
Tennessee Attorney General's Office
Attn: Michael Leftwich, Senior Deputy Attorney General
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For the Plaintiffs' Executive Committee:

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1014 Vine St.
Cincinnati, OH 45202

Antonio Matthews
toney.matthews@kroger.com
1014 Vine St.
Cincinnati, OH 45202

Any Party or the Plaintiffs' Executive Committee may change or add the contact information of the persons designated to receive notice on its behalf by notice given (effective upon the giving of such notice) as provided in this Section XIII.R.

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

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

U. *Successors.*

1. This Agreement shall be binding upon, and inure to the benefit of, Kroger and its respective successors and assigns.

2. Kroger shall not, in one (1) transaction or a series of related transactions, sell or transfer U.S. assets having a fair market value equal to twenty-five percent (25%) or more of the consolidated assets of Kroger (other than sales or transfers of inventories, or sales or transfers to an entity owned directly or indirectly by Kroger) where the sale or transfer is announced after the Reference Date, is not for fair consideration, and would foreseeably and unreasonably jeopardize Kroger's ability to make the payments under this Agreement that are due on or before the third Payment Date following the close of a sale or transfer transaction, unless Kroger obtains the

acquiror's agreement that it will be either a guarantor of or successor to the percentage of Kroger's remaining Payment Obligations under this Agreement equal to the percentage of Kroger's consolidated assets being sold or transferred in such transaction. Percentages under this section shall be determined in accordance with United States generally accepted accounting principles and as of the date of Kroger most recent publicly filed consolidated balance sheet prior to the date of entry into the sale or transfer agreement at issue. This Section XIII.U shall be enforceable solely by the Settling States, and any objection under this Section XIII.U not raised within sixty (60) calendar days of the announcement of the relevant transaction is waived.

V. *Modification, Amendment, Alteration.* In the event the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, or Kroger concludes prior to the Reference Date that technical corrections are required to this Agreement, the Plaintiffs' Executive Committee, the Executive Committee of the State Attorneys General, and Kroger shall meet and confer and make such amendments as they agree are appropriate. After the Reference Date, any modification, amendment, or alteration of this Agreement by the Parties shall be binding only if evidenced in writing signed by Kroger, along with the signature of at least two-thirds of those then serving as Attorney General of the Settling States along with a representation from each Attorney General that either: (1) the advisory committee or similar entity established or recognized by that Settling State (either pursuant to Section V.E.2.d, by a State-Subdivision Agreement, or by statute) voted in favor of the modification, amendment or alteration of this Agreement including at least one member appointed by the Participating Subdivisions listed on Exhibit G; or (2) in Settling States without any advisory committee, that 50.1% (by population) of the Participating Subdivisions listed on Exhibit G expressed approval of the modification, amendment, or alteration of this Agreement in a writing.

W. *Termination.*

1. Unless otherwise agreed to by each of Kroger and the Settling States, this Agreement and all of its terms (except Section XIII.Q and any other non-admissibility provisions, which shall continue in full force and effect) shall be canceled and terminated with respect to the Settling State, and the Agreement and all orders issued by the courts in the Settling State pursuant to the Agreement shall become null and void and of no effect if one or more of the following conditions applies:

a. a Consent Judgment approving this Agreement without modification of any of the Agreement's terms has not been entered as to a Settling State by a court of competent jurisdiction on or before one hundred eighty (180) calendar days after the Effective Date;

b. this Agreement or the Consent Judgment as to that Settling State has been disapproved by a court of competent jurisdiction to which it was presented for approval and/or entry (or, in the event of an appeal from or review of a decision of such a court to approve this Agreement and the Consent Judgment, by the court hearing such appeal or conducting such review), and the time to appeal from such disapproval has expired, or, in the event of an appeal from such disapproval, the appeal has been dismissed or the disapproval has been affirmed by the court of last resort to which such appeal has been taken and such dismissal or disapproval has

become no longer subject to further appeal (including, without limitation, review by the United States Supreme Court); or

2. If this Agreement is terminated with respect to a Settling State for whatever reason pursuant to Section XIII.W.1, then:

a. an applicable statute of limitation or any similar time requirement (excluding any statute of repose) shall be tolled from the date the Settling State signed this Agreement until the later of the time permitted by applicable law or for one year from the date of such termination, with the effect that Kroger and the Settling State shall be in the same position with respect to the statute of limitation as they were at the time the Settling State filed its action; and

b. Kroger and the Settling State shall jointly move the relevant court of competent jurisdiction for an order reinstating the actions and claims dismissed pursuant to the terms of this Agreement governing dismissal, with the effect that Kroger and the Settling State shall be in the same position with respect to those actions and claims as they were at the time the action or claim was stayed or dismissed.

3. Unless Kroger and the Enforcement Committee agree otherwise, this Agreement, with the exception of the Injunctive Relief Terms that have their own provisions on duration, shall terminate as to all Parties as of the Payment Date for Payment Year 11, *provided* that Kroger has performed its Payment obligations under the Agreement as of that date. Notwithstanding any other provision in this Section XIII.W.3 or in this Agreement, all releases under this Agreement will remain effective despite any termination under this Section XIII.W.3.

X. *Governing Law.* Except as (1) otherwise provided in this Agreement or (2) as necessary, in the sole judgment of the National Arbitration Panel, to promote uniformity of interpretation for matters within the scope of the National Arbitration Panel's authority, this Agreement shall be governed by and interpreted in accordance with the respective laws of the Settling State, without regard to the conflict of law rules of such Settling State, that is seeking to enforce the Agreement against Kroger or against which Kroger is seeking enforcement. Notwithstanding any other provision in this subsection on governing law, any disputes relating to the Settlement Fund Escrow shall be governed by and interpreted in accordance with the law of the state where the escrow agent has its primary place of business.

Y. *Bankruptcy.* The following provisions shall apply if Kroger enters bankruptcy and (i) the Kroger bankruptcy estate recovers, pursuant to 11 U.S.C. § 550, any payments made under this Agreement, or (ii) this Agreement is deemed executory and is rejected by Kroger pursuant to 11 U.S.C. § 365:

1. In the event that the both a number of Settling States equal to at least seventy-five percent (75%) of the total number of Settling States and Settling States having aggregate Overall Allocation Percentages as set forth on Exhibit F equal to at least seventy-five percent (75%) of the total aggregate Overall Allocation Percentages assigned to all Settling States deem (by written notice to Kroger) that the financial obligations of this Agreement have been terminated and

rendered null and void (except as provided in Section XIII.Y.1.a) due to a material breach by Kroger, whereupon:

a. all agreements, all concessions, all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall immediately and automatically be deemed null and void as to Kroger; the Settling States shall be deemed immediately and automatically restored to the same position they were in immediately prior to their entry into this Settlement Agreement in respect to Kroger and the Settling States shall have the right to assert any and all claims against Kroger in the bankruptcy or otherwise without regard to any limits or agreements as to the amount of the settlement otherwise provided in this Agreement; *provided, however*, that notwithstanding the foregoing sentence, (i) all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall remain in full force and effect as to all persons or entities other than Kroger itself; and (ii) in the event the Settling State asserts any Released Claim against Kroger after the rejection and/or termination of this Agreement as described in this Section XIII.Y.1.a and receives a judgment, settlement or distribution arising from such Released Claim, then the amount of any payments the Settling State has previously received from Kroger under this Agreement shall be applied to reduce the amount of any such judgment, settlement or distribution (provided that no credit shall be given against any such judgment, settlement or distribution for any payment that the Settling State is required to disgorge or repay to Kroger's bankruptcy estate); and

b. the Settling States may exercise all rights provided under the federal Bankruptcy Code (or other applicable bankruptcy or non-bankruptcy law) with respect to their Claims against Kroger subject to all defenses and rights of the Kroger.

Z. *Waiver*. Kroger, for good and valuable consideration the receipt of which is acknowledged, hereby (a) waives, foregoes and relinquishes all rights to utilize and/or seek relief under any of the following laws of the State of Texas for the restructuring of its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement: Tex. Bus. Orgs. Code § 10.003 (Contents of Plan of Merger: More Than One Successor) or any other statute of Subchapter A of Chapter 10 of Tex. Bus. Orgs. Code to the extent such statute relates to multi-successor mergers (and/or any other similar laws or statutes in any other state or territory); Tex. Bus. Orgs. Code §§ 11.01–11.414 (Winding Up and Termination of Domestic Entity); or Tex. Bus. & Com. Code §§ 23.01–23.33 (Assignments for the Benefit of Creditors) (collectively, the “Texas Statutes”), and (b) agrees, warrants and represents that it will not file, request or petition for relief under the Texas Statutes related to its debts or liabilities related to Released Claims, Claims that would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement, in each case until such time as all of Kroger's payment obligations incurred hereunder are satisfied in full. The foregoing waiver and relinquishment includes, without limitation, until such time as all of Kroger's payment obligations incurred hereunder are satisfied in full, Kroger's rights to execute a divisional merger or equivalent transaction or restructuring related to its debts or liabilities related to Released Claims, Claims that

would have been Released Claims if they had been brought by a Releasor against a Released Entity before the Effective Date, or this Agreement that in each case has the intent or foreseeable effect of (i) separating material assets from material liabilities and (ii) assigning or allocating all or a substantial portion of those liabilities to any subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code, or pursuant to which such subsidiary or affiliate that files for relief under chapter 11 of the Bankruptcy Code would be assuming or retaining all or a substantial portion of those liabilities.



EXHIBIT A

Alleged Harms

The following expert reports that were served in connection with the case captioned *In re: National Prescription Opiate Litigation*, No. 1:17-md-2804 (N.D. Ohio) provide non-exclusive examples of Alleged Harms:

1. Expert reports of G. Caleb Alexander, dated April 16, 2021.
2. Expert reports of David Cutler, dated April 16, 2019; supplemental expert report of David Cutler, dated April 21, 2021; and second supplemental expert report of David Cutler, dated May 10, 2021.
3. Expert report of David Herzberg, dated April 16, 2021.
4. Expert reports of Katherine M. Keyes, Ph.D., dated April 16, 2021; supplemental expert report of Katherine M. Keyes, Ph.D, dated June 2, 2021.
5. Expert reports of Dr. Anna Lembke, M.D., dated April 16, 2021.
6. Expert report of Harvey Rosen, dated April 16, 2021.
7. Expert report of Nancy Young, dated April 16, 2021.

EXHIBIT B

Enforcement Committee Organization Bylaws

ARTICLE I

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

ARTICLE II

Purpose

The Committee is organized for the sole purpose of evaluating and taking such action as deemed reasonable, necessary, and appropriate by the members of the Committee on the matters delegated to the Committee under that certain Settlement Agreement between the Settling States and Kroger dated March 22, 2024.

ARTICLE III

Members of the Committee

(1) Number of Members

The Committee will consist of thirteen (13) members (the “Members”). Upon majority resolution of the Committee, the number of Members may be increased or decreased from time to time, but in no event shall a decrease have the effect of decreasing the total number of Members to less than seven Members.

(2) Initial Members

The Committee initially will consist of eight (8) Settling State Members and five (5) Participating Subdivision Members; at least two (2) of the Participating Subdivisions shall be counties and at least two (2) shall be municipalities. The initial Settling State Members are representatives from: California, Colorado, Illinois, North Carolina, Ohio, Tennessee, Texas, and Virginia. The initial Participating Subdivision Members are: [●]. Until fifteen (15) months from the Effective Date contained in the Settlement Agreement, the Participating Subdivisions may designate their outside counsel to serve as their representative. After fifteen (15) months from the Effective Date, an employee or official of the Participating Subdivision must be the designated as the representative of the Participating Subdivision.

(3) Term of Members

The term of office for Members of the Committee will be until the end of the term of the Settlement Agreement unless and until a Member withdraws or resigns from the Committee.

(4) Resignation

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

(5) Removal

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

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

(6) Vacancies

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

(7) Compensation

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

ARTICLE IV

Conflicts of Interest and Code of Ethics

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

ARTICLE V

Committee Meetings

(1) Place of Meetings

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

(2) Regular Meetings

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

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

ARTICLE VI

Officers

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

(5) **Vice Chairperson**

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

(6) **Secretary**

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

(7) **Records**

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

(8) **Resignation**

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

ARTICLE VII
Duties

(1) **Prior to the Effective Date**

The Committee shall be responsible for any additional negotiations with Kroger, including, but not limited to, negotiating extensions of any periods created by the Settlement Agreement, except that any additional negotiations related to the Injunctive Relief Terms (Exhibit P) shall be handled by the States Injunctive Relief Committee in accordance with the terms of Exhibit P.

(2) **After the Effective Date**

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

ARTICLE VIII
Rules of Procedure

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

ARTICLE IX
Operations

(1) Records

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

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

(2) Inspection of Books and Records

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

(3) Amendments

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

EXHIBIT C

Litigating Subdivisions Exhibit

1. Auburn, City of, Alabama
2. Decatur, City of, Alabama
3. Hartselle, City of, Alabama
4. Lee, County of, Alabama
5. Madison, County of, Alabama
6. Mobile County Board of Health, Alabama
7. Morgan, County of, Alabama
8. Winston, County of, Alabama
9. Arizona Municipal Risk Retention Pool, Arizona
10. Kingman, City of, Arizona
11. Mohave, County of, Arizona
12. Pinal, County of, Arizona
13. Prescott, City of, Arizona
14. Amador, County of, California
15. Butte, County of, California
16. Calaveras, County of, California
17. Chico, City of, California
18. Chula Vista, City of, California
19. Clearlake, City of, California
20. Del Norte, County of, California
21. El Dorado, County of, California
22. Fresno, County of, California

23. Imperial, County of, California
24. Inyo, County of, California
25. Lakeport, City of, California
26. Lassen, County of, California
27. Madera, County of, California
28. Mariposa, County of, California
29. Merced, County of, California
30. Modoc, County of, California
31. Mono, County of, California
32. Monterey, County of, California
33. Nevada, County of, California
34. Placer, County of, California
35. Plumas, County of, California
36. Riverside, County of, California
37. Sacramento, County of, California
38. San Bernardino, County of, California
39. San Diego, County of, California
40. San Jose, City of, California
41. Shasta, County of, California
42. Sutter, County of, California
43. Tehama, County of, California
44. Trinity, County of, California
45. Tuolumne, County of, California
46. Yolo, County of, California
47. Yuba, County of, California

48. Adams, County of, Colorado
49. Alamosa, City of, Colorado
50. Alamosa, County of, Colorado
51. Arapahoe, County of, Colorado
52. Aurora, City of, Colorado
53. Black Hawk, City of, Colorado
54. Boulder, County of, Colorado
55. Brighton, City of, Colorado
56. Broomfield, City of, Colorado
57. Broomfield, County of, Colorado
58. Chaffee, County of, Colorado
59. Commerce, City of, Colorado
60. Conejos, County of, Colorado
61. Denver, City of, Colorado
62. Denver, County of, Colorado
63. Federal Heights, City of, Colorado
64. Fremont, County of, Colorado
65. Greeley, City of, Colorado
66. Hudson, Town of, Colorado
67. Jefferson, County of, Colorado
68. Lakewood, City of, Colorado
69. Larimer, County of, Colorado
70. Las Animas, County of, Colorado
71. Mesa, County of, Colorado
72. Northglenn, City of, Colorado

73. Otero, County of, Colorado
74. Pueblo, County of, Colorado
75. Sheridan, City of, Colorado
76. Teller, County of, Colorado
77. Thornton, City of, Colorado
78. Westminster, City of, Colorado
79. Wheat Ridge, City of, Colorado
80. Yuma, County of, Colorado
81. Escambia, County of, Florida
82. Pensacola, City of, Florida
83. Albany, City of, Georgia
84. Appling, County of, Georgia
85. Athens-Clarke, County of, Georgia
86. Atlanta, City of, Georgia
87. Augusta, City of, Georgia
88. Bainbridge, City of, Georgia
89. Bainbridge and Decatur County Hospital Authority, Georgia
90. Baldwin, County of/ Baldwin (Sheriff of) County of, Georgia
91. Banks, County of, Georgia
92. Bartow, County of, Georgia
93. Ben Hill, County of, Georgia
94. Bibb, County of, Georgia
95. Brantley, County of, Georgia
96. Bullock, County of, Georgia
97. Burke, County of, Georgia

98. Butts, County of, Georgia
99. Camden, County of, Georgia
100. Candler, County of, Georgia
101. Candler County Hospital Authority, Georgia
102. Cartersville, City of, Georgia
103. Charlton, County of, Georgia
104. Chattooga, County of, Georgia
105. Cherokee, County of, Georgia
106. Clay, County of, Georgia
107. Clayton, County of, Georgia
108. Clinch, County of, Georgia
109. Clinch County Hospital Authority, Georgia
110. Columbia, County of, Georgia
111. Cobb, County of, Georgia
112. Cook, County of, Georgia
113. Crisp, County of, Georgia
114. Dawson, County of, Georgia
115. Decatur, County of, Georgia
116. DeKalb, County of, Georgia
117. Dooly, County of, Georgia
118. Dougherty, County of, Georgia
119. Early, County of, Georgia
120. Effingham, County of, Georgia
121. Elbert, County of, Georgia
122. Emanuel, County of, Georgia

123. Evans, County of, Georgia
124. Fayette, County of, Georgia
125. Fitzgerald, City of, Georgia
126. Floyd, County of, Georgia
127. Forsyth, County of, Georgia
128. Fulton, County of, Georgia
129. Gainesville, City of, Georgia
130. Glascock, County of, Georgia
131. Greene, County of, Georgia
132. Gwinnett, County of, Georgia
133. Habersham, County of, Georgia
134. Hall, County of, Georgia
135. Hancock, County of, Georgia
136. Henry, County of, Georgia
137. Houston, County of, Georgia
138. Houston, County of/Houston (Sheriff of) County of, Georgia
139. Irwin, County of, Georgia
140. Jackson, County of, Georgia
141. Jasper, County of, Georgia
142. Jeff Davis, County of, Georgia
143. Jefferson, County of, Georgia
144. Johnson, County of, Georgia
145. Jones, County of, Georgia
146. Laurens, County of, Georgia
147. Lee, County of, Georgia

148. Liberty, County of, Georgia
149. Lincoln, County of, Georgia
150. Long, County of, Georgia
151. Lumpkin, County of, Georgia
152. Macon-Bibb, County of, Georgia
153. Madison, County of, Georgia
154. McDuffie, County of, Georgia
155. McIntosh, County of, Georgia
156. Milledgeville, City of, Georgia
157. Montgomery, County of, Georgia
158. Newton, County of, Georgia
159. Oconee, County of, Georgia
160. Oglethorpe, County of, Georgia
161. Pike, County of, Georgia
162. Polk, County of, Georgia
163. Pulaski, County of, Georgia
164. Rabun, County of, Georgia
165. Randolph, County of, Georgia
166. Rockdale, County of, Georgia
167. Rome, City of, Georgia
168. Savannah, City of, Georgia
169. Screven, County of, Georgia
170. Seminole, County of, Georgia
171. Spalding, County of, Georgia
172. Springfield, City of, Georgia

173. Stephens, County of, Georgia
174. Sumter, County of, Georgia
175. Taliaferro, County of, Georgia
176. Tattnall, County of, Georgia
177. Tifton, City of, Georgia
178. Toombs, County of, Georgia
179. Towns, County of, Georgia
180. Troup, County of, Georgia
181. Twiggs, County of, Georgia
182. Union, County of, Georgia
183. Walton, County of, Georgia
184. Ware, County of/Ware, (Sheriff of) County of, Georgia
185. Warren, County of, Georgia
186. Washington, County of, Georgia
187. Wayne, County of, Georgia
188. Whitfield, County of, Georgia
189. Wilkes, County of, Georgia
190. Worth, County of, Georgia
191. Adams, County of, Idaho
192. Bingham, County of, Idaho
193. Blaine, County of, Idaho
194. Boise, County of, Idaho
195. Bonneville, County of, Idaho
196. Canyon, County of, Idaho
197. Caribou, County of, Idaho

198. Cassia, County of, Idaho
199. Elmore, County of, Idaho
200. Latah, County of, Idaho
201. Minidoka, County of, Idaho
202. Owyhee, County of, Idaho
203. Payette, County of, Idaho
204. Boone, County of, Illinois
205. Bureau, County of, Illinois
206. Champaign, County of, Illinois
207. Christian, County of, Illinois
208. Cook, County of, Illinois
209. Dekalb, County of, Illinois
210. Dupage, County of, Illinois
211. Franklin, County of, Illinois
212. Henry, County of, Illinois
213. Herrin, City of, Illinois
214. Jefferson, County of, Illinois
215. Kane, County of, Illinois
216. Kankakee, County of, Illinois
217. Kendall, County of, Illinois
218. Logan, County of, Illinois
219. Macon, County of, Illinois
220. Macoupin, County of, Illinois
221. Marion, City of, Illinois
222. Mchenry, County of, Illinois

223. Platt, County of, Illinois
224. Putnam, County of, Illinois
225. Rockford, City of, Illinois
226. Rock Island, County of, Illinois
227. Saline, County of, Illinois
228. Sangamon, County of, Illinois
229. Stephenson, County of, Illinois
230. West Frankfort, City of, Illinois
231. Will, County of, Illinois
232. Winnebago, County of, Illinois
233. Alexandria, City of, Indiana
234. Allen, County of, Indiana
235. Bloomington, City of, Indiana
236. Benton, County of, Indiana
237. Connersville, City of, Indiana
238. Danville, Town of, Indiana
239. Delaware, County of, Indiana
240. Elwood, City of, Indiana
241. Fayette, County of, Indiana
242. Franklin, City of, Indiana
243. Franklin, County of, Indiana
244. Huntington, City of, Indiana
245. Jackson, County of, Indiana
246. Jeffersonville, City of, Indiana
247. Jennings, County of, Indiana

248. Lafayette, City of, Indiana
249. Lawrence, City of, Indiana
250. Lawrence, County of, Indiana
251. Madison, County of, Indiana
252. Martinsville, City of, Indiana
253. Mooresville, Town of, Indiana
254. Morgan, County of, Indiana
255. New Albany, City of, Indiana
256. New Castle, City of, Indiana
257. Noblesville, City of, Indiana
258. Pendleton, Town of, Indiana
259. Peru, City of, Indiana
260. Plainfield, Town of, Indiana
261. Richmond, City of, Indiana
262. Ripley, County of, Indiana
263. Seymour, City of, Indiana
264. Sheridan, Town of, Indiana
265. South Bend, City of, Indiana
266. Terre Haute, City of, Indiana
267. Tippecanoe, County of, Indiana
268. Vigo, County of, Indiana
269. Westfield, City of, Indiana
270. West Lafayette, City of, Indiana
271. Zionsville, Town of, Indiana
272. Barber, County of, Kansas

273. Cowley, County of, Kansas
274. Finney, County of, Kansas
275. Ford, County of, Kansas
276. Harvey, County of, Kansas
277. Johnson, County of, Kansas
278. Leavenworth, County of, Kansas
279. Pratt, County of, Kansas
280. Reno, County of, Kansas
281. Sedgwick, County of, Kansas
282. Seward, County of, Kansas
283. Witchita, City of, Kansas
284. Anderson, County of, Kentucky
285. Bell, County of, Kentucky
286. Bellefonte, City of, Kentucky
287. Boone, County of, Kentucky
288. Boyd, County of, Kentucky
289. Boyle, County of, Kentucky
290. Breckinridge, County of, Kentucky
291. Bullitt, County of, Kentucky
292. Campbell, County of, Kentucky
293. Christian, County of, Kentucky
294. Clark, County of, Kentucky
295. Covington, City of, Kentucky
296. Franklin, County of, Kentucky
297. Green, County of, Kentucky

298. Greenup, City of, Kentucky
299. Hardin, County of, Kentucky
300. Henderson, City of, Kentucky
301. Hopkins, County of, Kentucky
302. Jenkins, City of, Kentucky
303. Jessamine, County of, Kentucky
304. Kenton, County of, Kentucky
305. Kentucky River District Health Department, Kentucky
306. Laurel, County of, Kentucky
307. Lexington, City of, Kentucky
308. London, City of, Kentucky
309. Louisville/Jefferson, County of, Kentucky
310. Madison, County of, Kentucky
311. McCracken, County of, Kentucky
312. Meade, County of, Kentucky
313. Montgomery, County of, Kentucky
314. Morehead, City of, Kentucky
315. Ohio, County of, Kentucky
316. Oldham, County of, Kentucky
317. Paducah, City of, Kentucky
318. Pineville, City of, Kentucky
319. Powell, County of, Kentucky
320. Pulaski, County of, Kentucky
321. Rowan, County of, Kentucky
322. Russell, City of, Kentucky

323. Scott, County of, Kentucky
324. Shelby, County of, Kentucky
325. South Shore, City of, Kentucky
326. Vanceburg, City of, Kentucky
327. Wayne, County of, Kentucky
328. Woodford, County of, Kentucky
329. Worthington, City of, Kentucky
330. Allen, Parish of/Allen, (Sheriff of) Parish of, Louisiana
331. Ascension, Parish of/Ascension, (Sheriff of) Parish of, Louisiana
332. Avoyelles, Parish of/Avoyelles, (Sheriff of) Parish of, Louisiana
333. Calcasieu, Parish of/Calcasieu, (Sheriff of) Parish of, Louisiana
334. East Baton Rouge, Parish of/East Baton Rouge, (Sheriff of) Parish of, Louisiana
335. East Carroll, Parish of/East Carroll, (Sheriff of) Parish of, Louisiana
336. Evangeline, Parish of/Evangeline, (Sheriff of) Parish of, Louisiana
337. Jefferson Davis, Parish of/Jefferson Davis, (Sheriff of) Parish of, Louisiana
338. Lafayette, Parish of/Lafayette, (Sheriff of) Parish of, Louisiana
339. Moorehouse, Parish of/Moorehouse, (Sheriff of) Parish of, Louisiana
340. Ouachita, Parish of/Ouachita, (Sheriff of) Parish of, Louisiana
341. Rapides, Parish of/Rapides, (District Attorney of) Parish of, Louisiana
342. Rapids, Parish of/Rapids, (Sheriff of) Parish of, Louisiana
343. Richland, Parish of/Richland, (Sheriff of) Parish of, Louisiana
344. Sabine, Parish of/Sabine, (Sheriff of) Parish of, Louisiana
345. Shreveport, City of, Louisiana
346. Vernon, Parish of/Vernon, (Sheriff of) Parish of, Louisiana
347. Washington, Parish of/Washington, (Sheriff of) Parish of, Louisiana

348. West Carrol, Parish of/West Carrol, (Sheriff of) Parish of, Louisiana
349. Calvert, County of, Maryland
350. Cambridge, City of, Maryland
351. Dorchester, County of, Maryland
352. Bay, County of, Michigan
353. Branch, County of, Michigan
354. Calhoun, County of, Michigan
355. Canton, Charter Township of, Michigan
356. Clinton, Charter Township of, Michigan
357. Eaton, County of, Michigan
358. Huron, Charter Township of, Michigan
359. Kalamazoo, County of, Michigan
360. Livonia, City of, Michigan
361. Monroe, County of, Michigan
362. Muskegon, County of, Michigan
363. Northville, Charter Township of, Michigan
364. Pittsfield, Charter Township of, Michigan
365. Pontiac, City of, Michigan
366. Romulus, City of, Michigan
367. Van Buren, Charter Township of, Michigan
368. Arcola, Town of, Mississippi
369. Bolivar, County of, Mississippi
370. Desoto, County of, Mississippi
371. Hinds, County of, Mississippi
372. Jackson, City of, Mississippi

373. Lafayette, County of, Mississippi
374. Laurel, City of, Mississippi
375. Madison, County of, Mississippi
376. Mound Bayou, City of, Mississippi
377. Audrain, County of, Missouri
378. Boone, County of, Missouri
379. Callaway, County of, Missouri
380. Chariton, County of, Missouri
381. Cole, County of, Missouri
382. Douglas, County of, Missouri
383. Gasconade, County of, Missouri
384. Jackson, County of, Missouri
385. Kansas City, City of, Missouri
386. Knox, County of, Missouri
387. Lewis, County of, Missouri
388. Maries, County of, Missouri
389. Miller, County of, Missouri
390. Moniteau, County of, Missouri
391. Montgomery, County of, Missouri
392. Osage, County of, Missouri
393. Ozark, County of, Missouri
394. Pemiscot, County of, Missouri
395. Phelps, County of, Missouri
396. Pulaski, County of, Missouri
397. Randolph, County of, Missouri

398. Reynolds, County of, Missouri
399. Ripley, County of, Missouri
400. Schyuler, County of, Missouri
401. Shannon, County of, Missouri
402. Shelby, County of, Missouri
403. St. Charles, County of, Missouri
404. St. Louis, County of, Missouri
405. Warren, County of, Missouri
406. Webster, County of, Missouri
407. Wright, County of, Missouri
408. Douglas, County of, Nebraska
409. Clark, County of, Nevada
410. Douglas, County of, Nevada
411. Fernley, City of, Nevada
412. Lyon, County of, Nevada
413. Nye, County of, Nevada
414. West Wendover, City of, Nevada
415. Cabarrus, County of, North Carolina
416. Cleveland, County of, North Carolina
417. Davidson, County of, North Carolina
418. Durham, County of, North Carolina
419. Iredell, County of, North Carolina
420. Mecklenburg, County of, North Carolina
421. Athens, County of, Ohio
422. Auglaize, County of, Ohio

- 423. Belmont, County of, Ohio
- 424. Brown, County of, Ohio
- 425. Butler, County of, Ohio
- 426. Champaign, County of, Ohio
- 427. Cincinnati, City of, Ohio
- 428. Clermont, County of, Ohio
- 429. Cleveland, City of, Ohio
- 430. Clinton, County of, Ohio
- 431. Crawford, County of, Ohio
- 432. Cuyahoga, County of, Ohio
- 433. Dayton, City of, Ohio
- 434. Delaware, County of, Ohio
- 435. Drake, County of, Ohio
- 436. Erie, County of, Ohio
- 437. Fairfield, City of, Ohio
- 438. Fairfield, County of, Ohio
- 439. Fayette, County of, Ohio
- 440. Finlay, City of, Ohio
- 441. Franklin, County of, Ohio
- 442. Fulton, County of, Ohio
- 443. Hamilton, City of, Ohio
- 444. Hamilton, County of, Ohio
- 445. Hancock, County of, Ohio
- 446. Hocking, County of, Ohio
- 447. Ironton, City of, Ohio



448. Jackson, County of, Ohio
449. Jefferson, County of, Ohio
450. Knox, County of, Ohio
451. Lawrence, County of, Ohio
452. Lebanon, City of, Ohio
453. Licking, County of, Ohio
454. Logan, County of, Ohio
455. Lucas, County of, Ohio
456. Marion, County of, Ohio
457. Meigs, County of, Ohio
458. Mental Health and Recovery Services Board of Allen County, Ohio
459. Mental Health and Recovery Services Board of Auglaize County, Ohio
460. Mental Health and Recovery Services Board of Hardin County, Ohio
461. Middletown, City of, Ohio
462. Montgomery, County of, Ohio
463. Morrow, County of, Ohio
464. Muskingum, County of, Ohio
465. Noble, County of, Ohio
466. Ottawa, County of, Ohio
467. Perry, County of, Ohio
468. Pike, County of, Ohio
469. Portsmouth, City of, Ohio
470. Ross, County of, Ohio
471. Sandusky, County of, Ohio
472. Sciota, County of, Ohio

473. Seneca, County of, Ohio
474. Shelby, County of, Ohio
475. St. Mary's, City of, Ohio
476. Summit, County of, Ohio
477. Toledo, City of, Ohio
478. Washington, County of, Ohio
479. Clackamas, County of, Oregon
480. Clatsop, County of, Oregon
481. Columbia, County of, Oregon
482. Coos, County of, Oregon
483. Curry, County of, Oregon
484. Jackson, County of, Oregon
485. Josephine, County of, Oregon
486. Lane, County of, Oregon
487. Multnomah, County of, Oregon
488. Portland, City of, Oregon
489. Washington, County of, Oregon
490. Yarnhill, County of, Oregon
491. Abbeville, County of, South Carolina
492. Allendale, County of, South Carolina
493. Anderson, County of, South Carolina
494. Bamberg, County of, South Carolina
495. Barnwell, County of, South Carolina
496. Beaufort, County of, South Carolina
497. Calhoun, County of, South Carolina

498. Charleston, City of, South Carolina
499. Cherokee, County of, South Carolina
500. Chester, County of, South Carolina
501. Chesterfield, County of, South Carolina
502. Clarendon, County of, South Carolina
503. Colleton, County of, South Carolina
504. Dillon, County of, South Carolina
505. Dorchester, County of, South Carolina
506. Edgefield, County of, South Carolina
507. Fairfield, County of, South Carolina
508. Florence, County of, South Carolina
509. Greenwood, County of, South Carolina
510. Greenville, County of, South Carolina
511. Hampton, County of, South Carolina
512. Horry, County of, South Carolina
513. Jasper, County of, South Carolina
514. Kershaw, County of, South Carolina
515. Laurens, County of, South Carolina
516. Lee, County of, South Carolina
517. Lexington, County of, South Carolina
518. Marion, County of, South Carolina
519. Marlboro, County of, South Carolina
520. McCormick, County of, South Carolina
521. Mt. Pleasant, Town of, South Carolina
522. Newberry, County of, South Carolina

523. North Charleston, City of, South Carolina
524. Oconee, County of, South Carolina
525. Orangeburg, County of, South Carolina
526. Pickens, County of, South Carolina
527. Saluda, County of, South Carolina
528. Spartanburg, County of, South Carolina
529. Summerville, Town of, South Carolina
530. Sumter, County of, South Carolina
531. Union, County of, South Carolina
532. Williamsburg, County of, South Carolina
533. York, County of, South Carolina
534. Arlington, Town of, Tennessee
535. Davidson, County of, Tennessee
536. Madison, County of, Tennessee
537. Memphis, City of, Tennessee
538. Montgomery, County of, Tennessee
539. Nashville, County of, Tennessee
540. Rutherford, County of, Tennessee
541. Shelby, County of, Tennessee
542. Washington, County of, Tennessee
543. Williamson, County of, Tennessee
544. Brazos, County of, Texas
545. Dallas, County of, Texas
546. Kaufman, County of, Texas
547. Lamar, County of, Texas

- 548. Montgomery, County of, Texas
- 549. Rusk, County of, Texas
- 550. San Antonio, City of, Texas
- 551. Tarrant, County of, Texas
- 552. Beaver, County of, Utah
- 553. Cache, County of, Utah
- 554. Daggett, County of, Utah
- 555. Duchesne, County of, Utah
- 556. Emery, County of, Utah
- 557. Garfield, County of, Utah
- 558. Juab ,County of, Utah
- 559. Kane, County of, Utah
- 560. Piute, County of, Utah
- 561. Rich, County of, Utah
- 562. Salt Lake, County of, Utah
- 563. Sevier, County of, Utah
- 564. Summit, County of, Utah
- 565. Tooele, County of, Utah
- 566. Tricounty Health Department, Utah
- 567. Uintah, County of, Utah
- 568. Utah, County of, Utah
- 569. Wasatch, County of, Utah
- 570. Washington, County of, Utah
- 571. Wayne, County of, Utah
- 572. Weber, County of, Utah



- 573. Danville, City of, Virginia
- 574. Norfolk, City of, Virginia
- 575. Richmond, City of, Virginia
- 576. Scott, County of, Virginia
- 577. Virginia Beach, City of, Virginia
- 578. Wise, County of, Virginia
- 579. Clark, County of, Washington
- 580. Jefferson, County of, Washington
- 581. Kittitas, County of, Washington
- 582. Vancouver, City of, Washington
- 583. Adams, County of, Wisconsin
- 584. Ashland, County of, Wisconsin
- 585. Barron, County of, Wisconsin
- 586. Bayfield, County of, Wisconsin
- 587. Brown, County of, Wisconsin
- 588. Buffalo, County of, Wisconsin
- 589. Burnett, County of, Wisconsin
- 590. Calumet, County of, Wisconsin
- 591. Chippewa, County of, Wisconsin
- 592. Clark, County of, Wisconsin
- 593. Columbia, County of, Wisconsin
- 594. Crawford, County of, Wisconsin
- 595. Dodge, County of, Wisconsin
- 596. Door, County of, Wisconsin
- 597. Douglas, County of, Wisconsin

598. Dunn, County of, Wisconsin
599. Eau Claire, County of, Wisconsin
600. Florence, County of, Wisconsin
601. Fond Du Lac, County of, Wisconsin
602. Forest, County of, Wisconsin
603. Grant, County of, Wisconsin
604. Green, County of, Wisconsin
605. Green Lake, County of, Wisconsin
606. Iowa, County of, Wisconsin
607. Iron, County of, Wisconsin
608. Jackson, County of, Wisconsin
609. Jefferson, County of, Wisconsin
610. Juneau, County of, Wisconsin
611. Kenosha, County of, Wisconsin
612. Kewaunee, County of, Wisconsin
613. La Crosse, County of, Wisconsin
614. Lafayette, County of, Wisconsin
615. Langlade, County of, Wisconsin
616. Lincoln, County of, Wisconsin
617. Manitowoc, County of, Wisconsin
618. Marathon, County of, Wisconsin
619. Marinette, County of, Wisconsin
620. Marquette, County of, Wisconsin
621. Menominee, County of, Wisconsin
622. Monroe, County of, Wisconsin

623. Oconto, County of, Wisconsin
624. Oneida, County of, Wisconsin
625. Outagamie, County of, Wisconsin
626. Ozaukee, County of, Wisconsin
627. Pepin, County of, Wisconsin
628. Pierce, County of, Wisconsin
629. Portage, County of, Wisconsin
630. Price, County of, Wisconsin
631. Racine, County of, Wisconsin
632. Richland, County of, Wisconsin
633. Rock, County of, Wisconsin
634. Rusk, County of, Wisconsin
635. Sauk, County of, Wisconsin
636. Sawyer, County of, Wisconsin
637. Sheboygan, County of, Wisconsin
638. Shawano, County of, Wisconsin
639. St. Croix, County of, Wisconsin
640. Trempealeau, County of, Wisconsin
641. Vernon, County of, Wisconsin
642. Washburn, County of, Wisconsin
643. Washington, County of, Wisconsin
644. Waupaca, County of, Wisconsin
645. Waushara, County of, Wisconsin
646. Winnebago, County of, Wisconsin
647. Wood, County of, Wisconsin

EXHIBIT D

[Intentionally Omitted]

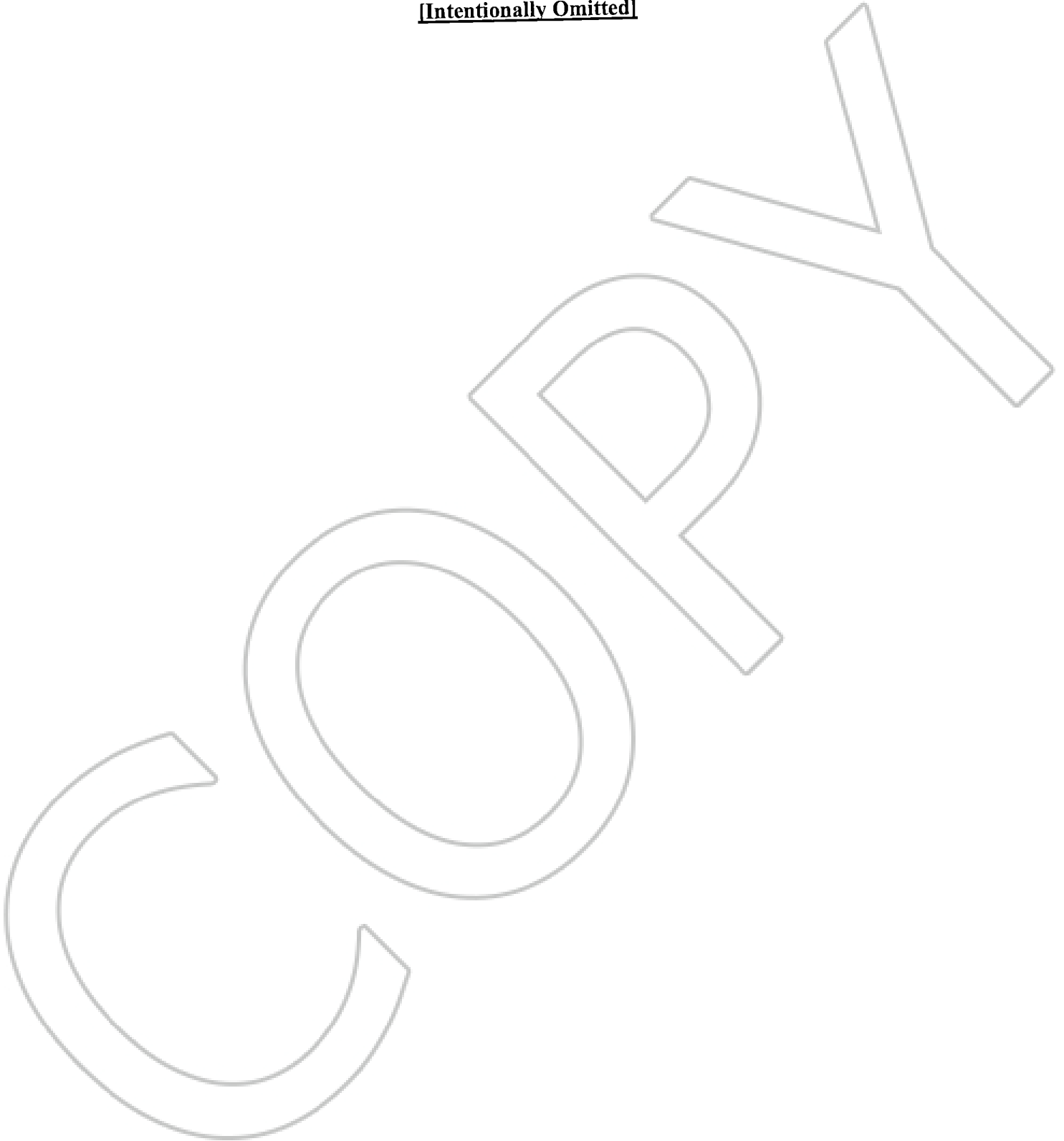


EXHIBIT E

List of Opioid Remediation Uses

Schedule A **Core Strategies**

Settling States and Participating Subdivisions listed on Exhibit G may choose from among the abatement strategies listed in Schedule B. However, priority may be given to the following core abatement strategies (“*Core Strategies*”).¹

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

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

B. MEDICATION-ASSISTED TREATMENT (“MAT”) DISTRIBUTION AND OTHER OPIOID-RELATED TREATMENT

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

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

C. PREGNANT & POSTPARTUM WOMEN

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

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

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

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

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

5. Hire additional social workers or other behavioral health workers to facilitate expansions above.

F. TREATMENT FOR INCARCERATED POPULATION

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

G. PREVENTION PROGRAMS

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

H. EXPANDING SYRINGE SERVICE PROGRAMS

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

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

Schedule B Approved Uses

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

PART ONE: TREATMENT

A. TREAT OPIOID USE DISORDER (OUD)

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

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

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

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

B. SUPPORT PEOPLE IN TREATMENT AND RECOVERY

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

1. Provide comprehensive wrap-around services to individuals with OUD and any co-occurring SUD/MH conditions, including housing, transportation, education, job placement, job training, or childcare.
2. Provide the full continuum of care of treatment and recovery services for OUD and any co-occurring SUD/MH conditions, including supportive housing, peer support

services and counseling, community navigators, case management, and connections to community-based services.

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

15. Hire or train behavioral health workers to provide or expand any of the services or supports listed above.

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

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

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

occurring SUD/MH conditions or to persons who have experienced an opioid overdose.

11. Expand warm hand-off services to transition to recovery services.
12. Create or support school-based contacts that parents can engage with to seek immediate treatment services for their child; and support prevention, intervention, treatment, and recovery programs focused on young people.
13. Develop and support best practices on addressing OUD in the workplace.
14. Support assistance programs for health care providers with OUD.
15. Engage non-profits and the faith community as a system to support outreach for treatment.
16. Support centralized call centers that provide information and connections to appropriate services and supports for persons with OUD and any co-occurring SUD/MH conditions.

D. ADDRESS THE NEEDS OF CRIMINAL JUSTICE-INVOLVED PERSONS

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

1. Support pre-arrest or pre-arraignment diversion and deflection strategies for persons with OUD and any co-occurring SUD/MH conditions, including established strategies such as:
 1. Self-referral strategies such as the Angel Programs or the Police Assisted Addiction Recovery Initiative (“*PAAR*”);
 2. Active outreach strategies such as the Drug Abuse Response Team (“*DART*”) model;
 3. “Naloxone Plus” strategies, which work to ensure that individuals who have received naloxone to reverse the effects of an overdose are then linked to treatment programs or other appropriate services;
 4. Officer prevention strategies, such as the Law Enforcement Assisted Diversion (“*LEAD*”) model;

5. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network or the Chicago Westside Narcotics Diversion to Treatment Initiative; or
 6. Co-responder and/or alternative responder models to address OUD-related 911 calls with greater SUD expertise.
2. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH conditions to evidence-informed treatment, including MAT, and related services.
 3. Support treatment and recovery courts that provide evidence-based options for persons with OUD and any co-occurring SUD/MH conditions.
 4. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are incarcerated in jail or prison.
 5. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are leaving jail or prison or have recently left jail or prison, are on probation or parole, are under community corrections supervision, or are in re-entry programs or facilities.
 6. Support critical time interventions (“CTP”), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.
 7. Provide training on best practices for addressing the needs of criminal justice-involved persons with OUD and any co-occurring SUD/MH conditions to law enforcement, correctional, or judicial personnel or to providers of treatment, recovery, harm reduction, case management, or other services offered in connection with any of the strategies described in this section.

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

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

1. Support evidence-based or evidence-informed treatment, including MAT, recovery services and supports, and prevention services for pregnant women—or women who

could become pregnant—who have OUD and any co-occurring SUD/MH conditions, and other measures to educate and provide support to families affected by Neonatal Abstinence Syndrome.

2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for uninsured women with OUD and any co-occurring SUD/MH conditions for up to 12 months postpartum.
3. Provide training for obstetricians or other healthcare personnel who work with pregnant women and their families regarding treatment of OUD and any co-occurring SUD/MH conditions.
4. Expand comprehensive evidence-based treatment and recovery support for NAS babies; expand services for better continuum of care with infant-need dyad; and expand long-term treatment and services for medical monitoring of NAS babies and their families.
5. Provide training to health care providers who work with pregnant or parenting women on best practices for compliance with federal requirements that children born with NAS get referred to appropriate services and receive a plan of safe care.
6. Provide child and family supports for parenting women with OUD and any co-occurring SUD/MH conditions.
7. Provide enhanced family support and child care services for parents with OUD and any co-occurring SUD/MH conditions.
8. Provide enhanced support for children and family members suffering trauma as a result of addiction in the family; and offer trauma-informed behavioral health treatment for adverse childhood events.
9. Offer home-based wrap-around services to persons with OUD and any co-occurring SUD/MH conditions, including, but not limited to, parent skills training.
10. Provide support for Children's Services—Fund additional positions and services, including supportive housing and other residential services, relating to children being removed from the home and/or placed in foster care due to custodial opioid use.

PART TWO: PREVENTION

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

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

1. Funding medical provider education and outreach regarding best prescribing practices for opioids consistent with the Guidelines for Prescribing Opioids for Chronic Pain from the U.S. Centers for Disease Control and Prevention, including providers at hospitals (academic detailing).
2. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.
3. Continuing Medical Education (CME) on appropriate prescribing of opioids.
4. Providing Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.
5. Supporting enhancements or improvements to Prescription Drug Monitoring Programs (“*PDMPs*”), including, but not limited to, improvements that:
 1. Increase the number of prescribers using *PDMPs*;
 2. Improve point-of-care decision-making by increasing the quantity, quality, or format of data available to prescribers using *PDMPs*, by improving the interface that prescribers use to access *PDMP* data, or both; or
 3. Enable states to use *PDMP* data in support of surveillance or intervention strategies, including MAT referrals and follow-up for individuals identified within *PDMP* data as likely to experience OUD in a manner that complies with all relevant privacy and security laws and rules.
6. Ensuring *PDMPs* incorporate available overdose/naloxone deployment data, including the United States Department of Transportation’s Emergency Medical Technician overdose database in a manner that complies with all relevant privacy and security laws and rules.
7. Increasing electronic prescribing to prevent diversion or forgery.
8. Educating dispensers on appropriate opioid dispensing.

G. PREVENT MISUSE OF OPIOIDS

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

1. Funding media campaigns to prevent opioid misuse.
2. Corrective advertising or affirmative public education campaigns based on evidence.
3. Public education relating to drug disposal.
4. Drug take-back disposal or destruction programs.
5. Funding community anti-drug coalitions that engage in drug prevention efforts.
6. Supporting community coalitions in implementing evidence-informed prevention, such as reduced social access and physical access, stigma reduction—including staffing, educational campaigns, support for people in treatment or recovery, or training of coalitions in evidence-informed implementation, including the Strategic Prevention Framework developed by the U.S. Substance Abuse and Mental Health Services Administration (“*SAMHSA*”).
7. Engaging non-profits and faith-based communities as systems to support prevention.
8. Funding evidence-based prevention programs in schools or evidence-informed school and community education programs and campaigns for students, families, school employees, school athletic programs, parent-teacher and student associations, and others.
9. School-based or youth-focused programs or strategies that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids.
10. Create or support community-based education or intervention services for families, youth, and adolescents at risk for OUD and any co-occurring SUD/MH conditions.
11. Support evidence-informed programs or curricula to address mental health needs of young people who may be at risk of misusing opioids or other drugs, including emotional modulation and resilience skills.
12. Support greater access to mental health services and supports for young people, including services and supports provided by school nurses, behavioral health workers or other school staff, to address mental health needs in young people that (when not properly addressed) increase the risk of opioid or another drug misuse.

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

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

1. Increased availability and distribution of naloxone and other drugs that treat overdoses for first responders, overdose patients, individuals with OUD and their friends and family members, schools, community navigators and outreach workers, persons being released from jail or prison, or other members of the general public.
2. Public health entities providing free naloxone to anyone in the community.
3. Training and education regarding naloxone and other drugs that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, community support groups, and other members of the general public.
4. Enabling school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.
5. Expanding, improving, or developing data tracking software and applications for overdoses/naloxone revivals.
6. Public education relating to emergency responses to overdoses.
7. Public education relating to immunity and Good Samaritan laws.
8. Educating first responders regarding the existence and operation of immunity and Good Samaritan laws.
9. Syringe service programs and other evidence-informed programs to reduce harms associated with intravenous drug use, including supplies, staffing, space, peer support services, referrals to treatment, fentanyl checking, connections to care, and the full range of harm reduction and treatment services provided by these programs.
10. Expanding access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.
11. Supporting mobile units that offer or provide referrals to harm reduction services, treatment, recovery supports, health care, or other appropriate services to persons that use opioids or persons with OUD and any co-occurring SUD/MH conditions.
12. Providing training in harm reduction strategies to health care providers, students, peer recovery coaches, recovery outreach specialists, or other professionals that provide care to persons who use opioids or persons with OUD and any co-occurring SUD/MH conditions.

13. Supporting screening for fentanyl in routine clinical toxicology testing.

PART THREE: OTHER STRATEGIES

I. FIRST RESPONDERS

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

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

J. LEADERSHIP, PLANNING AND COORDINATION

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

1. Statewide, regional, local or community regional planning to identify root causes of addiction and overdose, goals for reducing harms related to the opioid epidemic, and areas and populations with the greatest needs for treatment intervention services, and to support training and technical assistance and other strategies to abate the opioid epidemic described in this opioid abatement strategy list.
2. A dashboard to (a) share reports, recommendations, or plans to spend opioid settlement funds; (b) to show how opioid settlement funds have been spent; (c) to report program or strategy outcomes; or (d) to track, share or visualize key opioid- or health-related indicators and supports as identified through collaborative statewide, regional, local or community processes.
3. Invest in infrastructure or staffing at government or not-for-profit agencies to support collaborative, cross-system coordination with the purpose of preventing overprescribing, opioid misuse, or opioid overdoses, treating those with OUD and any co-occurring SUD/MH conditions, supporting them in treatment or recovery, connecting them to care, or implementing other strategies to abate the opioid epidemic described in this opioid abatement strategy list.
4. Provide resources to staff government oversight and management of opioid abatement programs.

K. TRAINING

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

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

L. RESEARCH

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

1. Monitoring, surveillance, data collection and evaluation of programs and strategies described in this opioid abatement strategy list.
2. Research non-opioid treatment of chronic pain.
3. Research on improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to opioid use disorders.
4. Research on novel harm reduction and prevention efforts such as the provision of fentanyl test strips.
5. Research on innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.
6. Expanded research on swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (*e.g.*, Hawaii HOPE and Dakota 24/7).
7. Epidemiological surveillance of OUD-related behaviors in critical populations, including individuals entering the criminal justice system, including, but not limited to approaches modeled on the Arrestee Drug Abuse Monitoring (“ADAM”) system.
8. Qualitative and quantitative research regarding public health risks and harm reduction opportunities within illicit drug markets, including surveys of market participants who sell or distribute illicit opioids.

9. Geospatial analysis of access barriers to MAT and their association with treatment engagement and treatment outcomes



Exhibit F
List of Eligible States and Overall Allocation Percentages

Alabama	1.6384549059%
Alaska	0.8012984736%
Arizona	5.7122518530%
Arkansas	1.1279238585%
California	10.1861592681%
Colorado	5.8155254204%
Delaware	0.2269125546%
District of Columbia	0.1847806185%
Florida	1.4426834003%
Georgia	4.5952042174%
Idaho	0.7995357547%
Illinois	3.4151077333%
Indiana	3.5880508392%
Kansas	2.0316964506%
Kentucky	4.8514037715%
Louisiana	1.5041900036%
Maryland	1.0834678885%
Michigan	3.4928147567%
Mississippi	0.8854488990%
Missouri	2.0591730911%
Montana	0.3208892888%
Nebraska	0.4282874195%
Nevada	2.2265135156%
North Carolina	3.3369934823%
Ohio	11.2417088689%
Oregon	3.2546133019%
South Carolina	1.5803885360%
Tennessee	3.5805961294%
Texas	6.4611654623%
Utah	3.6774956066%
Virginia	2.3409654830%
Washington	3.9618592158%
Wisconsin	1.8051793884%
Wyoming	0.3412605429%

KROGER (1-11)
OPIOID LITIGATION SETTLEMENT CALCULATOR

NEVADA RECOVERY	\$ 2,607,044.92
LEAD LITIGATOR COSTS ESTIMATE	
FEDERAL GOVERNMENT CMS MEDICAID COSTS (22.52%)	
ALLOCATION AMOUNT ESTIMATE	\$ 2,607,044.92

GOVERNMENT ENTITY	GROSS ALLOCATION	ATTORNEY FEES	NET ALLOCATION
STATE OF NEVADA	\$ 1,143,449.88	\$ 245,841.72	\$ 897,608.16
CARSON CITY	\$ 26,558.41	\$ 6,639.60	\$ 19,918.81
CHURCHILL COUNTY	\$ 10,264.27	\$ 2,566.07	\$ 7,698.20
CLARK COUNTY	\$ 979,508.08	\$ 244,877.02	\$ 734,631.06
DOUGLAS COUNTY	\$ 24,297.82	\$ 6,074.46	\$ 18,223.36
ELKO COUNTY	\$ 15,844.51	\$ -	\$ 15,844.51
ESMERALDA COUNTY	\$ 727.83	\$ 181.96	\$ 545.87
EUREKA COUNTY	\$ 1,512.73	\$ -	\$ 1,512.73
HUMBOLDT COUNTY	\$ 14,918.02	\$ 3,729.51	\$ 11,188.51
LANDER COUNTY	\$ 5,309.10	\$ -	\$ 5,309.10
LINCOLN COUNTY	\$ 3,473.53	\$ 868.38	\$ 2,605.15
LYON COUNTY	\$ 23,009.76	\$ 5,752.44	\$ 17,257.32
MINERAL COUNTY	\$ 8,771.22	\$ 2,192.81	\$ 6,578.41
NYE COUNTY	\$ 23,442.17	\$ 5,860.54	\$ 17,581.63
PERSHING COUNTY	\$ 5,304.80	\$ -	\$ 5,304.80
STOREY COUNTY	\$ 1,849.85	\$ -	\$ 1,849.85
WASHOE COUNTY	\$ 133,391.30	\$ 33,347.83	\$ 100,043.47
WHITE PINE COUNTY	\$ 15,307.12	\$ 3,826.78	\$ 11,480.34
BOULDER CITY	\$ 2,164.16	\$ 541.04	\$ 1,623.12
ELY CITY	\$ 96.85	\$ 24.21	\$ 72.64
FERNLEY CITY	\$ 211.50	\$ 52.88	\$ 158.62
HENDERSON CITY	\$ 33,692.90	\$ 8,423.23	\$ 25,269.67
LAS VEGAS CITY	\$ 69,091.89	\$ 17,272.97	\$ 51,818.92
MESQUITE CITY	\$ 2,144.27	\$ 536.07	\$ 1,608.20
NORTH LAS VEGAS CITY	\$ 35,505.16	\$ 8,876.29	\$ 26,628.87
RENO CITY	\$ 19,850.54	\$ 4,962.64	\$ 14,887.90
SPARKS CITY	\$ 6,225.01	\$ 1,556.25	\$ 4,668.76
WEST WENDOVER CITY	\$ 825.49	\$ 206.37	\$ 619.12
CENTRAL LYON FIRE PROTECTION DISTRICT	\$ 220.89	\$ 55.22	\$ 165.67
NORTH LYON FIRE PROTECTION DISTRICT	\$ 75.86	\$ 18.97	\$ 56.89
TOTAL:	\$ 2,607,044.92	\$ 604,285.26	\$ 2,002,759.66

Douglas County State of Nevada

CERTIFIED COPY

I certify that the document to which this certificate is attached is a full and correct copy of the original record on file in the Clerk-Treasurer's Office on this

30th day of June, 2024

By Jacqueline A. Wilkins Deputy