

Exhibit B

Updated Draft of NOAT II Trust Agreement

PLEASE TAKE NOTICE that certain documents, or portions thereof, contained in this Exhibit B and the Sixteenth Plan Supplement remain subject to continuing negotiations among the Debtors and interested parties with respect thereto. The Debtors and such applicable interested parties reserve all of their respective rights, subject to the terms and conditions set forth in the Plan and the Restructuring Support Agreement (as amended), with respect to the final form of such documents and to amend, revise, or supplement the Sixteenth Plan Supplement, and any of the documents and designations contained herein, at any time before the Effective Date of the Plan, or any such other date as may be provided for by the Plan or by order of the Bankruptcy Court.

The latest copy of the NOAT II Trust Agreement was filed on the Court's Docket titled "*Notice Of Filing Of Exhibit D (Opioid MDT II Documents And Opioid Creditor Trust Documents) Of Plan Supplement For The Joint Plan Of Reorganization Of Mallinckrodt Plc And Its Debtor Affiliates Under Chapter 11 Of The Bankruptcy Code*" [Docket No. 3610].

The attached is a further revised NOAT II Trust Agreement with a redline against the version docketed at Docket No. 3610.

NOAT II Trust Agreement

NATIONAL OPIOID ABATEMENT

TRUST II AGREEMENT

Dated as of [●], 2022

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

NATIONAL OPIOID ABATEMENT TRUST II AGREEMENT

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 AGREEMENT OF TRUST	2
Section 1.1 Creation and Name	2
Section 1.2 Purposes	3
Section 1.3 Transfer of Assets	4
Section 1.4 Acceptance of Assets	4
Section 1.5 NOAT II Beneficiaries	5
Section 1.6 Jurisdiction	6
ARTICLE 2 POWERS AND TRUST ADMINISTRATION.....	6
Section 2.1 Powers	6
Section 2.2 General Administration.....	9
Section 2.3 Accounting.....	9
Section 2.4 Financial Reporting.....	10
Section 2.5 Opioid Abatement Reporting.....	10
Section 2.6 Beneficiary Reporting.....	10
Section 2.7 Limitation of the Trustees’ Authority.....	11
ARTICLE 3 ACCOUNTS, INVESTMENTS, ADMINISTRATIVE EXPENSES	12
Section 3.1 Accounts.....	12
Section 3.2 Investment Guidelines	12
Section 3.3 Payment of NOAT II Operating Expenses	13
ARTICLE 4 ABATEMENT DISTRIBUTIONS.....	13
Section 4.1 Abatement Distributions	13
Section 4.2 Manner of Payment of Abatement Distributions.....	13
Section 4.3 Delivery of Abatement Distributions.....	14
ARTICLE 5 TRUSTEES AND DELAWARE TRUSTEE.....	15
Section 5.1 Number of Trustees; Managing Trustee.....	15
Section 5.2 Term of Service, Successor Trustees.....	15
Section 5.3 Trustee Meetings.....	17
Section 5.4 Compensation and Expenses of Trustees.....	18
Section 5.5 Trustees’ Independence.....	18
Section 5.6 Standard of Care; Exculpation.....	18
Section 5.7 Protective Provisions.....	19
Section 5.8 Indemnification.....	20
Section 5.9 Bond	21

Section 5.10	Delaware Trustee	21
Section 5.11	Meeting Minutes; Rights of Inspection	24
ARTICLE 6 GENERAL PROVISIONS		24
Section 6.1	Irrevocability	24
Section 6.2	Term; Termination	24
Section 6.3	Taxes	25
Section 6.4	Modification	26
Section 6.5	Communications	27
Section 6.6	Severability	27
Section 6.7	Notices	27
Section 6.8	Successors and Assigns	28
Section 6.9	Limitation on Transferability; NOAT II Beneficiaries’ Interests	28
Section 6.10	Exemption from Registration	28
Section 6.11	Entire Agreement; No Waiver	29
Section 6.12	Headings	29
Section 6.13	Governing Law	29
Section 6.14	Dispute Resolution	29
Section 6.15	Sovereign Immunity	30
Section 6.16	Waiver of Jury Trial	31
Section 6.17	Effectiveness	31
Section 6.18	Counterpart Signatures	31
EXHIBIT 1 AGGREGATE NOAT II CONSIDERATION		33
EXHIBIT 2 RESERVED		34
EXHIBIT 3 INVESTMENT GUIDELINES		35
EXHIBIT 4 NATIONAL OPIOID ABATEMENT TRUST II TRUST DISTRIBUTION PROCEDURES		37
EXHIBIT 5 STATE OPIOID ATTORNEYS’ FEE FUND		39

NATIONAL OPIOID ABATEMENT

TRUST II AGREEMENT

This National Opioid Abatement Trust II (“**NOAT II**” or the “**Trust**”) Agreement (together with all Exhibits hereto, this “**Trust Agreement**”), dated as of [], 2022 and effective as of the Effective Date,¹ implements certain of the terms of the *Fourth Amended Joint Plan of Reorganization (with Technical Modifications) of Mallinckrodt plc and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code*, dated February 18, 2022 (as may be further modified, amended, or supplemented from time to time, and together with all exhibits and schedules thereto, the “**Plan**”), confirmed by an order entered on March 2, 2022 [Docket No. 6660] (the “**Confirmation Order**”) by the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) in the Chapter 11 Cases of Mallinckrodt plc and its affiliated Debtors² (each a “**Debtor**” and collectively, the “**Debtors**,” or the “**Settlors**”), jointly administered under Case No. 20-12522 (JTD) and is entered into by the Settlers, the initial trustees of the National Opioid Abatement Trust II who are further identified on the signature pages hereto (together with any successor trustee serving in such capacity, the “**Trustees**”), and the Delaware Trustee (together with any successor serving in such capacity, the “**Delaware Trustee**”).

RECITALS

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

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

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

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

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

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

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

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

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

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

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

NOW, THEREFORE, it is hereby agreed as follows:

ARTICLE 1 AGREEMENT OF TRUST

Section 1.1 Creation and Name. The Settlers hereby create the Trust which is provided for and referred to in Article IV.X of the Plan. The Trustees may transact the business and affairs of the Trust in the name of NOAT II, and references herein to the Trust shall include the Trustees acting on behalf of the Trust. It is the intention of the parties hereto that the Trust constitute a

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

Section 1.2 Purposes. The purposes of the Trust are to

(a) assume all liability for the State Opioid Claims and Municipal Opioid Claims;

(b) collect distributions made on account of the State and Municipal Government Opioid Claims Share in accordance with the Trust Documents;

(c) administer, process, and resolve State Opioid Claims and Municipal Opioid Claims. For the avoidance of doubt, each State Opioid Claim and Municipal Opioid Claim shall be asserted exclusively against the Trust and resolved solely in accordance with the terms, provisions and procedures of the NOAT II TDP;

(d) make Abatement Distributions to Authorized Recipients for Approved Uses, including to Holders of State Opioid Claims and Municipal Opioid Claims, in each case in accordance with the NOAT II TDP;

(e) hold, manage and invest all funds and other Trust Assets received by the Trust from the Debtors and the MDT II in accordance with the terms of the Trust Documents for the benefit of the NOAT II Beneficiaries (as defined in Section 1.5(a) below);

(f) qualify at all times as a qualified settlement fund within the meaning of the QSF Regulations (as defined in Section 6.3) and be treated consistently for state and local tax purposes to the extent applicable;

(g) use the Trust Assets to:

(i) make Abatement Distributions to States and Municipal Units as defined in the Plan in accordance with this Trust Agreement and the NOAT II TDP such that Holders of State Opioid Claims and Municipal Opioid Claims are treated fairly, equitably, and reasonably in light of the finite assets available to disburse on account of such State Opioid Claims and Municipal Opioid Claims;

(ii) hold and maintain reserves to pay the fees and expenses incurred with respect to administering the Trust (including the NOAT II TDP) and managing the Trust Assets (together, the “**NOAT II Operating Expenses**”) of the Trust (such reserves, the “**NOAT II Operating Reserve**”) which shall be (a) funded with Cash and cash equivalents held by the Trust in accordance with the Trust Documents and (b) held

by the Trust in a segregated account and administered by the Trustees;

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

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

Section 1.4 Acceptance of Assets.

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

(b) In furtherance of the purposes of the Trust, the Trust expressly assumes all liabilities and responsibility for all State Opioid Claims and Municipal Opioid Claims (except as set forth in the Plan) subject to the Trust Documents, and none of the Debtors, or the MDT II shall have any further financial or other responsibility or liability therefor. Except as otherwise provided in this Trust Agreement, the NOAT II TDP, the Plan, or the Master II TDP, the Trust shall have and retain any and all defenses, cross-claims, offsets, and recoupments regarding the State Opioid Claims and Municipal Opioid Claims, as well as any and all rights of indemnification, contribution, subrogation, and similar rights, that the Debtors and the Released Parties, as applicable, have or would have had under applicable law; provided that no such claims, defenses or rights may be used to seek any affirmative monetary recovery from any party. For the avoidance of doubt, all Class 8(a) State Opioid Claims and Class 8(b) Municipal Opioid Claims asserted, or assertable,

against Debtors in the Chapter 11 Cases shall be resolved exclusively in accordance with the NOAT II TDP.

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

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

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

Section 1.5 NOAT II Beneficiaries.

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

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

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

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

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

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

ARTICLE 2

POWERS AND TRUST ADMINISTRATION

Section 2.1 Powers.

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

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

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

- (i) receive and hold the Trust Assets and exercise all rights with respect thereto;

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

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

accounting-related issues, including, in the event that the Trustees determine to request a private letter ruling from the Internal Revenue Service and any necessary or appropriate state governmental agency: (1) that the Trust will be treated as a qualified settlement fund under 26 C.F.R. § 1.468B-1; (2) that the Aggregate NOAT II Consideration will be excluded from the Trust's gross income; (3) that all income and gain earned on the Trust Assets will be excludible from the Trust's gross income under Section 115 of the IRC, and corresponding provisions of state law; and (4) on any other matter of federal or state tax law that the Tax Professionals believe is advisable with respect to the Trust ("**Private Letter Ruling(s)**"), and (b) in taking such actions as may be reasonably necessary to secure any such Private Letter Ruling(s) and thereafter ensuring that the Trust complies with the conditions of any such Private Letter Ruling(s);

- (xix) contract for the establishment and continuing maintenance of (a) a secure method of internet-based communications for the Trust and the NOAT II Beneficiaries as described in Section 6.5 (the "**NOAT II Portal**") and (b) a public-facing website to publish all information required to be published under the Trust Documents (the "**NOAT II Website**"); and
- (xx) exercise any and all rights of the Trustees, and take any and all actions as are permitted, in accordance with and subject to the terms of this Trust Agreement and the Plan.

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

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

Section 2.2 General Administration. The Trustees shall act in accordance with the Trust Documents. The mailing address of the Trust is National Opioid Abatement Trust II, c/o Campbell & Levine, LLC, 310 Grant Street, Suite 1700 Pittsburgh, PA 15219 Attn: Douglas A. Campbell, Esq. The Trustees shall provide notice to the NOAT II Beneficiaries upon establishment of any office by posting such information on the NOAT II Website.

Section 2.3 Accounting. The fiscal year of the Trust shall begin on January 1 and shall end on December 31 of each calendar year. The Trustees shall maintain the books and records relating to the Trust Assets, the income and the payment of expenses of and liabilities against the

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

Section 2.4 Financial Reporting.

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

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

Section 2.5 Opioid Abatement Reporting.

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

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

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

Section 2.6 Beneficiary Reporting.

(a) Reporting of Approved Opioid Abatement Uses by NOAT II Beneficiaries shall be required to the extent set forth in the Confirmation Order and consistent with the NOAT II TDP. The Trustees shall establish the form, content, and due dates of periodic reports with respect to Approved Opioid Abatement Uses to be submitted by the NOAT II Beneficiaries (each,

a “**Beneficiary Abatement Use Report**”) to the Trustees through the NOAT II Portal (or delivered by other means approved by the Trustees). The Trustees shall endeavor to implement appropriate mechanisms, in their discretion consistent with the Trust Documents, to obtain efficiency in reporting by applicable NOAT II Beneficiaries with respect to NOAT II and other comparable opioid abatement trusts benefitting the NOAT II Beneficiaries. Each Beneficiary Abatement Use Report shall contain the information necessary to:

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

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

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

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

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

Section 2.7 Limitation of the Trustees’ Authority. The Trustees are not authorized to engage in any trade or business with respect to the Trust Assets or proceeds therefrom. The

foregoing limitation shall not prevent the Trustees from managing the investment of the Trust Assets in accordance with the Trust Documents.

ARTICLE 3
ACCOUNTS, INVESTMENTS, ADMINISTRATIVE EXPENSES

Section 3.1 Accounts.

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

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

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

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

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

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

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

ARTICLE 4 **ABATEMENT DISTRIBUTIONS**

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

Section 4.2 Manner of Payment of Abatement Distributions.

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

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

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

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

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

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

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

Section 4.3 Delivery of Abatement Distributions.

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

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

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

ARTICLE 5
TRUSTEES AND DELAWARE TRUSTEE

Section 5.1 Number of Trustees; Managing Trustee.

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

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

Section 5.2 Term of Service, Successor Trustees.

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

(b) Appointment of Successor Trustees.

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

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

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

or more of the following areas: public policy/public health, law enforcement, ethics and compliance, finance, general business and/or corporate governance.

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

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

removal of a Trustee pursuant to this Section 5.2(c) shall require the approval of the Bankruptcy Court and shall take effect at such time as the Bankruptcy Court shall determine.

Section 5.3 Trustee Meetings.

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

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

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

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

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

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

(g) **Action by Unanimous Written Consent.** Any action required or permitted to be taken at any meeting of the Trustees may be taken without a meeting, if all of the Trustees

then in office consent thereto in writing or by Electronic Transmission, which writing may be executed in one or more counterparts, and the writing or Electronic Transmission are filed with the meeting minutes of the Trustees. As used herein, “**Electronic Transmission**” means any form of communication not directly involving the physical transmission of paper that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.

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

Section 5.5 Trustees’ Independence.

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

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

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

Section 5.6 Standard of Care; Exculpation.

(a) As used herein, the term “**Trust Indemnified Party**” shall mean each Trustee, the Delaware Trustee, and each of their respective members, officers, employees,

professionals, including the Tax Professionals, and consultants (in each case exclusive of counsel) or a Designated Indemnatee. For the avoidance of doubt, “Trust Indemnified Party” shall not include any outside counsel to any Trustee, the Delaware Trustee, or the Trust unless such outside counsel is a “Designated Indemnatee.”

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

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

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

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

Section 5.7 Protective Provisions.

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

(b) In the event the Trustees retain counsel (including at the expense of NOAT II), the Trustees shall be afforded the benefit of the attorney-client privilege with respect to all

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

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

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

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

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

Section 5.8 Indemnification.

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

fraud. Any valid indemnification claim of any of the Trust Indemnified Parties shall be satisfied from the Trust.

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

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

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

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

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

Section 5.10 Delaware Trustee.

(a) There shall at all times be a Delaware Trustee. The Delaware Trustee shall either be (i) a natural person who is at least twenty-one (21) years of age and a resident of the State of Delaware or (ii) a legal entity that has its principal place of business in the State of Delaware, otherwise meets the requirements of applicable Delaware law to be eligible to serve as the Delaware Trustee and shall act through one or more persons authorized to bind such entity. The initial Delaware Trustee shall be Wilmington Trust, National Association. If at any time the Delaware Trustee shall cease to be eligible in accordance with the provisions of this Section 5.10, it shall resign immediately in the manner and with the effect hereinafter specified in Section 5.10(c) below. For the avoidance of doubt, the Delaware Trustee will only have such rights, duties and

obligations as expressly provided by reference to the Delaware Trustee hereunder. The Trustees shall have no liability for the acts or omissions of any Delaware Trustee.

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

(c) The Delaware Trustee shall serve until such time as the Trustees remove the Delaware Trustee or the Delaware Trustee resigns and a successor Delaware Trustee is appointed by the Trustees in accordance with the terms of Section 5.10(d) below. The Delaware Trustee may resign at any time upon the giving of at least sixty (60) days' advance written notice to the Trustees; provided that such resignation shall not become effective unless and until a successor Delaware Trustee shall have been appointed by the Trustees in accordance with Section 5.10(d) below; provided further, that if any amounts due and owing to the Delaware Trustee hereunder remain unpaid for more than ninety (90) days, the Delaware Trustee shall be entitled to resign immediately by giving written notice to the Trustees. If the Trustees do not act within such sixty (60) day period, the Delaware Trustee, at the expense of the Trust, may apply to the Court of Chancery of the State of Delaware or any other court of competent jurisdiction for the appointment of a successor Delaware Trustee.

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

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

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

(g) The Delaware Trustee shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument or document, other than this Trust Agreement, whether or not, an original or a copy of such agreement has been provided to the Delaware Trustee. The Delaware Trustee shall have no duty to know or inquire as to the performance or nonperformance of any provision of any other agreement, instrument or document, other than this Trust Agreement. Neither the Delaware Trustee nor any of its directors, officers, employees, agents or affiliates shall be responsible for nor have any duty to monitor the performance or any action of the Trust, the Trustees or any other person, or any of their directors, members, officers, agents, affiliates or employee, nor shall it have any liability in connection with the malfeasance or nonfeasance by such party. The Delaware Trustee may assume performance by all such persons of their respective obligations. The Delaware Trustee shall have no enforcement or notification obligations relating to breaches of representations or warranties of any other person. The Delaware Trustee shall have no responsibilities (except as expressly set forth herein) as to the validity, sufficiency, value, genuineness, ownership or transferability of any Trust Asset, written instructions, or any other documents in connection therewith, and will not, be regarded as making nor be required to make, any representations thereto.

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

Section 5.11 Meeting Minutes; Rights of Inspection.

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

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

ARTICLE 6
GENERAL PROVISIONS

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

Section 6.2 Term; Termination.

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

(b) The Trust shall automatically dissolve, as soon as practicable, but no later than ninety (90) days after the date on which the Bankruptcy Court approves the dissolution of the Trust upon the satisfaction of the purposes of the Trust and the following conditions having been satisfied: (i) all reasonably expected assets have been collected by the Trust, (ii) all Abatement Distributions have been made to the extent set forth in the NOAT II TDP, (iii) necessary arrangements and reserves have been made to discharge all anticipated remaining Trust obligations and NOAT II Operating Expenses in a manner consistent with the Trust Documents, and (iv) a final accounting has been filed and approved by the Bankruptcy Court (the "**Dissolution Date**").

(c) On the Dissolution Date or as soon as reasonably practicable thereafter, after the wind-up of the Trust's affairs by the Trustees and payment of all of the Trust's liabilities have been provided for as required by applicable law including Section 3808 of the Act, all monies remaining in the Trust shall be distributed to the NOAT II Beneficiaries in accordance with the

NOAT II TDP. Notwithstanding any contrary provision of the Plan and related documents, including this Trust Agreement, this Section 6.2(c) cannot be modified or amended.

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

Section 6.3 Taxes.

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

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

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

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

(e) **The Trust and the Reorganized Debtors shall reasonably cooperate in good faith with each other, MDT II, the Public Schools’ Special Education Initiative, and each of their**

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

Section 6.4 Modification.

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

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

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

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

Section 6.7 Notices.

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

To the Trustees:

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

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

Dr. Megan L. Ranney
c/o Campbell & Levine, LLC
310 Grant Street, Suite 1700
Pittsburgh, PA 15219
Email: Trustees@NationalOpioidAbatementTrust.com

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

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

To the Delaware Trustee:

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

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

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

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

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

Section 6.9 Limitation on Transferability; NOAT II Beneficiaries' Interests. NOAT II Beneficiaries' interests in the Trust shall not (a) be assigned, conveyed, hypothecated, pledged or otherwise transferred, voluntarily or involuntarily, directly or indirectly and any purported assignment, conveyance, pledge or transfer shall be null and void *ab initio*; (b) be evidenced by a certificate or other instrument; (c) possess any voting rights; (d) give rise to any right or rights to participate in the management or administration of the Trust or the Trust Assets; (e) entitle the holders thereof to seek the removal or replacement of any Trustee, whether by petition to the Bankruptcy Court or any other court or otherwise; (f) entitle the holders thereof to receive any interest on Abatement Distributions; and (g) give rise to any rights to seek a partition or division of the Trust Assets. In accordance with the Act, NOAT II Beneficiaries shall have no interest of any kind in any of the Trust Assets; rather, NOAT II Beneficiaries shall have an undivided beneficial interest only in cash assets of the Trust but only to the extent such cash assets are declared by the Trust Trustees to be distributable as Abatement Distributions in accordance with the Trust Documents. For the avoidance of doubt, NOAT II Beneficiaries shall have only such rights as expressly set forth in this Trust Agreement.

Section 6.10 Exemption from Registration. The Parties hereto intend that the rights of the NOAT II Beneficiaries arising under this Trust Agreement shall not be "securities" under applicable laws, but none of the Parties hereto represent or warrant that such rights shall not be

securities or shall be entitled to exemption from registration under applicable securities laws. If it should be determined that any such interests constitute “securities,” the Parties hereto intend that the exemption provisions of Section 1145 of the Bankruptcy Code will be satisfied and the offer and sale under the Plan of the beneficial interests in the Trust will be exempt from registration under the Securities Act, all rules and regulations promulgated thereunder, and all applicable state and local securities laws and regulations.

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

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

Section 6.13 Governing Law. This Trust Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, without regard to the conflicts of law provisions thereof which would purport to apply the law of any other jurisdiction. For the avoidance of doubt, none of the following provisions of Delaware law shall apply to the extent inconsistent with the terms of the Trust Documents: (a) the filing with any court or governmental body or agency of trustee accounts or schedules of trustee fees and charges, (b) affirmative requirements to post bonds for trustees, officers, agents or employees of a trust, (c) the necessity for obtaining court or other governmental approval concerning the acquisition, holding or disposition of property, (d) fees or other sums payable to trustees, officers, agents or employees of a trust, (e) the allocation of receipts and expenditures to income or principal, (f) restrictions or limitations on the permissible nature, amount or concentration of trust investments or requirements relating to the titling, storage or other manner of holding of Trust Assets, (g) the existence of rights or interests (beneficial or otherwise) in Trust Assets, (h) the ability of beneficial owners or other persons to terminate or dissolve a trust, and (i) the establishment of fiduciary or other standards or responsibilities or limitations on the acts or powers of trustees or beneficial owners that are inconsistent with the limitations on liability or authorities and powers of the Trustees, set forth or referenced in this Trust Agreement. Section 3540 of Title 12 of the Act shall not apply to the Trust.

Section 6.14 Dispute Resolution.

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

(b) **Informal Dispute Resolution.** Any dispute under this Trust Agreement shall first be the subject of informal negotiations. The dispute shall be considered to have arisen

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

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

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

Section 6.15 Sovereign Immunity. Nothing set forth in the Trust Documents shall be construed as a waiver of a claim of sovereign immunity in any dispute resolution, action or

proceeding, including without limitation, any dispute resolution, action or proceeding occurring after the Effective Date.

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

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

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

[Remainder of Page Intentionally Left Blank]

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

[SETTLORS]

[TRUSTEE]

[TRUSTEE]

[TRUSTEE]

[DELAWARE TRUSTEE]

[Signature Page]

EXHIBIT 1

AGGREGATE NOAT II CONSIDERATION

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

EXHIBIT 2

[RESERVED]

EXHIBIT 3

INVESTMENT GUIDELINES

In General. Only the following investments will be permitted:

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

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

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

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

See example fund-level requirements table on following page.

Fund Level Requirements

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

TYPE OF INVESTMENT	ELIGIBLE	PROHIBITED	COMMENTS
U.S. Treasury Securities	X		
U.S. Agency Securities	X		
Mortgage-Related Securities		x	
Asset-Backed Securities		x	
Corporate Securities (public)	X		
Municipal bonds	X		
DERIVATIVES:			
	No investment, including futures, options and other derivatives, may be purchased if its return is directly or indirectly determined by an investment prohibited elsewhere in these guidelines.		
Futures		x	
Options		x	
Currency Forwards		x	
Currency Futures		x	
Currency Options		x	
Currency Swaps		x	
Interest Rate Swaps		x	
Total Return Swaps		x	
Structured Notes		X	
Collateralized Debt Obligations		x	
Credit Default Swaps		X	
Mortgage-Related Derivatives		X	
FOREIGN / NON-U.S. DOLLAR:			
Foreign CDs		X	
Foreign U.S. Dollar Denominated Securities		X	
Non-U.S. Dollar Denominated Bonds		X	
Supranational U.S. Dollar Denominated Securities		X	
COMMINGLED VEHICLES (except STIF):			
Collective Funds		X	
Commingled Trust Funds (open ended mutual funds only)		X	
Common Trust Funds		X	
Registered Investment Companies		X	
MONEY MARKET SECURITIES:			
Qualified STIF		x	
Interest Bearing Bank Obligations Insured by a Federal or State Agency	X		
Commercial Paper		x	
Master Note Agreements and Demand Notes		x	
Repurchase Agreements		x	
OTHER:			
Bank Loans		x	
Convertibles (e.g., Lyons)		x	
Municipal Bonds	X		
Preferred Stock		x	
Private Placements (excluding 144A)	X		
Rule 144A Issues	X		
Zero Coupon Bonds	X		
Commodities		X	
Catastrophe Bonds		X	

EXHIBIT 4

NATIONAL OPIOID ABATEMENT TRUST II TRUST DISTRIBUTION PROCEDURES

NOAT II Trust Distribution Procedures

[TO COME]

EXHIBIT 5

State Opioid Attorneys' Fee Fund

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

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

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

4. **State Cost Payment Priorities and Residual.** To the extent that that the costs of the Fund Administrator and aggregate eligible submissions of costs from States exceed \$10 million, costs shall be paid in the following order. If the fund is unable to fully pay costs at any of the following levels, then States with costs at that level shall be paid on a proportional basis. All expenses with a lesser priority from the level where the \$10 million is exhausted will not be reimbursed. Costs shall be paid in the following order: (a) the reasonable costs of the Fund Administrator, if any; (b) repayment of the National Association of Attorneys General grants connected to opioid litigation; (c) costs incurred or paid by outside counsel for a State litigating against Mallinckrodt apart from any fee owed; (d) litigation-related costs attributable to Mallinckrodt incurred or paid by a State litigating against Mallinckrodt; (e) pre-suit investigation-

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

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

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