

**AMENDMENT TO MONTANA DISTRIBUTORS' AND JANSSEN OPIOIDS
SETTLEMENT MEMORANDUM OF UNDERSTANDING (“MOU”)**

WHEREAS the majority of local governments have agreed to participate in the Distributors and Janssen Opioid Settlements, some questions have arisen regarding elements of the Memorandum of Understanding (MOU) that require clarification, and

WHEREAS clarification of these elements will likely produce additional participation of Local Governments that have been actively litigating in the Multidistrict Litigation (MDL) in the Northern District of Ohio, and

WHEREAS additional participation of local governments will benefit the State of Montana and all participating local governments by increasing incentive payments to the State and its local governments,

NOW THEREFORE, the following clarifications supplement the principles and provisions of the MOU of signed by Montana Attorney General Austin Knudsen and dated November 26, 2021, and which is hereby amended as set forth herein.

The written guidelines referenced in paragraph C.12 of the MOU are intended to facilitate prompt access to funds in the Abatement Trust allocated to Participating Abatement Regions and Local Governments pursuant to the percentages listed in Exhibit B of the November 26, 2021 MOU for any Approved Purposes identified in the sole discretion of the Abatement Regions or Local Governments. The Committee is advisory and intended to be available to provide professional advice to Abatement Regions when requested. It may not deny a proposal for distribution of funds from a

Region or Local Government, provided the proposal identifies Approved Purposes for which the funds will be expended as defined and provided for in the Settlement Agreements and MOU. The Committee's responsibility to review proposals as set forth in paragraph D.14 shall be limited to confirmation that the proposal identifies Approved Purposes for which the funds will be expended.

Consistent with the authority granted to Abatement Regions in paragraph D.9, any Participating Local Government may also create its own governance structure for the administration, management and use of Opioid Remediation funds. A Participating Local Government may access the funds allocated to the Abatement Trust as described in paragraph D.4, based on its allocation percentage in Exhibit B. The governance structure of the Abatement Regions described in paragraph D.9 shall allow for Local Governments within the Region to independently access funds from the Abatement Trust as described herein.

To the extent the Abatement Trust Advisory Committee does not expend funds in the Abatement Trust, apart from the funds described in paragraph D.7, on statewide programs as described in paragraph D.12, the Committee shall allocate the funds to Participating Abatement Regions and Local Governments in the same manner as the funds described in paragraph D.7.

Paragraph E.6 in the MOU is hereby amended to read:

6. The Montana Attorney Fee Back-Stop Fund shall be funded by 5.5% of the total settlement funds paid to the State of Montana. Fifty percent (50%) of the Montana Attorney Fee Back-Stop Fund shall be allocated to the Montana Attorney

General's Back-Stop Sub-fund and fifty percent (50%) to the Litigating Local Government Attorney Fee Back Stop Sub-Fund. The Attorney General's Fund shall be used in the Attorney General's sole discretion to (a) reimburse the State of Montana for opioid-related investigations and litigation costs; (b) offset the costs of the legal and administrative burdens imposed upon the Attorney General's Office by the Settlement Agreements as well as future settlements or disbursements by bankruptcy courts; and (3) for approved remediation or abatement purposes including, without limitation, the development of plans or project whereby the State of Montana and the Local Governments may pool their respective recoveries and resources to fund efficient and effective statewide or regional abatement programs or strategies.

The remaining Fifty percent (50%) of the Montana Attorney Fee Back-Stop Fund shall be allocated to the Montana Litigating Local Government's Attorney Fee Back-Stop Sub-fund for payment of Outside Counsel attorney's fees incurred by Participating Local Governments. Fees for Outside Counsel for Montana Litigating Local Governments shall be based on the recovery to their clients under the percentages in Exhibit B. For purposes of determining attorney's fees, the calculation of the total amount that a Local Government recovers will include the Local Government Fund plus that Local Government's share of the eighty percent (80%) portion of the Abatement Trust Fund described in paragraph D.7, according to the percentages in Exhibit B.

All other requirements of Section E of the November 26, 2021 MOU shall remain unchanged.

DATED this 27th day of January 2022.

MONTANA ATTORNEY GENERAL



Austin Knudsen
Montana Attorney General

**PLEASE SEE INSTRUCTION ON FOLLOWING PAGE FOR SIGN ON RE-
QUIRMENTS TO PARTICIPATE IN THE SETTLEMENTS**