

Walmart’s Response to States/PEC 2022.11.09

Subject to FRE 408 & State-law analogs – For Settlement Purposes Only

Proposed Settlement Structure

Terms	Proposal
General	<ul style="list-style-type: none">• This document identifies key elements of a proposed settlement.• The intent is to propose a structure that provides for more expedited payments than many prior opioids settlements, and streamlining certain provisions, while retaining incentives for broad participation.
Resolving Entities	<ul style="list-style-type: none">• All Walmart entities.<ul style="list-style-type: none">○ Similar in scope to “Released Entities” as defined by J&J I.61, Dis. I.HHH, and to be listed in a separate exhibit of illustrative entities. Walmart agrees that plaintiffs are not releasing any MDL Defendant that is not identified in Walmart’s illustrative list.• States.<ul style="list-style-type: none">○ “Eligible State” means the states, commonwealths, and territories of the United States of America, excluding New Mexico and West Virginia.○ “Settling State” shall mean the Eligible States that join the settlement.• Subdivisions.<ul style="list-style-type: none">○ “Subdivision” will include any general-purpose government, School District, or Special District within a Settling State, similar to definition in Dis. I.XXX, except it will not include the CT3 plaintiffs.○ “Primary Subdivision” is a general-purpose government with population greater than 10,000.○ “Litigating Subdivisions” are Subdivisions that have sued Walmart related to Opioid Products as of the Subdivision Participation Date.○ “Non-Litigating Threshold Subdivisions” are (a) general-purpose Subdivisions with populations greater than 30,000 that have not sued Walmart as of the Subdivision Participation Date and (b) general-purpose Subdivisions with populations between 10,000 and 30,000 that have not sued Walmart but have sued McKesson, AmerisourceBergen, Cardinal, or Janssen related to Opioid Products.○ “Participating Subdivisions” shall mean Subdivisions that join the settlement.○ For all purposes in the settlement, populations of Subdivisions (including Special Districts and School Districts) will be calculated same as J&J XII.B-D, Dis. XIV.A-C. For the

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	<p>avoidance of doubt, this means that California healthcare districts will be measured at ten percent (10%) of their membership. Entities that include any of the following words or phrases in its name shall not be considered a Subdivision or Special District: mosquito, pest, insect, spray, vector, animal, air quality, air pollution, clean air, coastal water, tuberculosis, and sanitary.</p>
Form of Agreement	<ul style="list-style-type: none">• Settlement Agreement, effectuated as consent orders filed in the state court of each Settling State.• Subdivisions may join by signing a specified release form that also includes the Agreement to Dismiss upon the Threshold Subdivision Participation Date or Subdivision Participation Date, as applicable (similar to Exhibit K in both the Distributor and J&J national deals).• No statement of facts or admissions.• Agreed upon Whereas clauses regarding Walmart's market share and other factors to be discussed.
Scope of Release	<ul style="list-style-type: none">• The agreement will include a comprehensive release of all legal claims based on the covered conduct, with no carve outs, consistent with the prior multistate settlement agreements. The Agreement will not release any criminal liability, claims under any tax or securities law, claims against non-Walmart parties, claims by private individuals and any claims for enforcement of the Agreement.• All dispensing & distributing conduct related to opioids for which any State or Subdivision has or could bring a claim.<ul style="list-style-type: none">○ Release language similar to J&J IV, Dis. XI: "As of the Effective Date, the Released Entities will be released and forever discharged from all of the Releasors' Released Claims. Each Settling State (for itself and its Releasors) and Participating Subdivision (for itself and its Releasors) will, on or before the Effective Date, absolutely, unconditionally, and irrevocably covenant not to bring, file, or claim, or to cause, assist in bringing, or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Agreement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of each Settling State and its Attorney

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	<p>General to release claims. The Release shall be a complete bar to any Released Claim.”</p> <ul style="list-style-type: none">○ “Released Claims” similar to J&J I.60, including any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct and/or Alleged Harms occurring prior to the Effective Date.○ “Claim” similar to Dis. I.K.○ “Covered Conduct” similar to Dis. I.O.○ “Product” similar to J&J I.58, Dis. I.EEE.• States & Subdivisions also will release claims of subsidiary entities to the maximum extent permissible under law.<ul style="list-style-type: none">○ “Releasers” similar to J&J I.62, Dis. I.III.• Releasers will cooperate with and not oppose any effort by Walmart to secure dismissal of suits brought by non-participants based on released claims.• Settling States will meet and confer with Walmart and simultaneously make reasonable efforts to resolve any action that remains pending against Walmart after the Subdivision Participation Date or is filed by a Subdivision against Walmart on or after the date the agreement is signed. This provision shall not require a state to make any monetary payment or adjustment to allocation.• Cooperation language similar to J&J IV.G, Dis. XI.H: “Releasers (i) will not encourage any person or entity to bring or maintain any Released Claim against any Released Entity and (ii) will reasonably cooperate with and not oppose any effort by a Released Entity to secure the prompt dismissal of any and all Released Claims.”
Time Period of Release	<ul style="list-style-type: none">• Release will forever discharge Walmart from any claim, known or unknown, existing at the time of settlement (as specified by release language cited above).
Implementation Period and Participation Thresholds Required for Agreement to Become Effective	<ul style="list-style-type: none">• To meet the State Participation Threshold, more than 85% of all Eligible States, excluding New Mexico, West Virginia, and territories other than Puerto Rico, but including the District of Columbia and Puerto Rico, by number of such States (i.e., 43 or more of such 50 Eligible States), must join the agreement as Settling States by the State Participation Date of December 15, 2022, subject to extension upon the mutual agreement of Walmart and the Enforcement Committee.• To the extent that Walmart settles separately with any Eligible State prior to the State Participation Date, including for purposes

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	<p>of this provision the District of Columbia and Puerto Rico but otherwise excluding New Mexico, West Virginia, and other territories, such State shall be included in both the numerator and the denominator for purposes of calculation of the 85% State Participation Threshold.</p> <ul style="list-style-type: none">• To meet the Subdivision Participation Thresholds, (1) more than 85% of the population of all Litigating Subdivisions located in the Settling States (calculated on an aggregated basis and not a state-by-state basis) have executed Participation Agreements including a release or are subject to a Bar or Case-Specific Resolution; and (2) more than 85% of the population of all Non-Litigating Threshold Subdivisions located in Settling States (calculated on an aggregated basis and not a state-by-state basis) have executed Participation Agreements including a release or are subject to a Bar or Case-Specific Resolution. The Subdivision Participation Thresholds, i.e., (1) and (2) above, must be met by the Threshold Subdivision Participation Date of March 31, 2023, subject to extension upon the mutual agreement of Walmart and the Enforcement Committee.• In order to determine whether the Subdivision Participation Thresholds have been met, the Settlement Administrator (to be selected jointly by the Settling States and Walmart) shall determine the combined percentage ("Participating Population Level") of the Litigating Subdivisions and Non-Litigating Threshold Subdivisions, measured by population, in Settling States (calculated on an aggregated basis and not on a state-by-state basis) that have executed Participation Agreements, or are subject to a Bar or Case-Specific Resolution.• To the extent that Walmart settles separately with any Eligible State prior to the State Participation Date, including for purposes of this provision the District of Columbia and Puerto Rico but otherwise excluding New Mexico, West Virginia, and other territories, the Litigating Subdivisions and Non-Litigating Threshold Subdivisions within such State that executed Participation Agreements, or are subject to a Bar or Case-Specific Resolution, shall be included in both the numerator and the denominator for purposes of calculation of the 85% Subdivision Participation Thresholds.• The Agreement shall become effective only if the State Participation Threshold and Subdivision Participation Thresholds are met by the State Participation Date and the Threshold Subdivision Participation Date, respectively. The Effective Date of the Agreement shall be 15 days after the Threshold Subdivision

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	<p>Participation Date (the “Effective Date” or “ED”) or whenever the Settlement Administrator has completed the Subdivision Participation Threshold calculations necessary to confirm that the Subdivision Participation Thresholds have been achieved and provided notice to the parties, whichever is later. Walmart shall have the unilateral right at its sole discretion to proceed with the Settlement at participation levels lower than the 85% State Participation Threshold, 85% Litigating Subdivision Participation Threshold, and/or 85% Non-Litigating Threshold Subdivision Threshold.</p> <ul style="list-style-type: none">• Subdivisions in Settling States will be able to continue signing up for, and continue to qualify to receive, Year 1 payment until July 15, 2023 (the “First Subdivision Participation Date”). Settling States also remain eligible to achieve Incentive A in Year 1 until July 15, 2023.• To become a Participating State or Participating Subdivision, an Eligible State or Eligible Subdivision must execute a Participation Form, templates of which will be included in the Agreement as Exhibits and which when executed will be returned to the Enforcement Committee and Walmart in the case of the states or to the Notice Administrator in the case of subdivisions.• State Releases in conformity with the Scope of Release described above for purpose of satisfying the representation and warranty provision (similar to Dis. XI.F, clause (3)) will be due to Walmart 30 days following the Effective Date.
Payment Period and Amount	<ul style="list-style-type: none">• Fifteen (15) days after the Effective Date, Walmart will deposit the total allocation of opioid remediation and abatement (the “Remediation Payment”) and fees for Settling States, assuming maximum subdivision participation in each Settling State, into an interest-bearing account. Walmart will not deposit the allocation of the Remediation Payment and fees for any State that does not participate (any Eligible State that does not become a Settling State).• The allocation for each State shall be based on the percentages established in the “Denver allocation.”• If a State does not participate (i.e., is not a Settling State), Walmart’s Remediation Payment shall be reduced by the portion of the Remediation Payment allocated to that non-participating State.• If a State does not participate (i.e., is not a Settling State), then Walmart’s total fee payment shall be reduced by 12.4% times the

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	<p>Remediation Payment amount allocated to that non-participating State plus either (i) the state's "fixed amount" (<i>i.e.</i>, 4.5% times 50% of the State's allocation, or 2.25% [4.5% x 50%] of the non-participating State's portion of the Remediation Payment) if the state is an outside counsel state or (ii) the additional restitution amount allocated to such state if not an outside counsel state. In no event shall reductions be made to that portion of the 2% allocated to the State Cost Fund, provided, however, that the portion of the 2% allocated to State Cost Fund not exceed [TK]% times the amount of the Remediation Payment.¹ Walmart's fee payment shall also be reduced by the amount of the Contingency Fee Fund for Attorneys representing Litigating Subdivision in participating States (<i>i.e.</i>, Settling States) that continue to pursue released claims (Non-Participating Litigating Subdivisions). If Walmart settles with any non-Settling State and subdivision(s) in such non-Settling State after the Effective Date, Walmart agrees to withhold from the attorney fee portion of such settlement a Common Benefit Fund assessment, to be deposited in the Common Benefit Fund, of Z% times the portion of the Remediation Payment that would have been due to such State if it had participated in this settlement and been awarded its full portion of the Remediation Payment (the "Walmart CBF Assessment"). If Walmart settles with any subdivisions in a non-Settling State other than in connection with a statewide settlement in such State, then Walmart agrees to withhold from the attorney fee portion of such settlement a Common Benefit Fund assessment, to be deposited in the Common Benefit Fund, of Z% times the portion of the Remediation Payment that would have been due to such subdivision under this Agreement (also, the "Walmart CBF Assessment"). The parties recognize that the Walmart CBF Assessment is inclusive of any assessment required by the Ongoing Common Benefit Order (Dkt. #4428) in <i>In re National Prescription Opiate Litigation</i>, case no. 1:17-md-2804. To the extent Walmart is required to separately pay any assessment on such settlement as a result of the Ongoing Common Benefit Order, the Walmart CBF Assessment will be reduced by the amount required to be paid pursuant to the Ongoing Common Benefit Order.</p> <ul style="list-style-type: none"> Any interest earned on the money deposited by Walmart will follow the principal, <i>i.e.</i>, it will either be paid out to the applicable

¹ For purposes of the foregoing provision, the reductions of Walmart's total fee, cost, and additional restitution payments related to Walmart's prior settlements with the states of Florida and Alabama shall be 14.4% (*i.e.*, 12.4% plus 2%) times Florida's and Alabama's respective shares of the Remediation Payment.

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	<p>Settling State or revert to Walmart along with the earned or withheld principal.</p> <ul style="list-style-type: none">Walmart shall be refunded any portion of the Remediation Payment based on incentives achieved or not achieved and fee payments, plus interest, that cannot be earned by the Settling States or Attorneys, respectively, as of the First Subdivision Participation Date, and each anniversary of the First Subdivision Participation Date).Payment to the Settling States for Year 1 will be made as soon as practicable following the Threshold Subdivision Participation Date (i.e., March 31, 2023) and the Administrator's calculation of payment amounts and provision of notice to the parties. Any additional payments to States and/or any reversion to Walmart for Year 1 will be made as soon as practicable following the Subdivision Participation Date (i.e., July 15, 2023) and the Administrator's calculation of payment and reversion amounts and provision of notice to the parties.In Years 2-3, payment to the Settling States and any reversion to Walmart will be based on Subdivision Participation as of July 15 of each year and will be made as soon as practicable following the Administrator's calculation of payment and reversion amounts and provision of notice to the parties. The Second Subdivision Participation Date will be July 15, 2024, the Third Subdivision Participation Date will be July 15, 2025.
Monetary Contribution	<ul style="list-style-type: none">As stated above, fifteen (15) days after the Effective Date, Walmart will deposit the total allocation of Remediation Payment and fees for Settling States into an interest-bearing account, to be paid to Settling States or refunded to Walmart consistent with the other provisions of this term sheet.Payment chart included below.
Incentive A	<ul style="list-style-type: none">Incentive A would capture 100% of eligible "Remaining Incentive Payments" if achieved in Years 1-3. If achieved in Year 2-3, prior year(s)'s payment will be netted from amount due.<ul style="list-style-type: none">"Remaining Incentive Payments" refers to stepped down Incentive B+C payments plus non-stepped-down Incentive D—i.e., achieving Incentive A in Years 2 or 3 results in payment of (1) 97% Remediation Payment minus whatever Remediation Payment amount was paid in Year 1 (or, in the case where Incentive A is achieved in Year 3, whatever Remediation Payment amounts were paid in Years 1 and 2), stepped down by 12.5% if achieved in Year 2 or 25% if

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	<p>achieved in Year 3; and (2) 3% of the Remediation Payment for Incentive D, with no step down.</p> <ul style="list-style-type: none">• Available to any State in which all Subdivisions are barred from maintaining or bringing released claims through any or a combination of legislation, ruling from State's highest court, or settlement class resolution. Also can be achieved by participation of all Litigating Subdivisions; general purpose Non-Litigating Subdivisions with populations over 10,000; non-litigating school districts with a K-12 student enrollment of at least 25,000 or .10% of a State's population, whichever is greater; non-litigating health districts and hospital districts that have at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district; and fire districts as identified in or agreed to by J&J.• Mutually exclusive with all other incentives.• The Settling States and Walmart will determine a process by which Walmart will communicate to states in a timely manner whether previously established or newly established Bars qualify that state for Incentive A.
Incentive B+C	<ul style="list-style-type: none">• Calculated on state-by-state basis to determine entitlement.• Up to 97% of state's maximum Remediation Payment (inclusive of Base payment).• Available on a sliding scale for participation at or above 85% by combined population of (1) all Litigating Subdivisions (including Special Districts and School Districts) and (2) all Non-Litigating Threshold Subdivisions within a given State, that participate in the agreement or otherwise have had their claims resolved.• <i>Payments based on Participation level.</i> The following is the Payment Scale based on Participation as of the Subdivision Participation Dates in Years 1-3 (inclusive of base payment):<ul style="list-style-type: none">○ Less than 85% Participation – Payment of 38% of total Remediation Payment (i.e., base payment).○ Participation of 85% but less than 86% – Payment of 43% of Remediation Payment.○ Participation of 86% but less than 87% – Payment of 46% of Remediation Payment.○ Participation of 87% but less than 88% – Payment of 49% of Remediation Payment.○ Participation of 88% but less than 89% – Payment of 52% of Remediation Payment.○ Participation of 89% but less than 90% – Payment of 55% of Remediation Payment.

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	<ul style="list-style-type: none">○ Participation of 90% but less than 91% – Payment of 58% of Remediation Payment.○ Participation of 91% but less than 92% – Payment of 61% of Remediation Payment.○ Participation of 92% but less than 93% – Payment of 64% of Remediation Payment.○ Participation of 93% but less than 94% – Payment of 67% of Remediation Payment.○ Participation of 94% but less than 95% – Payment of 70% of Remediation Payment.○ Participation of 95% but less than 96% – Payment of 75% of Remediation Payment.○ Participation of 96% but less than 97% – Payment of 79.5% of Remediation Payment.○ Participation of 97% but less than 98% – Payment of 84% of Remediation Payment.○ Participation of 98% but less than 99% – Payment of 88.5% of Remediation Payment.○ Participation of 99% but less than 100% – Payment of 93% of Remediation Payment.○ Participation of 100% – Payment of 97% of Remediation Payment.• <i>Timing and Payments.</i> The Settlement Fund Administrator shall calculate and allocate payments to Settling States based on subdivision participation as of the Threshold Subdivision Participation Date and First Subdivision Participation Date and resolve any disputes related to such calculations similar to the instructions in Dis. IV.B, and payments to the Settling States and any reversion to Walmart shall be made as soon as practicable following the First Subdivision Participation Date and the Administrator's calculation of payment and reversion amounts and provision of notice to the parties.• Additional assessments will be made on the Second and the Third Subdivision Participation Dates and any payments to Settling States or reversion to Walmart will be made as soon as practicable following the Administrator's calculation of payment and reversion amounts and provision of notice to the parties. Any payment to any eligible Settling State where a higher incentive level has been achieved (e.g., per the sub-bullets above, 99% participation is achieved by the Second Subdivision Participation Date whereas only 95% participation was achieved by the First Subdivision Participation Date), will be discounted by 12.5% for incentives achieved in Year 2 and 25% for incentives achieved in Year 3.

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	<ul style="list-style-type: none">• The Settlement Administrator will withhold sufficient funds to pay States based on non-participating subdivisions joining in Year 2 and/or Year 3.
Incentive D	<ul style="list-style-type: none">• Between 3 and 15% of Remediation Payment amount (Base + Incentives), depending on a Settling State's B+C participation level as of the Participation Date in Year 3.• Available starting in Year 3 based on no later-filed litigation surviving a Threshold Motion (as defined in Distributor and J&J settlements) and remaining pending at the look-back date by general purpose Subdivisions with a population over 10,000; school districts with a K-12 student enrollment of at least 25,000 or .10% of a State's population, whichever is greater; health districts and hospital districts that have at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district; and fire districts as identified in or agreed to by J&J.• State becomes re-eligible (minus Walmart's litigation fees and costs) if the lawsuit that survived a Threshold Motion is dismissed pursuant to a later motion on grounds included in the Threshold Motion.• Paid in equal installments in Years 3-6, subject to potential phase out as described below.• The value of Incentive D is based on the level of a Settling State's Participation as of the Subdivision Participation Dates in Year 3 for purposes of Incentive B+C, and is paid in Years 3-6:<ul style="list-style-type: none">○ Below 95% Participation - 15% Incentive D○ 95% Participation - 13% Incentive D○ 96% Participation - 11% Incentive D○ 97% Participation - 9% Incentive D○ 98% Participation - 7% Incentive D○ 99% Participation - 5% Incentive D○ 100% Participation - 3% Incentive D
MFN	<ul style="list-style-type: none">• MFN following Effective Date for Settling States similar to Distributor deal, although the MFN would not trigger if within 90 days (rather than 60 days) of trial.
Intrastate Allocation	<ul style="list-style-type: none">• States & Subdivisions have power to internally agree on allocation.• By default, and similar to the Distributors' settlement, payments from Walmart go into 3 sub-funds: 15% to State Fund; 70% to Abatement Accounts Fund; 15% to Subdivision Fund.

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	<ul style="list-style-type: none">By default, and similar to the Distributors’ settlement, Abatement Accounts Fund is overseen by the Settling State and a State-designated “Opioid Settlement Remediation Advisory Committee,” with at least 50% of the funds in this account earmarked for regional remediation.
Use of Payments	<ul style="list-style-type: none">At least 85% of the maximum amount of all payments by Walmart, inclusive of remediation, fees, costs, and additional restitution, over the life of the deal (minus any reversions) must be used for opioid remediation, similar to J&J VI.B.1 and Dis. V.B.1.States and Subdivisions (if the State Specific Agreement does not specify the State will report on behalf of Subdivisions) must report to Walmart any use of funds for purposes other than opioid remediation, as in J&J VI.B.2, Dis. V.B.2. The “Total Remediation Amount” is the aggregate amount paid or incurred by Walmart other than amounts paid as attorneys’ fees and costs or identified as being used to pay attorneys’ fees, investigation costs or litigation costs.Enforcement of this provision is the same as J&J XII.C.2, Dis. VI.C.2.
Nature of Payment	<ul style="list-style-type: none">Similar to Dist. V.F J&J VI.FThe Settling States and Participating Subdivisions sought restitution and remediation within the meaning of 26 U.S.C. § 162(f)(2)(A) and 26 C.F.R. § 1.162-21(e)(4)(i), (ii), as damages for the Alleged Harms. “Alleged Harms” to be defined similar to Dist. I.D J&J I.4.Each of the Parties acknowledges, agrees, and understands that the Total Remediation Amount is no greater than the amount, in the aggregate, of the harms allegedly suffered by the Settling States and Participating Subdivisions. Each of the Parties acknowledges, agrees and understands that it is its intention that, for purposes of Section 162(f) of the Internal Revenue Code, the Total Remediation Amount by Walmart constitutes restitution and remediation for damage or harm allegedly caused by Walmart in order to restore, in whole or in part, the Settling States, Participating Subdivisions, and persons to the same position or condition that they would be in had the Settling States, Participating Subdivisions, and persons not suffered the Alleged Harms, and constitutes restitution and remediation for damage or harm allegedly caused by the potential violation of a law and/or is an amount paid to come into compliance with the law.For the avoidance of doubt, “restitution” as used herein has the meaning of 26 U.S.C. § 162(f)(2)(A) and 26 C.F.R. § 1.162-

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	<p>21(e)(4)(i), (ii); “restitution” as used herein does not refer to the disgorgement of ill-gotten gains. The Parties acknowledge, agree, and understand that no portion of the Remediation Payment represents the disgorgement of any allegedly ill-gotten gains.</p> <ul style="list-style-type: none">• No portion of the Total Remediation Amount represents reimbursement for the fees or costs of any investigation or litigation or is paid for or in place of any fine, penalty or other punitive assessments.• The fee payment is intended as reimbursement for attorney’s fees and other litigation costs and no portion of the fee payment is paid for or in place of any fine, penalty or other punitive assessment
Tax Reporting and Cooperation	<ul style="list-style-type: none">• A designated State, on behalf of all Settling States and Participating Subdivisions shall complete and file Form 1098-F with the Internal Revenue Service on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the order entering this Agreement becomes binding.• On the Form 1098-F, the Form designated State shall identify the Total Remediation Amount received by the Form 1098-F Filer as remediation/restitution. The Form 1098-F Filer shall also, on or before January 31 of the year following the calendar year in which the order entering this Agreement becomes binding, furnish Copy B of such Form 1098-F (or an acceptable substitute statement) to Walmart.• Similar to provisions in Dist. XIV.F and J&J XIII.E, including that the Settling States and Participating Subdivisions agree to perform further acts and execute and deliver further documents as reasonably necessary for Walmart to establish the statements in the Nature of Payment section and that the Settling States and Participating Subdivisions shall cooperate in good faith with Walmart with respect to any tax claim, dispute, litigation, etc. relating to this Agreement.
Subdivision Costs & Fees	<ul style="list-style-type: none">• On the same schedule as the Remediation Payment, total Attorneys’ Fees and Costs paid by Walmart for (a) Contingency Fee for Litigating Subdivisions with retained Outside Counsel, (b) MDL Common Benefit Fee, and (c) MDL and Subdivision Litigation Expense and Cost Fund, will total 12.4% times the amount of the Remediation Payment.• Attorneys’ Fees and Costs shall be paid to Attorneys engaged in Qualifying Representations only and are not available for representation of Non-Participating Subdivisions or Non-Litigating Subdivisions, as described in J&J Ex. R, I & II.A.4. Furthermore,

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	<p>Attorneys must meet the eligibility requirements of J&J Ex. R, II.G as amended with agreement of Walmart.</p> <ul style="list-style-type: none">Attorneys' Fees and Costs to be comprised of the following sums:<ul style="list-style-type: none">Approximately X% into an Attorney Fee Fund, itself divided Y% into a Contingency Fee Fund and Z% into a Common Benefit Fund. The Contingency Fee Fund and Common Benefit Fund shall be administered by a Fee Panel consistent with J&J Ex. R, II.A.3 & II.H. Subject to the reductions described below, Walmart shall pay the entirety of the Common Benefit Fund and Contingency Fee Fund payments into the Attorney Fee Fund within 15 days of the Effective Date.The Contingency Fee Fund is available to attorneys with qualifying representations of participating litigating subdivisions, as defined by J&J Ex. R, I & II.B.The Common Benefit Fund is available to attorneys with qualifying representations of participating litigating subdivisions who <i>also</i> have performed work for the common benefit of all subdivisions, as defined by J&J Ex. R, II.C or Counsel retained by the MDL Co-Leads, such as Insurance Counsel or Counsel retained on Appeals.Walmart must approve the ultimate allocation between the Contingency Fee Fund [Y] and the Common Benefit Fund [Z], such consent not be unreasonably withheld. For the avoidance of doubt, $Y + Z = 12.4\%$, less \$30 million paid into the MDL Expense Fund (\$7.5 of \$30 million) and Litigating Subdivision Cost Fund (\$22.5 of \$30 million), which would be available to compensate qualifying expenses and costs of both MDL counsel and state-court counsel representing Participating Litigating Subdivisions (i.e., a fund that combines the MDL Expense Fund and Litigating Subdivision Cost Fund in the Distributor and J&J settlements). Any unused amounts could revert to the CBF. The Parties and PEC agree that any amount corresponding to the portion of the combined MDL and Litigating Subdivision Expense and Cost Fund that would otherwise have been allocated to the MDL Expense and Cost Fund shall be no more than such amounts under the settlements with CVS (individually), Walgreens (individually), and Teva and Allergan (combined).<i>Withholding/Reductions by Walmart.</i> For any Eligible State that does not participate (i.e., does not become a Settling State), Walmart's total fee payment shall be reduced by 12.4% times the Remediation Payment amount allocated to that non-participating

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	<p>State plus either (i) the state's "fixed amount" (<i>i.e.</i>, 4.5% times 50% of the State's allocation) if the state is an outside counsel state or (ii) the additional restitution amount allocated to such state if not an outside counsel state. In no event shall reductions be made to that portion of the 2% allocated to the State Cost Fund provided, however, that the portion of the 2% allocated to State Cost Fund not exceed [TK]% times the amount of the Remediation Payment.² Walmart's total fee payment shall also be reduced by those payments to the Contingency Fee Fund and Litigating Subdivision Cost Fund for Attorneys representing Litigating Subdivisions in participating States (<i>i.e.</i>, Settling States) that continue to pursue released claims. If Walmart settles with any non-Settling State and subdivision(s) in such non-Settling State after the Effective Date, Walmart agrees to withhold from the attorney fee portion of such settlement a Common Benefit Fund assessment, to be deposited in the Common Benefit Fund, of Z% times the portion of the Remediation Payment that would have been due to such State if it had participated in this settlement and been awarded it full portion of the Remediation Payment (the "Walmart CBF Assessment"). If Walmart settles with any subdivisions in a non-Settling State other than in connection with a statewide settlement in such State, then Walmart agrees to withhold from the attorney fee portion of such settlement a Common Benefit Fund assessment, to be deposited in the Common Benefit Fund, of Z% times the portion of the Remediation Payment that would have been due to such subdivision under this Agreement (also, the "Walmart CBF Assessment"). The parties recognize that the Walmart CBF Assessment is inclusive of any assessment required by the Ongoing Common Benefit Order (Dkt. #4428) in <i>In re National Prescription Opiate Litigation</i>, case no. 1:17-md-2804. To the extent Walmart is required to separately pay any assessment on such settlement as a result of the Ongoing Common Benefit Order, the Walmart CBF Assessment will be reduced by the amount required to be paid pursuant to the Ongoing Common Benefit Order.</p> <ul style="list-style-type: none"> • <i>Reductions by Fee Panel for Non-Participating Litigating Subdivisions:</i> As noted, the Fee Panel shall ensure that payments are only made for Qualifying Representations of Participating Litigating Subdivisions. The Fee Panel shall withhold or reduce payment of the Contingency Fee Fund and Common Benefit Fund

² For purposes of the foregoing provision, the reductions of Walmart's total fee, cost, and additional restitution payments related to Walmart's prior settlements with the states of Florida and Alabama shall be 14.4% (*i.e.*, 12.4% plus 2%) times Florida's and Alabama's respective shares of the Remediation Payment.

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	<p>and Litigating Subdivision Cost Fund payments to Attorneys representing Litigating Subdivisions that continue to pursue released claims in order to make appropriate reductions in the payments to such Attorneys.</p> <ul style="list-style-type: none">• Within Settling States, the Common Benefit Fund and Contingency Fee Fund and Litigating Subdivision Cost Fund payments shall be reduced to reflect the non-participation of any Litigating Subdivisions by subtracting the amount identified by the Fee Panel that would have been owed to counsel for those Litigating Subdivisions had they participated. (See J&J Ex. R, II.D.4.).• The Fee Panel shall remit payment to Walmart from the Attorney Fee Fund of any amounts corresponding to such reductions.• In determining the allocation among Attorneys of the Common Benefit Fund, the Fee Panel shall consider such factors as whether the Attorney and his or her clients have contributed to increasing (or reducing) the Incentive payments awarded the State through participation; whether the Attorney and his or her clients have contributed to the potential failure to earn full Remediation Payment, including Incentive D (in the event Incentive A is not achieved); additional fee recoveries the Attorney may potentially obtain; and the Attorney's representation of non-participating subdivisions. See J&J Ex. R, II.B, II.C.4-5. Recognition that representing a Non-Participating Subdivision does not further the goal of the Agreement and should not be considered Common Benefit because it does not increase funds available to Participating Subdivisions' remediation and abatement programs, and representing Later Litigating Subdivisions is antithetical to the Settlement and detracts from Common Benefit. See J&J Ex. R II.C.4.
State Counsel Fees, State Costs, and Additional Restitution Amount	<ul style="list-style-type: none">• Two Percent (2%) times the Remediation Payment shall be paid for the aggregate of Settling State outside counsel fees, Settling State costs, and an additional restitution amount for Settling States without outside counsel. The division and treatment of this payment is subject to ongoing discussion among the States. The procedures for disbursing these funds among Settling States shall be addressed in exhibits to be negotiated to reflect experience with the analogous funds in the distributor and J&J settlements.

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Terms	Proposal
Recognition of Walmart's lesser culpability than other Defendants	<ul style="list-style-type: none">• Agreed upon Whereas clauses regarding Walmart's market share and other factors to be discussed.• PEC to adopt agreeable language in its public statements.
Enforcement & Dispute Resolution	<ul style="list-style-type: none">• Similar to J&J XII, Dis. VI.• The deal will only be enforceable by Walmart and Settling States (with limited exceptions).• In the event of a dispute, the parties will meet and confer in an attempt to informally resolve the dispute. If informal resolution is not achieved, the dispute will be resolved in court.• Disputes regarding terms applicable to multiple states may be submitted to a three-member "National Arbitration Panel" (similar to as described in J&J XII.F, Dis. VI.F.2.b).
Injunctive Relief	<ul style="list-style-type: none">• To be agreed upon between Walmart and AGs.
Ohio Population	<ul style="list-style-type: none">• In determining the Population for Ohio, the Population of the CT3 Trial Counties will not be part of the total Ohio Population. The portion of the Remediation Payment allocated to Ohio shall be reduced by the shares of the CT3 Trial Counties.
New York Population and Nassau and Suffolk Offset	<ul style="list-style-type: none">• In determining the Population for New York, the Population of Nassau and Suffolk Counties will not be part of the total New York Population. The portion of the Remediation Payment allocated to New York shall be reduced by the amount of the settlement between Walmart and Nassau and Suffolk Counties dated June 22, 2021.

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WALMART³	Settlement
Abatement Fund	2,632,204,598.72
Tribal Abatement Fund %	3.00%
Tribal Abatement Fund	\$78,966,138
Total Abatement	\$2,711,170,737
PEC/Subdivision Fee and Cost Fund %	12.40%
	\$326,393,370.24
MDL and Subdivision Settlement Cost and Expense Fund	\$30,000,000.00
PEC/Subdivision Fee and Cost Fund % Net of Cost and Expenses	\$296,393,370.24
Tribe Fee and Cost %	12.40%
	\$9,791,801.11
AG Fee And Cost %	2.00%
	\$52,644,091.97
Total Fees	\$388,829,263.32
Global Settlement	\$3,100,000,000
Tribal Global	\$88,757,939
AG/Subdivision Global.	\$3,011,242,061

³ The Tribal Settlement, and the amounts listed herein for Tribal abatement, fees, and costs, are separate from the States/PEC Settlement with Walmart.