

EXHIBIT R

Agreement on Attorneys' Fees, Costs, and Expenses

This Agreement on Attorneys' Fees, Expenses, and Costs ("Fee Agreement") is entered between Zydus and the Plaintiffs' Executive Committee appointed in the multidistrict litigation in the Northern District of Ohio, *In re National Prescription Opiate Litigation*, No. 1:17-MD-2804 ("MDL PEC"), in connection with the Zydus Global Opioid Settlement Agreement ("Zydus Agreement"). This Fee Agreement becomes effective on the Effective Date of the Zydus Agreement.

I. Definitions

- A. This Fee Agreement incorporates all defined terms in the Zydus Agreement, unless otherwise defined herein, and shall be interpreted in a manner consistent with the Zydus Agreement.
- B. "*Applicant.*" Any Attorney or MDL Participating Counsel who seeks an award of attorneys' fees from the Attorney Fee Fund pursuant to the procedures established by the MDL Court and the Fee Panel.
- C. "*Attorney.*" Any of the following retained through a legal contingency fee or hourly fee contract: a solo practitioner, multi-attorney law firm, or other legal representative of a Participating Subdivision or MDL Participating Counsel. This does not include Subdivision in-house attorneys.
- D. "*Attorney Fee Fund.*" An account consisting of funds allocated to pay attorneys' fees approved pursuant to Section IV of this Fee Agreement established by Order of and under the ongoing jurisdiction of the MDL Court, as provided below.
- E. "*Common Benefit.*" Work performed for the benefit of all Participating Subdivisions or Tribal Nations, including, but not limited to, pretrial matters, discovery, trial preparation, trial, settlement negotiations, and all other work that advances the interests of the Participating Subdivisions.
- F. "*Common Benefit Fund.*" The sub fund of the Attorney Fee Fund described in subsection IV.E.
- G. "*Contingency Fee Fund.*" The sub fund of the Attorney Fee Fund described in subsection IV.F. The Contingency Fee Fund shall be available to Attorneys who represent Subdivisions that are Participating Subdivisions who filed a lawsuit against any opioid defendant as of December 31, 2024, in state or federal court, and meet the eligibility criteria of Section IV.G.
- H. "*Cost and Expense Fund Administrator.*" The administrator appointed by the MDL Court on August 12, 2021 (MDL Docket No. 3828), to administer the Cost Fund as provided in the Fee Agreement.

- I. “*Court Common Benefit Fund.*” The Common Benefit Fund established by the MDL Court in its orders of July 22, 2021, MDL Docket No. 3794, May 9, 2022, MDL Docket No. 4428, and June 26, 2023, MDL Docket No. 5079.
- J. “*Fee Entitlement.*” Any right, entitlement, or expectation, including but not limited to a fee contract, contingent fee contract, agreement, referral arrangement, co-counsel arrangement, State Back-Stop agreement, or any other arrangement by which counsel could receive compensation or other consideration. For the avoidance of doubt, the scope of Fee Entitlement under subparagraph IV.G.3.a does not include any Attorneys’ fees associated with representation of a State.
- K. “*Fee Panel.*” The three-person panel appointed by the MDL Court on August 12, 2021 (MDL Docket No. 3828), to administer and make recommendations for the allocation and distribution of the Attorney Fee Fund and its sub funds as provided in the Fee Agreement.
- L. “*Later Litigating State*” means a State that first files a lawsuit bringing a Released Claim against a Released Entity after the Preliminary Agreement Date.
- M. “*Later Litigating Subdivision*” means any Subdivision (as defined by the Settlement Agreement), regardless of its population, in any state, that first files a lawsuit bringing a Released Claim against a Released Entity after the Preliminary Agreement Date.
- N. “*MDL Court.*” United States District Court for the Northern District of Ohio Eastern Division, Case No. 1:17-md-2804, Judge Dan Aaron Polster.
- O. “*MDL Direct Cost Fund.*” The cost fund described in subparagraph III.A.
- P. “*MDL Participating Counsel.*” MDL Participating Counsel includes an attorney or firm authorized by MDL 2804 Lead Counsel to perform work for the Common Benefit of Participating Subdivisions. By way of example, it would include insurance counsel and appellant counsel.
- Q. “*MDL PEC.*” The Plaintiffs’ Executive Committee appointed by the MDL Court.
- R. “*Non-Participating Litigating Subdivision.*” A Litigating Subdivision that is not a Participating Subdivision.
- S. “*Non-Participating State.*” A State that is not a Settling State.
- T. “*Participating Litigating Subdivision.*” A Litigating Subdivision that is also a Participating Subdivision.
- U. “*Participation Agreement.*” An agreement executed by an Attorney that acknowledges the obligation to pay an appropriate MDL Common Benefit Assessment.

- V. *“Qualified Tribal Representation.”* Representation by an attorney of a Participating Tribal Government, whether their actions are filed in state or federal court against any opioid defendant as of December 31, 2024 and meet the eligibility criteria of Section IV.G. Such counsel are eligible for Common Benefit Fee consideration. The Zydus Tribal Global Settlement will provide for the contribution to the Common Benefit Fund as determined by the MDL Court.
- W. *“Qualifying Representation.”* Legal services provided for representation of the MDL PEC or Participating Subdivision who filed a lawsuit against any opioid defendant as of December 31, 2024, in state or federal court, and meet the eligibility criteria of Section IV.G.
- X. *“State Back-Stop Agreement.”* Any agreement by a Settling State and private counsel for Participating Subdivisions in that State (or legislation enacted in that State) to provide, adjust, or guarantee attorneys’ fees and costs, whether from the Attorney Fee Fund or any other source recognized in the agreement or legislation.¹

II. Maximum Exhibit R Attorney Fee and Cost Funds

- A. Total attorneys’ fees and costs to be paid by Zydus under this Fee Agreement shall (“Private Attorney Fees” and/or “Maximum Exhibit R Attorneys Fee and Cost Funds”) be up to, but in no event more than, \$1,842,543, as reflected in Exhibit M-1 of the Zydus Agreement, subject to the provisions and any applicable downward adjustments set forth herein. This amount is to be divided between the MDL Direct Cost Fund and the Attorney Fee Fund in accordance with sections III and IV herein.² In no event shall Zydus be required to pay more into the Attorney Fee Fund and MDL Direct Cost Fund (combined) than the amounts reflected below. Such payment shall be made by Zydus by the Payment Date³ as set forth in the Zydus Agreement.
- B. The Maximum Exhibit R Attorney Fee and Cost Funds amount shall be offset for Non-Settling States and Non-Participating Subdivisions as follows:

¹ Nothing herein shall be understood to indicate approval for additional State Back-Stop Agreements or modifications of existing State Back-Stop Agreements.

² The MDL Direct Cost Fund amount represents 2.5% of the Private Attorney Fees paid herein and amounts to \$46,063.58 and the Attorney Fee Fund represents the remaining funds amounting to \$1,796,479.42.

³ “Payment Date” shall have the same meaning for Zydus as set forth in the Zydus Agreement. This date may be changed by written agreement of Zydus and the Enforcement Committee.

1. If an Eligible State does not join the Agreement by the Reference Date and is accordingly not a Settling State, the total attorneys' fees and costs to be paid under this Fee Agreement by Zydus shall be reduced by twelve point four percent (12.4%) times the portion of the Maximum Remediation Payment that would have been allocated to that Non-Settling State pursuant to its State Allocation Percentage.

2. The total attorneys' fees and costs to be paid under this Fee Agreement by Zydus shall also be reduced by the amount of the Contingency Fee Fund for Attorneys representing Non-Participating Litigating Subdivisions in any Settling State, as set forth in Section IV.F.4 and IV.H.7 below. Any reduction or credit will be applied to the last payment under this Agreement.

C. Settlement of Non-Participating States and/or Non-Participating Subdivisions.

1. If Zydus settles with any Non-Participating State after April 4, 2025, and such settlement allows for the Subdivision(s) in such Non-Settling State to join the settlement, Zydus agrees to withhold from such settlement (1) a Common Benefit Fund assessment, to be deposited in the Court Common Benefit Fund, of 7.5% times the portion of the Remediation Payment that would have been due to such State and its Subdivisions if they had participated in the Zydus Settlement and been awarded its full portion of the Remediation Payment (the "Zydus State Settlement CBF Assessment") and (2) a Contingency Fee payment for subdivisions of 4.9% times the portion of the Remediation Payment that would have been due to such State if it had participated in the Zydus Settlement and been awarded its full portion of the Remediation Payment (the "Zydus State Settlement CFF Assessment"). Zydus's withholding of such funds protects the division of subdivision fees to all eligible Participating Subdivisions as set forth in IV.F.2 and shall not alter the pro-rata allocation of fees to these Participating Subdivisions under this Agreement.⁴ If Zydus settles with any Subdivision(s) in a Non-Settling State other than in connection with a statewide settlement that includes the relevant State after April 4, 2025, then Zydus agrees to withhold from such settlement a Common Benefit Fund assessment, to be deposited in the Court Common Benefit Fund, of 7.5% times the portion of the Remediation Payment that would have been due to such Subdivision under this Agreement (the "Zydus Subdivision CBF Assessment," and, along with the Zydus State Settlement CBF Assessment, each an "Zydus CBF Assessment").

⁴ The withholding shall not impact the calculation of the total fees that may be due to Subdivision outside counsel under any applicable state allocation agreements or allocation statutes. The state allocation agreements or allocation statutes shall in no way impact Zydus's payments due under Exhibit R or M.

2. If (a) Zydus settles with a Non-Settling State after April 4, 2025, (b) such settlement does not allow for the Subdivision(s) in such Non-Settling State to join the settlement, and (c) Zydus later prevails in asserting that Released Claims of Primary Subdivisions in such Non-Settling State were released as a result of such settlement, Zydus agrees to deposit the Zydus State Settlement CBF Assessment in the Common Benefit Fund. Any Zydus CBF Assessment is inclusive of any assessment related to such settlement that would be required by the Common Benefit Order. To the extent that Zydus is required to pay any additional and/or separate assessment on such settlement as a result of the Common Benefit Order, the Zydus CBF Assessment shall be reduced by the amount required to be paid pursuant to the Common Benefit Order.

III. MDL Direct Cost Fund

- A. Subject to any adjustments as set forth below, the total MDL Direct Cost Fund to be paid by Zydus shall be \$46,063.58 to cover all necessary MDL costs, including the costs of mediation and the administration of this Fee Agreement. The funds shall be paid by Zydus by the Payment Date in accordance with the amounts set forth on Exhibit M.
1. It is the intention of the Parties that the MDL Direct Cost Fund shall be administered by the Cost Fund and Expense Fund Administrator (MDL Docket No. 3828), who will be governed by the provisions of this Agreement and shall design the process and procedures for the allocation of costs pursuant to this Agreement and the MDL Court's Order.
 2. The costs of the Cost and Expense Fund Administrator shall be paid from the MDL Direct Cost Fund, including any interest or return therein, to fairly charge the fund the costs incurred in implementing and supervising the fund.
 3. At the conclusion of the Zydus settlement process, any funds not allocated by the Cost and Expense Fund Administrator in the MDL Direct Cost Fund (including any interest or return accrued therein) shall be transferred to the MDL Common Benefit Fund. Any shortfall in the MDL Direct Cost Fund may be transferred to the MDL Direct Cost Fund from the Attorney Fee Fund as the Cost and Expense Fund Administrator deems necessary. For the avoidance of doubt, Zydus shall have no obligation to cover any costs, fees, or other amounts under this Fee Agreement in excess of the Maximum Exhibit R Attorney Fee and Cost Funds listed in Exhibit M.

IV. Attorney Fee Fund

- A. The total Attorney Fee Fund to be paid by Zydus shall be \$1,796,479.42, subject to any adjustments as set forth above and below. The funds shall be paid by Zydus by the Payment Date.

B. The Attorney Fee Fund shall consist of the Contingency Fee Fund and the Common Benefit Fund.

1. It is the intention of the Parties that the Contingency Fee Fund and the Common Benefit Fund shall be administered by the Fee Panel (MDL Docket No. 3828), which will be governed by the provisions of this Fee Agreement and shall design the process and procedures for the allocation of fees pursuant to this Fee Agreement and the MDL Court's Order.

C. The fees to be paid under this Fee Agreement are available for Attorneys engaged in Qualifying Representations and Qualified Tribal Representations only. Fees to be paid under this Fee Agreement are not available prior to the Effective Date of the Zydus Agreement if the Zydus Agreement does not proceed past Zydus's determination in subsection IX of the Zydus Agreement. Fees to be paid under this Fee Agreement are not available for representation of States, Non-Participating Subdivisions, or Non-Litigating Subdivisions, and are not available for representation of private hospitals, third-party payors, NAS claimants, personal injury/wrongful death claimants, or any entity other than Participating Litigating Subdivisions. In addition, fees under this Fee Agreement are not available for representation of any individual or entity in matters other than claims against Released Entities, but may include a reasonable share of representations that involve development of facts for pursuit of opioid-related claims against multiple defendants in the pharmacy, manufacturing, and distribution chain.

D. *Attorney Fee Fund and Sub Funds.*

1. There shall be a split of the Attorney Fee Fund into the Contingency Fee Fund and the Common Benefit Fund. The split shall be 40% to the Contingency Fee Fund and 60% to the Common Benefit Fund.
2. In no event shall Zydus be required to pay more into the Attorney Fee Fund and MDL Direct Cost Fund than the amount specified in subsection I.ZZ of the Zydus Agreement, namely \$1,842,543, which amount also is reflected in Exhibit M to the Zydus Agreement. The amounts allocated to the Contingency Fund and the Common Benefit Fund shall be subject to the reductions and refunds set forth above and below.
3. Awards of fees from the Contingency Fee Fund shall be available to Attorneys with Qualifying Representations of Participating Litigating Subdivisions eligible to receive an allocation under the Zydus Agreement, as set forth in Exhibit G to the Zydus Agreement, and shall be made applying the mathematical model implemented in previous global settlements with defendants named in the multidistrict litigation in the Northern District of Ohio, *In re National Prescription Opiate Litigation*, No. 1:17-MD-2804 and consistent with the terms of this Fee Agreement. The collection of the data and calculations for the mathematical model has been a cooperative effort among private counsel for a large number of Litigating Subdivisions. The

analysis was spearheaded by Joseph Tann and Andrew Arnold. The Fee Panel is encouraged to continue working with those counsel in application of the model. The Fee Panel shall oversee the application of the model and resolve any questions or disputes concerning the eligibility of a Counsel to participate as required in subsection IV.G. The Panel is empowered to hear disputes concerning and ensure the accuracy of the mathematical calculation.

4. As to awards from the Contingency Fee Fund, there shall be no right of appeal.
5. Any appeal of an award of the Fee Panel from the Common Benefit Fund will be made to the MDL Court and be reviewed under an abuse of discretion standard.

E. *Common Benefit Fund (60% of the Attorney Fee Fund).*

1. Funds in the Attorney Fee Fund shall be allocated to the Common Benefit Fund in the amount of \$1,077,887.65, subject to any adjustments as set forth above and below, and in no event shall it exceed that amount.
2. The Common Benefit Fund shall be available to compensate Attorneys engaged in Qualifying Representations of Participating Litigating Subdivisions and Qualified Tribal Representation of Tribal Participating Governments who:
 - a. have performed work for the Common Benefit of all Participating Subdivisions and/or Tribal Nations consistent with the provisions to the guidelines established by Judge Polster set forth in MDL 2804 and the May 1, 2018 Order, under docket number 358, which is incorporated herein by reference; and
 - b. satisfy the eligibility criteria set forth in subsection IV.G.
3. For purposes of Common Benefit Fund distribution, Attorneys representing Tribal Nations litigating against Zydus have also reached a settlement for Released Claims with Zydus. This settlement shall be the subject of a separate agreement with Zydus. Attorneys representing Tribal Nations are eligible for Common Benefit consideration, provided such agreement with Zydus becomes effective under its terms. Such Attorneys must meet the eligibility criteria in subsection IV.G.
4. For purposes of Common Benefit Fund distribution, MDL Participating Counsel not engaged in Qualifying Representations of Participating Litigating Subdivisions but who performed work for the Common Benefit pursuant to authorization from the MDL Co-Leads and meet the eligibility criteria in subsection IV.G shall be eligible.

5. The Common Benefit Fund shall be overseen by the Fee Panel, which shall determine the allocation of funds to eligible Attorneys consistent with this Fee Agreement, and the May 1, 2018 Order and any other applicable Orders of the MDL Court.
6. In assessing the benefits that an Applicant has conferred to Participating Subdivisions (including non-Litigating Subdivisions) and/or Tribes for purposes of any compensation decision, the Fee Panel shall give significant weight to the extent to which (i) the Applicant and his or her clients have contributed to increasing (or reducing) the Initial Participation in the Zydus Agreement, and (ii) the Applicant and his or her clients have contributed to increasing (or reducing) the amounts achieved under Incentive Payments A-BC through participation in the Zydus Agreement, including the Zydus Tribal Agreement. The Fee Panel may also consider additional fee recoveries the Applicant may have obtained or potentially could obtain, including, but not limited to, from attorney fee funds under other settlement agreements, State Back-Stop Agreements, representations of States or Tribal Nations, representations of other clients in opioids-related matters, or through the representation of Subdivision clients, whether they participated in the Zydus Agreement or not. It is the intent of this provision to recognize that the goal of the Zydus Agreement is to provide for maximum participation by the Subdivisions, maximum abatement funding for all Subdivisions nationally, and the maximum peace for Released Entities. Therefore, representing one or more Non-Participating States or Non-Participating Subdivisions does not further the goal of the Zydus Agreement, and should not be considered Common Benefit because it does not increase funds available to Participating Subdivisions' abatement programs. Representing one or more Later Litigating States or Later Litigating Subdivisions is antithetical to the Zydus Settlement and detracts from Common Benefit. The Fee Panel shall consider this concept of "common detriment" set forth in this paragraph in all of its decision making with respect to the allocation of the Attorney Fee Fund among Applicants, as well as, in its discretion, any offsets provided to Zydus as set forth in subsection IV.H. The Fee Panel shall consider the totality of the Applicant's Participating Litigating Subdivisions as compared to the Applicant's Non-Participating Litigating Subdivisions; the Parties recognize that, although the goal is for 100% participation, Applicants with a greater number of clients have a greater probability of having one or more Non-Participating Litigating Subdivisions. As used in this paragraph, "client" or "representing" a Subdivision shall include any Litigating Subdivision as to which the Applicant has a Fee Entitlement.
7. As set forth in Section IV.H, the Fee Panel must consider the factors described in IV.E.6 to determine how and whether to reduce the amounts to be paid by Zydus under this Fee Agreement and to determine how to allocate funds among Applicants. They may also, at their discretion, consider other factors. Any reduction in payment obligation or credit to be given Zydus in this Fee

Agreement shall be applied against the last Payment Year and then working backwards. Any reduction to an Applicant not credited to Zydus shall be allocated to attorneys whose Litigating Subdivision clients participated in the settlement by the Initial Participation Date.

8. Zydus's Common Benefit Fund payments under this Fee Agreement satisfy any assessments or withholdings for the Zydus Agreement that are or could be required under the Common Benefit Order for Settling States and their Participating Subdivisions.
9. Pursuant to Ongoing Common Benefit Order of May 9, 2022, Docket 4428, the MDL PEC has established Common Benefit Fee Order requiring an assessment of 7.5% on the gross recovery (by judgment or settlement) of any Non-Participating Subdivision that is subject to the federal court jurisdiction, represented by a MDL PEC firm, represented by any Attorney receiving fees from the Common Benefit Fund, represented by any Attorney that signed a Participation Agreement or had been paid in a case otherwise under the jurisdiction of the MDL Court. Pursuant to section VII of that Order, as described in Section II.C above, each Defendant named in any case pending in the MDL is required to hold back the 7.5% common benefit percentage from all applicable judgments and settlements entered after the date of that Order and to deposit such amounts in into the Court Common Benefit Fund.

F. Contingency Fee Fund (40% of the Attorney Fee Fund).

1. Funds from the Attorney Fee Fund shall be allocated to the Contingency Fee Fund in the amount of \$718,591.77, subject to any adjustments as set forth above and below, and in no event shall it exceed that amount.
2. The Contingency Fee Fund shall be available to compensate Attorneys engaged in Qualifying Representations of Participating Litigating Subdivisions and Participating Tribal Governments that meet the criteria set forth in subsection IV.G. For the avoidance of doubt, the Contingency Fee Fund shall be available to Attorneys who represent Subdivisions that are Participating Subdivisions who filed a lawsuit against any opioid defendant as of December 31, 2024, in state or federal court, and meet the eligibility criteria of Section IV.G.
3. Participation in the Contingency Fee Fund by counsel that have a case that is not subject to the jurisdiction of the MDL Court shall not create, provide, or waive the objection to jurisdiction of the MDL Court over that Litigating Subdivision, that case or Attorneys, other than to oversee the fairness of the distribution process, and enforcement of this Fee Agreement.
4. The amount owed by Zydus to the Contingency Fee Fund shall be reduced to reflect the non-joinder of Litigating Subdivisions in Settling States by subtracting the amounts identified by the Fee Panel, pursuant to paragraph

IV.H.7, that would have been owed to counsel for Non-Participating Litigating Subdivisions in Settling States had such Litigating Subdivisions been Participating Subdivisions.

5. In the event that Zydus, prior to the Effective Date of the Agreement, settles with any Litigating Subdivision that would have been eligible to participate in this Fee Agreement, and, under such settlement agreement pays attorneys' fees, the Fee Panel shall treat those Litigating Subdivisions as Participating Litigating Subdivisions and, applying the same criteria applicable to all Attorneys for Participating Litigating Subdivisions, determine what amount they would have been paid from the Contingency Fee Fund if they had become Participating Subdivisions under the Zydus Agreement without such prior settlement. That sum, rather than being paid to the Attorney for the previously settling Litigating Subdivision, shall be credited and/or returned to Zydus, except that the amount returned or credited shall not be greater than the amount paid to the Attorneys under the Litigating Subdivision's prior settlement agreement. All credits will be applied to the last Payment Year.
6. During the period between the Preliminary Agreement Date and the Effective Date, the MDL PEC, as well as Litigating Subdivisions' Attorneys, shall make best efforts to cease litigation activity against Zydus, including by jointly seeking stays or severance of claims against Zydus, where feasible, or postponements if a motion to stay or sever is not feasible or is denied, so long as such actions are not otherwise detrimental to the Litigating Subdivision.

G. Eligibility.

1. It is the intention of all parties participating in the Fee Panel process that there should be total transparency to the Fee Panel and to all fund participants. In connection with the process to be developed by the Fee Panel, any and all monies in attorney's fees received or awarded, including prior or future Contingency Fees, Common Benefit Fees, referral fees, expenses paid, promises for payment, or any other Fee Entitlement, to any Applicant in any opioid litigation shall be disclosed to the Fee Panel as a condition of participating in the Attorney Fee Fund and prior to an award from the Fee Panel. Any payment, expectation of payment or perceived entitlement to participate in a State Back-Stop Agreement or any other agreement reached with a Settling State or any Subdivision or any other source regarding payment of fees must be disclosed to the Fee Panel. Similarly, any right to payment from any other fund, for example a fund for payment to lawyers representing Settling States or Tribal Nations or Subdivisions shall be disclosed to the Fee Panel. Because it is anticipated that there will be multiple firms listed on contingent fee agreements with Litigating Subdivisions, the Fee Panel shall establish procedures, with input from Attorneys for Participating Litigating Subdivisions, for who should petition for fees from such groups and to whom the fee shall be paid and thereafter distributed to co-counsel in accordance with applicable agreements.

For the avoidance of doubt, all Attorneys that are part of such groups must meet the eligibility criteria in paragraph IV.G.3, must be subject to the criteria set forth in subsection IV.C, and must be disclosed to the Fee Panel.

2. An Applicant may apply for and recover attorneys' fees from the Common Benefit Fund, the Contingency Fee Fund, and any fund created by a past or future State Back-Stop Agreement, provided the Applicant satisfies the requirements relevant to each such fund and requirements for disclosure to the Fee Panel.
3. An Attorney may not receive any payment from the Attorney Fee Fund (which includes both the Contingency Fee Fund and the Common Benefit Fund) unless the following eligibility criteria are met and annually certified by the Attorney:
 - a. The Attorney must expressly waive the enforcement against the Litigating Subdivision client of all Fee Entitlements (other than under State Back-Stop Agreements) arising out of or related to any or all Qualifying Representations of any Participating Litigating Subdivision prior to applying for attorneys' fees from the Attorney Fee Fund. All applications for attorneys' fees under this Fee Agreement shall include an affirmation by the Attorney of such waiver and notice to the client(s) of such waiver. Such waiver shall not preclude the Attorney from submitting such Fee Entitlements to the Fee Panel as a factor for consideration in allocating payments from the Attorney Fee Fund or in connection with a State Back-Stop Agreement. For the avoidance of doubt, no Attorney may recover fees under this Fee Agreement unless the Attorney expressly agrees not to enforce Fee Entitlements as to each and every Participating Litigating Subdivision represented by that Attorney, but such Attorneys may participate in and receive funds from a State Back-Stop Agreement.
 - b. The Attorney must represent that s/he has no present intent to represent or participate in the representation of any Later Litigating Subdivision or Later Litigating State with respect to Released Claims against Released Entities.
 - c. The Attorney must represent that s/he has not and will not engage in any advertising or solicitation related to Released Claims against Released Entities where such advertising or solicitation relates to a representation of a Subdivision eligible to be a Participating Subdivision after the Reference Date, unless the Attorney is recommending participation in the Agreement.
 - d. The Attorney must represent s/he will not charge or accept any referral fees for any Released Claims brought against Released Entities by Later Litigating Subdivisions or Later Litigating States. This representation

shall not prohibit Attorneys from receiving allocated shares of any future common benefit assessments arising out of settlements or judgments with Later Litigating Subdivisions or Later Litigating States that are the result of the MDL Court's Common Benefit order.

- e. The Attorney may not have and must represent that s/he does not have a Fee Entitlement related to a Later Litigating Subdivision or Later Litigating State, other than a potential Common Benefit Fee.
 - f. The Attorney must fully disclose the participation, or the anticipation of participation, in any agreement with a Settling State or Participating Subdivision concerning fees arising out of or related to the Zydus Agreement, including any fees paid or anticipated to be paid or any State Back-Stop Agreement.
 - g. The Attorney must identify for the Fee Panel whether s/he utilized state litigation work product or MDL work product, including but not limited to ARCOS data, document repositories, experts developed in the MDL, trial transcripts, or deposition transcripts. The Attorney must identify whether s/he signed the MDL Participation Agreement.
 - h. Any Attorney who applies for fees from one or both Funds must represent that, having exercised his/her independent judgment, s/he believes the Zydus Agreement to be fair and will make or has made best efforts to recommend both Agreements to his or her Subdivision clients in Settling States. For avoidance of doubt, each Attorney is expected to exercise his or her independent judgment in the best interest of each client individually before determining whether to recommend joining the settlement. All applications for attorneys' fees or costs under this subsection shall include an affirmation by the Attorney in compliance with the foregoing subparagraphs.
- 4. No Attorney receiving fees under this Fee Agreement may apply for or recover from the Attorney Fee Fund fees arising from representing a Non-Settling or Non-Participating Subdivision, provided, however, that this provision is not intended to prohibit Attorneys who do not represent or otherwise have a contractual agreement with such Non-Settling State or Non-Participating Subdivision from receiving allocated shares of any future common benefit assessments that arise out of settlements or judgments involving such Non-Settling State or Non-Participating Subdivision. All applications for attorneys' fees under this subsection shall include an affirmation by the Attorney of compliance with this Section.
 - 5. An Attorney who has filed an application under this subsection and received an award of attorneys' fees shall provide a certification of compliance with the requirements of this Fee Agreement annually during the years upon which they

are still entitled to receive attorneys' fee payments under this Agreement. This certification will be done as directed by the Fee Panel, which may be combined with certifications as to other settling opioid defendants for efficiency and at the Panel's discretion.

6. If, at any time, the Attorney is unable to make the representations set forth in this subsection, such representations become untrue, or the Attorney falsely represents compliance with the eligibility criteria, the Attorney shall cease to be eligible to receive funds from the Attorney Fee Fund until further review by the Fee Panel of the Attorney's eligibility under and compliance with this subsection.
7. If an Attorney has a Fee Entitlement with a Later Litigating Subdivision or Later Litigating State or otherwise becomes unable to reaffirm compliance with the eligibility criteria set forth above, the Attorney shall notify the Fee Panel. For the avoidance of doubt, any Attorney who undertakes any new representation of, or has a Fee Entitlement with, a Later Litigating Subdivision or Later Litigating State shall be prohibited from receiving any future funds from the Attorney Fee Fund. If an Attorney fails to notify the Fee Panel of such Fee Entitlement with a Later Litigating Subdivision or Later Litigating State, the Attorney shall be required to refund amounts previously paid. The Fee Panel shall notify Zydus when it receives notification.
8. In the event that an Attorney is deemed ineligible by the Fee Panel (whether based on its initial application or subsequent recertification), the Fee Panel shall provide notice to the Attorney and give the Attorney 30 days to provide additional information such that the Fee Panel could re-consider the Attorney's eligibility.
9. To the extent that an Attorney has a Fee Entitlement with a Participating Subdivision and is authorized to bring Released Claims against Released Entities, but such authorization is, in scope, less broad than the category of Released Claims set forth in the Zydus Agreement, such Attorney may participate fully in both the Contingency Fee Fund and the Common Benefit Fund, without any reduction imposed by the Fee Panel due to the scope of the authorization, so long as the Participating Subdivision fully releases all Released Claims against Released Entities.
10. Attorneys applying to the Attorney Fee Fund knowingly and expressly agree to be bound by the decisions of the Fee Panel, subject to the limited appeal rights set forth in this Fee Agreement, and waive the ability to assert the lack of enforceability of the allocation reached through the procedures outlined herein.

11. Applicants are under an ongoing obligation to inform the Fee Panel in writing of any additional fees earned, expected, or received related to any Opioid litigation throughout the period of the Fee Panel's operation.

H. *Calculation of Amounts Due.*

1. The Fee Panel shall be solely responsible for determining the amount of fees to be paid to each Applicant. None of the Released Entities shall have any responsibility, obligation, or liability of any kind whatsoever with respect to how attorneys' fees are calculated under this subsection, except that the Fee Panel may receive information from Zydus as to (a) the identity of Participating, Non-Participating, Litigating, Later Litigating, and Non-Litigating Subdivisions; (b) the impact of non-participation by a Litigating Subdivision as is relevant to the Fee Panel's determination in paragraph IV.E.6; and (c) such other information as Zydus may voluntarily elect to provide.
2. The Fee Panel shall establish procedures for making determinations under this Fee Agreement consistent with this Fee Agreement and orders of the MDL Court. Such procedures may include submission of documentary and/or other evidence, interviews with Applicants and/or other counsel (including counsel for Zydus) that the Fee Panel deems appropriate, and/or other means of creating a record upon which fee awards will be based.
3. In making determinations under this Fee Agreement, the Fee Panel must apply the eligibility criteria set forth in subsection IV.G of this Fee Agreement and the criteria set forth in paragraph IV.E.2. The Fee Panel shall ensure that payments are only made for Qualifying Representations of Participating Litigating Subdivisions and Qualified Tribal Representations. In addition, the Fee Panel will give consideration in regard to Common Benefit Fund awards to the *Johnson* factors, as well as the following factors (which factors may be applied and given relative weight in the Fee Panel's discretion):
 - a. The Applicant's contemporaneously recorded time and labor dedicated to Qualifying Representations along with the Applicant's financial commitment to such Qualifying Representations. Claimed "time" will not be automatically accepted by the Fee Panel but will be critically reviewed and given substantially more weight and consideration if such time was subject to the audit process described in any Pretrial Order(s) governing the collection of common benefit time;
 - b. The novelty, time, and complexity of the Qualifying Representations;
 - c. The skill requisite to perform legal services properly and undesirability of the case;

- d. The preclusion of other employment by the Applicant due to time dedicated to Qualifying Representations;
- e. The Common Benefit, if any, alleged to have been conferred by the Applicant and whether such Common Benefit work product by that Applicant was used by others in parallel litigations against Released Entities whether within or outside the MDL, provided that any Applicant claiming that s/he substantially benefited cases other than those in which s/he entered an appearance as counsel must substantiate such claims by proffering factual support, such as proper supporting affidavits or other documents as determined by the Fee Panel with input from Attorneys for Participating Litigating Subdivisions;
- f. Any “common detriment,” as set forth in paragraph IV.E.6.
- g. Any contingent fee agreement or other Fee Entitlement with Participating Subdivisions, enforcement of which, except for State Back-Stop Agreements, are waived in conjunction with the application, the nature and extent of any work for those Participating Subdivisions, whether such Participating Subdivisions actively litigated and, if so, the nature and procedural history of such case(s);
- h. The experience, reputation, and ability of the Applicant;
- i. Whether the Applicant’s clients brought Released Claims against Released Entities;
- j. The status of discovery in cases primarily handled by the Applicant;
- k. The nature of any work by the Applicant on “bellwether” cases or cases that were similarly active in litigation;
- l. Any pressure points successfully asserted by the Applicant in cases against Zydus or any risk for Zydus created by the Applicant in cases against them;
- m. Any risk for defendants created by Applicants in cases against Zydus;
- n. Successful and unsuccessful motion practice in cases worked on by the Applicant;
- o. The date of filing of any cases filed by the Applicant;
- p. Obtaining consolidation of the litigation in the Applicant’s jurisdiction;

- q. The number and population of entities represented by the Applicant and the fees that would have been awarded under extinguished contingent fee arrangements;
 - r. Whether the Applicant's clients brought claims against Zydus;
 - s. Whether the Applicant has had a leadership role in the litigation, whether in state or federal court;
 - t. Whether the Applicant has had a leadership role in any negotiations aimed at resolving the litigation;
 - u. Whether the Applicant's cases have survived motions to dismiss;
 - v. The extent to which the Applicant contributed to the work product used for the common benefit of opioids litigants, including, without limitation, work on ARCOS data, Prescription Data Monitoring Programs, IQVIA data, depositions, document production and analysis experts, motions, briefs and pleadings, trial preparations, and trials;
 - w. The extent to which litigation was done prior to and contributed to completion of settlement negotiations, as distinct from litigation that was done litigating after the announcement of the Zydus Agreement, such latter litigation both being of less value and potentially resulting a common detriment to the settlement process;
 - x. The extent to which an Applicant demonstrated a continued commitment of time and resources to MDL 2804 since July 1, 2023; and
 - y. Any other factors that the Fee Panel finds to be appropriate to consider after input from Applicants to the Attorney Fee Fund.
4. In the event that States and Subdivisions enter into an additional global settlement with a party or parties other than Zydus that is (a) under the jurisdiction of the MDL Court in MDL No. 2804, and (b) creates a separate common benefit fund to be administered by the Fee Panel, the Fee Panel may:
- a. Consolidate the Common Benefit approval process to include evaluation of all Common Benefit Applications for all settlements entered which were not previously subject to a final common benefit award by the MDL Court;
 - b. Determine the fair and equitable allocation of the Aggregate Common Benefit Fees for such settlements, including consideration of beneficial or detrimental actions taken with respect to any Settling Defendant contributing to the Common Benefit Attorney Fee Fund;

- c. Give consideration to the amount and timing of each settlement, including the amount and timing of Common Benefit Fees;
 - d. The Fee Panel shall abide by the applicable Attorney Fee Agreement in each of the Settlements in Allocating the Common Benefit Fees provided for in the Settlement; and
 - e. Be guided in their work by the Orders of the Court related to Fees and Costs.
5. The Fee Panel shall develop procedures for receiving a single application, which may be updated or amended based on new information (such as participation by additional Litigating Subdivisions) from each Applicant seeking compensation from each sub fund of the Attorney Fee Fund pursuant to processes and procedures developed by the Fee Panel, which shall not be inconsistent with this Fee Agreement. Any request for attorneys' fees not included on the single application or through the updating/amendment process designed by the Fee Panel shall be deemed waived. For purposes of transparency and to permit the Fee Panel to conduct its work, the application from each Applicant shall, at a minimum, require each Applicant to:
- a. Identify all Litigating Subdivisions for which s/he is seeking payment from the Attorney Fee Fund;
 - b. Identify all Subdivisions in both Settling and Non-Settling States (and, where applicable, Tribal Nations) with respect to which s/he has a Fee Entitlement with respect to Relevant Claims against Released Entities, and identify all co-counsel in such cases;
 - c. Identify which of those Subdivisions are Participating Subdivisions and which are not (with similar information for Tribal Nations, where applicable);
 - d. Specify the specific fund or funds within the Attorney Fee Fund from which the Attorney is seeking compensation;
 - e. Demonstrate his or her eligibility for compensation from the relevant sub funds within the Attorney Fee Fund pursuant to the criteria set forth for the relevant sub fund;
 - f. Identify any and all Fee Entitlements from representations of States, Tribal Nations, or other plaintiffs related to Released Claims against Released Entities or in opioids-related matters;
 - g. Notwithstanding "a-f" above, the Panel may consider a supplemental application if the Applicant shows good cause why circumstances exist that will lead to consideration for additional Common Benefit award. Examples

would include, but are not limited to, an Applicant having Non-Participating Litigating Subdivision clients that subsequently become Participating Subdivisions, a Bar Date passes that increases participation or the Participation Tier, or an Allocation Agreement is reached.

6. With respect to the Common Benefit Fund, the Fee Panel shall (subject to any applicable MDL Court Order):
 - a. Review the applications of all Applicants seeking compensation from the Common Benefit Fund, including determining eligibility for each Applicant as set forth in subsection IV.G.
 - b. Using criteria set forth in subsections IV.E and IV.H, allocate amounts from the Common Benefit Fund to eligible Applicants. In making such allocations, the Panel shall apply the principles set forth in paragraph IV.E.6 and shall apply the principles set forth in paragraph IV.E to the amounts paid to Applicants with a Common Benefit Fee Entitlement and shall allocate any reduction in the payments specified in paragraph IV.E to the amounts paid to Applicants with a Common Fee Entitlement.
 - c. Reduce on an annual basis, Zydus's payment obligations as set forth in paragraph IV.E. The Panel shall inform Zydus, and the MDL PEC of all such amounts and adjust payment obligations accordingly.
7. With respect to the Contingency Fee Fund, the Fee Panel shall:
 - a. Review the applications of all Attorneys seeking compensation from the Litigating Subdivision Fee Fund, including determining eligibility for each Attorney as set forth in subsection IV.G.
 - b. Apply the mathematical model implemented in previous global settlements with defendants named in the multidistrict litigation in the Northern District of Ohio, *In re National Prescription Opiate Litigation*, No. 1:17-MD-2804 and consistent with the terms of this Fee Agreement.
 - c. Use such allocations to determine refund amounts owed to Zydus from the Attorney Fee Fund, and inform Zydus and the MDL PEC of all such adjustments.
8. To the extent that there is a dispute about the calculations of the Fee Panel related to the amounts that Zydus is required to pay (including application of any reductions or offsets under this Fee Agreement), such disputes shall be presented to the Fee Panel and any disputed funds be paid into/held in escrow. The Fee Panel shall resolve such disputes expeditiously, with either Party having the right to seek review from the MDL Court.

9. For purposes of determination of fee or cost awards, allocations, reductions, and possible reversions under this Fee Agreement, unless specified otherwise a Subdivision will be considered a Non-Participating Subdivision if it is not a Participating Subdivision as of the deadline for the application for the fee at issue (or, if the determination does not involve a specific application, the date on which the record for such determination closes).
10. In the event that the Fee Panel, through the use of the above-referenced mathematical model, allocates funds from the Contingency Fee Fund for an Attorney based on a Qualifying Representation of a Participating Litigating Subdivision and that Subdivision is in a Settling State in which any Consent Judgment has not been approved, such funds shall be placed into escrow until the Consent Judgment is approved, after which time they shall be released.

I. Miscellaneous.

1. The Fee Panel shall charge an hourly rate approved by the Court. The pre-Effective Date costs associated with the Cost and Expense Fund Administrator shall be paid from funds in the MDL Direct Cost Fund, including any interest accrued therein. Post-Effective Date, the cost of the Fee Panel shall be charged against the applicable Fee Fund, and any interest accrued therein, based on allocation by the Fee Panel and shall not be otherwise funded by Zydus.
2. The MDL PEC shall provide to Zydus information they have that identifies Attorneys who represent Litigating Subdivisions who are not Participating Subdivisions and who have an obligation to pay a common benefit assessment, either due to the MDL Court's orders or pursuant to a Participation Agreement.
3. Participating Subdivisions agree to instruct their counsel to treat information, work product and expert materials as confidential under Rule 1.6 of the ABA Model Rules of Professional Conduct. Accordingly, an Attorney shall not share information or work product with, or experts or materials to, non-participants (other than the Attorney's own current clients or their lawyers, consultants, experts or other representatives or agents). However, nothing herein shall prevent MDL Leadership or PEC Counsel from fulfilling their obligations in any MDL and the MDL Court Order.

V. Miscellaneous

- A. *Termination.* If the Zydus Agreement does not proceed past the Reference Date, whether because Zydus determines not to proceed or for any other reason, this Fee Agreement shall be null and void, Zydus shall not have any obligation to make any payments under this Fee Agreement other than Fee Panel costs advanced, and Zydus and the PEC shall take such steps as are necessary to restore the *status quo ante*.

- B. *MDL Court Consideration.* This Fee Agreement shall be attached as Exhibit R to the Zydus Agreement. The MDL Court shall have no authority to increase the payments made by Zydus related to fees and costs beyond the amounts described in this Fee Agreement and consistent with Exhibit M.
- C. *Amendment.* Once the MDL Court has entered an order implementing this Fee Agreement or otherwise becomes final, this Fee Agreement can only be amended by (1) written agreement of Zydus and the MDL PEC and (2) approval by the MDL Court.
- D. *Jurisdiction and Enforcement.* The MDL Court shall have exclusive and ongoing jurisdiction over the enforcement and implementation of this Fee Agreement as set forth herein. The MDL PEC shall be the Authorized Party to enforce this Fee Agreement, as to the payment obligations of Zydus as set forth in this subsection and as to Attorneys making application to the Funds under this Fee Agreement. Solely for purposes of assessing or allocating common benefit fees, the MDL Court will continue to have jurisdiction over the work product developed in the MDL Court by and under the direction of the MDL PEC with respect to claims against Zydus, including data and documents, depositions, expert reports, briefs and pleadings; and the MDL Court's protective orders, management orders, and other decisions regarding such discovery and other work product, including but not limited to, conditions on its use, will continue in full force and effect. Nothing in this subsection authorizes the MDL Court to act contrary to this Agreement or provides the MDL Court with jurisdiction over the Zydus Agreement.