CLERKS OFFICE U.S. DIST. COURT
AT ABINGDON, VA
FILED
December 13, 2024
LAURA A. AUSTIN, CLERK
BY: s/ FELICIA CLARK
DEPUTY CLERK

**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF VIRGINIA**
**ABINGDON**

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| **UNITED STATES OF AMERICA** | ) | |
| | ) | |
| **v.** | ) | **Criminal No.** 1:24CR46 |
| | ) | |
| **MCKINSEY & COMPANY, INC. UNITED STATES** | ) | |

# DEFERRED PROSECUTION AGREEMENT

1. The United States Attorney's Office for the Western District of Virginia, the United States Attorney's Office for the District of Massachusetts, and the United States Department of Justice's Consumer Protection Branch (collectively, "the United States") and McKinsey & Company, Inc. United States ("MCKINSEY US") and McKinsey & Company, Inc. ("McKinsey Inc.") (collectively, "MCKINSEY"), pursuant to authority granted by their Shareholders Council (also known as the Board of Directors), enter into this agreement. MCKINSEY US is the defendant in this matter. McKinsey Inc. is a party to this agreement but is not a defendant in this matter.

## GENERAL PROVISIONS

2. MCKINSEY agrees it will fulfill all obligations set forth in this Agreement and its attachments.

3. MCKINSEY will execute and transmit all documents needed to effectuate the terms of this Agreement.

4. MCKINSEY agrees it is not, in any way, a "prevailing party." MCKINSEY waives any claim for attorney's fees and other litigation expenses arising out of the investigation or prosecution of this matter.

5. For purposes of this agreement, "United States" is as defined above and "United States Government" is the entire federal government.

## RELEVANT CONSIDERATIONS

6. The United States enters into this Agreement based on the individual facts and circumstances presented by this case, including:

a. the nature and seriousness of the offense conduct, as described in the Agreed Statement of Facts;

b. MCKINSEY did not receive voluntary disclosure credit because it did not voluntarily and timely disclose to the United States the conduct described in the Agreed Statement of Facts ("Statement of Facts") (attached as Attachment 3);

c. MCKINSEY received some credit for its cooperation with the United States, by, among other things: (i) providing updates regarding information obtained through its internal investigation; (ii) highlighting documents of interest in voluminous productions, after previously failing to identify certain emails early in the investigation that reflected potential document deletion; and (iii) facilitating interviews;

d. MCKINSEY engaged in extensive remedial measures, including (i) voluntarily stopping all work in 2019 on any opioid-specific business issues, and later agreeing not to do any work related to the marketing, sale, promotion, or distribution of any controlled substances during the Term of this Agreement; (ii) terminating two senior partners who communicated about deleting opioid-related documents concerning Purdue Pharma L.P.; (iii) hiring a new Chief Legal Officer, Chief Ethics and Compliance Officer, and Head of Internal Audit, all from outside MCKINSEY; (iv) enhancing its new client selection framework and deploying a formalized diligence review and intake process for all clients; (v) strengthening, enhancing, and committing to continue to enhance, its compliance program, policies and procedures, and Code of Conduct; (vi) implementing and providing training to employees on enhanced compliance policies; (vii) establishing compliance and risk monitoring and audit processes; (viii) engaging a firm to independently test key portions of MCKINSEY's enhanced compliance program; and (ix) enhancing its internal reporting, investigations, and risk assessment processes;

e. MCKINSEY has no prior history of similar misconduct, but (i) McKinsey Inc. entered into civil settlements in 2019 and 2020 with the U.S. Trustee Program to resolve a dispute regarding the adequacy of McKinsey Inc.'s disclosures in connection with certain bankruptcy cases; (ii) a subsidiary of McKinsey Inc., MIO Partners, Inc., agreed in 2021 to pay a civil penalty to the U.S. Securities and Exchange Commission to resolve allegations that it had failed to maintain internal controls reasonably designed to prevent the misuse of material, non-public information; and

(iii) a subsidiary of McKinsey Inc., McKinsey & Company Africa (Pty) Ltd, entered into a deferred prosecution agreement on December 5, 2024, regarding violations of the Foreign Corrupt Practices Act;

f. MCKINSEY previously reached multiple settlements to date totaling $989.9 million relating to its sales and marketing work for Purdue Pharma L.P., including a $642.4 million settlement with all 50 states, five U.S. territories, and Washington, D.C.; and civil settlements totaling $347.5 million; and

g. MCKINSEY has agreed to continue to cooperate with the United States.

## CHARGES

7. MCKINSEY US consents to the filing of an Information (attached as Attachment 4) in the United States District Court for the Western District of Virginia in Abingdon, Virginia (referred to herein as the "Court"), charging it with:

a. knowingly and intentionally conspiring with Purdue Pharma L.P. and others to aid and abet the misbranding of prescription drugs, held for sale after shipment in interstate commerce, without valid prescriptions, in violation of 21 U.S.C. §§ 331(k), 333(a)(1), 353(b)(1), and 18 U.S.C. §§ 2 and 371; and

b. through the acts of a MCKINSEY senior partner, knowingly destroying and concealing records and documents with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of any department or agency of the United States and in relation to and contemplation of any such matter, in violation of 18 U.S.C. § 1519.

8. MCKINSEY US knowingly waives its right to indictment and gives up its right to be charged by indictment and have a grand jury vote on its probable guilt. MCKINSEY US agrees to venue of the case in the Western District of Virginia. MCKINSEY US knowingly waives any applicable statute of limitations and any legal or procedural defects in the Information.

## FACTS

9. MCKINSEY stipulates and agrees the facts and allegations set forth in the Information and the facts set forth in the Agreed Statement of Facts are true and correct.

## ACCEPTANCE OF RESPONSIBILITY

10. MCKINSEY accepts and acknowledges responsibility for its conduct and that of its owners, partners, consultants, and employees as set forth in the Information and the Agreed Statement of Facts.

## ADMISSIBILITY OF STATEMENTS

11. In any proceeding involving the United States Government, MCKINSEY agrees it will neither contest the admissibility of the Agreed Statement of Facts, nor contradict the facts contained within the Information and/or the Agreed Statement of Facts. Further, in any proceeding involving the United States Government, MCKINSEY knowingly waives any right it may have under the Constitution, any statute, rule, or other source of law to have such statements, or evidence derived from such statements, suppressed or excluded from being admitted into evidence, and MCKINSEY stipulates that such statements can be admitted into evidence.

## AGREED ORDER COMPELLING COMPLIANCE

12. MCKINSEY agrees to the entry of an Agreed Order Compelling Compliance (attached as Attachment 8), as a condition of the United States' agreement to defer prosecution, in which MCKINSEY is ordered to comply with the terms of this Agreement and, in addition to the other remedies available in this Agreement, be subject to the jurisdiction of the Court whether for a proceeding that could result in contempt or any other remedy the Court deems appropriate should MCKINSEY fail to comply with any term of the Agreement. MCKINSEY agrees nothing will divest the Court of jurisdiction, including, but not limited to, any proceeding relating to bankruptcy, insolvency, reorganization, or relief of debtors.

## DEFERRAL OF PROSECUTION

13. In consideration of MCKINSEY's remedial actions to date and its willingness to: (a) acknowledge and accept full responsibility for its actions; (b) cooperate in the ongoing criminal investigation of others; (c) demonstrate its future good conduct and full compliance with federal law; and (d) comply with the obligations set forth in this Agreement and its attachments, the United States agrees that upon entry by the Court of the Agreed Order Compelling Compliance it will recommend to the Court that prosecution of MCKINSEY US on the charges set forth in the Information be deferred for the duration of the Term.

14. If MCKINSEY fully complies with this Agreement, the United States will not prosecute MCKINSEY or its successors or assigns for any criminal conduct occurring

prior to the date this Agreement is signed based on conduct set forth in the Information and/or Agreed Statement of Facts. However, the United States may use any information gathered during its investigation for any purpose, including, but not limited to, use in contempt proceedings. Nothing prevents the United States from pursuing any action against any individual.

15. MCKINSEY expressly waives any and all rights to a speedy trial pursuant to the Sixth Amendment of the United States Constitution and Federal Rule of Criminal Procedure 48(b) for the Term of this Agreement. MCKINSEY US agrees to join the United States in seeking to exclude, pursuant to 18 U.S.C. § 3161(h)(2), the Term of this Agreement from the time within which trial of the offense charged in the Information must commence, for the purpose of allowing MCKINSEY to demonstrate its good conduct (the joint motion is attached as Attachment 7).

16. If MCKINSEY fully complies with all of its obligations under this Agreement, the United States, within 30 days of the expiration of the Term, will seek dismissal with prejudice of the Information filed against MCKINSEY US.

## TERM

17. The Term of MCKINSEY's obligations under this Agreement will be five years from the date the Information is filed ("Effective Date"). However, the Term will be extended to include any time prior to MCKINSEY fully complying with all of its commitments, financial and otherwise, set forth in this Agreement.

18. MCKINSEY agrees, in the event the United States determines, in its sole discretion, that MCKINSEY has failed to comply with any provision of this Agreement, an extension of the Term may be imposed by the United States, in its sole discretion, for up to an additional 12 month period, without prejudice to the right of the United States to seek any other remedy set forth in this Agreement. Any extension of the Agreement extends all terms of the Agreement, but does not extend the date by which all payments must be made. This paragraph does not, in any way, limit the preceding paragraph.

## COMPLIANCE AND MANAGING PARTNER CERTIFICATION

19. MCKINSEY agrees it will comply with all of its obligations set forth in the attachments to this Agreement, including, but not limited to, Attachments 2A, 2B, and 2C dealing with compliance and certifications.

20. On an annual basis, with the first report due 12 months after the Effective Date, McKinsey Inc.'s Managing Partner shall provide a document to the United States Attorney's Office for the Western District of Virginia, the United States Attorney's

Office for the District of Massachusetts, and the Consumer Protection Branch of the United States Department of Justice, certifying, under oath and based on a diligent inquiry, that (a) in the previous 12 month period, MCKINSEY fully complied with this Agreement and its attachments and has not violated federal law; or (b) in the previous 12 month period, MCKINSEY fully complied with this Agreement and its attachments and has not violated federal law with the exception of items on an attached list documenting all non-compliant activity and the steps taken by the Company to remedy such non-compliant activity. The final report will be due 10 days prior to the expiration of the Term and will cover the period of time since the last reporting period, and the certifications will be adjusted accordingly.

## FINANCIAL OBLIGATIONS

21. MCKINSEY will pay a total of $650,000,000 (six hundred fifty million dollars) plus interest accrued, as specified herein. This total payment shall be allocated as follows:

a. $323,020,647.75 (three hundred twenty-three million twenty thousand six hundred forty-seven dollars and seventy-five cents) plus interest at a rate of 4.125% per annum computed from July 10, 2024, on any unpaid balance to be paid by MCKINSEY pursuant to the Civil Settlement Agreement (payments designated in table below as "Civil");

b. $231,432,853.25 (two hundred thirty-one million four hundred thirty-two thousand eight hundred fifty-three dollars and twenty-five cents) plus interest at a rate of 4.34% per annum computed from December 1, 2024, on any unpaid balance (payments designated in table below as "Criminal");

c. $93,546,499 (ninety-three million five hundred forty-six thousand four hundred ninety-nine dollars) plus interest at a rate of 4.34% per annum computed from December 1, 2024, on any unpaid balance to be paid by MCKINSEY as forfeiture of proceeds (payments designated in table below as "Forfeiture"); and

d. $2,000,000 (two million dollars) to be paid by MCKINSEY to the Virginia Medicaid Fraud Control Unit to be used for the 25% state match of the Medicaid Fraud Control Unit grant (payment designated in table below as "VA-MFCU").

22. The payments shall be made in the amounts and on the dates set forth in the table below (the "Table of Payments"), as directed by the United States:

| TABLE OF PAYMENTS | | | | | |
|---|---|---|---|---|---|
| | | Designation of Payments | | | |
| Payment Date | Payment Amount | Civil | Criminal | Forfeiture | VA-MFCU |
| 12/16/2024 | $175,000,000.00 | $86,967,097.47 | $39,259,653.03 | $46,773,249.50 | $2,000,000.00 |
| 12/16/2025 | $175,000,000.00 | $86,967,097.47 | $72,441,819.36 | $15,591,083.17 | |
| 12/16/2026 | $100,000,000.00 | $49,695,484.27 | $34,713,432.56 | $15,591,083.17 | |
| 12/16/2027 | $100,000,000.00 | $49,695,484.27 | $34,713,432.56 | $15,591,083.16 * | |
| 12/16/2028 | $100,000,000.00 * | $49,695,484.27 * | $50,304,515.74 * | | |
| TOTAL | $650,000,000.00 * | $323,020,647.75 * | $231,432,853.25 * | $93,546,499.00 * | $2,000,000.00 |

*Plus accrued interest as set forth above.

23. The entire amount of unpaid financial obligations shall bear simple interest from the dates set forth above until such amount is paid. Such interest shall accrue at the Interest Rate on the basis of the actual number of days elapsed and a year of 365 or 366 days, as the case may be.

24. No money paid by MCKINSEY will be returned and MCKINSEY expressly releases any and all claims it may have to the money. MCKINSEY will not file any claim or otherwise contest the payment of money set forth in this Agreement, and it will not assist anyone in asserting a claim to the money.

25. Nothing in this Agreement or any related document is an admission by the United States that the amounts paid by MCKINSEY are the maximum amounts that could, in the absence of this Agreement, be recovered from MCKINSEY. If MCKINSEY does not comply with all of its obligations under this Agreement, the United States is not precluded from arguing or presenting evidence that the total amount to be paid by MCKINSEY should be higher.

26. MCKINSEY shall notify the United States immediately when it learns that it may not be able to timely pay an amount due pursuant to this Agreement.

27. MCKINSEY must notify the United States as soon as reasonably practicable, in writing, of any event (including, but not limited to, sale, merger, dissolution, etc.) that would jeopardize its ability to pay any amounts under this Agreement. If an adverse event (including, but not limited to, sale, merger, dissolution, etc.) would jeopardize MCKINSEY's ability to pay any amounts under this Agreement, or if any payment would cause MCKINSEY to either (a) violate an existing debt covenant for which the holder(s)

will not forbear, forgive or otherwise extend, or (b) incur a negative going concern or viability assessment by its auditors as required by any applicable domestic or foreign corporate governance code, accounting standard or related rule or regulation, MCKINSEY shall notify the United States as soon as reasonably practicable. Should unrelated, unanticipated economic circumstances create a material risk that MCKINSEY may reasonably incur any of the events identified herein, MCKINSEY may request that the United States agree to delay any payment identified in the Table of Payments. The United States may consider such request but is under no obligation to agree to delay any payment.

28. MCKINSEY represents and warrants that it has reviewed its financial situation, it currently is not insolvent as such term is defined in 11 U.S.C. § 101(32), and it reasonably believes it shall remain solvent following payment of the financial obligations set forth in this Agreement. Further, the parties warrant that, in evaluating whether to execute this Agreement, they have (a) intended that the mutual promises, covenants, and obligations set forth herein constitute a contemporaneous exchange for new value given to MCKINSEY, within the meaning of 11 U.S.C. § 547(c)(l); and (b) concluded that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, the parties warrant that the mutual promises, covenants, and obligations set forth herein are intended to, and do, in fact, represent a reasonably equivalent exchange of value that is not intended to hinder, delay, or defraud any entity to which MCKINSEY was or became indebted to on or after the Agreement Date, within the meaning of 11 U.S.C. § 548(a)(l). MCKINSEY agrees its obligations under this Agreement may not be avoided pursuant to 11 U.S.C. § 547, and MCKINSEY shall not argue or otherwise take the position in any such case, action, or proceeding that (1) MCKINSEY's obligations under this Agreement may be avoided under 11 U.S.C. § 547; (2) MCKINSEY was insolvent at the time this Agreement was entered into; or (3) the mutual promises, covenants, and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to MCKINSEY. MCKINSEY acknowledges that the agreements in this Paragraph are provided in exchange for valuable consideration provided in this Agreement. MCKINSEY agrees all amounts payable under this Agreement are not dischargeable in bankruptcy and shall be considered debt for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit pursuant to 11 U.S.C. § 523(a)(7). MCKINSEY will not contest that all forfeiture amounts ordered by the Court against MCKINSEY represent criminal proceeds subject to forfeiture, and as such, the United States' interest in those proceeds arose on the date MCKINSEY received those proceeds pursuant to 21 U.S.C. § 853(c).

29. Contemporaneously with execution of this Agreement, MCKINSEY will execute a note in favor of the United States setting forth the amounts due pursuant to this Agreement. The note will indicate that all amounts are due and payable upon demand by the United States. So long as MCKINSEY complies with its obligations in this Agreement

and it is not apparent that MCKINSEY will not timely make a payment, the United States will not demand payment beyond the timely payments required by this Agreement.

30. Pursuant to the terms of the Security Agreement (attached as Attachment 6), MCKINSEY agrees to provide the United States, on the Effective Date of this Agreement and all times thereafter, a first priority security interest and lien on accounts receivables or other collateral as provided in the Security Agreement (the "Collateral"), in an aggregate amount equal to, on any date of determination, the lesser of (a) $300,000,000 (three hundred million dollars) and (b) 110% of the outstanding balance of unpaid obligations. MCKINSEY shall execute and deliver such agreements, financing statements and other collateral documents as may be required from time to time pursuant to the terms of the Security Agreement, including for purposes of granting, maintaining or perfecting the United States' lien on the Collateral. The United States shall release its lien on the Collateral as provided in the Security Agreement.

31. MCKINSEY, may, and with no less than five (5) business days prior written notice to the United States, from time to time prepay, without premium or penalty, any unpaid installment in the Table of Payments, together with interest thereon through the date of such prepayment.

32. If any payment required to be made by MCKINSEY is not timely made, it becomes obvious that MCKINSEY will not timely make a payment, or MCKINSEY fails to comply with any provision of this Agreement, MCKINSEY will have failed to comply with a provision of this Agreement. Accordingly, the United States, immediately, may collect the entire remaining unpaid amount due plus interest and pursue any or all of the remedies available for failing to comply with a provision of the Agreement.

33. Restitution is not applicable. In any event, attempting to determine restitution would be impracticable and administratively infeasible.

## FORFEITURE

34. MCKINSEY agrees to cooperate fully in the forfeiture of the property to be forfeited. MCKINSEY agrees to execute all documents, stipulations, consent judgments, court orders, bills of sale, deeds, affidavits of title, and the like, which are necessary to pass clear title to the United States or otherwise effectuate forfeiture of the property including, but not limited to the Stipulation for Compromise Settlement (Attachment 9B), and Agreed Order of Forfeiture (Attachment 9C), and Motion and Order for Substitute Res (Attachment 9D). MCKINSEY understands and will not object to the United States filing a Verified Complaint for Forfeiture *in rem* (Attachment 9A). MCKINSEY agrees to fully cooperate and to provide truthful testimony on behalf of the United States in any legal action

necessary to perfect the United States' interest, including but not limited to any ancillary hearing in this criminal action or in any civil litigation.

35. To the extent that forfeiture pursuant to this Agreement requires MCKINSEY to disgorge wrongfully obtained criminal proceeds, MCKINSEY agrees the forfeiture is primarily remedial in nature. MCKINSEY understands and agrees that forfeiture of this property is proportionate to the degree and nature of the offense committed by MCKINSEY. MCKINSEY freely and knowingly waives all constitutional and statutory challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. MCKINSEY further understands and agrees this forfeiture is separate and distinct from, and is not in the nature of, or in lieu of, any penalty that may be imposed by the Court.

36. MCKINSEY hereby releases and forever discharges the United States Government, its officers, agents, servants and employees, its heirs, successors, or assigns, from any and all actions, causes of action, suits, proceedings, debts, dues, contracts, judgments, damages, claims, and/or demands whatsoever in law or equity that MCKINSEY ever had, now has, or may have in the future in connection with the seizure, detention, and forfeiture of the described assets.

## AGREEMENT NOT TO DO ANY WORK RELATED TO CONTROLLED SUBSTANCES

37. MCKINSEY agrees it will not do any work related to the marketing, sale, promotion, or distribution of controlled substances, as defined in 21 U.S.C. § 802(6), during the Term of this Agreement.

## COOPERATION

38. MCKINSEY will fully cooperate with all investigations and prosecutions, if any, by the United States Government related, in any way, to opioids or obstruction of justice. MCKINSEY's cooperation in the investigation and prosecution of individuals and entities pursuant to this paragraph includes, but is not limited to, using best efforts promptly to secure the attendance and testimony of any current or former shareholder, partner, officer, director, consultant, agent, or employee of MCKINSEY at any meeting or interview or before the grand jury or at any trial or other court proceeding; and truthfully disclosing all factual information, documents, records, or other tangible evidence not protected by a valid claim of privilege or work product. MCKINSEY's cooperation is subject to valid noted claims of (a) attorney-client privilege or (b) the attorney work product doctrine. MCKINSEY expressly understands any information it provides may be used by the United States Government for any purpose.

39. MCKINSEY will not, through its present or future shareholders, partners, directors, officers, consultants, employees, or agents, (1) make any public statement or (2) make any statement or take any position in litigation in which any United States department or agency is a party, contradicting any statement or provision set forth in the Agreement or its attachments. If MCKINSEY makes a public statement that in whole or in part contradicts any such statement or provision, MCKINSEY may avoid being in violation of this Agreement by promptly and publicly repudiating such statement. For purposes of this paragraph, the term "public statement" means any statement made or authorized by MCKINSEY's shareholders, directors, officers, partners, consultants, employees, or attorneys and includes, but is not limited to, a statement in (1) a press release, (2) public relations material, (3) communications with clients, (4) communications with all employees of MCKINSEY, (5) posts or messages on any social media platform (including but not limited to "X"), or (6) MCKINSEY's websites. Notwithstanding the above, MCKINSEY may avail itself of any legal or factual arguments available in defending litigation brought by a party other than the United States. This paragraph does not apply to any statement made by any individual in the course of any actual or contemplated criminal, regulatory, administrative, or civil case initiated by any governmental or private party against such individual.

## SUCCESSOR LIABILITY

40. Except as may otherwise be agreed by the parties in connection with a particular transaction, MCKINSEY agrees if, during the term of this Agreement, it undertakes any material change in corporate form, including if it sells, merges, or transfers any portion of its business operations material to MCKINSEY's consolidated operations as they existed as of June 1, 2024, whether such change is structured as a sale, asset sale, merger, transfer, or other material change in corporate form, it shall include in any contract for sale, merger, transfer, or other change in corporate form a provision binding the purchaser, or any successor in interest thereto, to the obligations described in this Agreement unless the United States otherwise agrees in writing. MCKINSEY shall provide notice to the United States at least 30 days prior to undertaking any such sale, merger, transfer, or other change in corporate form. Nothing herein shall restrict MCKINSEY from indemnifying (or otherwise holding harmless) the purchaser or successor in interest for penalties or other costs arising from any conduct that may have occurred prior to the date of the transaction, so long as such indemnification does not have the effect of circumventing or frustrating the enforcement purposes of this Agreement, as determined by the United States.

## REMEDIES

41. In addition to other remedies set forth in this Agreement, if the United States, in its sole discretion, determines MCKINSEY (a) provided deliberately false, incomplete, or misleading information at any time in connection with this Agreement; (b) committed a federal or state crime during the term of this Agreement; or (c) failed to comply with any provision of this Agreement, then (1) the United States will not be bound by its agreement not to prosecute MCKINSEY and (2) the United States may, in addition to any other action, file any charges that were filed or could have been filed against MCKINSEY relating to its investigation that led to this Agreement. In such event, MCKINSEY agrees any prosecution not time-barred by the applicable statute of limitations on the Effective Date of this Agreement, including time protected as the result of agreements between the United States and MCKINSEY to toll the applicable statute of limitations, may be commenced against MCKINSEY. Accordingly, MCKINSEY has executed and agrees to be bound by the tolling agreement included as Attachment 5 to this Agreement.

42. Should the United States determine that MCKINSEY has failed to comply with any provision of this Agreement AND it seeks to exercise its right to pursue a remedy other than as contemplated by the Agreed Order Compelling Compliance (Attachment 8), the United States shall provide written notice to MCKINSEY addressed to its Chief Legal Officer, and to its outside counsel, Charles Duross, or to any successor MCKINSEY may designate, of the failure to comply and provide MCKINSEY with a 30-day period from the date of receipt of notice in which to make a presentation to the United States to demonstrate that it did comply with all provisions of this Agreement or, to the extent applicable, that the failure to comply should not result in adverse action, including because the failure to comply has been cured by MCKINSEY. The parties expressly understand and agree that:

a. MCKINSEY's failure to make the above-noted presentation within such time period, shall be considered an admission that MCKINSEY failed to comply as set forth in the written notice;

b. Regardless of the content of the presentation, the United States retains its full discretion to determine if MCKINSEY failed to comply with a provision of this Agreement; and

c. The United States' exercise of discretion is not subject to review in any court or tribunal outside of the United States.

43. Any available remedy set forth in this Agreement takes precedence over any provision of the Security Agreement.

44. The remedies set forth in this Agreement are cumulative and not mutually exclusive. The United States' election of any of these remedies does not, in any way, terminate MCKINSEY's obligation to comply with the terms of this Agreement. The use of "if" does not mean "if, and only if."

## EXCLUSION

45. MCKINSEY understands that nothing in this Agreement shall resolve or release any administrative action, decision, or proceeding (including, but not limited to, licensing, contracting, and permitting) that the United States Government could initiate as a consequence of entering into this Agreement.

## ENTITIES NOT BOUND BY THIS AGREEMENT

46. This Agreement does not bind the Tax Division of the United States Department of Justice, any other federal agency, or any state, local, or foreign law enforcement or regulatory agency, or any other authority.

## WAIVER OF RIGHT TO RECORDS

47. MCKINSEY waives all rights, whether asserted directly or by a representative, to request or receive from the United States and the Virginia Office of the Attorney General Medicaid Fraud Control Unit any records pertaining to the investigation or prosecution of this case, including, without limitation, any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, the Privacy Act of 1974, 5 U.S.C. § 552a, or the Virginia Freedom of Information Act, Va. Code § 2.2-3700- 3714.

## LIABILITY OF INDIVIDUALS

48. Nothing in this Agreement resolves, in any way, any liability of any individual.

## PUBLIC STATEMENT

49. Within 24 hours of the Effective Date, MCKINSEY shall place, and maintain for a period of three years, on the home page of MCKINSEY's publicly accessible company websites, a conspicuous public link titled "Deferred Prosecution Agreement Relating to Our Work for Purdue Pharma." The link shall directly access (a) a public statement detailing MCKINSEY's contrition for its conduct, (b) this Agreement (including all attachments), the Agreed Statement of Facts, and the Information. After three years, the

link and documents referenced above must remain readily accessible on MCKINSEY's public web page dedicated to opioid-related information for the duration of the Term of the Agreement. The public statement must be approved by the United States prior to the execution of this Agreement.

## NOTIFICATION TO MCKINSEY PERSONNEL

50. MCKINSEY shall:

a. Require that each member of the Executive Leadership team, Shareholders Council, and Client Service Risk Committee, read the Information, Agreed Statement of Facts, and this Agreement;

i Each person holding a role in one of the categories set forth above on the Effective Date, who is not on extended leave, shall complete this requirement within 30 days of the Effective Date;

ii For the duration of the Term, each person holding a role in one of the categories set forth above who was on extended leave on the Effective Date or who holds a role in one of the above categories after the Effective Date shall complete this requirement within 30 days of returning from leave or becoming a member, as applicable.

b. Develop and provide mandatory global training regarding this resolution, including the facts of the conduct, a root cause analysis, remediation efforts, and ongoing compliance obligations for all client-serving consultants, and all risk, compliance, and legal personnel;

i Each person in one of the categories above who is employed on the Effective Date and not on extended leave shall complete this requirement within 90 days of the Effective Date;

ii For the duration of the Term, each person in one of the categories listed above who was on extended leave on the Effective Date or was employed after the Effective Date shall complete this requirement within 90 days of returning from leave or becoming employed, as applicable.

51. MCKINSEY shall maintain all training materials used for the above-described training and records documenting that the requirements of this section of the Agreement have been met. Upon request, McKinsey shall provide these materials and records to the United States.

## ENTIRE AGREEMENT

52. This Agreement and its attachments set forth all the terms of the agreement between MCKINSEY and the United States. No amendments, modifications, or additions to this Agreement will be valid unless they are in writing signed by the United States, an attorney for MCKINSEY, and a duly authorized representative of MCKINSEY.

## SATISFACTION WITH REPRESENTATION

53. MCKINSEY has discussed the terms of the Agreement and all matters pertaining to it with its attorneys and is fully satisfied with its attorneys and its attorneys' advice and has no dissatisfaction or complaint with its attorneys' representation.

## EFFECT OF SIGNATURE

54. MCKINSEY understands its signature on this Agreement constitutes a binding offer by it to enter into this Agreement. MCKINSEY understands the United States has not accepted MCKINSEY's offer until each signatory for the United States has signed the Agreement.

## AUTHORITY TO ENTER AGREEMENT

55. MCKINSEY US and McKinsey Inc. each acknowledge its acceptance of this Agreement by the signature of its counsel and Authorized Corporate Representative. A copy of the resolution by McKinsey Inc.'s Shareholders Council authorizing each entity's Authorized Corporate Representative to execute this Agreement and all other documents to resolve this matter on behalf of MCKINSEY US and McKinsey Inc. is attached as Attachment 1.

**Agreed to:**

**McKinsey & Company, Inc. United States:**

BY: _____ 12/10/24

Jonathan B. Sbonim — Date
Deputy General Counsel
Head of Legal, Americas
Partner of McKinsey & Company, Inc.
Vice President of McKinsey & Company, Inc. United States
*Authorized Corporate Representative of McKinsey & Company, Inc. United States*

**McKinsey & Company, Inc.:**

BY: _____ 12/10/24

Pierre M. Gentin — Date
Chief Legal Officer
Senior Partner of McKinsey & Company Inc.
*Authorized Corporate Representative of McKinsey & Company, Inc.*

Counsel has fully explained to the Shareholders Council of McKinsey & Company, Inc. the facts and circumstances of the prosecution and the consequences of entering into this Agreement. Counsel has reviewed this entire Agreement and documents referenced herein with the clients. McKinsey & Company, Inc. and McKinsey & Company, Inc. United States fully understand the terms and conditions of this Agreement, and their decision to enter into this Agreement is knowing and voluntary. The execution and entry into this Agreement by McKinsey & Company, Inc. and McKinsey & Company, Inc. is done with Counsel's consent.

12/10/24

Charles E. Duross
Brian K. Kidd
Katherine E. Driscoll
Morrison & Foerster LLP
*Counsel for McKinsey & Company, Inc. United States and McKinsey & Company, Inc.*

James L. Bernard
Hogan Lovells US LLP
*Counsel for McKinsey & Company, Inc. United States and McKinsey & Company, Inc.*

Ingrid S. Martin
Todd & Weld LLP
*Counsel for McKinsey & Company, Inc. United States and McKinsey & Company, Inc.*

**The United States Attorney's Office for the Western District of Virginia:**

BY: _____ December 13, 2024

Christopher R. Kavanaugh — Date
*United States Attorney*

KRISTEN M. ECHEMENDIA
*Senior Trial Counsel*
*Department of Justice, Civil Division*
*Commercial Litigation Branch*

RANDY RAMSEYER
*Assistant United States Attorney*

KIMBERLY M. BOLTON
*Special Assistant United States Attorney*
*Assistant Attorney General*
*Medicaid Fraud Control Unit*
*Virginia Office of the Attorney General*

KRISTIN L. GRAY
*Special Assistant United States Attorney*
*Assistant Attorney General*
*Medicaid Fraud Control Unit*
*Virginia Office of the Attorney General*

**The United States Attorney's Office for the District of Massachusetts:**

BY: _____

Joshua S. Levy
*United States Attorney*

AMANDA MASSELAM STRACHAN
*Chief, Criminal Division*

WILLIAM B. BRADY
*Assistant United States Attorney*

**The United States Department of Justice, Consumer Protection Branch:**

BY: _____
Amanda N. Liskamm
*Director*

_____
Anthony Nardozzi
*Deputy Director, Criminal*

_____
Amy L. DeLine
*Assistant Director*

_____
JESSICA C. HARVEY
*Trial Attorney*

_____
STEVEN R. SCOTT
*Trial Attorney*

# COMPANY OFFICER'S CERTIFICATE FOR MCKINSEY & COMPANY, INC. UNITED STATES

I have read this Agreement and carefully reviewed every part of it with outside counsel for McKinsey & Company, Inc. United States ("MCKINSEY US"). I understand the terms of this Agreement and voluntarily agree, on behalf of MCKINSEY US, to each of its terms. Before signing this Agreement, I consulted outside counsel for MCKINSEY US. Counsel fully advised me of the rights of MCKINSEY US, of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into this Agreement.

I have carefully reviewed the terms of this Agreement with the Board of Directors of MCKINSEY US. I have advised and caused outside counsel for MCKINSEY US to advise the Board of Directors of MCKINSEY US fully of the rights of MCKINSEY US, of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into this Agreement.

No promises or inducements have been made other than those contained in this Agreement. Furthermore, no one has threatened or forced me, or to my knowledge any person authorizing this Agreement on behalf of MCKINSEY US, in any way to enter into this Agreement. I am also satisfied with outside counsel's representation in this matter. I certify that I am a Partner and the Deputy General Counsel, Head of Legal, Americas, for

McKinsey & Company, Inc. and that I am Vice President of and have been duly authorized by MCKINSEY US to execute this Agreement on behalf of MCKINSEY US.

Date: 12/10/24 By: _____

Jonathan B. Slonim
Deputy General Counsel, Head of Legal, Americas, Partner of McKinsey & Company, Inc. and Vice President and Authorized Corporate Representative of McKinsey & Company, Inc. United States

## COMPANY AUTHORIZED REPRESENTATIVE'S CERTIFICATE FOR MCKINSEY & COMPANY, INC.

I have read this Agreement and carefully reviewed every part of it with outside counsel for McKinsey & Company, Inc. ("McKinsey Inc."). I understand the terms of this Agreement and voluntarily agree, on behalf of McKinsey Inc., to each of its terms. Before signing this Agreement, I consulted outside counsel for McKinsey Inc. Counsel fully advised me of the rights of McKinsey Inc., of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into this Agreement.

I have carefully reviewed the terms of this Agreement with the Board of Directors for McKinsey Inc. I have advised and caused outside counsel for McKinsey Inc. to advise the Board of Directors fully of the rights of McKinsey Inc., of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into this Agreement.

No promises or inducements have been made other than those contained in this Agreement. Furthermore, no one has threatened or forced me, or to my knowledge any person authorizing this Agreement on behalf of McKinsey Inc., in any way to enter into this Agreement. I am also satisfied with outside counsel's representation in this matter. I

certify that I am a Senior Partner and Chief Legal Officer for McKinsey Inc. and that I have been duly authorized by McKinsey Inc. to execute this Agreement on behalf of McKinsey Inc.

Date: 12/16/24

By: _____

Pierre M. Gentin
Senior Partner and Chief Legal Officer of McKinsey & Company, Inc. and Authorized Corporate Representative of McKinsey & Company, Inc.

## CERTIFICATE OF COUNSEL FOR MCKINSEY & COMPANY, INC. UNITED STATES

I am counsel for McKinsey & Company, Inc. United States ("MCKINSEY US") in the matter covered by this Agreement. In connection with such representation, I have examined relevant MCKINSEY US documents and have discussed the terms of this Agreement with MCKINSEY US's Board of Directors. Based on our review of the foregoing materials and discussions, I am of the opinion that the representative of MCKINSEY US has been duly authorized to enter into this Agreement on behalf of MCKINSEY US and that this Agreement has been duly and validly authorized, executed, and delivered on behalf of MCKINSEY US and is a valid and binding obligation of MCKINSEY US. Further, I have carefully reviewed the terms of this Agreement with the Board of Directors of MCKINSEY US and the Deputy General Counsel, Head of Legal, Americas, Partner for McKinsey & Company, Inc., Jonathan B. Slonim, who is a Vice President of MCKINSEY US and has been duly authorized as the representative of MCKINSEY US. I have fully advised them of the rights of MCKINSEY US, of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into this Agreement. To my knowledge, the decision of MCKINSEY US to enter into this

Agreement, based on the authorization of the Board of Directors of MCKINSEY US, is an informed and voluntary one.

Date: 12/10/24

By: _____
Charles E. Duross
Morrison & Foerster LLP
Counsel for McKinsey & Company, Inc. United States

## CERTIFICATE OF COUNSEL FOR MCKINSEY & COMPANY, INC.

I am counsel for McKinsey & Company, Inc. ("McKinsey Inc.") in the matter covered by this Agreement. In connection with such representation, I have examined relevant McKinsey Inc. documents and have discussed the terms of this Agreement with McKinsey Inc.'s Board of Directors. Based on our review of the foregoing materials and discussions, I am of the opinion that the representative of McKinsey Inc. has been duly authorized to enter into this Agreement on behalf of McKinsey Inc. and that this Agreement has been duly and validly authorized, executed, and delivered on behalf of McKinsey Inc. and is a valid and binding obligation of McKinsey Inc. Further, I have carefully reviewed the terms of this Agreement with McKinsey Inc.'s Board of Directors and Senior Partner and Chief Legal Officer, Pierre M. Gentin. I have fully advised them of the rights of McKinsey Inc., of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into this Agreement. To my knowledge, the decision of McKinsey Inc. to enter into this Agreement, based on the authorization of McKinsey Inc.'s Board of Directors, is an informed and voluntary one.

Date: 12/10/24

By: _____
Charles E. Duross
Morrison & Foerster LLP
Counsel for McKinsey & Company, Inc.

# CERTIFICATE OF CORPORATE RESOLUTIONS FOR MCKINSEY & COMPANY, INC. UNITED STATES

WHEREAS, McKinsey & Company, Inc. United States ("MCKINSEY US") has been engaged in discussions with the United States Attorney's Office for the Western District of Virginia, the United States Attorney's Office for the District of Massachusetts, and the United States Department of Justice's Consumer Protection Branch (collectively the "United States") regarding issues arising in relation to the conduct described in the attached Statement of Facts;

WHEREAS, in order to resolve such discussions, it is proposed that MCKINSEY US agree to certain terms and obligations of a deferred prosecution agreement among MCKINSEY US and the United States (the "Agreement"); and

WHEREAS, Deputy General Counsel, Head of Legal, Americas, Partner of McKinsey & Company, Inc. ("McKinsey Inc."), and Vice President and duly authorized corporate representative of MCKINSEY US, Jonathan B. Slonim, together with outside counsel for MCKINSEY US (the "Counsel"), have advised the Board of Directors of MCKINSEY US of its rights, possible defenses, the Sentencing Guidelines' provisions, and the consequences of agreeing to such terms and obligations of this Agreement.

Therefore, the Board of Directors of MCKINSEY US has RESOLVED that:

1. MCKINSEY US (a) acknowledges the filing of a two-count Information charging MCKINSEY US with one misdemeanor count of knowingly and intentionally conspiring with Purdue Pharma L.P. and others to aid and abet the misbranding of prescription drugs, held for sale after shipment in interstate commerce, without valid

prescriptions, in violation of 21 §§ 331(k), 333(a)(1), 353(b)(1), and 18 U.S.C. §§ 2 and 371, and one felony count of knowingly destroying and concealing, through the acts of a MCKINSEY US senior partner, records and documents with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of any department or agency of the United States and in relation to and contemplation of any such matter, in violation of 18 U.S.C. § 1519; (b) undertakes certain obligations under this Agreement; and (c) agrees to accept a monetary penalty totaling $650,000,000, and to pay such a penalty according to the following allocation: (i) $323,020,647.75 pursuant to the Civil Settlement Agreement; (ii) $231,432,853.25 pursuant to the Criminal penalty; (iii) $93,546,499 as forfeiture of proceeds; and (iv) $2,000,000 to the Virginia Medicaid Fraud Control Unit.

2. MCKINSEY US accepts the terms and conditions of this Agreement, including, but not limited to: (a) a knowing waiver of MCKINSEY US's right to a speedy trial pursuant to the Sixth Amendment to the United States Constitution, Title 18, United States Code, Section 3161, and Federal Rule of Criminal Procedure 48(b); (b) a knowing waiver for purposes of this Agreement and any charges by the United States arising out of the conduct described in the attached Statement of Facts of any objection with respect to venue and consents to the filing of the Information against MCKINSEY US, as provided under the terms of this Agreement, in the United States District Court for the Western District of Virginia in Abingdon, Virginia; and (c) a knowing waiver of any defenses based on the statute of limitations for any prosecution relating to conduct known to the United

States prior to the date on which this Agreement was signed, that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement;

3. Deputy General Counsel, Head of Legal, Americas, Partner of McKinsey Inc., and Vice President and authorized corporate representative for MCKINSEY US, Jonathan B. Slonim, is hereby authorized, empowered, and directed, on behalf of MCKINSEY US, to agree to certain terms and obligations of this Agreement, substantially in such form as reviewed by the Board of Directors of MCKINSEY US with such changes as Counsel may approve;

4. Deputy General Counsel, Head of Legal, Americas, Partner of McKinsey Inc., and Vice President and authorized corporate representative for MCKINSEY US, Jonathan B. Slonim, is hereby authorized, empowered, and directed to take any and all actions as may be necessary or appropriate, and to approve the forms, terms or provisions of any agreement or other documents as may be necessary or appropriate to carry out and effectuate the purpose and intent of the foregoing resolutions; and

5. Jonathan B. Slonim or any officer of MCKINSEY US is, hereby authorized, empowered and directed to take such actions and execute and deliver such documents as may be necessary or appropriate to effectuate the intent and purposes of the foregoing resolutions.

Date: 12/10/2024

By: _____

Eric Kutcher
President of McKinsey & Company, Inc.
United States

# CERTIFICATE OF CORPORATE RESOLUTIONS FOR MCKINSEY & COMPANY, INC.

WHEREAS, McKinsey & Company, Inc. ("McKinsey Inc.") has been engaged in discussions with the United States Attorney's Office for the Western District of Virginia, the United States Attorney's Office for the District of Massachusetts, and the United States Department of Justice's Consumer Protection Branch (collectively the "United States") regarding issues arising in relation to the conduct described in the attached Statement of Facts;

WHEREAS, in order to resolve such discussions, it is proposed that McKinsey Inc. agree to certain terms and obligations of a deferred prosecution agreement between McKinsey & Company, Inc. United States ("MCKINSEY US") and the United States (the "Agreement"); and

WHEREAS, the Senior Partner and Chief Legal Officer for McKinsey Inc., Pierre M. Gentin, together with outside counsel for McKinsey Inc. (the "Counsel"), have advised the Board of Directors of McKinsey Inc. of its rights, possible defenses, the Sentencing Guidelines' provisions, and the consequences of agreeing to such terms and obligations of this Agreement.

Therefore, the Board of Directors of McKinsey Inc. has RESOLVED that:

1. McKinsey Inc. (a) acknowledges the filing of a two-count Information charging MCKINSEY US with one misdemeanor count of knowingly and intentionally conspiring with Purdue Pharma L.P. and others to aid and abet the misbranding of prescription drugs, held for sale after shipment in interstate commerce, without valid

prescriptions, in violation of 21 U.S.C. §§ 331(k), 333(a)(1), 353(b)(1), and 18 U.S.C. §§ 2 and 371, and one felony count of knowingly destroying and concealing, through the acts of a MCKINSEY US senior partner, records and documents with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of any department or agency of the United States and in relation to and contemplation of any such matter, in violation of 18 U.S.C. § 1519; (b) undertakes certain obligations under this Agreement; and (c) agrees to accept a monetary penalty totaling $650,000,000, and to pay such a penalty according to the following allocation: (i) $323,020,647.75 pursuant to the Civil Settlement Agreement; (ii) $231,432,853.25 pursuant to the Criminal penalty; (iii) $93,546,499 as forfeiture of proceeds; and (iv) $2,000,000 to the Virginia Medicaid Fraud Control Unit;

2. McKinsey Inc. accepts the terms and conditions of this Agreement, including, but not limited to: (a) a knowing waiver of MCKINSEY US's right to a speedy trial pursuant to the Sixth Amendment to the United States Constitution, Title 18, United States Code, Section 3161, and Federal Rule of Criminal Procedure 48(b); (b) a knowing waiver for purposes of this Agreement and any charges by the United States arising out of the conduct described in the attached Statement of Facts of any objection with respect to venue and consents to the filing of the Information against MCKINSEY US, as provided under the terms of this Agreement, in the United States District Court for the Western District of Virginia in Abingdon, Virginia; and (c) a knowing waiver of any defenses based on the statute of limitations for any prosecution relating to conduct known to the United States

prior to the date on which this Agreement was signed, that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement;

3. Senior Partner and Chief Legal Officer for McKinsey Inc., Pierre M. Gentin, is hereby authorized, empowered, and directed, on behalf of McKinsey Inc., to agree to certain terms and obligations of this Agreement substantially in such form as reviewed by the Board of Directors of McKinsey Inc. with such changes as Counsel may approve;

4. Senior Partner and Chief Legal Officer for McKinsey Inc., Pierre M. Gentin, is hereby authorized, empowered, and directed to take any and all actions as may be necessary or appropriate, and to approve the forms, terms or provisions of any agreement or other documents as may be necessary or appropriate to carry out and effectuate the purpose and intent of the foregoing resolutions; and

5. Pierre M. Gentin or any officer of McKinsey Inc. is, hereby authorized, empowered and directed to take such actions and execute and deliver such documents as may be necessary or appropriate to effectuate the intent and purposes of the foregoing resolutions.

Date: Dec 10th, 2024

By: _____
Robert Sternfels
President of McKinsey & Company, Inc.

# CORPORATE COMPLIANCE PROGRAM

In order to address any deficiencies in its internal controls, compliance policies and procedures, and Code of Conduct (collectively, "Compliance Program") regarding compliance with the federal conflicts of interests statutes; the Federal Acquisition Regulation; Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 *et seq.* ("FDCA"); obstruction statutes; federal laws prohibiting aiding, abetting, and conspiring with entities and individuals engaged in violations of federal law; and all regulations associated with these provisions ("Relevant Law"), McKinsey & Company, Inc., and its subsidiaries and affiliates, including, but not limited to, McKinsey & Company, Inc. United States (collectively "McKinsey" or the "Company"), on behalf of itself and its subsidiaries and affiliates, agrees to continue to conduct, in a manner consistent with all of its obligations under the Deferred Prosecution Agreement ("Agreement"), appropriate reviews of its existing, recently implemented, internal controls, compliance policies and procedures, and Code of Conduct.

Where necessary and appropriate, the Company agrees to adopt a new, or to modify its existing, Compliance Program, to ensure it maintains an effective compliance program designed, implemented, and enforced to effectively deter and detect violations of the Relevant Law. At a minimum, this should include, but not be limited to, the following elements to the extent they are not already part of the Company's existing internal controls, compliance policies and procedures, and Code of Conduct:

## *Commitment to Compliance*

1. The Company will ensure that the Global Managing Partner, members of the Shareholders Council, and senior management provide strong, explicit, and visible support and commitment to its corporate policy against violations of the Relevant Law and the Company's Compliance Program and demonstrate rigorous adherence by example. The Company will also ensure that all levels of management, in turn, reinforce those standards and encourage employees to abide by them. The Company will create and foster a culture of ethics and compliance with the law in its day-to-day operations at all levels of the Company.

## *Policies and Procedures*

2. The Company will develop and promulgate a clearly articulated and visible corporate policy against violations of the Relevant Law, which policy shall be memorialized in a written compliance policy or policies.

3. The Company will develop and promulgate compliance policies and procedures designed to reduce the prospect of violations of the Relevant Law and the Company's Compliance Program, and the Company will take appropriate measures to encourage and support the observance of ethics and compliance policies and procedures against violation of the Relevant Law by personnel at all levels of the Company. These policies and procedures shall apply to all partners, officers, and employees and as necessary or appropriate, outside parties acting on behalf of the Company, such as agents, consultants, authorized representatives, distributors, contractors, suppliers, and joint venture partners

(collectively, "Agents and Business Partners"). The Company shall notify all employees that compliance with the policies and procedures is the duty of all individuals at all levels of the Company.

4. The Company will ensure that it has a system of policies and procedures, including a system of internal controls, reasonably designed to ensure that the Company does not itself violate the Relevant Law or provide or assist clients with the implementation of plans, advice, and/or strategies that violate the Relevant Law. This system shall be designed to provide reasonable assurances that:

a. the Company creates and maintains a risk assessment process to identify high-risk engagements using a standardized framework ("Client Service Risk Assessment"), which requires an assessment of the following factors before performing any work for a client or potential client:

i. *Country*: Assess the level of risk in the country of activity and ensure adherence to the Company's policies on travel, immigration, and international trade controls (sanctions and exports);

ii. *Institution*: Check risk factors relating to the potential client institution, including any material, sustained, or substantiated concerns relating to its integrity or reputation, including any relevant past misconduct by the client or proposed client, including prior criminal, civil, and regulatory resolutions, adverse media searches for allegations of illegal, unethical, or fraudulent conduct, and evaluation of the ethical attributes and internal controls of the client or potential client;

iii. *Topic*: Engage with clients on topics where the Company is confident in its ability to deliver meaningful impact and with which the Company is comfortable being associated externally;

iv. *Individual*: Assess concerns related to individual client leaders and people in positions of ownership or control, including any material and substantiated concerns relating to their integrity, reputation, or background; and

v. *Operational considerations*: Ensure any engagement complies with legal and regulatory requirements and with all of the Company's policies and avoid work that risks exposing the Company and its employees to undue risk;

b. the Client Service Risk Assessment approval process will be mandatory in evaluating whether to approve an engagement, and if so, a mitigation process by which, for approved engagements deemed to be high-risk engagements, there are appropriate written guardrails implemented and monitored;

c. the Client Service Risk Assessment shall also include mandatory procedures to address the following:

i. for any new client, ensure that a responsible partner and accountable senior partner follow all client diligence procedures before any engagement can begin, including approval by both a managing partner in the relevant geography and sector; and

ii. for any current or prospective client, apply the Client Service Risk Assessment to assess the risk of serving the potential client, including whether the

Company may perform the work contemplated by the engagement, and assess if any safeguards must be imposed before the work can commence. The responsible partner must conduct both assessments and the accountable senior partner must review and approve the assessments;

d. the Company creates and maintains a mandatory enhanced risk assessment and due diligence process prior to engaging with any client, current or prospective, that itself or any subsidiary or affiliate has, in the five years prior to the engagement proposal either been convicted of a crime, resolved any criminal investigation, or been under supervision by a court or government as a result thereof ("Tier 1 Entity"), or has been found liable in or resolved any civil or regulatory matter brought by any government entity or been under supervision by a court or government as a result thereof for a violation of law with material consequences to the client involving a risk to the public ("Tier 2 Entity"), which will require:

i. a review of such current or prospective Tier 1 Entity or Tier 2 Entity's past misconduct, including charging documents, resolution agreements, and statements of facts if they exist, and an assessment of any ongoing regulatory scrutiny relating to the Tier 1 Entity or Tier 2 Entity;

ii. an automatic escalation to the Client Service Risk Committee ("CSRC") for any Tier 1 Entity and written CSRC approval, along with approvals by the Chief Legal Officer and Global Chief Ethics and Compliance Officer, before proceeding to do any further work for the Tier 1 Entity;

iii. quarterly compliance reports of the Tier 1 review and approval process by the CSRC, Chief Legal Officer, and Global Chief Ethics and Compliance Officer;

iv. maintenance of Company records documenting that these requirements have been met and, if an engagement is accepted, the reasons for accepting the engagement and the names of the individuals who approved acceptance of the engagement; and

v. legal and compliance personnel, under the supervision of the Chief Legal Officer and Global Chief Ethics and Compliance Officer, have ongoing engagement with the Client Service Team ("CST"), as set forth below in section (f) in more detail, while the Tier 1 Entity or Tier 2 Entity continues to be served by the Company until five years have elapsed since the entity, or any subsidiary or affiliate of the entity, was subject to the terms of an agreement resolving an investigation or under court supervision.

e. the Company creates and maintains centralized responsibility and accountability for all client engagements to ensure such engagements are appropriately reviewed to determine if they involve a high-risk engagement, a Tier 1 Entity, or a Tier 2 Entity, and the responsible partner shall ensure that the Company's risk assessment analysis is completed in the Company's client in-take software, or equivalent, and that the completeness and accuracy of that assessment is confirmed by the accountable senior partner;

f. the Company creates and maintains a process, under the supervision of the Chief Legal Officer and Global Chief Ethics and Compliance Officer, that requires:

i. that, if the Company enters into any engagement involving a Tier 1 Entity or Tier 2 Entity, before proceeding with such engagement, the Company shall conduct a review of the client's past conduct, including applicable charging documents, resolution agreements, and statements of facts if they exist;

ii. that, if the Company enters into any high-risk engagement or an engagement involving a Tier 1 Entity, the CST shall report quarterly by client to the CSRC regarding the material recommendations the CST has made to the client, and address any material potential future recommendations so that the CSRC can evaluate whether any adjustments to the guidelines pursuant to which the CST is operating is necessary, including whether to continue working on the engagement;

iii. that the CSRC raise questions or concerns, if any, regarding the CST's client service to the Chief Legal Officer and Global Chief Ethics and Compliance Officer, who may consult with external counsel, if necessary and appropriate, and also may direct that adjustments be made to the guidelines pursuant to which the CST is operating, including whether to continue working on an engagement, to mitigate the risk of violations of the Relevant Law; and

iv. that the Company maintain records documenting the names and roles of each person involved in the process described above and that the requirements set forth in this paragraph have been met;

g. during the term of the Agreement, McKinsey must maintain the Client Service Risk Assessment process, the CSRC processes and procedures, and the oversight by the Chief Legal Officer and Global Chief Ethics and Compliance Officer outlined in Paragraphs 4(a) to 4(f) above;

h. McKinsey maintains a centralized document storage system ("Storage System") such as a document management system or a file sharing platform;

i. unless prohibited by applicable state, federal, or foreign law, McKinsey:

i. requires its partners and employees, to create and maintain a final working papers file ("Final Working Papers File") relating to client engagements on the Storage System. The Final Working Papers File shall include:

(1) documentation setting forth the scope of services, fees, and legal terms of the arrangement, such as:

(a) Memorandum of Confirmation describing scope and fees;

(b) consulting agreement, Master Service Agreement, or Statement of Work;

(c) written client acknowledgment of receipt of above documentation;

(d) any subsequently agreed modifications, extensions, or renewals; and

(e) documentation showing the client's acceptance of the above (e.g., emails with client, signed .pdfs);

(2) key interim deliverables that support or explain how the final deliverables were developed (e.g., interim SteerCo or client check-in documents);

(3) final deliverables, including any deliverables specified in a client contract or agreement;

(4) documentation of any client disagreement (e.g., email, memorandum) and how such disagreement was resolved; and

(5) invoices or financial statements shared with the client;

ii. retains all Final Working Papers, except for documents exclusively stored by the client, for a minimum of seven years for all engagements. McKinsey shall ensure that such materials may be promptly accessed and produced upon the request of the United States Government; and

iii. retains all communications (including but not limited to instant message, chat, or text) exchanged on any McKinsey-licensed electronic mail, messaging platform (i.e., currently Slack, Teams, and Zoom Chat), including attachments, for a minimum of seven years for all engagements. McKinsey shall ensure that such materials may be promptly accessed and produced upon the request of the United States Government;

j. McKinsey will also:

i. implement a training and certification program designed (a) to prevent and prohibit improper deletion of communications relating to McKinsey business, and

(b) to encourage all communications relating to McKinsey business to occur on McKinsey-licensed platforms described in Paragraph 4(i)(iii) above; and

ii. require all client-serving consultants to retain all communications relating to McKinsey business that occur outside of McKinsey-licensed platforms (including but not limited to WhatsApp, Signal, and Telegram) during the term of the Agreement, and further require client-serving consultants to certify compliance with this requirement on an annual basis;

k. McKinsey implements a written policy requiring the termination of any employee that engages in obstruction of justice, or attempts to do so;

l. the Company timely discloses to the United States Government client any current or prior engagement in which a neutral and detached third-party, aware of all the facts, would reasonably believe the engagement creates an actual or potential conflict of interest, based upon either (a) Federal Acquisition Regulation Subpart 9.5 or (b) circumstances in which the Company is advising or in the past three years has advised any client on work that is or was directly related to the work the Company would perform for the United States Government client;

i. the Company will disclose any such actual or potential conflict when submitting a written proposal to the United States Government client in response to a government-issued request for proposal, even when not required by the terms of a solicitation, including when McKinsey has not identified an actual or potential organizational conflict of interest;

ii. in all responses to government-issued requests for proposal, McKinsey shall provide a disclosure identifying the breadth of work performed by the Company and inform the United States Government of circumstances in which McKinsey provides or has provided consulting services to commercial institutions across all industries (including the specific industries relevant to the particular agency and/or services at issue in the solicitation from the United States Government); and

iii. upon request from a Contracting Officer for additional information, the Company shall provide such information and, if it is unable to do so because of confidentiality restrictions or another reason, will notify the Contracting Officer and, if appropriate, withdraw the proposal from consideration by the United States Government if the Contracting Officer determines that any concerns have not been appropriately addressed;

m. the Company creates and maintains an approach to compensation (including, but not limited to, salaries, bonuses, benefits in-kind, pension contributions, and other benefits) of its partners, officers, employees, and Agents and Business Partners reasonably designed to avoid financial incentives motivating such individuals to engage in, promote, or tolerate violations of the Relevant Law;

n. the Company does not hire Agents and Business Partners for the purpose of engaging in any activity that the Company itself may not engage in under the terms of this Agreement, including this Compliance Program;

o. the Company creates and maintains performance evaluations of partners, officers, and employees that consider adherence to the Company's Compliance Program, and completion of associated training of the same; and

p. the Company incorporates ethics and compliance considerations into candidate assessments and the recruiting process.

***Periodic Risk-Based Review***

5. The Company will develop these compliance policies and procedures on the basis of a periodic risk assessment addressing the individual circumstances of the Company.

6. The Company shall review its compliance policies and procedures designed to reduce the prospect of violations of the Relevant Law or the Company's Compliance Program no less than annually and update them as appropriate to ensure their continued effectiveness, taking into account relevant developments in the field, evolving industry standards, and the risk profile of the Company and its clients.

***Proper Oversight and Independence***

7. The Company will assign responsibility to one or more senior corporate executives of the Company for the implementation and oversight of the Company's Compliance Program regarding the Relevant Law. Such corporate official(s) shall have the authority to report directly to independent monitoring bodies, including internal audit, the Company's Shareholders Council, or any appropriate committee of the Shareholders

Council, and shall have an adequate level of stature and autonomy from management as well as sufficient resources and authority to maintain such autonomy.

***Training and Guidance***

8. The Company will implement mechanisms designed to ensure that its Compliance Program is effectively communicated to all partners, officers, relevant employees, and, where necessary and appropriate, Agents and Business Partners. These mechanisms shall include: (a) periodic training for all partners and officers; all employees in positions of leadership or trust or in positions that require such training (e.g., regulatory, sales, marketing, legal, compliance); all employees who provide or implement advice to clients; and, where necessary and appropriate, Agents and Business Partners; and (b) corresponding certifications by all such partners, officers, employees, and Agents and Business Partners, certifying compliance with the training requirements. The Company will conduct training in a manner tailored to the audience's size, sophistication, or subject matter expertise and, where appropriate, will discuss prior compliance incidents.

9. The Company will maintain, or where necessary establish, an effective system for providing guidance and advice to partners, officers, employees, and, where necessary and appropriate, Agents and Business Partners, on complying with the Company's compliance policies and procedures regarding the Relevant Law, including when they need advice on an urgent basis.

***Reporting and Investigation of Misconduct***

10. The Company will maintain, or where necessary establish, an effective system for internal and, where possible, confidential reporting by, and protection of, partners, officers, employees, and, where appropriate, Agents and Business Partners concerning violations of the Relevant Law or the Company's Compliance Program.

11. The Company will maintain, or where necessary establish, an effective and reliable process with sufficient resources for responding to, investigating, and documenting allegations of violations of the Relevant Law or the Company's Compliance Program regarding the Relevant Law. The Company will handle the investigations of such complaints in an effective manner, including routing the complaints to proper personnel, conducting timely and thorough investigations to determine root causes, and following up with appropriate corrective actions and remediation, including disciplinary actions, where necessary.

### *Enforcement and Discipline*

12. The Company will implement mechanisms designed to effectively enforce its Compliance Program, including appropriately incentivizing compliance and disciplining violations.

13. The Company will institute appropriate disciplinary procedures to address, among other things, violations of the Relevant Law and the Company's Compliance Program by the Company's partners, officers, consultants, and employees. Such procedures should be applied consistently, fairly, and in a manner commensurate with the

violation, regardless of the position held by, or perceived importance of, the partner, officer, consultant, or employee.

14. The Company shall implement procedures to ensure that where misconduct is discovered, reasonable steps are taken to remedy the harm resulting from such misconduct, and to ensure that appropriate steps are taken to prevent further similar misconduct, including assessing the Company's Compliance Program and making modifications necessary to ensure its effectiveness.

***Third-Party Relationships***

15. The Company will institute appropriate risk-based due diligence and compliance requirements regarding the Relevant Law that pertain to the retention and oversight of Agents and Business Partners, including:

a. conducting adequate due diligence with respect to the risks posed by the use of Agents and Business Partners, including their reputations and relationships, if any, with regulatory authorities and agencies;

b. informing Agents and Business Partners of the Company's commitment to abiding by the Relevant Law and of the Company's Compliance Program; and

c. seeking a reciprocal commitment from Agents and Business Partners.

16. The Company also will engage in ongoing risk-based monitoring of Agents and Business Partners through updated due diligence, training, audits, and/or annual compliance certifications by the third party.

17. Where necessary and appropriate, the Company will include standard provisions in agreements, contracts, and renewals thereof with Agents and Business Partners that are reasonably calculated to prevent violations of the Relevant Law, which may, depending upon the circumstances, include: (a) undertakings relating to compliance with the Relevant Law; (b) rights to conduct audits of the facilities, documents, and records of Agents and Business Partners to ensure compliance with the foregoing; and (c) rights to terminate Agents and Business Partners as a result of any breach of the Relevant Law, the Company's Compliance Program, or the representations and undertakings related to such matters.

***Mergers and Acquisitions***

18. The Company will develop and implement policies and procedures for mergers and acquisitions requiring that the Company conduct appropriate risk-based due diligence on potential new business entities, including appropriate due diligence regarding the Relevant Law by legal and compliance personnel.

19. The Company will ensure that the Company's Compliance Program apply as quickly as is practicable to newly acquired businesses or entities merged with the Company and will promptly:

a. train the shareholders, officers, consultants, employees, and Agents and Business Partners consistent with Paragraph 8 above on the Relevant Law and the Company's Compliance Program; and

b. where warranted, conduct an audit of all newly acquired or merged businesses as quickly as practicable concerning compliance with the Relevant Law.

***Monitoring, Testing, and Remediation***

20. In order to ensure that its compliance program does not become stale, the Company will conduct periodic reviews and testing of its compliance policies and procedures regarding the Relevant Law that are designed to evaluate and improve their effectiveness in preventing and detecting violations of the Relevant Law and the Company's Compliance Program, taking into account relevant developments in the field, evolving industry standards, and the risk profile of the Company and its clients. The Company will ensure that compliance and control personnel have sufficient direct or indirect access to relevant sources of data to allow for timely and effective monitoring and/or testing. Based on such review and testing and its analysis of any prior misconduct, the Company will conduct a thoughtful and thorough root cause analysis and timely and appropriately remediate to address the root causes.

21. The Company will have the effectiveness of the preceding elements of its Compliance Program audited by an outside independent entity, on an annual basis, and provide the entity's findings to the United States in its annual report (see Attachment 2B).

# COMPLIANCE REPORTING REQUIREMENTS

McKinsey & Company, Inc., and its subsidiaries and affiliates, including, but not limited to, McKinsey & Company, Inc. United States (collectively "McKinsey" or the "Company"), agrees that it will report to the United States Attorney's Office for the Western District of Virginia, the United States Attorney's Office for the District of Massachusetts, and the United States Department of Justice's Consumer Protection Branch (collectively, the "United States") periodically. Unless otherwise directed by the United States in writing, the Company shall transmit all copies of all work plans, reports, certifications, and other notices to the United States as required herein by electronic mail to Consumer.Compliance@usdoj.gov and to any additional email addresses provided by the United States. The subject line of the email must begin with the Company's name. In the event that electronic mail is unavailable, the notice may be sent by personal delivery, overnight delivery by a recognized delivery service, or registered or certified mail to an address provided by the United States.

During the Term of the Deferred Prosecution Agreement ("the Agreement"), the Company shall review, test, and update its internal controls, compliance policies and procedures, and Code of Conduct described in Attachment 2A. The Company shall be required to: (a) conduct an initial review and submit a first report, and (b) conduct and prepare at least four follow-up reviews and reports, as described below. Prior to conducting each review, the Company shall be required to prepare and submit a work plan for the review. The Company shall also be required to submit additional types of reports on a

periodic basis, as described below. The Company shall also, if requested by the United States during the Term, provide additional information, including documents, or meet with the United States regarding remediation, implementation, and testing of its internal controls, compliance policies and procedures, and Code of Conduct described in Attachment 2A.

In conducting the reviews, the Company shall undertake the following activities, among others: (a) inspection of relevant documents, including the Company's current policies, procedures, and training materials concerning compliance with the federal conflicts of interests statutes; the Federal Acquisition Regulation; Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq. ("FDCA"); obstruction statutes; federal laws prohibiting aiding, abetting, and conspiring with entities and individuals engaged in violations of federal law; and all regulations associated with these provisions ("Relevant Law"); (b) inspection and testing of the Company's systems, internal controls, compliance policies and procedures, and Code of Conduct, including record keeping and internal audit procedures; (c) meetings with, and interviews of, relevant current and, where appropriate, former partners, officers, employees, consultants, partners, agents, and other persons; and (d) analyses, studies, and comprehensive testing of the Company's compliance program.

***Written Work Plans, Reviews, Reports, and Certifications***

1. The Company shall conduct a first review and prepare a first report, followed by at least four follow-up reviews and reports.

2. Within sixty (60) calendar days after the Effective Date of the Agreement, the Company shall, after consultation with the United States, prepare and submit a written work plan to address the Company's first review. The United States shall have thirty (30) calendar days after receipt of the written work plan to provide comments, which the Company shall incorporate into its written work plan.

3. With respect to each follow-up review and report, after consultation with the United States, the Company shall prepare a written work plan within forty-five (45) calendar days after the submission of the prior report, and the United States shall provide comments within thirty (30) calendar days after receipt of the written work plan, which the Company shall incorporate into its written work plan.

4. All written work plans shall identify with reasonable specificity the activities the Company plans to undertake to review and test each element of its compliance program, as described in Attachment 2A.

5. Any disputes between the Company and the United States with respect to any written work plan shall be decided by the United States in its sole discretion.

6. No later than twelve (12) months after the Effective Date of the Agreement, the Company shall submit to the United States a first written report setting forth: (1) a complete description of its remediation efforts to date; (2) a complete description of the testing conducted to evaluate the effectiveness of the compliance program and the results of that testing; and (3) its proposals to ensure that the compliance program is reasonably designed, implemented, and enforced so that the program is effective in deterring and

detecting violations of the Relevant Law; a certification from the Company's Global Managing Partner and Global Chief Ethics and Compliance Officer, in the form of executing the document attached as Attachment 2C to the Agreement, shall accompany the report. The written report and certification will be deemed a material statement and representation by the Company to the executive branch of the United States for purposes of 18 U.S.C. §§ 1001 and 1519, and it will be deemed to have been made in the Western District of Virginia, the District of Massachusetts, and the District of the District of Columbia. With prior written approval of the United States, the Company may extend the time period for issuance of the first report and certification.

***Follow-up Reviews, Reports, and Certifications***

7. The Company shall undertake at least four follow-up reviews, reports, and certifications, incorporating the views of the United States on the Company's prior reviews, reports, and certifications, to further monitor and assess whether the Company's compliance program is reasonably designed, implemented, and enforced so that it is effective at deterring and detecting violations of the Relevant Law.

8. Each follow-up review, report, and certification shall be completed and delivered to the United States no later than twelve (12) months after the submission of the prior report and certification, except that the final follow-up review, report, and certification shall be completed and delivered to the United States no later than thirty (30) calendar days before the end of the Term.

9. As part of the final follow-up report, the Company shall include a sustainability plan that describes the Company's objectives and methodology for maintaining a compliance program that is effective at deterring and detecting violations of the Relevant Law.

10. With prior written approval of the United States, the Company may extend the time period for submission of any of the follow-up reports and certifications.

***Additional Reporting Requirements***

11. The Company shall submit written reports to the United States concerning Reportable Events on a quarterly basis. A Reportable Event is any matter that, after a reasonable opportunity to conduct an appropriate review or investigation of the allegations, a reasonable person would consider a material violation of the Relevant Law. A Reportable Event may be the result of an isolated event or a series of occurrences. The written report shall include: (a) whether any Reportable Events have been determined to have occurred during the preceding calendar quarter, and providing updated information about Reportable Events that the Company determined to have occurred during any prior calendar quarter, as may be necessary in the reasonable determination of the Company or at the United States' request; (b) a description of the Reportable Event, including the relevant facts, the positions of the persons involved, and the legal authorities implicated; (c) a description of the Company's actions taken to investigate and correct the Reportable Event; and (d) a description of any further steps the Company plans to take to address the Reportable Event and prevent it from recurring. The written reports shall be submitted to the United States

no later than fifteen (15) calendar days after the end of each calendar quarter (that is, by January 15 for the calendar quarter ending December 31, April 15 for the calendar quarter ending March 31, July 15 for the calendar quarter ending June 30, and October 15 for the calendar quarter ending September 30), excepting any calendar quarter that ends within thirty (30) calendar days of the end of the Term.

***Additional Information and Meetings During the Term***

12. Upon request of the United States in its sole discretion, the Company shall provide to the United States additional information or documents regarding the Company's compliance-related improvements, processes, and controls. The Company's cooperation pursuant to this Paragraph is subject to applicable law, and regulations, as well as valid claims of attorney-client privilege or attorney work product doctrine; however, the Company must provide to the United States a log of any information or cooperation that is not provided based on an assertion of law, regulation, or privilege, and the Company bears the burden of establishing the validity of any such assertion.

13. Throughout the Term of the Agreement, whenever the United States deems it appropriate in its sole discretion, representatives from the Company and the United States will meet to discuss the status of the review and reporting obligations, and any suggestions, comments, or improvements the Company may wish to discuss with or propose to the United States.

***Confidentiality of Submissions***

14. Submissions by the Company, including the work plans and reports, will likely include proprietary, financial, confidential, and competitive business information. Moreover, public disclosure of the submissions could discourage cooperation or impede pending or potential government investigations and thus undermine the objectives of the reporting requirement. For these reasons, among others, the submissions and the contents thereof are intended to remain and shall remain non-public, except as otherwise agreed to by the parties in writing, or except to the extent the United States determines in its sole discretion that disclosure would be in furtherance of the United States' discharge of its duties and responsibilities or is otherwise required by law.

# CERTIFICATION

To: United States Department of Justice
Consumer Protection Branch
Attention: Corporate Compliance

United States Attorney's Office for the District of Massachusetts

United States Attorney's Office for the Western District of Virginia

Re: Deferred Prosecution Agreement Disclosure Certification

The undersigned certify, pursuant to Attachments 2A and 2B of the Deferred Prosecution Agreement ("DPA") effective on [DATE], by and between the United States Attorney's Office for the Western District of Virginia, the United States Attorney's Office for the District of Massachusetts, and the United States Department of Justice's Consumer Protection Branch (collectively "the United States") and McKinsey & Company, Inc., and its subsidiaries and affiliates, including, but not limited to, McKinsey & Company, Inc. United States (collectively "McKinsey" or the "Company"), that the undersigned are aware of the Company's reporting obligations under Attachment 2B of the DPA and have reviewed the Company's [first/second/third/fourth/fifth] written work plan and compliance report. The undersigned further certify that to the best of the undersigned's knowledge based on a reasonable inquiry, the Company's [first/second/third/fourth/fifth] compliance report has disclosed to the United States all information required pursuant to Attachment 2B of the DPA, which includes (1) a complete description of the Company's remediation efforts to date; (2) a complete description of the testing conducted to evaluate the effectiveness of the compliance program and the results of that testing; and (3) the Company's proposals to ensure that its compliance program is reasonably designed, implemented, and enforced so that the program is effective in deterring and detecting violations of the federal conflicts of interests statutes; the Federal Acquisition Regulation; Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 *et seq.* ("FDCA"); obstruction statutes; federal laws prohibiting aiding, abetting, and conspiring with entities and individuals engaged in violations of federal law; and all regulations associated with these provisions ("Relevant Law"). The undersigned further certify that to date, to the best of the undersigned's knowledge based on a reasonable inquiry, the Company has disclosed to the United States all Reportable Events as required by Attachment 2B of the DPA.

The undersigned further acknowledge and agree that the reporting requirements contained in Attachment 2B of the DPA and the representations contained in this certification

constitute a significant and important component of the DPA and the United States' determination of whether the Company has satisfied its obligations under the DPA.

The undersigned hereby certify that the undersigned are the Global Managing Partner and Global Chief Ethics & Compliance Officer, of the Company and have been duly authorized by the Company to sign this Certification on behalf of the Company.

This Certification shall constitute a material statement and representation by the undersigned and by, on behalf of, and for the benefit of, the Company to the executive branch of the United States for purposes of 18 U.S.C. § 1001, and such material statement and representation shall be deemed to have been made in the Western District of Virginia, the District of Massachusetts, and the District of the District of Columbia. This Certification shall also constitute a record, document, or tangible object in connection with a matter within the jurisdiction of a department and agency of the United States for purposes of 18 U.S.C. § 1519, and such record, document, or tangible object shall be deemed to have been made in the Western District of Virginia, the District of Massachusetts, and the District of the District of Columbia.

By: _____ Dated: _____
[NAME]
Global Managing Partner
McKinsey & Company, Inc.

By: _____ Dated: _____
[NAME]
Global Chief Ethics and
Compliance Officer
McKinsey & Company, Inc.

**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF VIRGINIA**
**ABINGDON**

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| **UNITED STATES OF AMERICA** | ) | |
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| **v.** | ) | **Criminal No.** |
| | ) | |
| **MCKINSEY & COMPANY, INC. UNITED STATES** | ) | |

# AGREED STATEMENT OF FACTS

## I. Organization of McKinsey & Company, Inc., United States and work with Purdue Pharma, L.P.

1. The defendant, McKinsey & Company, Inc. United States (MCKINSEY) is a Delaware corporation with its principal place of business in New York, New York. MCKINSEY is an indirect wholly owned subsidiary of McKinsey & Company, Inc. (McKinsey Inc.), a New York Corporation. McKinsey Inc. is a global management consulting firm, founded in 1926 in Chicago, Illinois and with offices in over 130 cities in more than 65 countries.

2. MCKINSEY supports private sector clients throughout the United States. MCKINSEY recruits consultants with a wide variety of backgrounds including from the most elite universities in the world. MCKINSEY consultants often work directly with clients' senior management (C-Suite) and boards of directors.

3. MCKINSEY is organized into practice groups led by senior partners of the firm. One of these was the firm's Pharmaceutical and Medical Products (PMP) practice. For years, MCKINSEY worked with several pharmaceutical companies concerning their manufacture and sale of opioids, including Purdue Pharma L.P., Company 1, Company 2, and Company 3. Between 2004 and 2019, MCKINSEY contracted with Purdue Pharma L.P. on 75 different engagements in the United States.

4. Purdue Pharma L.P. is a U.S.-based, privately held pharmaceutical limited partnership, established in Delaware with its principal place of business in Connecticut (together with its affiliates, "Purdue Pharma"). Purdue Pharma manufactured, distributed, and sold the extended-release opioid drugs OxyContin, Butrans, and Hysingla. Purdue Pharma sales representatives marketed these drugs through in-person sales calls until in or about February 2018, when Purdue Pharma laid off the bulk of its sales force and ceased all in-person opioid marketing, although it continues online marketing and offers prescription savings cards for OxyContin and other opioid products to this day.

5. OxyContin is an extended-release oxycodone tablet. Oxycodone is an opioid agonist with a morphine milligram equivalent (MME) of 1.5 and a high potential for abuse.[1] Oxycodone is a Schedule II narcotic controlled substance.

6. In 1995, OxyContin was approved by the United States Food and Drug Administration (FDA) for the "management of moderate to severe pain in patients who

[1] MME is a value that represents the potency of an opioid dose relative to morphine.

require treatment with an oral opioid analgesic for more than a few days." In 2001, FDA approved a revised label for OxyContin, noting OxyContin "is intended for the management of moderate to severe pain when a continuous, around-the-clock analgesic is needed for an extended period of time."

7. A report that Purdue Pharma authored and shared with MCKINSEY in July 2009 stated that OxyContin "currently accounts for 34% of opioid scripts in the US. However, generics are exerting pressure on branded products such that OxyContin is losing share at a rate of 2 points per year."

8. In 2010, OxyContin was reformulated with abuse-deterrent properties. MCKINSEY worked with Purdue Pharma to obtain approval of the abuse-deterrent formulation by the FDA. The label still noted OxyContin's ongoing abuse liability, that it could be abused, and was subject to criminal diversion. ("OxyContin contains oxycodone, which is a Schedule II controlled substance with an abuse liability similar to morphine. OxyContin, like morphine and other opioids used for analgesia, can be abused and is subject to criminal diversion.")

9. In April 2013, the FDA approved new labeling for OxyContin. The revised OxyContin label read: "OxyContin is indicated for the management of pain severe enough to require daily, around-the-clock, long-term opioid treatment where alternative treatment options are inadequate" and indicated "the product has physical and chemical properties that are expected to make abuse by injection difficult and to reduce abuse via the intranasal route." The label further noted, however: "[a]buse may occur by taking intact tablets in

quantities greater than prescribed or without legitimate purpose, by crushing and chewing or snorting the crushed formulation, or by injecting a solution made from the crushed formulation . . . . The data from the clinical study, along with support from the in vitro data, also indicate that OxyContin has physicochemical properties that are expected to reduce abuse via the intranasal route. However, abuse of OxyContin by these routes, as well as by the oral route is still possible." When MCKINSEY received news that the FDA had approved the revised label, a MCKINSEY consultant sent an email to another MCKINSEY consultant saying "[w]e did it."

10. At all relevant times, the sale of OxyContin was approved by the FDA, and it was lawful for licensed medical professionals to prescribe OxyContin to patients for only a medically valid purpose. OxyContin continues to be a prescription drug that is sold lawfully in the United States. Prescribing OxyContin for illegitimate purposes fueled the opioid crisis and continues to be a public health problem in the United States.

## II. The FDA and the Food, Drug, and Cosmetic Act

11. The FDA is responsible for protecting the health and safety of the American public by ensuring, among other things, that pharmaceutical drugs are safe and effective for their intended uses and bear labeling that contains true and accurate information. The FDA regulates the manufacturing, labeling, and distribution of medical devices shipped or received in interstate commerce and enforces the Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 301 et seq. (FDCA).

12. The FDCA prohibits, among other things, the introduction, delivery for introduction, or causing the introduction or delivery for introduction into interstate commerce of a misbranded drug. 21 U.S.C. § 331(a).

13. The FDCA defines labeling to include "all labels and other written, printed, or graphic matter . . . accompanying [a drug]." 21 U.S.C. § 321(m).

14. The FDCA provides that a drug is misbranded "[i]f its labeling [was] false or misleading in any particular." 21 U.S.C. § 352(a). The FDCA further provides that "[i]n determining whether the labeling . . . [was] misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representation or material with respect to the consequences which may result from the use . . . to which the labeling . . . relates under the conditions of use prescribed in the labeling . . . or under such conditions of use as are customary or usual." 21 U.S.C. § 321(n).

15. OxyContin was a drug within the meaning of the FDCA. 21 U.S.C. § 321(g)(1).

## III. MCKINSEY's engagements with Purdue Pharma

16. From approximately 2002 to 2003, Purdue Pharma was the subject of a public congressional investigation related to abuse and diversion of OxyContin. In December 2003, the General Accounting Office (GAO) issued findings that, among other things, Purdue Pharma's marketing of OxyContin was overly aggressive and exacerbated

OxyContin's abuse and diversion. The GAO's report also explained that "OxyContin is the most abused single-entity prescription product according to those DEA state and divisional offices that report OxyContin abuse." The report further stated, in part, that "DEA field offices continue to report OxyContin as a drug of choice among abusers." It also stated, "[w]e agree with DEA that Purdue conducted an extensive campaign to market and promote OxyContin using an expanded sales force and multiple promotional approaches to encourage physicians, including primary care specialists to prescribe OxyContin as an initial opioid treatment for noncancer pain, and that these efforts may have contributed to these problems. We also agree that Purdue marketed OxyContin as having a low abuse liability, but we noted that this was based on information in the original label approved by FDA."

17. Shortly thereafter, in 2004, MCKINSEY and Purdue Pharma executed a Master Consulting Agreement, which formed the basis of MCKINSEY's retention as a consultant for Purdue Pharma. Thereafter, for each engagement or project, the parties executed a Statement of Services to the Master Consulting Agreement that detailed the specific terms and plan for each individual project, including project objectives and deliverables. As an outside consultant, MCKINSEY advised Purdue Pharma regarding what steps Purdue Pharma should take in connection with each particular engagement.

18. Over the course of 75 engagements from 2004 through 2019 and against the backdrop of a nationwide opioid crisis, MCKINSEY worked with Purdue Pharma on a variety of topics, including how to improve revenues from OxyContin and later

reformulated OxyContin, achieve cost reductions, develop an M&A strategy, improve R&D redesign, and enhance organizational governance and management. Purdue Pharma, in turn, paid MCKINSEY approximately $93,546,499 (ninety-three million five hundred forty-six thousand four hundred ninety-nine dollars) over that fifteen-year period.

19. On or about February 9, 2004, two months after the GAO findings, MCKINSEY presented an outline of a proposal to Purdue Pharma entitled, "Purdue's Imperative – Defining a Future of Growth." In that outline, MCKINSEY noted to Purdue Pharma that they had "been on the ground for ~10 days" and had "a better perspective on how [MCKINSEY] might help [Purdue Pharma]." MCKINSEY advised Purdue Pharma to "refocus" on a list of priority items, including "agree[ing] on a set of targeted deep dives to resolve key strategic issues, redesign[ing] selected processes or driv[ing] cost savings in specific areas." Among these was "[d]riving OxyContin performance (resetting targets and coverage model, creating segment-specific messaging and materials)."

20. As of February 2004, Purdue Pharma was the subject of federal and state criminal and civil investigations.

21. During the time MCKINSEY served as a consultant for Purdue Pharma, MCKINSEY worked closely with Purdue Pharma leadership. At times, MCKINSEY consultants interacted directly with Purdue Pharma's board of directors (Purdue Pharma Board), which was dominated by one family (the Family). MCKINSEY consultants had high-level access to employees at Purdue Pharma; occupied office space at Purdue Pharma's headquarters in Stamford, Connecticut, down the hallway from the Family and

C-Suite; and went on several "ride-alongs" with Purdue Pharma sales representatives, accompanying them on sales calls to potential and then-current prescribers of OxyContin. MCKINSEY consultants and Purdue Pharma worked side by side to develop marketing messages and increase OxyContin sales, including by using data analytics.

22. MCKINSEY knew the risks and dangers associated with OxyContin, a powerful and addictive opioid. MCKINSEY also knew that Purdue Pharma's affiliate and its top executives had previously pled guilty to federal crimes relating to the marketing and promotion of OxyContin. Nevertheless, MCKINSEY chose to continue working with Purdue Pharma to improve sales of OxyContin, among other engagements.

23. In fact, between 2013 and 2014, MCKINSEY designed strategies to help Purdue Pharma identify which prescribers the Purdue Pharma sales force should call on to increase OxyContin prescriptions. This included a strategy to identify which current OxyContin prescribers (referred to as High Value Prescribers) would likely generate the greatest number of additional prescriptions if called on by Purdue Pharma's sales force. MCKINSEY recommended the use of factors including the existing volume of OxyContin prescriptions, historic preference for generic drugs, willingness to change from one brand of drug to another, and medical specialty to identify High Value Prescribers. Focusing sales calls on High Value Prescribers resulted in reformulated OxyContin prescriptions for uses that were not for a medically accepted indication, were unsafe, ineffective, and medically unnecessary, and that were often diverted for uses that lacked a legitimate medical purpose. MCKINSEY recommended and worked with Purdue Pharma to implement a plan to detail

these High Value Prescribers, some of which were writing 25 times as many reformulated OxyContin prescriptions as similarly situated peers, because it knew that detailing these prescribers was effective in producing more reformulated OxyContin prescriptions, thereby increasing Purdue Pharma's revenue.

## IV. MCKINSEY's knowledge of Purdue Pharma's 2007 criminal conviction

24. In 2007, a Purdue Pharma affiliate company pled guilty to misbranding OxyContin, from 1996 through 2001, by falsely marketing it as less addictive, less subject to abuse and diversion, and less likely to cause dependence and withdrawal than other pain medications. Purdue Pharma and its affiliate also agreed to pay more than $600 million, of which more than $100 million was paid to settle civil False Claims Act liability for knowingly causing the submission of false claims to federal healthcare programs for OxyContin. In addition, Purdue Pharma's then president, general counsel, and medical director each pled guilty to misbranding in violation of the FDCA, a criminal offense, and collectively paid a total of $34.5 million in monetary penalties. During engagements, each of those executives had offices near the conference room where MCKINSEY employees were stationed at Purdue Pharma's headquarters.

25. As part of the 2007 criminal resolution, Purdue Pharma also entered a five-year corporate integrity agreement (CIA) with the Department of Health and Human Services, Office of the Inspector General (HHS-OIG). During its term, the CIA placed restrictions on Purdue Pharma's sales and marketing of OxyContin. Purdue Pharma

determined that some MCKINSEY consultants were "Responsible Covered Persons" under, and therefore subject to, the terms of the CIA.

26. After the 2007 guilty pleas of the Purdue Pharma affiliate and certain executives, MCKINSEY partners maintained close contact with Purdue Pharma. In an email dated June 22, 2007, MCKINSEY Senior Partner 1 wrote to other MCKINSEY partners, including MCKINSEY Senior Partners 2 and 3, about Purdue Pharma: "[M]any touches over past few weeks/months…mxf [*sic*] – [referring to then Purdue Pharma CEO Michael Friedman] setting up introduction meeting with new ceo… ."

## V. MCKINSEY worked with Purdue Pharma to prepare draft REMS

27. In 2007, Congress enacted legislation allowing the FDA to require Risk Evaluation and Mitigation Strategies (REMS) for prescription drugs with addictive properties to ensure the benefits of those drugs outweigh the risks.

28. MCKINSEY knew that if the FDA created a REMS with restrictive requirements for opioids, a significant decline of OxyContin sales could result.

29. The FDA began to require REMS for various drugs starting in March 2008. Before the FDA required Purdue Pharma to submit a REMS for its abuse deterrent formulation of OxyContin in late 2008, the FDA had never required a REMS for an opioid drug.

30. On or about October 3, 2008, the FDA sent a letter to Purdue Pharma outlining the required elements for a proposed REMS by Purdue Pharma, including a

Medication Guide, Elements to Assure Safe Use (ETASU), an implementation system, a communication plan, and a timetable for assessments.

31. In an October 2008 confidential memorandum for Purdue Pharma's CEO (Purdue Pharma Executive 1), MCKINSEY outlined its efforts to "work with your core team to partner with them to develop their respective sections of the REMS plan." MCKINSEY wrote: "The FDA's increasingly risk conservative position, has resulted in REMS requirements across indications. For controlled substances, recent communications recommend that the FDA take a broader approach in examining opioids as an entire class. Our interpretation is that this is an aggressive attempt by the agency to address diversion, abuse, and misuse (e.g., high dosages to opioid naïve patients). The potential complication of the approach is that it may unduly limit access to patients who need pain relief." MCKINSEY proposed working with Purdue Pharma to "[d]evelop a fact base and business case that is most effective in meeting [Purdue Pharma's] common objectives with the [FDA] – to ensure appropriate use by patients and to prevent access by non-patients."

32. On October 23, 2008, MCKINSEY Consultant 1 emailed MCKINSEY's Senior Partners 1 and 2 about MCKINSEY's work with Purdue Pharma, including on the REMS. MCKINSEY Consultant 1 relayed that she had spoken with Purdue Pharma's CEO who was "aware of the critical role we are playing in pulling REMs together and is very appreciative." MCKINSEY Consultant 1 also noted that two Purdue Pharma Board members had approached a member of Purdue Pharma leadership and "'blessed' him to do whatever he thinks is necessary to 'save the business.'" As for Purdue Pharma's broader

strategy, MCKINSEY Senior Partner 1, MCKINSEY Senior Partner 2 and MCKINSEY Consultant 1 emailed about the importance of "get[ting] to the board." MCKINSEY Senior Partner 2 emailed Senior Partner 1, "[Senior Partner 1] maybe you can just call [Family Member 1] and see how he is feeling."

33. As part of its work to advise Purdue Pharma on the development of the REMS, MCKINSEY noted it was going to flesh out two REMS variants: "Option A: literal version which follows exactly what the FDA has stated in their letter" or "Option B: 'to the spirit' version, which follows the letter where possible, but where it becomes problematic, go for something that's in line with the spirit of what the FDA is asking for."

34. The FDA adopted the less restrictive REMS that resulted in high-dose OxyContin remaining subject to the same oversight as lower dose opioids. It further prevented a moratorium on extended-release opioids. The REMS additionally made training for prescribers voluntary and not mandatory.

35. On October 31, 2008, MCKINSEY prepared the first draft of the proposed REMS for OxyContin, which included all elements required by the FDA: (1) a draft medication guide explaining the benefits and risks of OxyContin that Purdue Pharma would distribute to providers to give to every patient prescribed OxyContin; (2) required training for providers and patients; (3) required certification in a program called PROVIDE (Purdue's Responsible Opioid Verification, Intervention, Dispensing, and Evaluation), which was intended to teach prescribers about OxyContin and risk management; (4) a certification program in which prescribers, dispensers, and patients had to be enrolled and

certified in order to prescribe, dispense, or receive OxyContin; (5) training or education about proper use and an attestation of receipt and understanding of that training; (6) a communication plan to support implementation of the REMS program, which required Purdue Pharma to provide a letter and other educational materials to healthcare providers; (7) databases of certified prescribers, dispensers, and patients maintained by Purdue Pharma; and (8) a timeline for submitting assessments at 18 months, 3 years, and 7 years following approval, and every 4 years thereafter.

36. On November 5, 2008, MCKINSEY convened a "blue ribbon panel" of independent experts to discuss REMS for reformulated OxyContin, including consultants, doctors, regulatory professionals, and academics to advise on REMS for Purdue Pharma's proposal to the FDA. The panel suggested that having a coalition of industry participants working together to develop uniform REMS would be beneficial for the entire medical industry, including patients.

37. On November 14, 2008, in a public meeting unrelated to OxyContin, the Director of the Division of Anesthesia, Analgesia, and Addiction Products at the FDA stated that the FDA was "still in the infancy of understanding what our authorities are under the new law in regard to REMS . . . the one clear voice that we have on this is that it really would be appropriate to have all the companies who have potent opioids work together to have some type of REMS program."

38. On December 4, 2008, days before Purdue Pharma was scheduled to submit its already finalized proposed individual REMS, the FDA sent a letter to Purdue Pharma

requesting that Purdue Pharma not submit REMS while the FDA considered class-wide REMS—a uniform program for all products in a drug class.

39. On March 3, 2009, the FDA met with manufacturers of extended release and long-acting opioid medications to discuss the requirement for a class-wide REMS. In response, 25 branded and generic pharmaceutical companies that marketed long-acting and extended-release opioids formed a consortium, called the Industry Working Group (IWG), to develop and propose industry-wide REMS for the class of Extended Release/Long-Acting opioids, including reformulated OxyContin.

40. MCKINSEY later provided technology support to Purdue Pharma relating to the implementation of REMS but did not provide technology support to the IWG.

41. The FDA approved the final class-wide REMS on July 9, 2012. The FDA ultimately adopted the IWG's REMS, which was different from what MCKINSEY originally proposed. For example, unlike the proposed REMS drafted by MCKINSEY, the adopted class-wide REMS did not include any communication plan, certification, verification, patient registry, or database of certified prescribers, dispensers, and patients.

## VI. MCKINSEY worked with Purdue Pharma to enhance "Brand Loyalty" for OxyContin and protect market share

42. On May 25, 2009, Purdue Pharma engaged MCKINSEY to "help protect, defend and accelerate OxyContin performance at a time of change, including the new formulation launch and new competitor entry." According to the contract between MCKINSEY and Purdue Pharma, this effort was focused on developing a "set of messages

and tactics for OxyContin to: Reduce and potentially turnaround the recent volume and share decline[;] Enhance loyalty to OxyContin among loyalist prescribers[;] Convert 'fence sitters' into more loyal OxyContin prescribers[;] Capture full in-label potential of new formulation among appropriate patients[; and] Protect OxyContin's market share against new market entrants[.]"

43. MCKINSEY's deliverables for the project included: "Understanding of drivers of recent decline in category size and market share," "Brand positioning (target segments, frame of reference, reason for differentiation) to maintain and enhance brand loyalty in appropriate patients," and "List of customer issues about new formulation and potential approaches to mitigate concerns[.]"

44. In July 2009, MCKINSEY prepared a confidential memorandum for Purdue Pharma Executive 1 with ideas to "chart the course for the 'New [Purdue Pharma].'" MCKINSEY wrote that "[Purdue Pharma] must … drive the OxyContin franchise[.]" MCKINSEY wrote that "driving a more impactful OxyContin franchise should be your top priority." MCKINSEY advised Purdue Pharma to create a small working group to, among other things, "[e]nsure everything is done to optimize and protect OxyContin's positioning[.]" Purdue Pharma should "[b]alance the drive for outsized growth and profitability against the potential for increased regulatory scrutiny and/or compromised exclusivity; adjust sales and marketing plans appropriately[.]" The memo concluded: "It has been our distinct privilege to play a small part in [Purdue Pharma's] progress."

45. In an email dated July 7, 2009, concerning a "Brand Loyalty Project" for OxyContin, Purdue Pharma Executive 2 wrote to MCKINSEY: "I want to be clear that the overall goal of this project is to provide us with recommendations on what we should be doing to support OxyContin (current and new formulation) from both a sales and marketing perspective… regardless of what we think legal may or may not say. The only exception here is what we would test from a messaging perspective." He added: "At the appropriate time, we will have all the necessary conversations with med, reg, and legal to make sure we are promoting the product within FDA regulations."

46. In a "brand loyalty" presentation to Purdue Pharma dated September 11, 2009, MCKINSEY presented its findings on "drivers" of brand loyalty, including "opportunities" to promote messages to make prescribers more comfortable prescribing OxyContin. MCKINSEY identified "issues" with OxyContin's brand, including: "Has a reputation for being abused and diverted" and "[i]s medication patients are reluctant to take."

47. MCKINSEY laid out for Purdue Pharma "[p]otential reasons why greater number of patients are discontinuing use of [OxyContin] and opioids," including: "Physician and patient perceptions of OER [oxycodone extended-release] is changing (e.g., concerns about)." In an effort to address these negative perceptions, MCKINSEY proposed to "interrogate physicians through phone and in-depth interviews."

48. Based on its research concerning the negative perceptions and to improve sales, MCKINSEY developed a "Physician Segmentation" initiative to target specific

messages to specific prescribers of OxyContin—that is, to tailor Purdue Pharma's messaging to increase OxyContin prescriptions. MCKINSEY divided prescribers into four different segments.

49. In documents shared with Purdue Pharma, MCKINSEY emphasized that the group of prescribers it characterized as "Chronic Pain Avoiders" should be urged by Purdue Pharma salespeople to "promote ER usage in opioid naïve patients and to step up to ER while maintaining share."

50. "Opioid naïve" meant patients who were being put on opioids for either the first time or the first time after a certain period. In other words, MCKINSEY advised Purdue Pharma on how to encourage prescribers to issue prescriptions to patients who were not currently using OxyContin.

51. Following its previous guidance, in November 2009, MCKINSEY issued a report recommending Purdue Pharma sales representatives "emphasiz[e] [the] broad ranges of doses." Higher milligram OxyContin tablets generated the most revenue for Purdue Pharma.

52. MCKINSEY estimated that these new sales and marketing steps would result in $200 million to $400 million more in revenue for Purdue Pharma. This plan was introduced to the Purdue Pharma sales force at the National Sales Meeting in January 2010.

## VII. MCKINSEY worked with Purdue Pharma to obtain approval for reformulated OxyContin

53. Meanwhile, in 2010, while the CIA was in effect, MCKINSEY worked with Purdue Pharma to obtain FDA approval for a reformulated version of OxyContin.

54. At the time, development of abuse deterrent formulations was a priority for the FDA, State Attorneys General, and other public health authorities. For example, an April 2011 White House report committed the government to expediting research on the development of abuse deterrent formulations of opioids through grants, partnerships with academic institutions, and priority New Drug Application review by the FDA. The government further committed, through the FDA, to providing guidance to the pharmaceutical industry on the development of abuse deterrent drug formulations and on post-market assessment of their performance.

55. Similarly, in March 2013, 48 State Attorneys General wrote to the FDA Commissioner urging the FDA to encourage manufacturers to make abuse deterrent versions of their opioids, because they could "be part of a comprehensive approach" to combating abuse. Later, in December 2013, after the approval of the reformulated version of OxyContin, 42 State Attorneys General wrote to the FDA thanking the FDA for its "recent efforts to ensure branded opioid drugs have abuse-deterrent formulations."

56. Purdue Pharma's reformulated OxyContin included abuse-deterrent properties, including an added ingredient that was designed to make the pill more difficult to crush or dissolve, and therefore less likely to result in an overdose when tampered with. Purdue Pharma claimed, and the FDA ultimately agreed, this made it more difficult, but not impossible, to abuse OxyContin by dissolving a pill and injecting the drug.

57. Reformulated OxyContin also served an additional purpose for Purdue Pharma: modifications to existing patented pharmaceutical products can result in extended patent protection, which would allow Purdue Pharma to reduce competition from generic versions of OxyContin (which lacked these new abuse-deterrent properties).

58. In 2008, Purdue Pharma failed to secure the FDA's approval of its application for reformulated OxyContin. Purdue Pharma thereafter retained MCKINSEY to define a strategy and prepare it for critical meetings with the FDA Advisory Committee in its second attempt to obtain approval for reformulated OxyContin. As part of its engagement, MCKINSEY helped Purdue Pharma develop more rigorous testing to, among other things, assess the physical characteristics of reformulated OxyContin to evaluate tampering with the new formulation, which Purdue Pharma ultimately provided to the FDA in support of its new drug application.

59. To demonstrate the abuse deterrent properties of the reformulated OxyContin, MCKINSEY proposed testing various real-world crushing methods such as use of a pill crusher, mortar and pestle, grater, spice grinder, hammer, food processor, among others, identifying the particle size distribution associated with each, and its corresponding likelihood of abusability. MCKINSEY's proposed testing plan also included evaluating the effects of temperature changes and the use of various household solvents such as orange juice, cooking oil, coffee, and alcohol on the new formulation.

60. The second FDA Advisory Committee meeting was in September 2009. In advance of the meeting, Purdue Pharma resubmitted its new drug application for

reformulated OxyContin, along with the results of the testing plan proposed by MCKINSEY.

61. In preparation for the Advisory Committee meeting, MCKINSEY met with a former FDA official who served Purdue Pharma as an expert advisor who advised Purdue Pharma that they needed to find a way to counter the emotional messages from their "toughest critics," such as "emotional messages from mothers with teenagers that overdosed in [*sic*] OxyContin" with equally emotional and compelling messages, "e.g., a husband who's [*sic*] wife has metastatic bone cancer who needs OxyContin for her extreme pain."

62. MCKINSEY met with Purdue Pharma executives and members of the Family to prepare for the second FDA Advisory Committee meeting. MCKINSEY Consultant 1 wrote in an email: "[We had] [Purdue Pharma's Chief Medical Officer] up for 2 hour working session with our FDA expert . . . it was extremely helpful to get insights on how they are crafting our response." She further noted they had done a "rehearsal with several family members present" and that Family Member 1 was "impressed."

63. MCKINSEY's efforts paid off. In or around April 2010, the FDA approved reformulated OxyContin, while cautioning that reformulated OxyContin "is not completely tamper-resistant and those intent on abusing this new formulation will likely find a means to do so. In addition, the product can still be misused or abused and result in overdose by simply administering or ingesting larger than recommended oral doses." Indeed, studies that MCKINSEY reviewed showed that OxyContin was most commonly abused orally.

The FDA, Purdue Pharma, and MCKINSEY knew that reformulated OxyContin would not be a panacea, but the FDA approved the reformulation because evidence showed that it would be an "improvement over the market."

64. In August 2010, Purdue Pharma discontinued the original version of OxyContin with the intent of only selling reformulated OxyContin going forward. Because it was a "new drug," no generics could be made of reformulated OxyContin, giving reformulated OxyContin new exclusivity in the market.

## VIII. Sales immediately declined following the introduction of reformulated OxyContin; focus on "Region Zero" prescribers

65. Following the introduction of reformulated OxyContin in August 2010, OxyContin sales immediately began to decline. Purdue Pharma studied the drivers for this decline and attributed it, in large part, to a drop in prescriptions for individuals who were abusing OxyContin and increases in safeguards intended to hinder medically unnecessary prescribing of OxyContin.

66. Purdue Pharma annually applied for and received registrations from the U.S. Drug Enforcement Administration (DEA) as a manufacturer and distributor of controlled substances. Accordingly, Purdue Pharma was subject to the obligations imposed by the Controlled Substances Act and its implementing regulations, including the requirement that it maintain effective controls against diversion. To identify prescribers engaged in abuse and diversion, Purdue Pharma implemented an Abuse and Diversion Detection

Program (ADD Program), which included a list of prescribers that Purdue Pharma determined its sales representatives should cease calling on (Region Zero).

67. According to Purdue Pharma documents, as of 2009, 40% of Purdue Pharma's revenue from OxyContin came from prescriptions for the 80 mg strength. According to analysis performed by Purdue Pharma's sales staff, as of December 22, 2010, prescribers assigned to Region Zero accounted for a 75% decline in 80 mg prescriptions comparing six-week periods before and after reformulated OxyContin. Region Zero prescribers are those prescribers that Purdue Pharma's sales representatives were not supposed to call on because Purdue Pharma had determined those providers were likely sources of abuse or diversion.

68. A later Purdue Pharma document attributed approximately 40% of the decline in 2010 and 2011 to Region Zero prescribers. A Purdue Pharma study showed that for the time period from August 2009 to July 2011, there was an 86% decline in OxyContin prescriptions by Region Zero prescribers after the switch to reformulated OxyContin, especially at the highest doses, 40 and 80 mg tablets.

69. Purdue Pharma tracked Region Zero prescribers through its ADD Program. Purdue Pharma's ADD Program identified characteristics of suspicious prescribers that required the Purdue Pharma salesforce to identify such prescribers to its Law Department by initiating a Report of Concern (ROC). After review of the ROC, the Law Department determined whether to place the prescriber on the Region Zero list. MCKINSEY had no oversight of the ADD Program, including the ROCs or Region Zero list.

70. Purdue Pharma had detailed information (down to the number of prescriptions written, product, and dosage) of its products prescribed by all prescribers, including Region Zero prescribers. On April 20, 2010, as part of the geospatial engagement (discussed below), Purdue Pharma shared the existing list of Region Zero prescribers and the ADD Program Standard Operating Procedures with MCKINSEY. On October 11, 2010, Purdue Pharma shared all ROCs concerning prescribers who were suspected of facilitating abuse of OxyContin. MCKINSEY consultants noted the ROCs were "a fascinating read" and gave a "great sense of some of the pathways of abuse."

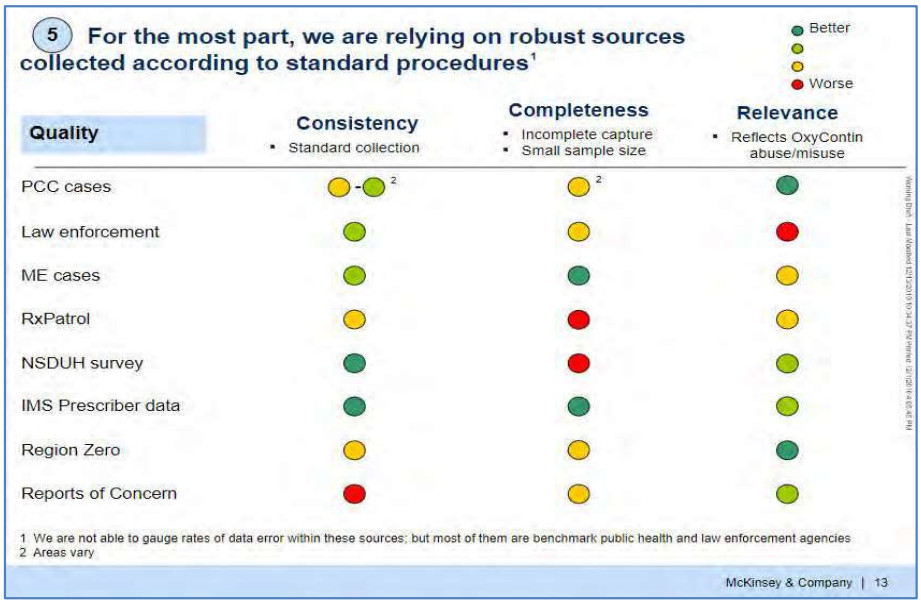
71. Purdue Pharma's Region Zero list and ROCs were incomplete as they failed to capture the full extent of prescribers engaged in abuse and diversion of OxyContin.

## IX. MCKINSEY conducted geospatial analysis of abuse and diversion of OxyContin for Purdue Pharma

72. MCKINSEY was aware Region Zero had limitations because, following the introduction of reformulated OxyContin, Purdue Pharma engaged MCKINSEY to conduct an analysis of OxyContin abuse and diversion.

73. In 2010, Purdue Pharma brought in a team from MCKINSEY to do a "geospatial" analysis of abuse and diversion of OxyContin: analyzing data on OxyContin abuse (including overdoses) and where increased levels of OxyContin abuse were occurring for the purpose of being able to develop a model to predict and prevent further abuse and diversion.

74. Using several sources of data, MCKINSEY analyzed where "OxyContin abuse/misuse" was occurring, as shown on the following slide from a MCKINSEY presentation to Purdue Pharma:




75. As shown on the above chart, MCKINSEY understood that the "consistency" and "completeness" of data on abuse from Region Zero was towards the "worse" end of the scale—in other words, that Region Zero was incomplete in terms of data for identifying OxyContin abuse.

76. MCKINSEY identified IMS Prescriber data as being on the "better" end of the scale as to consistency, completeness, and relevance for identifying where OxyContin abuse/misuse was occurring. IMS Prescriber data referred to data commercially available from IMS Health. MCKINSEY would later use IMS Prescriber data to identify high prescribers as part of a sales and marketing engagement to "turbocharge" the OxyContin sales pipeline.

77. During the geospatial engagement, Purdue Pharma provided MCKINSEY with granular data on OxyContin abuse, including a summary of "all of the ROCs" submitted by Purdue Pharma sales representatives in the field between 2005 and 2010. In an email dated December 17, 2010, the lead MCKINSEY consultant on the geospatial project, MCKINSEY Consultant 2, commented to her counterparts at Purdue Pharma that individual IMS Prescriber data "allowed us to identify the top prescribers, and it was interesting to observe what a high proportion of total prescribing came from relatively few doctors (some of them pain specialists, no doubt; but others for unclear reasons – the data also gave their specialty)."

78. In or about April 2011, MCKINSEY submitted Phase 2 of the geospatial study to Purdue Pharma, which attempted to identify geographic areas where the risk of abuse was high, and which would merit attention from Purdue Pharma to mitigate those risks. Although the data allowed MCKINSEY to get to a more granular level, it was not as temporally sensitive as MCKINSEY had hoped but still was an improvement over Purdue Pharma's then current surveillance techniques. This Phase 2 was sent to Purdue Pharma's then Chief Medical Advisor.

79. On September 9, 2011, the Purdue Pharma Medical Advisor emailed MCKINSEY a copy of a Purdue Pharma presentation titled, "Changes in Prescribing Patterns Following Introduction of Reformulated OxyContin: A Window into Diversion?"

80. The "hypothesis" for this study was that "Reformulated OxyContin" was more difficult to manipulate for purpose of abuse, leading to reduced demand from abusers,

thus leading to "Reduced Diversion." Under the heading "Changes in prescription patterns consistent with diversion," the presentation noted five points:

a. "Temporal association with transition to reformulated OxyContin"

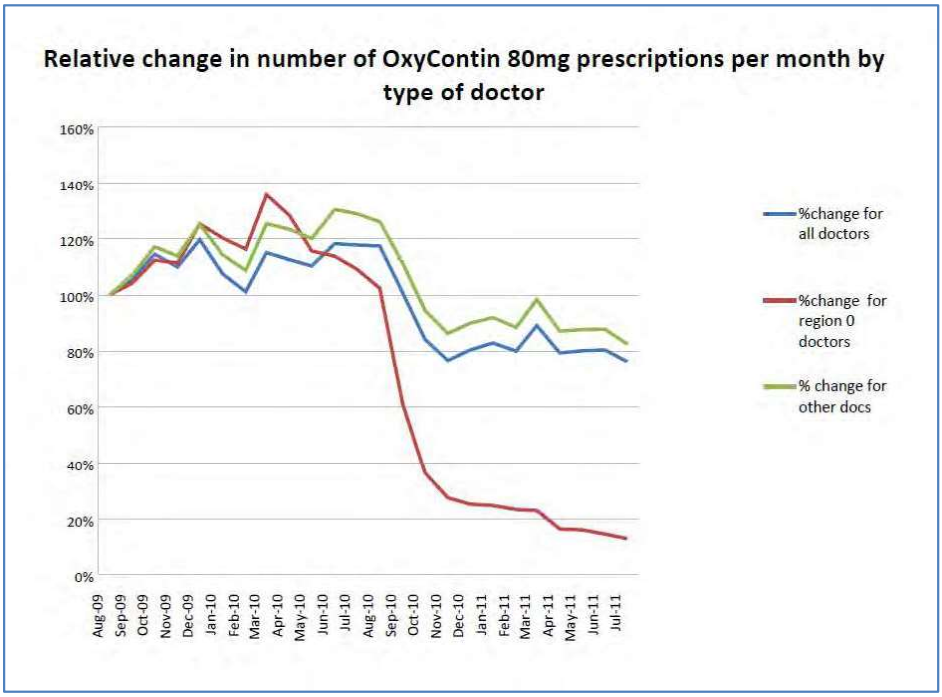
b. "Greater declines for high versus low dosage strengths"

c. "Greater declines for cash versus other payment types"

d. "Greater declines for doctors suspected of questionable prescribing"

e. "Increases in supply of original OxyContin"

81. The presentation showed that a decline in prescriptions by Region Zero doctors accounted for a disproportionate percentage of the drop in OxyContin prescriptions, especially at the 80 mg level:



82. The remainder of the decline, however, was caused by similarly steep declines in prescriptions among high prescribers that Purdue Pharma continued to detail.

83. While it appeared that certain Purdue Pharma executives may have wanted to go forward with Phase 3 of the geospatial project, which would allow MCKINSEY to get to a granular level on the abuse data, there was an issue with Purdue Pharma getting specific IMS Prescriber data for MCKINSEY. In or about March 2012, Purdue Pharma shelved MCKINSEY's geospatial analysis of OxyContin abuse and diversion, and the engagement ended without MCKINSEY proposing any new measures to track or predict patterns of abuse.

## X. After the CIA expired, Purdue Pharma engaged MCKINSEY to recover lost OxyContin sales

84. After abandoning the geospatial analysis of OxyContin abuse and diversion, Purdue Pharma's attention turned to ways of increasing OxyContin prescriptions to counter the loss of prescriptions after the introduction of reformulated OxyContin. Purdue's own study had determined those lost prescriptions showed indicia "consistent with diversion." Once again, Purdue Pharma turned to MCKINSEY.

85. Purdue Pharma's CIA that resulted from the 2007 conviction was originally set to expire in July of 2012. In the spring of 2012, MCKINSEY and Purdue Pharma began to discuss potential engagements to evaluate the underlying drivers of OxyContin's performance and identify new opportunities for increasing sales.

86. In an internal Purdue Pharma email dated April 15, 2012, Family Member 1 emailed Purdue Pharma Executive 4 and wrote, "We should also discuss the sudden decline in OC sales in the past year or two. What are we doing to identify ***corrective actions***?" (Emphasis added.)

87. Four days later, MCKINSEY Senior Partner 1 sent a proposal to Purdue Pharma Executive 9 concerning an "opportunity identification for OxyContin." The proposal described how "McKinsey would conduct a rapid diagnostic of the underlying drivers of OxyContin's current performance and develop hypotheses on specific opportunities [Purdue Pharma] should consider." Purdue Pharma Executive 9 responded the following day with "a few comments," including one which read, "The 5 Year Corporate Integrity Agreement expires in July. What impact, if any, will that have on our commercial practices while maintaining strict compliance?" MCKINSEY revised the proposal to incorporate some of the comments from Purdue Pharma Executive 9. In the revised proposal, under "Build hypotheses on levers to improve performance," it stated: "Understand if any new options available in near future with expiry of Corporate Integrity agreement[.]" Subsequent written versions of the proposal and the scope of work did not include this language.

88. The CIA expired in January 2013.

89. That same month, in January 2013, MCKINSEY Senior Partner 3 reached out to MCKINSEY Senior Partners 1 and 2 to check on the status of the previous conversations with Purdue Pharma Executive 1 about "his openness to our support."

90. In an email dated January 23, 2013, MCKINSEY Senior Partner 2 responded: "Your note is timely. [MCKINSEY Senior Partner 1] and I are with [Purdue Pharma Executive 1] for the first time in a long time on Friday. It is clear that public pressure (and government) on oxy continues to mount . . . ."

91. In an email dated January 25, 2013, MCKINSEY Senior Partner 2 updated MCKINSEY Senior Partners 1 and 3 and MCKINSEY Consultant 3: "Good long discussion. Feeling better about '13 than '12. FDA is moving in the right direction on label. … Eventually opened up a bit and could imagine help 'at the right time' to see if there is upside. …" MCKINSEY Senior Partner 3 replied that he would follow up with Purdue Pharma but that Purdue Pharma's head of sales was embarrassed after an earlier project "and even more frustrated that [the CEO] stopped the last oxy proposal." The same MCKINSEY partner wrote: "Wonder if there is a creative way to breakthrough – just feels like we could help them a lot."

92. On April 16, 2013, FDA approved a change in the labeling of OxyContin, and authorized the new formulation, as detailed above.

93. In early April 2013, Purdue Pharma Chief of Staff emailed MCKINSEY Senior Partner 1 to alert him that Purdue Pharma Executive 3 would be reaching out to discuss the OxyContin project that MCKINSEY had proposed one year prior.

94. By mid-April 2013, MCKINSEY shared the draft of its proposal to identify granular growth opportunities for OxyContin with Purdue Pharma Executive 4.

MCKINSEY indicated it was willing to move as swiftly as Purdue Pharma desired and wanted to work through the draft proposal together.

## XI. MCKINSEY worked with Purdue Pharma to "Turbocharge" reformulated OxyContin sales and presented its recommendations to Purdue Pharma's Leadership: "the findings were crystal clear to everyone"

95. In May 2013, Purdue Pharma retained MCKINSEY to "conduct a rapid assessment of the underlying drivers of current OxyContin performance, identify key opportunities to increase near-term OxyContin revenue and develop plans to capture priority opportunities." This 2013 effort would come to be called "Evolve to Excellence," or "E2E," and included MCKINSEY advising Purdue Pharma on how to "turbocharge" the sales pipeline for OxyContin.

96. On May 24, 2013, Purdue Pharma Executive 10 emailed the MCKINSEY team that they should "consider modeling in the end a 'fight the fight' strategy versus a milking strategy just to cover all bases. What would each look like from a P&L basis."

97. MCKINSEY understood that part of its role was to empower those within Purdue Pharma's senior management who favored a more aggressive approach to sales and marketing of reformulated OxyContin—the "corrective action" that Family Member 1 had demanded in 2012. MCKINSEY took on this role despite knowing Purdue Pharma's troubled history, the 2007 CIA, and the dangers of OxyContin.

98. MCKINSEY consultants had interviewed Purdue Pharma personnel who described Purdue Pharma as a "law firm that occasionally sells drugs" in which personnel felt stymied by the involvement of lawyers with respect to what could be communicated to

customers, especially in terms of abuse deterrence. MCKINSEY later noted that Purdue Pharma's organizational mindset, behavior, and culture would have to evolve in order to "turbocharge" its sales engine.

99. On June 2, 2013, MCKINSEY Consultant 4 emailed the MCKINSEY team with notes from a discussion with Purdue Pharma Executive 4. She reported that Purdue Pharma Executive 4 "[g]ave us a full history of Oxy with [generics] entering in '04, Purdue Pharma reversing the court ruling, subsequently regaining share, launch of AD formulation, dropping share expectedly due to loss abuse . . . (made it sound like a cat with 9 lives)." MCKINSEY Consultant 4 also reported that Purdue Pharma Executive 4 believed "the pain market is 'flat and saturated' and that Oxy has no clinical differentiation and that is the normal life cycle of a product and Oxy is essentially on the decline but that they can ease that decline."

100. In an email dated June 3, 2013, MCKINSEY Consultant 4 forwarded an email to members of the MCKINSEY team (copying MCKINSEY Senior Partner 3) with a report that Pharmacy Chain 2 had stopped carrying OxyContin except for one location. The email chain, which originated from Purdue Pharma, included a comment from a pharmacist that "it is the one everyone abuses." MCKINSEY Consultant 4 responded: "guys. See note at bottom. Per previous email . . . 'is it the one everyone abuses'? there is a lack of market education and sophistication and Purdue Pharma 'potentially' has not kept the record straight but let's check that[.]"

101. In an email dated June 10, 2013, MCKINSEY Consultant 4 emailed the MCKINSEY team with a "brief update" from a Purdue Pharma Board meeting. MCKINSEY Consultant 4 wrote: "BoD appreciated the tougher environment . . . including significant issues at the pharmacy level / DEA activities and do believe there should be counter-messaging [I think this is likely PR, publications, plus education policy makers, agencies as well as customers]." Purdue Pharma's Board "want[ed] to understand the level of awareness within the declining prescribers and whether awareness impacts prescribing [think the latter is key since they have not done anything that would increase awareness at this point]." The same consultant added: "data generation is critical to both – creating an awareness that is compelling and counter-messaging in the current environment . . . generally hope that our work will inform these and what they can do about the shortfall."

102. On or about June 13, 2013, MCKINSEY Consultant 4 emailed the MCKINSEY team with a news article announcing Pharmacy Chain 1's $80 million settlement with the Department of Justice and DEA over civil charges that the company had practiced improper distribution of prescription painkillers. MCKINSEY Consultant 4 wrote to the MCKINSEY team: "think this is bad. When they say they have systems already in place to address, think they will make it onerous and annoying to get an Oxy script filled and they have probably scared the living daylights out of the pharmacists…we need to understand whether [other pharmacy chains] are next and invest in educating them how to truly prevent abuse and potentially to engineer around this issue . . . ." On the following day, MCKINSEY Consultant 4 further stated, when discussing this article, "since Purdue

wrote the book on abuse deterrence and pain, for example [*sic*], they should be able to bring something to the table in terms of teaching how to identify and prevent abuse in a more rationale [*sic*] manner (take the high road). But requires investment."

103. In a later email in the same chain, MCKINSEY Consultant 4 wrote that she wanted "to understand about the other chains. Do they plan to follow suit and how can [Purdue Pharma] blunt."

104. In an email in the same chain dated June 14, 2013, MCKINSEY Senior Partner 3 replied to the MCKINSEY team: "Indeed, v [*sic*] big issue. [MCKINSEY Consultant 4] and I discussed thinking about alternative distribution challenges, potentially eliminating retail pharmacy through creative partnership w a [specialty pharmacy]. …"

105. MCKINSEY's marketing strategy also focused on mitigating patient "access issues" (e.g., difficulty filling OxyContin prescriptions due to pharmacies' decision not to stock OxyContin; pharmacy-level restrictions on the quantity of units and length of use; or inability to fill due to high cost). For example, internal MCKINSEY discussions regarding patient access highlighted the need to promote the distribution of "savings cards in high-Pharmacy Chain 1's areas . . . ." Further, in a July 31, 2013 draft of a MCKINSEY presentation deck entitled, "OxyContin Growth Opportunities," MCKINSEY suggested Purdue Pharma "provide all 100 prescribers on target list with at least 1 starter kit (e.g. product information, pain tracker, savings card" and "[d]istribute OxContin [*sic*] savings cards with physicians with a high proportion of patients with Tier 3 access (and thus high

copay)." From August 2013 through 2019, Purdue Pharma redeemed more than 2.9 million OxyContin savings cards.

106. MCKINSEY consultants spoke with Purdue Pharma about the concerns and increasing reluctance of pharmacists and pharmacy chains to fill prescriptions for OxyContin. MCKINSEY also spoke directly to some of these pharmacists.

107. As part of the same project, MCKINSEY consultants went on several "ride-alongs" with Purdue Pharma sales representatives in the field, as these sales representatives called on prescribers and pharmacists. The information MCKINSEY gathered during these ride-alongs helped develop proposals to "turbocharge" the OxyContin sales engine and ways to address "the impact of distributors and pharmacies cutting back on their drug stocking[.]"

108. In notes about one of these ride-alongs, MCKINSEY Consultant 5 wrote, in part, "Pharmacist; [had] a gun and was shaking; abuse is definitely a huge issue[.]"

109. In an email dated July 12, 2013, MCKINSEY Consultant 4 emailed a Purdue Pharma sales representative whom MCKINSEY Consultant 4 had accompanied on a ride-along with a series of follow-up questions. These included: "Are pharmacies 'rationing' demand for OxyContin? In other words, given that certain distributors have cut back their buying and certain pharmacies have cut back their inventories, does that mean pharmacies will ration? . . . is it also possible have had to do this disproportionately for the higher doses?" MCKINSEY Consultant 4 explained: "Here we are trying to understand whether the trend downward in dosage strength can possibly be driven by pharmacists – and

whether pharmacists then are also calling doctors to ask them if they can dose down bc they have so little high doses[.]" MCKINSEY Consultant 4 also asked the Purdue Pharma sales representative if he could coordinate a call with one of the pharmacists that they called on during the ride along which operated an independent pharmacy.

110. On or about July 19, 2013, MCKINSEY Senior Partner 1 complained to Purdue Pharma's leadership that Purdue Pharma Executive 5, the most knowledgeable in-house counsel concerning abuse and diversion deterrence, was providing feedback identifying mistakes in MCKINSEY's data analysis, which MCKINSEY Senior Partner 1 said was "outside the process and criticizing the work product."

111. In an email dated August 4, 2013, MCKINSEY Consultant 5 emailed the MCKINSEY team about revisions to a presentation for Purdue Pharma Executive 1. MCKINSEY Consultant 5 noted Purdue Pharma Executive 1's earlier request that the presentation address "the rather marked reduction in the number of tablets per prescription that has occurred all across the long-acting opioid market" as well as "the reasons why the 80mg strength of OxyContin is declining in prescriptions so much more rapidly than are the lower strength tablets." MCKINSEY Consultant 5 indicated that some of the decline was due to "pharmacy actions," such as Pharmacy Chain 1's polices including "a tablet count red flag over 120 pills nationwide," as well as "other policies making upward titration more difficult." Other causes for the decline were "driven in part by state regulations such as W[ashington] requiring a referral to a pain specialist for any Rx over 120mg morphine equivalent (~60mg Oxy)."

112. On August 5, 2013, MCKINSEY Consultant 6 replied to MCKINSEY Consultant 5's email by recommending Purdue Pharma take "specific actions which if implemented typically deliver 5+% net revenue impact." These included: moving to "workload-based sales targeting to focus call effort on highest-potential prescribers;" requiring the sales force to "adhere to" the call lists; making "re-capturing the 'biggest losers' among prescribers an ongoing field imperative;" and immediately launching "sales pilots to test growth maximizing levers[.]"

113. Prior to August 8, 2013, documents prepared for Purdue Pharma referred to the need to "energize" or "rebuild" Purdue Pharma's sales engine and increase OxyContin sales. On August 8, 2013, MCKINSEY Senior Partner 3 proposed a change in wording for communications to Purdue Pharma: "Replaced Energize with 'Turbocharge.' Energize feels too Richard Simmons. Turbocharge at least evokes the notion of real construction."

114. On or about August 8, 2013, MCKINSEY provided Purdue Pharma with a confidential memorandum on "Identifying granular growth opportunities for OxyContin," with additional findings on "specific actions we believe [Purdue Pharma] should take to begin to increase sales." Among other things, MCKINSEY advised Purdue Pharma to "accelerate exploration of potential innovative alternatives such as direct-to-patient mail order[.]" This advice was a reaction to the steps brick-and-mortar pharmacies were taking to decrease diversion. In a later document, MCKINSEY suggested that this potential distribution channel should involve "verification of prescription and patient legitimacy,"

and could involve specialty pharmacies, or other operators, to help fulfill the role of a traditional brick-and-mortar pharmacy.

115. On August 12, 2013, MCKINSEY Consultant 7 emailed the MCKINSEY team with a link to an *LA Times* article concerning Purdue Pharma tracking of Region Zero prescribers. The same MCKINSEY consultant wrote that Purdue Pharma's federal lobbyist "mentioned this LA Times article as the latest to really get Purdue's attention."

116. The *LA Times* article began:

> Over the last decade, the maker of the potent painkiller OxyContin has compiled a database of hundreds of doctors suspected of recklessly prescribing its pills to addicts and drug dealers, but has done little to alert law enforcement or medical authorities. Despite its suspicions, [Purdue Pharma] continued to profit from prescriptions written by these physicians, many of whom were prolific prescribers of OxyContin. … [Purdue Pharma] has promoted the idea that the country's epidemic of prescription drug deaths was fueled largely by pharmacy robberies, doctor-shopping patients and teens raiding home medicine cabinets. The database suggests that [Purdue Pharma] has long known that physicians also play a significant role in the crisis.

117. Notwithstanding the *LA Times*' article, eight days later, on August 20, 2013, MCKINSEY gave Purdue Pharma a presentation with its proposed approach to "Turbocharging the Sales Engine" for OxyContin.

118. MCKINSEY's findings and recommendations for "growth opportunities for OxyContin" were reviewed by the Purdue Pharma Board. On August 15, 2013, Purdue Pharma Family Member 1 emailed fellow Family Member 2: "The 'discoveries' of

MCKINSEY are astonishing." Family Member 1 arranged for an in-person meeting with the Purdue Pharma Board and MCKINSEY, without Purdue Pharma's senior management present.

119. On or about August 23, 2013, MCKINSEY Senior Partners 2 and 3 and Consultant 6 met with certain members of the Purdue Pharma Board—all members of the Family—to present MCKINSEY's "unvarnished" findings and proposal.

120. In an email dated August 24, 2013, MCKINSEY Senior Partner 3 sent an update to the MCKINSEY team stating that they "took [the Family] through both memos – some had read it, some had not. We went through exhibit by exhibit for about 2 hrs. They all clearly learned a lot and many asked good questions." The same MCKINSEY Senior Partner further wrote: "They were extremely supportive of the findings and our recommendations. In fact, in closing, they summarized that they felt really good about all the opportunity we had found and wanted to strongly endorse getting going on our recommendations . . . . So a very good dialogue and an important milestone of impact . . . ."

121. MCKINSEY Senior Partner 2, another attendee, responded to the email that "[b]y the end of the meeting the findings were crystal clear to everyone and they gave a ringing endorsement of 'moving forward fast.'"

122. On or about September 11, 2013, MCKINSEY Consultant 6 emailed Senior Partner 3 and other MCKINSEY consultants about an FDA announcement concerning labeling for opioids. MCKINSEY Consultant 6 wondered of the announcement: "if high

writers even noticed this. :) ," "what portion of their current oxy patients (or all ER patients) are 'severe' vs. moderate to severe, what portion are 'as needed,'" and "if they think this will change their prescribing behavior (I'm guessing they'll say they already use it like this)."

123. Purdue Pharma chose to move forward with several elements of MCKINSEY's proposed "turbocharge" sales and marketing strategy, which was renamed "Evolve to Excellence," or "E2E," in September 2013. Purdue Pharma asked MCKINSEY to develop specific action steps, including assisting with coming up with a new approach to identifying which OxyContin prescribers to target for sales calls and at what frequency. According to a confidential memorandum from MCKINSEY to Purdue Pharma's CEO, dated September 16, 2013, MCKINSEY's fees and expenses for its work on E2E would be $795K per month, totaling $3.2 million through Purdue Pharma's National Sales Meeting in January 2014. All in, Purdue Pharma paid MCKINSEY $7,450,000.00 for its work on E2E.

124. On September 18, 2013, MCKINSEY Consultant 5 provided the "Final Reports" for E2E to Purdue Pharma. In the "Phase I Final Report: Diagnostic" slide deck, MCKINSEY provided a detailed overview of its work to evaluate many aspects of Purdue Pharma's opioid business including market landscape, demand forecast, messaging and positions, targeting, access and availability, scientific support, commercial spend levels, and patient funnels.

For the diagnostic phase of this engagement, MCKINSEY consultants did a deep dive into OxyContin's performance and the reasons for its declining sales. MCKINSEY consultants were aware of the existence of "pill mill" prescribers—that is, doctors and other prescribers who diverted high volumes of OxyContin while purporting to operate a legitimate medical practice. MCKINSEY consultants were also aware of efforts by states and law enforcement to crack down on abuse and diversion as one reason that certain wholesalers and pharmacies were no longer shipping or selling Schedule II medications to the public, including OxyContin. As part of this project, MCKINSEY consultants also went into the field on sales calls with Purdue Pharma sales representatives. In July 2013, MCKINSEY Consultant 5 went on a ride along, which included a visit to OxyContin Practice 1. While MCKINSEY Consultant 5 may not have known it, in fact, in 2010, OxyContin Prescriber 3, owner of OxyContin Practice 1, was reported to the North Carolina Medical Board. In 2010, OxyContin Prescriber 4, a physician assistant at OxyContin Practice 1, lost her license due to issuing prescriptions for opioids without a DEA registration. Although a ROC was submitted by a Purdue Pharma sales representative, OxyContin Practice 1 continued to be called on by Purdue Pharma. In September 2013, two months after MCKINSEY Consultant 5 visited, OxyContin Prescriber 3 entered into an interim non-practice agreement with the North Carolina Board of Medicine. In 2014, the Board of Medicine issued a Consent Order and OxyContin Prescriber 3 surrendered his license for improper opioid prescribing.

125. MCKINSEY's "Phase II Final Report" set forth its recommendations for Purdue Pharma, including sales targeting of High Value Prescribers and adherence to prescriber target lists by sales representatives. While Purdue Pharma had historically targeted physicians based only on the volume of extended-release opioids they were prescribing, MCKINSEY recommended that Purdue Pharma instead focus on High Value Prescribers using a series of additional factors including historic preference for generic drugs, willingness to change from one brand of drug to another, and medical specialty.

126. Ultimately, MCKINSEY developed a proposal for Purdue Pharma to try to stem the decline of OxyContin sales. A key piece of MCKINSEY's proposal was for Purdue Pharma to focus its marketing efforts—Purdue Pharma's sales force—on High Value Prescribers. It also recommended that Purdue Pharma mandate greater adherence by the sales force to prescriber target lists and give the sales force less freedom to choose which prescribers to call on. Through such "better targeting," MCKINSEY estimated that Purdue Pharma could reap "upside" of ">$100 million in annual sales." In an August 20, 2013 presentation, MCKINSEY wrote to Purdue Pharma that "75% of the decline in OxyContin sales comes from prescribers that it is not calling upon" – and 2/3 of that decline was from "prescribers in deciles[2] 5-10," i.e., the prescribers in the top five prescriber deciles. In September 2013, when MCKINSEY presented its key findings on targeting, it reiterated that "Analysis of sales force reach suggests calls are insufficiently focused on

[2] Purdue Pharma used deciles to divide up prescribing data to help analyze and prioritize marketing. A decile 10 prescriber would be among the highest prescribers for a particular drug or drug class.

high deciles" and that "Prescribers who do not receive calls account for 75% of the overall OxyContin decline." It further noted that "while reach is >70% for market decile 10, 9, and 8, it declines sharply for decile 7 (65% reach), decile 6 (57% reach), and decile 5 (47% reach)." MCKINSEY advised Purdue Pharma that by focusing the sales force on the top five decile prescribers; focusing their calls on OxyContin; and raising expectations for their "productivity," Purdue Pharma could "increase sales" by hundreds of millions of dollars.

127. As part of "turbocharging the sales engine" and rolling out the recommendations, MCKINSEY advised Purdue Pharma, among other things, to create a senior team to lead the effort, develop a detailed workplan within 30 days, and "refresh" the OxyContin sales messaging to prescribers.

128. MCKINSEY also stated there was an opportunity for a $220 million impact just from increasing calls on prescribers in deciles 5-10, making more of those calls with OxyContin as the primary detail, and requiring greater adherence by the sales force to prescriber target lists.

129. MCKINSEY's proposal to Purdue Pharma included a second key component: increasing sales of OxyContin in an environment where law enforcement, regulators, and others were attempting to address illegal prescriptions in the midst of an opioid crisis. In a confidential memorandum to Purdue Pharma's CEO and head of sales dated August 8, 2013, MCKINSEY referred to this as "retail access" (or "patients reporting difficulty filling opioid prescriptions"). MCKINSEY identified the "factors" impacting this

"access": "regulations, DEA initiatives, PROP[3], wholesaler initiatives, and local pharmacist perceptions."

130. MCKINSEY identified opioid guidelines adopted by major pharmacy chains as a challenge and focused on Pharmacy Chain 1 in particular. MCKINSEY wrote that Pharmacy Chain 1's national opioid dispensing guidelines were "quite extensive" and included "'flags' for new patients and dose limits which can clearly impact appropriate patient access." Pharmacy Chain 1's guidelines were modest measures in response to DEA efforts to crackdown on illegal and medically unnecessary opioid prescriptions. The "flags" were legitimate and recognized indicators of potential diversion.

131. For instance, the "flags" for OxyContin prescriptions included: if the quantity was 120 units or more; if the patient was on OxyContin for six months or more; if the patient lived far from the pharmacy; or if the prescription was paid for through cash/credit card rather than insurance.

132. MCKINSEY also told Purdue Pharma that as part of its agreement with the DEA, Pharmacy Chain 1 "eliminated controlled substances from their bonus calculations for pharmacists," such that "individual pharmacists lose money every time they accept the work of filling an opioid prescription."

133. Citing its "[d]eep examination of [Purdue Pharma's] available pharmacy purchasing data," MCKINSEY told Purdue Pharma that Pharmacy Chain 1's reduction in

[3] Physicians for Responsible Opioid Prescription, or "PROP," was a group that advocated for state and federal policies that encourage safe and responsible prescribing. They were a frequent critic of Purdue Pharma.

OxyContin purchases accounted for 50-70% of total OxyContin decline in units from March to June 2013. Moreover, MCKINSEY wrote that Pharmacy Chain 1's guidelines were having a "significant impact on higher OxyContin dosages," such as the drop-off in prescriptions for the 80 mg dose—the same trend that Purdue Pharma had identified with Region Zero prescribers following the OxyContin reformulation. MCKINSEY recommended two steps in response: "immediate action," including ensuring "appropriate senior level dialogue with Pharmacy Chain 1," and "accelerate exploration of potential innovative alternatives such as direct-to-patient mail order[.]" While MCKINSEY and Purdue Pharma characterized this effort as ensuring access for patients, in practice, these recommendations could, if implemented, blunt retail pharmacies and DEA's efforts to reduce diversion.

134. In an email dated September 23, 2013, Purdue Pharma Executive 1 sent an email to MCKINSEY stating: "the Executive Oversight Team has personally been assigned the task of tackling the company's conservativism and resistance to change – and for this is something that will for sure be taken up with the Board . . . . To support that effort will you please write-up several examples of where you feel our conservatism caused us not to pursue messaging (or other activities) that would have been helpful to the brand without (in your opinion) being non-compliant with the relevant laws and regulations."

135. In an email dated October 3, 2013, to Purdue Pharma's CFO, head of sales, and chief of staff to the CEO, MCKINSEY Senior Partner 3 identified eight "categories of conservatism," including that "brand investment is low relative to benchmarks," and that

"there is very limited investment in OxyContin, inclusive of next generation abuse deterrent technology." Other categories included, "Clinical education very limited education of physicians on developments in abuse deterrence (e.g., dinners);" and "Advocacy - limited development of physician and patient advocacy voices, at local and national level, to counter other stakeholders[.]" Purdue Pharma's chief of staff forwarded MCKINSEY Senior Partner 3's email to other Purdue Pharma executives to solicit their thoughts, writing: "what holds us back as a company is the general theme[.]"

136. MCKINSEY described for Purdue Pharma the value at stake: "hundreds of millions, not tens of millions." MCKINSEY pointed to prior analysis showing "over $200M of potential opportunity in a single year, even more in cumulative terms." The message resonated with Purdue Pharma. For instance, in an email dated September 19, 2013, about Purdue Pharma's 2014 budget, its CFO referred to "what some are calling the McKinsey $220 million stretch target. Yes – the McKinsey $220 million!"

137. On December 2, 2013, MCKINSEY received an email from Purdue Pharma which identified OxyContin as "still #1" on the list of the top 17 abused prescription drugs of 2013.

138. MCKINSEY focused on the value of OxyContin prescriptions to Purdue Pharma's bottom line. On December 4, 2013, MCKINSEY Consultant 5 emailed Purdue Pharma Executive 6 to request the "latest forecast that shows the 3-5 year projection for OxyContin and Butrans sales." MCKINSEY Consultant 5 added: "Trying to find ways to make the case for putting most of sales force effort behind OxyContin," as opposed to

Butrans, a Schedule III buprenorphine-based drug. Purdue Pharma Executive 6 replied with "the major talking points," including that the average sales value of an OxyContin script was 1.75 times that of Butrans. Purdue Pharma Executive 6 added that their "objective as a company is to profit optimize our sales calls. … In 2013 the sales value of OxyContin is $2.5 billion and the sales value of Butrans will be $145 million."

## XII. MCKINSEY's role with E2E and reformulated OxyContin continued under new Purdue Pharma senior management

139. At the beginning of 2014, Purdue Pharma fired its CEO and replaced him with Purdue Pharma Executive 7. Shortly thereafter, Purdue Pharma also fired its two heads of sales. Nevertheless, MCKINSEY's role in launching the strategic initiatives of E2E continued.

140. MCKINSEY helped Purdue Pharma's senior management prepare for its National Sales Meeting in January 2014, including drafting documents for workshops and refining messages for the meeting. MCKINSEY took the lead in rolling out and educating the Purdue Pharma sales force on the E2E plan, creating background materials for use in "talk show" portions of the sales meetings and creating a detailed Q & A script in a taped interview to be viewed by the entire sales representative group.

141. In a presentation dated January 26, 2014, prepared for Purdue Pharma's National Sales Meeting, MCKINSEY explained the two objectives for OxyContin: (1) "Protect established business: Defend base by focusing on current high-writers;" and (2) "Prospect future business: Replenish [OxyContin prescriptions] by focusing on prescribers

with high likelihood of writing scripts for new patients . . . . The factors that are included in valuing physicians reflect [these goals]. For OxyContin, the targeting factors identified are: OxyContin TRx, Opioid market volume, New to Brand scripts, managed care access, and generic share of extended release opioids."

142. MCKINSEY worked with Purdue Pharma to develop a methodology to identify these High Value Prescribers as targets for increasing sales by using the commercially available IMS Prescriber data, the same commercially available data source that MCKINSEY had used to identify high writers for purposes of determining abuse and diversion in its geospatial project.

143. Based on factors selected by MCKINSEY, Purdue Pharma provided to its sales representatives lists of prescribers to whom Purdue Pharma would market OxyContin in person. These prescriber target lists included prescribers who previously had been reported internally within Purdue Pharma for abuse and diversion and, while not known to MCKINSEY, these prescriber target lists also included Region Zero prescribers.

144. During its diagnostic work for Purdue Pharma, MCKINSEY had reported to Purdue Pharma that in surveys of the sales force, at least one sales representative had reported the presence of Region Zero healthcare providers (HCPs), "We did have Region 0 HCP's on the list."

145. In October 2013, MCKINSEY noted that Purdue Pharma would remove Region Zero prescribers from its sale force prescriber target lists.

146. In an email dated January 14, 2014, MCKINSEY Consultant 8 emailed a Purdue Pharma senior sales manager with "a compiled list of feedback on the Q1 target list." Among the "feedback points" for Purdue Pharma to implement was that the call list clean-up project had not been fully implemented: "The target list still contains region 0 prescribers[.]"

147. In an email dated February 7, 2014, Purdue Pharma's South Florida district sales manager reported to the area sales manager that after reviewing her team's prescriber target lists, "it looks like there are 10-15% of targets that are not viable due to different reasons," including "sent to [ADD, Purdue Pharma's internal abuse and diversion detection program,] for review." The district manager identified a specific prescriber who had been reported to the ADD Program "a few times[.]"

148. The email was forwarded to the MCKINSEY consultants working on E2E and Purdue Pharma's senior sales management. Purdue Pharma's management explained to MCKINSEY that "[p]rescriber 'clean up' will be an on-going effort" and added: "Submitted to [ADD staff] (i.e., Region 0) – All legal approved region 0 prescribers were removed from the list of suggested targets. A submission to legal does not remove a prescriber, only those that legal places in region 0 are excluded."

149. During this time, MCKINSEY continued to communicate directly with senior executives of Purdue Pharma. On March 13, 2014, MCKINSEY Consultant 5 circulated to the MCKINSEY team his notes from a meeting with Purdue Pharma Executive 7, which he attended with MCKINSEY Senior Partner 1 and MCKINSEY

Consultant 6. MCKINSEY Consultant 5 wrote: "Don't take foot off pedal. Must deliver E2E. Critical for credibility with Board[.]" The next point: "Accelerate where we can[.]"

## XIII. MCKINSEY'S multi-channel marketing advice to target no-see prescribers

150. As part of E2E, MCKINSEY worked with Purdue Pharma to evaluate so-called "multi-channel marketing," or ways to market OxyContin to prescribers who were part of networks or practices that the Purdue Pharma sales force could not call on for reasons including network or practice policies forbidding sales calls by pharmaceutical representatives (referred to as "no-see" prescribers).

151. In an email to Purdue Pharma employees, in which MCKINSEY provided Purdue Pharma a list of these "no-see" prescribers to target through multi-channel marketing, a MCKINSEY consultant stated "this is essentially a matrix to look at how many times we are reaching each no-see or limited-see physician. It also provides a way to see which prescribers we are not reaching at all (or only once), so that future programs can target those physicians." While MCKINSEY may not have known it, some of the prescribers on the list MCKINSEY provided to Purdue Pharma were on Region Zero.

152. In a presentation dated April 1, 2014, MCKINSEY wrote that these no-see prescribers represented a "significant portion of [Purdue Pharma]'s opportunity" to increase "reach and frequency." MCKINSEY proposed "new tactics" to "increase the frequency and impact" of Purdue Pharma's interactions with such prescribers, including "self-directed interaction." These included identifying the electronic medical record platforms (EMR) used by targeted no-see prescribers and advertising on those systems.

153. MCKINSEY and Purdue Pharma evaluated the "cost effectiveness" and "prescription lift" from such promotion. MCKINSEY sought out examples where a pharmaceutical company co-developed a clinical protocol for a system – for example, developing a screen for diagnosis that was built into clinical decision support and protocols.

154. MCKINSEY coordinated with Purdue Pharma to review internal data of health care providers who were characterized as no-see providers, which included physicians that were later convicted for illegal sales of prescription narcotics.

155. Purdue Pharma contracted with Practice Fusion as a partner for marketing OxyContin directly to prescribers. By 2016, Practice Fusion and Purdue Pharma had created a workflow to include a pain assessment in a clinical decision support message.

156. Through this arrangement, Purdue Pharma paid Practice Fusion kickbacks in exchange for using clinical decision support alerts within its EMR software to influence prescribers to prescribe more of Purdue Pharma's products, including OxyContin.

## XIV. E2E Worked to Slow the Decline of OxyContin Prescriptions and Purdue Pharma's profits

157. MCKINSEY laid out options for how to motivate Purdue Pharma's sales force to carry out the E2E plan and maximize OxyContin prescriptions. One approach was MCKINSEY's so-called "wildfire" method, which involved identifying "champion reps" and using those "high performance reps to lead their own 'learning teams' of reps." The idea was to "[m]otivate champions and learning teams through competitions."

158. For Purdue Pharma and MCKINSEY, E2E was a financial success. Their targeting of High Value Prescribers slowed OxyContin's declining sales and kept Purdue Pharma's profits flowing. Purdue Pharma's sales force—which had been incentivized to carry out the E2E plan—shared in the success as well. In May 2014, Purdue Pharma issued individual bonus statements to its sales representatives for the first quarter of 2014. In a cover letter, Purdue Pharma's sales force executive director noted that "[o]ver 62% of representatives earned a 1st quarter bonus of $11,000 or greater" and an "OxyContin bonus of at least $5,000 was earned by 72% of representatives[.]" The letter added: "We believe that our performance that resulted in an above average payout is the result of a number of factors, but in particular improvements made in customer targeting and increased reach and frequency as a result of the E2E initiative . . . ."

## XV. MCKINSEY's work on reformulated OxyContin continued with "FieldGuide"

159. After the conclusion of MCKINSEY's work for Purdue Pharma on E2E, MCKINSEY performed additional work with Purdue Pharma which also sought to maximize OxyContin sales by targeting sales efforts on High Value Prescribers.

160. In 2015, MCKINSEY designed "FieldGuide" as a product to license to pharmaceutical manufacturers. Purdue Pharma was to be its pilot partner. FieldGuide would help Purdue Pharma and its sales force, which Purdue Pharma had recently restructured to "more effectively promote Opioid products," including by "[q]uantifying field force structure" and "[e]valuat[ing] the quality of a sales call."

161. The FieldGuide project was an attempt to automate, through software, the type of sales targeting analysis that MCKINSEY conducted through E2E. As part of this project, MCKINSEY analyzed prescribing data for Purdue Pharma to determine connections (or "affiliations") between prescribers, and then presented its findings to Purdue Pharma. MCKINSEY's presentation, titled "Field Optimization", made clear that the targeted prescribers and clinics were writing very high volumes of OxyContin prescriptions.

162. On or about June 29, 2016, MCKINSEY presented to Purdue Pharma the results of its of its project, which stated: "There is opportunity to improve share in IDNs [Integrated Delivery Networks]/hospitals and large pain clinics with lower than average share."

163. MCKINSEY'S presentation emphasized that making "indirect calls" to other HCPs in an account "has a 20-30% impact on TRx for an HCP with the same affiliation – account calls are highly valuable due to this 'halo' effect." MCKINSEY stated: "Accounts with high-writers (e.g. pain clinics) are more responsive." These accounts included pill mills. This meant that even if an HCP was on Purdue Pharma's Region Zero list for suspected drug diversion, Purdue Pharma could still increase prescribing by promoting OxyContin to *other* HCPs at the same practice.

164. MCKINSEY again advised Purdue Pharma to "shift calls to accounts with high-writers and ensure 'total office' calls made to maximize impact." MCKINSEY further advised Purdue Pharma that such steps could have "a 10-15M potential impact."

165. For example, a June 2016 MCKINSEY presentation to Purdue Pharma included the following slide:



'GRANDPARENT' AFFILIATION

**Top 20 'grandparent' accounts[1] by market volume**

Specialist pain clinics  Hospital systems / IDNs

| Parent affiliation name | # HCPs | Market vol.[2] | Total Purdue TRx | Purdue portfolio ERO share, % |
|---|---|---|---|---|
| [redacted] | 3,488 | 91,183 | 16,347 | 18 |
| | 4,044 | 75,729 | 14,415 | 19 |
| | 3,608 | 67,183 | 12,517 | 19 |
| | 90 | 58,776 | 11,857 | 20 |
| | 63 | 55,421 | 14,115 | 25 |
| | 2,365 | 52,170 | 9,163 | 18 |
| | 2,455 | 51,230 | 9,912 | 19 |
| | 2,647 | 46,921 | 9,507 | 20 |
| | 2,306 | 45,504 | 10,616 | 23 |
| | 1,900 | 44,246 | 8,350 | 19 |
| | 1,615 | 39,162 | 9,588 | 24 |
| | 3,155 | 36,103 | 6,199 | 17 |
| | 4,575 | 32,163 | 3,605 | 11 |
| | 1,777 | 30,820 | 7,755 | 25 |
| | 2,302 | 30,158 | 6,077 | 20 |
| | 10 | 28,964 | 11,935 | 41 |
| | 892 | 28,101 | 6,592 | 23 |
| | 951 | 27,400 | 4,705 | 17 |
| | 14 | 26,660 | 4,741 | 18 |
| | 1,261 | 26,563 | 5,609 | 21 |

1 Refers to highest available corporate affiliation in HCOS
2 Market opportunity defined as ERO TRx, 11 months ending Aug 2015

Dynamic list available in FieldGuide tool

SOURCE: IMS Xponent; Purdue affiliations; IMS HCOS data; Team Analysis

McKinsey & Company | 22

166. MCKINSEY identified smaller clinics that were writing more opioid prescriptions (and more OxyContin prescriptions) than entire hospital systems. Indeed, according to MCKINSEY, the high volume of prescriptions issued by these clinics made their prescribers top targets for Purdue Pharma. Based on their illegal prescribing, at least two of the prescribers from these clinics were criminally charged and convicted, while others lost their license.

167. For example, the 10 HCPs who worked at OxyContin Prescriber 1's clinic wrote almost 29,000 prescriptions for extended-release opioids (EROs), of which almost 12,000 were for OxyContin. That was more ERO prescriptions than the 1,261 HCPs at a university-affiliated teaching hospital wrote in that same period, and more than double the number of OxyContin prescriptions written by HCPs at the hospital. As MCKINSEY's chart made clear, the HCPs at OxyContin Prescriber 1's clinic wrote more OxyContin prescriptions than most of the hospital systems reviewed by MCKINSEY.

168. While MCKINSEY may not have known it, OxyContin Prescriber 1 was not added by Purdue Pharma to its Region Zero list until November 2014, despite multiple prior reports of concern (ROC) to Purdue Pharma's ADD Program. Even though the prescriber himself was finally placed on the list, Purdue Pharma sales representatives continued to detail other prescribers in OxyContin Prescriber 1's practice at least 1,500 times from October 2014 through May 2018.

169. In April 2016, OxyContin Prescriber 1 was charged in a 114-count federal indictment with operating a criminal conspiracy, issuing 300,000 illegal prescriptions in four years, and providing painkillers to patients without a legitimate medical reason. The indictment alleged that OxyContin Prescriber 1 set up a prescription-renewal process that resulted in 300 illegal renewals each day.

170. A few months before MCKINSEY's presentation that advised Purdue Pharma to target high volume prescribers, including, but not limited to, OxyContin Prescriber 1's clinic, a Purdue Pharma district sales manager submitted another troubling

report to ADD. In May 2016, this Purdue Pharma district manager submitted a report on OxyContin Prescriber 1's practice, citing concerns about the HCPs prescribing to patients on a rotating basis. The Purdue Pharma district manager also expressed concern that the practice was writing over 8,000 opioid prescriptions per week, "much of it our products."

171. In 2017, OxyContin Prescriber 1 was charged with additional counts in a superseding indictment that accused him of contributing to the death of six patients. OxyContin Prescriber 1 pled guilty and in 2020 was sentenced to 70 months in prison.

172. Another prescriber highlighted in MCKINSEY'S presentation was OxyContin Prescriber 2, owner of several pain clinics in Alabama. MCKINSEY identified him as a top Purdue Pharma customer in the Field Optimization presentation as a single practitioner writing as many prescriptions as much larger practices.

173. OxyContin Prescriber 2 was sentenced in 2020 for unlawfully distributing opioids.

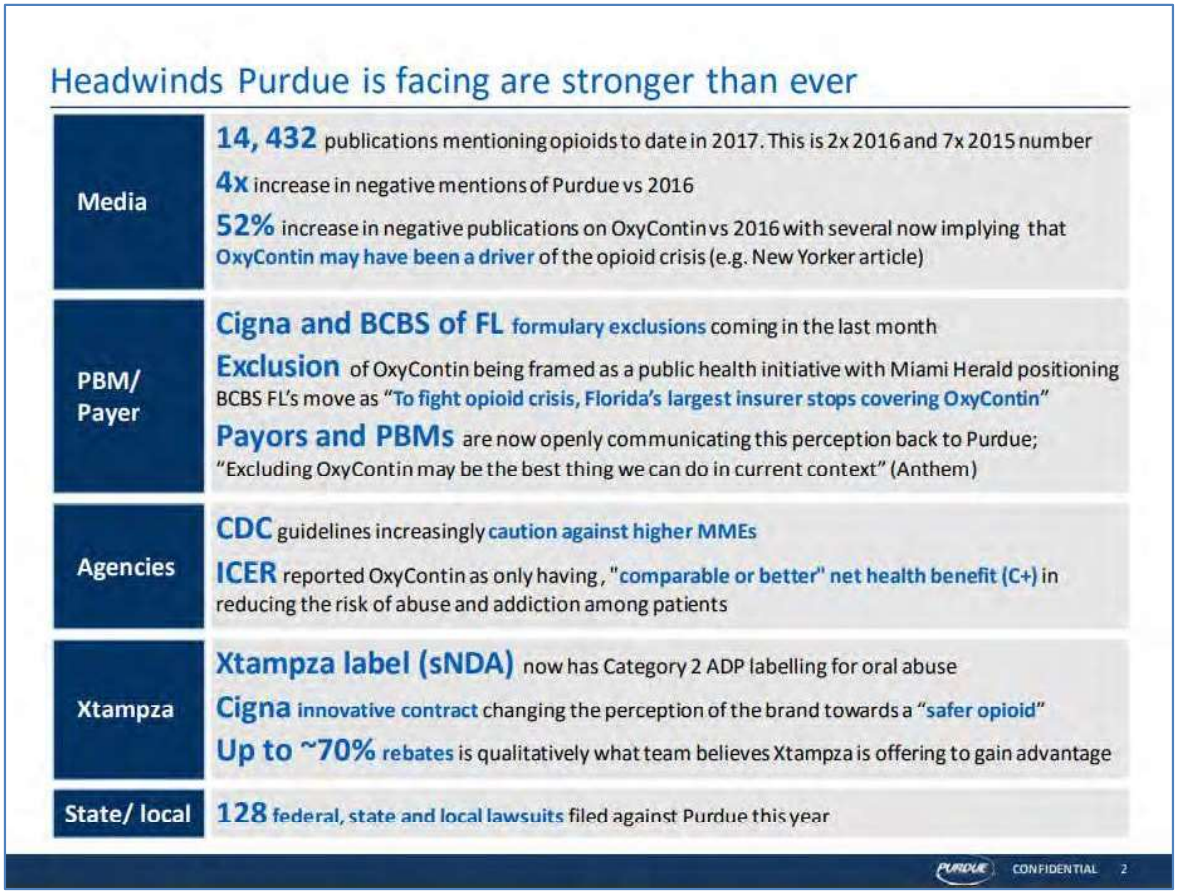
## XVI. MCKINSEY keeps working on reformulated OxyContin with "market access" project

174. Health insurance companies threatened to stop paying for OxyContin or threatened to remove the drug from their formularies, the list of approved medications—an issue referred to under the heading of "market access."

175. MCKINSEY was engaged to work on "market access" for OxyContin in Fall 2017. For this assignment, MCKINSEY's work included developing potential alternative contracting strategies and developing a new "payor value story," i.e., changing the way

Purdue Pharma spoke to health insurers and pharmacy benefit managers. As part of the revised "payor value story," MCKINSEY urged Purdue Pharma to address and to counter the public narrative concerning the Family and OxyContin. While doing this work, on October 23, 2017, following a call with senior executives of Purdue Pharma, MCKINSEY Consultant 6 forwarded "a bunch of articles" to MCKINSEY Senior Partner 3 about the Family, and in particular an expose in *The New Yorker* magazine. (MCKINSEY Senior Partner 3 and MCKINSEY Consultant 6 were the same consultants who played a leading role in "turbocharging" the OxyContin sales pipeline during E2E.)

176. A MCKINSEY PowerPoint slide from November 28, 2017, summarized these "headwinds" that Purdue Pharma was facing:




177. One area of focus for MCKINSEY was on contracting—that is, the terms of the agreements between Purdue Pharma and payors—to ensure that payors would continue to include OxyContin on its formularies. MCKINSEY developed ideas for so-called "innovative contracts" between Purdue Pharma and payors, to show payors that their interests were aligned with Purdue Pharma and that they should therefore keep covering OxyContin.

178. In 2017, MCKINSEY proposed several options for innovative contracts, including contracts based on reducing the morphine milligram equivalents (MME) daily

dose. Reducing the MME daily dose means that a patient would be receiving a lower daily dose of opioids.

179. MCKINSEY also developed "event-based rebates" for Purdue Pharma to consider, which were done to reflect the trend that other pharmaceutical companies were offering for non-controlled substances. The event-based rebates would have Purdue Pharma pay insurance company payors a penalty (through a specified rebate) in the event of an OxyContin-related overdose. MCKINSEY told Purdue Pharma that in addition to helping maintain formulary status, these rebates would help "align incentives with payors to address the opioid crisis."

180. On November 16, 2017, MCKINSEY Consultant 9 emailed MCKINSEY Senior Partner 3 and MCKINSEY Consultant 6 in advance of a meeting with Purdue Pharma Executive 8. MCKINSEY Consultant 9 attached a series of PowerPoint slides, writing "want to see how 'bold' we should go in suggesting actions[.]" On one slide, MCKINSEY proposed offering a "[r]ebate given per OUD/OD incidence."[4] Under the heading, "How could we structure it?", MCKINSEY considered options based on "[p]er patient usage" ("rebate for volume of Rx for patient with event") and "[p]er cost" ("cover x% of medical costs associated with event").

181. In another MCKINSEY presentation to Purdue Pharma, in December 2017, MCKINSEY quantified the size of the penalty that Purdue Pharma should offer to pay for

[4] "OUD" stands for Opioid Use Disorder and "OD" stands for overdose.

OxyContin-related overdoses and instances of OxyContin-related OUDs. One slide included a proposed $7,000 rebate per OD/OUD, or "event," as MCKINSEY referred to it. MCKINSEY laid out "[i]mportant considerations" when determining such a rebate, including defining an "event rate." ("Today there are ~50 events of OxyContin-related OD/OUDs per million members per year and has grown 5% annually between 2014-16.") MCKINSEY added that "[m]eaningful rebate amounts per OD/OUD event can vary from ~$6k (cost of OxyContin) to ~$14k (excess medical costs)[.]"

182. As part of this "rebate" analysis, MCKINSEY calculated Purdue Pharma's potential costs if it paid for OxyContin-related overdoses affecting Purdue Pharma's top seven payor "accounts." MCKINSEY estimated that the range of the potential OD/OUD rebate would be $52.8 million to $123 million.

183. Purdue Pharma did not implement MCKINSEY's proposals.

## XVII. MCKINSEY Senior Partner obstructs investigation by deleting Purdue Pharma documents

184. As scrutiny of Purdue Pharma's role with the opioid crisis increased, MCKINSEY consultants who worked with Purdue Pharma recognized that their client service to Purdue Pharma could become the subject of legal proceedings.

185. Text messages between MCKINSEY partners reflect caution about putting things in writing and concern about their emails surfacing in later Purdue Pharma litigation. In an iMessage exchange dated May 11, 2017, MCKINSEY Consultant 6 texted MCKINSEY Senior Partner 3 about emailing "opioid decks" to Purdue Pharma executives.

MCKINSEY Senior Partner 3 asked "what's bad in that deck…," to which MCKINSEY Consultant 6 replied: "Nothin [*sic*] bad. We said we wouldn't do it. And creates a trail to the inline discussion. These guys will be deposed. Best our emails are not sucked into it."

186. In February 2018, Purdue Pharma laid off its OxyContin sales force and stopped the in-person promotion of OxyContin to prescribers. On February 5, 2018, five days before Purdue Pharma publicly announced the sales force reduction, MCKINSEY Consultant 6 texted another MCKINSEY partner about the Purdue Pharma Board's decision and cautioned the partner about communicating about it in writing: "Don't want to create email trail but the board decided to pull all reps from OxyContin."

187. MCKINSEY Senior Partner 2 was a senior partner in the firm's PMP practice. MCKINSEY Senior Partner 2 earned a law degree from Harvard University before joining MCKINSEY in the early 1990s. The same senior partner was an executive committee member of MCKINSEY Analytics and a former leader of MCKINSEY's Consumer & Shopper Insights Practice in the Americas. MCKINSEY Senior Partner 2 oversaw the "consultant learning and leadership development program" for MCKINSEY's consultant staff worldwide.

188. MCKINSEY Senior Partner 2 was a senior member of MCKINSEY's client service team for Purdue Pharma. MCKINSEY Senior Partner 2 worked on and supervised MCKINSEY's engagements with Purdue Pharma throughout the relevant period, including the E2E engagement described above.

189. MCKINSEY Senior Partner 2 was not directed by MCKINSEY's managing partner or Shareholder's Council (board of directors) to take the actions described below. Nevertheless, MCKINSEY Senior Partner 2 was working within the scope of his employment at MCKINSEY in taking those actions and acted, at least in part, to benefit MCKINSEY.

190. On July 3, 2018, the *Financial Times* reported that a former Purdue Pharma Board member had been named in a lawsuit by the Massachusetts Attorney General's Office relating to Purdue Pharma's unfair and deceptive practices in its marketing of OxyContin.

191. The next day, on July 4, 2018, MCKINSEY Senior Partner 2 emailed Senior Partner 3 at his MCKINSEY email address under the subject line, "Howdy[.]" In the email, MCKINSEY Senior Partner 2 wrote the following: "Hope you're well. Can you send me your private email address. Want to send you a note." MCKINSEY Senior Partner 3 responded by providing his Gmail account address.

192. MCKINSEY Senior Partner 2 then emailed Senior Partner 3's Gmail address. MCKINSEY Senior Partner 2 wrote:

> Just saw in the FT that [a Purdue Pharma board member] is being sued by states attorneys general for her role on the [Purdue Pharma] Board. It probably makes sense to have a quick conversation with the risk committee to see ***if we should be doing anything other that [sic] eliminating all our documents and emails***. Suspect not but as things get tougher there someone might turn to us. [Emphasis added].

193. MCKINSEY Senior Partner 3 replied that same day: "Thanks for the heads up. Will do."

194. On July 24, 2018, MCKINSEY Senior Partner 3 emailed a MCKINSEY information technology (IT) staff member with the question: "how do i delete an email archive on lotus notes?"

195. On August 5, 2018, MCKINSEY Consultant 10 forwarded an article to Senior Partner 2 from *Politico* regarding the Western District of Virginia's previous investigation of Purdue Pharma in the early 2000s.

196. On August 22, 2018, the *New York Times* published an article bearing the headline "Snaring Doctors and Drug Dealers, Justice Dept. Intensifies Opioid Fight." MCKINSEY Senior Partner 2 had an active subscription to the *New York Times* on the date of the article's publication.

197. On August 22, 2018, MCKINSEY Senior Partner 2 emailed himself an apparent "to-do" list, with the subject line, "When home." The items listed included: "delete old pur [Purdue Pharma] documents from laptop[.]"

198. The Government's forensic analysis of MCKINSEY Senior Partner 2's MCKINSEY-issued laptop confirmed that MCKINSEY Senior Partner 2 removed materials related to MCKINSEY's work for Purdue Pharma from the laptop.

199. The forensic analysis also confirmed that on August 24, 2018, MCKINSEY Senior Partner 2 initiated the process to move the "Purdue Pharma" folder in his Outlook account to the "Deleted Items" folder.

200. On August 25, 2018, MCKINSEY Senior Partner 2 emailed himself the following "Remove Purdue folder from garbage."

201. The forensic analysis confirmed that on August 26, 2018, MCKINSEY Senior Partner 2 initiated the process to permanently delete items from the Outlook "Deleted Items" folder.

202. The forensic analysis further revealed that in or about or between April 2018 and September 2018, MCKINSEY Senior Partner 2 removed a folder titled, "Purdue" which included a subfolder entitled "Strategy" from his Windows operating system.

203. The forensic analysis further showed that the removed Purdue Pharma folder contained more than 100 items, many of which appear to be dated in critical timeframes, both before and after the initial Purdue Pharma guilty pleas.

204. Seven of these documents include the name of the Purdue Pharma CEO at the time of the origination of the Purdue Pharma engagements with MCKINSEY. This individual was among the former Purdue Pharma executives who pled guilty and was convicted of misbranding in 2007.

205. The Windows operating system was installed on MCKINSEY Senior Partner 2's MCKINSEY-issued laptop on November 25, 2017. There is no Outlook event log activity reflecting that MCKINSEY Senior Partner 2 permanently deleted any items from November 25, 2017 to August 26, 2018, which indicated that such deletion was not his typical practice.

206. In October 2018, MCKINSEY Senior Partner 2 noted MCKINSEY's new policy to restrict use of work devices to work and he requested that a friend switch to his personal account for an email conversation.

207. MCKINSEY Senior Partner 2 was aware of investigations into Purdue Pharma's conduct and knowingly deleted both system and Outlook Purdue Pharma folders and related emails from his MCKINSEY laptop and in doing so, deleted documents that would have been pertinent to those investigations.

208. MCKINSEY received its first subpoena from the Department of Justice regarding opioid matters on February 25, 2019.

209. On February 3, 2021, following MCKINSEY's partner disciplinary process, MCKINSEY terminated the employment of MCKINSEY Senior Partner 2 and MCKINSEY Senior Partner 3.

## XVIII. MCKINSEY Partner's Concurrent Engagement with Purdue Pharma and FDA

210. In May 2008, the FDA launched the Sentinel Initiative. The purpose of the Sentinel Initiative is to monitor the safety of FDA-regulated products, including all prescription drugs, vaccines, biologics, and medical devices. According to the FDA, the Sentinel Initiative has developed the largest multisite distributed database in the world dedicated to medical product safety.

211. During the 2010s, MCKINSEY worked on several projects for the FDA. These projects generally focused on process improvements, organizational restructuring, and technology enablement, not specific companies or products.

212. In or about December 2013, MCKINSEY sent a white paper to the FDA presenting a preliminary assessment of the Sentinel Initiative.

213. In or about March 2014, in follow-up communication regarding the Sentinel Initiative, MCKINSEY told the FDA that MCKINSEY had the following conflict-of-interest policy:

> It is McKinsey's long-standing policy to serve competing clients and clients with potentially conflicting interests as well as counter-parties in merger, acquisition and alliance opportunities, and to do so without compromising McKinsey's professional responsibility to maintain the confidentiality of client information. To avoid situations of potential conflict, consultants serving FDA will not be assigned to a competitively sensitive project for a significant period of time (typically two years) following an assignment for FDA.

214. In or about June 2014, the FDA awarded MCKINSEY the first in a series of contracts to conduct interim and final assessments evaluating the strengths, limitations, and appropriate uses of the Sentinel Initiative for informing regulatory actions in response to safety issues (the "Sentinel Assessment Project").

215. In or about November 2014, as part of the Sentinel Assessment Project, MCKINSEY consultants held a workshop with FDA personnel. The objectives of the workshop were to understand and internalize perspectives on current Sentinel use from

stakeholder interviews and survey results, prioritize and identify owners to increase Sentinel adoption, and discuss an implementation approach.

216. In or about February 2015, as part of the Sentinel Assessment Project, MCKINSEY consultants provided the FDA with a written interim assessment. The interim assessment focused on the public health impact of Sentinel to date and the achievement of milestones related to Sentinel. In or about September 2015, the FDA made that interim assessment publicly available on the internet.

217. In or about December 2015, MCKINSEY consultants – one of whom had co-led the Sentinel Assessment Project, including the above-referenced white paper, workshop, and interim assessment – met with Purdue Pharma's head of drug research and development to discuss Purdue Pharma's potential research and development of a new drug that, if developed and approved, would be subject to monitoring under the Sentinel Initiative.

218. In or about May 2016, MCKINSEY consultants internally discussed making a business pitch to Purdue Pharma, to advise it on strategies for using drug-related data analytics. One of these MCKINSEY consultants suggested that in the business pitch to Purdue Pharma, MCKINSEY highlight a particular MCKINSEY consultant's ongoing work on the Sentinel Assessment Project and offer that consultant's expertise to Purdue Pharma, because that consultant's knowledge of the Sentinel Initiative "would be v[ery] useful for them in opioids."

219. In or about September 2017, as part of the Sentinel Assessment Project, MCKINSEY consultants provided the FDA with a written final assessment. This assessment addressed a range of topics including (among others) finalizing organizational realignment; enhancing tools; onboarding new data partners; strengthening the integration of Sentinel into the regulatory decision-making process; and expanding Sentinel's capabilities to assess potential safety issues.

220. In or about December 2017, MCKINSEY consultants provided Purdue Pharma with a written proposal on how to cut costs in areas including (among others) data management and regulatory compliance. Purdue Pharma accepted MCKINSEY'S proposal and hired MCKINSEY. As part of that project, a MCKINSEY consultant who had co-led the Sentinel Assessment Project – including the above-referenced white paper, workshop, interim assessment, and final assessment – spent all day on January 3, 2018, and part of the day on January 4, 2018, at Purdue Pharma's corporate headquarters advising Purdue Pharma on how to cut costs.

221. In or about February 2018, MCKINSEY consultants – one of whom had co-led the Sentinel Assessment Project, including the above-referenced white paper, workshop, interim assessment, and final assessment – had another meeting to discuss a proposal to Purdue Pharma, for Purdue Pharma to research and develop a new drug that, if developed and approved, would be subject to monitoring under the Sentinel Initiative.

222. MCKINSEY submitted three invoices to the FDA for the Sentinel Assessment Project, and the FDA paid MCKINSEY $5,092,242.46 in satisfaction of those invoices.

223. Under MCKINSEY policy, as represented to the FDA, to avoid a conflict of interest and the appearance of a conflict of interest, a consultant typically would not be assigned to a competitively sensitive project until two years had passed.

224. MCKINSEY did not inform the FDA that any MCKINSEY consultant worked on any of the above-referenced projects for Purdue Pharma around the same time (s)he worked on the Sentinel Assessment Project. MCKINSEY does not admit that the above-referenced projects for Purdue Pharma were competitively sensitive with the Sentinel Assessment Project, but maintains that they were not competitively sensitive.

225. The parties stipulate and agree the facts set forth in this Statement of Facts are true and correct.

MCKINSEY stipulates and agrees the facts set forth in the Agreed Statement of Facts are true and correct:

**McKinsey & Company, Inc. United States:**

BY: _____ 12/10/24
Jonathan B. Sbonim — Date
Deputy General Counsel
Head of Legal, Americas
Partner of McKinsey & Company, Inc.
Vice President of McKinsey & Company, Inc. United States
*Authorized Corporate Representative of McKinsey & Company, Inc. United States*

**McKinsey & Company, Inc.:**

BY: _____ 12/10/24
Pierre M. Gentin — Date
Chief Legal Officer
Senior Partner of McKinsey & Company Inc.
*Authorized Corporate Representative of McKinsey & Company, Inc.*

**Counsel for McKinsey & Company, Inc. United States and McKinsey & Company, Inc.:**

_____ 12/10/24
Charles E. Duross — Date
Brian K. Kidd
Katherine E. Driscoll
Morrison & Foerster LLP

_____
James L. Bernard
Hogan Lovells US LLP

_____
Ingrid S. Martin
Todd & Weld LLP

**The United States Attorney's Office for the Western District of Virginia:**

BY: Christopher R Kavanaugh December 13, 2024

Christopher R. Kavanaugh
*United States Attorney*

Date

KRISTEN M. ECHEMENDIA
*Senior Trial Counsel*
*Department of Justice, Civil Division*
*Commercial Litigation Branch*

RANDY RAMSEYER
*Assistant United States Attorney*

KIMBERLY M. BOLTON
*Special Assistant United States Attorney*
*Assistant Attorney General*
*Medicaid Fraud Control Unit*
*Virginia Office of the Attorney General*

KRISTIN L. GRAY
*Special Assistant United States Attorney*
*Assistant Attorney General*
*Medicaid Fraud Control Unit*
*Virginia Office of the Attorney General*

**The United States Attorney's Office for the District of Massachusetts:**

BY:

Joshua S. Levy
*United States Attorney*

AMANDA MASSELAM STRACHAN
*Chief, Criminal Division*

WILLIAM B. BRADY
*Assistant United States Attorney*

**The United States Department of Justice, Consumer Protection Branch:**

BY: Amy Deline For
Amanda N. Liskamm
*Director*

Amy Deline For
Anthony Nardozzi
*Deputy Director, Criminal*

Amy Deline
Amy L. DeLine
*Assistant Director*

Jessica C. Harvey
JESSICA C. HARVEY
*Trial Attorney*

Steven R. Scott
STEVEN R. SCOTT
*Trial Attorney*

**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF VIRGINIA**
**ABINGDON**

| | | |
|---|---|---|
| **UNITED STATES OF AMERICA** | ) | |
| | ) | |
| **v.** | ) | **Criminal No.** |
| | ) | |
| **MCKINSEY & COMPANY, INC.** | ) | |
| **UNITED STATES** | ) | |

# INFORMATION

The United States Attorney for the Western District of Virginia and the United States Attorney for the District of Massachusetts charge that:

## COUNT ONE

1. Paragraphs 1 through 209 of the Agreed Statement of Facts are realleged and incorporated by reference.

2. OxyContin, a Schedule II controlled substance, is a prescription drug intended for use by man which is limited by an approved application under 21 U.S.C. § 355 to use under the professional supervision of a practitioner licensed by law to administer such drug and can only legally be dispensed upon a written prescription issued for a legitimate medical purpose by a practitioner, licensed by law to administer such drug, acting in the usual course of the practitioner's professional practice. Dispensing OxyContin pursuant to an invalid prescription (e.g., a prescription issued not for a legitimate medical purpose) is an act which results in the drug being misbranded while held for sale.

3. From in or about April 2012 through February 2018, in the Western

District of Virginia, the District of Massachusetts, and elsewhere, MCKINSEY & COMPANY, INC. UNITED STATES knowingly and intentionally conspired with Purdue Pharma L.P. and others to aid and abet the misbranding of prescription drugs, held for sale after shipment in interstate commerce, without valid prescriptions, in violation of 21 U.S.C. §§ 331(k), 333(a)(1), 353(b)(1), and 18 U.S.C. § 2.

4. To effect the object of the conspiracy, the conspirators did numerous acts, including, but not limited to, some of the acts set forth in Paragraphs 84 through 173 of the Agreed Statement of Facts.

5. All in violation of 18 U.S.C. § 371.

**COUNT TWO**

1. Paragraphs 1 through 209 of the Agreed Statement of Facts are realleged and incorporated by reference.

2. In or about or between April 2018 and September 2018, MCKINSEY & COMPANY, INC. UNITED STATES, through the acts of a senior partner, knowingly destroyed and concealed records and documents with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of any department or agency of the United States and in relation to and contemplation of any such matter.

3. All in violation of 18 U.S.C. § 1519.

ENTERED this 13th day of December, 2024.

**The United States Attorney's Office for the Western District of Virginia:**

BY: _____
Christopher R. Kavanaugh
*United States Attorney*

_____
KRISTEN M. ECHEMENDIA
*Senior Trial Counsel*
*Department of Justice, Civil Division*
*Commercial Litigation Branch*

_____
KIMBERLY M. BOLTON
*Special Assistant United States Attorney*
*Assistant Attorney General*
*Medicaid Fraud Control Unit*
*Virginia Office of the Attorney General*

_____
RANDY RAMSEYER
*Assistant United States Attorney*

_____
KRISTIN L. GRAY
*Special Assistant United States Attorney*
*Assistant Attorney General*
*Medicaid Fraud Control Unit*
*Virginia Office of the Attorney General*

**The United States Attorney's Office for the District of Massachusetts:**

BY: _____
Joshua S. Levy
*United States Attorney*

_____
AMANDA MASSELAM STRACHAN
*Chief, Criminal Division*

_____
WILLIAM B. BRADY
*Assistant United States Attorney*

**The United States Department of Justice, Consumer Protection Branch:**

BY: Amy DeLine FOR
Amanda N. Liskamm
*Director*

Amy DeLine FOR
Anthony Nardozzi
*Deputy Director, Criminal*

Amy DeLine
Amy L. DeLine
*Assistant Director*

JESSICA C. HARVEY
*Trial Attorney*

STEVEN R. SCOTT
*Trial Attorney*

# STATUTE OF LIMITATIONS TOLLING AGREEMENT

This Statute of Limitations Tolling Agreement ("Agreement") is entered into between McKinsey & Company, Inc., and its subsidiaries ("MCKINSEY") and the United States of America, by and through its counsel, the United States Attorney's Office for the Western District of Virginia, the United States Attorney's Office for the District of Massachusetts, and the Civil Division of the U.S. Department of Justice (collectively referred to as "the Government").

A. This Agreement has been entered into to effect provisions of a Deferred Prosecution Agreement and provide MCKINSEY and MCKINSEY's counsel an opportunity to (1) present information they believe may be relevant to the Government's decision-making process regarding MCKINSEY and (2) comply with its obligations in the Deferred Prosecution Agreement. MCKINSEY, MCKINSEY's counsel, and the Government acknowledge that it is their mutual intention for this Agreement to effect a waiver and tolling of the statutes of limitations for violations of federal law described in paragraph B below.

B. This Agreement applies to any and all federal criminal, civil and administrative offenses relating, in any way, to opioids, opiates, destruction of documents, making false statements/representations, and/or obstruction of justice. Such violations of federal law include, but are not necessarily limited to, violations of 21 U.S.C. §§ 331, 841 and 846; 26 U.S.C. § 7201, 7206, and 7212; 31 U.S.C. §§ 3729 et seq.; 31 U.S.C. §§ 3801 et seq.;18 U.S.C. §§ 286, 287, 371, 1001, 1035, 1341, 1343, 1347, 1348, 1349, 1518, 1519, 1956, 1957, and 1962; 42 U.S.C. § 1320a-7b, and claims under administrative law, equity or the common law.

C. The parties to this Agreement now agree and stipulate that the period beginning on January 1, 2020, and continuing until and including the earlier of December 31, 2030, or the date of dismissal of the Information by the government ("Exclusion Period"), shall be forever excluded from any calculation of time for purposes of the application of any federal statute of limitations to any violation of federal, administrative or common law described in Paragraph B above.

D. The parties to this Agreement further agree and stipulate that the Exclusion Period shall not be considered or assessed against the United States for purposes of any constitutional, statutory, or other challenge involving a claim of pre-indictment delay relating to any violation of federal law described in Paragraph B above.

E. MCKINSEY, having been advised by counsel of the potential consequences of this Agreement to MCKINSEY's rights under the Fifth and Sixth Amendments of the United States Constitution, the federal statutes of limitations, and Rule 48(b) of the Federal

Rules of Criminal Procedure, expressly waives MCKINSEY's right to raise any defense based on the failure of a federal grand jury or the United States to charge MCKINSEY with any violation of federal, administrative or common law described in Paragraph B above, during the Exclusion Period.

F. It is understood by the parties to this Agreement that nothing in this Agreement revives any criminal or civil charges for which the applicable statute of limitations ran prior to January 1, 2020, and nothing in this Agreement waives or prejudices MCKINSEY's right, if any, to raise statute of limitations or other timing-related defenses, except as to the Exclusion Period.

G. The act of entering into this Agreement does not constitute an admission by MCKINSEY of any wrongdoing; it has been entered into for the sole purpose of furthering discussions and the exchange of information with the Government. This Agreement and its contents are admissible in evidence in any proceeding solely for the purpose of establishing that MCKINSEY voluntarily agreed to a tolling of applicable statutes of limitations. The Agreement is inadmissible for any other purpose.

H. Except as otherwise stated herein, this Agreement does not limit or affect the right or discretion of the Government or any other component of the U.S. Department of Justice, to bring criminal, civil or administrative charges or claims against MCKINSEY for violation of any federal, administrative or common law described in Paragraph B above, or any other violation of law, at any time.

**McKinsey & Company, Inc. United States**

BY: _____ 12/10/24
Jonathan B. Sloum — Date
*Authorized Corporate Representative*
*for McKinsey & Company, Inc. United States.*

_____ 12/10/24
Charles E. Duross — Date
Brian K. Kidd
Katherine E. Driscoll
Morrison & Foerster LLP
*Counsel for McKinsey & Company, Inc. United States*

_____
James L. Bernard
Hogan Lovells US LLP
*Counsel for McKinsey & Company, Inc. United States*

_____
Ingrid S. Martin
Todd & Weld LLP
*Counsel for McKinsey & Company, Inc. United States*

**The United States Attorney's Office for the Western District of Virginia:**

BY: _____ December 13, 2024

Christopher R. Kavanaugh — Date
*United States Attorney*

KRISTEN M. ECHEMENDIA
*Senior Trial Counsel*
*Department of Justice, Civil Division*
*Commercial Litigation Branch*

RANDY RAMSEYER
*Assistant United States Attorney*

KIMBERLY M. BOLTON
*Special Assistant United States Attorney*
*Assistant Attorney General*
*Medicaid Fraud Control Unit*
*Virginia Office of the Attorney General*

KRISTIN L. GRAY
*Special Assistant United States Attorney*
*Assistant Attorney General*
*Medicaid Fraud Control Unit*
*Virginia Office of the Attorney General*

**The United States Attorney's Office for the District of Massachusetts:**

BY: _____

Joshua S. Levy
*United States Attorney*

AMANDA MASSELAM STRACHAN
*Chief, Criminal Division*

WILLIAM B. BRADY
*Assistant United States Attorney*

**The United States Department of Justice, Consumer Protection Branch:**

BY: _____
Amanda N. Liskamm
*Director*

_____
Anthony Nardozzi
*Deputy Director, Criminal*

_____
Amy L. DeLine
*Assistant Director*

_____
JESSICA C. HARVEY
*Trial Attorney*

_____
STEVEN R. SCOTT
*Trial Attorney*

# SECURITY AGREEMENT

dated as of December 12, 2024

among

**MCKINSEY & COMPANY, INC. UNITED STATES**,

as Grantor

and

**UNITED STATES**,

as Secured Party

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# SECURITY AGREEMENT

THIS **SECURITY AGREEMENT**, dated as of December 12, 2024 (this "Agreement"), is made by and between **MCKINSEY & COMPANY, INC. UNITED STATES**, a Delaware corporation (together with its successors and permitted assigns, the "Grantor"), and the **UNITED STATES**, acting through (x) under the Criminal Settlement Agreement (as defined below), the United States Attorney's Office for the Western District of Virginia, the United States Attorney's Office for the District of Massachusetts, and the United States Department of Justice's Consumer Protection Branch (the "Criminal Settlement United States Parties"), and (y) under the Civil Settlement Agreement (as defined below), the United States Department of Justice and on behalf of the Office of Inspector General of the Department of Health and Human Services, the Defense Health Agency, acting on behalf of the TRICARE program, the Office of Personnel Management, which administers the Federal Employees Health Benefits Program, and the United States Department of Veterans Affairs, which administers the Veterans Health Administration (the "Civil Settlement United States Parties", and together with the Criminal Settlement United States Parties, collectively, the "United States"), as the secured party (together with its successors and permitted assigns, the "Secured Party").

## W I T N E S S E T H:

**WHEREAS**, the Grantor, McKinsey & Company, Inc. ("McKinsey Co") and the Secured Party are party to (x) the Deferred Prosecution Agreement, dated as of the date hereof (as such agreement may be amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the "Criminal Settlement Agreement"), and (y) the Settlement Agreement, dated as of the date hereof (as such agreement may be amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the "Civil Settlement Agreement", and together with the Criminal Settlement Agreement, each, individually, a "Settlement Agreement" and collectively, the "Settlement Agreements");

**WHEREAS**, pursuant to the terms of each Settlement Agreement, the Grantor is entering into this Agreement to grant to the Secured Party a security interest in and lien upon the Collateral (as defined below) to secure the Obligations (as defined below);

**NOW, THEREFORE**, in consideration of the promises and mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1 Defined Terms.

(a) All capitalized terms used but not otherwise defined herein have the meanings given to them in the applicable Settlement Agreement. All other undefined terms contained in this Agreement, unless the context indicates otherwise, have the meanings provided for by the UCC (as defined below) to the extent the same are used or defined therein.

(b) As used in this Agreement, the following terms shall have the meanings specified below unless the context otherwise requires:

"Allocation Method" means the following methodology for determining, as of any date of determination, which Eligible Receivables are Collateral Pool Receivables:

(1) *first*, Eligible Receivables (or the applicable portion thereof) shall be included in the Collateral Pool Receivables in order of most recent to oldest, based on the Origination Date of all Eligible Receivables as of such date of determination, as necessary up to the Receivables Collateralization Amount; and

(2) *thereafter*, if after giving effect to clause (1) above, two or more Eligible Receivables to be included in Collateral Pool Receivables would have the same Origination Date, Eligible Receivables (or the applicable portion thereof) shall be included in the Collateral Pool Receivables in order of the largest to the smallest Outstanding Balance;

provided, that, the Collateral Pool Receivables shall in all cases exclude any portion of an Eligible Receivables that would cause the aggregate Outstanding Balance of all Collateral Pool Receivables to exceed the Receivables Collateralization Amount;

provided, further, that the Grantor may from time to time deliver a written supplement to this Agreement to designate Receivables that shall be included in the Collateral Pool Receivables prior to giving effect to any allocation pursuant to the foregoing clauses (1) and (2), so long as after giving effect to any such designation, the Outstanding Balance of the Collateral Pool Receivables is not less than the Receivables Collateralization Amount.

"Bankruptcy Code" means the United States Bankruptcy Reform Act of 1978 (11 U.S.C. § 101, et seq.), as amended from time to time.

"Collateral" has the meaning provided in Section 2 hereof.

"Collateral Schedule" has the meaning provided in Section 5(c) hereof.

"Collateral Pool Receivables" means, as of any date of determination, a pool of Eligible Receivables with an aggregate Outstanding Balance equal to the Receivables Collateralization Amount, determined in accordance with the Allocation Method.

"Contract" means, with respect to any Receivable, any and all contracts, instruments, agreements, leases, invoices, notes or other writings pursuant to which such Receivable arises or that evidence such Receivable or under which an Obligor becomes or is obligated to make payment in respect of such Receivable.

"Credit Agreement" means the Third Amended and Restated Credit Agreement, dated as of July 27, 2023, by and among, *inter alios*, McKinsey & Company, Inc., as borrower, the guarantors party thereto, the lenders party thereto and JPMorgan Chase Bank, N.A. as the

administrative agent for the lenders, and any agreement or instrument pursuant to which the credit facility thereunder may be refinanced, as may be amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof.

"Debtor Relief Law" means, collectively, the Bankruptcy Code and all other applicable federal, state, local, tribal or foreign liquidation, conservatorship, bankruptcy, moratorium, rearrangement, receivership, insolvency, reorganization or similar debtor relief laws from time to time in effect affecting the rights of creditors generally, as amended from time to time.

"Eligible Receivable" has the meaning ascribed to such term on Annex A hereto.

"Enforcement Date" means any date on which (x) an Event of Default has occurred and is continuing and on which the Secured Party gives written notice to the Grantor that it is enforcing its right with respect to the Collateral hereunder or (y) an Insolvency Proceeding commences with respect to the Grantor.

"Excluded Assets" means (a) (i) all cash, checks, money orders or other proceeds paid under any Contract by the applicable Obligor, and (ii) any proceeds of any sale or disposition of any Receivable, in each case of the foregoing clauses (i) and (ii), to the extent received by the Grantor prior to the Enforcement Date, and (b) the Receivables or other assets that are not included in the definition of Collateral as of the Enforcement Date.

"Excluded Receivable" means each Receivable (or Obligor) designated in writing by the Grantor from time to time so long as after giving effect to any such designation, the Outstanding Balance of the Collateral Pool Receivables is not less than the Receivables Collateralization Amount.

"Financial Officer" means the chief financial officer, global head of finance, principal accounting officer, treasurer, assistant treasurer or controller of the Grantor.

"Governmental Authority" means any federal, state, municipal, national or other government, governmental department, commission, board, bureau, court, agency or instrumentality or political subdivision thereof or any entity or officer exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, in each case whether associated with a state of the U.S., the U.S., or a foreign entity or government.

"Insolvency Proceeding" means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding up or relief of debtors and, in the case of any such proceeding instituted against such Person (but not instituted by such Person), either such proceeding shall remain undismissed or unstayed for a period of sixty (60) consecutive days, or any of the actions sought in such proceeding (including the entry of an order for relief against, or the appointment of a receiver, trustee, custodian, or other similar official for, it or for any substantial part of its property) shall occur or (b) any general assignment for the benefit of creditors of a Person, composition, marshaling of assets for creditors of a Person, or other, similar arrangement in respect

of its creditors generally or any substantial portion of its creditors, in each of clauses (a) and (b) undertaken under U.S. Federal, state or foreign law, including any Debtor Relief Law.

"LC Collateralization Amount" means, as of any date of determination, the aggregate undrawn amount of any issued and outstanding Qualifying LCs.

"Lien" means, with respect to any asset, (a) any mortgage, deed of trust, lien, hypothecation, pledge, charge, security interest or similar monetary encumbrance in or on such asset and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset; provided, that in no event shall an operating lease or an agreement to sell be deemed to constitute a Lien.

"Obligations" means, collectively, all obligations of the Grantor and McKinsey Co to make payments to the Secured Party under the Settlement Agreements.

"Obligor" means, with respect to any Receivable, the Person obligated to make payments pursuant to the Contract relating to such Receivable.

"Origination Date" means, with respect to any Receivable, the date on which the Outstanding Balance of such Receivable is invoiced by the Grantor to the Obligor.

"Outstanding Balance" means, as of any date of determination, with respect to any Receivable, the then unpaid and outstanding principal balance thereof (excluding late charges, interest or any other amounts payable in excess of the invoiced amount thereof).

"Permitted Liens" means (a) Liens, if any, imposed on the property of any Person by operation of law or without such Person's consent, in each case being contested in good faith by appropriate proceedings, as long as such Person has set aside on its books adequate reserves with respect thereto in accordance with applicable accounting standards, (b) Liens, if any, imposed by law for taxes that are not yet due or are being contested in good faith, and (c) Liens in favor of the Secured Party and pursuant to this Agreement.

"Person" means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity, or a government or any political subdivision or agency thereof.

"Qualifying LCs" has the meaning provided in Section 5(h) hereof.

"Receivables" means any right to payment of a monetary obligation, whether or not earned by performance, owed to the Grantor, whether constituting an account, chattel paper, payment intangible, instrument or general intangible, in each instance arising in connection with the sale of goods that have been or are to be sold or for services rendered or to be rendered, and includes, without limitation, the obligation to pay any finance charges, fees and other charges with respect thereto and further including, without limitation, the identifiable proceeds thereof. Any such right to payment arising from any one transaction, including, without limitation, any such right to

payment represented by an individual invoice or agreement, shall be a Receivable separate from a Receivable consisting of any such right to payment arising from any other transaction.

"Receivables Collateralization Amount" means the Required Collateralization Amount less the LC Collateralization Amount, if any.

"Related Security" means, with respect to any Receivable:

(a) all of the Grantor's interest in any goods, if any, (including returned goods), and documentation of title evidencing the shipment or storage of any goods (including returned goods), the sale of which gave rise to such Receivable;

(b) all instruments and chattel paper that may evidence such Receivable;

(c) all other security interests or liens and property subject thereto from time to time purporting to secure payment of such Receivable, whether pursuant to the Contract related to such Receivable or otherwise, together with all UCC financing statements or similar filings relating thereto; and

(d) all of the Grantor's rights, interests and claims under the related Contracts and all guaranties, indemnities, insurance and other agreements (including the related Contract) or arrangements of whatever character from time to time supporting or securing payment of such Receivable or otherwise relating to such Receivable, whether pursuant to the Contract related to such Receivable or otherwise.

"Required Collateralization Amount" means, on any date of determination, an amount equal to the lesser of (a) $300,000,000 and (b) the sum of (x) outstanding amount of the Obligations at such time and (y) 10.0% of the amount specified in clause (x).

"Settlement Agreement (Criminal) Breach" means (a) a determination by the United States that the Grantor and McKinsey Co have failed to comply with any provision of the Criminal Settlement Agreement and it seeks to exercise its right to pursue a remedy other than as contemplated by the Agreed Order Compelling Compliance and (b) upon receipt of written notice of such determination from the United States, the Grantor and McKinsey Co have failed to demonstrate that it did comply with all provisions of the Criminal Settlement Agreement or, to the extent applicable, that the failure to comply should not result in adverse action (including because the failure to comply has been cured), in each case in accordance with Section 42 of the Criminal Settlement Agreement.

"Settlement Agreement (Civil) Breach" means an Uncured Default (as defined in the Civil Settlement Agreement).

"UCC" means the Uniform Commercial Code as in effect in the Commonwealth of Massachusetts; provided that if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the Commonwealth of Massachusetts, "UCC" means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes

of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

SECTION 2 Grant of Security Interest. As security for the Obligations, the Grantor hereby grants to the Secured Party a continuing security interest in, all of the Grantor's right, title and interest in, to and under all of the following, whether now or hereafter owned, existing or arising (collectively, the "Collateral"):

(a) all Receivables (and any portion thereof) included in Collateral Pool Receivables;

(b) all Related Security with respect to the Receivables described in the foregoing clause (a);

(c) all books and records of the Grantor pertaining to any of the foregoing; and

(d) all accessions to, substitutions for and replacements, products and proceeds of any of the foregoing, including, but not limited to, proceeds of any insurance policies, claims against third parties, and condemnation or requisition payments with respect to all or any of the foregoing;

provided, that the "Collateral" shall not include any Excluded Assets.

SECTION 3 Perfection and Protection of Security Interest.

(a) The Grantor shall (i) as soon as reasonably practicable after written demand by the Secured Party, execute, obtain, deliver, file, register and/or record any and all financing statements, continuation statements and other documents, or cause the execution, filing, registration, recording or delivery of any and all of the foregoing, that are reasonably necessary or required under law, to be executed, filed or recorded to create, maintain, perfect, preserve or otherwise protect, as applicable, the Grantor's interest in the Collateral and the Secured Party's perfected first priority (other than with respect to Permitted Liens) Lien on the Collateral (and the Grantor irrevocably grants the Secured Party the right, at the Secured Party's option, to file any or all of the foregoing), (ii) maintain, or cause to be maintained, at all times, the Secured Party's perfected first priority (other than with respect to Permitted Liens) Lien on the Collateral, and (iii) defend the Collateral and the Secured Party's first priority (other than with respect to Permitted Liens) and perfected Lien thereon against all claims and demands of all Persons at any time claiming the same or any interest therein adverse to the Secured Party (other than Permitted Liens). Upon a Financial Officer's discovery of any Lien on the Collateral other than a Permitted Lien, the Grantor shall promptly notify the Secured Party.

(b) The Grantor hereby irrevocably authorizes the Secured Party or its designee at any time and from time to time to file in any applicable filing office any financing statements (including amendments thereto) that (i) describe the Collateral as provided in Section 2 of this Agreement, and (ii) contain any other information required by part 5 of Article 9 of the applicable UCC for the sufficiency or filing office acceptance of any financing statement or

amendment or financing change statement. The Grantor agrees to furnish any such information to the Secured Party promptly upon written request.

(c) Upon payment and satisfaction of all of the Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted) under the Settlement Agreements, this Agreement and the Liens created hereby shall terminate automatically and the Secured Party shall execute and deliver such documents, at the Grantor's expense, as are necessary to release the Secured Party's Liens on the Collateral and shall return any Collateral to the Grantor; provided, however, that the parties agree that, notwithstanding any such termination or release or the execution, delivery or filing of any such documents or the return of any Collateral, if and to the extent that any such payment made or received with respect to the Obligations is subsequently invalidated, determined to be fraudulent or preferential, set aside, defeased or required to be repaid to a trustee, debtor in possession, receiver, custodian or any other Person under any Debtor Relief Law, common law or equitable cause or any other law, then the Obligations intended to be satisfied by such payment shall be revived and shall continue as if such payment had not been received by the Secured Party and the Liens created hereby shall be revived automatically without any action on the part of any party hereto and shall continue as if such payment had not been received by the Secured Party. The Secured Party shall not be deemed to have made any representation or warranty with respect to any Collateral so delivered except that such Collateral is free and clear, on the date of such delivery, of any and all Liens arising from the Secured Party's own acts.

(d) Except as otherwise required by law or under this Agreement, the Secured Party shall have no responsibility for or obligation or duty with respect to any of the Collateral or any matter or proceeding arising out of or relating thereto, including, without limitation, any obligation or duty to collect any sums due in respect thereof or to protect or preserve any rights pertaining thereto.

SECTION 4 Representations and Warranties of the Grantor.

(a) The Grantor is not (i) a party to any material judgment, order or decree that conflicts with this Agreement, or (ii) in default in the performance, observance or fulfillment of any material obligation, covenant or condition contained in any agreement, document or instrument to which it is a party or to which the Collateral is subject, nor is there any event, fact, condition or circumstance, in the case of each of clause (i) and (ii), with notice or passage of time or both, would constitute or result in a conflict, breach, default or event of default under, any of the foregoing.

(b) The Grantor has full right and power to grant to the Secured Party, a first priority Lien on the Collateral pursuant to this Agreement, subject to Permitted Liens. Upon the execution and delivery of this Agreement, and upon the filing of the necessary financing statements and other documents and the taking of all other necessary action, the Secured Party will have a valid and first priority perfected Lien on the Collateral, subject to no enforceable transfer or other restrictions or Liens of any kind in favor of any other Person other than Permitted Liens. As of the date hereof, no financing statement naming the Grantor as debtor

and describing any of the Collateral is on file in any public office except those naming the Secured Party as secured party.

SECTION 5 Covenants.

(a) The Grantor will furnish to the Secured Party prompt written notice of the occurrence of any Event of Default.

(b) The Grantor shall cause the aggregate Outstanding Balance of the Collateral Pool Receivables to at all times be no less than the Receivables Collateralization Amount.

(c) Within thirty (30) days of any written request from the Secured Party, furnish to Secured Party a list of the Collateral Pool Receivables as of the last day of the calendar month preceding the date of such notice, in the form of Annex B hereto, together with calculations demonstrating compliance with the Required Collateralization Amount (as supplemented or modified from time to time, the "Collateral Schedule"). Each Collateral Schedule may be redacted to comply with any confidentiality or non-disclosure obligations set forth in the applicable underlying Contract.

(d) The Grantor shall furnish to Secured Party such other information in respect of the Collateral Pool Receivables as may be reasonably requested by the Secured Party in connection with any enforcement of its rights with respect to the Collateral Pool Receivables, including an updated Collateral Schedule as of the Enforcement Date within five (5) business days of any occurrence thereof.

(e) The Grantor shall not create, incur, assume or suffer to exist any Lien upon, in or against, or pledge of, any of the Collateral, whether now owned or hereafter acquired, except for Permitted Liens.

(f) The Grantor shall not (i) amend, modify, restate or change its organizational documents in a manner that would be adverse to the Secured Party, (ii) change its state of organization or change its corporate name without prompt written notice to the Secured Party, (iii) wind up, liquidate or dissolve (voluntarily or involuntarily) or commence or suffer any proceedings seeking or that would result in any of the foregoing or (iv) establish new or additional trade names without providing prompt written notice to the Secured Party.

(g) Except as otherwise permitted herein, the Grantor shall not sell, lease, transfer, pledge, encumber, assign or otherwise dispose of any Collateral (other than Permitted Liens) without the prior consent of the Secured Party.

(h) (i) At any time and from time to time, the Grantor may elect to deliver to the Secured Party one or more standby letters of credit securing the Obligations from one or more issuing banks reasonably acceptable to the Secured Party, naming the Secured Party as the beneficiary (each, a "Qualifying LC"), and (ii) if (x) an Event of Default (as defined in the Credit Agreement) has occurred and is continuing, or (y) the Grantor or McKinsey Co fails to make any payment of any Obligations when due under the Settlement Agreements, and such

failure continues unremedied for a period of thirty (30) days, then upon written request by the Secured Party to the Grantor, the Grantor shall, as promptly as practicable (and in any event within thirty (30) days of such request, or if the Grantor certifies to the Secured Party that it is using commercially reasonable efforts to obtain a Qualifying LC on or prior to the end of such thirty (30) day period but has not yet obtained such Qualifying LC, forty-five (45) days of such request), furnish to the Secured Party one or more Qualifying LCs in an aggregate face amount of not less than the Required Collateralization Amount.

SECTION 6 Events of Default. Any of the following shall constitute an "Event of Default":

(a) The occurrence of a Settlement Agreement (Criminal) Breach or a Settlement Agreement (Civil) Breach.

(b) The Grantor (i) fails or neglects to perform, keep, or observe any other term, provision, condition, covenant or agreement contained in this Agreement (other than its obligations under Section 5(g)) in any material respect and such default shall continue unremedied for a period of thirty (30) days after the Grantor's receipt of written notice thereof from the Secured Party or (ii) fails or neglects to perform, keep, or observe its obligations under Section 5(g) when required.

(c) (i) Any material portion of the Collateral is attached, seized, levied on, or comes into possession of a trustee or receiver, or (ii) any court order enjoins, restrains, or prevents the Grantor from conducting any material part of its business.

(d) (i) The Grantor is unable to pay its debts (including trade debts) as they become due, (ii) any Insolvency Proceeding occurs with respect to the Grantor.

(e) The Grantor makes any representation, warranty, or other statement now or in the future in this Agreement or in any writing delivered to the Secured Party or to induce the Secured Party to enter into this Agreement, and such representation, warranty, or other statement is incorrect in any material respect when made or deemed made and, with respect to any such representation or warranty that is capable of being cured, such representation or warranty continues to be incorrect in any material respect ten (10) business days after the date on which the Grantor becomes aware thereof.

(f) (i) This Agreement, the Settlement Agreements, or any document, instrument, or agreement evidencing any Obligations shall for any reason be revoked or invalidated or otherwise cease to be in full force and effect, the Grantor shall be in breach thereof or there shall be an "event of default" under the Settlement Agreements; (ii) Grantor shall contest in any manner the validity or enforceability thereof or deny that it has any further liability or obligation thereunder; or (iii) the Obligations shall for any reason be subordinated or shall not have the priority contemplated by this Agreement, the Settlement Agreements or any other intercreditor or subordination agreement.

SECTION 7 Right to Cure. While an Event of Default has occurred and is continuing, the Secured Party may do any act required of the Grantor or pay any amount required of the Grantor hereunder in order to preserve, protect, maintain or enforce the Obligations, the Collateral or the Secured Party's Liens therein, and which the Grantor fails to pay or do following notice by the Secured Party to the Grantor (unless an Event of Default has occurred and is continuing, or unless the Secured Party has reason to believe exigent circumstances may exist, in which events, no such notice shall be required), including payment of any judgment against the Grantor, any insurance premium, and any Lien upon or with respect to the Collateral.

SECTION 8 Power of Attorney. The Grantor hereby irrevocably makes, constitutes and appoints the Secured Party as the true and lawful attorney for the Grantor (without requiring the Secured Party to act as such) with full power of substitution to do the following at any time after the occurrence and during the continuation of an Event of Default: (i) indorse the name of the Grantor upon any and all checks, drafts, money orders and other instruments for the payment of money that are payable to the Grantor and constitute proceeds of the Collateral; (ii) execute and/or file in the name of the Grantor any financing statements, amendments to financing statements, schedules to financing statements, releases or terminations thereof, assignments, instruments or documents that it is obligated to execute and/or file under this Agreement (to the extent the Grantor fails to so execute and/or file any of the foregoing within two (2) Business Days of the Secured Party's request or the time when the Grantor is otherwise obligated to do so); (iii) execute and/or file in the name of the Grantor assignments, instruments, documents, schedules and statements that it is obligated to give the Secured Party under this Agreement (to the extent the Grantor fails to so execute and/or file any of the foregoing within two (2) Business Days of the Secured Party's request or the time when the Grantor is otherwise obligated to do so) and (iv) do such other and further acts and deeds in the name of the Grantor that the Secured Party may deem necessary to make, create, maintain, continue, enforce or perfect or realize upon the Secured Party's Lien on or rights in any Collateral. The powers and authorities granted pursuant to this Section 8 shall automatically terminate upon the termination of this Agreement in accordance with Section 10(e).

SECTION 9 Remedies; Rights Upon Default.

(a) In addition to all other rights and remedies granted to it under this Agreement and the Settlement Agreements and under any other instrument or agreement securing, evidencing or relating to any of the Obligations or pursuant to any other applicable law, upon the occurrence and during the continuation of an Event of Default, the Secured Party may exercise any and all rights, options and remedies provided for under the UCC or at law or in equity, including, without limitation, the right to (i) apply any property constituting Collateral of the Grantor held by the Secured Party to reduce the Obligations, (ii) foreclose the Liens created under this Agreement, (iii) realize upon, take possession of and/or sell any Collateral, with or without judicial process, (iv) exercise all rights and powers with respect to the Collateral as the Grantor might exercise, (v) collect and send notices regarding the Collateral, with or without judicial process, (vi) by its own means or with judicial assistance, enter any premises at which Collateral is located or dispose of the Collateral on such premises without any liability for rent, storage, utilities, or other sums, and the Grantor shall not resist or interfere with such action, (vii) at the Grantor's expense, require that all or any part of the Collateral be assembled and made available to the Secured Party at any place designated by the Secured Party in its sole discretion, and/or

(viii) relinquish or abandon any Collateral or any Lien thereon. Notwithstanding any provision of this Agreement, the Secured Party, in its sole discretion, shall have the right, at any time that the Grantor fails to do so after an Event of Default, without prior notice, to: (A) obtain insurance covering any of the Collateral to the extent required hereunder; and (B) discharge taxes, levies and/or Liens on any of the Collateral that are in violation of this Agreement unless the Grantor is in good faith with due diligence by appropriate proceedings contesting those items. Such expenses and advances shall be added to the Obligations until reimbursed to the Secured Party and shall be secured by the Collateral, and such payments by the Secured Party shall not be construed as a waiver by the Secured Party of any Event of Default or any other rights or remedies of the Secured Party. Notwithstanding anything contained in this Agreement to the contrary, in no event shall the Secured Party be required to obtain any insurance or make any payments referenced in this Section 9(a) unless the Secured Party shall have first received sufficient funds to obtain such insurance or make any such payments and in no event shall the Secured Party be required to risk or expend its own funds in connection therewith.

(b) At any sale or disposition of Collateral, the Secured Party may (to the extent permitted by applicable law) purchase all or any part thereof free from any right of redemption by the Grantor, which right is hereby waived and released, to the extent permitted by law. In dealing with or disposing of the Collateral or any part thereof, the Secured Party shall not be required to give priority or preference to any item of Collateral or otherwise to marshal assets or to take possession or sell any Collateral with judicial process. The Grantor covenants and agrees not to interfere with or impose any obstacle to the Secured Party's exercise of its rights and remedies with respect to the Collateral following the acceleration of the Obligations during the continuance of an Event of Default.

(c) The Grantor hereby waives, for the benefit of Secured Party:

(i) any right to require the Secured Party, as a condition of payment or performance by the Grantor, to

(A) proceed against any other Person,

(B) proceed against or exhaust any security held from any other Person, or

(C) pursue any other remedy in the power of any Secured Party whatsoever;

(ii) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of the Grantor, including any defense based on or arising out of the lack of validity or the unenforceability of the Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of the Grantor from any cause other than satisfaction in full of the Obligations;

(iii) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal;

(iv) any defense based upon any Secured Party's errors or omissions in the administration of the Obligations, except behavior which amounts to gross negligence or willful misconduct;

(v) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof and any legal or equitable discharge of the Grantor's obligations hereunder;

(vi) any defenses that may be asserted on the basis of statute of limitations;

(vii) any rights to set-offs, recoupments and counterclaims;

(viii) promptness, diligence and any requirement that any Secured Party protect, secure, perfect or insure any security interest or lien or any property subject thereto;

(ix) notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance hereof, notices of default hereunder, or any agreement or instrument related thereto, notices of any renewal, extension or modification of the Obligations or any agreement related thereto, notices of any extension of credit to the Grantor, except as expressly required under this Agreement or the Settlement Agreements; and

(x) any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms hereof.

SECTION 10 Miscellaneous.

(a) Revival of Obligations. To the extent that any payment made or received with respect to the Obligations is subsequently invalidated, determined to be fraudulent or preferential, set aside, defeased or required to be repaid to a trustee, debtor in possession, receiver, custodian or any other Person under any Debtor Relief Law, common law or equitable cause or any other law, then the Obligations intended to be satisfied by such payment shall be revived and shall continue as if such payment had not been received by the Secured Party and the Liens created hereby shall be revived automatically without any action on the part of any party hereto and shall continue as if such payment had not been received by the Secured Party.

(b) Communications and Notices. All notices, requests and demands that any party is required or elects to give to any other hereunder shall (i) be in writing, (ii) may be delivered or furnished by electronic communication (including facsimile, or electronic mail) and (iii) any such notice shall become effective (x) upon personal delivery thereof, including but not limited to, delivery by overnight mail and courier service, (y) three (3) business days after it shall have been mailed by United States mail, first class, certified or registered, with postage prepaid, in

each case addressed or delivered to such party, or (z) in the case of electronic communication, upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment) (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day), as follows:

(A) If to the Grantor:

Attention: Jonathan B. Slonim / Pierre M. Gentin
Address 3 World Trade Center
New York, New York 10007
Telephone: 212-415-5355
e-mail: Jonathan_Slonim@mckinsey.com

With copy, which shall not constitute notice, to:

McKinsey Treasury
Attention: Carlos Ingles
Address 3 World Trade Center
New York, New York 10007
Telephone: 917-388-7051
e-mail: treasury@mckinsey.com

(B) If to the Secured Party:

Attention: Financial Litigation Program, c/o Mary Reed
Address: U.S. Attorney's Office, Western District of Virginia
Post Office Box 1709
Roanoke, Virginia 24008-1709
Telephone: 540-857-2259
e-mail: Mary.reed@usdoj.gov

and

Attention: Jamie Ann Yavelberg
Address: Director, Civil Division
Commercial Litigation Branch (Fraud Section)
DJ No. 46-80-289
175 N Street NE, Room 10.137
Washington, DC 20002
e-mail: Jamie.Yavelberg@usdoj.gov & Christopher.Terranova@usdoj.gov

(c) Severability; Captions; Counterparts; Facsimile Signatures. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or

impaired thereby. The captions in this Agreement are intended for convenience and reference only and shall not affect the meaning or interpretation of this Agreement. This Agreement and any waiver or amendment hereto may be executed in counterparts and by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. The words "execution", "signed", "signature" and words of like import in this Agreement shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity and enforceability as a manually executed signature or the use of a paper-based recordkeeping systems, as the case may be, to the extent and as provided for in any applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the UCC.

(d) No Waiver; Cumulative Remedies; Amendments. None of the terms or provisions of this Agreement may be waived, altered, modified or amended except by an instrument in writing, duly executed by the Secured Party and the Grantor.

(e) Termination of this Agreement; Release of Liens. Subject to Section 10(a) hereof, this Agreement shall automatically terminate and the Liens on all Collateral shall be automatically released upon the payment in full of all Obligations in accordance with the terms of the Settlement Agreements.

(f) Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of the parties hereto and the successors and assigns of the Secured Party. The Grantor's rights or obligations hereunder nor any interest therein may be assigned or delegated by the Grantor without the prior written consent of the Secured Party. The Secured Party may not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the Grantor. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(g) Governing Law. THIS AGREEMENT AND ALL ACTIONS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS, WITHOUT REGARD TO THE CONFLICTS OF LAW PROVISIONS OF THE COMMONWEALTH OF MASSACHUSETTS, OR OF ANY OTHER STATE. EACH PARTY HERETO IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION OF, AND VENUE IN, THE STATE COURTS IN THE COUNTY OF SUFFOLK IN THE COMMONWEALTH OF MASSACHUSETTS (OR IN THE EVENT OF EXCLUSIVE FEDERAL JURISDICTION, THE FEDERAL COURTS IN THE COUNTY OF SUFFOLK IN THE COMMONWEALTH OF MASSACHUSETTS), IN CONNECTION WITH ANY MATTER BASED UPON OR ARISING OUT OF THIS AGREEMENT OR THE MATTERS CONTEMPLATED HEREIN, AND AGREES THAT PROCESS MAY BE SERVED UPON THEM IN ANY MANNER AUTHORIZED BY THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS FOR SUCH PERSONS.

(h) Waiver of Jury Trial. EACH PARTY HERETO KNOWINGLY AND VOLUNTARILY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF SUCH PARTY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT HEREOF.

(i) Consistent Application. The rights and duties created by this Agreement shall, in all cases, be interpreted consistently with, and shall be in addition to (and not in lieu of), the rights and duties created by the Settlement Agreements.

[Signature Pages Follow]

**IN WITNESS WHEREOF,** each of the parties hereto has caused this Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

**GRANTOR:**

**McKinsey & Company, Inc. United States:**

BY: _____ 12/12/24
Jonathan B. Slonim — Date
Head of Litigation & Investigations
Deputy General Counsel
*Authorized Corporate Representative*
*for McKinsey & Company, Inc. United States*

**SECURED PARTY:**

**The United States Attorney's Office for the Western District of Virginia:**

BY: _____ December 13, 2024

Christopher R. Kavanaugh — Date
*United States Attorney*

KRISTEN M. ECHEMENDIA
*Senior Trial Counsel*
*Department of Justice, Civil Division*
*Commercial Litigation Branch*

RANDY RAMSEYER
*Assistant United States Attorney*

KIMBERLY M. BOLTON
*Special Assistant United States Attorney*
*Assistant Attorney General*
*Medicaid Fraud Control Unit*
*Virginia Office of the Attorney General*

KRISTIN L. GRAY
*Special Assistant United States Attorney*
*Assistant Attorney General*
*Medicaid Fraud Control Unit*
*Virginia Office of the Attorney General*

**The United States Attorney's Office for the District of Massachusetts:**

BY: _____

Joshua S. Levy
*United States Attorney*

AMANDA MASSELAM STRACHAN
*Chief, Criminal Division*

WILLIAM B. BRADY
*Assistant United States Attorney*

**The United States Department of Justice, Consumer Protection Branch:**

BY: _____
Amanda N. Liskamm
*Director*

_____
Anthony Nardozzi
*Deputy Director, Criminal*

_____
Amy L. DeLine
*Assistant Director*

_____
JESSICA C. HARVEY
*Trial Attorney*

_____
STEVEN R. SCOTT
*Trial Attorney*

**The United States Department of Justice, Commercial Litigation Branch:**

BY: _____
CHRISTOPHER TERRANOVA
*Senior Trial Counsel*

**The United States Department of Justice, Consumer Protection Branch:**

BY: _____
Amanda N. Liskamm
*Director*

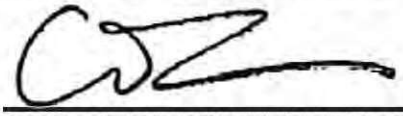
_____
Anthony Nardozzi
*Deputy Director, Criminal*

_____
Amy L. DeLine
*Assistant Director*

_____
JESSICA C. HARVEY
*Trial Attorney*

_____
STEVEN R. SCOTT
*Trial Attorney*

**The United States Department of Justice, Commercial Litigation Branch:**

BY: 
CHRISTOPHER TERRANOVA
*Senior Trial Counsel*

# ANNEX A
# to
# SECURITY AGREEMENT

## ELIGIBLE RECEIVABLES

As used in this Agreement, "Eligible Receivable" means, at any time of determination, a Receivable that satisfies each of the following conditions, unless such condition is expressly waived by the Secured Party in writing:

(a) that is denominated and payable in U.S. Dollars;

(b) that does not have a due date which is one hundred and twenty (120) days or more after the original invoice date of such Receivable;

(c) that is not a Defaulted Receivable;

(d) that is not an Excluded Receivable;

(e) that (i) arises under a Contract for the sale of goods or services entered into in the ordinary course of the Grantor's business and (ii) is not a loan or similar financial accommodation being provided by the applicable Grantor;

(f) that arises under a duly authorized Contract that (i) is in full force and effect, (ii) is governed by the laws of a state, territory, district, commonwealth, or possession of the United States of America, (iii) is a legal, valid and binding obligation of the related Obligor, enforceable against such Obligor in accordance with its terms, except (x) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally, including, without limitation, statutory or other laws regarding fraudulent conveyances and preferential transfers and (y) as such enforceability may be limited by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law, and (iv) the payments included in the Outstanding Balance thereunder are free and clear of any, or increased to account for any applicable, withholding taxes;

(g) that, together with the Contract related thereto, conforms in all material respects with all applicable laws (including any applicable laws relating to usury, truth in lending, fair credit billing, fair credit reporting, equal credit opportunity, fair debt collection practices and privacy);

(h) with respect to which all consents, licenses, approvals or authorizations of, or registrations or declarations with or notices to, any Governmental Authority or other Person required to be obtained, effected or given by the Grantor in connection with the creation of such

Receivable, the execution, delivery and performance by the Grantor of the related Contract have been duly obtained, effected or given and are in full force and effect;

(i) that is not subject to any existing dispute, litigation, right of rescission, set-off, counterclaim, hold back, any other defense against the Grantor (or any assignee of the Grantor); provided that if such Receivable is subject to any such existing dispute, litigation, right of rescission, set-off, counterclaim, hold back, any other defense against the Grantor (or any assignee of the Grantor), such Receivable shall fail to be an "Eligible Receivable" pursuant to this clause (h) only to the extent of such existing dispute, litigation, right of rescission, set-off, counterclaim, hold back, any other defense against the Grantor (or any assignee of the Grantor);

(j) is an "account" or "general intangible" as defined in the UCC, and that is not evidenced by instruments or chattel paper;

(k) that represents amounts earned and payable by the Obligor that are not subject to the performance of additional services by the Grantor and such Receivable shall have been billed or invoiced and the related goods or merchandise shall have been shipped and/or services fully performed (and not partially performed or underperformed);

(l) that does not arise from the sale of as-extracted collateral, as such term is used in the UCC; and

(m) for which the Obligor is not a Governmental Authority.

As used in this Annex A, the following terms shall have the following meanings:

"Defaulted Receivable" means a Receivable:

(a) as to which any payment, or part thereof, remains unpaid for more than ninety (90) days from the original due date for such payment;

(b) as to which any payment, or part thereof, remains unpaid for less than ninety-one (91) days from the original due date for such payment and consistent with the current and historical practices of the Grantor, has been or should be written off the Grantor's books as uncollectible; or

(c) without duplication, as to which an Insolvency Proceeding shall have occurred with respect to the Obligor thereof or any other Person obligated thereon or owning any Related Security with respect thereto.

**ANNEX B**
**to**
**SECURITY AGREEMENT**

COLLATERAL SCHEDULE

I. Collateral Pool Receivables[1]

| Obligor | Charge Code | Invoice No. | Origination Date | Payment Terms | Days Past Terms | Original Outstanding Balance | Current Outstanding Balance as of [Date] |
|---|---|---|---|---|---|---|---|
| 1. [Redacted] | | | | | | $ | $ |
| 2. [Redacted] | | | | | | $ | $ |
| 3. [Redacted] | | | | | | $ | $ |
| **Total Outstanding Balance** | | | | | | $ | $ |

II. Required Collateralization Amount

| | |
|---|---|
| **(A) Receivables Collateralization Amount** | $ |
| **(B) LC Collateralization Amount** | $ |
| **(C) Line (A) plus Line (B)** | $ |
| **(D) Required Collateralization Amount** | $ |
| **Compliance (Yes / No): Line (C) equal or exceed Line (D)** | |

[1] Subject to redaction.

**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF VIRGINIA**
**ABINGDON**

| | | |
|---|---|---|
| **UNITED STATES OF AMERICA** | ) | |
| | ) | |
| **v.** | ) | **No.** |
| | ) | |
| **MCKINSEY & COMPANY, INC. UNITED STATES** | ) | |

**JOINT MOTION TO EXCLUDE TIME**

The United States of America and McKinsey & Company, Inc. United States hereby jointly move this Court for an Order excluding a seventy-two (72) month period from the computation of time within which any trial must be commenced upon the charges contained in the Information, pursuant to Title 18, United States Code, Section 3161(h)(2) of the Speedy Trial Act.

Section 3161(h)(2) provides for the exclusion of time under the Speedy Trial Act for "any period of delay during which prosecution is deferred by the attorney for the Government pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct." 18 U.S.C. § 3161(h)(2); see also United States v. Fokker Services B.V., 818 F.3d 733, 746 (D.C. Cir. 2016) (reversing district court decision denying motion to exclude time under § 3161(h)(2) where parties had voluntarily entered into a deferred prosecution agreement).

The United States and McKinsey & Company, Inc. United States and McKinsey & Company, Inc. (collectively, "MCKINSEY") have entered into a written Deferred Prosecution Agreement (hereinafter, "the Agreement"). The purpose of the Agreement is

to allow MCKINSEY to demonstrate its good conduct and implement remedial measures.

In the Agreement, McKinsey & Company, Inc. United States agreed to waive its right to an indictment, and agreed to the filing of an Information in this Court charging it with two criminal offenses.

Pursuant to the Agreement, the United States is deferring the criminal prosecution of McKinsey & Company, Inc. United States on the Information for a period of sixty (60) months and MCKINSEY has agreed the United States may unilaterally extend the term of the Agreement and deferral of the prosecution for an additional twelve (12) months if it so chooses. Pursuant to Section 3161(h)(2) of Title 18 of the United States Code, the United States requests the Court exclude this seventy-two (72) month period from computation under the Speedy Trial Act.

McKinsey & Company, Inc. United States hereby joins in this request and does not oppose a continuance of all further criminal proceedings for a period of seventy-two (72) months, with the understanding that this entire seventy-two (72) month period will be excluded for purposes of the Speedy Trial Act. McKinsey & Company, Inc. United States further waives any and all rights to a speedy trial pursuant to the Sixth Amendment of the United States Constitution, Title 18, United States Code, Section 3161, Federal Rule of Criminal Procedure 48(b), and any applicable Local Rules of the United States District Court for the Western District of Virginia for the period that the Agreement is in effect.

The United States has agreed that if MCKINSEY has complied in all respects with all of its obligations under the Agreement, the United States, within thirty (30) days of the

expiration of the Term set forth in the Agreement, or at an earlier time at the discretion of the United States, will move this Court for dismissal with prejudice of the charges in the Information against McKinsey & Company, Inc., United States.

WHEREFORE, the United States and McKinsey & Company, Inc. United States respectfully request this Court enter an Order continuing all criminal proceedings for a period of seventy-two (72) months, and exclude that time period from computation under the Speedy Trial Act.

Respectfully submitted and agreed to by:

**McKinsey & Company, Inc. United States**

BY: _____ 12/10/24
Jonathan B. Shnim — Date
*Authorized Corporate Representative*
*for McKinsey & Company, Inc. United States.*

_____ 12/10/24
Charles E. Duross — Date
Brian K. Kidd
Katherine E. Driscoll
Morrison & Foerster LLP
*Counsel for McKinsey & Company, Inc. United States*

_____
James L. Bernard
Hogan Lovells US LLP
*Counsel for McKinsey & Company, Inc. United States*

_____
Ingrid S. Martin
Todd & Weld LLP
*Counsel for McKinsey & Company, Inc. United States*

**The United States Attorney's Office for the Western District of Virginia:**

BY: _____ December 13, 2024

Christopher R. Kavanaugh — Date
*United States Attorney*

KRISTEN M. ECHEMENDIA
*Senior Trial Counsel*
*Department of Justice, Civil Division*
*Commercial Litigation Branch*

RANDY RAMSEYER
*Assistant United States Attorney*

KIMBERLY M. BOLTON
*Special Assistant United States Attorney*
*Assistant Attorney General*
*Medicaid Fraud Control Unit*
*Virginia Office of the Attorney General*

KRISTIN L. GRAY
*Special Assistant United States Attorney*
*Assistant Attorney General*
*Medicaid Fraud Control Unit*
*Virginia Office of the Attorney General*

**The United States Attorney's Office for the District of Massachusetts:**

BY: _____

Joshua S. Levy
*United States Attorney*

AMANDA MASSELAM STRACHAN
*Chief, Criminal Division*

WILLIAM B. BRADY
*Assistant United States Attorney*

**The United States Department of Justice, Consumer Protection Branch:**

BY: Amy DeLine For
Amanda N. Liskamm
*Director*

Amy DeLine For
Anthony Nardozzi
*Deputy Director, Criminal*

Amy DeLine
Amy L. DeLine
*Assistant Director*

JESSICA C. HARVEY
*Trial Attorney*

STEVEN R. SCOTT
*Trial Attorney*

**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF VIRGINIA**
**ABINGDON**

| | | |
|---|---|---|
| **UNITED STATES OF AMERICA** | ) | |
| | ) | |
| **v.** | ) | **No.** |
| | ) | |
| **MCKINSEY & COMPANY, INC. UNITED STATES** | ) | |

**ORDER TO EXCLUDE TIME**

1. The United States of America and McKinsey & Company, Inc. United States have jointly moved this Court for an Order excluding a seventy-two (72) month period from the computation of time within which any trial must be commenced upon the charges contained in the Information, pursuant to Title 18, United States Code, Section 3161(h)(2) of the Speedy Trial Act.

2. Section 3161(h)(2) provides for the exclusion of time under the Speedy Trial Act for "any period of delay during which prosecution is deferred by the attorney for the Government pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct." 18 U.S.C. § 3161(h)(2); see also United States v. Fokker Services B.V., 818 F.3d 733, 746 (D.C. Cir. 2016) (reversing district court decision denying motion to exclude time under § 3161(h)(2) where parties had voluntarily entered into a deferred prosecution agreement).

3. The United States and McKinsey & Company, Inc. United States and McKinsey & Company, Inc. (collectively, "MCKINSEY") have entered into a written Deferred Prosecution Agreement (hereinafter, "the Agreement"). The purpose of the

Agreement is to allow MCKINSEY to demonstrate its good conduct and implement remedial measures.

4. In the Agreement, McKinsey & Company, Inc. United States agreed to waive its right to an indictment, and agreed to the filing of an Information in this Court charging it with two criminal offenses.

5. Pursuant to the Agreement, the United States is deferring the criminal prosecution of McKinsey & Company, Inc. United States on the Information for a period of sixty (60) months and McKinsey & Company, Inc. United States has agreed the United States may unilaterally extend the term of the Agreement and deferral of the prosecution for an additional twelve (12) months if it so chooses. Pursuant to Section 3161(h)(2) of Title 18 of the United States Code, the United States has requested the Court to exclude this seventy-two (72) month period from computation under the Speedy Trial Act. McKinsey & Company, Inc. United States has joined that request and does not oppose a continuance of all further criminal proceedings for a period of 72 months, with the understanding that this entire period will be excluded for purposes of the Speedy Trial Act. McKinsey & Company, Inc. United States further waives any and all rights to a speedy trial pursuant to the Sixth Amendment of the United States Constitution, Title 18, United States Code, Section 3161, Federal Rule of Criminal Procedure 48(b), and any applicable Local Rules of the United States District Court for the Western District of Virginia for the period that the Agreement is in effect.

6. The United States has agreed that if MCKINSEY has complied in all respects

with all of its obligations under the Agreement, the United States, within thirty (30) days of the expiration of the Term set forth in the Agreement, or at an earlier time at the discretion of the United States, will move this Court for dismissal with prejudice of the charges in the Information against McKinsey & Company, Inc. United States.

Accordingly, for good cause shown, it is hereby ORDERED that all criminal proceedings in this matter are continued for a period of seventy-two (72) months, and such time period is excluded from computation under the Speedy Trial Act.

_____
United States District Judge

**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF VIRGINIA**
**ABINGDON**

| | |
|---|---|
| **IN RE:** | ) |
| | ) |
| | ) |
| **MCKINSEY & COMPANY, INC.** | ) |

# AGREED ORDER COMPELLING COMPLIANCE

McKinsey & Company, Inc., and its subsidiaries and affiliates, including, but not limited to, McKinsey & Company, Inc. United States (collectively, "MCKINSEY") have been the subject of an investigation by the United States Attorney's Offices for the Western District of Virginia and the District of Massachusetts, as well as the Commercial Litigation and Consumer Protection Branches of the Civil Division (collectively referred to as the "United States") concerning potential violations of federal criminal law. The United States and MCKINSEY (collectively, "the Parties") have entered into an agreement to resolve this matter. The agreement includes a Deferred Prosecution Agreement and its attachments (collectively "DPA") (attached as Attachment A) in which McKinsey & Company, Inc. United States will be charged by Information and prosecution on those charges will be deferred if MCKINSEY complies with its obligations pursuant to the agreement.

The United States and MCKINSEY agree the Court has (a) jurisdiction over the subject matter, the parties, and the DPA, and (b) authority to enter and enforce this Order.

Accordingly, based on the agreement of the parties and for good cause shown, (a) MCKINSEY and any successors in interest are hereby ORDERED to fully comply with

the terms of the DPA and (b) MCKINSEY and any successors in interest are hereby ORDERED to fully comply with the terms of the DPA.

The Court may impose any sanction it deems appropriate for any violation of a term of the DPA or this Order. Also, any violation of this Order by MCKINSEY or any successors may be punished as contempt of court, including, but not limited to, criminal contempt, in violation of Title 18, United States Code, Section 401.

Nothing in this order prevents MCKINSEY from requesting accommodation from the United States of MCKINSEY's financial condition, or prevents the United States from granting any accommodation; however, nothing in this order requires the United States to consider or grant any accommodation.

**Entered** this _____day of December, 2024.

_____
United States District Judge

**Agreed to:**

**McKinsey & Company, Inc. and its subsidiaries and affiliates, including, but not limited to, McKinsey & Company, Inc. United States:**

BY: _____ 12/10/24
Pierre M. Gentin — Date
Senior Partner and Chief Legal Officer
*Authorized Corporate Representative*
*for McKinsey & Company, Inc. and its*
*subsidiaries and affiliates, including,*
*but not limited to,*
*McKinsey & Company, Inc. United States*

Counsel for McKinsey & Company, Inc. United States and McKinsey & Company, Inc.:

_____ 12/10/24
Charles E. Duross — Date
Brian K. Kidd
Katherine E. Driscoll
Morrison & Foerster LLP

_____
James L. Bernard
Hogan Lovells US LLP

_____
Ingrid S. Martin
Todd & Weld LLP

**The United States Attorney's Office for the Western District of Virginia:**

BY: _____ December 13, 2024
Christopher R. Kavanaugh — Date
*United States Attorney*

_____ _____
KRISTEN M. ECHEMENDIA — RANDY RAMSEYER
*Senior Trial Counsel* — *Assistant United States Attorney*
*Department of Justice, Civil Division*
*Commercial Litigation Branch*

_____ _____
KIMBERLY M. BOLTON — KRISTIN L. GRAY
*Special Assistant United States Attorney* — *Special Assistant United States Attorney*
*Assistant Attorney General* — *Assistant Attorney General*
*Medicaid Fraud Control Unit* — *Medicaid Fraud Control Unit*
*Virginia Office of the Attorney General* — *Virginia Office of the Attorney General*

**The United States Attorney's Office for the District of Massachusetts:**

BY: _____
Joshua S. Levy
*United States Attorney*

_____ _____
AMANDA MASSELAM STRACHAN — WILLIAM B. BRADY
*Chief, Criminal Division* — *Assistant United States Attorney*

**The United States Department of Justice, Consumer Protection Branch:**

BY: _____
Amanda N. Liskamm
*Director*

_____
Anthony Nardozzi
*Deputy Director, Criminal*

_____
Amy L. DeLine
*Assistant Director*

_____
JESSICA C. HARVEY
*Trial Attorney*

_____
STEVEN R. SCOTT
*Trial Attorney*

**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF VIRGINIA**
**ABINGDON**

| | | |
|---|---|---|
| **UNITED STATES OF AMERICA** | ) | |
| | ) | |
| **v.** | ) | **No.** |
| | ) | |
| **MCKINSEY & COMPANY, INC. UNITED STATES** | ) | |

**VERIFIED COMPLAINT FOR FORFEITURE *IN REM***

Now comes the plaintiff, United States of America, by and through its attorney, Krista Consiglio Frith, Assistant United States Attorney, and brings this complaint and alleges as follows in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure:

NATURE OF THE ACTION

1. This is an action to forfeit and condemn to the use and benefit of the United States of America, pursuant to 18 U.S.C. § 981(a)(1)(A), the following property: MCKINSEY & COMPANY, INC. UNITED STATES ("defendant property"), for violations of 18 U.S.C. § 1957.

THE DEFENDANT *IN REM*

2. The defendant property consists of the corporation known as MCKINSEY & COMPANY, INC. UNITED STATES, and its assets. The defendant property has not been seized and is not located within this district, but jurisdiction is proper pursuant to 28 U.S.C. §§ 1355 and 1395.

## JURISDICTION AND VENUE

3. Plaintiff brings this action in rem in its own right to forfeit and condemn the defendant property. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345, and over an action for forfeiture under 28 U.S.C. § 1355(a).

4. This Court has in rem jurisdiction over the defendant property under 28 U.S.C. § 1355(b). Upon the filing of this complaint, the plaintiff requests that the Court issue an arrest warrant *in rem* pursuant to Supplemental Rule G(3)(b), which the plaintiff will execute upon the property pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).

5. Venue is proper in this district pursuant to 28 U.S.C. § 1355(b)(1) because acts or omissions giving rise to the forfeiture occurred in this district.

## BASIS FOR FORFEITURE

6. The defendant property is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A) because it constitutes property involved in transactions and attempted transactions in violation of 18 U.S.C. § 1957, or is property traceable to such property.

## FACTS

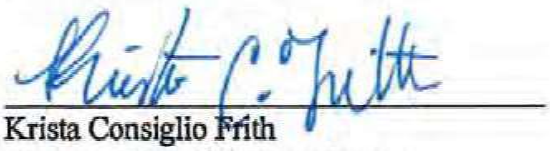
7. The attached Agreed Statement of Facts and Declaration of Special Agent Darren Petri are incorporated by reference.

WHEREFORE, the United States of America respectfully requests that the Clerk of

Court issue an arrest warrant *in rem* pursuant to Supplemental Rule G(3)(b); that due notice be given to all parties to appear and show cause why the forfeiture should not be decreed; that judgment be entered declaring the defendant property to be condemned and forfeited to the United States of America for disposition according to law; and that the United States of America be granted such other and further relief as this Court may deem just and proper, together with the costs and disbursements of this action.

Respectfully submitted,

CHRISTOPHER R. KAVANAUGH
United States Attorney



**Krista Consiglio Frith**
***Assistant United States Attorney***

## VERIFICATION

I am a Special Agent of the Food and Drug Administration, Office of Criminal Investigations and one of the agents assigned the responsibility for this case. I have read the contents of the foregoing complaint for forfeiture, and the exhibits thereto, and the statements contained therein are true to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 12th day of December, 2024.

Darren Petri
Special Agent, FDA-OCI

## DECLARATION OF DARREN PETRI
## IN SUPPORT OF A COMPLAINT FOR FORFEITURE

I, Darren Petri, upon my oath make the following statements under penalty of perjury:

1. I am a Special Agent of the Food and Drug Administration, Office of Criminal Investigations, and one of the agents assigned the responsibility for this case. Unless otherwise stated, the information in this affidavit is either personally known to me, or was provided to me by other law enforcement officers.
2. This affidavit is made in support of the filing of a complaint for forfeiture against McKinsey & Company, Inc. United States, and incorporates by reference the Agreed Statement of Facts. Your affiant has been involved in the investigation of McKinsey & Company, Inc. United States (McKinsey US) since 2019.
3. Pursuant to the facts known to me and detailed in the Agreed Statement of Facts, McKinsey US's E2E program helped to cause the creation of illegal prescriptions for Oxycontin (ie. no valid medical purpose) -- and the subsequent illegal distribution of thousands of Oxycontin dosage units. Therefore, payments made by Purdue Pharma to McKinsey US for E2E were ultimately illegal drug proceeds.
4. McKinsey US received four payments from Purdue Pharma for its E2E program (the "illegal drug proceeds"). Specifically, those payments are as follows: $1,590,000 received on or about December 23, 2013; $1,610,000 received on or about February 28, 2014; $2,650,000 received on or about April 23, 2014, and $1,150,000 received on or about September 11, 2014.
5. These illegal drug proceeds were deposited into a Citibank account of McKinsey US. Subsequent to these deposits, the illegal proceeds were transferred between different McKinsey US accounts in amounts greater than $10,000.
6. These illegal drug proceeds were comingled with McKinsey US's legitimate monies in McKinsey US's bank accounts.
7. Based on the foregoing facts and those set forth in the Agreed Statement of Facts, McKinsey US—as a company—was thus involved in and/or facilitated violations of 18 U.S.C. § 1957 and is property forfeitable under 18 U.S.C. § 981(a)(1)(A).

Based upon the preceding facts, information and evidence gathered as a result of the investigation, your affiant contends there is sufficient probable cause to believe that McKinsey & Company, Inc. United States was involved in and/or facilitated money laundering supporting the complaint for forfeiture pursuant to 18 U.S.C. §

981(a)(1)(A).

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 12th day of December, 2024.

Darren Petri
Special Agent, FDA-OCI

**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF VIRGINIA**
**ABINGDON**

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| **UNITED STATES OF AMERICA** | ) | |
| | ) | |
| **v.** | ) | **No.** |
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| **MCKINSEY & COMPANY, INC. UNITED STATES** | ) | |

**STIPULATION FOR COMPROMISE SETTLEMENT**

It is hereby stipulated by and between the plaintiff, United States of America, and McKinsey & Company, Inc., United States ("MCKINSEY US"), by counsel, that the parties do hereby agree to settle and compromise the above-entitled action upon the following terms:

1. The United States alleges that the defendant property was involved in a violation of 18 U.S.C. § 1957 as set forth in the Complaint for Forfeiture *in rem* filed herein and is, therefore, subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(A). Pursuant to agreement with the United States and in order to compromise the claim, MCKINSEY US has agreed not to contest the allegation by the United States, solely for purposes of this Stipulation for Compromise Settlement. It is understood and agreed by the parties that this Stipulation is for the compromise of a disputed claim and is not to be construed as an admission by MCKINSEY US that the defendant property was involved in said violation as alleged by the United States.

2. The United States agrees to waive the filing of a claim and answer by

MCKINSEY US and MCKINSEY US agrees to waive the requirement of Rule G(2)(f) of the Supplemental Rules for Certain Admiralty and Maritime Claims.

3. In accordance with 19 U.S.C. § 1613(c), the United States agrees to accept the sum of $93,546,499 (ninety-three million five hundred forty-six thousand four hundred ninety-nine dollars) from MCKINSEY US in settlement of this action. The settlement sum shall be remitted in the form of certified funds, made payable to the U.S. Department of Justice, and submitted to the U.S. Attorney's Office, or via wire transfer, per instructions provided by the United States.

4. On or before December 16, 2024, MCKINSEY US shall remit no less than $46,773,249.50 (forty-six million seven hundred seventy-three thousand two hundred forty-nine dollars and fifty cents).

5. On or before December 16, 2025, MCKINSEY US shall remit no less than $ 15,591,083.17 (fifteen million five hundred ninety-one thousand eighty-three dollars and seventeen cents).

6. On or before December 16, 2026, MCKINSEY US shall remit no less than $ 15,591,083.17 (fifteen million five hundred ninety-one thousand eighty-three dollars and seventeen cents).

7. On or before December 16, 2027, MCKINSEY US shall remit no less than $ 15,591,083.16 (fifteen million five hundred ninety-one thousand eighty-three dollars and sixteen cents) plus all accrued simple interest from December 1, 2024, at the rate of 4.34%

per annum on the entire settlement amount.

8. Pursuant to the terms of the Security Agreement (the "Security Agreement") (Attachment 6 to the Deferred Prosecution Agreement), MCKINSEY US agrees to provide the United States, on the Effective Date of this Agreement and all times thereafter, a first priority security interest and lien on accounts receivables or other collateral as provided in the Security Agreement (the "Collateral"), in an aggregate amount equal to, on any date of determination, the lesser of (a) $300,000,000 (three hundred million dollars) and (b) 110% of the outstanding balance of unpaid obligations. MCKINSEY US shall execute and deliver such agreements, financing statements and other collateral documents as may be required from time to time pursuant to the terms of the Security Agreement, including for purposes of granting, maintaining or perfecting the United States' lien on the Collateral. The United States shall release its lien on the Collateral as provided in the Security Agreement.

9. MCKINSEY US agrees to sign an Agreed Order of Forfeiture in connection with this Stipulation, and agrees that this forfeiture action will be stayed until further order of the Court. Upon submission of the final payment, the United States will submit a Notice of Compliance to the Court. Upon entry by the Court, this matter will be removed from the Court's active docket. MCKINSEY US understands and agrees that the Court will retain jurisdiction over this matter until the Notice of Compliance is entered by the Court, notwithstanding the Agreed Order of Forfeiture.

10. If any payment is not made as set forth in this Order, the United States will be entitled to proceed with this forfeiture action, without limitation in amending the complaint, adding in or substituting the legal interest represented by the lien referenced in Paragraph 8 as a *res* in this action, or taking other such action necessary to preserve the government's interest. MCKINSEY US understands and agrees that the United States will be entitled to proceed to summary judgment against the legal interest represented by the lien referenced in Paragraph 8 without further proof.

11. Contingent upon the United States filing the Notice of Compliance, MCKINSEY US hereby releases and forever discharges the United States, its officers, agents, servants and employees, its heirs, successors, or assigns, from any and all actions, causes of action, suits, proceedings, debts, dues, contracts, judgments, damages, claims, and/or demands whatsoever in law or equity which its, heirs, successors, or assigns ever had, now have, or may have in the future in connection with the seizure and detention of the defendant property.

12. Contingent upon the United States filing the Notice of Compliance, MCKINSEY US further agrees to hold and save the United States, its servants, employees, heirs, successors, or assigns harmless from any claims by any others, including costs and expenses for or on account of any and all lawsuits or claims of any character whatsoever, in connection with the seizure and/or detention of the defendant property.

13. Contingent upon the United States filing the Notice of Compliance, MCKINSEY US waives all rights to costs and attorneys' fees under any provision of law.

**Seen and Agreed To:**

12/11/24
Date:

Krista Consiglio Frith
*Assistant United States Attorney*

12/10/24
Date:

Jonathan B. Slonim
*Deputy General Counsel*
*Head of Legal, Americas*
*Partner of McKinsey & Company, Inc.*
*Vice President of McKinsey & Company, Inc. United States*

12/10/24
Date:

Charles E. Duross
Morrison & Foerster LLP
*Counsel for McKinsey & Company, Inc., United States*

**APPROVED AND SO ORDERED:**

United States District Judge

**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF VIRGINIA**
**ABINGDON**

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| **UNITED STATES OF AMERICA** | ) | |
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| **v.** | ) | **No.** |
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| **MCKINSEY & COMPANY, INC. UNITED STATES** | ) | |

**AGREED ORDER OF FORFEITURE**

THIS DAY CAME the United States of America, by counsel, and McKinsey & Company, Inc. United States ("MCKINSEY US"), by counsel, and moved the Court for an Order of Forfeiture. In consideration thereof, the parties represented the following:

1. All persons known to the government who may have an interest in the defendant property have been given notice of the pendency of this action. No one other than claimant MCKINSEY US has appeared to claim the defendant property.

2. No additional notice or publication of this action is necessary, as the United States and claimant have agreed to settle this action for a monetary sum as substitute res as set forth in the Agreed Motion for Substitute Res.

3. This Order incorporates all terms of the Stipulation for Compromise Settlement, attached to this Order.

4. The parties have agreed to forfeit cash in lieu of the Defendant Property. They specifically agree to the forfeiture of $93,546,499 (ninety-three million five hundred forty-six thousand four hundred ninety-nine dollars) (the "substitute res") to be paid as follows:

a. On or before December 16, 2024, MCKINSEY US shall remit no less than $46,773,249.50 (forty-six million seven hundred seventy-three thousand two hundred forty-nine dollars and fifty cents);

b. On or before December 16, 2025, MCKINSEY US shall remit no less than $15,591,083.17 (fifteen million five hundred ninety-one thousand eighty-three dollars and seventeen cents);

c. On or before December 16, 2026, MCKINSEY US shall remit no less than $15,591,083.17 (fifteen million five hundred ninety-one thousand eighty-three dollars and seventeen cents);

d. On or before December 16, 2027, MCKINSEY US shall remit no less than $15,591,083.16 (fifteen million five hundred ninety-one thousand eighty-three dollars and sixteen cents) plus all accrued simple interest from December 1, 2024, at the rate of 4.34% per annum on the entire settlement amount.

5. The parties agree that the matter should be stayed, and that the Court should retain jurisdiction over this matter, pending payment by MCKINSEY US of all settlement sums.

IT IS HEREBY ORDERED AND ADJUDGED that:

1.. The substitute res of $93,546,499 (ninety-three million five hundred forty-six thousand four hundred ninety-nine dollars) is forfeited to the United States pursuant to 18 U.S.C. § 981(a)(1)(A) and shall be disposed of according to law, and no right, title, or interest shall exist in claimant nor any other person or entity.

2. This matter shall be stayed, and the Court shall retain jurisdiction over this matter, until further order of the Court.

3. Each party shall bear its own costs and attorneys' fees.

4. The Clerk of this Court shall certify copies to counsel of record.

ENTERED THIS __ DAY OF _____, 2024.

_____
UNITED STATES DISTRICT COURT

**Seen and Agreed To:**

12/11/24
Date:

Krista Consiglio Frith
*Assistant United States Attorney*

12/10/24
Date:

Jonathan B. Sloman
*Deputy General Counsel*
*Head of Legal, Americas*
*Partner of McKinsey & Company, Inc.*
*Vice President of McKinsey & Company, Inc. United States*

12/10/24
Date:

Charles Duross, Esquire
*Counsel for McKinsey & Company, Inc., United States*

**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF VIRGINIA**
**ABINGDON**

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| **v.** | ) | **No.** |
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| **MCKINSEY & COMPANY, INC. UNITED STATES** | ) | |

**AGREED MOTION FOR SUBSTITUTE RES**

The United States of America, by counsel, and McKinsey & Company, Inc. United States ("MCKINSEY US"), by counsel, move the Court for an Order to Forfeit Substitute Res. In consideration thereof, the parties represent the following:

1. The civil forfeiture complaint identified the defendant property as McKinsey & Company, Inc. United States.

2. Pursuant to the Stipulation for Compromise Settlement, the parties agree to resolve this civil forfeiture proceeding by forfeiting cash in lieu of the defendant property. Namely, the parties agree for the government to forfeit $93,546,499 in lieu of the defendant property.

3. The parties agree the forfeiture of cash in lieu of the defendant property is otherwise nonforfeitable money.

4. As such, the parties request the Court grant the Motion for Substitute Res, allowing this matter to proceed to forfeit $93,546,499 in lieu of the defendant property.

A proposed order is submitted herewith.

Respectfully submitted,

CHRISTOPHER R. KAVANAUGH
United States Attorney

Date: 12/11/24

/s/ Krista C Frith

Krista Consiglio Frith
Assistant United States Attorney
Virginia State Bar No. 89088
P. O. Box 1709
Roanoke, VA 24008-1709
Telephone: (540) 857-2250
Facsimile: (540) 857-2283
E-mail: krista.frith@usdoj.gov

**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF VIRGINIA**
**ABINGDON**

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**ORDER GRANTING MOTION FOR SUBSTITUTE RES**

The parties moved the Court for an Order to Forfeit Substitute Res. Upon consideration of this motion, it is hereby

ORDERED

that $93,546,499 in cash is substitute res for the Defendant Property, McKinsey & Company, Inc. United States.

ENTERED this _____ day of _____, 2024.

_____
UNITED STATES DISTRICT JUDGE

**Seen and Agreed To:**

12/11/24
Date:

Krista Consiglio Frith
*Assistant United States Attorney*

12/10/24
Date:

Jonathan B. Sloniim
*Deputy General Counsel*
*Head of Legal, Americas*
*Partner of McKinsey & Company, Inc.*
*Vice President of McKinsey & Company, Inc. United States*

12/10/24
Date:

Charles E. Duross
Morrison & Foerster LLP
*Counsel for McKinsey & Company, Inc., United States*