

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE  
MR. JUSTICE BELOBABA

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)  
)

APRIL 9, 2021

Court File. No.: CV-11-442584-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

GERALDINE CASSERES, Deceased, by her Estate Representative  
JOANN CASSERES, JOANN CASSERES, and RUSSEL CHAUVIN

Plaintiffs

- and -

TAKEDA PHARMACEUTICAL COMPANY LIMITED, TAKEDA PHARMACEUTICALS  
NORTH AMERICA, INC., TAKEDA PHARMACEUTICALS INTERNATIONAL, INC.,  
TAKEDA GLOBAL RESEARCH & DEVELOPMENT CENTER, INC., TAKEDA SAN  
DIEGO, INC., ELI LILLY CANADA INC. and TAKEDA CANADA, INC.

Defendants

*Proceeding under the Class Proceedings Act, 1992*

**-and-**

Court File No.: CV-13-491534-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

RANDOLPH CARRIER,  
PETER NELSON and SHARON NELSON

Plaintiffs

-and-

APOTEX INC. and  
SANDOZ CANADA INCORPORATED

Defendants

*Proceeding under the Class Proceedings Act, 1992*

**ORDER**

**THIS MOTION** made by the Plaintiffs in Court File No.: CV-11-442584-00CP and Court File No.: CV-13-491534-00CP (“the Ontario Actions”), on consent of the Defendants, for an Order approving a settlement entered into between the Plaintiffs and the Defendants was heard on January 28, 2021, at 361 University Ave., Toronto, Ontario.

**ON READING** the material filed, including the Settlement Agreement entered into between the Parties hereto and the Public Health Insurers, a copy of which is attached to this Order as Schedule “A” (the “Settlement Agreement”), on hearing submissions of counsel for the Plaintiffs and counsel for the Defendants and any objector who has submitted a written objection to the Claims Administrator pursuant to the terms of the Settlement Agreement, and on being advised that the Plaintiffs and the Defendants consent to this Order:

1. **THIS COURT ORDERS AND DECLARES** that, except to the extent they are modified by this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. **THIS COURT DECLARES** that the Settlement Agreement is fair, reasonable and in the best interests of the Ontario National Class Members and Ontario National Family Class Members.
3. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
4. **THIS COURT ORDERS** that the Settlement Agreement, attached as Schedule “A”, is hereby approved pursuant to s.29(2) of the *Class Proceedings Act, 1992* and shall be implemented in accordance with its terms.

5. **THIS COURT ORDERS** that Class Counsel fees, disbursements, and applicable taxes in the total amount of \$8,066,917.70 are hereby approved.

6. **THIS COURT ORDERS** that CA2 Inc. (“CA2”) is hereby appointed as the Claims Administrator for the Settlement.

7. **THIS COURT ORDERS** that Mr. Vance Cooper is hereby appointed as the Adjudicator for the Settlement to review and decide all Challenges submitted in English and Mtre. Michel Savonitto to review and decide all Challenges submitted in French.

8. **THIS COURT ORDERS** that the Approval Notice, substantially in the form attached to the Settlement Agreement as Exhibit “H” with minor modifications and in the form attached hereto as Schedule “B”, is hereby approved and that the Approval Notice shall be disseminated and published in accordance with the Notice Plan (substantially in the form attached as Exhibit “D” to the Settlement Agreement, and with minor modifications and in the form attached hereto as Schedule “C”).

9. **THIS COURT ORDERS** that the Claims Administration Procedures in the form attached as Exhibit “K” to the Settlement Agreement are hereby approved, subject to the requirement that, with respect to Challenges from Québec Class Members, only a judge of the Superior Court of Québec has the authority to determine whether a Challenge is frivolous pursuant to se.2.11 thereof.

10. **THIS COURT ORDERS** that the Defendants shall, within thirty (30) days of the Effective Date, pay to CA2 the Settlement Fund (less any amounts previously paid by the Lilly Defendants and Takeda Defendants in respect of the Approval Hearing Notice and translation costs), in accordance with the Settlement Agreement, which shall fully satisfy their obligations under the Settlement Agreement.

**11. THIS COURT ORDERS** that, upon receipt of the funds set out in paragraph 10 above, CA2 shall pay:

- a) \$1,500.00 to each of the Representative Plaintiffs, other than the Petitioner;
- b) \$2.375 million to Class Counsel, in trust, for the benefit of and to be distributed (less fees, disbursements and taxes), among the Public Health Insurers in accordance with their directions for so doing;
- c) \$80,745.74 to Class Counsel to reimburse amounts previously paid for their contribution towards the costs to implement the Notice Plan for both Notices and any translation costs; and
- d) \$8,066,917.70 to Class Counsel for Class Counsel Fees, disbursements, and applicable taxes.

**12. THIS COURT ORDERS** that CA2 shall, after making the payments set out in paragraph 11 above, deposit the remaining balance of the Settlement Fund into a single interest-bearing account with a Canadian Charter Bank, from which all Compensatory Payments, the costs of administering the Settlement and the costs of all Challenges shall be paid, in accordance with Section 11.3 of the Settlement Agreement and in accordance with the Claims Administration Procedures as set out in Exhibit “K” to the Settlement Agreement.

**13. THIS COURT ORDERS** that the Settlement Agreement (including all preambles, recitals, and Exhibits) is incorporated by reference into and forms part of this Order and is binding upon the Parties, the Public Health Insurers and all Class Members who have not validly opted out in accordance with the terms of the Settlement Agreement and their associated Family Class Members.

**14. THIS COURT ORDERS** that any Ontario National Class Member who has validly opted out by the Opt Out Deadline in accordance with the terms of the Settlement Agreement and the

Order of this Court dated November 24, 2020, and each and every related Ontario National Family Class Member, is not bound by the Settlement Agreement and shall no longer participate or have the opportunity in the future to participate in the Ontario Actions or the settlement thereof.

**15. THIS COURT ORDERS** that any Ontario National Class Member who has not validly opted out by the Opt Out Deadline in accordance with the terms of the Settlement Agreement and the Order of this Court dated November 24, 2020, and each and every related Ontario National Family Class Member, is bound by the terms of the Settlement Agreement and may not opt out of the Ontario Actions in the future.

**16. THIS COURT ORDERS** that each Ontario National Class Member who has not validly opted-out by the Opt Out Deadline in accordance with the terms of the Settlement Agreement and the Order of this Court dated November 24, 2020, and each and every related Ontario National Family Class Member, shall consent and shall be deemed to have consented to the dismissal of any and all Released Claims as against the Released Parties, including in respect of any other actions he, she or it has commenced, without costs and with prejudice.

**17. THIS COURT ORDERS** that upon the Effective Date, the Ontario National Class Members and Ontario National Family Class Members shall release and forever discharge the Released Parties from all Released Claims and undertake not to make any claim or take or continue any action, investigation or other proceeding in any forum against any person, partnership, corporation, or other entity, including without limitation, any health care professionals, hospitals or other health care facilities, who might claim contribution or indemnity or any other relief of a monetary, declaratory, or injunctive nature from the Released Parties in connection with the Released Claims in accordance with the terms of the Settlement Agreement.

**18. THIS COURT ORDERS** that the payments to be made to the Public Health Insurers shall be in full and final satisfaction of all obligations, payments or costs potentially payable to the Public Health Insurers in relation to the costs of insured health care services provided to Ontario National Class Members or Ontario National Family Class Members and incurred by the Public Health Insurers and that the Public Health Insurers shall fully and finally release the Released Parties from all Released Claims and undertake not to make any claim or take or continue any action, investigation or other proceeding in any forum against any person, partnership, corporation, or other entity, including without limitation, any health care professionals, hospitals or other health care facilities, who might claim contribution or indemnity or any other relief of a monetary, declaratory, or injunctive nature from the Released Parties in connection with the Released Claims in accordance with the terms of the Settlement Agreement.

**19. THIS COURT ORDERS** that this Court will retain an ongoing supervisory role for the purpose of implementing, administering, and enforcing the Settlement Agreement, as it pertains to Ontario National Class Members and Ontario National Family Class Members, subject to the terms and conditions set out in the Settlement Agreement.

**20. THIS COURT ORDERS** that any Party may bring a motion to this Court at any time for directions with respect to the implementation or interpretation of this Settlement Agreement, such motion to be on notice to all other Parties.

**21. THIS COURT ORDERS** that CA2 provide to the Parties a final report relating to the administration of the Settlement and that, in the event that there exists any remainder to the Settlement Fund, the levies by the *Fonds d'aide aux actions collectives* be collected and remitted in accordance with the *Act respecting the Fonds d'aide aux actions collectives* and with the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*.

**22. THIS COURT ORDERS** that this Order is contingent upon a parallel order being made by the Québec Court, and the terms of this Order shall not be effective unless and until such order is made by the Québec Court.

**23. THIS COURT ORDERS** that in the event that the Settlement Agreement is terminated in accordance with its terms, this Order shall be null and void and of no force or effect.

**24. THIS COURT ORDERS AND ADJUDGES** that the Ontario Actions shall be dismissed against the Defendants with prejudice and without costs as of the Effective Date, and that such dismissal shall be a full defence to any subsequent action in respect of the subject matter hereof.

**Signed:** *Justice Edward P. Belobaba*

Notwithstanding Rule 59.05, this Judgment [Order] is effective from the date it is made, and is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal Judgment [Order] need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party to this Judgment [Order] may nonetheless submit a formal Judgment [Order] for original signing, entry and filing when the Court returns to regular operations.

SCHEDULE A

**CANADIAN ACTOS® / PIOGLITAZONE  
SETTLEMENT AGREEMENT**

<p>GERALDINE CASSERES, Deceased, by her Estate Representative JOANN CASSERES, JOANN CASSERES, and RUSSEL CHAUVIN</p> <p style="text-align: right;">Plaintiffs</p> <p style="text-align: center;">- and -</p> <p>TAKEDA PHARMACEUTICAL COMPANY LIMITED, TAKEDA PHARMACEUTICALS NORTH AMERICA, INC., TAKEDA PHARMACEUTICALS INTERNATIONAL, INC., TAKEDA GLOBAL RESEARCH &amp; DEVELOPMENT CENTER, INC., TAKEDA SAN DIEGO, INC., ELI LILLY CANADA INC. and TAKEDA CANADA, INC.</p> <p style="text-align: right;">Defendants</p>	<p>ONTARIO SUPERIOR COURT OF JUSTICE</p> <p>Court File. No.: CV-11-442584-00CP</p>
<p>RANDOLPH CARRIER, PETER NELSON and SHARON NELSON</p> <p style="text-align: right;">Plaintiffs</p> <p style="text-align: center;">-and-</p> <p>APOTEX INC. and SANDOZ CANADA INCORPORATED</p> <p style="text-align: right;">Defendants</p>	<p>ONTARIO SUPERIOR COURT OF JUSTICE</p> <p>Court File No.: CV-13-491534-00CP</p>
<p>JIMMY WHYTE</p> <p style="text-align: right;">Petitioner</p> <p style="text-align: center;">v.</p> <p>TAKEDA PHARMACEUTICAL COMPANY LIMITED, TAKEDA PHARMACEUTICALS NORTH AMERICA, INC., TAKEDA PHARMACEUTICALS INTERNATIONAL, INC., TAKEDA GLOBAL RESEARCH &amp; DEVELOPMENT CENTER, INC., TAKEDA SAN DIEGO, INC., ELI LILLY CANADA INC., TAKEDA CANADA, INC.,</p> <p style="text-align: right;">Respondents</p>	<p>SUPERIOR COURT PROVINCE OF QUÉBEC DISTRICT OF MONTRÉAL</p> <p>NO. 500-06-000618-120</p>



<p>IRENE GLENDA EPP</p> <p>Plaintiff</p> <p>v.</p> <p>TAKEDA CANADA, ELI LILLY CANADA INC., TAKEDA PHARMACEUTICAL COMPANY LTD., ELI LILLY AND COMPANY</p> <p>Defendants</p>	<p>COURT OF QUEEN'S BENCH OF ALBERTA</p> <p>No. 1301-00843</p>
<p>LANNY ROSS WEILER</p> <p>Plaintiff</p> <p>v.</p> <p>TAKEDA CANADA INC., TAKEDA PHARMACEUTICALS AMERICA INC., TAKEDA PHARMACEUTICALS U.S.A., INC., ELI LILLY CANADA INC., and ELI LILLY AND COMPANY</p> <p>Defendants</p>	<p>COURT OF QUEEN'S BENCH FOR SASKATCHEWAN</p> <p>No. QBG 3011/2017</p>

## **TABLE OF CONTENTS**

1. PREAMBLE & RECITALS
2. DEFINITIONS
3. ORDERS CONSOLIDATING THE ONTARIO ACTIONS,  
AUTHORIZING/CERTIFYING THE PROCEEDINGS AND APPROVING THE  
NOTICE
4. NOTICE OF AUTHORIZATION/CERTIFICATION AND THE SETTLEMENT  
APPROVAL HEARINGS
5. THE ALBERTA AND SASKATCHEWAN ACTIONS
6. OPTING OUT
7. ORDERS APPROVING THE SETTLEMENT AGREEMENT
8. EFFECT OF NON-APPROVAL AND AMENDMENT OF SETTLEMENT  
AGREEMENT
9. SETTLEMENT AGREEMENT EFFECTIVE
10. WAIVER OF LIMITATION DEFENCE
11. SETTLEMENT BENEFITS
12. PAYMENT SCHEDULE
13. APPOINTMENT AND ROLE OF CLAIMS ADMINISTRATOR
14. REVIEW OF CHALLENGES BY THE ADJUDICATOR
15. PAYMENTS TO AND RELEASE BY PUBLIC HEALTH INSURERS
16. EXCLUSIVE REMEDY/RELEASE OF CLAIMS
17. TERMINATION
18. PLAINTIFFS' COUNSEL'S OBLIGATIONS AND COSTS
19. MISCELLANEOUS PROVISIONS

## 1. PREAMBLE AND RECITALS

This Settlement Agreement is made and entered into as of the Execution Date by and among the Plaintiffs/Petitioner in the Ontario, Saskatchewan, Alberta and Québec Actions (as defined below) on their own behalf and in their capacity as designated/putative representatives of the Classes (as defined below), by and through their counsel, the Defendants in the Ontario, Saskatchewan, Alberta and Québec Actions and the Public Health Insurers (as defined below) providing for the settlement of all claims arising from or relating to, without limitation, the design, manufacture, marketing, sale, distribution, labelling, purchase and use of ACTOS®, APO-Pioglitazone or Sandoz-Pioglitazone (defined herein as “PIO”), pursuant to the terms and conditions set forth herein, subject to the approval of the courts as set forth herein;

**WHEREAS**, arm’s length settlement negotiations have taken place between Plaintiffs’ Counsel and counsel for the Defendants, including negotiations conducted during mediation sessions under the supervision of an independent third-party mediator, and this Settlement Agreement embodies all the terms and conditions of the settlement between the Defendants and the Plaintiffs, subject to final approval of the Québec and Ontario Courts;

**WHEREAS**, the Defendants deny the allegations and claims made as against them in the Ontario, Saskatchewan, Alberta and Québec Actions, deny any liability or wrongdoing and further deny that the Plaintiffs, Petitioner, Class Members or Family Class Members have any justifiable claim for relief or damages, and assert that they have meritorious affirmative defences to all of the claims advanced by the Plaintiffs, Petitioner, Class Members and Family Class Members;

**WHEREAS**, the Parties intend by this Settlement Agreement to resolve all past, present, and future claims of Class Members and Family Class Members, as defined below, in any way arising out of or relating to the purchase and/or ingestion of PIO purchased in Canada by or for residents of Canada;

**WHEREAS**, the plaintiff to the Alberta Action shall discontinue the Alberta Action, as further detailed in this Settlement Agreement, failing which this Settlement Agreement shall be void;

**WHEREAS**, the plaintiff to the Saskatchewan Action shall discontinue the Saskatchewan Action, as further detailed in this Settlement Agreement, failing which this Settlement Agreement shall be void;

**WHEREAS**, the Parties shall seek coordinated consent certification/authorization of the Ontario and Québec Actions (as defined herein) as class proceedings solely for the purpose of approving the Settlement Agreement;

**WHEREAS**, the Parties agree that Class Members have the right to exclude themselves from the Québec Action by exercising the right to Opt Out pursuant to Articles 1007 and

1008 of the *Code of Civil Procedure*, R.S.Q. c. C-25 and from the Ontario Actions under section 9 of the *Class Proceedings Act*, 1992, S.O. 1992, c. 6 in the manner provided for herein;

**WHEREAS**, the Defendants have agreed to pay the amounts stipulated herein to settle all claims made by the Plaintiffs, Petitioner, Class Members and Family Class Members in accordance with the eligibility criteria described herein, all subrogated and/or direct claims made by the Public Health Insurers as described herein, all administrative and notice costs associated with the implementation of this Settlement Agreement and all Class Counsel fees, disbursements and applicable taxes, as may be approved;

**WHEREAS**, the Parties agree that neither this Settlement Agreement nor any document relating thereto, nor any action taken to carry out this Settlement Agreement, shall be offered in evidence in any action or proceeding or in any court, administrative agency or other tribunal in Canada or elsewhere in the world for any purpose whatsoever other than to seek court approvals of the Settlement Agreement and to give effect to and enforce the provisions of this Settlement Agreement;

**WHEREAS**, the Defendants intend that this Settlement Agreement shall be binding on all persons resident in Canada who purchased and/or ingested PIO and all persons who assert claims that are derivative to claims of such persons and all public and private health insurers with subrogated claims in respect of such persons, and that all claims of such persons and health insurers will be satisfied by this Settlement Agreement, except for those individual Class Members who Opt Out in accordance with the Opt Out Deadlines and procedures approved by the Québec and Ontario Courts in certifying/authorizing the Ontario and Québec Actions. It is acknowledged that the Defendants would not have entered into this Settlement Agreement were it not for the foregoing;

**WHEREAS**, the Plaintiffs and their counsel have concluded that this Settlement Agreement provides substantial benefits to Class Members and is fair, reasonable, and in the best interests of Class Members based on an analysis of the facts and the law as applied to the claims of Class Members, taking into account the extensive burdens and expense of litigation, including the risks and uncertainties associated with protracted litigation, including trials and appeals, as well as the fair, cost-effective and assured method provided in the Settlement Agreement of resolving the claims of all Class Members (including all related derivative and subrogated claims, including the claims of all public and private health insurers);

**WHEREAS**, in the unique circumstances of this Settlement, it is agreed by the Plaintiffs and their counsel and by the Defendants and their counsel that the Public Health Insurers should be signatories to this Settlement Agreement and the Public Health Insurers confirm that their execution of this Settlement Agreement shall be done pursuant to all applicable statutory requirements and shall bind each Public Health Insurer to the terms of this Settlement Agreement, including the release of all Public Health Insurers' claims as set out herein;

**WHEREAS**, the Defendants deny liability, but have similarly concluded that this Settlement Agreement is desirable in order to avoid the time, risks and expense of defending multiple actions and protracted litigation, and to resolve finally and completely the pending and potential claims of all Class Members (including all related derivative and subrogated claims, including the claims of all public and private health insurers);

**NOW THEREFORE**, subject to Court approval, this Settlement Agreement embodies the terms of the resolution of the Québec, Ontario, Saskatchewan and Alberta Actions, including past, present and future claims against the Defendants in any way arising out of or relating to the purchase and/or ingestion of PIO by Class Members.

**IN CONSIDERATION** of the covenants, agreements and releases set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, by their respective counsel, and each of the Public Health Insurers, **AGREE AS FOLLOWS**:

## 2. **DEFINITIONS**

Unless a particular section of this Settlement Agreement explicitly provides for another interpretation, the following terms, as used in this Settlement Agreement and its Exhibits, shall have the meanings set forth below. Terms used in the singular shall be deemed to include the plural, and vice versa. Feminine pronouns and female references shall be deemed to include masculine, and vice versa, where appropriate.

2.1 **“Acknowledgment Letter”** means the letter the Claims Administrator shall send to Claimants within seven (7) days of receiving a Claim Package and shall be in the form attached hereto as Exhibit “M”;

2.2 **“ACTOS®”** means the prescription medication containing the active pharmaceutical compound pioglitazone, as manufactured and/or distributed in Canada under the brand name ACTOS® by the Takeda Defendants and/or the Lilly Defendants;

2.3 **“Adjudicator”** means Vance Cooper, whose appointment is subject to approval by the Québec and Ontario Courts as provided for in Section 7.1(e) herein;

2.4 **“Alberta Action”** means the proposed class action relating to ACTOS®, bearing Court File No. 1301-00843, commenced in the Court of Queen’s Bench of Alberta, Judicial District of Calgary and which will be discontinued against the Takeda Defendants and the Lilly Defendants, failing which this Settlement Agreement shall be void;

2.5 **“Alberta and Saskatchewan Class Counsel”** means Merchant Law Group LLP;

2.6 **“APO-Pioglitazone”** means all current and past forms of the prescription medication containing the active pharmaceutical compound pioglitazone, as

manufactured and/or distributed in Canada under the generic brand name “APO-Pioglitazone” by the Defendant, Apotex, Inc.;

2.7 **“Approval Hearing Notice”** means the court-approved notice which advises Class Members of the authorization/certification of the Québec and Ontario Actions, the right of Class Members to Opt Out and of the Settlement Approval Hearings as more particularly detailed in Exhibit “C”;

2.8 **“Approval Hearing Notice Date”** means the date on which the Approval Hearing Notice is first published pursuant to Section 3 of this Settlement Agreement;

2.9 **“Approval Notice”** means the court-approved notice which advises Class Members of the Courts’ approval of the Settlement, as more particularly detailed in Exhibit “H”;

2.10 **“Approval Notice Date”** means the date on which the Approval Notice is first published pursuant to Section 7 of the Settlement Agreement;

2.11 **“Approval Orders”** means the Orders of the Québec Court and the Ontario Court which approve this Settlement Agreement, as more particularly described in Section 7 herein and in the forms attached as Exhibits “F” and “G”, respectively;

2.12 **“Approved Claims”** means the claims of Class Members and Family Class Members which have been approved for payment(s) pursuant to this Settlement Agreement;

2.13 **“Authorization/Certification and Notice Orders”** means the Orders of the Québec Court and the Ontario Court which authorize in Québec the institution of the class action and in Ontario, consolidate and certify the Ontario Actions as class proceedings for settlement purposes only, appoint the Claims Administrator and approve the Approval Hearing Notice and Notice Plan as more particularly described in Sections 3 and 4 herein and in the forms attached as Exhibits “A” and “B”, respectively;

2.14 **“Challenge”** means the process by which a Claimant may seek to have his/her claim reviewed by the Adjudicator with respect to eligibility and/or the quantum of compensation to which a Claimant has been deemed entitled in accordance with Section 14 herein. Each Challenge shall be submitted in accordance with the procedures set forth herein and in Exhibit “Q”;

2.15 **“Challenge Decision”** means the decision of the Adjudicator on a Claimant’s Challenge;

2.16 **“Challenge Materials”** means the materials to be submitted by a Claimant to the Adjudicator on a Challenge and shall include the originally submitted Claim Package, all documents filed with the Claims Administrator and brief written submissions supporting the claim;

2.17 **“Claimant”** means a Class Member or a Family Class Member who has not Opted Out, or the executor, administrator or personal representative of a deceased person who, had he or she not died, would have been a Class Member or Family Class Member, and who has submitted a Claim Package within the Claim Period;

2.18 **“Claim Determination Form”** means the form to be completed by the Claims Administrator following the review of a Claim Package, which sets out the determination on the eligibility or non-eligibility of a claim and shall be in the form attached as Exhibit “O”;

2.19 **“Claim Determination Letter”** means the letter the Claims Administrator shall send to Claimants following determination of their claim’s eligibility and compensation value and shall be in the form attached as Exhibit “P”;

2.20 **“Claim Package”** means all the materials required to be submitted in order for a claim for benefits under this Settlement Agreement to be considered, as defined and described more particularly in Exhibit “L”;

2.21 **“Claim Period”** means the one hundred and eighty (180) day period following Final Court Approval, or such other date as may be fixed by the Courts and reflected in the Approval Notice and any related Order(s);

2.22 **“Claims Administration Procedures”** means the procedures to be followed in processing Claim Packages under the Settlement Agreement, as more particularly detailed in Exhibit “K”;

2.23 **“Claims Administrator”** means CA2 Class Action Administration, whose appointment is subject to approval by the Québec and Ontario Courts as provided for in Sections 3.1(c) and 7.1(d) herein, along with its agents and employees and/or its successors;

2.24 **“Class”** or **“Class Members”** means all Ontario National Class Members and all Québec Class Members;

2.25 **“Class Counsel”** means the firms Rochon Genova LLP, Kim Spencer McPhee Barristers P.C., and Merchant Law Group LLP, and has the same meaning as **“Plaintiffs’ Counsel”**;

2.26 **“Class Counsel Fees”** means the fees, disbursements and taxes to be approved by the Ontario and Québec Courts as provided for in Section 18.1 herein;

2.27 **“Class Period”** means the period that runs from August 17, 2000 to the date of Final Court Approval;

2.28 **“Compensable Injury”** means one among a specified list of medical conditions as more particularly described in the Settlement Eligibility Criteria set forth in Exhibit

“I”, for which compensation may be payable in accordance with the Settlement Eligibility Criteria at Exhibit “I” and the Compensation Grid at Exhibit “J”;

2.29 “**Compensation Grid**” means the document setting out the base compensation values for Compensable Injuries under this Settlement as more particularly detailed in Exhibit “J”;

2.30 “**Compensatory Payments**” means the amounts to be paid to Claimants with Approved Claims, the values of which shall be assessed by the Claims Administrator in accordance with the Compensation Grid at Exhibit “J”, the Settlement Eligibility Criteria at Exhibit “I” and Section 12 herein;

2.31 “**CPA**” means the *Class Proceedings Act, 1992*, S.O. 1992, c. 6;

2.32 “**Day**” means calendar day as used herein for the purposes of calculating various time frames;

2.33 “**Defendants**” means the Takeda Defendants, the Lilly Defendants, as defined herein, Apotex, Inc., and Sandoz Canada Inc.<sup>1</sup>;

2.34 “**Deficiency Letter**” means the letter the Claims Administrator shall send to Claimants to advise of deficiencies in submitted Claim Packages and shall be in the form attached as Exhibit “N”;

2.35 “**Effective Date**” means the date of Final Court Approval;

2.36 “**Execution Date**” means the date that the Settlement Agreement is signed by all Parties and all Public Health Insurers;

2.37 “**Family Class**” or “**Family Class Members**” means all Ontario National Family Class Members and Québec Family Class Members;

2.38 “**Final Court Approval**” means the date upon which the applicable appeal period(s) arising from both of the Approval Orders have expired or, if an appeal of either Approval Order is made, the date on which a final disposition has been made in respect of all such appeals;

2.39 “**Final Determination Letter**” means the letter the Claims Administrator shall send to Claimants following the final adjudication of all claims and shall be in the form attached as Exhibit “R”;

2.40 “**Lilly Defendants**” means Eli Lilly and Company and Eli Lilly Canada, Inc.;

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<sup>1</sup> (incorrectly listed in one of the Ontario Actions as Sandoz Canada Incorporated)



2.41 **“Mandatory Medical Records”** means the documentation that must be submitted to substantiate a claim by or on behalf of a Class Member, as more particularly set out in the Settlement Eligibility Criteria, Exhibit “I” and the Claims Administration Procedures, Exhibit “K”;

2.42 **“Notices”** means the Approval Hearing Notice and the Approval Notice as more particularly detailed in Exhibits “C” and “H”, respectively;

2.43 **“Notice of Challenge”** means the written notice of a Claimant’s intention to challenge the disposition of a claim, in the form attached as Exhibit “Q”;

2.44 **“Notice Plan”** means the plan for disseminating the Notices which shall be pursuant to the protocols outlined in Exhibit “D”, or in such other form as may be approved by the Québec and Ontario Courts;

2.45 **“Ontario Actions”** means Court File No. CV-11-442584-00CP and Court File No. CV-13-491534-00CP, both commenced in the Ontario Superior Court of Justice;

2.46 **“Ontario and Québec Class Counsel”** means the law firms of Rochon Genova LLP and Kim Spencer McPhee Barristers P.C.;

2.47 **“Ontario Court”** means the Ontario Superior Court of Justice;

2.48 **“Ontario National Class”** or **“Ontario National Class Members”** means all persons resident in Canada, excluding residents of Québec, who purchased and/or used ACTOS®, and all persons resident in Canada who purchased and/or used APO-Pioglitazone and/or SANDOZ-Pioglitazone, during the Class Period, and their estates, administrators or other legal representatives, heirs or beneficiaries;

2.49 **“Ontario National Family Class”** or **“Ontario National Family Class Members”** means all persons who on account of a personal relationship to an Ontario National Class Member are entitled to assert a derivative claim pursuant to the applicable provincial and/or territorial family law legislation;

2.50 **“Opt Out”** means the procedure by which a Class Member may exclude himself or herself from the Québec Action and the Ontario Actions, including the application of the Settlement Agreement, should it be approved, and from any future Orders made in the Québec Action and the Ontario Actions, and the related and automatic exclusion of all associated Family Class Members, if any, all in accordance with the provisions of Section 6 herein;

2.51 **“Opt Out Deadline”** means the date that is forty-five (45) days following the Approval Hearing Notice Date;

2.52 **“Opt Out Form”** means the written notice of a Class Member’s intention to Opt Out of the Ontario Actions or the Québec Action, which shall be in the form attached as Exhibit “E”;

2.53 **“Opt Out Threshold”** is the number of Opt Outs required to trigger the provisions of section 6.5 herein. The number is to be agreed between the Parties and kept confidential as between the Parties and, to the extent necessary for the purposes of obtaining their approval of this Settlement Agreement, the Ontario and Québec Courts.

2.54 **“Party”** means any one of the Plaintiffs and the Defendants in the Ontario Actions, and the Petitioner, Plaintiffs, Takeda Defendants and Lilly Defendants in the Alberta, Saskatchewan and Québec Actions, and may be referred to herein collectively as the **“Parties”**;

2.55 **“Petitioner”** means Jimmy Whyte;

2.56 **“PIO”** means ACTOS®, APO-Pioglitazone and/or Sandoz-Pioglitazone;

2.57 **“Plaintiffs’ Counsel”** means the firms Rochon Genova LLP, Kim Spencer, McPhee Barristers P.C., and Merchant Law Group LLP, and has the same meaning as **“Class Counsel”**;

2.58 **“Proceedings”** means, collectively, the Ontario Actions and the Québec Action;

2.59 **“Product Identification Documentation”** means the documentation that must be submitted to establish the prescription of PIO to a Class Member as more particularly set out in the Settlement Eligibility Criteria, Exhibit “I” and the Claims Administration Procedures, Exhibit “K”;

2.60 **“Public Health Insurers”** means all of the Canadian Provincial and Territorial Ministries of Health or equivalents, and/or publicly funded plans for health care in Canada, including the Régie de l’assurance maladie du Québec;

2.61 **“Québec Action”** means Court File No. 500-06-000618-I20, commenced in the Québec Superior Court, District of Montréal;

2.62 **“Québec Class”** or **“Québec Class Member”** means all persons resident in Québec who purchased and/or used ACTOS® during the Class Period, and their estates, administrators or other legal representatives, heirs or beneficiaries;

2.63 **“Québec Family Class”** or **“Québec Family Class Members”** means all family members and/or dependents of Québec Class Members who would have been entitled to assert a claim for compensation in the Québec Action;

2.64 **“Québec Court”** means the Québec Superior Court;

2.65 **“Released Claims”** means:

a) for all releasors other than Public Health Insurers, any and all claims, demands, debts, obligations, damages, liabilities, actions, proceedings, losses and causes of action, including assigned claims, asserted or unasserted, direct or derivative, whether known or unknown, foreseen or unforeseen, whether accrued in whole or in part, regardless of legal theory, by Class Members who do not Opt Out and Family Class Members related thereto, that arise from or relate to the design, manufacture, marketing, sale, distribution, labelling, use, purchase and/or ingestion of PIO during the Class Period, including, without limitation and by way of example, all claims that were or could have been brought by Class Members in the Ontario, Saskatchewan, Alberta and/or Québec Actions, all claims that were or could have been brought by Family Class Members in the Ontario, Saskatchewan, Alberta and/or Québec Actions, all subrogated and/or direct claims in respect of Class Members that were or could have been brought by private health insurers in the Ontario, Saskatchewan, Alberta and Québec Actions arising from the facts alleged in the Proceedings, and all claims for damages or remedies of whatever kind or character, that relate to the purchase and/or ingestion of PIO during the Class Period, including, but not limited to claims for:

- (i) personal injury and/or bodily injury, damage, death, disease or injury, mental or physical pain or suffering, emotional or mental harm, and/or loss of enjoyment of life;
- (ii) the cost of medical care and treatment provided to Class Members and/or Family Class Members in the past and potentially in the future;
- (iii) loss of wages, income, earnings, and earning capacity, medical expense, doctor, hospital, nursing and drug bills;
- (iv) loss of support, services, consortium, companionship, society or affection, or damage to familial relations, by spouses, parents, children, other relatives, or “significant others” of Class Members;
- (v) wrongful death and survival actions;
- (vi) medical screening and monitoring;
- (vii) injunctive and declaratory relief;
- (viii) consumer fraud, refunds, unfair business practices, deceptive trade practices, unjust enrichment, disgorgement, unfair competition, anticompetitive conduct, and other similar claims whether arising under statute, regulation, or judicial decision;

- (ix) economic or business losses;
  - (x) pre-judgment or post judgment interest; and,
  - (xi) any other incidental or consequential damages not included above; and
- b) For the Public Health Insurers, any and all manner of claims which a Public Health Insurer ever had, now has or hereafter can, shall or may have pursuant to provincial or territorial legislation, that permits the recovery of healthcare costs or medical expenses from third parties, whether known or unknown, direct or indirect, subrogated or otherwise, relating in any way to the design, manufacture, marketing, sale, distribution, labelling, use, purchase and/or ingestion of PIO by Class Members during the Class Period (including all such claims related to any Class Member who may Opt Out of the Ontario Actions or the Québec Action), and including, without limitation and by way of example, all subrogated and/or direct claims for the cost of medical care and treatment provided to Class Members and/or any and all claims for the costs of medical screening and monitoring provided to Class Members arising from the facts alleged in the Proceedings, that were or could have been brought in the Ontario, Saskatchewan, Alberta or Québec Actions by or on behalf of the Public Health Insurers;

2.66 **“Released Parties”** means:

- (i) the Defendants as well as their respective current and former parents, subsidiaries, affiliates, and divisions, and each of their respective current and former shareholders, officers, directors, servants, employees, lawyers, agents and insurers, and each of their respective successors, predecessors and assigns; and
- (ii) any and all manufacturers or suppliers of materials, components, technology, and services, used in the manufacture of PIO, including the labelling and packaging thereof, as well as their respective current and former parents, subsidiaries, affiliates, and divisions, and each of their respective current and former shareholders, officers, directors, servants, employees, lawyers, agents and insurers, and each of their respective predecessors, successors and assigns;

2.67 **“Representative Plaintiffs”** means the following individuals: Geraldine Casseres, Deceased, by her Estate Representative Joann Casseres, Joann Casseres, Russel Chauvin, Randolph Carrier, Peter Nelson, Sharon Nelson, Irene Glenda Epp, Deceased, by her Estate Representative, to be appointed, Lanny Ross Weiler, and Jimmy Whyte;

2.68 **“Sandoz-Pioglitazone”** means all current and past forms of the prescription medication containing the active pharmaceutical compound pioglitazone, as manufactured and/or distributed in Canada under the generic brand name “SANDOZ-

Pioglitazone” by the Defendant, Sandoz Canada Inc. (incorrectly named in one of the Ontario Actions as “Sandoz Canada Incorporated”), including but not limited to the 15 mg, 30 mg and 45mg tablet forms;

2.69 **“Saskatchewan Action”** means the proposed class action relating to ACTOS®, bearing Court File No. QBG 3011/2017, commenced in the Court of Queen’s Bench for Saskatchewan, Judicial Centre of Regina and which will be discontinued against the Takeda Defendants and the Lilly Defendants, failing which this Settlement Agreement shall be void;

2.70 **“Settlement”** means the within settlement of the Québec and Ontario Actions and the discontinuance and/or dismissal of the Alberta Action and the Saskatchewan Action, pursuant to the terms set forth in this Settlement Agreement;

2.71 **“Settlement Agreement”** means this agreement, including all Exhibits hereto;

2.72 **“Settlement Approval Hearings”** means the hearings at which the Parties to the Québec and Ontario Actions will seek the approval of this Settlement Agreement by the Québec Court pursuant to Article 1025 of the *Code of Civil Procedure*, R.S.Q. c. C-25 and by the Ontario Court pursuant to section 29(2) of the CPA;

2.73 **“Settlement Eligibility Criteria”** means the criteria which must be satisfied in order for a Claimant to be eligible for a Compensatory Payment for a Compensable Injury under this Settlement, as more particularly detailed in Exhibit “T”;

2.74 **“Settlement Fund”** means the sum of \$25 million in Canadian funds to be paid by the Defendants in respect of all Released Claims, including for Compensatory Payments, payments to Public Health Insurers, Honouraria for Representative Plaintiffs, Notice and translation costs, costs associated with the Claims Administration, Class Counsel Fees, disbursements and applicable taxes; and

2.75 **“Takeda Defendants”** means Takeda Pharmaceutical Company Limited, Takeda Pharmaceuticals America Inc., Takeda Pharmaceuticals North America, Inc. (now known as Takeda Pharmaceuticals U.S.A., Inc.), Takeda Pharmaceuticals International, Inc., Takeda Global Research & Development Center, Inc. (now known as Takeda Development Center Americas, Inc.), Takeda San Diego, Inc. (now known as Takeda California, Inc.), and Takeda Canada Inc.

### 3. **ORDERS CONSOLIDATING THE ONTARIO ACTIONS, AUTHORIZING/CERTIFYING THE PROCEEDINGS AND APPROVING THE NOTICE**

3.1 Within sixty (60) days of the Execution Date, the Petitioner, the Takeda Defendants and the Lilly Defendants in the Québec Action, and the Plaintiffs and the

Defendants in the Ontario Actions, shall jointly move for Orders from the Québec Court and Ontario Court, in the forms attached as Exhibits “A” and “B”, respectively (the “Authorization/Certification and Notice Orders”), which will, among other things:

- (a) authorize the institution of the Québec Action as a class proceeding on behalf of the Québec Class and the Québec Family Class for the sole purpose of giving effect to the Settlement Agreement;
- (b) consolidate and certify the Ontario Actions pursuant to the CPA, on behalf of the Ontario National Class and the Ontario National Family Class for the sole purpose of giving effect to the Settlement Agreement;
- (c) order that CA2 Class Action Administration be appointed as Claims Administrator for the administration of Opt Outs, coordination of the Notices, administration of objections, and related tasks;
- (d) approve the form and content of the Approval Hearing Notice in substantially the form attached as Exhibit “C”;
- (e) order the implementation of the Notice Plan as set out in Exhibit “D”;
- (f) order that costs for the Approval Hearing Notice and translation of the Settlement Agreement and Exhibits shall be paid initially by the Takeda Defendants, Lilly Defendants and Class Counsel in accordance with section 4.2 herein, with the full amount of such payments to be deducted from the overall Settlement Fund if the Settlement is approved by the Court; and

- (g) approve the Opt Out Deadline and the Opt Out Form in the form attached as Exhibit “E”.

**4. NOTICE OF AUTHORIZATION/CERTIFICATION AND THE SETTLEMENT APPROVAL HEARINGS**

4.1 The Approval Hearing Notice shall be substantially in the form set out in Exhibit “C” and shall be disseminated pursuant to the Notice Plan outlined in Exhibit “D”.

4.2 The costs of publicizing the Approval Hearing Notice shall be paid at first instance by the Takeda Defendants, Lilly Defendants and Class Counsel, with the respective contributions to those costs to be determined by future agreement amongst the Takeda Defendants, Lilly Defendants and Class Counsel. If the Settlement Agreement is approved, the full amount of such payments will be deducted from the overall Settlement Fund in accordance with Section 12.2 herein.

4.3 The Claims Administrator shall aggregate all written objections received prior to the deadline for so doing and shall file all such objections with the Courts and provide copies to Plaintiffs’ Counsel and counsel for each of the Defendants upon receipt.

**5. THE ALBERTA AND SASKATCHEWAN ACTIONS**

5.1 Within twenty (20) days of the Execution Date:

5.1.1 Counsel for the plaintiff in the Alberta Action shall discontinue that action;  
and

5.1.2 Counsel for the plaintiff in the Saskatchewan Action shall discontinue that action.

## 6. OPTING OUT

6.1 Class Members shall have forty-five (45) days from the first date of publication of the Approval Hearing Notice (“the Opt Out Deadline”) to Opt Out of the certified Ontario Actions or authorized Québec Action by filing with the Claims Administrator an Opt Out Form in the form attached at Exhibit “E”.

6.2 Any Class Member who does not Opt Out before the Opt Out Deadline shall be bound by the terms of this Settlement Agreement if subsequently approved by the Ontario and Québec Courts, and barred from commencing or continuing any action against any of the Defendants related to the design, manufacture, marketing, sale, distribution, labelling, use, purchase and/or ingestion of PIO in Canada or elsewhere throughout the world.

6.3 If a Class Member Opts Out, each and every related Family Class Member shall also be deemed to have Opted Out and if a Class Member does not Opt Out, any related Family Class Members shall also be bound by the terms of this Settlement Agreement if subsequently approved by the Ontario and Québec Courts.

6.4 The Claims Administrator shall aggregate all Opt Outs received by it and shall immediately deliver all documents related to such Opt Outs to Plaintiffs’ Counsel and counsel for each of the Defendants upon receipt.

6.5 If the number of Opt Outs reaches or exceeds the Opt Out Threshold, each of the Defendants may, at its sole discretion, terminate this Settlement Agreement, notwithstanding any Approval Order from either the Ontario or Québec Court, by giving



notice to Class Counsel within 21 days of delivery of such Opt Out documentation to the Defendants by the Claims Administrator pursuant to section 6.4 above, or within 21 days after the expiry of the Opt Out Deadline, whichever is later.

6.6 Should a Class Member who has Opted Out seek to engage Plaintiffs' Counsel for any purpose related to the purchase and/or ingestion of PIO, Plaintiffs' Counsel hereby agree that they will not represent, nor aid in the representation of, any Class Member who has Opted Out.

## **7. ORDERS APPROVING THE SETTLEMENT AGREEMENT**

7.1 Following publication of the Approval Hearing Notice, the Petitioner and the Takeda Defendants and the Lilly Defendants in the Québec Action, and the Plaintiffs and the Defendants in the Ontario Actions, shall jointly move for Orders from the Québec Court and the Ontario Court in the forms attached as Exhibits "F" and "G", respectively (the "Approval Orders"), which will, among other things:

- (a) declare that this Settlement Agreement is fair, reasonable and in the best interests of the Class Members;
- (b) approve the Settlement Agreement pursuant to Article 1025 of the *Code of Civil Procedure*, R.S.Q. c. C-25 or to section 29(2) of the *CPA*, as the case may be;

- (c) order that the Claims Administration Procedures in the form attached as Exhibit “K” are approved and that the Settlement Fund shall be distributed in accordance with the terms of this Settlement Agreement;
- (d) order that CA2 Class Action Administration be appointed as Claims Administrator for the Settlement;
- (e) order that Vance Cooper be appointed as the Adjudicator to review and decide all Challenges;
- (f) approve the form and content of the Approval Notice in substantially the form attached as Exhibit “H”;
- (g) order that the Approval Notice be disseminated in accordance with the Notice Plan as set out in Exhibit “D”;
- (h) order that any Party may bring a motion to the applicable case management judges for the Québec and Ontario Actions at any time for directions with respect to the implementation or interpretation of this Settlement Agreement, such motion to be on notice to all other Parties; and
- (i) dismiss the Ontario and Québec Actions against the Defendants with prejudice and without costs as of the Effective Date.

**8. EFFECT OF NON-APPROVAL AND AMENDMENT OF SETTLEMENT AGREEMENT**

8.1 In the event that either or both of the Québec or Ontario Courts fail to approve this Settlement Agreement in its entirety, the Parties reserve for themselves the right to amend this Settlement Agreement. Any such amendment shall be in writing and any amended Settlement Agreement must be consented to and executed by all signatories to this Settlement Agreement and shall have no force or effect unless and until it receives the approval of the Québec and Ontario Courts.

**9. SETTLEMENT AGREEMENT EFFECTIVE**

9.1 The terms of this Settlement Agreement shall become effective on the Effective Date, unless otherwise expressly provided for herein.

**10. WAIVER OF LIMITATION DEFENCE**

10.1 For the purposes of making a claim under this Settlement Agreement, no Claimant shall be considered ineligible to receive any compensation set forth in this Settlement Agreement on the basis of any statute of limitation, prescription period or any other limitation or prescription defence.

10.2 With respect to Class Members who Opt Out in accordance with Section 6 herein, any such limitation periods otherwise applicable shall be deemed to commence or re-commence running as of the Opt Out Deadline.

## 11. SETTLEMENT BENEFITS

11.1 Pursuant to this Settlement Agreement, and subject to its terms and conditions, including approval by the Québec and Ontario Courts, the Defendants have agreed to and shall pay the total sum of CAD \$25 million (“the Settlement Fund”) in full and final settlement of the Released Claims. The contribution of each of the Defendants to the Settlement Fund is confidential and only known to the Defendants, and each Defendant is severally responsible only for its portion of the Settlement Fund.

11.2 The Defendants shall not have any obligation to pay any further amounts to the Plaintiffs, the Class Members, Family Class Members, Class Counsel or Public Health Insurers with respect to this Settlement Agreement or the Ontario Actions, the Québec Action, the Alberta Action or the Saskatchewan Action for any reason whatsoever, including but not limited to, all costs associated with Notices, translation, administration and adjudication of this Settlement (including all costs associated with the review of Challenges, Class Counsel Fees, disbursements and applicable taxes and all *cy-pres* payment(s), if any).

11.3 The following benefits and expenses shall be paid from the Settlement Fund:

- (a) all Compensatory Payments to eligible Claimants;
- (b) \$2.375 million to be distributed on a population distribution basis among the Public Health Insurers relating to their subrogated and direct claims for reimbursement of the costs of insured health services provided to Class Members, subject to Sections 12.4-12.8 below;

- (c) payment of \$5,000 each as an honourarium to each of the Representative Plaintiffs and the Petitioner;
- (d) all costs associated with implementing the Notice Plan for both Notices and translating the Settlement Agreement and its Exhibits;
- (e) all costs associated with the administration of the Settlement, including all amounts payable to the Adjudicator relating to the review and decisions on Challenges; and
- (f) Class Counsel Fees, disbursements and all applicable taxes as may be approved by the Québec and Ontario Courts.

11.4 The Defendants will not incur any taxes, liabilities, obligations, or responsibility regarding the investment, payment or distribution of the Settlement Fund or the monies deposited into it.

## **12. PAYMENT SCHEDULE**

12.1 The Takeda Defendants, Lilly Defendants and Class Counsel shall at first instance directly fund the costs associated with the Approval Hearing Notice and the translation of the Settlement Agreement and Exhibits as they come due, in accordance with Section 4.2 above. In the event that the Settlement Agreement is not approved, these pre-approval costs remain the responsibility of the Takeda Defendants, Lilly Defendants and Class Counsel.

12.2 The Defendants shall, within thirty (30) days of the Effective Date, pay the Settlement Fund of CAD \$25 million (less any and all amounts previously paid in accordance with Section 4.2 by the Takeda Defendants and Lilly Defendants associated with the implementation of the Approval Hearing Notice and the translation costs as supported by receipts) to the Claims Administrator who shall, upon receipt of such funds, pay:

- (a) \$5,000 to each of the Representative Plaintiffs and the Petitioner;
- (b) \$2.375 million to Class Counsel, in trust, for the benefit of and to be distributed (less fees, disbursements and taxes), among the Public Health Insurers in accordance with their directions for so doing;
- (c) an amount sufficient to reimburse amounts previously paid by Class Counsel for their contribution towards the costs to implement the Notice Plan for both Notices and any translation costs; and
- (d) all Class Counsel Fees, disbursements and applicable taxes as approved by the Québec and Ontario Courts.

12.3 After making the payments set out in Section 12.2, the Claims Administrator shall deposit the remaining balance of the Settlement Fund (less any amount approved by the Courts for payment of the Claims Administrator's fees) into a single interest-bearing account with a Canadian Charter Bank, in accordance with the Claims Administration Procedures, as set out in Exhibit "K".

12.4 Following the payment of all items listed in Sections 11.3 (b), (c), (d), (e) and (f) and after the final adjudication of all submitted Claim Packages (including the resolution of any and all Challenges and payments to the Adjudicator in deciding such Challenges), the Claims Administrator shall determine the amount remaining in the Settlement Fund and the aggregate amount required to pay all Approved Claims at their fully assessed values, as set out in the Compensation Grid (Exhibit "J") and in accordance with the Settlement Eligibility Criteria (Exhibit "I"), including all amounts payable in respect of claims of Family Class Members and Class Members' claims for loss of income.

12.5 Following the determination provided for in Section 12.4, if insufficient money remains in the Settlement Fund to pay the aggregate amount of all Approved Claims at their fully assessed values, the Claims Administrator shall first determine the portion of the aggregate amount attributable to income loss claims. If the amount attributable to such income loss claims exceeds 10% of the aggregate amount of all Approved Claims, the Claims Administrator shall reduce the total amount approved for income loss claims to represent 10% of the aggregate value of all Approved Claims and shall recalculate the value of all income loss claims to represent their proportionate share of that amount. Thereafter, the Claims Administrator shall recalculate the value of all remaining claims for Compensable Injuries and Family Class Members' claims to represent their proportionate share of the remaining aggregate amount.

12.6 Following the determination provided for in Section 12.4, if more than sufficient money remains in the Settlement Fund to pay the aggregate amount of all Approved Claims at their assessed values (the "Residue"), the Residue shall be allocated as between Claimants with Approved Claims and the Public Health Insurers such that the value of all

Approved Claims will be increased by up to 25% and the Public Health Insurers will be paid up to an additional \$593,750 (25% of \$2,375,000).

12.7 If there is not sufficient money in the Residue to fully increase all of the payments by 25% as provided for in Section 12.6, the Claims Administrator shall apply a proportionate percentage increase to the value of the Approved Claims and the value of the payment to the Public Health Insurers.

12.8 If there is sufficient money in the Residue to increase the value of all Approved Claims and the payment to the Public Health Insurers by 25% as provided for in Section 12.6 and further money remains in the Residue, 80% of any remaining balance shall be allocated *pari passu* among all Approved Claims and the remaining 20% shall be paid to Class Counsel, in trust, for the benefit of the Public Health Insurers.

12.9 Within ninety (90) days after making the determinations set out in Sections 12.4-12.8, as applicable, the Claims Administrator shall forward all Final Determination Letters enclosing Compensatory Payments for all Approved Claims and shall pay to Class Counsel, in trust, any additional amount payable for the benefit of the Public Health Insurers.

### **13. APPOINTMENT AND ROLE OF CLAIMS ADMINISTRATOR**

13.1 The Parties hereto agree that CA2 Class Action Administration shall be appointed as the Claims Administrator for the purpose of administering the Settlement.

13.2 The Claims Administrator and any person appointed by the Claims Administrator to assist in the administration or adjudication of the Settlement must sign and adhere to a



confidentiality statement, in a form satisfactory to the Parties, by which it agrees to keep confidential any information concerning Class Members or the Defendants, and the Claims Administrator shall institute and maintain procedures to ensure that the identity of all Class Members, and all information regarding their claims and submissions, will be kept strictly confidential and will not be provided to any person except as may be provided for in, or necessary for the enforcement of, this Settlement Agreement or as may be required by law.

13.3 The Claims Administrator shall be required to administer all monies payable under the Settlement Agreement, except as specifically provided for herein, and to process all Claim Packages and adjudicate all claims in accordance with this Settlement Agreement and the Exhibits hereto.

13.4 The Claims Administrator shall invest all funds in its possession under this Settlement Agreement pursuant to the Investment Standards and authorized investments provided for in Section 27 of the *Trustee Act* R.S.O. 1990, c. T.23 with a Chartered Canadian Bank.

13.5 All interest earned on the Settlement Fund, once paid by the Defendants to the Claims Administrator, shall be added to and treated in the same manner as the Settlement Fund. All taxes payable on any interest which accrues in relation to the Settlement Fund shall be paid by the Claims Administrator from the Settlement Fund as may be required by law. The Claims Administrator shall take all reasonable steps to minimize the imposition of taxes upon the Settlement Fund and shall be responsible for any and all tax reporting and payment requirements arising from this Settlement, including all interest

income earned by the Settlement Fund, with all such tax payments to be made by the Claims Administrator from the Settlement Fund.

13.6 The Claims Administrator shall offer services in both French and English.

13.7 Subject to its duties herein, the Claims Administrator shall report quarterly to Plaintiffs' Counsel the number of Claim Packages received in that quarter, as well as the name, age, sex, product(s) taken, claimed injury, address, telephone number, fax number (if any) and e-mail address (if any) of all Class Members who have filed Claim Packages, which reports shall be redacted to remove the personal Class Member and Family Class Member information and thereafter provided to the Defendants' Counsel.

13.8 The Claims Administrator shall be subject to removal by the Québec and Ontario Courts for cause, on a motion by a Party on reasonable notice to the other Parties and the Claims Administrator.

13.9 In the event that the Claims Administrator is unable to continue to act for any reason, the Parties may propose a substitute Claims Administrator, subject to the approval of the Québec and Ontario Courts.

13.10 The Claims Administrator shall communicate regularly with Plaintiffs' Counsel and hold regular administrative conference calls to advise on the progress of the administration of the Settlement and shall circulate to Plaintiffs' Counsel in advance of such conference calls a report and an agenda. In addition, when deemed necessary by the Claims Administrator or Plaintiffs' Counsel, special meetings may be called, on reasonable notice to all Parties.

13.11 The Claims Administrator shall determine the eligibility of all claims submitted by or on behalf of Class Members and Family Class Members and shall determine the amounts payable in respect of all Approved Claims, all in accordance with the Settlement Eligibility Criteria, the Claims Administration Procedures, the Compensation Grid and Section 12 herein.

#### **14. REVIEW OF CHALLENGES BY THE ADJUDICATOR**

14.1 The standard of review to be applied on a Challenge relating to eligibility or relating to the quantum of compensation for a claim, shall be whether there was a misapprehension of the evidence, an error in principle or the decision was unreasonable.

14.2 Where a Challenge relates to the adjustments applied by the Claims Administrator to a Class Member's base compensation value pursuant to Section 3 of the Settlement Eligibility Criteria (Exhibit "I"), a Challenge shall only be available where such adjustment(s) resulted in a reduction of more than 10% to the base compensation value.

14.3 The determinations of the Adjudicator on all Challenges shall include brief written reasons (no more than one page), shall be final and binding and shall not be subject to any further challenge, appeal, or revision, except in the case of a clerical or obvious error.

14.4 The Adjudicator will be entitled to compensation of a maximum of \$300.00 per hour, to a maximum per-claim amount of \$1,200.00, inclusive of taxes. In exceptional cases, where the volume of records submitted with a Challenge requires further time for proper review, the Adjudicator shall so advise the Claims Administrator as soon as is

reasonably practicable. The Claims Administrator shall then determine whether further reasonable requests for additional fees should be approved for payment, with all such additional fees and applicable taxes to be deducted from the Settlement Fund. Notice of all requests for such further fees shall be provided by the Claims Administrator to Plaintiffs' Counsel.

## **15. PAYMENTS TO AND RELEASE BY PUBLIC HEALTH INSURERS**

15.1 Upon the Effective Date and in accordance with Sections 11.2 and 12 of this Settlement Agreement, the Claims Administrator shall deduct the sum of \$2.375 million from the Settlement Fund and shall pay such sum to Class Counsel, in trust, for the benefit of the Public Health Insurers. Class Counsel shall thereafter distribute this amount (less fees, disbursements and taxes) to the Public Health Insurers in accordance with directions provided by the Public Health Insurers.

15.2 In consideration of the payment set out in section 15.1, together with any further payment which may be made pursuant to Sections 12.4-12.8, the Public Health Insurers as of the Effective Date, fully and finally release the Released Parties from all Released Claims and undertake not to make any claim or take or continue any action, investigation or other proceeding in any forum against any person, partnership, corporation, or other entity, including without limitation, any health care professionals, hospitals or other health care facilities, who might claim contribution or indemnity or any other relief of a monetary, declaratory, or injunctive nature from the Released Parties in connection with the Released Claims.

## **16. RELEASE OF CLAIMS**

16.1 Class Members who do not Opt Out in accordance with Section 6 herein, and their associated Family Class Members, hereby undertake not to sue and to release and forever discharge the Released Parties from all Released Claims and undertake not to make any claim or take or continue any action, investigation or other proceeding in any forum against any person, partnership, corporation, or other entity, including without limitation, any health care professionals, hospitals or other health care facilities, who might claim contribution or indemnity or any other relief of a monetary, declaratory, or injunctive nature from the Released Parties in connection with the Released Claims.

16.2 Upon the Effective Date, all Class Members who have not Opted Out in accordance with Section 6 herein and their associated Family Class Members, agree to indemnify, and hold forever harmless the Released Parties for any current or future claims including without limitation, claims related to liens and claims for subrogation, contribution or indemnification, including the costs of defence that such Class Member or Family Class Member may seek to pursue in the future, arising from or relating in any way to the Released Claims.

## **17. TERMINATION**

17.1 This Settlement Agreement shall automatically terminate if:

- (a) the Ontario or Québec Courts refuse to consolidate and certify or authorize (as the case may be) the Ontario Actions or Québec Action as class proceedings for the purposes of this Settlement; or

- (b) the Québec and Ontario Courts do not issue the Approval Orders.

17.2 This Settlement Agreement may be terminated by the Defendants if:

- (a) the parties to the Alberta Action fail to secure the discontinuance or dismissal of the Alberta Action in its entirety prior to the hearing of the motions for Authorization/Certification and Approval Notice provided for in Section 3.1 herein;
- (b) the parties to the Saskatchewan Action fail to secure the discontinuance or dismissal of the Saskatchewan Action in its entirety prior to the hearing of the motions for Authorization/Certification and Approval Notice provided for in Section 3.1 herein;
- (c) the form and content of the Authorization/Certification and Notice Orders or the Approval Orders departs in a material respect from the form and content of such orders attached as Exhibits "A", "B", "F" and "G"; or
- (d) pursuant to section 6.5, above.

17.3 In the event that this Settlement Agreement is terminated in accordance with its terms:

- (a) the Parties will be restored to their respective positions prior to the execution of this Agreement;
- (b) this Agreement will have no further force and effect and no effect on the rights of the Parties except as specifically provided in Section 17.4;

- (c) The Petitioner, the Takeda Defendants and the Lilly Defendants in the Québec Action and the Plaintiffs and the Defendants in the Ontario Actions agree to consent to an Order setting aside the Authorization/Certification and Notice Orders to the extent that those Orders authorize and consolidate and certify class actions. Such consents are without prejudice to the Parties' right to proceed with motions to authorize or certify those actions as class proceedings on a contested basis;
- (d) The Petitioner, the Takeda Defendants and the Lilly Defendants in the Québec Action and the Plaintiffs and the Defendants in the Ontario Actions agree to consent to an Order setting aside the terms of any Approval Order that has been made by the Ontario or Québec Court; and
- (e) The Parties and Public Health Insurers agree that whether or not it is approved by the Québec and Ontario Courts, this Settlement Agreement and the fact of its negotiation and execution shall not constitute any admission by the Defendants or be used against the Defendants for any purpose in the Ontario Actions or Québec Action or any other proceeding in Canada or elsewhere in the world and, without limiting the generality of the foregoing, this Settlement Agreement and the fact of its negotiation and execution shall not constitute an admission or be used by anyone (whether or not a party to these proceedings) in an effort to establish any of the alleged facts, the jurisdiction of the Canadian courts over any foreign party or the certification of the Ontario Actions or Québec Action or any other proceedings in any province.

17.4 Notwithstanding the provisions of Sections 17.3(a) and (b), if this Settlement Agreement is terminated, the provisions of this Section 17 and Sections 12.1 and 19.8 shall survive termination and shall continue in full force and effect.

**18. PLAINTIFFS' COUNSEL'S OBLIGATIONS AND COSTS**

18.1 Concurrently with the Settlement Approval Hearings in the Québec and Ontario Courts, Class Counsel shall seek approval of their fees, disbursements and applicable taxes ("Class Counsel Fees") in accordance with the terms of their retainer agreements with the Plaintiffs and the Petitioner.

**19. MISCELLANEOUS PROVISIONS**

19.1 Amendments to the Settlement Agreement

- (a) Where Class Counsel and/or the Defendants have reason to believe that an amendment is necessary to this Settlement Agreement, a motion may be brought on consent to the Québec and/or Ontario Courts for the purpose of approving said amendment to the terms of this Settlement Agreement.

19.2 Construction of Agreement

- (a) This Settlement Agreement shall be deemed to have been mutually prepared by the signatories hereto and shall not be construed against any of them solely by reason of authorship.



- (b) The headings used in this Settlement Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Settlement Agreement.

### 19.3 Entire Agreement

- (a) Except for the existing agreements as amongst the Defendants relating to: their respective contributions to the Settlement Fund referred to in section 11.1, and as amongst the Parties relating to the Opt Out Threshold referred to in section 6.5, this Settlement Agreement together with the attached Exhibits, constitutes the entire agreement between the Parties and Public Health Insurers pertaining to the subject matter hereof, and supersedes all prior understandings, representations, negotiations, discussions, and agreements, either oral or written, which may have occurred prior to the execution of this Settlement Agreement. There are no other representations between the Parties and Public Health Insurers in connection with the subject matter of this Settlement Agreement except as specifically set forth herein and none have been relied upon by the Parties and Public Health Insurers in entering into this Settlement Agreement.

### 19.4 Ongoing Authority

- (a) The Québec and Ontario Courts will retain exclusive jurisdiction over the respective Québec and Ontario Actions, and over all Parties named or described herein, including Public Health Insurers as well as all Class

Members who have not Opted Out in accordance with Section 6 herein and their associated Family Class Members.

- (b) The Québec and Ontario Courts will also retain exclusive jurisdiction over this Settlement Agreement to ensure that all payments and disbursements are properly made, and to interpret and enforce the terms, conditions and obligations of this Settlement Agreement.

#### 19.5 Applicable Law

- (a) The laws of Québec and Ontario shall apply as relevant to this Settlement Agreement.

#### 19.6 Communication with Class Members

- (a) All written communications from the Claims Administrator to Class Members and Family Class Members shall be made by regular mail and email where available to such Class Member's last mailing address provided by the Class Member (or his or her legal representative) to the Claims Administrator. Class Members and Family Class Members shall keep the Claims Administrator apprised of their current mailing address.

#### 19.7 Confidentiality of and Access to Class Member Information

- (a) Any information provided by or regarding a Class Member or Family Class Member or otherwise obtained pursuant to this Settlement Agreement shall be kept strictly confidential and shall not be disclosed,

except to appropriate persons to the extent necessary to process claims, and/or to provide benefits under this Settlement Agreement, or as otherwise expressly provided in this Settlement Agreement or as required by law. All Class Members and Family Class Members shall be deemed to have consented to the disclosure of all this information for these purposes.

- (b) Plaintiffs' Counsel shall have access to all information received by the Claims Administrator regarding Class Members and Family Class Members, and the processing and payment of claims.

#### 19.8 Notices

- (a) All communications to be provided pursuant to or in connection with this Settlement Agreement shall be in writing and shall be delivered personally or sent by overnight delivery service, costs prepaid, to the Parties at the addresses set forth below, or to such other individuals and addresses as Plaintiffs' Counsel or the Defendants may designate from time to time.

#### **If to Class Counsel:**

**ROCHON GENOVA LLP**  
Barristers – Avocats  
121 Richmond Street West – Suite 900  
Toronto, ON M5H 2K1

Attention: Joel P. Rochon

-and-

**KIM SPENCER MCPHEE BARRISTERS P.C.**  
1200 Bay St. Suite 1203

Toronto, ON M5R 2A5

Attention: Megan B. McPhee

-and-

**MERCHANT LAW GROUP LLP**

100-2401 Saskatchewan Dr.  
Regina, SK., S4P 4H8

Attention: Evatt Merchant

**If to the Defendants:**

**TORYS LLP**

79 Wellington Street West - Suite 3000  
Toronto, ON M5K 1H1

Attention: Sylvie Rodrigue and Nicole Mantini  
Counsel to the Lilly Defendants and the Takeda Defendants

**STIKEMAN ELLIOTT LLP**

5300 Commerce Court West - 199 Bay Street  
Toronto, ON M5L 1B9

Attention: Katherine L. Kay and Samaneh Hosseini  
Counsel to Apotex Inc.

**FASKEN MARTINEAU DUMOULIN LLP**

333 Bay Street, Suite 2400 - Bay Adelaide Centre, Box 20  
Toronto, ON M5H 2T6

Attention: Peter J. Pliszka and Zohaib I. Maladwala  
Counsel to Sandoz Canada Inc.

**19.9 French Translation**

- (a) A French translation of this Settlement Agreement and all attached Exhibits shall be prepared, the cost of which shall be paid by the Takeda Defendants, the Lilly Defendants and Class Counsel at first instance and

deducted from the overall Settlement Fund, in accordance with Section 4.2 above, and both versions shall be official and shall have equal weight.

#### 19.10 Interpretation of Agreement

- (a) All disputes relating to the proper interpretation of this Settlement Agreement shall be resolved by application to the Québec or Ontario Courts, as appropriate.

#### 19.11 Canadian Dollars

- (a) All dollar amounts set forth in this Settlement Agreement are expressed in Canadian dollars.

#### 19.12 Execution and Processing of Settlement Agreement

- (a) The Parties, the Public Health Insurers and their respective counsel shall expeditiously do all things as may be reasonably required to give effect to this Settlement Agreement.
- (b) The Parties agree that this Settlement Agreement may be executed by their respective counsel.
- (c) The Public Health Insurers confirm that the individuals executing this Settlement Agreement on behalf of each provincial/territorial ministry, health department, or other governmental entity do so pursuant to and in complete satisfaction of any and all applicable provincial/territorial

statutory requirements and have the authority to bind the Public Health Insurer on whose behalf this Settlement Agreement is executed.

- (d) The Parties and Public Health Insurers agree that this Settlement Agreement may be executed in counterparts, each of which shall be deemed to be an original for all purposes and executed counterparts taken together shall constitute the complete Settlement Agreement.

#### 19.13 Publicity

- (a) The Parties and Public Health Insurers and their counsel agree that when commenting publicly on the cases settled pursuant to this Settlement Agreement, they shall, except as may be required by law or for the Defendants to meet their business needs:

- (i) Inform the inquirer that the cases settled pursuant to this Settlement Agreement have been settled to the satisfaction of all Parties including Public Health Insurers;

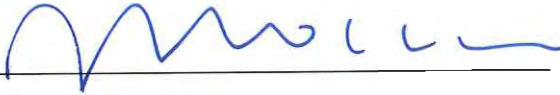
- (ii) Inform the inquirer that the Settlement Agreement is fair, reasonable and in the best interests of Class Members; and

- (iii) Decline to comment in a manner that places the conduct of any Party or Public Health Insurer in a negative light or reveals anything said during the settlement negotiations.

Date:

9 June 2020

ROCHON GENOVA LLP

per: 

Class Counsel

Date:

KIM SPENCER MCPHEE BARRISTERS P.C.

per: \_\_\_\_\_

Class Counsel

Date:

MERCHANT LAW GROUP LLP

per: \_\_\_\_\_

Class Counsel

Date:

ROCHON GENOVA LLP

per: \_\_\_\_\_

Class Counsel

Date:

June 9/2020

KIM SPENCER MCPHEE BARRISTERS P.C.

per:  \_\_\_\_\_

Class Counsel

Date:

MERCHANT LAW GROUP LLP

per: \_\_\_\_\_

Class Counsel



Date:

ROCHON GENOVA LLP

per: \_\_\_\_\_

Class Counsel

Date:

KIM SPENCER MCPHEE BARRISTERS P.C.

per: \_\_\_\_\_

Class Counsel

Date: 2020-06-10

MERCHANT LAW GROUP LLP

per: Σ Merchant

Class Counsel

Date: June 9, 2020

TORYS LLP

per: \_\_\_\_\_

*[Handwritten signature]*

Counsel for the Takeda  
Defendants and the Lilly  
Defendants

Date:

STIKEMAN ELLIOTT LLP

per: \_\_\_\_\_

Counsel for Apotex, Inc.

Date:

FASKEN MARTINEAU DUMOULIN LLP

per: \_\_\_\_\_

Counsel for Sandoz Canada  
Inc. (incorrectly named in  
one of the Ontario Actions as  
Sandoz Canada  
Incorporated).

Date:

TORYS LLP

per: \_\_\_\_\_

Counsel for the Takeda  
Defendants and the Lilly  
Defendants

Date: 2020-06-12

STIKEMAN ELLIOTT LLP

per:  \_\_\_\_\_

Counsel for Apotex, Inc.

Date:

FASKEN MARTINEAU DUMOULIN LLP

per: \_\_\_\_\_

Counsel for Sandoz Canada  
Inc. (incorrectly named in  
one of the Ontario Actions as  
Sandoz Canada  
Incorporated).

Date:

TORYS LLP

per: \_\_\_\_\_

Counsel for the Takeda  
Defendants and the Lilly  
Defendants

Date:

STIKEMAN ELLIOTT LLP

per: \_\_\_\_\_

Counsel for Apotex, Inc.

Date: June 14, 2020

FASKEN MARTINEAU DUMOULIN LLP

per: \_\_\_\_\_



Counsel for Sandoz Canada  
Inc. (incorrectly named in  
one of the Ontario Actions as  
Sandoz Canada  
Incorporated).

Date:

July 7, 2020

[PHI FOR ALBERTA]

per: \_\_\_\_\_

Suzanne Maier  
Director of Third Party Liability  
Alberta Health

Date:

[PHI FOR BRITISH COLUMBIA]

per: \_\_\_\_\_

Date:

[PHI FOR MANITOBA]

per: \_\_\_\_\_

Date:

[PHI FOR NEW BRUNSWICK]

per: \_\_\_\_\_

Date:


[PHI FOR NEWFOUNDLAND AND LABRADOR]

per: \_\_\_\_\_

Date: [PHI FOR ALBERTA]

per: \_\_\_\_\_ ■

Date: JUNE 22, 2020 [PHI FOR BRITISH COLUMBIA]

per:  \_\_\_\_\_  
DOMINIQUE MAKAY ■

Date: [PHI FOR MANITOBA]

per: \_\_\_\_\_ ■

Date: [PHI FOR NEW BRUNSWICK]

per: \_\_\_\_\_ ■

Date: [PHI FOR NEWFOUNDLAND AND LABRADOR]

per: \_\_\_\_\_ ■

Date:

[PHI FOR ALBERTA]

per: \_\_\_\_\_

Date:

[PHI FOR BRITISH COLUMBIA]

per: \_\_\_\_\_

Date:

July 30/2020 [PHI FOR MANITOBA]

per:

  
Patricia Caetano

Date:

[PHI FOR NEW BRUNSWICK]

per: \_\_\_\_\_

Date:

[PHI FOR NEWFOUNDLAND AND LABRADOR]

per: \_\_\_\_\_

Date: [PHI FOR ALBERTA]

per: \_\_\_\_\_

Date: [PHI FOR BRITISH COLUMBIA]

per: \_\_\_\_\_

Date: [PHI FOR MANITOBA]

per: \_\_\_\_\_

Date: [PHI FOR NEW BRUNSWICK]

per: Anthony July 7/20.

Date: [PHI FOR NEWFOUNDLAND AND LABRADOR]

per: \_\_\_\_\_



Date: [PHI FOR ALBERTA]

per: \_\_\_\_\_

Date: [PHI FOR BRITISH COLUMBIA]

per: \_\_\_\_\_

Date: [PHI FOR MANITOBA]

per: \_\_\_\_\_

Date: [PHI FOR NEW BRUNSWICK]

per: \_\_\_\_\_

Date: 21 Sept, 2020 Her Majesty in right of Newfoundland and Labrador

per: Karen Stone  
Deputy Minister  
Dept. Health and Community Services

Signed pursuant to the *Intergovernmental Affairs Act*

per: P. Heenan  
Dep. Minister for Intergovernmental Affairs or designate

Date:

*July 9, 2020*

[PHI FOR NOVA SCOTIA]

per: 

Mr. Harold McCarthy ■

Date:

[PHI FOR NUNAVUT]

per: \_\_\_\_\_ ■

Date:

[ONTARIO MINISTRY OF HEALTH AND LONG-TERM CARE]

per: \_\_\_\_\_ ■

Date:

[PHI FOR PRINCE EDWARD ISLAND]

per: \_\_\_\_\_ ■

Date:

[RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC]

per: \_\_\_\_\_ ■

Date:

[PHI FOR SASKATCHEWAN]

per: \_\_\_\_\_ ■

Date: [PHI FOR NOVA SCOTIA]

per: \_\_\_\_\_ ■

Date: [PHI FOR NUNAVUT]

July 27/2020

per: *A. Haddley* \_\_\_\_\_

■ manager  
Dept of Health  
Govt of NU

Date: [ONTARIO MINISTRY OF HEALTH AND LONG-TERM CARE]

per: \_\_\_\_\_ ■

Date: [PHI FOR PRINCE EDWARD ISLAND]

per: \_\_\_\_\_ ■

Date: [RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC]

per: \_\_\_\_\_ ■

Date: [PHI FOR SASKATCHEWAN]

per: \_\_\_\_\_ ■

Date: [PHI FOR NOVA SCOTIA]

per: \_\_\_\_\_ ■

Date: [PHI FOR NUNAVUT]

per: \_\_\_\_\_ ■

Date: June 26, 2020 [ONTARIO MINISTRY OF HEALTH AND LONG-TERM CARE]

per:  \_\_\_\_\_ ■

Patrick Dicerni,  
Interim Assistant Deputy Minister,  
Ontario Health Insurance Plan Division

Date: [PHI FOR PRINCE EDWARD ISLAND]

per: \_\_\_\_\_ ■

Date: [RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC]

per: \_\_\_\_\_ ■

Date: [PHI FOR SASKATCHEWAN]

per: \_\_\_\_\_ ■

Date: [PHI FOR NOVA SCOTIA]

per: \_\_\_\_\_

Date: [PHI FOR NUNAVUT]

per: \_\_\_\_\_

Date: [ONTARIO MINISTRY OF HEALTH AND LONG-TERM CARE]

per: \_\_\_\_\_

Date: July 27/2020 [PHI FOR PRINCE EDWARD ISLAND]

per: \_\_\_\_\_

*James Hylward*  
*Minister of Health & Wellness*

Date: [RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC]

per: \_\_\_\_\_

Date: [PHI FOR SASKATCHEWAN]

per: \_\_\_\_\_

Date: [PHI FOR NOVA SCOTIA]

per: \_\_\_\_\_ ■

Date: [PHI FOR NUNAVUT]

per: \_\_\_\_\_ ■

Date: [ONTARIO MINISTRY OF HEALTH AND LONG-TERM CARE]

per: \_\_\_\_\_ ■

Date: [PHI FOR PRINCE EDWARD ISLAND]

per: \_\_\_\_\_ ■

Date: June 17, 2020 [RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC]

per: Harold Dubeau ■

Date: [PHI FOR SASKATCHEWAN]

per: \_\_\_\_\_ ■

Date: [PHI FOR NOVA SCOTIA]

per: \_\_\_\_\_  
■

Date: [PHI FOR NUNAVUT]

per: \_\_\_\_\_  
■

Date: [ONTARIO MINISTRY OF HEALTH AND LONG-TERM CARE]

per: \_\_\_\_\_  
■

Date: [PHI FOR PRINCE EDWARD ISLAND]

per: \_\_\_\_\_  
■

Date: [RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC]

per: \_\_\_\_\_  
■

Date: [PHI FOR SASKATCHEWAN]

*July 13/2020*

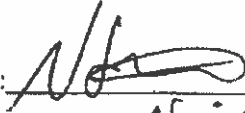
per: *[Signature]* \_\_\_\_\_  
■

Date:

July 28/20

[PHI FOR THE NORTHWEST TERRITORIES]

per:



Nick Saturnino

Date:

[PHI FOR THE YUKON TERRITORY]

per:





Date:

**[PHI FOR THE NORTHWEST TERRITORIES]**

per: \_\_\_\_\_

Date:

**[PHI FOR THE YUKON TERRITORY]**per: Am Somshe \_\_\_\_\_

a/ Director

August 6, 2020

Witnessed by:

WILL CHETCUTI

# EXHIBIT A

**SUPERIOR COURT**

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTREAL

No: 500-06-000618-120

DATE: **DATE**, 2020

---

**IN THE PRESENCE OF: THE HONOURABLE GARY D.D. MORRISON, J.S.C.**

---

**JIMMY WHYTE**

Petitioner

v,

**TAKEDA PHARMACEUTICAL COMPANY LIMITED**

and

**TAKEDA PHARMACEUTICALS NORTH AMERICA, INC.**

and

**TAKEDA PHARMACEUTICALS INTERNATIONAL, INC.**

and

**TAKEDA GLOBAL RESEARCH & DEVELOPMENT CENTER, INC.**

and

**TAKEDA SAN DIEGO, INC.**

and

**ELI LILLY CANADA INC.**

and

**TAKEDA CANADA, INC.**

Respondents

---

**JUDGMENT**

---

[1] CONSIDERING the motion for authorization of a class action for settlement purposes and for approval of a Notice of authorization and of Settlement Approval Hearing and approving the method of dissemination of the said Notice;

[2] CONSIDERING the Settlement Agreement reached between the parties on **DATE**, 2020;

[3]     **CONSIDERING** article 1025 C.C.P.;

[4]     **CONSIDERING** the submissions of counsel for the petitioner and counsel for the respondents;

[5]     **CONSIDERING** that the respondents consent to this judgment;

**FOR THESE REASONS, THE COURT:**

[6]     **GRANTS** the motion;

[7]     **AUTHORIZES** the action in Québec as a class proceeding solely for settlement purposes, subject to the terms of the Settlement Agreement, on behalf of the following classes:

(a) All persons resident in Québec who purchased and/or used ACTOS® during the Class Period, and their estates, administrators or other legal representatives, heirs or beneficiaries (“Québec Class” or “Québec Class Members”); and

(b) All family members and/or dependents of Québec Class Members who have been entitled to assert a claim for compensation in this action (“Québec Family Class” or “Québec Family Class Members”);

[8]     **ORDERS** that, except to the extent they are modified by this judgment, the definitions set out in the Settlement Agreement apply to and are incorporated into this judgment;

[9]     **DESIGNATES** Jimmy Whyte as the representative plaintiff;

[10]    **ORDERS** that at the Settlement Approval Hearing in Québec, to be held on **DATE, 2020** at **XX (time)** at the Montreal Courthouse, 1 Notre-Dame Street East (“Québec Approval Hearing”), this Court will be asked to decide:

(a) Whether to approve the Settlement Agreement as fair, reasonable and in the best interests of the Québec Class Members and Québec Family Class Members;

(b) Whether Plaintiff’s Counsel’s application for fees, disbursements and applicable taxes should be granted; and

(c) Any other matters as the Court may deem appropriate;

[11]    **APPROVES** the form and content of the Approval Hearing Notice, Exhibit C to the Settlement Agreement;

[12]    **ORDERS** the publication of the Approval Hearing Notice in conformity with the Notice Plan, Exhibit D to the Settlement Agreement;

[13]    **ORDERS** that the costs associated with the Approval Hearing Notice and the translation of the Settlement Agreement and Exhibits shall be paid initially by the respondents and Class Counsel with the full amount of such payments to be deducted from the overall Settlement Fund

if this Settlement is approved, in accordance with Sections 4.2 and 12.2 of the Settlement Agreement;

[14] **ORDERS** that the date and time of the Québec Approval Hearing shall be set forth in the Approval Hearing Notice, but shall be subject to adjournment by the Court without further notice to the Québec Class Members other than that which may be posted at the settlement website maintained by the Claims Administrator;

[15] **DESIGNATES** CA2 Class Action Administration provisionally, as Claims Administrator for the administration of Opt Outs, administration of objections, coordination of the Notice Plan and related tasks, including establishing a website for purposes of posting the Notices, Settlement Agreement and related documents, all pursuant to the terms of the Settlement Agreement;

[16] **ORDERS** that Québec Class Members may exclude themselves from this proceeding by sending a completed Opt Out Form signed by such person, to: CA2 Class Action Administration 9 Prince Arthur Ave., Toronto, ON, M5R 1B2, Attention: Canadian ACTOS® / Pioglitazone Settlement, no later than forty-five (45) days following the Approval Hearing Notice Date (the "Opt Out Deadline"). The form and content of the Opt Out Form, Exhibit E to the Settlement Agreement, is hereby approved;

[17] **ORDERS** that if a Québec Class Member Opts Out of this proceeding by the Opt Out Deadline, each and every Québec Family Class Member related to that Québec Class Member who has Opted Out is deemed to also have Opted Out of this class proceeding;

[18] **ORDERS** that all Québec Class Members who do not validly opt out of this proceeding by the Opt Out Deadline (as well as their related Québec Family Class Members) shall be bound by the terms of the Settlement Agreement, if it is approved by this Court, and may not opt out of this action in the future.

[19] **ORDERS** that any party affected by this judgment may apply to the Court for further directions;

[20] **ORDERS** that Québec Class Members who wish to file with the Court an objection or comment on the Settlement shall deliver a written statement to CA2 Class Action Administration at the address indicated in the Approval Hearing Notice, no later than XX, 2020;

[21] **ORDERS** that this judgment is contingent upon a parallel order being made by the Ontario Court and the terms of this judgment shall not be effective unless and until such an order is made by the Ontario Court;

[22] **ORDERS** that if the Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, this judgment, including authorization as a class proceeding for settlement purposes and all opt-out forms delivered pursuant to this judgment, shall be set aside and declared null and void and of no force or effect, without the need for any further judgment of this Court;

[23] **ORDERS** that in the event of a conflict between this judgment and the terms of the Settlement Agreement, this judgment shall prevail.

**THE WHOLE** without costs.

---

**GARY D.D. MORRISON, J.S.C.**

Mtre. NAME  
Woods s.e.n.c.r.l.  
Attorneys for Petitioner

Mtre. Sylvie Rodrigue  
Société d'Avocats Torys s.e.n.c.r.l.  
Attorneys for Respondents

Hearing date:                      **DATE, 2020**

# EXHIBIT B

**EXHIBIT "B"**  
**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

THE HONOURABLE  
MR. JUSTICE BELOBABA

)  
)  
)

THE DAY OF  
, 2020

Court File. No.: CV-11-442584-00CP

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

B E T W E E N:

GERALDINE CASSERES, Deceased, by her Estate Representative  
JOANN CASSERES, JOANN CASSERES, and RUSSEL CHAUVIN

Plaintiffs

- and -

TAKEDA PHARMACEUTICAL COMPANY LIMITED, TAKEDA PHARMACEUTICALS  
NORTH AMERICA, INC., TAKEDA PHARMACEUTICALS INTERNATIONAL, INC.,  
TAKEDA GLOBAL RESEARCH & DEVELOPMENT CENTER, INC., TAKEDA SAN  
DIEGO, INC., ELI LILLY CANADA INC. and TAKEDA CANADA, INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

-and-

Court File No.: CV-13-491534-00CP

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

B E T W E E N:

RANDOLPH CARRIER,  
PETER NELSON and SHARON NELSON

Plaintiffs

-and-

APOTEX INC. and  
SANDOZ CANADA INCORPORATED

Defendants

Proceeding under the *Class Proceedings Act, 1992*



## **ORDER**

**THIS MOTION** made by the Plaintiffs in Court File No.: CV-11-442584-00CP and Court File No.: CV-13-491534-00CP (“the Ontario Actions”), on consent of the Defendants, for an Order consolidating the Ontario Actions and certifying the consolidated Ontario Action as a single class proceeding as against the Defendants for settlement purposes only, subject to the terms of a settlement entered into between the Plaintiffs and the Defendants herein and for an Order approving the form and content of the Notice of certification and of the Settlement Approval Hearing in Ontario (“Approval Hearing Notice”) and approving the method of dissemination of the said Approval Hearing Notice (the “Notice Plan”) was heard on **DATE, 2020**, at the Court House, 361 University Avenue/Osgoode Hall, 130 Queen St. W., Toronto, Ontario.

**ON READING** the material filed, including the Settlement Agreement entered into between the Parties hereto and Public Health Insurers and dated **DATE, 2020**, a copy of which is attached to this Order as Schedule “A” (the “Settlement Agreement”), on hearing submissions of counsel for the Plaintiffs and counsel for the Defendants and on being advised that the Plaintiffs and the Defendants consent to this Order:

**AND ON BEING ADVISED** that CA2 Class Action Administration consents to being appointed the Claims Administrator for purposes of the Settlement Agreement:

1. **THIS COURT ORDERS AND DECLARES** that, except to the extent they are modified by this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that the Ontario Actions are hereby consolidated and certified as a class proceeding as against the Defendants pursuant to section 5 of the *Class Proceedings Act*, solely for settlement purposes and subject to the terms of the Settlement Agreement and the conditions set out therein, on behalf of the following classes:

All persons resident in Canada, excluding residents of Québec, who purchased and/or used ACTOS®, and all persons resident in Canada who purchased and/or used APO-Pioglitazone and/or Sandoz-Pioglitazone, and their estates, administrators or other legal representatives, heirs or beneficiaries (“the Ontario National Class” or “Ontario National Class Members”); and

All persons who on account of a personal relationship to an Ontario National Class Member are entitled to assert a derivative claim pursuant to the applicable provincial and/or territorial family law legislation (“Ontario National Family Class” or “Ontario National Family Class Members”).

3. **THIS COURT ORDERS** that Geraldine Casseres, deceased, by her estate representative Joann Casseres, Russel Chauvin, Randolph Carrier and Peter Nelson be appointed as the representative Plaintiffs for Ontario National Class Members.

4. **THIS COURT ORDERS** that Joann Casseres and Sharon Nelson be appointed as the representative Plaintiffs for Ontario National Family Class Members.

5. **THIS COURT ORDERS** that the common issue certified is:

Whether any of the Defendants owed a duty of care to Ontario National Class Members and if so, what was the standard of care, and did any of the Defendants breach the standard of care?

6. **THIS COURT ORDERS** that the form of the Approval Hearing Notice, as set forth in Exhibit "C" to the Settlement Agreement and attached hereto as Schedule "B" is hereby approved.

7. **THIS COURT ORDERS** that the Approval Hearing Notice shall be published and disseminated in accordance with the Notice Plan, as set forth in Exhibit "D" to the Settlement Agreement and attached hereto as Schedule "C".

8. **THIS COURT ORDERS** that the form and manner of notice as set out in the Approval Hearing Notice and the Notice Plan as approved herein is the best notice practicable under the circumstances, constitutes sufficient notice to all persons entitled to notice, and satisfies the requirements of notice under sections 17 and 19 of the *Class Proceedings Act*.

9. **THIS COURT ORDERS** that the costs associated with the Approval Hearing Notice and the translation of the Settlement Agreement and Exhibits shall be paid initially by the Takeda Defendants, Lilly Defendants and Class Counsel with the full amount of such payments to be deducted from the overall Settlement Fund if this Settlement is approved, in accordance with Sections 4.2 and 12.2 of the Settlement Agreement.

10. **THIS COURT ORDERS** that the date and time of the Settlement Approval Hearing in Ontario shall be set forth in the Approval Hearing Notice, but shall be subject to adjournment by the Court without further notice to the Ontario National Class Members other than that which may be posted at the settlement website maintained by the Claims Administrator.

11. **THIS COURT ORDERS** that CA2 Class Action Administration shall be appointed as Claims Administrator for the administration of Opt Outs, coordination of the Notice Plan,

administration of objections and related tasks, including establishing a website for purposes of posting the Notices, Settlement Agreement and related documents, all pursuant to the terms of the Settlement Agreement.

**12. THIS COURT ORDERS** that Ontario National Class Members may exclude themselves from this proceeding by sending a completed Opt Out Form to: CA2 Class Action Administration 9 Prince Arthur Ave., Toronto, ON, M5R 1B2, Attention: Canadian Actos® / Pioglitazone Settlement, no later than forty-five (45) days following the Approval Hearing Notice Date (the “Opt Out Deadline”). The form and content of the Opt Out Form, as set forth in Exhibit “E” to the Settlement Agreement and attached hereto as Schedule “D” is hereby approved.

**13. THE COURT ORDERS** that if any Ontario National Class Member opts out of this proceeding by the Opt Out Deadline, each and every Ontario National Family Class Member related to that Ontario National Class Member who has opted out is deemed to also have opted out of this class proceeding.

**14. THIS COURT ORDERS** that all Ontario National Class Members who do not validly opt out of this proceeding by the Opt Out Deadline (as well as their related Ontario National Family Class Members) shall be bound by the terms of the Settlement Agreement, if it is approved by this Court, and may not opt out of the Ontario Actions in the future.

**15. THIS COURT ORDERS** that any party affected by this Order may apply to the Court for further directions.

16. **THIS COURT ORDERS** that Ontario National Class Members who wish to file with the Court an objection or comment on the Settlement shall deliver a written statement to CA2 Class Action Administration at the address indicated in the Approval Hearing Notice, no later than **DATE**.

17. **THIS COURT ORDERS** that this Order is contingent upon a parallel order being made by the Québec Court and the terms of this Order shall not be effective unless and until such an order is made by the Québec Court.

18. **THIS COURT ORDERS** that if the Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, this Order, including consolidation and certification for settlement purposes and all opt-out forms delivered pursuant to this Order, shall be set aside and declared null and void and of no force or effect, without the need for any further order of this Court.

19. **THIS COURT ORDERS** that in the event of a conflict between this Order and the terms of the Settlement Agreement, this Order shall prevail.

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# EXHIBIT C

# NOTICE OF AUTHORIZATION/CERTIFICATION, SETTLEMENT APPROVAL HEARINGS AND RIGHT TO EXCLUDE YOURSELF FROM THE SETTLEMENT OF CANADIAN ACTOS® / PIOGLITAZONE LITIGATION

**PLEASE READ CAREFULLY. IGNORING THIS NOTICE WILL AFFECT YOUR LEGAL RIGHTS**

## NOTICE OF THE AUTHORIZATION/CERTIFICATION AND PROPOSED SETTLEMENT HEARING

A Canada-wide settlement has been reached in five proposed class actions relating to the prescription drugs ACTOS®, APO-Pioglitazone and SANDOZ-Pioglitazone (collectively referred to as "PIO"). These lawsuits sought damages on behalf of Canadians for harm allegedly related to the use of PIO, including bladder cancer. The defendants deny the allegations made in these lawsuits, make no admission as to the truth of these allegations and deny any wrongdoing.

This Notice advises you of the authorization/certification as class actions of the following lawsuits: *Whyte v. Takeda Pharmaceutical Company Limited et al.* No. 500-06-00618-120 (the "Québec Action") and *Casseres et al. v. Takeda Pharmaceutical Company Limited et al.* Court File No. CV-11-44258400CP and *Carrier et al. v. Apotex Inc. et al.* Court File No. CV-13-491534-00CP (the "Ontario Actions"). This Notice also advises you of the Canadian ACTOS® / Pioglitazone Settlement Agreement ("the Settlement") and of the hearings that will be held to decide whether the Settlement should be approved. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Settlement Agreement.

## WHO IS INCLUDED?

The Québec and Ontario Courts have authorized/certified the following classes for settlement purposes:

**Québec Class:** All persons resident in Québec who purchased and/or used ACTOS®, and their estates, administrators or other legal representatives, heirs or beneficiaries;

**Québec Family Class:** All family members and/or dependents of Québec Class Members who are entitled to assert a claim for compensation in the Québec Action;

**Ontario National Class:** All persons resident in Canada, excluding residents of Québec, who purchased and/or used ACTOS®, and all persons resident in Canada who purchased and/or used APO-Pioglitazone and/or SANDOZ-Pioglitazone and their estates, administrators or other legal representatives, heirs or beneficiaries; and

**Ontario National Family Class:** All persons who on account of a personal relationship to an Ontario National Class Member are entitled to assert a derivative claim for damages pursuant to the applicable provincial and/or territorial family law legislation.

If you fall within any of the above Class definitions, you will be bound by the terms of the Settlement if it is approved by the Courts and you will not be able to continue or commence an individual action relating to the use of PIO, unless you Opt Out in accordance with the procedure set out below.

CA2 Class Action Administration has been appointed by the Québec and Ontario Courts as the Claims Administrator for various pre-approval purposes and will be proposed as the Claims Administrator for the Settlement. You can review the certification/authorization Orders, as well as the Settlement Agreement and related documents at the settlement website: [www.piosettlement.ca](http://www.piosettlement.ca) or you can contact the Claims Administrator at the address listed later in this Notice.

## WHAT IS THE PROPOSED SETTLEMENT?

The proposed Settlement provides for the creation of a \$25 million (CDN) Settlement Fund which will be used to pay compensation for Approved Claims, the claims of the Public Health Insurers, the costs of notice and administration, and Class Counsel Legal Fees, disbursements and taxes. Payments will be made to Class Members who show that they suffered from bladder cancer, as described in greater detail in the Settlement Eligibility Criteria/Compensation Grid, which are all subject to various eligibility criteria and maximum payment values. Not all Class Members will be eligible for compensation. Compensation may also be paid to qualified Family Class Members. Any undistributed balance of the Settlement Fund will be allocated as between Class Members with Approved Claims and the Public Health Insurers based on the directions to be sought from the Courts. For more information on the eligibility criteria and maximum individual payment

values, you can review the Settlement Agreement and related documents which are posted at [www.piosettlement.ca](http://www.piosettlement.ca) or contact Class Counsel.

## OPTING OUT

If you are a member of the Québec Class or the Ontario National Class and you wish to be excluded from any future Orders made in these Actions and/or from the Settlement, should it be approved, you must take active steps by "Opting Out". To Opt Out, you must fully complete and submit an Opt Out Form and deliver it to the Claims Administrator by the Opt Out Deadline of DATE, 2020. Opt Out Forms are available at the settlement website or may be requested by mail or telephone. If you Opt Out, you will NOT be able to make a claim for compensation under the Settlement if it is approved by the Courts.

## THE PROPOSED SETTLEMENT REQUIRES COURT APPROVAL

In order for the Settlement to become effective, it must be approved by the Courts in Québec and Ontario. Each of the Courts must be satisfied that the Settlement is fair, reasonable and in the best interests of Class Members. The dates for the Settlement Approval Hearings in Ontario and Québec have been scheduled with the respective courts as follows:

In the Québec Action, on DATE, 2020 at TIME at the Superior Court of Québec, 1 Notre-Dame East, Montreal, Québec.

In the Ontario Actions, on DATE, 2020 at TIME at the Ontario Superior Court of Justice, LOCATION University Avenue, Toronto, Ontario.

## OBJECTING TO THE PROPOSED SETTLEMENT AND OPPORTUNITY TO APPEAR

If you wish to object to the proposed Settlement, you must submit a written objection to the Claims Administrator by no later than DATE, 2020 at the address listed in this Notice. The Claims Administrator will file copies of all objections with the Courts. Do NOT send an objection directly to the Courts. You may also attend the hearings on the dates noted above, and if you have submitted a written objection to the Claims Administrator, you may make oral submissions to the Court(s).

## PARTICIPATING IN THE SETTLEMENT - SUBMITTING CLAIMS

If the proposed Settlement is approved by the Québec and Ontario Courts, Claimants will have a limited amount of time within which to submit a claim for compensation. A downloadable version of the Claim Package will be made available online at [www.piosettlement.ca](http://www.piosettlement.ca) if the proposed Settlement is approved or, alternatively, a Claim Package can be requested from the Claims Administrator via e-mail at: XXXX by telephone XXXXX or by regular mail XXXX. If you intend to submit a claim under the proposed Settlement, you must do so on or before the expiry of the Claim Period, which will be posted on the Claims Administrator's website.

## WHO REPRESENTS ME? CLASS COUNSEL ARE:

<b>Rochon Genova LLP</b> Barristers • Avocats 900-121 Richmond St. W. Toronto, ON M5H 2K1 Joel P. Rochon Tel: (416) 363-1867 Fax: (416) 363-0263 <a href="mailto:jrochon@rochongenova.com">jrochon@rochongenova.com</a>	<b>Kim Spencer McPhee</b> Barristers P.C. 1200 Bay St., Suite 1203 Toronto, ON M5R 2A5 Megan B. McPhee Tel: (416) 596-1414 Fax: (416) 598-0601 <a href="mailto:mbm@complexlaw.ca">mbm@complexlaw.ca</a>	<b>Merchant Law Group LLP</b> 100-2401 Saskatchewan Dr. Regina, SK S4P 4H8 E.F. Anthony Merchant Q.C. Tel: (306) 359-7777 Fax: (306) 522-3229 <a href="mailto:emerchant@merchantlaw.com">emerchant@merchantlaw.com</a>
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## LEGAL FEES

At or following the Settlement Approval Hearings, Class Counsel will request approval for payment of their fees, disbursements and applicable taxes. Class Counsel has pursued this lawsuit on a contingency basis and will seek approval from the courts for such payment in accordance with the terms of their retainer agreements.

## FOR MORE INFORMATION:

If you have questions about the Settlement and/or would like to obtain more information and/or copies of the Settlement Agreement and related

documents, please visit the settlement website or contact the Claims Administrator at:

**CA2 Class Action Administration**  
**9 Prince Arthur Ave., Toronto, ON, M5R 1B2**  
**[info@classaction2.com](mailto:info@classaction2.com), 1-800-538-0009**

*This Notice has been approved by the Superior Court of Québec and the Ontario Superior Court of Justice*



# EXHIBIT D

## **CANADIAN ACTOS® / PIOGLITAZONE CLASS ACTION CERTIFICATION AND SETTLEMENT NOTICE PLAN**

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### **OBJECTIVE:**

To effect fair, reasonable and adequate notice to Class Members of the certification/authorization of the Canadian ACTOS® / Pioglitazone class action Proceedings and of the Settlement Approval Hearings that will seek the Courts' approval of a proposed settlement and to advise of the Settlement's approval, if granted by the Courts.

Unless otherwise indicated herein, capitalized terms have the meanings set out in the Settlement Agreement.

Reasonable notification entails:

- Achieving broad reach of the target group
- In all regions of the country
- In English and French

All communications will comply with the provisions of the Class Proceedings legislation in both provinces involved in the Proceedings as follows:

- *Class Proceedings Act, 1992*, SO 1992, c 6 (Ontario);
- *An Act Representing the Class Action*, RSQ, c R-2.1 (Quebec)\*  
\*certain issues regarding class actions are dealt with through the Code of Civil Procedure: *Code of Civil Procedure*, RSQ c C-25 (Quebec).

### **COMMUNICATIONS OBJECTIVES:**

The objectives of this notice program are:

- To advise Class Members of the certification/authorization and proposed settlement of the Proceedings and to inform them of their right to **opt-out** of the Proceedings;
- To advise Class Members of the approval hearing relating to the Settlement Agreement between the parties and of their right to object to the approval of the Settlement Agreement;

- To advise Class Members of the benefits available under the proposed settlement and the actions they must take either to opt out or submit a claim; and
- To advise Class Members of the ultimate approval of the Settlement Agreement by the Ontario and Québec Courts and the actions they must take to submit a claim.

### **COMMUNICATIONS STRATEGY:**

A combination of direct mail, indirect notification (via website), and paid advertising in print and digital media together with neutrally worded press releases in the forms attached as Schedules “B” and “C” to this Notice Plan will be used in an effort to reach as large a percentage of Class Members as feasible.

Planned communications include:

- Direct mailing by the Claims Administrator to all Class Members on Class Counsel’s distribution list enclosing a copy of the Approval Hearing Notice, Opt Out Form and Claim Package to be delivered by e-mail where such addresses are known and by regular mail otherwise, with follow-up (best efforts) for any undeliverable e-mails and/or returned mail;
- The Approval Hearing Notice will be published in national and regional newspapers in English and French, in accordance with Schedule “A” to this Notice Plan;
- The Approval Hearing Notice will also be posted in both English and French by Class Counsel on Class Counsel’s respective websites and on the website to be created by the Claims Administrator for the purpose of the Settlement Agreement, which dedicated website will provide further information about the Settlement Agreement, including the settlement documents and downloadable forms and will facilitate communication with the Claims Administrator;
- A press release, to be issued in English and French via Canada News Wire, in the form attached as Schedule “B” to this Notice Plan;
- Following approval of the Settlement Agreement by the Ontario and Québec Courts, a further streamlined communications strategy will be deployed to provide notice of the approval through direct mail, website communication and a neutrally worded press release, in the form attached as Schedule “C” to this Notice Plan.

### **TARGET AUDIENCE:**

For the purposes of paid media selection, the target audience is defined as:

- Adults 18 years of age or older
- Split evenly between males and females

- In all geographic regions of Canada in English and French

#### **SETTLEMENT WEBSITE:**

All communications (whether via direct or indirect notice) will direct Class Members to the Canadian ACTOS® / Pioglitazone Class Action Settlement website (<http://www.piosettlement.ca>) as a source of comprehensive information and updates on the Proceedings.

The Settlement website will contain:

- Detailed information about and updates on the status of the Proceedings;
- Description of the proposed settlement;
- Frequently Asked Questions;
- Important dates;
- Case documents;
- Instructions and forms for opting out of the settlement;
- Instructions and forms for submitting a claim;
- Contact information for Class Counsel.

#### **FORM OF PROPOSED NOTICES**

Unless the Courts order otherwise, the Approval Hearing Notice to be delivered to known Class Members and which will be posted on Class Counsel's websites will be in the form set out in Exhibit "C" to the Settlement Agreement.

Unless the Courts order otherwise, the Approval Notice to be delivered to known Class Members and which will be posted on Class Counsel's websites will be in the form set out in Exhibit "H" to the Settlement Agreement.

With respect to the Notices to be published in print media, it may be necessary to make slight typesetting revisions in order to accommodate the different sizes of each publication; however, the wording will not change and the overall page layout will remain as consistent as possible in each.

## **DIRECT NOTICE - MAILING TO CLASS MEMBERS**

The Claims Administrator will deliver letters (which will contain an abbreviated description of the Proceedings, the proposed Settlement Agreement, and instructions for making an objection, opting-out or filing a claim and will enclose the Approval Hearing Notice, Opt Out Form and Claim Package) to all Class Members for whom they have an address. Further, the Claims Administrator, with the assistance of Class Counsel will coordinate with the Régie de l'assurance maladie du Québec (RAMQ) to prepare and send notice letters (with enclosures) to the RAMQ to be delivered to the listing of Class Members known to/identified by the RAMQ. To the extent orders from the Québec Superior Court are required to facilitate notice to class members in Québec, all Parties will cooperate in obtaining such orders.

Estimated cost (exclusive of tax):	
Mailout writing, printing, handling and mailing (including postage)	\$12,500

## **INDIRECT NOTICE - NEWSPAPER NOTICES**

To broaden the program's reach and provide unknown Class Members with an opportunity to learn about and participate in the Canadian ACTOS® / Pioglitazone Class Action Settlement, the Approval Hearing Notice will be published as set out in Schedule "A".

These newspapers have been selected based on the broad coverage, economical reach, and flexibility of timing they provide. (It is estimated that approximately 70% of Canadians read a newspaper on a regular basis. Vividata, 2017).

The 1/2-page or 1/3-page notices, containing a detailed description of the Settlement Agreement, and the procedures and dates for opting-out, objecting and submitting a claim, will run one time in each newspaper.

Estimated cost (exclusive of tax):	
	\$124,795.71

## **INDIRECT NOTICE – PRESS RELEASES**

Press releases will be issued in English and French via Canada News Wire.

Unless the Courts order otherwise, the content of the press release to be issued prior to the

Approval Hearing will be in the form attached as Schedule “B” to this Notice Plan.

Unless the Courts order otherwise, the content of the press release to be issued if the Settlement is approved will be in the form attached as Schedule “C” to this Notice Plan.

Estimated cost (exclusive of tax): \$2,400

**ESTIMATED REACH:**

While it is not possible to provide an accurate reach number for this notice program, the anticipated reach of this notice plan is enhanced given that certain direct mailing contact information is available through the RAMQ to ensure that the highest number of potential class members is reached. Further, the selection of a range of mass market media, in print and digital formats provides Class Members with multiple opportunities for obtaining information about the Proceedings and the proposed settlement. This increases their chances of seeing a notice and maximizes the effectiveness of the funds allocated to the notification program.



**SCHEDULE "A"**  
**CANADIAN ACTOS®/PIOGLITAZONE SETTLEMENT**  
**Notice of Certification and**  
**Settlement Approval Hearing Overview**

Date issued: March 10, 2020

1/2-page notices in Globe & Mail, Journal de Montreal, and Toronto Sun

1/3-page notices in all other newspapers included in the program

Notices to be placed in the Globe & Mail (national edition) and highest circulation newspaper in each province/territory

French language notice in Journal de Montreal; English language notices in all other newspapers

Media Notice	Unit/ Description	# of Units	Total Cost	Notes
<b>Newspapers</b>				
Globe and Mail	1/2 page advertisement/News	1	\$42,721.40	National edition, Saturday placement.
Journal de Montreal	1/2 page advertisement/News	1	\$8,832.00	Quebec. Weekend placement.
Hamilton Spectator	1/3 page advertisement/News	1	\$3,420.00	Ontario. Weekend placement
Chronicle Herald	1/3 page advertisement/News	1	\$1,925.00	Nova Scotia. Weekend placement.
News Yukon	1/3 page advertisement/News	1	\$548.99	Yukon. Weekend placement
NWT	1/3 page advertisement/News	1	\$894.47	NWT. Weekend placement
Nunavut News North	1/3 page advertisement/News	1	\$909.05	Nunavut. Weekend placement
Regina Leader Post (Post Media)	1/3 page advertisement/News	1	\$1,691.00	Saskatchewan. Weekend placement.
Montreal Gazette (Post Media)	1/3 page advertisement/News	1	\$4,769.00	Quebec. Weekend placement
Vancouver Sun (Post Media)	1/3 page advertisement/News	1	\$5,652.00	British Columbia. Weekend placement
Victoria Times Colonist (Post Media)	1/3 page advertisement/News	1	\$2,231.00	British Columbia. Weekend placement
Edmonton Journal (Post Media)	1/3 page advertisement/News	1	\$3,692.00	Alberta. Weekend placement
Calgary Herald (Post Media)	1/3 page advertisement/News	1	\$4,056.00	Alberta. Weekend placement
Saskatoon Star Phoenix (Post Media)	1/3 page advertisement/News	1	\$1,691.00	Saskatchewan. Weekend placement
Ottawa Citizen (Post Media)	1/3 page advertisement/News	1	\$5,092.00	Ontario. Weekend placement
Winnipeg FP	1/3 page advertisement/News	1	\$3,692.00	Manitoba. Weekend placement
Toronto Sun	1/2 page advertisement/News	1	\$4,864.00	Ontario. Weekend placement
London FP	1/3 page advertisement/News	1	\$3,534.00	Ontario. Weekend placement
Sudbury Star	1/3 page advertisement/News	1	\$1,159.00	Ontario. Weekend placement
Windsor Star	1/3 page advertisement/News	1	\$3,344.00	Ontario. Weekend placement
St. John's Telegram	1/3 page advertisement/News	1	\$782.00	Newfoundland. Weekend placement
Charlottetown Guardian	1/3 page advertisement/News	1	\$782.00	P.E.I. Weekend placement

Moncton Times and Transcript	1/3 page advertisement/News	1	\$2,998.80	New Brunswick. Weekend placement
Toronto Star	1/3 page advertisement/News	1	\$8,965.00	Ontario. Weekend placement
Professional services; newspaper 1. Obtain price for all outlets 2. Optimize notice for readability and size 3. Sign off from counsel on the notice proofs 4. Set notice to the dimensions of each outlet 5. Book space and confirm pricing 6. Draft insertion order confirming publication date, section 7. Confirm notice publication, collect tear sheets and final 8. Draft and circulate notice report 9. Process payments			\$6,550	
Subtotal - newspaper plan (ex. HST)			\$124,795.71	

Totals			
Total newspaper plan before tax:			\$124,795.71
Tax:			\$16,223.44
Total newspaper plan, including tax:			\$141,019.15

Prices are valid for 30 days. Media costs to be confirmed at time of booking and may vary from plan.



## SCHEDULE "B"

### NEWS FOR IMMEDIATE RELEASE

#### Proposed Settlement of Canadian ACTOS® / Pioglitazone Litigation

**TORONTO, DATE, 2020** – A notification program began on DATE/today, as ordered by the Ontario Superior Court of Justice and the Superior Court of Québec, to advise Canadian residents about a proposed settlement of litigation related to the prescription medications ACTOS®, APO-Pioglitazone and Sandoz-Pioglitazone.

The proposed settlement, which requires approval of the Ontario and Quebec Courts, provides for the creation of a \$25 million CDN settlement fund from which eligible Class Members will receive compensation and from which administration costs and legal fees will be paid.

The proposed settlement is not an admission of liability on the part of any of the defendants, nor has there been any finding of liability by the Courts against any of them. The defendants deny the allegations made in the lawsuits. As a term of the proposed settlement, the parties agreed to seek certification and authorization of the actions as class proceedings on consent, solely for the purposes of settlement. The notification program will advise affected Canadians of the certification/authorization of three lawsuits as class actions and of Class Members' rights related to that certification/authorization, including the right to opt out of the proceedings and the right to object to the proposed settlement.

Notices informing people about their legal rights and the details of the settlement will be mailed to known Class Members and will be published in various newspapers across Canada, leading up to two hearings – one in Toronto and one in Montreal – at which time the Courts will consider whether or not to approve the proposed settlement. The Settlement Approval Hearings are scheduled to proceed on DATE, 2020 at 10:00 a.m. at the Ontario Superior Court of Justice, 361 University Avenue, Toronto, and on DATE, 2020 at 9:30 a.m., at the Superior Court of Québec, 1 Notre-Dame East, Montréal.

Class Members who wish to exclude themselves from the proceedings and/or file a written objection to the proposed settlement must do so by DATE, 2020 by sending an Opt Out Form and/or a written objection to the Claims Administrator, CA2 Class Action Administration.

Unless otherwise indicated herein, capitalized terms have the meanings set out in the Settlement Agreement. Further information relating to the proposed settlement, including the Notice, the settlement documents and Opt Out Forms, is available at: [www.piosettlement.ca](http://www.piosettlement.ca), from the Claims Administrator by phone at 1-800-xxx-xxxx or by writing to the following address:

CA2 Class Action Administration  
Address  
Attention: Canadian ACTOS® / Pioglitazone Settlement

The law firms of Rochon Genova LLP, Kim Spencer McPhee Barristers PC and Merchant Law Group represent the Class Members. For further information please contact any of the following:

Rochon Genova LLP  
Barristers • Avocats  
900-121 Richmond St. W.  
Toronto, ON M5H 2K1  
Joel P. Rochon  
Tel: (416) 363-1867  
Fax: (416) 363-0263  
[jrochon@rochongenova.com](mailto:jrochon@rochongenova.com)

Kim Spencer McPhee  
Barristers PC.  
1200 Bay St., Suite 1203  
Toronto, ON., M5R 2A5  
Megan B. McPhee  
Tel: (416) 596-1414  
Fax: (416) 598-0601  
[mbm@complexlaw.ca](mailto:mbm@complexlaw.ca)

Merchant Law Group LLP  
100-2401 Saskatchewan Dr.  
Regina, SK S4P 4H8  
E.F. Antony Merchant Q.C.  
Tel: (306) 359-7777  
Fax: (306) 522-3299  
[emerchant@merchantlaw.com](mailto:emerchant@merchantlaw.com)

## SCHEDULE "C"

### NEWS FOR IMMEDIATE RELEASE

#### Courts Approve Settlement of Canadian ACTOS® / Pioglitazone Litigation

**TORONTO, DATE, 2020** -- The Ontario Superior Court of Justice and the Superior Court of Québec have approved a settlement of five Canadian class action lawsuits related to the prescription medications ACTOS®, APO-Pioglitazone and Sandoz-Pioglitazone.

The Settlement provides for the creation of a \$25 million CDN settlement fund from which eligible Class Members will receive compensation and from which administration costs and legal fees will be paid.

The Settlement is not an admission of liability on the part of any of the defendants, nor has there been any finding of liability by the Courts against any of them. The defendants deny the allegations made in the lawsuits.

Unless otherwise indicated herein, capitalized terms have the meanings set out in the Settlement Agreement. Notices informing people about their legal rights and the details of the Settlement will be mailed to known Class Members and further information about the Settlement is available at: [www.piosettlement.ca](http://www.piosettlement.ca), from the Claims Administrator by phone at 1-800-xxx-xxxx or by writing to the following address:

CA2 Class Action Administration  
Address  
Attention: Canadian ACTOS® / Pioglitazone Settlement

The law firms of Rochon Genova LLP, Kim Spencer McPhee Barristers PC and Merchant Law Group LLP represent the Class Members. For further information please contact any of the following:

Rochon Genova LLP  
Barristers • Avocats  
900-121 Richmond St. W.  
Toronto, ON M5H 2K1  
Joel P. Rochon  
Tel: (416) 363-1867  
Fax: (416) 363-0263  
[jrochon@rochongenova.com](mailto:jrochon@rochongenova.com)

Kim Spencer McPhee  
Barristers PC.  
1200 Bay St., Suite 1203  
Toronto, ON., M5R 2A5  
Megan B. McPhee  
Tel: (416) 596-1414  
Fax: (416) 598-0601  
[mbm@complexlaw.ca](mailto:mbm@complexlaw.ca)

Merchant Law Group LLP  
100-2401 Saskatchewan Dr.  
Regina, SK S4P 4H8  
E.F. Anthony Merchant Q.C.  
Tel: (306) 359-7777  
Fax: (306) 522-3299  
[emerchant@merchantlaw.ca](mailto:emerchant@merchantlaw.ca)

# EXHIBIT E

**EXHIBIT "E"**

**CANADIAN ACTOS® / PIOGLITAZONE SETTLEMENT  
OPT-OUT FORM**

**This is NOT a Claim Form. This Form EXCLUDES you and members of your family from the Canadian ACTOS® / Pioglitazone Class Actions ("the Proceedings"). DO NOT use this Form if you wish to seek compensation under the Canadian ACTOS® / Pioglitazone Settlement.**

**Unless otherwise indicated herein, capitalized terms have the meanings set out in the Settlement Agreement.**

**To be effective as an election to opt-out of the Proceedings, this Opt-Out Form must be completed, signed and received by the Claims Administrator no later than:**

**DATE** \_\_\_\_\_

**PRIVACY STATEMENT**

Personal Information provided on this form by Class Members who wish to Opt Out of the Proceedings is collected, used, and retained by the Claims Administrator pursuant to the Personal Information Protection and Electronics Documents Act, S.C. 2000, c.5 (PIPEDA):

- To identify and maintain a record of those Class Members who elect to Opt Out of the Proceedings in accordance with the terms of the Orders of the Courts.

Information collected on this form will be maintained on a private and confidential basis by the Parties and/or their counsel and the Claims Administrator and will not be disclosed without express written consent except as provided for herein or as may be required by the terms of the Settlement Agreement or an Order of the Courts.

**Please read the entire form and follow the instructions carefully.**

**I. Personal Information:** Please provide the following information about yourself, or, if you are filing this Opt-Out Form as the legal representative of a Class Member, please provide the following information about the Class Member.

First Name	Middle Initial	Last Name	
Street Address			Apt. No.
City	Province/Territory		Postal Code

Daytime Phone Number (     )     -	Evening Phone Number (     )     -	Gender (circle one) M     F
Date of Birth Day     / Month     / Year	Date of Death (if applicable) Day     / Month     / Year	
Drug(s) Used (check all that apply): <input type="checkbox"/> ACTOS® <input type="checkbox"/> APO-Pioglitazone <input type="checkbox"/> SANDOZ-Pioglitazone  Date(s) of usage:		

**II. Legal Representative Information (if applicable):** If you are filing this Opt-Out Form as the legal representative of a Class Member or a Class Member's estate, please provide the following information about *yourself* and attach a copy of your court approval or other authorization to represent the Class Member identified in I. above.

First Name	Middle Initial	Last Name	
Street Address			Apt. No.
City	Province/Territory	Postal Code	
Daytime Phone Number (     )     -	Evening Phone Number (     )     -	Relationship to Class Member	

Please attach a copy of a court order or other official document(s) demonstrating that you are the duly authorized legal representative of the Class Member and check the box below describing the Class Member's status:

- \_\_\_\_\_ minor (court order appointing guardian or property or custody order, if any, or sworn affidavit of the person with custody of the minor);
- \_\_\_\_\_ a mentally incapable person (copy of a continuing power of attorney for property, or a Certificate of statutory guardianship);
- \_\_\_\_\_ the estate of a deceased person (Letters Probate, Letters of Administration or Certificate of Appointment as Estate Trustee).

**III. Lawyer Information (if applicable):** If you, or the Class Member, has hired a lawyer in connection with a claim arising from the Class Member's use of ACTOS®, APO-Pioglitazone and/or SANDOZ-Pioglitazone, please provide the following information about the lawyer:

Law Firm Name	
Lawyer's First Name	Lawyer's Last Name
Lawyer's Phone Number	

**IV. Why do you (or the Class Member, if you are the Class Member's legal representative) wish to Opt Out?**

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**V. Acceptance and Acknowledgement**

**I have read the foregoing and understand that by opting out, I will never be eligible to receive any compensation pursuant to the Canadian ACTOS® / Pioglitazone Settlement. I further understand that by opting out, all personal representatives, all family members who might otherwise make a claim for compensation are deemed to have opted out as well.**

\_\_\_\_\_  
Date signed

\_\_\_\_\_  
Signature  
(Class Member or Executor, Administrator, or Personal Representative)

To be effective as an election to Opt Out of the Proceedings, this Form must be completed, signed, sent to the Claims Administrator at the address listed below, by regular mail, courier or fax **and must be received** by the Claims Administrator **no later than: DATE**

If you have questions about using or completing this Opt Out Form, please contact your lawyer or call the Claims Administrator's Information Line at 1-800-538-0009. All Opt Out Forms must be submitted to the Claims Administrator, whose information is as follows:

**CA2 Class Action Administration  
9 Prince Arthur Ave., Toronto, ON, M5R 1B2**

**Attention: Canadian ACTOS® / Pioglitazone Settlement**

**THE INFORMATION CONTAINED IN THIS FORM WILL REMAIN CONFIDENTIAL**



# EXHIBIT F

**SUPERIOR COURT**

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTREAL

No: 500-06-000618-120

DATE: **DATE**, 2020

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**IN THE PRESENCE OF: THE HONOURABLE GARY D.D. MORRISON, J.S.C.**

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**JIMMY WHYTE**  
Petitioner

v,

**TAKEDA PHARMACEUTICAL COMPANY LIMITED**  
and  
**TAKEDA PHARMACEUTICALS NORTH AMERICA, INC.**  
and  
**TAKEDA PHARMACEUTICALS INTERNATIONAL, INC.**  
and  
**TAKEDA GLOBAL RESEARCH & DEVELOPMENT CENTER, INC.**  
and  
**TAKEDA SAN DIEGO, INC.**  
anda  
**ELI LILLY CANADA INC.**  
and  
**TAKEDA CANADA, INC.**  
Respondents

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**JUDGMENT**

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- [1] CONSIDERING the motion for presentation of a settlement;  
[2] CONSIDERING the Settlement Agreement reached between the parties on **DATE**, 2020;  
[3] CONSIDERING article 1025 C.C.P.;

[4] CONSIDERING the interest of the Québec Class Members and the Québec Family Class Members;

[5] CONSIDERING the submissions of counsel for the petitioner and counsel for the respondents;

[6] CONSIDERING that the respondents consent to this judgment;

[7] CONSIDERING that this Court is of the opinion that the Settlement Agreement, reached between the parties on **DATE**, 2020, is fair, reasonable and in the best interest of the Québec Class Members and the Québec Family Class Members;

**FOR THESE REASONS, THE COURT:**

[8] **GRANTS** the motion for presentation of a settlement;

[9] **DECLARES** that, except to the extent they are modified by this judgment, the definitions set out in the Settlement Agreement apply to and are incorporated into this judgment;

[10] **DECLARES** that the Settlement Agreement is fair, reasonable and in the best interest of the Québec Class Members and Québec Family Class Members;

[11] **APPROVES** the Settlement Agreement reached between the parties in settlement of the present action;

[12] **DECLARES** that the Settlement Agreement constitutes a transaction in conformity with section 2631 of the *Civil Code of Québec*, which is binding upon all Parties, the Public Health Insurers and all Québec Class Members who have not validly opted out in accordance with the terms of the Settlement Agreement and their associated Québec Family Class Members;

[13] **ORDERS** that Class Counsel fees, disbursements and applicable taxes in the total amount of \$XX are hereby approved;

[14] **APPOINTS** CA2 Class Action Administration (“CA2”) as the Claims Administrator for the Settlement;

[15] **APPOINTS** Mr. Vance Cooper to review and decide all Challenges;

[16] **ORDERS** that the Approval Notice, substantially in the form attached to the Settlement Agreement as Exhibit H is hereby approved and that the Approval Notice shall be disseminated and published in accordance with the Notice Plan (Exhibit D to the Settlement Agreement);

[17] **ORDERS** that the Claims Administration Procedures in the form attached as Exhibit “K” to the Settlement Agreement are hereby approved;

[18] **ORDERS** that the respondents shall, within thirty (30) days of the Effective Date, pay to CA2 the Settlement Fund (less the amounts previously paid by the respondents for the Approval Hearing Notice and translation costs), in accordance with the terms of the Settlement Agreement, which shall fully satisfy their obligations under the Settlement Agreement;

;

[19] **ORDERS** that CA2 shall, upon receipt of the funds set out in paragraph 18 above, pay:

- a) \$5,000 to each of the Representative Plaintiffs and the Petitioner;
- b) \$2.375 million to Class Counsel, in trust, for the benefit of and to be distributed (less fees, disbursements and taxes), among the Public Health Insurers in accordance with their directions for so doing;
- c) \$XX to Class Counsel to reimburse amounts previously paid for their contribution towards the costs to implement the Notice Plan for both Notices and any translation costs; and
- d) \$XX to Class Counsel for Class Counsel Fees, disbursements and applicable taxes.

[20] **ORDERS** that, after making the payments set out in paragraph 19 above, CA2 shall deposit the remaining balance of the Settlement Fund into a single interest-bearing account with a Canadian Charter Bank, from which all Compensatory Payments, the costs of administering the Settlement and the costs of all Challenges shall be paid, in accordance with Section 11.3 of the Settlement Agreement and in accordance with the Claims Administration Procedures (Exhibit K to the Settlement Agreement);

[21] **ORDERS** that any Québec Class Member who validly opted out by the Opt Out Deadline in accordance with the terms of the Settlement Agreement and the judgment of this Court dated ■, and each and every related Québec Family Class Member, is not bound by the Settlement Agreement and shall no longer participate or have the opportunity in the future to participate in this action or the settlement thereof;

[22] **ORDERS** that any Québec Class Member who has not validly opted-out by the Opt Out Deadline in accordance with the terms of the Settlement Agreement and the judgment of this Court dated ■, and each and every related Québec Family Class Member, is bound by the terms of the Settlement Agreement and may not opt out of this action in the future;

[23] **ORDERS** that each Québec Class Member who has not validly opted-out by the Opt Out Deadline in accordance with the terms of the Settlement Agreement and the judgment of this Court dated ■, and each and every related Québec Family Class Member, shall consent and shall be deemed to have consented to the dismissal of any and all Released Claims as against Released Parties, including in respect of any other actions he, she or it has commenced, without costs and with prejudice;

[24] **ORDERS** that upon the Effective Date, the Québec Class Members and Québec Family Class Members shall release and forever discharge the Released Parties from all Released Claims and undertake not to make any claim or take or continue any action, investigation, or other proceeding in any forum against any person, partnership, corporation, or other entity, including without limitation, any health care professionals, hospitals or other health care facilities, who might claim contribution and indemnity or any other relief of a monetary, declaratory, or injunctive nature from the Released Parties in connection with the Released Claims in accordance with the terms of the Settlement Agreement;

[25] **ORDERS** that the payments to be made to the Public Health Insurers shall be in full and final satisfaction of all obligations, payments or costs potentially payable to the Public Health Insurers in relation to the costs of insured health care services provided to Québec Class Members or Québec Family Class Members and incurred by the Public Health Insurers and that the Public

Health Insurers shall fully and finally release the Released Parties from all Released Claims and undertake not to make any claim or take or continue any action, investigation or other proceeding in any forum against any person, partnership, corporation, or other entity, including without limitation, any health care professionals, hospitals or other health care facilities, who might claim contribution or indemnity or any other relief of a monetary, declaratory, or injunctive nature from the Released Parties in connection with the Released Claims in accordance with the terms of the Settlement Agreement;

[26] **ORDERS** that this Court will retain an ongoing supervisory role for the purpose of implementing, administering and enforcing the Settlement Agreement as it pertains to Québec Class Members and Québec Family Class Members, subject to the terms and conditions set out in the Settlement Agreement;

[27] **ORDERS** that any Party may bring a motion to the case management judge appointed to supervise this action at any time for directions with respect to the implementation or interpretation of the Settlement Agreement, such motion to be on notice to all other Parties;

[28] **ORDERS** that this judgment is contingent upon a parallel judgment being made by the Ontario Court, and the terms of this judgment shall not be effective unless and until such judgment is made by the Ontario Court;

[29] **ORDERS** that in the event that the Settlement Agreement is terminated in accordance with its terms, this judgment shall be null and void and of no force or effect;

[30] **ORDERS** that this action is hereby dismissed against the respondents with prejudice and without costs as of the Effective Date, and that such dismissal shall be a full defence to any subsequent action in respect of the subject matter hereof;

[31] **THE WHOLE** without costs.

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**GARY D.D. MORRISON, J.S.C.**

Mtre. NAME  
Woods s.e.n.c.r.l.  
Attorneys for Petitioner

Mtre. Sylvie Rodrigue  
Société d'Avocats Torys s.e.n.c.r.l.  
Attorneys for Respondents

Hearing date: **DATE, 2020**

# EXHIBIT G

**EXHIBIT "G"**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE  
MR. JUSTICE BELOBABA

)  
)  
)

THE DAY OF  
, 2020

Court File. No.: CV-11-442584-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

GERALDINE CASSERES, Deceased, by her Estate Representative  
JOANN CASSERES, JOANN CASSERES, and RUSSEL CHAUVIN

Plaintiffs

- and -

TAKEDA PHARMACEUTICAL COMPANY LIMITED, TAKEDA PHARMACEUTICALS  
NORTH AMERICA, INC., TAKEDA PHARMACEUTICALS INTERNATIONAL, INC.,  
TAKEDA GLOBAL RESEARCH & DEVELOPMENT CENTER, INC., TAKEDA SAN  
DIEGO, INC., ELI LILLY CANADA INC. and TAKEDA CANADA, INC.

Defendants

*Proceeding under the Class Proceedings Act, 1992*

**-and-**

Court File No.: CV-13-491534-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

RANDOLPH CARRIER,  
PETER NELSON and SHARON NELSON

Plaintiffs

-and-

APOTEX INC. and  
SANDOZ CANADA INCORPORATED

Defendants

*Proceeding under the Class Proceedings Act, 1992*

## ORDER

**THIS MOTION** made by the Plaintiffs in Court File No.: CV-11-442584-00CP and Court File No.: CV-13-491534-00CP (“the Ontario Actions”), on consent of the Defendants, for an Order approving a settlement entered into between the Plaintiffs and the Defendants was heard on **DATE, 2020**, at the Court House, **361 University Avenue/Osgoode Hall, 130 Queen St. W.**, Toronto, Ontario.

**ON READING** the material filed, including the Settlement Agreement entered into between the Parties hereto and the Public Health Insurers and dated **DATE, 2020**, a copy of which is attached to this Order as Schedule “A” (the “Settlement Agreement”), on hearing submissions of counsel for the Plaintiffs and counsel for the Defendants and any objector who has submitted a written objection to the Claims Administrator pursuant to the terms of the Settlement Agreement, and on being advised that the Plaintiffs and the Defendants consent to this Order:

1. **THIS COURT ORDERS AND DECLARES** that, except to the extent they are modified by this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. **THIS COURT DECLARES** that the Settlement Agreement is fair, reasonable and in the best interests of the Ontario National Class Members and Ontario National Family Class Members.
3. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.



4. **THIS COURT ORDERS** that the Settlement Agreement, attached as Schedule "A", is hereby approved pursuant to s.29(2) of the *Class Proceedings Act, 1992* and shall be implemented in accordance with its terms.
5. **THIS COURT ORDERS** that Class Counsel fees, disbursements and applicable taxes in the total amount of \$XX are hereby approved.
6. **THIS COURT ORDERS** that CA2 Class Action Administration ("CA2") is hereby appointed as the Claims Administrator for the Settlement.
7. **THIS COURT ORDERS** that Mr. Vance Cooper is hereby appointed to review and decide all Challenges.
8. **THIS COURT ORDERS** that the Approval Notice, substantially in the form attached to the Settlement Agreement as Exhibit "H" and attached hereto as Schedule B, is hereby approved and that the Approval Notice shall be disseminated and published in accordance with the Notice Plan (Exhibit "D" to the Settlement Agreement, attached hereto as Schedule C).
9. **THIS COURT ORDERS** that the Claims Administration Procedures in the form attached as Exhibit "K" to the Settlement Agreement are hereby approved.
10. **THIS COURT ORDERS** that the Defendants shall, within thirty (30) days of the Effective Date, pay to CA2 the Settlement Fund (less any amounts previously paid by the Lilly Defendants and Takeda Defendants in respect of the Approval Hearing Notice and translation costs), in accordance with the Settlement Agreement, which shall fully satisfy their obligations under the Settlement Agreement.

11. **THIS COURT ORDERS** that, upon receipt of the funds set out in paragraph 10 above, CA2 shall pay:

- a) \$5,000 to each of the Representative Plaintiffs and the Petitioner;
- b) \$2.375 million to Class Counsel, in trust, for the benefit of and to be distributed (less fees, disbursements and taxes), among the Public Health Insurers in accordance with their directions for so doing;
- c) \$XX to Class Counsel to reimburse amounts previously paid for their contribution towards the costs to implement the Notice Plan for both Notices and any translation costs; and
- d) \$XX to Class Counsel for Class Counsel Fees, disbursements and applicable taxes.

12. **THIS COURT ORDERS** that CA2 shall, after making the payments set out in paragraph 11 above, deposit the remaining balance of the Settlement Fund into a single interest-bearing account with a Canadian Charter Bank, from which all Compensatory Payments, the costs of administering the Settlement and the costs of all Challenges shall be paid, in accordance with Section 11.3 of the Settlement Agreement and in accordance with the Claims Administration Procedures as set out in Exhibit "K" to the Settlement Agreement.

13. **THIS COURT ORDERS** that the Settlement Agreement (including all preambles, recitals and Exhibits) is incorporated by reference into and forms part of this Order and is binding upon the Parties, the Public Health Insurers and all Class Members who have not validly opted out in accordance with the terms of the Settlement Agreement and their associated Family Class Members.

14. **THIS COURT ORDERS** that any Ontario National Class Member who has validly opted out by the Opt Out Deadline in accordance with the terms of the Settlement Agreement and the Order of this Court dated ■, and each and every related Ontario National Family Class Member, is not bound by the Settlement Agreement and shall no longer participate or have the opportunity in the future to participate in the Ontario Actions or the settlement thereof.

15. **THIS COURT ORDERS** that any Ontario National Class Member who has not validly opted out by the Opt Out Deadline in accordance with the terms of the Settlement Agreement and the Order of this Court dated ■, and each and every related Ontario National Family Class Member, is bound by the terms of the Settlement Agreement and may not opt out of the Ontario Actions in the future.

16. **THIS COURT ORDERS** that each Ontario National Class Member who has not validly opted-out by the Opt Out Deadline in accordance with the terms of the Settlement Agreement and the Order of this Court dated ■, and each and every related Ontario National Family Class Member, shall consent and shall be deemed to have consented to the dismissal of any and all Released Claims as against the Released Parties, including in respect of any other actions he, she or it has commenced, without costs and with prejudice.

17. **THIS COURT ORDERS** that upon the Effective Date, the Ontario National Class Members and Ontario National Family Class Members shall release and forever discharge the Released Parties from all Released Claims and undertake not to make any claim or take or continue any action, investigation or other proceeding in any forum against any person, partnership, corporation, or other entity, including without limitation, any health care professionals, hospitals or other health care facilities, who might claim contribution or indemnity

or any other relief of a monetary, declaratory, or injunctive nature from the Released Parties in connection with the Released Claims in accordance with the terms of the Settlement Agreement.

**18. THIS COURT ORDERS** that the payments to be made to the Public Health Insurers shall be in full and final satisfaction of all obligations, payments or costs potentially payable to the Public Health Insurers in relation to the costs of insured health care services provided to Ontario National Class Members or Ontario National Family Class Members and incurred by the Public Health Insurers and that the Public Health Insurers shall fully and finally release the Released Parties from all Released Claims and undertake not to make any claim or take or continue any action, investigation or other proceeding in any forum against any person, partnership, corporation, or other entity, including without limitation, any health care professionals, hospitals or other health care facilities, who might claim contribution or indemnity or any other relief of a monetary, declaratory, or injunctive nature from the Released Parties in connection with the Released Claims in accordance with the terms of the Settlement Agreement.

**19. THIS COURT ORDERS** that this Court will retain an ongoing supervisory role for the purpose of implementing, administering and enforcing the Settlement Agreement, as it pertains to Ontario National Class Members and Ontario National Family Class Members, subject to the terms and conditions set out in the Settlement Agreement.

**20. THIS COURT ORDERS** that any Party may bring a motion to this Court at any time for directions with respect to the implementation or interpretation of this Settlement Agreement, such motion to be on notice to all other Parties.

21. **THIS COURT ORDERS** that this Order is contingent upon a parallel order being made by the Québec Court, and the terms of this Order shall not be effective unless and until such order is made by the Québec Court.

22. **THIS COURT ORDERS** that in the event that the Settlement Agreement is terminated in accordance with its terms, this Order shall be null and void and of no force or effect.

23. **THIS COURT ORDERS AND ADJUDGES** that the Ontario Actions shall be dismissed against the Defendants with prejudice and without costs as of the Effective Date, and that such dismissal shall be a full defence to any subsequent action in respect of the subject matter hereof.

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# EXHIBIT H

## NOTICE OF SETTLEMENT APPROVAL IN CANADIAN ACTOS® / PIOGLITAZONE LITIGATION

**PLEASE READ CAREFULLY. IGNORING THIS NOTICE WILL AFFECT YOUR LEGAL RIGHTS**

### NOTICE OF SETTLEMENT APPROVAL

A Canada-wide settlement has been reached in five proposed class actions relating to the prescription drugs ACTOS®, APO-Pioglitazone and SANDOZ-Pioglitazone (collectively referred to as "PIO"). These lawsuits sought damages on behalf of Canadians for harm allegedly related to the use of PIO, including bladder cancer. The defendants deny the allegations made in these lawsuits, make no admission as to the truth of these allegations and deny any wrongdoing.

This Notice advises you that, following publication of a notice program, hearings were held in the supervising Courts in Ontario and Québec on **DATES, 2020**, respectively ("the Approval Hearings"). The Courts each issued orders approving the national settlement ("the Settlement Agreement"), and determined that the Settlement Agreement is fair, reasonable and in the best interests of Class Members. The Approval Orders can be reviewed at the settlement website, [www.piosettlement.ca](http://www.piosettlement.ca).

Unless otherwise indicated herein, capitalized terms have the meanings set out in the Settlement Agreement.

### WHO IS INCLUDED?

The Settlement Agreement applies to the following categories of individuals:

**Québec Class:** All persons resident in Québec who purchased and/or used ACTOS®, and their estates, administrators or other legal representatives, heirs or beneficiaries;

**Québec Family Class:** All family members and/or dependents of Québec Class Members who are entitled to assert a claim for compensation in the Québec Action;

**Ontario National Class:** All persons resident in Canada, excluding residents of Québec, who purchased and/or used ACTOS®, and all persons resident in Canada who purchased and/or used APO-Pioglitazone and/or SANDOZ-Pioglitazone and their estates, administrators or other legal representatives, heirs or beneficiaries; and

**Ontario National Family Class:** All persons who on account of a personal relationship to an Ontario National Class Member are entitled to assert a derivative claim for damages pursuant to the applicable provincial and/or territorial family law legislation.

If you fall within any of the above Class definitions, and you did not opt out prior to the Opt Out Deadline of **DATE**, you are bound by the terms of the Settlement Agreement.

### WHAT IS THE PROPOSED SETTLEMENT?

The Settlement Agreement provides for the creation of a \$25 million (CDN) Settlement Fund which will be used to pay compensation for Approved Claims, the claims of the Public Health Insurers, the costs of notice and administration, and Class Counsel Legal Fees, disbursements and taxes.

Payments will be made to Class Members who show that they suffered from bladder cancer, as described in greater detail in the Settlement Eligibility Criteria/Compensation Grid, which are all subject to various eligibility criteria and maximum payment values. Not all Class Members will be eligible for compensation. Compensation may also be paid to qualified Family Class Members. Any undistributed balance of the Settlement Fund will be allocated as between Class Members with Approved Claims and the Public Health Insurers.

For more information on the eligibility criteria and maximum individual payment values, you can review the Settlement Agreement and related

documents which are posted at [www.piosettlement.ca](http://www.piosettlement.ca), and/or you can contact the Court-appointed Claims Administrator, CA2 Class Action Administration at the address and/or phone number listed later in this Notice.

### PARTICIPATING IN THE SETTLEMENT - SUBMITTING CLAIMS

To be entitled to a payment pursuant to the Settlement Agreement, you must file a claim with the Claims Administrator on or before the end of the Claim Period which expires on **DATE**. A downloadable version of the Claim Package is currently available online at [www.piosettlement.ca](http://www.piosettlement.ca) or, alternatively, a Claim Package can be requested from the Claims Administrator.

**TO BE ELIGIBLE FOR ANY COMPENSATION FROM THE SETTLEMENT, CLAIMANTS MUST SUBMIT THEIR CLAIM DOCUMENTATION TO THE CLAIMS ADMINISTRATOR BEFORE THE EXPIRY OF THE CLAIM PERIOD ON DATE, \_\_\_\_\_.**

If, for any reason, this deadline is extended, any such extension and new deadline will be posted at the settlement website at [www.piosettlement.ca](http://www.piosettlement.ca).

### WHO REPRESENTS ME? CLASS COUNSEL ARE:

**Rochon Genova LLP**  
Barristers • Avocats  
900-121 Richmond St. W.  
Toronto, ON M5H 2K1  
Joel P. Rochon  
Tel: (416) 363-1867  
Fax: (416) 363-0263  
[rochon@rochongenova.com](mailto:rochon@rochongenova.com)

**Kim Spencer McPhee**  
Barristers P.C.  
1200 Bay St., Suite 1203  
Toronto, ON M5R 2A5  
Megan B. McPhee  
Tel: (416) 596-1414  
Fax: (416) 598-0601  
[mbm@complexlaw.ca](mailto:mbm@complexlaw.ca)

**Merchant Law Group LLP**  
100-2401 Saskatchewan Dr.  
Regina, SK S4P 4H8  
E.F. Anthony Merchant Q.C.  
Tel: (306) 359-7777  
Fax: (306) 522-3299  
[emerchant@merchantlaw.com](mailto:emerchant@merchantlaw.com)

### LEGAL FEES

At the Approval Hearings, Class Counsel requested and received the Courts' approval for payment of their fees, disbursements and applicable taxes in the amount of \$XX.

Claimants may retain their own lawyers to assist them in making individual claims under the Settlement Agreement and will be responsible for any fees charged by such lawyers.

### FOR MORE INFORMATION:

The Courts have appointed CA2 Class Actions Administration as the Claims Administrator for the Settlement Agreement. If you have questions about the Settlement and/or would like to obtain more information and/or copies of the Settlement Agreement and related documents, please visit the settlement website at [www.piosettlement.ca](http://www.piosettlement.ca) or contact the Claims Administrator at:

**CA2 Class Action Administration**  
9 Prince Arthur Ave., Toronto, ON, M5R 1B2  
[info@classaction2.com](mailto:info@classaction2.com)  
1-800-538-0009

This Notice contains a summary of some of the terms of the Settlement Agreement. If there is a conflict between this Notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

*This Notice has been approved by the Superior Court of Québec and the Ontario Superior Court of Justice*

# EXHIBIT I



**EXHIBIT "I"**  
**SETTLEMENT ELIGIBILITY CRITERIA**

Unless otherwise indicated, all capitalized terms herein have the meanings set out in the Settlement Agreement.

**1. PRODUCT IDENTIFICATION DOCUMENTATION and MANDATORY MEDICAL RECORDS**

1.1 In order to be eligible for compensation under the Settlement Agreement, each Claimant must provide evidence of the Class Member's prescription(s) for PIO (*i.e.*, the products ACTOS® and/or APO-Pioglitazone and/or Sandoz-Pioglitazone), such evidence to consist of one or more of the following ("Product Identification Documentation"):

- a) all pharmacy records reflecting the dispensing of PIO to the Class Member, including the dosage and date(s) of same; **and/or**
- b) all insurance records reflecting the Class Member's purchase of PIO, including the dosage and dates of same, if available; **and/or**
- c) medical records reflecting the prescription and/or provision (samples) of PIO to the Class Member, including the dosage and dates of same; **or**
- d) in extraordinary circumstances only, to be determined by the Claims Administrator, if none of the above records are available, a declaration signed by the Class Member's physician attesting to the Class Member having been prescribed and/or provided with PIO, including the dosage and dates of same, along with a statutory declaration by the Class Member (or the Class Member's representative) that the Class Member was prescribed and/or provided with PIO, along with the dosage and dates of same, and affirming that they have made reasonable best efforts to obtain the above records and providing the reason why such records could not be obtained.

1.2 In order to be eligible for compensation under the Settlement Agreement, each Claimant must also submit the following Mandatory Medical Records:

- a) pathology report(s) describing the existence of cancerous cells in the urothelial lining of the urinary bladder, renal pelvis or the ureter or confirming the diagnosis of bladder cancer on biopsy of excised tumor; **or**
- b) if no pathology report is available, other contemporaneous medical records referencing a pathology report containing a diagnosis of bladder cancer;  
**and**

- c) Complete Medical Records from all healthcare providers who diagnosed and/or provided the Class Members with treatment for their bladder cancer; **and**
- d) If not included in the above, Complete Medical Records from all healthcare providers who prescribed PIO to the Class Member from the date of such first prescription through to the Class Member's last use of PIO; **and**
- e) If not included in the above, Complete Medical Records from the Class Member's primary health care provider for the period spanning three (3) years prior to the Class Member's bladder cancer diagnosis through to the date of the Class Member's bladder cancer diagnosis; **and**
- f) If the death of the Class Member is alleged to be due to bladder cancer, a death certificate, autopsy report or other Medical Record reflecting that the primary or secondary cause of the Class Member's death was bladder cancer or complications due to the Class Member's bladder cancer.

## 2. DEFINITIONS AND EVIDENCE OF COMPENSABLE INJURIES

- 2.1 In order to be eligible for compensation under the Settlement Agreement, a Class Member must have suffered one of the following Compensable Injuries subsequent to the Class Member's first use of PIO:

**Level 1 – Single occurrence of bladder cancer, Ta or Tis, low grade, or a recurrence of bladder cancer originally diagnosed PRIOR to the Class Member's PIO usage** is established by medical records reflecting the following:

- a) The diagnosis of Ta or Tis, low grade (G1 or G2) bladder cancer, as determined by a pathology report;
- b) In the event that a pathology report does not exist or is not available, the Claims Administrator may conclude that the claim has been sufficiently proven by reference to contemporaneous medical records reflecting the applicable diagnosis; and
- c) Class Members with a diagnosis of bladder cancer that pre-dates usage of PIO, but who suffered one or multiple recurrences of bladder cancer diagnosed following usage of PIO.

**Level 2 – Ta or Tis high grade or T1 or recurrent bladder cancer,** is established by medical records reflecting the following:

- a) The diagnosis of Ta or Tis, high grade (G), or
- b) The diagnosis of T1 bladder cancer, or

- c) The diagnosis of a recurrence of bladder cancer, where “recurrence” is defined as a reappearance of cancer in the urothelial lining of the bladder, the renal pelvis or the ureter, documented in a pathology report where the original diagnosis of bladder cancer post-dated the Class Member’s first PIO usage.

**Level 3 – T2 or bladder cancer treated with radiation or chemotherapy** is established by medical records reflecting the following:

- a) The diagnosis of T2 bladder cancer, or
- b) Radiation therapy for the treatment of bladder cancer, or
- c) Systemic (oral or intravenous) chemotherapy for the treatment of bladder cancer (not including direct bladder instillation treatments).

**Level 4 – T3 or bladder cancer resulting in the complete or partial removal of a kidney and/or bladder** is established by medical records reflecting the following:

- a) The diagnosis of T3 bladder cancer, or
- b) Partial or complete cystectomy or nephrectomy for the treatment of bladder cancer, where cystectomy is defined as a surgical procedure to remove all or part of the urinary bladder and where nephrectomy is defined as a surgical procedure to remove all or part of a kidney.

**Level 5 – T4 or death due to bladder cancer** is established by medical records reflecting the following:

- a) The diagnosis of T4 bladder cancer, or
- b) Death from bladder cancer where an autopsy report or death certificate attributes the death to bladder cancer as a primary or secondary cause of death, or where contemporaneous medical records reflect that a qualified medical professional has determined that bladder cancer was the primary or secondary cause of death.

### **3. CUMULATIVE DOSAGE, RISK FACTOR AND OTHER ADJUSTMENTS**

3.1 All claims under the Settlement Agreement will be evaluated using a system with a base compensation value determined by both the severity of the Class Member’s bladder cancer diagnosis and the Class Member’s age at the time of that diagnosis, as set out in Exhibit “J” Settlement Compensation Grid.

That base compensation value will then be subject to adjustments relating to:

- a) The cumulative dosage of PIO ingested by the Class Member by the time of their bladder cancer diagnosis ("Cumulative Dosage Adjustment"); and
- b) Certain risk factors as set out below ("Risk Factors and Other Adjustments").

3.2 The determination of the cumulative dosage will be based on the Product Identification Documentation submitted by or on behalf of the Class Member **AND** shall be based on dosage and not duration of use **UNLESS**:

- a) no documents exist which reflect the cumulative amount of PIO dispensed to the Class Member (to be established through documented proof that requests were made and that such records no longer exist); **and**
- b) contemporaneous medical records of the physician who prescribed PIO to the Class Member have been submitted by or on behalf of the Class Member and such record(s) reflect the prescription of PIO.

If a) and b) above are satisfied, the cumulative dosage may be considered on the basis of the duration of PIO usage reflected in the medical records of the physician(s) who prescribed PIO to the Class Member. If the medical records do not contain enough information to quantify the cumulative dosage of PIO, the Claims Administrator will make inquiries of the Class Member regarding his/her best recollection of the duration and dosage of PIO consumed. The Claims Administrator will consider this information, along with the medical records provided, to generate a reasonable estimate for cumulative dosage for the purposes of this claims process.

3.3 The following chart sets out the adjustments that will be applied to a Class Member's base compensation value based on the Class Member's cumulative dosage of PIO at the time of their bladder cancer diagnosis.

<b><u>Cumulative Dosage Adjustment</u></b>	
<b>Cumulative Dosage of PIO at Time of Bladder Cancer Diagnosis</b>	<b>Adjustment</b>
Less than 900 mg, and bladder cancer was diagnosed three years or longer <b>after</b> last use of PIO as documented in contemporaneous Pharmacy or Medical Records.	-90%
Less than 900 mg, and bladder cancer was diagnosed less than three years <b>after</b> last use of PIO as documented in contemporaneous Pharmacy or Medical Records.	-85%
≥ 900 mg and < 1,800 mg	-80%

≥ 1,800 mg and < 2,700 mg	-70%
≥ 2,700 mg and < 5,400 mg	-60%
≥ 5,400 mg and < 10,800 mg	-50%
≥ 10,800 mg and < 16,200 mg	-35%
≥ 16,200 mg and < 21,600 mg	-15%
≥ 21,600 mg and < 28,800 mg	no adjustment
≥ 28,800 mg and < 43,200 mg	+5%
≥ 43,200 mg and < 56,700 mg	+10%
56,700 mg and above	+20%

3.4 The following chart sets out the additional adjustments that will be applied to a Class Member's base compensation value based on a series of known risk factors for bladder cancer, which shall be disclosed by a Claimant in the Claim Form. The Claims Administrator shall determine which adjustments shall apply, based on a review of the Class Member's Mandatory Medical records.

<b><u>Risk Factor and Other Adjustments</u></b>	
<b>Adjustment Category</b>	<b>Adjustment</b>
<b>Diagnosis of bladder cancer prior to PIO use;</b> Claims assessed as Level 1 with no further risk factor or other adjustments applied.	-70%
<b>PIO usage continuing after April 19, 2012;</b> to be applied to Class Members whose PIO usage commenced <b>PRIOR</b> to April 19, 2012 and used PIO at any time thereafter. Only Class Members who commenced use of PIO prior to April 19, 2012 are eligible to receive compensation under the Settlement	-10%
<b>Smoking History</b> , as defined below; if there is uncertain or contradictory evidence in the Mandatory Medical Records regarding the proper categorization of a Class Member into one of the below categories (or the Class Member asserts a non-smoking status), the Claims Administrator shall assign such Class Member's Claim into the smoking category more favourable to the Class Member that may be reasonably supported based on the totality of the documentation submitted with the Claim Package  <b>Current Smoker</b> , defined as a Class Member with a history of smoking within one year prior to bladder cancer diagnosis  <b>Recent Smoker</b> , defined as a Class Member with a history of smoking between one and 5 years prior to bladder cancer diagnosis  <b>Former Smoker</b> , defined as a Class Member with a history of smoking more than 5 years but less than 20 years prior to bladder cancer diagnosis	
	-50%
	-25%
	-10%

<b>Symptoms of bladder cancer (hematuria and/or pain with urination) prior to use of PIO</b> and within 2 years prior to bladder cancer diagnosis	-25%
<b>Diagnosis of bladder cancer more than 5 years after last use of PIO;</b> to be applied to Class Members where it is determined that the Class Member's bladder cancer was first diagnosed 5 years or more after the Class Member's last use of PIO as documented in the Product Identification Documentation and Mandatory Medical Records <b>and</b> the same records confirm that the Class Member's cumulative PIO dosage was <b>equal to or greater than 28,800mg.</b>	-33%
<b>Diagnosis of bladder cancer more than 5 years after last use of PIO;</b> to be applied to Class Members where it is determined that the Class Member's bladder cancer was first diagnosed 5 years or more after the Class Member's last use of PIO as documented in the Product Identification Documentation and Mandatory Medical Records <b>and</b> the same records confirm that the Class Member's cumulative PIO dosage was <b>less than 28,800mg.</b>	-66%
<b>Toxic Exposure;</b> to be applied to a Class Member's Claim if there is a reference in the Class Member's Mandatory Medical Records suggesting a causal association between the Class Member's bladder cancer diagnosis with a history of exposure to: coal gasification; diesel engine exhaust; iron or steel foundries; coke; coal tar; carbon black or shale oil extraction; wood impregnation; roofing; road paving; chimney sweeping; aluminum; carbon electrodes; production of rubber, leather, textiles, dyes or paint products; and/or past work as a painter, hairdresser, machinist, printer or truck driver	-50%
<b>Bladder cancer metastasized from other cancers;</b> to be applied to a Class Member's Claim where it is determined that the Class Member's bladder cancer originated in another organ and subsequently metastasized or spread to the bladder	-75%
<b>Cyclophosphamide use;</b> defined as the use of any pharmaceutical product containing the active pharmaceutical compound cyclophosphamide, including the branded medication known as "Cytosan"	-25%
<b>Pelvic radiation;</b> defined as a history of radiation therapy to the pelvis prior to a diagnosis of bladder cancer, including for, but not limited to, the treatment of prostate, uterine, cervical, rectal or anal cancer	-25%

# EXHIBIT J

**EXHIBIT “J”  
COMPENSATION GRID<sup>1</sup>**

Unless otherwise indicated herein, capitalized terms shall have the meanings set out in the Settlement Agreement.

	Age at Diagnosis				
	<50	50-59	60-69	70-79	>79
Injury Level <sup>2</sup>	Maximum Injury Claim Values <sup>3</sup>				
<b>Level 1</b> bladder cancer diagnosed as Ta or Tis, low grade; <b>OR</b> recurrence of bladder cancer where original diagnosis was <b>prior</b> to Class Member’s first use of PIO	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000
<b>Level 2</b> bladder cancer diagnosed as Ta or Tis high grade; <b>OR</b> T1; <b>OR</b> recurrent bladder cancer, where the original diagnosis was <b>after</b> the Class Member’s first use of PIO	\$80,000	\$75,000	\$70,000	\$65,000	\$60,000
<b>Level 3</b> bladder cancer diagnosed as T2; <b>OR</b> bladder cancer treated with radiation therapy and/or systemic (oral or intravenous) chemotherapy	\$125,000	\$100,000	\$90,000	\$80,000	\$75,000
<b>Level 4</b> bladder cancer diagnosed as T3; <b>OR</b> bladder cancer treatment involving the complete or partial removal of kidney and/or bladder	\$175,000	\$150,000	\$125,000	\$100,000	\$90,000
<b>Level 5</b> bladder cancer diagnosed as T4; <b>OR</b> death due to bladder cancer	\$225,000	\$200,000	\$175,000	\$150,000	\$100,000

<sup>1</sup> Certain Family Class Members will be entitled to receive benefits. In particular, spouses and children under the age of 18 at the date of diagnosis of Class Members with Approved Claims shall be entitled to recover an amount equal to 6% of that Class Member’s claim amount and children over the age of 18 at the date of diagnosis shall be entitled to recover an amount equal to 2% of that Class Member’s claim amount. However, the total payments to all Family Class Members in respect of a particular Class Member shall be capped at a maximum of 20% of that Class Member’s claim amount.

<sup>2</sup> All Injury Levels referenced herein are more particularly defined in Exhibit “I”, Settlement Eligibility Criteria, including the clinical and/or diagnostic parameters which must be met to qualify a claim for compensation.

<sup>3</sup> All maximum injury claim values are inclusive of all claims for out-of-pocket expenses and Public Health Insurer claims and are subject to all applicable deductions as set out in Exhibit “I”, Settlement Eligibility Criteria based on cumulative dosage and risk factors. Claims for Class Members’ alleged income loss may be advanced in accordance with and subject to Section 12 of the Settlement Agreement. **The value of ALL Approved Claims may be subject to *pro-rata* adjustments, in accordance with Section 12 of the Settlement Agreement and any other Exhibits thereto.**



# EXHIBIT K

**EXHIBIT "K"**  
**CLAIMS ADMINISTRATION PROCEDURES**

Unless otherwise indicated herein, all capitalized terms have the meanings set out in the Settlement Agreement.

**1. OVERVIEW OF SETTLEMENT ADMINISTRATION**

- 1.1. The procedures set forth herein are for the administration of the Settlement Agreement and for the submission, processing, approval or denial, compensation, and review of the claims of or on behalf of Class Members, pursuant to the Settlement Agreement. These procedures shall be implemented by the Claims Administrator, CA2 Class Action Administration ("CA2"), subject to the ongoing authority and supervision of the Québec and Ontario Courts.
- 1.2. CA2 may adopt additional policies and procedures for the administration of the Settlement Agreement that are consistent with the Settlement Agreement and with any Orders of the Québec and Ontario Courts. Any change or amendment to these Claims Administration Procedures requires approval of the Québec and Ontario Courts.
- 1.3. CA2 shall implement the Settlement Agreement so as to provide benefits to eligible Claimants in a timely and efficient manner, designed to treat similarly situated Claimants as uniformly as possible and to minimize, to the extent reasonably practicable, the administration and other transaction costs associated with the implementation of the Settlement Agreement.
- 1.4. CA2 shall provide copies of any written communication to or from CA2 relating in any way to this settlement to Plaintiffs' Counsel. Any counsel entitled to receive copies of such written communication under this provision may waive that entitlement by so advising CA2. CA2 shall also provide "read-only" access to the claims administration computer system to Plaintiffs' Counsel.
- 1.5. All defined terms are as defined in the Settlement Agreement or herein. All calculations of time and deadlines pursuant to these Claims Administration Procedures shall be calculated in accordance with the Ontario *Rules of Civil Procedure* which are available at [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca) as Regulation 194 to the *Courts of Justice Act* R.S.O. 1990, c. C.43 and in accordance with the Québec *Code of Civil Procedure*.

**2. ROLES IN SETTLEMENT ADMINISTRATION**

**Role of the Claims Administrator**

- 2.1 CA2, whose appointment shall be approved by the Québec and Ontario Courts, shall act as the Claims Administrator and shall be responsible for

holding, investing and disbursing the Settlement Fund in accordance with the terms of the Settlement Agreement.

- 2.2 CA2 shall invest all funds in its possession under the Settlement Agreement pursuant to the Investment Standards and authorized investments provided for in section 27 of the *Trustee Act*, R.S.O. 1990, c.T.23 with all interest or other income on such funds being added to the monies in trust as set out in the Settlement Agreement. All fees and costs of any custodian holding and/or investing such funds shall be paid out of such funds or out of the interest and/or income of such funds.
- 2.3 CA2 shall take all reasonable steps to minimize the imposition of taxes upon monies in trust, and shall have the discretion to pay any taxes imposed on such monies out of the monies in trust.
- 2.4 Disbursement of any monies out of the Settlement Funds shall only be made in accordance with the Settlement Agreement, these Claims Administration Procedures, or upon directions issued by the Québec and/or Ontario Courts.
- 2.5 CA2 shall provide quarterly written reports to Plaintiffs' Counsel, as well as reporting on such other matters as may be requested by the Québec and Ontario Courts. In addition, Plaintiffs' Counsel may request reports or information not required by the Settlement Agreement or these Claims Administration Procedures. CA2 shall respond to any such request within seven (7) days.
- 2.6 In addition, CA2 shall be responsible for:
  - (i) providing adequately trained, supervised and monitored personnel in such reasonable numbers as are required for the performance of its duties within reasonable timeframes;
  - (ii) setting up and maintaining a system for the handling of queries from Class Members and Claimants in both English and French, including a bilingual toll-free telephone line and web site;
  - (iii) preparing and distributing Claim Packages in both French and English;
  - (iv) developing, installing and implementing systems and procedures for receiving and processing Claim Packages, determining the completeness of Claim Packages and the eligibility of Claims, and delivering Acknowledgment Letters, Deficiency Letters, Claim Determination Forms and Letters, as well as Final Determination Letters to Claimants;
  - (v) developing, installing and implementing systems and procedures for forwarding Challenges to the Adjudicator for review;
  - (vi) developing, installing and implementing systems and procedures for determining the quantum of compensation payable for claims deemed eligible by CA2 and/or the Adjudicator and delivering

Final Determination Letters and Compensatory Payments to qualified Claimants after all Claims have been finally adjudicated;

- (vii) reporting as required by the Settlement Agreement and these Claims Administration Procedures including reporting on a quarterly basis with respect to the implementation of the settlement generally, and, without limiting the generality of the foregoing, providing information as to the number of Claim Packages received, the number of claims processed, the type of claims processed, the total amount of money distributed, the amount of money remaining in the Settlement Fund, the interest accrued, the number of Deficiency Letters delivered, the number of Claim Determination Letters delivered, and the number of Notices of Challenge submitted and resolved;
- (viii) making such minor modifications to the Claim Package or the Claim Form as may be necessary for the implementation of the Settlement Agreement; however, any substantive change or amendment to these forms requires approval of the Québec and Ontario Courts, on reasonable notice to Plaintiffs' Counsel;
- (ix) co-ordinating with Plaintiffs' Counsel and holding regular administrative conference calls to advise them of the progress of the administration of the Settlement. In addition, when deemed necessary by CA2, calling special meetings on reasonable notice to all Parties; and
- (x) such other duties and responsibilities as the Québec and/or Ontario Courts may from time to time direct.

#### **Role and Remuneration of the Adjudicator**

- 2.7 As set out more fully in section 14 of the Settlement Agreement, Claims that have been deemed ineligible by CA2 and/or where a Claimant disputes the quantum of compensation determined to be payable by CA2, may be subject to the review of the Adjudicator by way of a Challenge.
- 2.8 The Challenge process shall be conducted exclusively in writing. Each Challenge shall be reviewed on the basis of supporting material submitted by the Claimant except as otherwise authorized or directed by the Adjudicator.
- 2.9 The supporting documentary material which shall form the basis of the Challenge shall include all material submitted with the original Claim Package, the Notice of Challenge and, if the Claimant so chooses, written submissions not exceeding five (5) pages.
- 2.10 The standard of review to be applied on a Challenge relating to eligibility for, or quantum of, compensation shall be whether CA2 misapprehended

the evidence or made an error in principle, or whether the decision(s) of CA2 was unreasonable.

- 2.11 Where a Challenge relates to the adjustments applied by CA2 to a Class Member's base compensation value pursuant to Section 3 of the Settlement Eligibility Criteria (Exhibit "I"), a Challenge shall only be available where such adjustment(s) resulted in a reduction of more than 10% to the base compensation value and where the Adjudicator determines that an unsuccessful Challenge was frivolous, the Adjudicator has discretion to award costs in an amount not to exceed \$300.00.
- 2.12 The determination of the Adjudicator on all Challenges shall be final and binding and shall not be the subject of any further challenge, appeal, or revision, except in the case of a clerical or obvious error, which shall be subject to correction by the Adjudicator.
- 2.13 The Adjudicator will be entitled to compensation of a maximum of \$300.00 per hour, to a maximum per-claim amount of \$1,200.00, inclusive of taxes. In exceptional cases, where the volume of records submitted with a Challenge requires further time for proper review, the Adjudicator shall so advise the Claims Administrator as soon as is reasonably practicable. The Claims Administrator shall then determine whether further reasonable requests for additional fees should be approved for payment. Notice of all requests for such further fees shall be provided by the Claims Administrator to Plaintiffs' Counsel.

### **3. CLAIM PACKAGE REQUIREMENTS**

#### **General Provisions**

- 3.1 A completed Claim Package in the form attached as Exhibit "L" to the Settlement Agreement shall include a completed and signed Claim Form, along with proper Product Identification Documentation, all required Mandatory Medical Records, along with any other documentation that may be required, as identified in the Claim Package.
- 3.2 Qualification for benefits pursuant to the Settlement Agreement requires the timely filing with CA2 of a complete Claim Package and all related documentation. CA2 shall review all Claim Packages submitted within the Claim Period for sufficiency within sixty (60) days of receipt.
- 3.3 If a Claim Package is submitted in which the Claim Form is incomplete and/or the required Product Identification Documentation and/or the required Mandatory Medical Records and/or where applicable, any other required documentation, is/are incomplete or missing, CA2 shall advise the Claimant of any such deficiency by delivering a letter to the Claimant, indicating what deficiencies exist (a "Deficiency Letter") and requiring that the Claimant cure the deficiency/ies within sixty (60) days of receipt of the Deficiency Letter.

- 3.4. The Claimant shall have the option, but shall not be required, to cure the deficiency identified by CA2 through providing more complete information on the Claim Form and/or obtaining and submitting further documentation, as the case may be.
- 3.5. Once the sixty (60) day curing period has expired, CA2 shall review the Claim Package for a determination on the Claimant's eligibility under the Settlement Agreement.

#### **Claim Form**

- 3.6. The Claim Form shall be completed and signed by the Claimant and must include information regarding the identity, the address and other contact information for the Class Member (or his/her representative) and all related Claimants, along with the date and description of the alleged Compensable Injury which forms the basis of the claim, and the required information related to alleged income loss, if any.
- 3.7. Where a claim is filed on behalf of a deceased Class Member, it must be filed by an executor or other person with the legal authority to administer the Class Member's estate and documentary proof of that legal authority must be submitted with the Claim Package.
- 3.8. Where a claim is filed for a Class Member under a legal disability, it must be filed by an individual with appropriate legal authority to represent the disabled Class Member and documentary proof of his or her legal authority to act on behalf of the Class Member must be submitted with the Claim Package.

#### **Product Identification Documentation**

- 3.9. A completed Claim Package must include Product Identification Documentation which shall consist of:
  - a) all pharmacy records reflecting the dispensing of PIO (*i.e.*, ACTOS® and/or APO-Pioglitazone and/or Sandoz-Pioglitazone) to the Class Member, including the dosage and date(s) of same; **and/or**
  - b) all insurance records reflecting the Class Member's purchase of PIO, including the dosage and dates of same, if available; **and/or**
  - c) medical records reflecting the prescription and/or provision (samples) of PIO to the Class Member, along with the dosage and dates of same; **or**
  - d) in extraordinary circumstances only, to be determined by CA2, if none of the above records are available, a declaration signed by the Class Member's physician attesting to the Class Member having been prescribed and/or provided with PIO, including the dosage and dates of same, along with a statutory declaration by the Class

Member (or the Class Member's representative) that the Class Member was prescribed and/or provided with PIO, along with the dosage and dates of same, and affirming that they have made reasonable best efforts to obtain the above records and providing the reason why such records could not be obtained.

### **Mandatory Medical Records**

3.10 A completed Claim Package must include Mandatory Medical Records which shall consist of all information and documentation described in this section.

3.11 The Mandatory Medical Records shall consist of:

- a) Pathology report(s) describing the existence of cancerous cells in the urothelial lining of the urinary bladder, renal pelvis or the ureter or confirming the diagnosis of bladder cancer on biopsy of excised tumor; **or**
- b) if no pathology report is available, other contemporaneous medical records referencing a pathology report containing a diagnosis of bladder cancer; **and**
- c) Complete Medical Records from all healthcare providers who diagnosed and/or provided the Class Member with treatment for their bladder cancer; **and**
- d) If not included in the above, complete Medical Records from all healthcare providers who prescribed PIO to the Class Member from the date of such first prescription through to the Class Member's last use of PIO; **and**
- e) If not included in the above, complete Medical Records from the Class Member's primary health care provider for the period spanning three (3) years prior to the Class Member's bladder cancer diagnosis through to the date of the Class Member's bladder cancer diagnosis; **and**
- f) If the death of the Class Member is alleged to be due to bladder cancer, a death certificate, autopsy report or other Medical Record reflecting that the primary or secondary cause of the Class Member's death was bladder cancer or complications due to the Class Member's bladder cancer.

## **Income Loss Documentation**

- 3.12 Where a Claimant asserts that a Class Member sustained a loss of income attributable to the Class Member's Compensable Injury, documentation reflecting the Class Member's average net income for the three years prior to the alleged Compensable Injury and for the years for which the Claimant seeks to recover alleged income loss following the alleged Compensable Injury must be submitted with the Claim Package. All such records will only be reviewed by CA2 upon a claim being deemed an Approved Claim.
- 3.13 Income losses which may be recovered shall be calculated based on the difference between the Class Member's average net income for the three years prior to the alleged Compensable Injury and the Class Member's net income following the alleged Compensable Injury. All income loss claims are subject to potential adjustments in accordance with Section 12 of the Settlement Agreement.

## **4. PROCESSING OF CLAIMS**

### **Claims Administrator's Review of Claim Packages**

- 4.1 Upon receipt of a Claim Package, CA2 shall deliver a letter to the Claimant within seven (7) days, acknowledging receipt of the Claim Package (the "Acknowledgement Letter", Exhibit "M" to the Settlement Agreement) and shall assign an individual claim number to the Claim Package and post the contents of the Claim Package on CA2's claims administration system. Read-only access via a secure website to the claims administration system shall be granted to Plaintiffs' Counsel. Plaintiffs' Counsel shall also be entitled to obtain hard copies of a specified Claim Package, or any part thereof, upon request to CA2.
- 4.2 Within sixty (60) days of the issuance of the Acknowledgment Letter CA2 shall review the Claim Package to ensure that:
- (a) It includes a completed and signed Claim Form;
  - (b) It includes the necessary Product Identification Documentation;
  - (c) It includes the requisite Mandatory Medical Records;
  - (d) It includes any other documentation required by the terms of the Settlement Agreement (i.e. proof of executorship, guardianship, relationship with a Class Member, income loss documentation, if applicable, etc.); and
  - (e) It was received by CA2 within the Claim Period.



- 4.3 Where the Claim Package is deemed to be incomplete, CA2 shall, within seven (7) days of such determination, so advise the Claimant in a Deficiency Letter (Exhibit "N" to the Settlement Agreement). The Deficiency Letter shall advise the Claimant as to the deficiencies in the Claim Package and shall provide the Claimant with a further sixty (60) days within which the Claimant has the right to cure any such deficiencies.
- 4.4 Where the Claim Package is deemed to be complete and/or after the time for curing deficiencies has elapsed, CA2 shall review the Claim Package to determine whether the Class Member suffered a Compensable Injury and shall complete a Claim Determination Form (Exhibit "O" to the Settlement Agreement), reflecting the determination on eligibility.
- 4.5 Where a claim has been deemed ineligible for compensation, CA2 shall deliver a Claim Determination Letter (Exhibit "P" to the Settlement Agreement) to the Claimant, reflecting the ineligibility of the Claim, attaching a copy of the Claim Determination Form and advising the Claimant of the procedures and deadline for submitting a Challenge. The Claim Determination Letter shall also be posted on CA2's claims administration system alongside the Claim Package submitted by that Claimant.
- 4.6 Where a claim has been deemed eligible for compensation, CA2 shall determine the amount(s) payable in respect of such claim in accordance with the Compensation Grid (Exhibit "J" to the Settlement Agreement), including any claimed income loss, and shall deliver a Claim Determination Letter to the Claimant reflecting the determination as to both eligibility and the quantum of compensation payable and advising the Claimant of the procedures and deadline for submitting a Challenge.

#### **Challenge of Claims Administrator's Decision(s)**

- 4.7 Following receipt of a Claim Determination Letter, the Claimant shall have the right to Challenge the decision of CA2 with respect to eligibility and/or the quantification of compensation, by delivering a Notice of Challenge in the form set out in Exhibit "Q" to the Settlement Agreement, along with written submissions not exceeding 5 pages, if the Claimant so chooses, to CA2 within thirty (30) days of the mailing of the Claim Determination Letter.
- 4.8 Failure to deliver a Notice of Challenge to CA2 within thirty (30) days of the mailing of the Claim Determination Letter shall be deemed acceptance of the Claim Determination Letter.
- 4.9 Upon receipt of a Notice of Challenge, CA2 shall, within seven (7) days, forward the Claim Package, Notice of Challenge and, if the Claimant so chooses and provides same to CA2, written submissions not exceeding five (5) pages ("the Challenge Materials"), to the Adjudicator for review

who shall then review the Challenge Materials and submit to CA2 a Challenge Decision along with brief written reasons (“the Challenge Decision”).

4.10 The decision(s) of the Adjudicator on all Challenges is/are final and binding and shall not be the subject of any further Challenge, appeal, or revision, except in the case of a clerical or obvious error which shall be subject to correction by the Adjudicator.

## **5. PAYMENT SCHEDULE**

- 5.1 Following the payment of all items listed in Sections 11.3 (b), (c), (d), (e) and (f) of the Settlement Agreement and after the final adjudication of all submitted Claim Packages (including the resolution of any and all Challenges and the payment of the Adjudicator in deciding such Challenges), CA2 shall determine the amount remaining in the Settlement Fund and the aggregate amount required to pay all Approved Claims at their fully assessed values, as set out in the Compensation Grid (Exhibit “J”) and in accordance with the Settlement Eligibility Criteria (Exhibit “I”), including all amounts payable in respect of claims of Family Class Members and Class Members’ claims for loss of income.
- 5.2 If insufficient money remains in the Settlement Fund to pay the aggregate amount of all Approved Claims at their fully assessed values, the Claims Administrator shall first determine the portion of the aggregate amount attributable to income loss claims. If the amount attributable to such income loss claims exceeds 10% of the aggregate amount, the Claims Administrator shall reduce the total amount approved for income loss claims to represent 10% of the aggregate value of all Approved Claims and shall recalculate the value of all income loss claims to represent their proportionate share of that amount. Thereafter, the Claims Administrator shall recalculate the value of all remaining claims for Compensable Injuries and Family Class Member claims to represent their proportionate share of the remaining aggregate amount.
- 5.3 If more than sufficient money remains in the Settlement Fund to pay the aggregate amount of all Approved Claims at their maximum claim values (the “Residue”), the Residue shall be allocated as between Claimants with Approved Claims and the Public Health Insurers such that the value of all Approved Claims will be increased by up to 25% and the Public Health Insurers will be paid up to an additional \$593,750 (25% of \$2,375,000).
- 5.4 If there is not sufficient money in the Residue to fully increase the payments by 25%, CA2 shall apply a proportionate percentage increase to the value of the Approved Claims and the value of the payment to the Public Health Insurers.

- 5.5 If there is sufficient money in the Residue to increase the value of all Approved Claims and the payment to the Public Health Insurers by 25% and further money remains in the Residue, 80% of any remaining balance shall be allocated *pari pasu* among all Approved Claims and the remaining 20% shall be paid to Class Counsel, in trust, for the benefit of the Public Health Insurers.
- 5.6 Within ninety (90) days after making the determinations set out in s.5.1 – s.5.5, if applicable, CA2 shall forward all Final Determination Letters enclosing Compensatory Payments for all Approved Claims and shall pay to Class Counsel, in trust, any additional amount payable for the benefit of the Public Health Insurers.

## 6. MISCELLANEOUS

### Timeliness of Submissions

- 6.1 All Claim Packages shall be submitted to CA2 via regular mail or courier, or by any other means agreed to by the Parties and CA2. All submissions by mail shall be conclusively deemed to have been submitted to CA2 on the postmark date of such mail. All Claim Packages delivered to CA2 by courier shall be conclusively deemed to have been submitted to CA2 on the date of the receipt by CA2 of such submissions. Where CA2 and the Parties agree to an alternative means of submission, the date of receipt by CA2 shall be conclusively deemed to be the date of submission.
- 6.2 In order to qualify for compensation, Claimants must submit their Claim Packages prior to the expiration of the Claim Period.
- 6.3 In the event that CA2 receives a Claim Package after the expiration of the Claim Period, CA2 shall process the Claim Package in the ordinary course only upon the Claimant establishing good cause for the late submission, the determination of which rests exclusively with CA2 and is not subject to a Challenge.

### Extension of Deadlines

- 6.4 In the event that any of the deadlines prescribed herein relating to the administration and processing of claims cannot be met, a motion may be made to the Québec and Ontario Courts for directions which may allow for the extension of such deadlines in circumstances where such extensions are demonstrably justifiable. Any such motion must be made on notice to all Parties.
- 6.5 In the event that any deadline for the administration or adjudication of claims is not met by either CA2 or the retired judges of the Québec or Ontario Courts, such an event shall not give rise to a right of Challenge by a Claimant and shall not affect any Claimant's entitlement to benefits pursuant to the Settlement Agreement.

### **Call Centre**

- 6.6 CA2 shall establish a bilingual toll-free call centre for the assistance of Claimants and to provide Claimants with information on the status of their claims.

### **Website**

- 6.7 CA2 shall establish a bilingual website for the assistance of Claimants.

### **Correspondence with Class Members**

- 6.8 All written communications from CA2 to Claimants shall be delivered by regular first class mail and email. CA2 shall direct such written communications to the Claimant's legal counsel if the Claimant is represented by counsel, otherwise, such written communications shall be directed to the last known address provided by the Claimant to CA2. The Claimant (or legal counsel to a represented Claimant) shall be responsible for apprising CA2 of the Claimant's and counsel's correct and current mailing address.

### **Legal Counsel to Claimants**

- 6.9 A Claimant shall be considered to be represented by legal counsel in connection with a Claim only if CA2 has received written notice signed by the Claimant of the identity of the Claimant's counsel. If a Claimant discontinues such representation at any time the Claimant shall provide written notice of same to CA2 and their former counsel. No liens or claims for counsel fees or costs may be asserted against CA2 or the funds held by CA2 at any time.

### **Preservation and Disposition of Claim Packages**

- 6.10 CA2 shall preserve, in hard copy or electronic form, as CA2 deems appropriate, all Claim Packages, until a date one (1) year following the completion of all payments out of the Settlement Fund and at such time shall dispose of the Claim Packages by shredding or such other means as will render the materials permanently illegible.

### **Privacy of Communications**

- 6.11 Any information provided by or regarding any Class Member or Claimant, or such information otherwise obtained pursuant to this Settlement shall be kept confidential and shall not be disclosed except to appropriate persons to the extent necessary to process claims or provide benefits pursuant to this Settlement or as otherwise expressly provided in the Settlement

Agreement and the Exhibits thereto. All Claimants shall be deemed to have consented to the disclosure of this information for these purposes.

# EXHIBIT L

**EXHIBIT “L”**  
**CANADIAN ACTOS® / PIOGLITAZONE SETTLEMENT**  
**Claim Package**

This Claim Package contains:

- A Privacy Statement;
- Instructions for Claimants; and
- A Claim Form

**PRIVACY STATEMENT**

Personal Information regarding Claimants is collected, used, and retained by the Claims Administrator pursuant to the Personal Information Protection and Electronics Documents Act. S.C. 2000, c.5 (PIPEDA):

- For the purpose of operating and administering the Canadian Actos® / Pioglitazone Settlement Agreement (“Settlement”);
- To evaluate and consider the Claimant’s eligibility under the Settlement; and
- Is strictly private and confidential and will not be disclosed without the express written consent of the Claimant except as provided for in the Settlement.

**INSTRUCTIONS FOR CLAIMANTS**

**If you are completing this Claim Package PRIOR to the Courts’ approval of the Settlement, PLEASE NOTE that no Claims will be processed unless and until the Settlement has been approved by the Québec and Ontario Courts.**

Unless otherwise indicated herein, capitalized terms have the meanings set out in the Settlement.

These instructions provide basic guidelines for submitting claims under the Settlement. In the case of any disagreement between these instructions and the Settlement, the Settlement shall prevail. For more detailed information, please refer to the Settlement Agreement that can be viewed or downloaded at [www.piosettlement.ca](http://www.piosettlement.ca).

To establish your right to benefits under the terms and conditions of the Settlement, a completed Claim Package must be submitted to the Claims Administrator which shall consist of:

- A completed and signed Claim Form;
- Product Identification Documentation;

- Mandatory Medical Records; and
- All other required documentation as described herein.

**All completed Claim Packages must be submitted to the Claims Administrator postmarked no later than DATE, at the following address:**

**CA2 Class Action Administration  
9 Prince Arthur Ave., Toronto, ON M5R 1B2  
Attention: Canadian Actos® / Pioglitazone Settlement**

Claimants who have not opted out and who do not submit a completed Claim Package to the Claims Administrator on or before **DATE**, shall forever forfeit their rights to benefits from the Settlement and will be precluded from ever bringing an action against any of the Released Parties with respect to the Released Claims.

If you require assistance or advice regarding completion of the Claim Package or have any questions related to your claim, you may retain legal counsel at your own expense, or contact the Claims Administrator, free of charge at 1-800-538-0009, or at [www.piosettlement.ca](http://www.piosettlement.ca). **Claimants who retain lawyers or agents in making their claims under the Settlement shall be solely responsible for the fees and expenses of such lawyers or agents.**

Claimants may communicate with the Claims Administrator and obtain forms in either English or French. Claimants (or their lawyers/agents) should advise the Claims Administrator of any changes or corrections in address, name, phone number or legal representation.

**Please keep copies of all documentation you send to the Claims Administrator.** Completing the documentation process takes time. **ACT NOW.** Do not wait until the last few weeks before the Claim Period expires.



# CANADIAN ACTOS® / PIOGLITAZONE SETTLEMENT CLAIM FORM

Strictly Private and Confidential

## Section 1 – Claimant Identification

I am making a claim as a:

- ☐ **Class Member** (the person who used ACTOS® and/or APO-Pioglitazone and/or Sandoz-Pioglitazone)
- ☐ **Representative of a Class Member** (a person who is the legal representative of a Class Member who is deceased, a minor and/or otherwise under a legal disability)

## Section 2 - Class Member Identification

Class Member Last Name: \_\_\_\_\_ First Name \_\_\_\_\_

Address \_\_\_\_\_ P.O. Box \_\_\_\_\_

City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_

Birth Date: Year: \_\_\_\_\_ Month: \_\_\_\_\_ Day: \_\_\_\_\_

Date of Death (if applicable): Year \_\_\_\_\_ Month \_\_\_\_\_ Day \_\_\_\_\_

☐ Official Death certificate attached

Home Phone \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Work Phone \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Fax \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ e-mail \_\_\_\_\_

### Section 3 - Representative Claimant Identification

This section is to be completed only if you are submitting a claim as the Representative of a Class Member. You **MUST** provide proof of your authority to act as the representative of a Class Member. Before completing this section, you MUST complete Sections 1 and 2 to identify yourself and the Class Member that you are representing.

I am applying on behalf of a Class Member who is:

- ☐ **A minor (under 18 years of age)**  
Please enclose a copy of your authority to act (i.e., long-form birth certificate, baptismal certificate, court order or other proof of guardianship)
- ☐ **A person under legal disability**  
Please enclose a copy of your authority to act (i.e., power of attorney, etc.)
- ☐ **Deceased**  
Please enclose a copy of your authority to act (i.e., will, etc.)

Representative Claimant Last Name: \_\_\_\_\_ First Name \_\_\_\_\_

Address \_\_\_\_\_ P.O. Box \_\_\_\_\_

City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_

Birth Date: Year: \_\_\_\_\_ Month: \_\_\_\_\_ Day: \_\_\_\_\_

Home Phone \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Work Phone \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Fax \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ e-mail \_\_\_\_\_

## Section 4 – Family Class Member Claims

This section is to be completed only if you are submitting a claim for Family Class Member(s). Family Class Members are spouses, children and parents of a Class Member by or for whom a claim is being advanced under the Settlement.

Please include document(s) demonstrating proof of each Family Class Member's relationship to the Class Member and, where the Family Class Member is a minor, under a legal disability or deceased, please include document(s) demonstrating proof of your authority to act (e.g., marriage certificate, long-form birth certificate, baptismal papers, separation agreement, custody judgment, divorce judgment or affidavit, will or other document confirming your authority to act).

Before completing this section, you MUST complete Sections 1 and 2 to identify the Class Member who is your source of entitlement to make a claim. If there is/are more than one Family Class Member making a claim, please copy this section and provide the requested information for each Family Class member and submit with your Claim Package.

Relationship to Class Member: \_\_\_\_\_

Family Class Member Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_

Address \_\_\_\_\_ P.O. Box \_\_\_\_\_

City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_

Birth Date: Year \_\_\_\_\_ Month \_\_\_\_\_ Day \_\_\_\_\_

Home Phone \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Work Phone \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Fax \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ e-mail \_\_\_\_\_

## Section 5 – Legal Representative Identification

This section is to be completed **ONLY IF** a lawyer or agent is representing the Claimant.

Name of Law Firm or Agency \_\_\_\_\_

Lawyer's or Agent's Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_

Address \_\_\_\_\_ P.O. Box \_\_\_\_\_

City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_

Phone \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Fax \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

e-mail \_\_\_\_\_

Provincial Law Society (if applicable) \_\_\_\_\_

**NOTE:** If you complete Section 5 above, all correspondence will be sent to your legal representative, who must notify the Claims Administrator of any change in mailing address. If you change your legal representation or cease to retain your legal representative, you must notify your former legal representative and the Claims Administrator in writing.

## Section 6 - Products Prescribed

Please indicate whether the Class Member was prescribed any or all of the following:

ACTOS®	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Apo-Pioglitazone	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Sandoz-Pioglitazone	<input type="checkbox"/> YES	<input type="checkbox"/> NO

You must provide **Product Identification Documentation** sufficient to prove that the Class Member was prescribed and/or provided PIO (*i.e.*, the products ACTOS® and/or APO-Pioglitazone and/or Sandoz-Pioglitazone). You must provide **one or more** of the following forms of Product Identification Documentation set out below:

- a) all pharmacy records reflecting the dispensing of PIO to the Class Member, including the dosage and date(s) of same;

**AND/OR**

- b) all insurance records reflecting the Class Member's purchase of PIO, including the dosage and dates of same, if available;

**AND/OR**

- c) medical records reflecting the prescription and/or provision (samples) of PIO to the Class Member, along with the dosage and dates of same;

**OR**

- d) in extraordinary circumstances only, to be determined by the Claims Administrator, if none of the above records are available, a declaration signed by the Class Member's physician attesting to the Class Member having been prescribed and/or provided with PIO, including the dosage and dates of same, along with a statutory declaration by the Class Member (or the Class Member's representative) that the Class Member was prescribed and/or provided with PIO, along with the dosage and dates of same, and affirming that they have made reasonable best efforts to obtain the above records and providing the reason why such records could not be obtained.

## Section 7 – Alleged Compensable Injury

Please indicate the Class Member's alleged Compensable Injury which forms the basis of this claim along with date(s) of diagnosis and/or treatment (you may check all that apply but note that compensation is only available once per claim, at the highest confirmed injury level, regardless of the number of potential Compensable Injuries). Please note that this information is intended to assist with the review of your Claim Package. The Claims Administrator will make any and all determinations in respect of the appropriate Compensable Injury following its review of the Class Member's Mandatory Medical Records:

### Level 1:

- ☐ Single occurrence of bladder cancer, diagnosed as Ta or Tis, low grade, **OR** a recurrence of bladder cancer originally diagnosed **PRIOR** to the Class Member's PIO usage.

DATE: \_\_\_\_\_

### Level 2:

- ☐ Bladder cancer diagnosed as Ta or Tis high grade, **OR** T1, **OR** recurrent bladder cancer, where initial bladder cancer diagnosis was made **AFTER** the Class Member's PIO usage.

DATE: \_\_\_\_\_

### Level 3:

- ☐ Bladder cancer diagnosed as T2 **OR** bladder cancer treated with radiation and/or systemic chemotherapy (not including direct bladder instillation treatments).

DATE: \_\_\_\_\_

### Level 4:

- ☐ Bladder cancer diagnosed as T3 **OR** bladder cancer resulting in the complete or partial removal of a kidney and/or the bladder.

DATE: \_\_\_\_\_

### Level 5:

- ☐ Bladder cancer diagnosed as T4 **OR** death due to bladder cancer.

DATE: \_\_\_\_\_

## Section 8 – Risk Factors and Other Adjustments

Please indicate which, if any, of the following risk factors apply/ied to the Class Member. Please note that this information is intended to assist with the review of your Claim Package. The Claims Administrator will make any and all determinations of which, if any, of these risk factors exist/ed and will apply the associated adjustments to the base compensation value following its review of the Class Member's Mandatory Medical Records.

1. Was the Class Member diagnosed with bladder cancer prior to first use of PIO?  
☐ Yes    Date of diagnosis: \_\_\_\_\_  
☐ No
2. Did the Class Member continue using PIO **AFTER** April 19, 2012?  
☐ Yes  
☐ No
3. Did/does the Class Member have a history of smoking?  
☐ Yes  
☐ Within one year prior to the date of the Class Member's bladder cancer diagnosis; **OR**  
☐ Between one and five years prior to the Class Member's bladder cancer diagnosis; **OR**  
☐ More than five but less than twenty years prior to the Class Member's bladder cancer diagnosis.  
☐ No
4. Did the Class Member have symptoms of bladder cancer (blood in the urine or pain with urination) **PRIOR** to first use of PIO?  
☐ Yes    Date(s): \_\_\_\_\_  
☐ No
5. Was the Class Member's bladder cancer diagnosis made more than five (5) years **AFTER** their last use of PIO?  
☐ Yes  
☐ No

6. Do the Class Member's Mandatory Medical Records refer to their bladder cancer diagnosis being **causally related** to a history of being exposed to any of the following (check all that apply):

☐ Yes

- ☐ coal gasification
- ☐ diesel engine exhaust
- ☐ iron or steel foundries
- ☐ coke (coal coke or pet coke)
- ☐ coal tar
- ☐ carbon black or shale oil extraction
- ☐ wood impregnation
- ☐ roofing
- ☐ road paving
- ☐ chimney sweeping
- ☐ aluminum
- ☐ carbon electrodes
- ☐ production of rubber, leather, textiles, dyes or paint products
- ☐ work as a painter, hairdresser, machinist, printer or truck driver.

☐ No

7. Did the Class Member's bladder cancer originate in another organ and subsequently metastasize or spread to the bladder?

☐ Yes

☐ No

8. Did the Class Member ever use any pharmaceutical product containing the active compound cyclophosphamide, including the branded medication known as "Cytosan" and/or "Procytox"?

☐ Yes

☐ No

9. Did the Class Member ever receive radiation therapy to the pelvis prior to their bladder cancer diagnosis, including for, but not limited to, the treatment of prostate, uterine, cervical, rectal or anal cancer?

☐ Yes

☐ No



## **Section 9 – Mandatory Medical Records**

### **PLEASE ATTACH AND SUBMIT ALL MANDATORY MEDICAL RECORDS WITH YOUR CLAIM PACKAGE**

Mandatory Medical Records include the documentation described below which you are required to submit in order to be eligible for benefits for a Compensable Injury.

- ☐ Medical Records reflecting the Class Member's bladder cancer diagnosis, and which must include:
  - ☐ pathology report(s) describing the existence of cancerous cells in the urothelial lining of the urinary bladder, renal pelvis or the ureter or confirming the diagnosis of bladder cancer on biopsy of excised tumor;

**OR**

- ☐ if no pathology report is available, other contemporaneous medical records referencing a pathology report containing a diagnosis of bladder cancer.

**AND**

- ☐ Complete medical records from all healthcare providers who diagnosed and/or provided the Class Members with treatment for their bladder cancer.

**AND**

- ☐ If not included in the above, complete medical records from all healthcare providers who prescribed PIO to the Class Member from the date of such first prescription through to the Class Member's last use of PIO.

**AND**

- ☐ If not included in the above, complete medical records from the Class Member's primary health care provider for the period spanning three (3) years prior to the Class Member's bladder cancer diagnosis through to the date of the Class Member's bladder cancer diagnosis.

**AND**

- ☐ If the death of the Class Member is alleged to be due to bladder cancer, a death certificate, autopsy report or other medical record reflecting that the primary or secondary cause of the Class Member's death was bladder cancer or complications due to the Class Member's bladder cancer.

## Section 10 – Income Loss Claim

This section only applies if you are submitting a claim for a Class Member's alleged income loss.

Income losses will be calculated by the Claims Administrator based on the difference between a Class Member's average net income over the three (3) years prior to the Class Member's Compensable Injury and the Class Member's net income following the Class Member's Compensable Injury.

Date of alleged Compensable Injury: \_\_\_\_\_

Class Member's Net Income in the **three** years **prior** to the alleged Compensable Injury:

Year: \_\_\_\_\_ Net Income: \$ \_\_\_\_\_

Year: \_\_\_\_\_ Net Income: \$ \_\_\_\_\_

Year: \_\_\_\_\_ Net Income: \$ \_\_\_\_\_

Average: \$ \_\_\_\_\_

Class Member's Net Income in the year(s) **following** the alleged Compensable Injury:

Year: \_\_\_\_\_ Net Income: \$ \_\_\_\_\_

Year: \_\_\_\_\_ Net Income: \$ \_\_\_\_\_

Year: \_\_\_\_\_ Net Income: \$ \_\_\_\_\_

Year: \_\_\_\_\_ Net Income: \$ \_\_\_\_\_

Year: \_\_\_\_\_ Net Income: \$ \_\_\_\_\_

**In order to advance an Income Loss Claim, please submit documentation which reflects the Class Member's net income set out above. All such records will only be reviewed by the Claims Administrator if your claim has been deemed an Approved Claim. All income loss claims are subject to potential adjustments in accordance with Section 12 of the Settlement Agreement.**

## **Section 11 – Claimant Declaration**

The undersigned hereby consent(s) to the disclosure of the information contained herein to the extent necessary to process this claim for benefits. The undersigned acknowledges and understands that this Claim Form is an official Court document sanctioned by the Ontario and Québec Courts that preside over the Settlement, and submitting this Claim Form to the Claims Administrator is equivalent to filing it with a Court.

After reviewing the information that has been supplied on this Claim Form, the undersigned declares under penalty of perjury that the information provided in this Claim Form is true and correct to the best of his/her knowledge, information and belief.

\_\_\_\_\_  
Signature of Claimant

Date \_\_\_\_\_  
DDMMYYYY

## Section 12 –Physician Declaration

**This Section is to be completed ONLY if you were UNABLE to obtain and provide the Product Identification Documentation required by Section 6 above.**

I solemnly declare that:

1. I am a physician licensed to practice medicine in the province of \_\_\_\_\_.
2. I am/was a treating physician for \_\_\_\_\_ (Class Member) and I hereby solemnly affirm that the Class Member was prescribed and/or provided with PIO as follows:

ACTOS® ☐ YES ☐ NO

Date(s), duration and dosage(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Apo-Pioglitazone ☐ YES ☐ NO

Date(s), duration and dosage(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sandoz-Pioglitazone ☐ YES ☐ NO

Date(s) duration and dosage(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Physician \_\_\_\_\_ Date \_\_\_\_\_

Name of Physician \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone Number: \_\_\_\_\_



# EXHIBIT M

**EXHIBIT "M"**  
**CANADIAN ACTOS® / PIOGLITAZONE SETTLEMENT**  
**ACKNOWLEDGMENT LETTER**

DATE

CLAIMANT NAME

CLAIMANT ADDRESS

CLAIMANT CITY, PROV, POSTAL

**RE: Your file #**

We are writing to you as the Court-appointed Claims Administrator of the Canadian Actos® / Pioglitazone Settlement. Thank you for submitting your Canadian Actos® / Pioglitazone Settlement Claim Package. Unless otherwise indicated in this letter, all capitalized terms have the meanings set out in the Settlement Agreement.

This letter confirms that we have received your Claim Package and any attached supporting documentation. Your Claim Package will now be reviewed for completeness and if it is considered to be deficient (i.e., missing any of the required information and/or documentation) you will be notified in writing and given an opportunity to provide additional information and/or documentation.

If your Claim Package is complete at this time, we will move forward with reviewing your Claim Package for a determination on the eligibility of your Claim, after which you will be sent a Claim Determination Letter that will advise you whether your Claim has been approved or not, and if approved, the amount of the Compensatory Payment (which is subject to *pro rata* reduction, depending on the total number of Approved Claims). If your Claim is NOT approved, you may have the opportunity to challenge that decision and the details about how to do so will be set out in the Claim Determination Letter.

No Claims will be paid until all submitted Claims have been finally adjudicated (including the resolution of all Challenges). Within ninety (90) days after all Claims have been finally adjudicated, you will be sent a Final Claim Determination Letter which will advise you of the final determination on your Claim and, if your Claim was approved, it will set out the final amount of your Compensatory Payment and enclose a cheque in that amount.

If you have any questions or concerns, or if your mailing address or contact information changes, please contact the Claims Administrator's Information Line at 1-800-538-0009 or the website at [www.classaction2.com](http://www.classaction2.com).

Sincerely,

Claims Administrator

# EXHIBIT N



**EXHIBIT "N"**  
**CANADIAN ACTOS® / PIOGLITAZONE SETTLEMENT**  
**DEFICIENCY LETTER**

DATE

CLAIMANT NAME  
CLAIMANT ADDRESS  
CLAIMANT CITY, PROV, POSTAL

**RE: Your file #**

We are writing to you as the Court-appointed Claims Administrator of the Canadian Actos® / Pioglitazone Settlement. Unless otherwise indicated in this letter, all capitalized terms have the meanings set out in the Settlement Agreement.

Thank you for submitting your Canadian Actos® / Pioglitazone Settlement Claim Package. We have now reviewed your Claim Package for completeness pursuant to the terms of the Settlement, and have determined that the package is missing the following information and/or documentation necessary to support your Claim:

**[particulars as to nature of deficiency/ies to be listed here]**

As your Claim Package and/or supporting documentation has been deemed to be deficient, you may seek to obtain the referenced missing information and/or documentation. If you choose to do so, any such further information and/or documentation must be submitted to the Claims Administrator within **sixty (60) days** of receipt of this letter. You are not required to provide the requested information or further documentation. **However, if you do not provide the requested information or documentation listed above, this may affect your eligibility to obtain compensation for your Claim.**

Kindly submit all further documentation to the Claims Administrator at the following address:

**CA2 Class Action Administration**  
**9 Prince Arthur Ave., Toronto, ON, M5R 1B2**  
**Attention: Canadian Actos® / Pioglitazone Settlement**

If you have any questions or concerns, please contact the Claims Administrator's Information Line at 1-800-538-0009 or e-mail [info@classaction2.com](mailto:info@classaction2.com).

Sincerely,

Claims Administrator

# EXHIBIT O

**EXHIBIT "O"**  
**CANADIAN ACTOS® / PIOGLITAZONE SETTLEMENT**  
**CLAIM DETERMINATION FORM**

NAME OF CLASS MEMBER:

FILE#:

DATE OF BIRTH:

The Claim Package and supporting documentation related to the claim of the above-referenced Class Member in the Canadian Actos® / Pioglitazone Settlement has been reviewed and it has been determined, in accordance with the terms of the Settlement Agreement, as follows:

- ☐ The Class Member **did not** suffer a Compensable Injury; **OR**
- ☐ The Class Member **did** suffer a Compensable Injury, as follows:

**Level 1:**

- ☐ Single occurrence of bladder cancer, diagnosed as Ta or Tis, low grade, **OR** a recurrence of bladder cancer originally diagnosed **PRIOR** to the Class Member's PIO usage.

DATE: \_\_\_\_\_

**Level 2:**

- ☐ Bladder cancer diagnosed as Ta or Tis high grade, **OR** T1, **OR** recurrent bladder cancer, where initial bladder cancer diagnosis was made **AFTER** the Class Member's PIO usage.

DATE: \_\_\_\_\_

**Level 3:**

- ☐ Bladder cancer diagnosed as T2 **OR** bladder cancer treated with radiation and/or systemic chemotherapy (not including direct bladder instillation treatments).

DATE: \_\_\_\_\_

**Level 4:**

- ☐ Bladder cancer diagnosed as T3 **OR** bladder cancer resulting in the complete or partial removal of a kidney and/or the bladder.

DATE: \_\_\_\_\_

**Level 5:**

- ☐ Bladder cancer diagnosed as T4 **OR** death due to bladder cancer.

DATE: \_\_\_\_\_

Pursuant to Section 3 of the Settlement Eligibility Criteria, it has been determined that the Class Member's cumulative dosage of PIO prior to their bladder cancer diagnosis was:

\_\_\_\_\_ mg,

resulting in a Cumulative Dosage Adjustment of:

\_\_\_\_\_ %

It has further been determined that the following Risk Factors and Other Adjustments apply to the Class Member's Claim (list all that apply along with applicable % adjustment(s)):

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resulting in a Risk Factor Adjustment of:

\_\_\_\_\_ %

Unless otherwise indicated herein, all capitalized terms have the meanings set out in the Settlement Agreement.

# EXHIBIT P

**EXHIBIT "P"**  
**CANADIAN ACTOS® / PIOGLITAZONE SETTLEMENT**  
**CLAIM DETERMINATION LETTER**

DATE

CLAIMANT NAME

CLAIMANT ADDRESS

CLAIMANT CITY, PROV, POSTAL

**RE: Your file #**

We are writing to you as the Court-appointed Claims Administrator of the Canadian Actos® / Pioglitazone Settlement. Thank you for submitting your Canadian Actos® / Pioglitazone Settlement Claim Package. We have now reviewed your Claim Package for eligibility pursuant to the terms of the Settlement. Unless otherwise indicated in this letter, all capitalized terms have the meanings set out in the Settlement Agreement.

The Claim Determination Form is attached hereto. It has been determined that your claim is:

**[particulars as to determination on eligibility to be inserted here]**

**[where claim deemed eligible, particulars as to determination as to quantum of compensation to be inserted here]**

If you accept the determination(s) set out above you do not need to do anything at this time. Within ninety (90) days after all Claims have been finally adjudicated, including the resolution of all Challenges, you will be sent a Final Claim Determination Letter which will advise you of the final determination on your Claim and, if your Claim was approved, it will set out the final amount of the Compensatory Payment and enclose a cheque in that amount.

If you **disagree** with the determination of **[insert decision on eligibility or quantum or both]**, the terms of the Settlement Agreement allow you to submit a Notice of Challenge (copy enclosed) and, if you wish, written submissions not exceeding **five (5)** pages in length setting out the reason(s) why you disagree with the determination(s).

**Challenges related to the base compensation value may only be submitted where (i) the Class Member is alleged to have suffered a higher injury level or, (ii) you disagree with the Cumulative Dosage Adjustment and/or the Risk Factor and Other Adjustment(s), if such adjustment(s) reduced the base compensation value by more than 10%. If your Challenge is unsuccessful and the Adjudicator determines that your Challenge was frivolous, you may be required to pay costs for your appeal, to a maximum of \$300.**

All Notices of Challenge and any written submissions must be submitted to the Claims Administrator within **thirty (30) days** of the date of this letter, after which they will be submitted, along with your Claim Package, supporting documentation and the Claim Determination Form to the Adjudicator for a final and binding decision.

Sincerely,

Claims Administrator



# EXHIBIT Q

**EXHIBIT "Q"**  
**CANADIAN ACTOS® / PIOGLITAZONE SETTLEMENT**  
**NOTICE OF CHALLENGE**

NAME OF CLASS MEMBER:

FILE#:

DATE OF BIRTH:

I, \_\_\_\_\_, received a Claim Determination Letter dated \_\_\_\_\_, related to the above-captioned Class Member's claim under the Canadian Actos® / Pioglitazone Settlement and I wish to challenge the determination(s) set out therein as follows (check all that apply):

- ☐ I challenge the determination that the Class Member **did not** suffer a Compensable Injury;
- ☐ I challenge the determination as to the type of Compensable Injury that the Class Member suffered (please indicate the Compensable Injury that you believe the Class Member did suffer, along with the date of the alleged Compensable Injury):

\_\_\_\_\_

- ☐ I challenge the determination as to the amount of compensation payable (**please note that if you are challenging the amount of compensation payable based on the Cumulative Dosage Adjustment and/or Risk Factor and Other Adjustments determination(s), you may ONLY submit a challenge where the Adjustment(s) reduced the base value of the Claim by more than 10%.**)
- ☐ Other challenge (please describe): \_\_\_\_\_

Please state the reason(s) for challenging the determination(s):

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If you wish, you may attach written submissions in support of your Challenge. Any such submissions must not exceed **five (5)** pages in length. Your Notice of Challenge and any additional submissions you wish to submit must be sent to the Claims Administrator **no later than thirty (30) days** following the date of the Claim Determination Letter.

Unless otherwise indicated herein, all capitalized terms have the meanings set out in the Settlement Agreement.

# EXHIBIT R

**EXHIBIT "R"**  
**CANADIAN ACTOS® / PIOGLITAZONE SETTLEMENT**  
**FINAL CLAIM DETERMINATION LETTER**

DATE

CLAIMANT NAME

CLAIMANT ADDRESS

CLAIMANT CITY, PROV, POSTAL

**RE: Your file #**

We are writing to you as the Court-appointed Claims Administrator of the Canadian Actos® / Pioglitazone Settlement. Unless otherwise indicated in this letter, all capitalized terms have the meanings set out in the Settlement Agreement.

**[if an approved Claim and the Claims Admin decision was NOT challenged, use following language only]** All Claims under the Canadian Actos® / Pioglitazone Settlement have now been finally adjudicated. Your Claim was approved and the Compensatory Payment has been determined in accordance with the terms of the Settlement Agreement in the amount of \$\_\_\_\_\_. A cheque in the amount of \$\_\_\_\_\_ is enclosed herewith.

**[if the Claim was challenged, use the following language]** Your Challenge Materials (including your Claim Package and supporting documentation, the Claim Determination Form, the Claim Determination Letter, your Notice of Challenge **[if submitted, add reference to written submissions here]**) were submitted to the Adjudicator on **[insert date]**.

In accordance with the written reasons of the Adjudicator, which are attached hereto, your Challenge has been

**[add "allowed" or "denied", as the case may be, and any resulting particulars; i.e., not eligible, eligible, same compensation payable, different compensation payable, etc. and if Challenge allowed, note the amount of the Compensatory Payment and that a cheque in that amount is enclosed]**

The decision of the Adjudicator is final and binding and is not subject to any further Challenge, appeal, or revision.

Sincerely,

Claims Administrator

**SCHEDULE "B"**  
**NOTICE OF SETTLEMENT APPROVAL IN**  
**CANADIAN ACTOS® / PIOGLITAZONE LITIGATION**

**PLEASE READ CAREFULLY. IGNORING THIS NOTICE WILL AFFECT YOUR LEGAL RIGHTS**

**NOTICE OF SETTLEMENT APPROVAL**

A Canada-wide settlement has been reached in five proposed class actions relating to the prescription drugs ACTOS®, APO-Pioglitazone and SANDOZ-Pioglitazone (collectively referred to as "PIO").

These lawsuits sought damages on behalf of Canadians for harm allegedly related to the use of PIO, including bladder cancer. The defendants deny the allegations made in these lawsuits, make no admission as to the truth of these allegations and deny any wrongdoing.

This Notice advises you that, following publication of a notice program, hearings were held in the supervising Courts in Québec and Ontario on January 27 and 28, 2021, respectively ("the Approval Hearings").

The Courts each issued orders approving the national settlement ("the Settlement Agreement"), and determined that the Settlement Agreement is fair, reasonable and in the best interests of Class Members. The Approval Orders, as well as the Settlement Agreement and related documents, can be reviewed at the settlement website, [www.piosettlement.ca](http://www.piosettlement.ca).

Unless otherwise indicated herein, capitalized terms have the meanings set out in the Settlement Agreement.

**WHO IS INCLUDED?**

The Settlement Agreement applies to the following categories of individuals:

**Québec Class:** All persons resident in Québec who purchased and/or used ACTOS® from August 17, 2000 to the date the Settlement is finally approved by the Courts (the "Class Period"), and their estates, administrators or other legal representatives, heirs or beneficiaries;

**Québec Family Class:** All family members and/or dependents of Québec Class Members who are entitled to assert a claim for compensation in the Québec Action;

**Ontario National Class:** All persons resident in Canada, excluding residents of Québec, who purchased and/or used ACTOS®, and all persons resident in Canada who purchased and/or used APO-Pioglitazone and/or SANDOZ-Pioglitazone, during the Class Period, and their estates, administrators or other legal representatives, heirs or beneficiaries; and

**Ontario National Family Class:** All persons who on account of a personal relationship to an Ontario National Class Member are entitled to assert a derivative claim for damages pursuant to the applicable provincial and/or territorial family law legislation.

If you fall within any of the above Class definitions, and you did not opt out prior to the Opt Out Deadline of January 26, 2021, you are bound by the terms of the Settlement Agreement.

**WHAT IS THE PROPOSED SETTLEMENT?**

The Settlement Agreement provides for the creation of a \$25 million (CDN) Settlement Fund which will be used to pay compensation for Approved Claims, the claims of the Public Health Insurers, the costs of notice and administration, and Class Counsel Legal Fees, disbursements and taxes.

Payments will be made to Class Members who show that they suffered from bladder cancer, as described in greater detail in the Settlement Eligibility Criteria/Compensation Grid, which are all subject to various eligibility criteria and maximum payment values.

Not all Class Members will be eligible for compensation. Compensation may also be paid to qualified Family Class Members. Any undistributed balance of

the Settlement Fund will be allocated as between Class Members with Approved Claims and the Public Health Insurers.

For more information on the eligibility criteria and maximum individual payment values, you can review the Settlement Agreement and related documents which are posted at [www.piosettlement.ca](http://www.piosettlement.ca) and/or you can contact the Court-appointed Claims Administrator, CA2 Inc. at the address and/or phone number listed later in this Notice.

**PARTICIPATING IN THE SETTLEMENT - SUBMITTING CLAIMS**

To be entitled to a payment pursuant to the Settlement Agreement, you must file a claim with the Claims Administrator on or before the end of the Claim Period which expires on **DATE**. A downloadable version of the Claim Package is currently available online at [www.piosettlement.ca](http://www.piosettlement.ca) or, alternatively, a Claim Package can be requested from the Claims Administrator.

**TO BE ELIGIBLE FOR ANY COMPENSATION FROM THE SETTLEMENT, CLAIMANTS MUST SUBMIT THEIR CLAIM DOCUMENTATION TO THE CLAIMS ADMINISTRATOR BEFORE THE EXPIRY OF THE CLAIM PERIOD ON **DATE**.**

If, for any reason, this deadline is extended, any such extension and new deadline will be posted at the settlement website at [www.piosettlement.ca](http://www.piosettlement.ca).

**WHO REPRESENTS ME? CLASS COUNSEL ARE:**

**Rochon Genova LLP**  
Barristers • Avocats  
900-121 Richmond St. W.  
Toronto, ON M5H 2K1  
Joel P. Rochon  
Tel: (416) 363-1867  
Fax: (416) 363-0263  
[jrochon@rochongenova.com](http://jrochon@rochongenova.com)

**Kim Spencer McPhee**  
Barristers P.C.  
1200 Bay St., Suite 1203  
Toronto, ON M5R 2A5  
Megan B. McPhee  
Tel: (416) 596-1414  
Fax: (416) 598-0601  
[mbm@complexlaw.ca](mailto:mbm@complexlaw.ca)

**Merchant Law Group LLP**  
100-2401 Saskatchewan Dr.  
Regina, SK S4P 4H8  
E.F. Anthony Merchant Q.C.  
Tel: (306) 359-7777  
Fax: (306) 522-3299  
[emerchant@merchantlaw.com](mailto:emerchant@merchantlaw.com)

**LEGAL FEES**

At the Approval Hearings, Class Counsel requested and received the Courts' approval for payment of their fees, disbursements and applicable taxes in the amount of **\$XX**.

Claimants may retain their own lawyers to assist them in making individual claims under the Settlement Agreement and will be responsible for any fees charged by such lawyers.

**FOR MORE INFORMATION:**

The Courts have appointed CA2 Inc. as the Claims Administrator for the Settlement Agreement. If you have questions about the Settlement and/or would like to obtain more information and/or copies of the Settlement Agreement and related documents, please visit the settlement website at [www.piosettlement.ca](http://www.piosettlement.ca) or contact the Claims Administrator at:

**Canadian ACTOS®/Pioglitazone Settlement c/o CA2 Inc.**  
**9 Prince Arthur Ave., Toronto, ON, M5R 1B2**  
**[piosettlement@classaction2.com](mailto:piosettlement@classaction2.com), 1-800-538-0009**

This Notice contains a summary of some of the terms of the Settlement Agreement. If there is a conflict between this Notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

**PLEASE DO NOT CALL THE DEFENDANTS OR THE COURTS ABOUT THESE ACTIONS**

*This Notice has been approved by the Superior Court of Québec and the Ontario Superior Court of Justice*

# AVIS D'APPROBATION DU RÈGLEMENT RELATIF AU LITIGE CANADIEN CONCERNANT ACTOS<sup>MD</sup> / LA PIOGLITAZONE

**VEUILLEZ LIRE LE PRÉSENT AVIS ATTENTIVEMENT. L'IGNORER POURRAIT AVOIR UNE INCIDENCE SUR VOS DROITS.**

## AVIS D'APPROBATION DU RÈGLEMENT

Un règlement pancanadien a été conclu dans le cadre de cinq actions collectives/recours collectifs projetés relativement aux médicaments sur ordonnance ACTOS<sup>MD</sup>, APO-Pioglitazone et SANDOZ-Pioglitazone (collectivement, « PIO »). Dans ces poursuites, des dommages-intérêts étaient demandés au nom de Canadiens ayant prétendument subi un préjudice lié à l'utilisation de PIO, notamment un cancer de la vessie. Les défenderesses nient les allégations formulées dans le cadre de ces poursuites, n'en admettent aucunement la véracité et rejettent toute faute.

Le présent avis vous informe qu'après la publication d'un programme d'avis, des audiences ont été tenues devant les Cours assurant la supervision au Québec et en Ontario les 27 et 28 janvier, 2021, respectivement (les « audiences d'approbation »). Chacune des Cours a rendu une ordonnance approuvant l'entente de règlement (l'« entente de règlement ») et déterminé que l'entente de règlement est équitable, raisonnable et dans l'intérêt des membres du groupe. Les ordonnances d'approbation, ainsi que l'entente de règlement et les documents connexes, peuvent être consultées sur le site Web du règlement, au [www.piosettlement.ca](http://www.piosettlement.ca).

Sauf indication contraire dans les présentes, les termes clés ont le sens qui leur est attribué dans l'entente de règlement.

## QUI EST VISÉ?

L'entente de règlement s'applique aux groupes de personnes suivants :

**groupe du Québec** : toutes les personnes résidant au Québec qui ont acheté et/ou utilisé ACTOS<sup>MD</sup> du 17 août 2000 à la date à laquelle le règlement est finalement approuvé par les tribunaux (« période visée par les recours ») ainsi que leurs successions, leurs administrateurs de succession ou leurs autres représentants légaux, leurs héritiers ou leurs bénéficiaires;

**famille du groupe du Québec** : l'ensemble des membres de la famille et/ou des personnes à charge des membres du groupe du Québec qui ont le droit réclamer un dédommagement dans le cadre de l'action intentée au Québec;

**groupe national de l'Ontario** : toutes les personnes résidant au Canada, sauf les résidents du Québec, qui ont acheté et/ou utilisé ACTOS<sup>MD</sup>, et toutes les personnes résidant au Canada qui ont acheté et/ou utilisé APO-Pioglitazone et/ou SANDOZ-Pioglitazone, pendant la période visée par les recours, ainsi que leurs successions, leurs administrateurs de succession ou leurs autres représentants légaux, leurs héritiers ou leurs bénéficiaires;

**famille des membres du groupe national de l'Ontario** : toutes les personnes qui, en raison d'un lien personnel avec un membre du groupe national de l'Ontario, ont le droit de présenter une réclamation dérivée conformément à la législation en droit de la famille provinciale et/ou territoriale applicable.

Si vous faites partie de l'un des groupes susmentionnés et que vous ne vous êtes pas exclu avant la date limite d'exclusion du 26 janvier, 2021, vous êtes lié par les modalités de l'entente de règlement.

## EN QUOI CONSISTE LE RÈGLEMENT PROPOSÉ?

L'entente de règlement prévoit la création d'un fonds de règlement de 25 millions de dollars (canadiens) qui servira à régler les réclamations approuvées, les réclamations des assureurs des services de santé publics, les coûts relatifs aux avis et à l'administration, ainsi que les honoraires des avocats du groupe, les débours et les taxes.

Des paiements seront versés aux membres du groupe ayant démontré qu'ils ont souffert d'un cancer de la vessie, comme il est indiqué en détail dans les critères d'admissibilité / la table des indemnités, le tout sous réserve de divers critères d'admissibilité et de valeurs de paiement maximales. Ce ne sont pas tous les membres du groupe qui auront droit à des dédommagements. Des dédommagements pourraient également être versés aux membres de la famille des membres du groupe qui remplissent les conditions requises. Tout solde non distribué du fonds de règlement sera réparti entre les membres du groupe ayant des réclamations approuvées, d'une part, et les assureurs des services de santé publics, d'autre part.

Pour obtenir des renseignements supplémentaires concernant les critères d'admissibilité

et les valeurs de paiement individuel maximales, vous pouvez consulter l'entente de règlement et les documents connexes au [www.piosettlement.ca](http://www.piosettlement.ca) et/ou vous pouvez communiquer avec l'administrateur des réclamations nommé par les Cours, CA2 Inc. à l'adresse et/ou au numéro de téléphone indiqués plus loin dans le présent avis.

## PARTICIPATION AU RÈGLEMENT – PRÉSENTATION DE RÉCLAMATIONS

Pour avoir droit à un paiement dans le cadre de l'entente de règlement, vous devez déposer une réclamation auprès de l'administrateur des réclamations au plus tard à la fin de la période de réclamation, qui expire le **DATE**. Il est actuellement possible d'obtenir une version téléchargeable du dossier de réclamation en ligne au [www.piosettlement.ca](http://www.piosettlement.ca), ou de demander un dossier de réclamation à l'administrateur des réclamations.

**POUR AVOIR DROIT À UN DÉDOMMAGEMENT DANS LE CADRE DU RÈGLEMENT, LES RÉCLAMANTS DOIVENT PRODUIRE LES PIÈCES JUSTIFICATIVES SE RAPPORTANT À LEUR RÉCLAMATION AUPRÈS DE L'ADMINISTRATEUR DES RÉCLAMATIONS AVANT LA DATE D'EXPIRATION DE LA PÉRIODE DE RÉCLAMATION, SOIT LE **DATE**.**

Si, pour quelque raison que ce soit, cette date limite est reportée, tout report et toute nouvelle date limite seront affichés sur le site Web du règlement, au [www.piosettlement.ca](http://www.piosettlement.ca).

## QUI ME REPRÉSENTE? LES AVOCATS DU GROUPE SONT :

Rochon Genova LLP	Kim Spencer McPhee	Merchant Law Group LLP
Barristers • Avocats	Barristers P.C.	
900-121 Richmond St. W.	1200 Bay St., Suite 1203	100-2401 Saskatchewan Dr.
Toronto (Ont.) M5H 2K1	Toronto (Ont.) M5R 2A5	Regina (Sask.) S4P 4H8
Joel P. Rochon	Megan B. McPhee	E.F. Anthony Merchant
Q.C. Tél. : (416) 363-1867	Tél. : (416) 596-1414	Tél. : (306) 359-7777
Télex. : (416) 363-0263	Télex. : (416) 598-0601	Télex. : (306) 522-3299
<a href="mailto:jrochon@rochongenova.com">jrochon@rochongenova.com</a>	<a href="mailto:mbm@complexlaw.ca">mbm@complexlaw.ca</a>	<a href="mailto:emerchant@merchantlaw.com">emerchant@merchantlaw.com</a>

## HONORAIRES DES AVOCATS

Aux audiences d'approbation, les avocats du groupe ont demandé et reçu l'approbation des Cours pour le paiement de leurs honoraires, des débours et des taxes applicables, dont le montant totalise **XX \$**.

Les réclamants peuvent confier à leurs propres avocats le soin de les appuyer dans leurs démarches pour présenter des réclamations distinctes aux termes de l'entente de règlement et prendront à leur charge les honoraires demandés par ces avocats.

## RENSEIGNEMENTS :

Les Cours ont nommé CA2 Inc. à titre d'administrateur des réclamations à l'égard de l'entente de règlement. Si vous avez des questions au sujet du règlement et/ou si vous souhaitez obtenir de plus amples renseignements et/ou des exemplaires de l'entente de règlement et des documents connexes, veuillez consulter le site Web du règlement, au [www.piosettlement.ca](http://www.piosettlement.ca), ou communiquer avec l'administrateur des réclamations, dont voici les coordonnées :

**Règlement canadien concernant ACTOS<sup>md</sup>/la pioglitazone**  
a/s CA2 Inc.  
9 Prince Arthur Ave.,  
Toronto (Ontario) M5R 1B2  
[piosettlement@classaction2.com](mailto:piosettlement@classaction2.com)  
1-800-538-0009

Le présent avis contient un résumé de certaines modalités de l'entente de règlement. En cas de conflit entre le présent avis et l'entente de règlement, les modalités de l'entente de règlement l'emporteront.

**VEUILLEZ NE PAS APPELER LES DÉFENDERESSES OU LES COURS AU SUJET DE CES POURSUITES**

*Le présent avis a été approuvé par la Cour supérieure du Québec et la Cour supérieure de justice de l'Ontario.*



## SCHEDULE C

### CANADIAN ACTOS® / PIOGLITAZONE CLASS ACTION CERTIFICATION AND SETTLEMENT NOTICE PLAN

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#### OBJECTIVE:

To effect fair, reasonable and adequate notice to Class Members of the certification/authorization of the Canadian ACTOS® / Pioglitazone class action Proceedings and of the Settlement Approval Hearings that will seek the Courts' approval of a proposed settlement and to advise of the Settlement's approval, if granted by the Courts.

Unless otherwise indicated herein, capitalized terms have the meanings set out in the Settlement Agreement.

Reasonable notification entails:

- Achieving broad reach of the target group
- In all regions of the country
- In English and French

All communications will comply with the provisions of the Class Proceedings legislation in both provinces involved in the Proceedings as follows:

- *Class Proceedings Act, 1992*, SO 1992, c 6 (Ontario);
- *An Act Representing the Class Action*, RSQ, c R-2.1 (Quebec)\*  
\*certain issues regarding class actions are dealt with through the Code of Civil Procedure: *Code of Civil Procedure*, RSQ c C-25 (Quebec).

#### COMMUNICATIONS OBJECTIVES:

The objectives of this notice program are:

- To advise Class Members of the certification/authorization and proposed settlement of the Proceedings and to inform them of their right to **opt-out** of the Proceedings;
- To advise Class Members of the approval hearing relating to the Settlement Agreement between the parties and of their right to object to the approval of the Settlement Agreement;

- To advise Class Members of the benefits available under the proposed settlement and the actions they must take either to opt out or submit a claim; and
- To advise Class Members of the ultimate approval of the Settlement Agreement by the Ontario and Québec Courts and the actions they must take to submit a claim.

### **COMMUNICATIONS STRATEGY:**

A combination of direct mail, indirect notification (via website), and paid advertising in print and digital media together with neutrally worded press releases in the forms attached as Schedules “B” and “C” to this Notice Plan will be used in an effort to reach as large a percentage of Class Members as feasible.

Planned communications include:

- Direct mailing by the Claims Administrator to all Class Members on Class Counsel’s distribution list enclosing a copy of the Approval Hearing Notice, Opt Out Form and Claim Package to be delivered by e-mail where such addresses are known and by regular mail otherwise, with follow-up (best efforts) for any undeliverable e-mails and/or returned mail;
- The Approval Hearing Notice will be published in national and regional newspapers in English and French, in accordance with Schedule “A” to this Notice Plan;
- The Approval Hearing Notice will also be posted in both English and French by Class Counsel on Class Counsel’s respective websites and on the website to be created by the Claims Administrator for the purpose of the Settlement Agreement, which dedicated website will provide further information about the Settlement Agreement, including the settlement documents, downloadable forms and facilitate communication with the Claims Administrator;
- A press release, to be issued in English and French via Canada News Wire, in the form attached as Schedule “B” to this Notice Plan;
- Following approval of the Settlement Agreement by the Ontario and Québec Courts, a further streamlined communications strategy will be deployed to provide notice of the approval through direct mail, website communication and a neutrally worded press release, in the form attached as Schedule “C” to this Notice Plan..

### **TARGET AUDIENCE:**

For the purposes of paid media selection, the target audience is defined as:

- Adults 18 years of age or older

- Split evenly between males and females
- In all geographic regions of Canada in English and French

### **SETTLEMENT WEBSITE:**

All communications (whether via direct or indirect notice) will direct Class Members to the Canadian ACTOS® / Pioglitazone Class Action Settlement website ([www.piosettlement.ca](http://www.piosettlement.ca)) as a source of comprehensive information and updates on the Proceedings.

The Settlement website will contain:

- Detailed information about and updates on the status of the Proceedings;
- Description of the proposed settlement;
- Frequently Asked Questions;
- Important dates;
- Case documents;
- Instructions and forms for opting out of the settlement;
- Instructions and forms for submitting a claim;
- Contact information for Class Counsel.

### **FORM OF PROPOSED NOTICES**

Unless the Courts order otherwise, the Approval Hearing Notice to be delivered to known Class Members and which will be posted on Class Counsel's websites will be in the form set out in Exhibit "C" to the Settlement Agreement.

Unless the Courts order otherwise, the Approval Notice to be delivered to known Class Members and which will be posted on Class Counsel's websites will be in the form set out in Exhibit "H" to the Settlement Agreement.

With respect to the Notices to be published in print media, it may be necessary to make slight typesetting revisions in order to accommodate the different sizes of each publication; however, the wording will not change and the overall page layout will remain as consistent as possible in each.

## **DIRECT NOTICE - MAILING TO REGISTERED CLASS MEMBERS**

The Claims Administrator will deliver letters (which will contain an abbreviated description of the Proceedings, the proposed Settlement Agreement, and instructions for making an objection, opting-out or filing a claim and will enclose the Approval Hearing Notice, Opt Out Form and Claim Package) to all Class Members for whom they have an address. Further, the Claims Administrator, with the assistance of Class Counsel will coordinate with the Régie de l'assurance maladie du Québec (RAMQ) to prepare and send notice letters (with enclosures) to the RAMQ to be delivered to the listing of Class Members known to/identified by the RAMQ. To the extent orders from the Québec Superior Court are required to facilitate notice to class members in Québec, all Parties will cooperate in obtaining such orders.

Estimated cost:

Mailout writing, printing, handling and mailing (including postage) \$12,500

## **INDIRECT NOTICE - NEWSPAPER NOTICES**

To broaden the program's reach and provide unknown Class Members with an opportunity to learn about and participate in the Canadian ACTOS® / Pioglitazone Class Action Settlement, the Approval Hearing Notice will be published as set out in Schedule "A".

These newspapers have been selected based on the broad coverage, economical reach, and flexibility of timing they provide. (It is estimated that approximately 70% of Canadians read a newspaper on a regular basis. Vividata, 2017).

The 1/2-page or 1/3-page notices, containing a detailed description of the Settlement Agreement, and the procedures and dates for opting-out, objecting and submitting a claim, will run one time in each newspaper.

Estimated cost:

\$130,000

## **INDIRECT NOTICE – PRESS RELEASES**

Press releases will be issued in English and French via Canada News Wire.

Unless the Courts order otherwise, the content of the press release to be issued prior to the Approval Hearing will be in the form attached as Schedule "B" to this Notice Plan.

Unless the Courts order otherwise, the content of the press release to be issued if the Settlement is approved will be in the form attached as Schedule “C” to this Notice Plan.

Estimated cost	\$2,800
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**ESTIMATED REACH:**

While it is not possible to provide an accurate reach number for this notice program, the anticipated reach of this notice plan is enhanced given that certain direct mailing contact information is available through the RAMQ to ensure that the highest number of potential class members is reached. Further, the selection of a range of mass market media, in print and digital formats provides Class Members with multiple opportunities for obtaining information about the Proceedings and the proposed settlement. This increases their chances of seeing a notice and maximizes the effectiveness of the funds allocated to the notification program.

**SCHEDULE “A”**  
**CANADIAN ACTOS®/PIOGLITAZONE SETTLEMENT**  
**Notice of Certification and**  
**Settlement Approval Hearing Overview**

Date issued: March 10, 2020

1/2-page notices in Globe & Mail, Journal de Montreal, and Toronto Sun  
1/3-page notices in all other newspapers included in the program  
Notices to be placed in the Globe & Mail (national edition) and highest circulation newspaper in each province/territory  
French language notice in Journal de Montreal; English language notices in all other newspapers

Media Notice	Unit/ Description	# of Units	Total Cost	Notes
<i>Newspapers</i>				
Globe and Mail	1/2 page advertisement/News	1	\$42,721.40	National edition, Saturday placement.
Journal de Montreal	1/2 page advertisement/News	1	\$8,832.00	Quebec. Weekend placement.
Hamilton Spectator	1/3 page advertisement/News	1	\$3,420.00	Ontario. Weekend placement
Chronicle Herald	1/3 page advertisement/News	1	\$1,925.00	Nova Scotia. Weekend placement.
News Yukon	1/3 page advertisement/News	1	\$548.99	Yukon. Weekend placement
NWT	1/3 page advertisement/News	1	\$894.47	NWT. Weekend placement
Nunavut News North	1/3 page advertisement/News	1	\$909.05	Nunavut. Weekend placement
Regina Leader Post (Post Media)	1/3 page advertisement/News	1	\$1,691.00	Saskatchewan. Weekend placement.
Montreal Gazette (Post Media)	1/3 page advertisement/News	1	\$4,769.00	Quebec. Weekend placement
Vancouver Sun (Post Media)	1/3 page advertisement/News	1	\$5,652.00	British Columbia. Weekend placement
Victoria Times Colonist (Post Media)	1/3 page advertisement/News	1	\$2,231.00	British Columbia. Weekend placement
Edmonton Journal (Post Media)	1/3 page advertisement/News	1	\$3,692.00	Alberta. Weekend placement
Calgary Herald (Post Media)	1/3 page advertisement/News	1	\$4,056.00	Alberta. Weekend placement
Saskatoon Star Phoenix (Post Media)	1/3 page advertisement/News	1	\$1,691.00	Saskatchewan. Weekend placement
Ottawa Citizen (Post Media)	1/3 page advertisement/News	1	\$5,092.00	Ontario. Weekend placement
Winnipeg FP	1/3 page advertisement/News	1	\$3,692.00	Manitoba. Weekend placement
Toronto Sun	1/2 page advertisement/News	1	\$4,864.00	Ontario. Weekend placement
London FP	1/3 page advertisement/News	1	\$3,534.00	Ontario. Weekend placement
Sudbury Star	1/3 page advertisement/News	1	\$1,159.00	Ontario. Weekend placement
Windsor Star	1/3 page advertisement/News	1	\$3,344.00	Ontario. Weekend placement
St. John's Telegram	1/3 page advertisement/News	1	\$782.00	Newfoundland. Weekend placement
Charlottetown Guardian	1/3 page advertisement/News	1	\$782.00	P.E.I. Weekend placement

Moncton Times and Transcript	1/3 page advertisement/News	1	\$2,998.80	New Brunswick. Weekend placement
Toronto Star	1/3 page advertisement/News	1	\$8,965.00	Ontario. Weekend placement
Professional services; newspaper 1. Obtain price for all outlets 2. Optimize notice for readability and size 3. Sign off from counsel on the notice proofs 4. Set notice to the dimensions of each outlet 5. Book space and confirm pricing 6. Draft insertion order confirming publication date, section 7. Confirm notice publication, collect tear sheets and final 8. Draft and circulate notice report 9. Process payments			\$6,550	
Subtotal - newspaper plan (ex. HST)			\$124,795.71	

Totals			
Total newspaper plan before tax:			\$124,795.71
Tax:			\$16,223.44
Total newspaper plan, including tax:			\$141,019.15

Prices are valid for 30 days. Media costs to be confirmed at time of booking and may vary from plan.

## **SCHEDULE “B”**

### **NEWS FOR IMMEDIATE RELEASE**

#### **Proposed Settlement of Canadian ACTOS® / Pioglitazone Litigation**

**TORONTO, DATE, 2020** – A notification program began on DATE/today, as ordered by the Ontario Superior Court of Justice and the Superior Court of Québec, to advise Canadian residents about a proposed settlement of litigation related to the prescription medications ACTOS®, APO-Pioglitazone and Sandoz-Pioglitazone.

The proposed settlement, which requires approval of the Ontario and Quebec Courts, provides for the creation of a \$25 million CDN settlement fund from which eligible Class Members will receive compensation and from which administration costs and legal fees will be paid.

The proposed settlement is not an admission of liability on the part of any of the defendants, nor has there been any finding of liability by the Courts against any of them. The defendants deny the allegations made in the lawsuits. As a term of the proposed settlement, the parties agreed to seek certification and authorization of the actions as class proceedings on consent, solely for the purposes of settlement. The notification program will advise affected Canadians of the certification/authorization of three lawsuits as class actions and of Class Members’ rights related to that certification/authorization, including the right to opt out of the proceedings and the right to object to the proposed settlement.

Notices informing people about their legal rights and the details of the settlement will be mailed to known Class Members and will be published in various newspapers across Canada, leading up to two hearings – one in Toronto and one in Montreal – at which time the Courts will consider whether or not to approve the proposed settlement. The Settlement Approval Hearings are scheduled to proceed on DATE, 2020 at 10:00 a.m. at the Ontario Superior Court of Justice, 361 University Avenue, Toronto, and on DATE, 2020 at 9:30 a.m., at the Superior Court of Québec, 1 Notre-Dame East, Montréal.

Class Members who wish to exclude themselves from the proceedings and/or file a written objection to the proposed settlement must do so by DATE, 2020 by sending an Opt Out Form and/or a written objection to the Claims Administrator, CA2 Inc..

Unless otherwise indicated herein, capitalized terms have the meanings set out in the Settlement Agreement. Further information relating to the proposed settlement, including the Notice, the settlement documents and Opt Out Forms, is available at: [www.piosettlement.ca](http://www.piosettlement.ca), from the Claims Administrator by phone at 1-800-538-0009 or by writing to the following address:

CA2 Inc.  
9 Prince Arthur Ave.,  
Toronto, ON, M5R 1B2  
[info@classaction2.com](mailto:info@classaction2.com)  
Attention: Canadian ACTOS® / Pioglitazone Settlement



The law firms of Rochon Genova LLP, Kim Spencer McPhee Barristers PC and Merchant Law Group represent the Class Members. For further information please contact any of the following:

Rochon Genova LLP  
Barristers • Avocats  
900-121 Richmond St. W.  
Toronto, ON M5H 2K1  
Joel P. Rochon  
Tel: (416) 363-1867  
Fax: (416) 363-0263  
[jrochon@rochongenova.com](mailto:jrochon@rochongenova.com)

Kim Spencer McPhee  
Barristers PC.  
1200 Bay St., Suite 1203  
Toronto, ON., M5R 2A5  
Megan B. McPhee  
Tel: (416) 596-1414  
Fax: (416) 598-0601  
[mbm@complexlaw.ca](mailto:mbm@complexlaw.ca)

Merchant Law Group LLP  
  
100-2401 Saskatchewan Dr.  
Regina, SK S4P 4H8  
Evatt Merchant Q.C.  
Tel: (306) 359-7777  
Fax: (306) 522-3299  
[emerchant@merchantlaw.com](mailto:emerchant@merchantlaw.com)

## SCHEDULE “C”

### NEWS FOR IMMEDIATE RELEASE

#### **Courts Approve Settlement of Canadian ACTOS® / Pioglitazone Litigation**

**TORONTO, DATE, 2020** – The Ontario Superior Court of Justice and the Superior Court of Québec have approved a settlement of five Canadian class action lawsuits related to the prescription medications ACTOS®, APO-Pioglitazone and Sandoz-Pioglitazone.

The Settlement provides for the creation of a \$25 million CDN settlement fund from which eligible Class Members will receive compensation and from which administration costs and legal fees will be paid.

The Settlement is not an admission of liability on the part of any of the defendants, nor has there been any finding of liability by the Courts against any of them. The defendants deny the allegations made in the lawsuits.

Unless otherwise indicated herein, capitalized terms have the meanings set out in the Settlement Agreement. Notices informing people about their legal rights and the details of the Settlement will be mailed to known Class Members and further information about the Settlement is available at: [www.piosettlement.ca](http://www.piosettlement.ca), from the Claims Administrator by phone at 1-800-538-0009 or by writing to the following address:

CA2 Inc.  
9 Prince Arthur Ave.,  
Toronto, ON M5R 1B2  
[info@classaction2.com](mailto:info@classaction2.com)  
Attention: Canadian ACTOS® / Pioglitazone  
Settlement

The law firms of Rochon Genova LLP, Kim Spencer McPhee Barristers PC and Merchant Law Group LLP represent the Class Members. For further information please contact any of the following:

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GERALDINE CASSERES, Deceased, et al.  
Plaintiffs

v.

TAKEDA PHARMACEUTICAL COMPANY LIMITED et al.  
Defendants  
Court File No.: CV-11-442584

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER**  
**Approval of Settlement Agreement and Class Counsel Fees**

**ROCHON GENOVA LLP**

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