

**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.