

**CLASS ACTION
SETTLEMENT AGREEMENT**

Among

**SULZER ORTHOPEDICS INC.,
SULZER MEDICA AG,
SULZER AG,**

and

**CLASS COUNSEL ON BEHALF OF CLASS REPRESENTATIVES
IN RE SULZER HIP PROSTHESIS AND KNEE PROSTHESIS LIABILITY
LITIGATION
MDL Docket No. 01-CV-9000 (MDL No. 1401)**

dated as of

March 13, 2002

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**CLASS ACTION SETTLEMENT AGREEMENT
WITH SULZER ORTHOPEDICS INC., et. al.**

This SETTLEMENT AGREEMENT, dated as of March 13, 2002 (this "Settlement Agreement" or "Class Action Settlement" or "Settlement"), is entered into by and among Sulzer Orthopedics Inc., a Delaware corporation ("SOUS"), and its affiliated entities (including Sulzer Medica AG, a limited company organized under the laws of Switzerland ("SML"), and each of the other SML direct or indirect subsidiaries (such subsidiaries, together SOUS, SML and any other direct or indirect subsidiaries of SML, are referred to collectively herein as "Sulzer"), and Sulzer AG, a limited company organized under the laws of Switzerland ("Sulzer AG"), each on behalf of themselves and the other Released Parties hereunder, and the undersigned Class Counsel on behalf of the Class Representatives (in each case, as defined herein). The Class Representatives, together with Sulzer and Sulzer AG, are sometimes referred to herein as the "Parties". This Settlement Agreement shall amend and supercede any prior agreements of the Parties with respect to the subject matter hereof (other than that certain Settlement Agreement, dated as of February 22, 2002, between SML and Sulzer AG), including without limitation, the Settlement Agreement dated August 15, 2001, as amended and restated as of August 23, 2001, further amended and restated as of September 12, 2001, and further amended and restated as of October 12, 2001, and the Memorandum of Understanding dated as of February 1, 2002.

RECITALS

WHEREAS, Sulzer, Sulzer AG, and the Class Representatives hereby agree to a class action settlement (the "Class Action Settlement" or "Settlement"), subject to the approval of the Federal District Court, with respect to Class Members in the United States which would resolve, on the terms set forth in this Settlement Agreement, Settled Claims against Sulzer, Sulzer AG and other Released Parties arising from the Affected Products, pending in various courts, including but not limited to claims which have been made in the actions that have been or will be transferred for coordinated or consolidated pretrial proceedings to the United States District Court for the Northern District of Ohio, Eastern Division (In Re Sulzer Hip Prosthesis And Knee Prosthesis Liability Litigation (MDL No. 1401)), and in numerous other courts.

WHEREAS, this Settlement Agreement shall not be construed as evidence of or as an admission by Sulzer or Sulzer AG of any liability or wrongdoing whatsoever or as an admission by the Class Representatives or Class Members of any lack of merit in their claims.

NOW, THEREFORE, Sulzer, Sulzer AG and the Class Representatives hereby agree, subject to Final Judicial Approval, compliance with applicable legal requirements, and other conditions, all as set forth below, that the Unrevised Affected Product Recipient Fund, Affected Product Revision Surgery Fund, Medical Research and Monitoring Fund, Subrogation and Uninsured Expenses Fund and Extraordinary Injury Fund shall be established, from which the benefits described herein will be paid to the Class Members of the proposed Settlement Class, and that the Settled Claims against Sulzer and other Released Parties, as defined herein, will be settled, compromised and released, in accordance with the following terms.

ARTICLE 1. DEFINITIONS

Section 1.1 DEFINITIONS. For purposes of this Settlement Agreement the following terms shall have the meanings set forth in this Article 1. Terms used in the singular shall be deemed to include the plural and vice versa.

- (a) “§” shall denote United States dollars.
- (b) "Additional Non-Affected Product Revision Surgery" shall mean a surgery, not the result of trauma, performed to remove and/or replace a product that is not an Affected Product after a Non-Affected Product Revision Surgery and prior to the date that is three hundred and sixty-five (365) days after the initial Affected Product Revision Surgery with respect to the same hip or knee.
- (c) “ADRs” shall mean the American Depositary Receipts of SML (NYSE ticker symbol: SM), issued pursuant to that certain Deposit Agreement between SML and Citibank, N.A., as Depositary thereunder, each representing one American Depositary Share (as defined in the Deposit Agreement).
- (d) “Affected Products” shall mean (i) Inter-Op™ Acetabular shells (“Inter-Op Shells”) identified in SOUS’s Safety Alert dated December 5, 2000 as identified by lot numbers on Annex I attached hereto, (ii) Natural Knee® II Tibial Baseplates (“Tibial Baseplates”) identified in SOUS’s Special Notification dated May 17, 2001 as identified by lot numbers on Annex I attached hereto, (iii) Inter-Op Shells and Tibial Baseplates that are otherwise identified by lot numbers on Annex I attached hereto and (iv) reprocessed Inter-Op Shells (“Reprocessed Inter-Op Shells”) identified by lot numbers on Annex II attached hereto.
- (e) “Affected Product Recipients” shall mean persons who are citizens or residents of the United States, in whose bodies one or more Affected Products have been or are now implanted in an operation or other surgical procedure, whether or not any such Affected Product has been or may in the future be removed.
- (f) “Affected Product Related” shall mean arising out of, based upon, relating to, or involving an Affected Product.
- (g) "Affected Product Revision Surgery" or "APRS" shall mean surgical removal and/or replacement of an Affected Product for reason other than trauma.
- (h) "Affected Product Revision Surgery Fund" shall have the meaning set forth in Section 2.1(d).
- (i) “Affected Product Revision Surgery Fund Benefits Claim Form” shall have the meaning set forth in Section 4.2(a).
- (j) “Blue Form” shall have the meaning set forth in Section 4.1(a).

(k) “Business Day” shall mean any day other than Saturday, Sunday or any U.S. federal holiday or any other day that the Trustee is closed.

(l) “CCI” shall have the meaning set forth in Section 6.1.

(m) “CCI Issue Date” shall have the meaning set forth in Annex V.

(n) “CHF” shall denote Swiss francs.

(o) “Claim Form” means the Unrevised Affected Product Recipient Fund Benefits Claim Form (or Blue Form), the Affected Products Revision Surgery Fund Benefits Claim Form (or Orange Form), the EIF Benefits Claim Form (or Green Form), the Derivative Benefits Claim Form (or Yellow Form) and the Uninsured Medical Expenses Claim Form (or Red Form) and any additional documentation required thereby.

(p) “Claims Administrator” shall mean James McMonagle (subject to the approval of the Court) and/or his agents, or upon the failure of the Court to so approve his appointment, his resignation or removal, any person or persons to be appointed by the Court and/or his or her agents, to administer claims for benefits and to make determinations under this Settlement Agreement and the Trust Documents and give instructions to the Trustee in connection therewith.

(q) “Class Action Settlement” or “Settlement” shall have the meaning set forth in the Recitals.

(r) “Class Counsel” shall mean those attorneys executing this Settlement Agreement on behalf of the Class Representatives, or such other attorneys as shall be approved by the Court as counsel to the Settlement Class.

(s) “Class Members” shall mean members of the Settlement Class.

(t) “Class Representatives” shall mean, with respect to Subclass I, George Yasanchak and Mary Jane Yasanchak (as Derivative Claimant), with respect to Subclass II, Harlan N. Herman, Brenda K. Herman (as Derivative Claimant) and Linda F. Wells, with respect to Subclass III, Robert Reschke and Stephanie Reschke (as Derivative Claimant), with respect to Subclass IV, Patricia Schaffer and Larry Schaffer (as Derivative Claimant) and Lee Boyd Montgomery, Jr., with respect to Subclass V, Patricia Van Dillen and John M. Van Dillen (as Derivative Claimant), or different persons as shall be designated by the Court as the representatives of the Settlement Class, in the action in Federal District Court captioned In Re Sulzer Hip Prosthesis and Knee Prosthesis Liability Litigation (MDL Docket No. 01-CV-9000, MDL No. 1401).

(u) “Code” means the Internal Revenue Code of 1986, as amended, or any successor statute.

(v) "Common Benefit Attorneys" shall mean those attorneys who contributed to the creation of the Settlement Trust through work devoted to this "common benefit" of Class Members, including any attorney who reasonably believes that he or she actually conferred benefits upon the Class Members as a whole through state court litigation, subject to determination by the Court.

(w) "Court" and/or "Trial Court" and/or "Federal District Court" means the United States District Court for the Northern District of Ohio, Eastern Division.

(x) "Covered Revision Surgery" or "CRS" shall mean an Affected Product Revision Surgery, Non-Affected Product Revision Surgery and Additional Non-Affected Product Revision Surgery.

(y) "Derivative Benefits Claim Form" shall have the meaning set forth in Section 4.4(a).

(z) "Derivative Claimant" shall mean any person asserting the right to sue Sulzer and/or Sulzer AG independently or derivatively, by reason of their personal relationship with an Affected Product Recipient as a spouse or "significant other".

(aa) "Disposition Notice" shall have the meaning set forth in Section 2.3(c).

(bb) "EIF Benefits Claim Form" shall have the meaning set forth in Section 4.3(a).

(cc) "Election Notice" shall have the meaning set forth in Section 2.3(c).

(dd) "Escrow Agreement" shall have the meaning set forth in Section 2.5(b).

(ee) "Extraordinary Injury Fund" shall have the meaning set forth in Section 2.1(d).

(ff) "Extraordinary Injury Fund Benefits" or "EIF Benefits" shall have the meaning set forth in Section 3.7(a).

(gg) "Fairness Hearing" means the hearing conducted by the Court to determine the fairness, adequacy and reasonableness of this Settlement Agreement under Fed. R. Civ. P. 23(e).

(hh) "Fairness Hearing Date" means the date on which the Fairness Hearing takes place.

(ii) "Final Determination" shall have the meaning set forth in Section 4.6(e).

(jj) "Final Judicial Approval" refers to the approval of the Settlement Agreement by the Federal District Court and such approval becoming final by the exhaustion of

all appeals, including petitions certiorari to the United States Supreme Court. Final Judicial Approval shall be deemed not to have been obtained in the event that Trial Court Approval is denied, and the period for appealing such denial has expired without any such appeal having been taken.

(kk) “Final Judicial Approval Date” shall mean the date on which Final Judicial Approval occurs.

(ll) “Financing Amount” shall have the meaning set forth in Section 2.5(a).

(mm) “Financing” means those certain financing arrangements negotiated by Sulzer in order to satisfy its funding obligations under Section 2.5(a) hereof.

(nn) “Funding Date” shall have the meaning set forth in Section 2.5(a).

(oo) “Funds” means, collectively, the Medical Research and Monitoring Fund, Unrevised Affected Product Recipient Fund, Professional Services Fund, Subrogation and Uninsured Expenses Sub-Fund, Plaintiffs’ Counsel Sub-Fund, Affected Product Revision Surgery Fund and Extraordinary Injury Fund.

(pp) “GPO” shall have the meaning set forth in Section 8.1.

(qq) “GPO Agreement” shall have the meaning set forth in Section 8.3.

(rr) “Green Form” shall have the meaning set forth in Section 4.3(a).

(ss) “Hip APRS” means surgical replacement of an Inter-Op Shell that is an Affected Product for reason other than trauma.

(tt) “Hip Beneficiaries” shall mean Affected Product Recipients of Inter-Op Shells and Reprocessed Inter-Op Shells and Derivative Claimants of Affected Product Recipients of Inter-Op Shells and Reprocessed Inter-Op Shells.

(uu) “Hip Matrix” shall have the meaning set forth in Annex IV.

(vv) “Indemnification Agreement” shall have the meaning set forth in Section 2.5(c).

(ww) “Initial Insurance Policies” shall mean the following insurance policies issued by Winterthur International Insurance Company and Winterthur Swiss Insurance Company: (i) Local Policy GL 003-07-05-00 (4/1/2000 to 3/31/2001), (ii) Master Policy No. 3.307.351 (4/1/2000 to 3/31/2001); (iii) Excess Policy No. 3.307.352 (4/1/2000 to 3/31/2001); (iv) Excess Policy No. 3.307.353 (4/1/2000 to 3/31/2001); (v) Excess Policy No. 3.167.933 (4/1/2000 to 3/31/2001); (vi) Excess Policy No. 3.167.934 (4/1/2000 to 3/31/2001); and (vii) Excess Policy No. 3.312.133 (4/1/2000 to 3/31/2001).

(xx) “Initial Insurance Proceeds” shall mean the insurance proceeds payable for the benefit of SOUS, SML, or any SML subsidiary and affiliate (up to applicable policy limits, less the aggregate amount of any claims submitted by Sulzer that are pending as of the Insurance Proceeds Delivery Date) pursuant to the Initial Insurance Policies.

(yy) “Insurance Proceeds” shall mean the Initial Insurance Proceeds and the Second Year Insurance Proceeds.

(zz) “Insurance Proceeds Delivery Date” shall have the meaning set forth in Section 2.5(c).

(aaa) “Knee APRS” means surgical replacement of a Tibial Baseplate that is an Affected Product for reason other than trauma.

(bbb) “Knee Beneficiaries” shall mean Affected Product Recipients of Tibial Baseplates and Derivative Claimants of Affected Product Recipients of Tibial Baseplates.

(ccc) “Knee Matrix” shall have the meaning set forth in Annex IV.

(ddd) “Liens” shall mean, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset.

(eee) “Matrices” or “Matrix” shall have the meaning set forth in Section 3.7(a).

(fff) “Matrix Levels” shall have the meaning set forth in Annex IV.

(ggg) “Medical Research and Monitoring Fund” shall have the meaning set forth in Section 2.1(d).

(hhh) “Non-Affected Product Revision Surgery” or “NAPRS” shall mean a surgery (not indicated as a result of trauma) that was performed to remove and/or replace a product that is not an Affected Product within one-hundred and eighty (180) days of an Affected Product Revision Surgery in respect of a hip or knee that previously underwent an Affected Product Revision Surgery.

(iii) “Notice” shall have the meaning set forth in Section 13.2(a).

(jjj) “Orange Form” shall have the meaning set forth in Section 4.2(a).

(kkk) “Opt-Out Period” shall mean the period beginning at 5:00 p.m. Cleveland time on April 12, 2002 through 5:00 p.m. Cleveland time on May 14, 2002 or five (5) Business Days after Trial Court Approval, whichever is later, during which Class Members may exercise the Opt-Out Right described in Section 3.8.

(lll) “Opt-Out Right” shall have the meaning set forth in Section 3.8(a).

(mmm) “Parties” shall have the meaning set forth in the preamble.

(nnn) “Plaintiffs’ Counsel” shall mean any contingent-fee attorney who represents one or more individual Class Members pursuant to a written agreement.

2.1.(d). (ooo) “Plaintiffs’ Counsel Sub-Fund” shall have the meaning set forth in Section

4.6(c). (ppp) “Preliminary Determination” shall have the meaning set forth in Section

2.1(d). (qqq) “Professional Services Fund” shall have the meaning set forth in Section

(rrr) “Proposed Disposition” shall have the meaning set forth in Section 2.3(c).

(sss) “Red Form” shall have the meaning set forth in Section 4.5(a).

(ttt) “Released Parties” shall mean:

(i) SOUS and each of its affiliates, including SML and each of SML’s other past, present and future parent companies and direct or indirect subsidiaries, together with each of their respective past, present and future directors, officers, employees, affiliates, insurers, joint venturers and agents, including without limitation, sales agents;

(ii) Sulzer AG and all of its past, present and future parent companies and direct or indirect subsidiaries, its and their respective past, present and future directors, officers, employees, affiliates, insurers and agents;

(iii) Winterthur and all of its past, present and future parent companies and direct or indirect subsidiaries, its and their respective past, present and future directors, officers, employees, affiliates, insurers and agents;

(iv) all surgeons who implanted an Affected Product and affiliated physicians or physician groups; *provided*, that such surgeons, physicians or physician groups shall only be Released Parties hereunder (x) to the extent that their alleged liability arises from or relates to the recommendation, selection or use of an Affected Product or (y) to the extent that, but for the recommendation, selection or use of an Affected Product by the surgeon, physician or physician group, as opposed to another product, no such liability would exist in either case, notwithstanding the legal theory on which such alleged liability is premised (including, but not limited to, negligence, negligence per se, res ipsa loquitur, intentional or negligent misrepresentation, intentional tort, fraud, deceit, civil conspiracy, violation of state or federal statutes or codes, consumer fraud and deceptive trade practices, failure to disclose or warn, any product liability theories, any breach of warranty theories, agency, alter ego, joint venture, partnership, joint enterprise, medical malpractice, or any combination thereof) and notwithstanding the conduct alleged to give rise to such liability (including, but not limited to, failure to disclose information about a financial relationship with a company or business organization, failure to acquire a patient’s informed consent due to the failure to disclose

information about the condition of or defect in an Affected Product or a financial relationship with a company or business organization, participation in the design, testing, promotion, marketing or post-market investigation of an Inter-Op Shell or a Tibial Baseplate, or any other conduct that, in the absence of the recommendation, selection or use of an Affected Product by the surgeon, physician or physician group in the particular instance in question, would not give rise to liability); *provided, further*, that the foregoing shall not preclude claims based on such surgeons', physicians' or physician groups' independent negligence in the performance of the surgery which is the subject of the claim and such claim is not based on the recommendation, selection or use of an Affected Product (Examples of such claims for "independent negligence" for which a surgeon is not released may include, but not be limited to, the following: (1) leaving a foreign object in the patient during surgery;(2) failure to adequately suture the surgical wound; or (3) inadequate monitoring or treatment in the post-operative period. Further, as it relates to an Affected Product Recipient's ability to pursue such claims against a surgeon, physician or physician group for independent acts of negligence not based on the recommendation, selection or use of an affected product, this provision is not meant to preclude such a claimant from pursuing exemplary or punitive damages for such independent acts of negligence to the extent allowed by applicable state law, but simply recognizes the possibility, however remote, under state law that negligent conduct may rise to the level of recklessness, willfulness or other indicia of intent or state of mind to support the imposition of exemplary or punitive damages); and

(v) organized medical specialty organizations, raw material or other suppliers of Sulzer of materials, machines or equipment used in the manufacture of the Affected Products, distributors of the Affected Products, and any other person or entity involved in the design, manufacture, distribution, implant or explant of an Affected Product and all insurers of the foregoing.

(uuu) "Representative Claimant" shall mean an estate, administrator or other legal representative, trust or "special needs trust" of an Affected Product Recipient or Derivative Claimant. For the purpose of clarity, the parties acknowledge that Representative Claimants are entitled to any and all rights and benefits under this Settlement Agreement that the represented Affected Product Recipients and/or Derivative Claimant would have received hereunder regardless of any state law to the contrary.

(vvv) "Second Year Insurance Policies" shall mean the following insurance policies issued by Winterthur International America Insurance Company and XL Winterthur International Insurance Switzerland: (i) Local Policy No. 003-07-05-01 (4/1/01 – 3/31/02), (ii) Master Policy No. 3.307.351 (4/1/2001 – 3/31/2002), (iii) First Excess Policy No. 3.307.352 (4/1/2001 – 3/31/2002), (iv) Second Excess Policy No. 3.307.353 (4/1/2001 – 3/31/2002), (v) Third Excess Policy No. CH00001112LI01A (4/1/2001 – 5/31/2001), and (vi) Fourth Excess Policy No. CH00001114LI01A (4/1/2001 – 5/31/2001).

(www) "Second Year Insurance Proceeds" shall mean the insurance proceeds payable for the benefit of SOUS, SML, or any SML subsidiary and affiliate pursuant to Second Year Insurance Policies in the amount of \$40.0 million.

(xxx) "Securities Act" shall have the meaning set forth in Section 2.3(d).

(yyy) "Settlement Agreement" shall have the meaning set forth in the Preamble.

(zzz) "Settled Claims" shall mean any and all claims, including assigned claims, whether known or unknown, asserted or unasserted, regardless of the legal theory, existing now or arising in the future by any or all members of the Settlement Class arising out of or relating to the Affected Products or their implantation. These "Settled Claims" include, without limitation and by way of example, all claims for damages or remedies of whatever kind or character, known or unknown, that are now recognized by law or that may be created or recognized in the future by statute, regulation, judicial decision, or in any other manner, for:

(i) personal injury and/or bodily injury, damage, death, fear of disease or injury, mental or physical pain or suffering, emotional or mental harm, or loss of enjoyment of life;

(ii) loss of wages, income, earnings, and earning capacity, medical expenses, doctor, hospital, nursing, and drug bills;

(iii) 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;

(iv) wrongful death and survival actions;

(v) medical screening and monitoring, injunctive and declaratory relief;

(vi) consumer fraud, refunds, unfair business practices, deceptive trade practices, Unfair and Deceptive Acts and Practices ("UDAP"), unjust enrichment, disgorgement and other similar claims whether arising under statute, regulation, or judicial decision;

(vii) compensatory damages, punitive, exemplary, statutory and other multiple damages or penalties of any kind including, without limitation, economic or business losses or disgorgement of profits arising out of personal injury; and

(viii) pre-judgment or post-judgment interest.

(aaaa) "Settlement Class" shall mean all Affected Product Recipients who are citizens or residents of the United States, including their associated Derivative Claimants and Representative Claimants. The Settlement Class specifically includes persons who have or may have claims with respect to injuries not yet manifested. The Settlement Class shall expressly exclude any person or entity that entered into a settlement with Sulzer (which included a release) related to claims arising out of the implantation of an Affected Product.

(bbbb) "Settlement Shares" shall have the meaning set forth in Section 2.3(a).

(cccc) “Settlement Trust Brokerage Account” shall have the meaning set forth in Section 2.3(a).

(dddd) “Shares” means the shares, currently CHF 30 nominal value, of Sulzer Medica AG.

(eeee) “SML” shall have the meaning set forth in the Preamble.

(ffff) “SOUS” shall have the meaning set forth in the Preamble.

(gggg) “Special State Counsel Committee” means the Special State Counsel Committee established by the Court pursuant to an order dated as of October 22, 2001.

(hhhh) “Subclass I” shall mean all Class Members who have an unsatisfied claim with respect to an Inter-Op Shell arising out of (i) Hip APRS performed prior to the date that is the earlier of the Final Judicial Approval Date and (x) June 5, 2003 with respect to an Inter-Op Shell (other than a Reprocessed Inter-Op Shell) or (y) September 8, 2004 with respect to a Reprocessed Inter-Op Shell and/or (ii) facts that exist prior to the date that is the earlier of the Final Judicial Approval Date and (x) June 5, 2003 with respect to an Inter-Op Shell (other than a Reprocessed Inter-Op Shell) or (y) September 8, 2004 with respect to a Reprocessed Inter-Op Shell, that may be a basis for such Class Member to receive benefits under the Extraordinary Injury Fund.

(iiii) “Subclass II” shall mean all Class Members who have an unsatisfied claim with respect to an Inter-Op Shell (other than a Reprocessed Inter-Op Shell) arising out of (i) implantation of an Inter-Op Shell (other than a Reprocessed Inter-Op Shell), (ii) Hip APRS performed on or after the Final Judicial Approval Date but prior to June 5, 2003 and/or (iii) facts that exist on or after the Final Judicial Approval Date but prior to June 5, 2003 that may be a basis for such Class Member to receive benefits under the Extraordinary Injury Fund.

(jjjj) “Subclass III” shall mean all Class Members who have an unsatisfied claim with respect to a Tibial Baseplate arising out of (i) Knee APRS performed prior to the date that is the earlier of the Final Judicial Approval Date and November 17, 2003 and/or (ii) facts that exist prior to the date that is the earlier of the Final Judicial Approval Date and November 17, 2003 that may be a basis for such Class Member to receive benefits under the Extraordinary Injury Fund.

(kkkk) “Subclass IV” shall mean all Class Members who have an unsatisfied claim with respect to a Tibial Baseplate arising out of (i) implantation of a Tibial Baseplate, (ii) Knee APRS performed on or after the Final Judicial Approval Date but prior to November 17, 2003 and/or (iii) facts that exist on or after the Final Judicial Approval Date but prior to November 17, 2003 that may be a basis for such Class Member to receive benefits under the Extraordinary Injury Fund.

(llll) “Subclass V” shall mean all Class Members who have an unsatisfied claim with respect to a Reprocessed Inter-Op Shell arising out of (i) implantation of a Reprocessed

Inter-Op Shell, (ii) Hip APRS performed on or after the Final Judicial Approval Date but prior to September 8, 2004 and/or (iii) facts that exist on or after the Final Judicial Approval Date but prior to September 8, 2004 that may be the basis for such Class Member to receive benefits under the Extraordinary Injury Fund.

(mmmm) "Subrogation and Uninsured Expenses Sub-Fund" shall have the meaning set forth in Section 2.1(d).

(nnnn) "Sulzer" shall have the meaning set forth in the Preamble.

(oooo) "Sulzer AG" shall have the meaning set forth in the Preamble.

(pppp) "Sulzer Settlement Claim Number" shall have the meaning set forth in Section 4.6(b).

(qqqq) "Sulzer Settlement Trust" shall mean a trust established to receive funds to be paid by Sulzer, Sulzer AG and Winterthur as provided in this Settlement Agreement and the Indemnification Agreement, pursuant to the Trust Agreement.

(rrrr) "Third-Party Payor" means any insurer or other party that makes payments on behalf of Class Members for medical expenses and would have a subrogated claim with respect to payment of such expenses or provides goods and services to a Class Member and who has a subrogation right or lien with respect to the cost of such goods and services.

(ssss) "Third Party Purchaser" shall have the meaning set forth in Section 2.3(c).

(tttt) "Trial Court Approval" shall mean the granting, by order entered on the docket thereof, of the approval of the Settlement Agreement by the Federal District Court.

(uuuu) "Trial Court Approval Date" shall mean the date upon which Trial Court Approval occurs.

(vvvv) "Trust Documents" shall mean the Trust Agreement and the Security Agreement.

(wwww) "Trustee" shall mean that person or entity approved by the Court as Trustee of the Sulzer Settlement Trust in accordance with the Trust Agreement, and any successor Trustee and will serve subject to the jurisdiction and supervision of the Court.

(xxxx) "Trust Agreement" shall mean the Settlement Trust Agreement substantially in the form to be agreed to by the Parties and the Trustee, which shall be approved by the Court.

(yyyy) "Uninsured Affected Product Recipient" shall mean an Affected Product Recipient who, at the time of an Affected Product Revision Surgery, has no private, state or

federal or other health care insurance coverage for any medical care. For purpose of clarity, an Affected Product Recipient who has health care insurance coverage at the time of the Affected Product Revision Surgery but whose provider is contesting, denying or has otherwise not paid medical expenses relating to an Affected Product Revision Surgery is not considered an Uninsured Affected Product Recipient for any purposes under this Agreement.

(zzzz) “Uninsured Medical Expenses Claim Form” shall have the meaning set forth in Section 4.5(a).

(aaaaa) “Unrevised Affected Product Recipient Fund Benefits Claim Form” shall have the meaning set forth in Section 4.1(a).

(bbbbb) “Unrevised Affected Product Recipient Fund” shall have the meaning set forth in Section 2.1(d).

(ccccc) “Winterthur” means Winterthur Swiss Insurance Company, a limited company organized under the laws of Switzerland, and its successor-in-interest XL Winterthur International Insurance Switzerland, its insurance subsidiaries, together with their respective subsidiaries and affiliated companies.

(dddd) “Yellow Form” shall have the meaning set forth in Section 4.4(a).

ARTICLE 2. SULZER SETTLEMENT TRUST AND FUNDS

Section 2.1 ESTABLISHMENT OF SULZER SETTLEMENT TRUST

(a) The Sulzer Settlement Trust has been established to receive amounts to be paid by Sulzer, Sulzer AG and Winterthur, as applicable, and to receive and dispose of the CCI and the Settlement Shares for the benefit of Class Members pursuant to the terms of this Settlement Agreement and the Trust Agreement.

(b) On or after May 20, 2002, there shall be a single corporate Trustee of the Sulzer Settlement Trust, which shall succeed the interim Trustee. Such Trustee shall be a bank organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$100,000,000, subject to supervision and examination by federal or state authority and shall be appointed by Sulzer (with the consent of Class Counsel and the Special State Counsel Committee, such consent not to be unreasonably withheld), subject to the approval of the Court. The Trustee may serve as the paying agent responsible for distribution of payments at the direction of the Claims Administrator, as specified in Article 3 herein.

(c) None of Sulzer, Sulzer AG or Winterthur shall have any right to any of the funds previously deposited into or property previously transferred to, nor to any of the funds subsequently deposited into or property transferred to, the Sulzer Settlement Trust, on or after the date that such applicable amount is funded in accordance with Section 2.5 hereof. Upon

satisfaction in full of all obligations hereunder, any remaining funds and property shall be distributed in accordance with Section 15.6 hereunder.

(d) Subject to the conditions set forth in this Settlement Agreement, amounts paid in accordance with Section 2.5 shall be allocated as set forth in Section 2.2(a) (the "Medical Research and Monitoring Fund"), Section 2.2(b) (the "Unrevised Affected Product Recipient Fund"), Section 2.2(c) (the "Affected Product Revision Surgery Fund"), Section 2.2(d) (the "Extraordinary Injury Fund"), Section 2.2(e) (the "Professional Services Fund"), Section 2.2(e)(i) (the "Subrogation and Uninsured Expenses Sub-Fund") and Section 2.2(e)(ii) (the "Plaintiffs' Counsel Sub-Fund").

Section 2.2 ESTABLISHMENT OF PATIENT BENEFIT FUNDS

(a) Medical Research and Monitoring Fund. The Sulzer Settlement Trust shall allocate \$1.0 million to the Medical Research and Monitoring Fund, subject to Section 2.5(c).

(b) Unrevised Affected Product Recipient Fund. The Sulzer Settlement Trust shall initially allocate \$28.0 million to the Unrevised Affected Product Recipient Fund.

(c) Affected Product Revision Surgery Fund. The Sulzer Settlement Trust shall initially allocate \$622.5 million to the Affected Product Revision Surgery Fund.

(d) Extraordinary Fund. The Sulzer Settlement Trust shall allocate a minimum of \$100.0 million to the Extraordinary Injury Fund.

(e) Professional Services Fund. The Sulzer Settlement Trust shall initially allocate \$244.0 million to the Professional Services Fund, (i) \$60.0 million of which shall be allocated out of the Initial Insurance Proceeds to the Subrogation and Uninsured Expenses Sub-Fund and (ii) \$184.0 million of which shall be allocated to the Plaintiffs' Counsel Sub-Fund.

(f) Re-Allocation. The Claims Administrator, with a recommendation from Class Counsel, together with the Special State Counsel Committee, may re-allocate the balance left in any of the various Funds under this Section 2.2 after payment of benefits to Class Members and/or associated professionals, as necessary to provide benefits to Class Members, with approval from the Court.

Section 2.3 SULZER SETTLEMENT TRUST BROKERAGE ACCOUNT

(a) Sulzer AG shall cause 480,349 Shares (the "Settlement Shares") to be transferred to a brokerage account established by the Trustee on behalf of the Sulzer Settlement Trust (the "Settlement Trust Brokerage Account") in accordance with Section 2.5(b) below and the Escrow Agreement.

(b) Upon transfer to the Settlement Trust Brokerage Account, each certificate evidencing Settlement Shares shall be stamped or otherwise imprinted (or, in the event the

Settlement Shares shall then be uncertificated "book-entry" shares, the appropriate "stop-transfer" instructions and legend shall be provided to the transfer agent) with any legend that may be required under applicable United States, state or foreign securities laws, if any, as well as the following legend:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFER SET FORTH IN THE CLASS ACTION SETTLEMENT AGREEMENT DATED AS OF MARCH 13, 2002, A COPY OF WHICH MAY BE OBTAINED FROM THE COMPANY AT ITS PRINCIPAL OFFICES.

Upon transfer to a Third Party Purchaser (as defined below) or in any other permitted sale in accordance with Section 2.3(c), the legend or "stop-transfer" instructions and legend (as applicable) set forth in Section 2.3(b)(ii) may be removed with respect to Settlement Shares delivered to such Third Party Purchaser or other transferee.

(c) In the event that the Trustee proposes to sell (i) more than 10% of the aggregate amount of Settlement Shares originally transferred to the Sulzer Settlement Trust in accordance with Section 2.5(b) and the terms of the Escrow Agreement in open market trades during any fifteen (15) day period or (ii) Settlement Shares in excess of 25,000 shares during any fifteen (15) day period in block trades, in any one or more related transactions (the "Proposed Disposition"), held in the Settlement Trust Brokerage Account (such Settlement Shares proposed to be transferred being referred to herein as the "Disposition Shares"), to a bona fide third party purchaser (the "Third Party Purchaser"), not less than ten (10) Business Days prior to such Proposed Disposition, the Trustee shall provide SML with written notice of such Proposed Disposition (the "Disposition Notice"). Such Disposition Notice shall include (i) all material terms and conditions of the Proposed Disposition, including the identity of the Third Party Purchaser and (ii) an irrevocable offer to sell the Disposition Shares to SML upon the same terms (including price) and subject to the same conditions as those contemplated in the Proposed Disposition (except that if any of the consideration therefor shall be other than cash, such offer shall be for cash consideration equal to the fair market value of such non-cash consideration). SML shall have the irrevocable right and option, within ten (10) Business Days after receipt of the Disposition Notice, to accept the offer to purchase any or all of the Disposition Shares on its behalf or for the benefit of its existing shareholders by delivering written notice to the Trustee (the "Election Notice"). In the event SML exercises its right to purchase the Disposition Shares, the consummation of such disposition shall take place no later than three (3) Business Days after the receipt by the Trustee of the Election Notice. In the event that SML elects not to purchase any portion of the Disposition Shares or fails to respond to the Disposition Notice, the Trustee shall have ninety (90) days in which to complete the Proposed Disposition of the remaining Disposition Shares to the Third Party Purchaser on terms and conditions not more favorable to the Third Party Purchaser than those contained in the Disposition Notice. If, at the end of such ninety (90) day period, the Trustee has not completed the disposition of any such Disposition Shares, the Trustee shall no longer be permitted to transfer such shares without again complying with the right of first refusal contained in this Section 2.3(c) with respect to such Disposition Shares.

(d) In the event that the CCI is converted in whole or in part into ADRs or Shares pursuant to the terms thereof, the Trustee shall deliver such ADRs or Shares to the Settlement Trust Brokerage Account for the purpose of either (i) distribution to Class Members, Common Benefit Attorneys and/or Plaintiffs' Counsel pursuant to Section 3.4 and Article 5 of this Settlement Agreement or (ii) sale to third parties. The CCI, ADRs and/or Shares shall be issued by SOUS or SML, as applicable, in the United States pursuant to an exemption from registration under the Securities Act of 1933, as amended (the "Securities Act") by virtue of Section 3(a)(10) of the Securities Act. Sulzer shall take, at its sole expense, all action reasonably necessary to comply with the rules and regulations of the Securities and Exchange Commission and interpretations of the staff thereof to exempt the issuance of such instruments pursuant to Section 3(a)(10) of the Securities Act. It is the intent of the Parties that the ADRs or Shares received by third parties or Class Members, Common Benefit Attorneys and/or Plaintiffs' Counsel in the United States shall be freely tradable by such persons upon issuance. Notwithstanding the foregoing, it is the intent of the Parties that Class Members shall receive the cash equivalent of such ADRs or Shares.

(e) The Sulzer Settlement Trust shall be the holder of record of all Settlement Shares and ADRs and/or Shares held in the Settlement Trust Brokerage Account until released therefrom and delivered to either (i) a Class Member, Common Benefit Attorneys or Plaintiffs' Counsel in accordance with Section 3.4. and Article 5 hereof and/or (ii) a third party (in the case of any Settlement Shares, in accordance with Section 2.3(c)) and shall be entitled to all dividends or other distributions in respect of such Settlement Shares, ADRs and/or Shares, as applicable, until so delivered, *provided* that the Trustee shall vote the Settlement Shares, ADRs and/or Shares, as applicable, at the direction of the recommendation of the board of directors of SML; *provided*, that such vote is not inconsistent with the terms hereof.

Section 2.4 SECURITY ARRANGEMENTS

(a) The Parties agree that on or prior to the Fairness Hearing Date, the Trust shall enter into such agreements and documents as reasonably necessary to affect the release of all Liens on Sulzer's assets in connection with the security interest previously granted to the Sulzer Settlement Trust, including but not limited to, UCC-3s or other evidence of release of Lien or mortgage, as applicable.

Section 2.5 FUNDING

(a) Sulzer shall deliver to the Sulzer Settlement Trust:

(i) on or prior to the date that is the later of (x) one-hundred and eighty (180) days after the Trial Court Approval Date and (y) sixty (60) days after the Final Judicial Approval Date (such date of delivery being the "Funding Date"), \$425.0 million in cash (less any payments made in respect of the Notice and claims administration fees and expenses paid pursuant to Section 2.5(f) below prior to the Funding Date) (the "Financing Amount"); *provided, however*, that such amount shall be increased by an amount equal to interest calculated at a floating LIBOR rate (such rate shall equal the one-month LIBOR as published in the Wall

Street Journal on the date from which interest is calculated and shall be adjusted at the end of each three-month period during which interest is being calculated pursuant to this clause (i)) on the Financing Amount compounded annually and beginning one-hundred and eighty (180) days after Trial Court Approval Date through the Funding Date (if Sulzer does not pay the Financing Amount into the Sulzer Settlement Trust by the Funding Date and the Settlement Agreement has not been earlier terminated pursuant to Article 10 hereof, Sulzer shall be in default of this Settlement Agreement);

(ii) on the CCI Issue Date, the CCI, such instrument to be payable in accordance with the terms set forth on Annex V; and

(iii) on the Insurance Proceeds Delivery Date (as defined below), an amount in cash equal to the negative difference between the value of the Initial Insurance Proceeds required to be delivered by Winterthur pursuant to the Indemnification Agreement (plus any amounts paid pursuant to Section 3.9(a) prior to the Insurance Proceeds Delivery Date) and \$178.5 million.

(b) On the 60th day following the Trial Court Approval Date, Sulzer AG shall deliver (i) \$50.0 million in cash and (ii) the Settlement Shares to an escrow account pursuant to the terms of the escrow agreement (the "Escrow Agreement") attached hereto as Exhibit A. Unless this Settlement Agreement is earlier terminated, the escrow account shall release such cash and the Settlement Shares to the Sulzer Settlement Trust in accordance with the terms of the Escrow Agreement.

(c) Winterthur shall fund, no later than the date that is thirty (30) Business Days after Trial Court Approval (the "Insurance Proceeds Delivery Date"), (i) the aggregate cash proceeds of the Initial Insurance Proceeds to the Affected Product Revision Surgery Fund and (ii) the Second Year Insurance Proceeds (which amount shall be \$40.0 million) to an escrow account, in accordance with the terms of the Indemnification and Release Agreement dated as of March 13, 2002 (the "Indemnification Agreement"), by and among Sulzer, Sulzer AG and Winterthur. The Second Year Insurance Proceeds shall be delivered to the Sulzer Settlement Trust on the date that is the earlier of (x) the Funding Date and (y) the date that Class Members representing claims for no less than 800 Affected Product Revision Surgeries have validly elected the GPO in accordance with Article 8 hereof and all of the Initial Insurance Proceeds have been paid out of the Sulzer Settlement Trust. The Insurance Proceeds shall be used for the purposes of (i) paying Class Member benefits pursuant to Section 3.4 and Section 3.5, in accordance with Article 8 or otherwise, (ii) paying Extraordinary Injury Fund Benefits to Class Members pursuant to Section 3.7 hereof, (iii) paying attorneys' fees pursuant to Article 5 hereof with respect to Class Member payments payable under Sections 3.4, 3.5, and 3.7 hereof and expenses pursuant to Section 5.4 hereof and (iv) paying medical expenses to Medicare, other Third-Party Payors and Uninsured Class Members pursuant to Section 3.9 hereof. Winterthur shall have the right conduct an audit in respect of any Insurance Proceeds paid out of the Sulzer Settlement Trust. In the event that Winterthur does not deliver the Insurance Proceeds in accordance with this Section 2.5(c) in breach of the Indemnification Agreement, Sulzer and Sulzer AG agree to use commercially reasonable efforts to enforce such Indemnification

Agreement to the extent of Winterthur's obligation thereunder as it relates to Winterthur's delivery of the Insurance Proceeds hereunder.

(d) In the event that there are more than 4,000 Affected Products Recipients that have an Affected Product Revision Surgery relating to (i) an Inter-Op Shell (other than a Reprocessed Inter-Op Product) prior to June 5, 2003 and/or (ii) a Tibial Baseplate prior to November 17, 2003 and who have made a claim in accordance with this Settlement Agreement, the Parties agree that any benefits owed to such Class Member pursuant to Section 3.4(a), Section 3.5(b), Section 3.7 and Section 3.9(a) shall be borne equally by Sulzer and the Sulzer Settlement Trust such that Sulzer shall deliver to the Sulzer Settlement Trust 50% of any such benefit at the time such benefit is paid to a Class Member and the Sulzer Settlement Trust shall provide for the additional 50% with funds payable pursuant to Sections 2.5(a)-(c) above.

(e) In the event that there are more than sixty-four (64) Affected Product Recipients that have Affected Product Revision Surgery relating to an Inter-Op Shell that is a Reprocessed Inter-Op Product prior to September 8, 2004 and who have made a claim in accordance with this Settlement Agreement, the Parties agree that any benefits owed to such Class Member pursuant to Section 3.4(a), Section 3.5(b), Section 3.7 and Section 3.9(a) shall be borne 100% by Sulzer and Sulzer shall deliver to the Sulzer Settlement Trust 100% of any such benefit at the time such benefit is paid to a Class Member.

(f) Sulzer agrees periodically upon invoice to pay reasonable fees and expenses related to the Notice (including, but not limited to fees and expenses relating to preliminary notification) and administration of claims incurred as of the date hereof and from and following the date hereof until the earlier of the termination of this Agreement in accordance with Article 10 and the Funding Date; *provided*, that such amount shall not exceed \$4.5 million in the aggregate, without the prior written consent of Sulzer.

(g) In the event Sulzer is able to obtain insurance to cover the cost of additional benefits owed to Class Members pursuant to Section 2.5(d) and (e) above, Sulzer will negotiate in good faith with the Sulzer Settlement Trust, if requested, to include coverage of obligations of the Sulzer Settlement Trust pursuant to Section 2.5(d) and to allocate premiums as applicable.

Section 2.6 OTHER PROVISIONS

(a) The Parties agree that the Sulzer Settlement Trust is being established to resolve or satisfy one or more contested or uncontested claims that have resulted or may result from an event (or related series of events) that has occurred and has given rise to claims asserting liability arising out of a tort. The Sulzer Settlement Trust shall be structured and managed to qualify as a Qualified Settlement Fund under Section 468B of the Code and related Treasury Regulations and will contain customary provisions for such trusts including obligations of the Sulzer Settlement Trust to provide such information to Sulzer as Sulzer shall reasonably request for financial, legal, regulatory and tax purposes.

(b) The Parties agree that all of the amounts being paid to or on behalf of Class Members or Derivative Claimants pursuant to the terms of this Settlement Agreement are being paid as damages (other than punitive damages) on account of alleged personal physical injuries or alleged physical sickness of the members of the Settlement Class, including physical injuries or physical sickness resulting from alleged emotional harm, as described in Section 104(a)(2) of the Code. The Parties further agree that the claims set forth in the definition of Settled Claims in Article 1 have their origin in such alleged physical personal injuries or physical sickness.

(c) Neither Sulzer nor Sulzer AG shall have any financial obligations under this Settlement Agreement other than the payment obligations explicitly set forth in this Settlement Agreement. Neither Sulzer nor Sulzer AG or any of the other Released Parties shall have any responsibility for the management of the Sulzer Settlement Trust or any liability to any Class Member arising from the handling of claims by the Trustee and/or Claims Administrator.

(d) All cash and property transferred into the Sulzer Settlement Trust shall be the sole property of the Sulzer Settlement Trust, and the Trustee shall withhold and pay over such taxes as may be required and shall fulfill all tax filing obligations, including applicable reporting obligations with respect to all distributions and payments pursuant to the terms of this Settlement Agreement. The Sulzer Settlement Trust shall be responsible for all fees, taxes and other costs of administration of the Funds, including, without limitation, taxes on any income or gain earned on such Funds.

ARTICLE 3. CLASS MEMBER RIGHTS AND BENEFITS

Section 3.1 MEDICAL RESEARCH AND MONITORING

(a) The Medical Research and Monitoring Fund shall be used to finance medical research relating to reconstructive orthopedic implants, specifically hip and knee implants, for the benefit of Class Members as set forth on the proposal attached hereto as Annex III. The proposal shall provide that the Sulzer Settlement Trust establish and maintain a "registry" of Class Members for the purpose of collection of information and data in order to monitor the medical condition of such Class Members.

Section 3.2 [RESERVED]

Section 3.3 BENEFITS PAYABLE TO CLASS MEMBERS OUT OF THE UNREVISED AFFECTED PRODUCT RECIPIENT FUND

(a) Class Members (other than Subclass V) who have not undergone Affected Product Revision Surgery on or before the Final Judicial Approval Date shall be entitled to receive an aggregate cash payment of \$1,000, payable in cash by the date that is the later of the 45th day following the Funding Date and the date the Claims Administrator makes a Final Determination with respect to such Class Member (or if such Final Determination is appealed in accordance with Section 4.6, the date on which all such appeals are exhausted).

(b) Cash amounts paid to Class Members pursuant to Section 3.3(a) above shall be paid out of the Unrevised Affected Product Recipient Fund.

Section 3.4 BENEFIT PAYMENTS TO CLASS MEMBERS OUT OF THE AFFECTED PRODUCT REVISION SURGERY FUND

(a) Class Members who have undergone or who undergo Affected Product Revision Surgery within the time periods set forth in Sections 3.4(b) and (c) below shall be entitled to receive an aggregate payment value of \$160,000 for each such Affected Product for which such Class Member undergoes Affected Product Revision Surgery payable in accordance with Section 3.4(b) and (c) below. As an additional benefit to Class Members, the Sulzer Settlement Trust will pay a portion of a Class Member's attorney fee out of the Plaintiffs' Counsel Sub-Fund. This payment will be 23% of the product reached by multiplying the stated benefit by 1.25. In the event that the contingent fee contract provides for a rate that is less than 23%, the applicable attorney fee payment under this Section 3.4(a) will be calculated using the lower rate.

(b) Payments made pursuant to Section 3.4(a) with respect to Affected Product Revision Surgeries (i) undergone by Class Members in respect of Inter-Op Shells (other than Reprocessed Inter-Op Shells) prior to the Final Judicial Approval Date and prior to June 5, 2003, (ii) undergone by Class Members in respect of Tibial Baseplates prior to Final Judicial Approval Date and prior to November 17, 2003, and (iii) undergone by Class Members in respect of Reprocessed Inter-Op Shells prior to the Final Judicial Approval Date and prior to September 8, 2004, shall be made as follows: (x) at least 55% shall be payable in cash (less any amounts paid to such Class Member pursuant to Article 8, if applicable) by the date that is the later of the 45th day following the Funding Date and the date the Claims Administrator makes a Final Determination with respect to such Class Member (or if such Final Determination is appealed in accordance with Section 4.6, the date on which all such appeals are exhausted) and (y) at least 45% shall be payable in either cash or ADRs or Shares (valued as set forth in Article 6), or a combination of both, no later than the date that is the later of 20 months from the CCI Issue Date and the date the Claims Administrator makes a Final Determination with respect to such Class Member (or if such Final Determination is appealed in accordance with Section 4.6,

the date on which all such appeals are exhausted). It is the intent of the Parties that Class Members shall receive the cash equivalent of such ADRs or Shares.

(c) Subject to Section 3.6(a), payments made pursuant to Section 3.4(a) with respect to Affected Product Revisions Surgeries (i) undergone by Class Members in respect of Inter-Op Shells (other than Reprocessed Inter-Op Shells) on or after the Final Judicial Approval Date (if such date is prior to June 5, 2003) and prior to June 5, 2003, (ii) undergone by Class Members in respect of Tibial Baseplates on or after the Final Judicial Approval Date (if such date is prior to November 17, 2003) and prior to November 17, 2003 and (iii) undergone by Class Members in respect of Reprocessed Inter-Op Shells on or after the Final Judicial Approval Date (if such date is prior to September 8, 2004) and prior to September 8, 2004, shall be made as follows: (x) approximately 55% shall be payable in cash by the date that is the later of the 45th day following the date of such Affected Product Revision Surgery and the date the Claims Administrator makes a Final Determination with respect to such Class Member (or if such Final Determination is appealed in accordance with Section 4.6, the date on which all such appeals are exhausted) and (y) approximately 45% shall be payable in either cash or ADRs or Shares (valued as set forth in Article 6), or a combination of both, no later than the date that is the later of 20 months from the CCI Issue Date and the date the Claims Administrator makes a Final Determination with respect to such Class Member (or if such Final Determination is appealed in accordance with Section 4.6, the date on which all such appeals are exhausted). It is the intent of the Parties that Class Members shall receive the cash equivalent of such ADRs or Shares.

(d) Cash amounts paid to Class Members pursuant to Section 3.4(b) or Section 3.4(c) above shall be paid out of the Affected Product Revision Surgery Fund. ADRs or Shares distributed to Class Members pursuant to Section 3.4(b) or Section 3.4(c), if applicable, shall be satisfied out of the Settlement Trust Brokerage Account. It is the intent of the Parties that Class Members shall receive the cash equivalent of such ADRs or Shares.

Section 3.5 DERIVATIVE CLAIMANT PAYMENTS

(a) The Derivative Claimants of a Class Member that is entitled to payment pursuant to Section 3.3(a) shall be entitled to receive a cash payment of \$250 to be paid no later than the date the payment is made to such Class Member pursuant to Section 3.3(a). Such payments shall be payable out of the Unrevised Affected Product Recipient Fund.

(b) Subject to Section 3.6(b), the Derivative Claimants of a Class Member that is entitled to payment pursuant to Section 3.4(a) shall be entitled to receive a cash payment of \$1,600 to be paid no later than the date the payment is made to such Class Member pursuant to Section 3.4(b) or Section 3.4(c), as applicable. Such payments shall be payable out of the Affected Product Revision Surgery Fund. As an additional benefit to Class Members, the Sulzer Settlement Trust will pay a portion of a Class Member's attorney fee out of the Plaintiffs' Counsel Sub-Fund. This payment will be 23% of the product reached by multiplying the stated benefit by 1.25. In the event that the contingent fee contract provides for a rate that is less than 23%, the applicable attorney fee payment under this Section 3.5(b) will be calculated using the lower rate.

(c) Derivative Claimants may also be eligible to receive additional benefits pursuant to Section 3.7, as provided for in Annex IV hereof, in an amount equal to 1% of the benefit payable to the associated Affected Product Recipient. As an additional benefit to Class Members, the Sulzer Settlement Trust will pay a portion of a Class Member's attorney fee out of the Plaintiffs' Counsel Sub-Fund. This payment will be 23% of the product reached by multiplying the stated benefit by 1.25. In the event that the contingent fee contract provides for a rate that is less than 23%, the applicable attorney fee payment under this Section 3.5(c) will be calculated using the lower rate.

Section 3.6 OFFSETS

(a) If a Class Member has not had an Affected Product Revision Surgery as of the date of Final Judicial Approval and receives benefits under Section 3.3(a) above and subsequently has an Affected Product Revision Surgery within the time period set forth in Section 3.4(c), such Class Member shall be entitled to the benefits payable pursuant to Section 3.4(a), less all amounts previously paid to the Class Member pursuant to Sections 3.3(a).

(b) If a Derivative Claimant receives benefits under Section 3.5(a) and then is entitled to receive additional benefits under Section 3.5(b), such Derivative Claimant shall be entitled to the benefits payable pursuant to Section 3.5(b), less all amounts previously paid to the Derivative Claimant pursuant to Section 3.5(a).

(c) If a Class Member receives benefits pursuant to Section 3.3(a) and also qualifies for benefits pursuant to 3.7, any such EIF Benefits paid to such Class Member shall be less all amounts previously paid to the Class Member pursuant to Section 3.3(a); *provided, however*, that this Section 3.6(c) shall not apply to Class Members who qualify for benefits pursuant to Section 3.4(c). As an additional benefit to Class Members, the Sulzer Settlement Trust will pay a portion of a Class Member's attorney fee out of the Plaintiffs' Counsel Sub-Fund. This payment will be up to 23% of the product reached by multiplying the stated benefit by 1.25.

(d) To the extent that Sulzer has made any advance or other payments to any Class Member prior to the Insurance Proceeds Delivery Date, any amounts owed to such Class member pursuant to Section 3.3, 3.4(a), 3.5, 3.7 and 3.9(a), as applicable, shall be reduced by the amount of such advance or other payment; *provided, however*, that with respect to an Affected Product Recipient who is eligible for benefits pursuant to Section 3.4(a), any such amounts owed to such Class Member shall not be reduced to an amount less than \$100,000 pursuant to this Section 3.6(d).

Section 3.7 COMPENSATION BENEFITS PAYABLE FROM EXTRAORDINARY INJURY FUND

(a) In addition to the benefits set forth in Sections 3.3, 3.4(a), 3.9(a) and Article 8 pursuant to this Settlement Agreement, Class Members may be eligible to receive additional compensation under this Settlement Agreement ("Extraordinary Injury Fund Benefits" or "EIF Benefits") pursuant to the terms of the payment matrices (the "Matrices" or "Matrix")

attached hereto as Annex IV. As an additional benefit to Class Members, the Sulzer Settlement Trust will pay a portion of a Class Member's attorney fee out of the Plaintiffs' Counsel Sub-Fund. This payment will be 23% of the product reached by multiplying the stated benefit by 1.25. In the event that the contingent fee contract provides for a rate that is less than 23%, the applicable attorney fee payment under this Section 3.7(a) will be calculated using the lower rate.

(b) EIF Benefits payable to Class Members pursuant to Annex IV may be paid in installments, with the first payment not to be less than 50% of the total value of the EIF Benefits due to the Class Member, at the discretion of the Claims Administrator. The Extraordinary Injury Fund Benefits paid to Class Members pursuant to Annex IV hereto shall be paid out of the Extraordinary Injury Fund. To the extent a Class Member qualifies for payment under a certain Matrix Level and then subsequently qualifies for payments under a higher Matrix Level, any payments made pursuant to the higher Matrix Level shall be less the amount allocated under any Matrix Level for which such Class Member previously qualified.

Section 3.8 OPT-OUT RIGHTS

(a) All Class Members (except as provided in Section 3.8(b) below) are eligible to opt out of the Settlement represented by this Settlement Agreement (the "Opt-Out Right"). Each Class Member wishing to exercise an Opt-Out Right must submit a written letter, signed by the Class Member, that includes the following information: (i) his or her name, address and telephone number; (ii) with respect to each Affected Product, the date of implantation; (iii) with respect to each Affected Product, the implanting surgeon; (iv) with respect to each Affected Product, the lot number and product number, if available; and (v) whether such Class Member is represented by counsel and if so, the name, address and telephone number of his or her lawyer. A copy of the letter must be sent to a post-office box in Cleveland, Ohio established by the Claims Administrator and set forth in the Notice and received no later than 5:00 p.m., Cleveland, Ohio time, on the last day of the Opt-Out Period (which such period ends on the date that is the later of May 14, 2002 and five (5) Business Days after Trial Court Approval). The Claims Administrator and/or its agent shall promptly forward copies of any such letter to liaison Class Counsel and Sulzer and shall file a list of all such Class Members who exercise an Opt-Out Right with the Court.

(b) In the event that there is both an Affected Product Recipient or a Representative Claimant and one or more Derivative Claimants, the Affected Product Recipient's or the Representative Claimant's exercise or failure to exercise an Opt-Out Right shall be binding on the associated Derivative Claimant(s).

(c) If a Class Member exercises his/her Opt-Out Right pursuant to this Section 3.8, such opt-out shall only be effective upon the termination of the Opt-Out Period.

Section 3.9 PAYMENTS TO THIRD-PARTY PAYORS AND UNINSURED CLASS MEMBERS

(a) The Sulzer Settlement Trust shall pay to the United States on behalf of the Centers for Medicare and Medicaid Services (formerly known as the Health Care Finance

Administration) and other Third-Party Payors in respect of subrogation or other claims for medical expenses paid on behalf of Class Members and shall pay reasonable and necessary expenses incurred by Uninsured Affected Product Recipients in respect of each Affected Product Revision Surgery; *provided, however*, that any such amount paid by the Sulzer Settlement Trust shall not exceed (i) \$15,000 in the aggregate for any and all claims made in respect of a single Affected Product Revision Surgery (unless approved by Sulzer as set forth below) and (ii) \$60.0 million, in the aggregate. In the event that all such payments reach \$60.0 million in the aggregate, Sulzer agrees to fund to the Sulzer Settlement Trust amounts necessary to pay Third-Party Payors in respect of subrogation or other claims for medical expenses paid by such Third-Party Payors on behalf of Class Members in excess of \$15,000 in the aggregate per Affected Product Revision Surgery if such settlement with the Third-Party Payor was approved by Sulzer. In addition, Sulzer agrees to fund to the Sulzer Settlement Trust amounts necessary to pay the reasonable and necessary expenses incurred by Uninsured Affected Product Recipients in respect of an Affected Product Revision Surgery that exceed \$15,000 as set forth in clause (i) above, up to a maximum of \$2.0 million in the aggregate. The Parties agree that they will negotiate and settle all claims with respect to unpaid medical expenses paid by Third-Party Payors on behalf of Class Members from and after the Insurance Proceeds Delivery Date, and Sulzer shall not be obligated to fund any additional amounts to the Sulzer Settlement Trust as provided in this Section 3.9(a) in the event the amount owed is in connection with a settlement not authorized and directed by Sulzer. The Trustee on behalf of the Sulzer Settlement Trust agrees to honor all agreements that have been entered into or will be entered into after the date of this Agreement by Sulzer with the United States on behalf of the Centers for Medicare and Medicaid Services and/or other Third-Party Payors and to make payments in accordance with any such agreements from and following the Insurance Proceeds Delivery Date. Sulzer and the Sulzer Settlement Trust shall obtain a full and complete release of Settled Claims of the Released Parties, as well as the affected individual Class Member in the case of Third-Party Payor payments, prior to making any payments pursuant to this Section 3.9(a).

(b) Payments made pursuant to Section 3.9(a) shall be made out of the Subrogation and Uninsured Expenses Fund and shall be payable in accordance with the terms of the applicable agreement entered into with respect to such Third-Party Payor, Medicare or Uninsured Affected Product Recipient, as applicable.

(c) The Sulzer Settlement Trust shall defend and hold Class Members and Plaintiffs' Counsel harmless against any claims by a subrogee directly against such Class Member or Plaintiffs' Counsel for reimbursement of medical expenses of an Affected Product Recipient necessitated by an Affected Product. Notwithstanding the foregoing, in no event shall this provision be construed to require payment to the Class Member with respect to the same claim for which Sulzer shall have already paid the subrogee.

ARTICLE 4. CLAIMS ADMINISTRATION.

Section 4.1 UNREVISED AFFECTED PRODUCT RECIPIENT FUND.

(a) Each Class Member claiming benefits under Section 3.3(a) must submit a claim form for payment of benefits out of the Unrevised Affected Product Recipient Fund (a “*Unrevised Affected Product Recipient Fund Benefits Claim Form*” or “*Blue Form*”), attached hereto as Exhibit B, on or before the date that is one hundred twenty (120) days after Trial Court Approval.

(b) In addition to the Blue Form, the Class Member must provide documentation evidencing the implantation of an Affected Product. A list of such acceptable documentation is included on the Blue Form.

(c) If the Class Member also qualifies for compensation under the Matrices provided for in Annex IV hereto, the Class Member may also submit a claim for benefits payable out of the Extraordinary Injury Fund in accordance with Section 4.3.

(d) If the Class Member subsequently undergoes an Affected Product Revision Surgery, qualifying the Class Member for benefits under Section 3.4(a), the Class Member may submit an Affected Product Revision Surgery Fund Benefits Claim Form in accordance with Section 4.2 and may also qualify for additional benefits under the Extraordinary Injury Fund.

(e) Class Members claiming benefits payable out of the Unrevised Affected Product Recipient Fund pursuant to Section 3.5(a) as Derivative Claimants must comply with Section 4.4 of this Settlement Agreement.

Section 4.2 AFFECTED PRODUCT REVISION SURGERY FUND.

(a) Each Class Member claiming benefits under Section 3.4(a) must submit a claim form for payment of benefits out of the Affected Product Revision Surgery Fund (an “*Affected Product Revision Surgery Fund Benefits Claim Form*” or “*Orange Form*”), attached hereto as Exhibit C, on or before the date that is the later of (i) one hundred eighty (180) days after Trial Court Approval and (ii) one hundred eighty (180) days after the applicable Affected Product Revision Surgery. If a Class Member elects the GPO in accordance with Article 8, the Class Member must complete the designated portion of the Orange Form and submit it to the Claims Administrator in accordance with Section 8.2.

(b) In addition to the Orange Form, the Class Member must provide the following documentation: (i) documentation evidencing the implantation of an Affected Product (a list of documentation is included on the Orange Form); (ii) documentation evidencing the removal of an Affected Product (a list of documentation is included on the Orange Form); and (iii) a completed “Physician Declaration,” attached hereto as Exhibit D, wherein the physician verifies that the Class Member has undergone an APRS for reasons other than trauma or medical records evidencing the same.

(c) If the Class Member develops a condition(s) or sustains a complication(s) compensable in accordance with the Matrices provided for on Annex IV hereto, the Class Member may also submit a Green Form (as defined below).

(d) Class Members claiming benefits payable out of the Affected Product Revision Surgery Fund pursuant to Section 3.5(b) as Derivative Claimants must comply with Section 4.4 of this Settlement Agreement.

(e) In connection with claims submitted pursuant to this Section 4.2 for benefits paid in respect of an Affected Product Revision Surgery out of the Affected Product Revision Surgery Fund, the Claims Administrator shall identify whether the Affected Product of the Class Member submitting the applicable Orange Form is a Reprocessed Inter-Op Product. If the Class Member's Affected Product is a Reprocessed Inter-Op Product and such Class Member qualifies for benefits pursuant to Section 3.4(a), Section 3.5(b), Section 3.7 and/or Section 3.9(a), the Claims Administration shall submit an invoice to Sulzer for any such amounts in the event that Sulzer is obligated to fund such amounts in accordance with Section 2.5(e).

Section 4.3 EXTRAORDINARY INJURY FUND.

(a) Each Class Member claiming benefits under Section 3.7 must submit a claim form for payment of benefits out of the Extraordinary Injury Fund (an "EIF Benefits Claim Form" or "Green Form"), attached hereto as Exhibit E, on or before the date that is the later of (i) five hundred and forty-five (545) days from the date of the applicable Covered Revision Surgery, (ii) one hundred eighty (180) days of his/her treating physician's recommendation that he/she undergo an APRS but for a medical condition(s), and (iii) one hundred and eighty (180) days after Trial Court Approval.

(b) The Class Member must submit a Green Form with, or after he/she has already submitted, a completed Blue Form or Orange Form, as applicable.

(c) The Class Member must complete the portions of the Green Form relating to the Matrix Level(s) that the Class Member believes entitle him/her to EIF Benefits.

(d) In addition to the applicable Green Form, the Class Member must provide the following documentation: (i) medical records evidencing the condition(s) and/or complication(s) that form the basis of the Class Member's claim for EIF Benefits; and (ii) a completed "Physician Declaration," attached hereto as Exhibit D, wherein the physician verifies that the Class Member has sustained the condition(s) and/or complication(s) for which the Class Member is claiming EIF Benefits.

(e) A Class Member who has previously submitted a Claim Form in accordance with this Article 4 is entitled to file a Green Form for additional compensation if the Class Member subsequently develops a medical condition(s) and/or complication(s) within the time period set forth in Section 4.3(a) that qualifies the Class Member for EIF Benefits at a higher Matrix Level than the Class Member had previously been compensated. If the Class Member has previously submitted a Green Form, in order to make a claim for subsequent EIF Benefits, the Class Member must submit a new Green Form, indicating therein that it is a supplemental submission. The supplemental Green Form need not be completed in full; rather, the Class Member need only submit changes to information previously provided. Likewise, a physician responsible for completing the "Physician Declaration" should complete only those

portions of the Physician Declaration that reflect a change in condition from the condition described in a previously filed Green Form and should sign each such supplemental Physician Declaration. Each such supplemental Green Form and/or Physician Declaration shall be considered a new Claim Form for purposes of Section 4.6. If a supplemental Green Form is submitted while a prior submission is pending but not yet paid, the Claims Administrator shall complete all processing and payment in relation to the Green Form previously submitted before processing any payment of any supplemental Green Form.

(f) Class Members claiming benefits payable out of the Extraordinary Injury Fund as Derivative Claimants must comply with Section 4.4 of this Settlement Agreement.

Section 4.4 DERIVATIVE CLAIMANTS.

(a) Each Class Member claiming benefits as a Derivative Claimant must submit a claim form for payment of benefits out of the Unrevised Affected Product Recipient Fund, the Affected Product Revision Surgery Fund and/or the Extraordinary Injury Fund (the "Derivative Benefits Claim Form" or "Yellow Form"), attached hereto as Exhibit F.

(b) A completed Yellow Form must be submitted within the time periods prescribed for the Affected Product Recipient's claim for benefits (For example, a Class Member who is an Affected Product Recipient submitting a Blue Form must do so on or before the date that is one hundred twenty (120) days after Trial Court Approval. Such Class Member's Derivative Claimant must submit a Yellow Form within the identical time period.) A Derivative Claimant is only entitled to Settlement benefits if the Affected Product Recipient timely submits (and is ultimately entitled to benefits pursuant to a Blue Form, Orange Form or Green Form.

Section 4.5 UNINSURED AFFECTED PRODUCT RECIPIENTS.

(a) Each Class Member claiming benefits as an Uninsured Affected Product Recipient must submit a claim form for payment of benefits out of the Subrogation and Uninsured Expenses Fund (the "Uninsured Medical Expenses Claim Form" or "Red Form"), attached hereto as Exhibit G, on or before the date that is one hundred eighty (180) days after the date such Class Member receives the medical care for which he or she seeks medical expense reimbursement.

(b) In addition to the Red Form, the Class Member must provide documentation evidencing the payment of unreimbursed medical expenses made in connection with the Affected Product Revision Surgery. A list of such acceptable documentation is included on the Red Form.

Section 4.6 GENERAL CLAIMS ADMINISTRATION.

(a) The Claims Administrator shall make benefit determinations based upon the information and documentation provided with a "completed" Claim Form. Claim Forms that fail to provide required information and/or documentation shall not be considered "completed". The Claims Administrator shall have the discretion to set and notify Class Members of deadlines

in addition to those deadlines set forth in this Article 4 and shall have the discretion to disallow any claims received after such applicable deadline. If the Class Member submits a Claim Form within the time periods set forth in this Article 4, such submission will be considered timely notwithstanding deficiencies that may exist in the Claim Form. Failure on the part of the Claims Administrator to meet any of the deadlines set forth herein or subsequently established shall not be deemed to render a claim completed or otherwise entitle a Class Member to benefits hereunder, unless otherwise so ordered by the Court after notice and hearing.

(b) No later than the date that is sixty (60) days after the Claims Administrator receives a Claim Form pursuant to this Article 4, the Claims Administrator shall (i) assign a unique identifying number to the claim ("Sulzer Settlement Claim Number") where one has not already been assigned; and (ii) if necessary, notify the Class Member and/or the applicable Plaintiffs' Counsel regarding the nature of any claim form deficiency. The Class Member and/or the applicable Plaintiffs' Counsel will have seventy-five (75) days from the date of any such notice in which to correct any and all deficiencies with supplemental information and/or documentation. Supplemental materials shall be submitted along with a cover letter specifying the Sulzer Settlement Claim Number. None of Sulzer, the Sulzer Settlement Trust or the Claims Administrator shall be responsible for or in any way accept any liability with respect to deficient Claim Forms.

(c) No later than ninety (90) days after the Claims Administrator receives an acceptable Claim Form, the Claims Administrator shall make a preliminary determination as to whether the Class Member is entitled to any benefits, and if so, the amount to which the Class Member is entitled (the "Preliminary Determination").

(d) Immediately upon making the determination required by Section 4.6(c), the Claims Administrator shall notify the Class Member and the Plaintiffs' Counsel for the Class Member, if any, of such determination. Such Class Member and/or the Plaintiffs' Counsel shall have forty-five (45) days from the date of the Preliminary Determination by the Claims Administrator and to provide any additional information documentation supporting his/her position. Any supplemental information and/or documentation shall be submitted along with a cover letter, specifying the Class Member's Sulzer Settlement Claim Number. If the Class Member and/or Plaintiffs' Counsel does not contest the Preliminary Determination in accordance with this Section 4.6(d), such Preliminary Determination shall be deemed to be a Final Determination in accordance with Section 4.6(e) and such Class Member and/or Plaintiffs' Counsel shall have no further right to contest such Final Determination.

(e) No later than ninety (90) days after the receipt of any explanatory or supporting information pursuant to Section 4.6(d), the Claims Administrator shall make a final determination as to whether the Class Member is entitled to benefits, and if so, the amount to which the Class Member is entitled (the "Final Determination").

(f) Within thirty (30) days after the date of the Claims Administrator's Final Determination, the applicable Affected Product Recipient may appeal the Final Determination by filing a notice with the Federal District Court and serving a copy on the Claims Administrator.

Such notice shall be written and be no more than ten (10) pages in length. The Claims Administrator shall have thirty (30) days to reply in writing. In the event of such an appeal, Class Counsel together with the Special State Counsel Committee shall appoint a special master (subject to the approval of the Court) to make a determination with respect to such Final Determination.

(g) Any determination by the special master, if applicable, made in accordance with Section 4.6(f) above, shall constitute a final and binding determination. If there is no appeal of the Claims Administrator's decision with respect to the Final Determination, the decision of the Claims Administrator shall be final.

(h) Any and all materials submitted by a Class Member pursuant to this Article 4 shall be deemed submitted on the date that such material is post-marked. In the absence of a post-mark or if such post-mark is illegible, the date of receipt shall be the date such material is deemed submitted.

(i) The Claims Administrator shall use all reasonable efforts to make payments to Class Members as early as possible pursuant to guidelines approved by the Court with input from Class Counsel and the State Special Counsel Committee.

Section 4.7 INDEMNIFICATION AND LIABILITY OF CLAIMS ADMINISTRATOR.

(a) The provisions of this Section 4.7 shall apply to all persons or entities engaged by the Claims Administrator to render services relating to the Settlement. The Claims Administrator may provide contractual indemnity to such persons or entities equivalent to that provided to the Claims Administrator under this Settlement Agreement.

(b) The Claims Administrator shall not be liable to the Sulzer Settlement Trust or to any person holding a personal injury claim or to any other person except for said Claims Administrator's own breach of trust committed in bad faith or for willful misconduct. The Claims Administrator shall not be liable for any act or omission of any officer, agent, employee, consultant, or other representative of the Claims Administrator unless the Claims Administrator acts with bad faith or willful misconduct in the selection or retention of such officer, agent, employee, consultant, or other representative.

(c) The Sulzer Settlement Trust shall indemnify and defend the Claims Administrator to the fullest extent that a corporation or trust organized under the laws of the state in which the Sulzer Settlement Trust is domiciled is entitled from time to time to indemnify and defend its directors, trustees, employees, agents or advisers against any and all liabilities, expenses, claims, damages, or losses incurred by them in the performance of his duties hereunder.

(d) The Claims Administrator who was or is a party, or is threatened to be made a party, to any completed, pending, or threatened action, suit or proceeding of any kind, whether civil, administrative or arbitral, by reason of any act or omission of such other person

associated with the Sulzer Settlement Trust, in any of their capacities with respect to (a) the Settlement Agreement negotiations, (b) the liquidation or resolution of any personal injury claims, or (c) the administration of the Sulzer Settlement Trust or the implementation of the procedures guiding said Sulzer Settlement Trust, shall be indemnified and defended by the Sulzer Settlement Trust against expenses, costs, and fees (including reasonable attorney's fees), judgments, awards, costs, amounts paid in settlement, and liabilities of all kinds incurred by any other person.

(e) Reasonable expenses, costs, and fees (including reasonable attorneys fees) incurred by or on behalf of the Claims Administrator in connection with any action, suit, or proceeding, whether civil, administrative, or arbitrative, will be paid by the Sulzer Settlement Trust in advance of the final disposition thereof on receipt of an undertaking by or on behalf of the Claims Administrator to repay such amount unless it shall be determined only that such Claims Administrator is entitled to be indemnified by the Sulzer Settlement Trust.

(f) The Claims Administrator has the sole power generally or in specific instances to cause the Sulzer Settlement Trust to indemnify him to the same extent with respect to any Trustee of the Sulzer Settlement Trust.

(g) The Claims Administrator may purchase and maintain reasonable amounts and types of insurance on behalf of himself or any other officer, employee, agent, or representative of the Claims Administrator or against liability asserted against or incurred by such individual in that capacity arising from his or her status as a Claims Administrator, officer, employee, agent, or representative.

(h) The Claims Administrator may, but shall not be required to, consult with counsel, accountants, appraisers, and other parties deemed by the Claims Administrator to be qualified as an expert on the matters submitted to them (regardless of whether any such party is affiliated with the Claims Administrator in any manner except as otherwise provided in the Settlement Agreement). The opinion of any such party submitted to the Claims Administrator shall be full and complete authorization and protection in respect of any action taken or not taken by the Claims Administrator hereunder in good faith and in accordance with the opinion of such party.

ARTICLE 5. ATTORNEYS' FEES

Section 5.1 Except as noted herein, nothing in this agreement is intended to void or to otherwise alter reasonable contingent fee contracts entered into on or prior to February 2, 2002 for payments due to Class Members under Sections 3.4(a), 3.5(b), 3.5(c) and 3.7. Payments made to Plaintiffs' Counsel for attorney fees pursuant to Sections 3.4(a), 3.5(b) and 3.7 shall be set off against the total contingent fee, and thus the obligation of any such Class Member to his or her Plaintiffs' Counsel will be offset by such amount.

Section 5.2 The Payment of attorney fees pursuant to Sections 3.4(a), 3.5(b), 3.5(c) and 3.7(a) hereof shall be paid directly to the applicable Plaintiffs' Counsel out of the Plaintiffs' Counsel Sub-Fund. In the event there are any amounts remaining in the Plaintiffs' Counsel Sub-

Fund after all applicable amounts have been paid to Plaintiffs' Counsel, such remaining amount shall be distributed *pro rata* among all Class Members who received benefits pursuant to Sections 3.4(a) and 3.5(b).

Section 5.3 In calculating the amount of attorney fees and payments to be made to Affected Product Recipients pursuant to Section 3.4(a), 3.5(b), 3.5(c) and 3.7, Plaintiffs' Counsel shall apply the contingent fee percentage to the product reached by multiplying the stated benefit amount payable pursuant to the applicable Section, by 1.25. Any amounts paid pursuant to this Section 5.3 shall be offset by those amounts, if any, paid pursuant to Section 5.2.

Section 5.4 Common Benefit Attorneys shall be entitled to reasonable attorney fees up to a maximum of \$50.0 million in the aggregate and to reimbursement of reasonable expenses up to a maximum of \$7.5 million in the aggregate, to be paid out of the Sulzer Settlement Trust as approved by the Court. The Common Benefit Attorney fee payment shall be made out of the CCI and the Common Benefit Attorney expenses shall be paid out of the Initial Insurance Proceeds. The Court shall make reasonable allowances out of such amounts for the payment of reasonable attorney fees and expenses incurred in connection of the administration of the Sulzer Settlement Trust.

Section 5.5 In order to receive payment pursuant to Section 5.4, any attorney claiming benefits as a Common Benefit Attorney shall first make an application to the Court. The Court may appoint a special master, and with the input of a committee comprised of an equal number of members from Class Counsel and the Special State Counsel Committee, will review all such applications and make a determination with respect to any such attorney's eligibility to receive payments pursuant to this Section 5.5

Section 5.6 All amounts allocated out of this Sulzer Settlement Trust to Common Benefit Attorneys pursuant to Section 5.5 shall be paid to liaison Class Counsel who shall distribute such amounts to Common Benefit Attorneys as approved and allocated by the Court pursuant to Section 5.5. The Court shall consider, among other factors, any contingent fee paid to a Common Benefit Attorney pursuant to Section 5.1 and Section 5.2 when making an award of a fee pursuant to Section 5.5

ARTICLE 6. ISSUANCE OF CCI

Section 6.1 In partial satisfaction of Sulzer's funding obligations under this Settlement Agreement pursuant to Section 2.5(a), SOUS shall deliver on the CCI Issue Date a \$300,000,000 principal amount convertible callable instrument (the "CCI") of SOUS payable to the Sulzer Settlement Trust. The CCI shall have the terms, covenants and other provisions substantially as set forth on Annex V to this Settlement Agreement.

Section 6.2 On or prior to the Fairness Hearing Date, the Parties shall complete definitive documentation of the form of the CCI and shall submit such final form to the Court for approval at the Fairness Hearing. The Parties agree to negotiate in good faith the final terms and form of such instrument based on the principal financial terms described on Annex V.

ARTICLE 7. GENERAL TERMINATION AND RELEASE

Section 7.1 The Parties agree that this Settlement Agreement is made in good faith and in accordance with the laws of the jurisdictions in which Affected Products Related lawsuits have been filed. If required by any court or tribunal, Class Counsel agree to cooperate with Sulzer, Sulzer AG and the other Released Parties by providing affidavits and/or testimony concerning the circumstances of the settlement contemplated by this Settlement Agreement and attesting to the fact that it is a good faith settlement.

Section 7.2 Unless this Settlement Agreement shall have been terminated in accordance with Article 10 hereof after the Court approves this Settlement Agreement as a good faith, fair, adequate and reasonable settlement, the Parties hereby agree that every Settled Claim of each Class Member (other than a Class Member who exercises an Opt-Out Right pursuant to Section 3.8) shall be conclusively compromised, settled and released as to Sulzer, Sulzer AG, and each other Released Party. Such releases shall remain effective regardless of changes in the circumstances or condition of Sulzer, Sulzer AG, the other Released Parties or such Class Members, discovery of new or additional facts, or changes in applicable law. In making such releases the Settlement Class expressly acknowledges and waives the provisions of Section 1542 of the Civil Code of the State of California, which provides that “[a] general release does not extend to claims which the creditor does not know or suspect exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.” as well as any similar provisions of other states. Consistent with the provisions of Article 10 of this Settlement Agreement, the releases herein shall extinguish any claims for contribution and/or indemnification against Sulzer, Sulzer AG or the other Released Parties.

Section 7.3 The Parties hereby agree to request that the Court enter an order finding this Settlement Agreement to be a good faith settlement and barring and enjoining, to the extent permitted by applicable law, the commencement and prosecution of any contribution and/or indemnification claim or action by or on behalf of any Class Member (other than a Class Member who exercises an Opt-Out Right pursuant to Section 3.8) or entity against Sulzer, Sulzer AG or any other Released Party for reimbursement for payments made or to be made to or on behalf of any such Class Member for Affected Products Related claims, actions or injuries, or for expenses incurred in defending against any such claims, actions or proceedings. The Parties agree that Sulzer, Sulzer AG and the other Released Parties shall be entitled to dismissal with prejudice of any claims against them by or on behalf of any Class Member (other than a Class Member who exercises an Opt-Out Right pursuant to Section 3.8) that violate or are inconsistent with this bar.

Section 7.4 The Parties agree that no Class Member (other than Class Members who properly and timely exercise their Opt-Out Rights) shall recover, directly or indirectly, any sums from Sulzer, Sulzer AG or any other Released Party other than those received under this Settlement Agreement.

Section 7.5 Each Class Member (other than a Class Member who exercises an Opt-Out Right pursuant to Section 3.8) otherwise entitled to receive benefits under this Settlement

Agreement shall be required, as a further condition to receive benefits hereunder, to execute and deliver a separate proof of claim and release with respect to each Affected Product Related claim.

ARTICLE 8. GUARANTEED PAYMENT OPTION

Section 8.1 Class Members in Subclass I and Subclass III who are eligible for benefits pursuant to Section 3.4(a) or 3.5(b) may elect to obtain a portion of the settlement benefits provided for in Sections 3.4(a) or 3.5(b) prior to the payment dates set forth in Section 3.4(b) or 3.5(b), as applicable, through a guaranteed payment option (the "GPO") to be paid in accordance with and subject to the conditions set forth in this Article 8 and the Orange Form.

Section 8.2 A Class Member may elect the GPO at any time from the date of the Notice until the date that is the later of (a) one-hundred and twenty (120) days after the Trial Court Approval Date and (b) one-hundred and twenty (120) days after such Class Member's APRS.

Section 8.3 If a Class Member elects the GPO, such Class Member must complete and sign the applicable section of the Orange Form (the "GPO Agreement") and return such completed and executed GPO Agreement to the Claims Administrator within the time period set forth in Section 8.2 above. The GPO Agreement shall represent a binding agreement between such Class Member and Sulzer separate and apart from this Settlement Agreement and shall provide for such Class Member to receive the value of the payments provided for in Section 3.4(a), 3.5(b), 3.7 and 3.9(a) of this Settlement Agreement, as applicable, in exchange for the unconditional release of the Released Parties for Settled Claims, in each case on terms and conditions consistent with this Settlement Agreement. Such GPO Agreement shall be effective upon execution and delivery of the GPO Agreement to the Claims Administrator and release contained therein shall be contingent on such Class Member receiving the balance of the benefits provided for in Sections 3.4(a), 3.5(b), 3.7 or 3.9(a), as applicable; *provided*, in the event that Sulzer defaults in obligation to pay Class Members under their individual GPO Agreements, the release provided by such GPO Agreement shall, nonetheless, be effective with respect to the Settled Claims as to all Released Parties other than Sulzer.

Section 8.4 Class Members who elect the GPO and execute the GPO Agreement shall receive a minimum of \$40,000 of the payments provided in Section 3.4(a) and 3.5(b), as applicable, on the date that is the later of (a) sixty (60) days after the Insurance Proceeds Delivery Date or (ii) forty-five (45) days after the date the Claims Administrator receives such Class Members' completed Orange Form. Class Members who have suffered complications that qualify for benefits under Section 3.7 who elect the GPO in accordance with this Article 8 may also be eligible to receive those benefits to be paid in accordance with Annex IV pursuant to the terms of this Settlement Agreement.

Section 8.5 A Derivative Claimant may not elect the GPO if the Class Member with whom the Derivative Claimant is associated has not elected the GPO. Similarly, a Derivative

Claimant must elect the GPO if the Class Member with whom the Derivative Claimant is associated has elected the GPO.

Section 8.6 In the event that this Settlement Agreement is terminated in accordance with Article 10 (other than Section 10.1), Class Members electing the GPO will retain contractual rights in accordance with the GPO Agreement to any unpaid benefits owed pursuant to Section 3.4(a), 3.5(b), 3.7 or 3.9(a), as applicable. If the date of such termination is after the Insurance Proceeds Delivery Date, the Sulzer Settlement Trust shall administer payments in the amounts provided for in Section 8.4 and additional amounts owed to such Class Member in accordance with Section 3.4, 3.5, 3.7 or 3.9(a) shall remain the responsibility of Sulzer. However, if Sulzer exercises its option to terminate and withdraw from this Settlement Agreement pursuant to Section 10.1, any such GPO elections become null and void and the GPO Agreement shall not be enforceable.

Section 8.7 By electing the GPO and entering into a GPO Agreement, a Class Member is knowingly and affirmatively waiving all Opt-Out Rights afforded pursuant to Section 3.8 of this Settlement Agreement. Likewise, no person exercising an Opt-Out Right pursuant to Section 3.8 hereof is eligible to elect the GPO.

Section 8.8 The GPO shall be funded with the Insurance Proceeds paid in accordance with Section 2.5(c), less amounts allocated to Common Benefit Attorneys for expenses pursuant to Section 5.3 and less amounts allocated to the Subrogation and Uninsured Expenses Fund pursuant to Section 2.2(e). The Sulzer Settlement Trust shall pay to Class Members that validly elect the GPO an initial payment of \$40,000.00. In the event that there are amounts remaining after payments have been made to all Class Members that validly elect the GPO, any such amount shall be distributed *pro rata* among the Class Members that elected the GPO up to the maximum amount of benefits such Class Member may be eligible to receive under Section 3.4(a) and 3.5(b) hereof.

ARTICLE 9. CONTINUING JURISDICTION

Section 9.1 The Court shall retain exclusive and continuing jurisdiction of the Complaint, the Parties, all Class Members (other than a Class Member who exercises an Opt-Out Right pursuant to Section 3.8), Sulzer, Sulzer AG and the other Released Parties, and over this Settlement Agreement with respect to the performance of the terms and conditions of the Settlement Agreement, to assure that all disbursements are properly made in accordance with the terms of the Settlement Agreement, and to interpret and enforce the terms, conditions and obligations of this Settlement Agreement. Other than provided herein, the Court shall have the power to approve the designation, appointment and removal of auditors, consultants and disbursing agents, the Claims Administrator and its other agents, and the execution of contracts as necessary and appropriate to assure the administration of this Settlement Agreement. Any dispute that arises under this Settlement Agreement shall be submitted to the Court. If any dispute is so submitted, each party concerned shall be entitled to seven (7) days' written notice (or otherwise as the Court may for good cause direct) and the opportunity to submit evidence and to be heard on oral argument as the Court may direct. To the extent that additional or different

procedures for dispute resolution are provided, or standards to be applied in connection therewith are devised, under any other provision of this Settlement Agreement, such other provisions shall control.

ARTICLE 10. TERMINATION

Section 10.1 Sulzer shall have the option to terminate and withdraw from this Settlement Agreement, in its sole discretion, at any time prior 5:00 p.m., Cleveland time, on the fifth (5) Business Day after the termination of the Opt Out Period by giving written notice to the Court, Sulzer AG and Class Counsel.

Section 10.2 In the event that any of the conditions set forth in Section 13.3 have not been satisfied or waived by either Sulzer or Sulzer AG, as applicable (and such conditions are no longer capable of being satisfied), Sulzer and/or Sulzer AG shall have the right to terminate and withdraw from this Settlement Agreement by written notice to the Court, Class Counsel and Sulzer or Sulzer AG, as applicable.

Section 10.3 Class Representatives, on behalf of Class Members, shall have the option to terminate and withdraw from this Settlement Agreement in the event that, prior to the Fairness Hearing Date, Class Counsel is unable to obtain an opinion of counsel or other evidence or advice reasonably satisfactory to Class Counsel that the ADRs or Shares, as applicable, issued upon conversion of the CCI in accordance with the terms thereof are freely tradable by non-affiliates of SML upon such issuance. In the event Class Representatives exercise their right to terminate pursuant to this Section 10.3, they shall provide written notice to the Court, Sulzer, and Sulzer AG.

Section 10.4 In the event that the applicable Party terminates and withdraws from this Settlement Agreement in accordance with Sections 10.1, 10.2 or 10.3 above, no Party shall have any further obligations hereunder.

Section 10.5 In the event that Sulzer exercises its right to terminate this Settlement Agreement in accordance with this Section 10.1, Sulzer may not assert any defense to claims made by Class Members who have neither exercised an Opt-Out Right in accordance with Section 3.8 nor elected the GPO in accordance with Article 8, based on the failure of such Class Member to timely pursue his or her claim against Sulzer, including any statute of limitations or repose defense, the doctrine of laches or any defense based on any release signed by such Class Member and/or the existence of this Settlement Agreement; *provided*; that such limitation on defenses that Sulzer may not assert is solely with respect to the time period from August 29, 2001 through the date of termination of the Settlement Agreement. Any amounts recovered by a Class Member as a result of legal action that he or she commences upon termination of this Settlement Agreement shall be reduced by the amount of cash benefits that such Class Member has received hereunder (other than benefits in connection with the Section 3.3) prior to the termination of the Settlement Agreement.

ARTICLE 11. [RESERVED]

ARTICLE 12. [RESERVED]

ARTICLE 13. SETTLEMENT IMPLEMENTATION

Section 13.1 GENERAL

(a) In order to become effective, this Settlement Agreement must receive Final Judicial Approval, as well as necessary Sulzer AG board of directors approval and SML board of directors approval prior to the Fairness Hearing Date and SML shareholder approval for the transactions contemplated hereby.

Section 13.2 APPROVAL PROCESS PROVISIONS

(a) No later than seven (7) days following the date of this Settlement Agreement, the Parties shall file a joint motion requesting preliminary approval of the Settlement Agreement and approval of the forms of notice (the "Notice").

(b) Each of Sulzer and Sulzer AG shall retain its right to contest class certification for any purposes other than the approval of this Settlement Agreement.

(c) The Parties shall cooperate and assist in all of the filings and proceedings relating to the obtaining Trial Court Approval and in any further filings and proceedings necessary to obtain Final Judicial Approval of the Settlement, and in any related appeals.

(d) Upon Final Judicial Approval, the Class Counsel and all Class Members shall cooperate with Sulzer, Sulzer AG and any other Released Party to cause the dismissal, with prejudice and without costs, of any action against Sulzer, Sulzer AG or any Released Party asserting a Settled Claim brought by or on behalf of any Class Member (other than a Class Member who exercises an Opt-Out Right pursuant to Section 3.8) entitled to benefits hereunder, including but not limited to class actions, whether or not certified as such, which are pending in any State or federal court. Upon Trial Court Approval, the Class Counsel and all such Class Members shall cooperate with Sulzer, Sulzer AG and any other Released Party to cause further proceedings in all such settled actions to be stayed pending Final Judicial Approval.

Section 13.3 CONDITIONS

(a) Sulzer's and Sulzer AG's obligations under this Settlement Agreement, will be subject to the following conditions:

(i) Trial Court Approval of the Settlement, which approval order or orders shall:

(1) Confirm the certification of the Settlement Class, under Fed. R. Civ. P. 23(a), 23(b)(2) and 23(b)(3) for Settlement purposes only;

(2) Confirm the appointment of the Class Representatives as the representatives of the Settlement Class;

(3) Approve this Settlement Agreement in its entirety pursuant to Fed. R. Civ. P. 23(e) as fair, reasonable, adequate, and non-collusive;

(4) Dismiss with prejudice and without costs all claims and actions asserting Settled Claims against Sulzer or Sulzer AG pending before the Court (other than claims and actions of a Class Member who exercises an Opt-Out Right pursuant to Section 3.8), with the condition that in the event that Final Judicial Approval is not obtained, such claims and/or actions may be reinstated to the status quo position, both procedurally and substantively, of such claim and/or action at the time of its dismissal;

(5) Bar and enjoin all Class Members (other than a Class Member who exercises an Opt-Out Right pursuant to Section 3.8) entitled to benefits hereunder from asserting and/or continuing to prosecute against Sulzer, Sulzer AG or any other Released Party any and all Settled Claims which the Class Member (other than a Class Member who exercises an Opt-Out Right pursuant to Section 3.8) had, has, or may have in the future in any federal or State court;

(6) Reserve the Court's continuing and exclusive jurisdiction over the Parties, including Sulzer, Sulzer AG and the Class Members (other than a Class Member who exercises an Opt-Out Right pursuant to Section 3.8), to administer, supervise, interpret, and enforce this Settlement Agreement in accordance with its terms and to supervise the operation of the Sulzer Settlement Trust; and

(7) Enter such other orders as are needed to effectuate the terms of the Settlement Agreement;

(ii) Final Judicial Approval of this Settlement Agreement.

ARTICLE 14. [RESERVED]

ARTICLE 15. MISCELLANEOUS

Section 15.1 Any information provided by or regarding a Class Member or otherwise obtained pursuant to this Settlement Agreement shall be kept confidential and shall not be disclosed except to appropriate persons to the extent necessary to process Claims or provide benefits under this Settlement Agreement or as otherwise expressly provided in this Settlement Agreement (including, but not limited to, information to be released in connection with the "registry". All Class Members shall be deemed to have consented to the disclosure of this information for these purposes.

Section 15.2 This Settlement Agreement shall be binding on the successors and assigns of the Parties.

Section 15.3 The Parties to the Settlement, including Sulzer, Sulzer AG, the other Released Parties, or any Class Member, shall not seek to introduce and/or offer the terms of the Settlement Agreement, any statement, transaction or proceeding in connection with the negotiation, execution or implementation of this Settlement Agreement, any statements in the Notice documents delivered in connection with this Settlement Agreement, stipulations, agreements, or admissions made or entered into in connection with the fairness hearing or any finding of fact or conclusion of law made by the Trial Court, or otherwise rely on the terms of this Settlement Agreement, in any judicial proceeding, except insofar as it is necessary to enforce the terms of the Settlement Agreement (or in connection with the determination of any income tax liability of a Party). If a Class Member who is not entitled to benefits hereunder seeks to introduce and/or offer any of the matters described herein in any proceeding, the restrictions of this Section 15.3 shall not be applicable to Sulzer, Sulzer AG and the other Released Parties with respect to that Class Member. If a Class Member who has timely and properly exercised an Opt-Out Right seeks to introduce and/or offer any of the matters described herein in any proceeding, the restrictions of this Section 15.3 shall not be applicable to Sulzer, Sulzer AG and the other Released Parties with respect to that Class Member.

Section 15.4 Neither this Settlement Agreement nor any Annex, Exhibit, document or instrument delivered hereunder nor any of the statements in the notice documents in connection herewith, nor any statement, transaction or proceeding in connection with the negotiation, execution or implementation of this Settlement Agreement, is intended to be or shall be construed as or deemed to be evidence of an admission or concession by Sulzer, Sulzer AG or the Released Parties of any liability or wrongdoing or of the truth of any allegations asserted by any plaintiff against it or them, or as an admission by the Class Representatives or members of the Settlement Class of any lack of merit in their claims, and no such statement, transaction or proceeding shall be admissible in evidence for any such purpose except for purposes of obtaining approval of this Settlement Agreement in this or any other proceeding.

Section 15.5 The headings of the sections and paragraphs of this Settlement Agreement are included for convenience only and shall not be deemed to constitute part of this Settlement Agreement or to affect its construction.

Section 15.6 Class Counsel, together with the Special State Counsel Committee shall make a determination, subject to the approval of the Court, with respect to the disposition of any amounts remaining in any particular Fund upon the satisfaction in full of all obligations to pay Class Members and Plaintiffs' Counsel pursuant to this Settlement Agreement, which may include a *pro rata* distribution to Class Members or in the event the amount is negligible, a donation to a neutral medical research institute or university or to charity; *provided, however*, that the Claims Administrator shall first use any amounts remaining in any particular Fund after satisfaction of all obligations to Class Members to either pay for or create a reserve for payment of all administrative expenses that have been or will be incurred in connection with the winding-up of the administration of the Sulzer Settlement Trust.

Section 15.7 Any notice, request, instruction or other document to be given by any Party to another Party shall be in writing and delivered personally or sent by Federal Express or

facsimile (which such facsimile notice shall be deemed effective as of the time of receipt of confirmation by the sending party) as follows, or as otherwise instructed by a notice delivered to the other Party pursuant to this subsection:

(i) If to Sulzer:

Sulzer Medica USA Inc.
3 East Greenway Plaza, Suite 1600
Houston TX 77046-0391
Attention: David S. Wise, Esq.
Facsimile: (713) 561-6300

with copies to:

The Scruggs Law Firm, P.A.
Post Office Drawer 1425
Pascagoula, MS 39568-1425
Attention: Richard F. Scruggs, Esq.
Sidney A. Backstrom, Esq.
Facsimile: (228) 762-1207

and

Shook, Hardy & Bacon, LLP
One Kansas City Place
1200 Main Street
Kansas City, Missouri 64105-2118
Attention: Harvey L. Kaplan, Esq.
Bradley D. Honnold, Esq.
Facsimile: (816) 421-5547

and

Weil, Gotshal & Manges LLP
100 Crescent Court, Suite 1300
Dallas, TX 75201
Attention: Martin A. Sosland, Esq.
W. Stuart Ogg, Esq.
Facsimile: (214) 746-7777

and

Bär & Karrer
Seefeldstr. 19, CH - 8024
Zürich, Switzerland
Attention: Andreas Länzlinger
Facsimile: +41 (0) 58 261 5001

(ii) If to Sulzer AG:

Sulzer AG
Zurcherstrasse 14, CH-8401
Winterthur, Switzerland
Attention: Alfred Gerber, Esq.
Facsimile: 011-41-52-262-0022

with copies to:

Shearman & Sterling
599 Lexington Avenue
New York, NY 10022-6069
Attention: Werner L. Polak, Esq.
Facsimile: (212) 848-7179

(iii) If to the Class Representatives or Class Counsel:

Weisman, Goldberg & Weisman Co., L.P.A.
1600 Midland Building
Landmark Office Towers
Cleveland, Ohio 44115
Attention: R. Eric Kennedy, Esq.
Facsimile: (216) 781-6747

Section 15.8 Any form or other documentation required to be submitted under this Settlement Agreement shall be deemed timely if received on or before the date by which it is required to be submitted under this Settlement Agreement.

Section 15.9 No provision of this Settlement Agreement or any Exhibit or Annex hereto is intended to create any third-party beneficiary to this Settlement Agreement.

Section 15.10 This Settlement Agreement and that certain Settlement Agreement, dated as of February 22, 2002, between SML and Sulzer AG, contains the entire agreement between the Parties with respect to the subject matter hereof and, except as specifically set forth herein or therein, supersedes and cancels all previous agreements, negotiations, and commitments in writings between the Parties hereto with respect to the subject matter hereof, including without limitation that certain term sheet dated as of August 2, 2001, the Settlement Agreement dated as of August 15, 2001, as amended August 23, 2001, as further amended September 12, 2001 and as further amended October 12, 2001, and the Memorandum of Understanding dated as of February 1, 2002. This Settlement Agreement may not be changed or modified in any manner unless in writing and signed by a duly authorized officer of each of Sulzer and Sulzer AG and by a duly authorized representative of the Class Representatives.

Section 15.11 This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to conflict of laws principles thereunder.

Section 15.12 The Parties acknowledge and agree that in the event that SML, SOUS and any other subsidiary of SML shall file for bankruptcy protection under any applicable bankruptcy or insolvency laws, or a petition for an involuntary bankruptcy or insolvency proceeding is initiated against any such party prior to the termination of this Settlement Agreement, any plan of reorganization or liquidating plan shall incorporate substantially the terms of this Settlement Agreement.

Section 15.13 In the event that the Court approves a certification of the Settlement Class other than that contemplated by this Settlement Agreement, the parties hereby agree that they shall amend this Settlement Agreement to reflect such certification.

Section 15.14 Sulzer AG agrees that it will not, nor will it permit any of its subsidiaries, officers, directors, agents or affiliates to, submit for payment, or charge costs against, or make any claim for reimbursement from, the Initial Insurance Policies or the Second Year Insurance Policies in respect of claims of Knee Beneficiaries.

Section 15.15 The Parties acknowledge that all amounts reflected in this Settlement Agreement that are payable to Class Members pursuant to Sections 3.3, 3.4, 3.5 and 3.7 are estimates and are subject to modification based on the actual number of Class Members submitting a claim for benefits payable in respect of an Affected Product Revision Surgery. In the event that it is necessary to make changes or modifications to the Settlement Agreement for any reason, the Parties agree that Class Counsel together with the Special State Counsel Committee, has the authority to negotiate all such changes or modifications on behalf of the Settlement Class.

Section 15.16 This Settlement Agreement may be signed in multiple counterparts, each of which shall be deemed to be an original and all of which shall be deemed to be one and the same instrument.

Section 15.17 Sulzer, prior to Trial Court Approval and with the mutual consent of the other Parties and the Court, may separate the Settlement Class and this Settlement Agreement into two separate Settlement Classes and Settlement Agreements, one including Subclasses I and III, and the other including to Subclasses II, IV and V.

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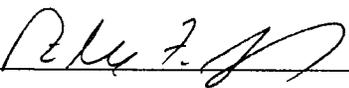
IN WITNESS WHEREOF, the Parties have duly executed this amended and restated Class Action Settlement Agreement among SOUS, SML, Sulzer AG and the Class ⁷⁴ Representatives, by their respective counsel as set forth below, as of the 13 day of March, 2002.

SULZER ORTHOPEDICS INC.

By: 

By: _____

SULZER MEDICA AG

By: 

By: _____

SULZER AG

By: _____

By: _____

IN WITNESS WHEREOF, the Parties have duly executed this amended and restated Class Action Settlement Agreement among SOUS, SML, Sulzer AG and the Class Representatives, by their respective counsel as set forth below, as of the _____ day of March, 2002.

SULZER ORTHOPEDICS INC.

By: _____

By: _____

SULZER MEDICA AG

By: _____

By: _____

SULZER AG

By: _____ *W. L. Polak*

By: _____

IN WITNESS WHEREOF, the Parties have duly executed this amended and restated Class Action Settlement Agreement among SOUS, SML, Sulzer AG and the Class Representatives, by their respective counsel as set forth below, as of the _____ day of March, 2002.

SULZER ORTHOPEDICS INC.

By: _____

SULZER MEDICA AG

By: _____

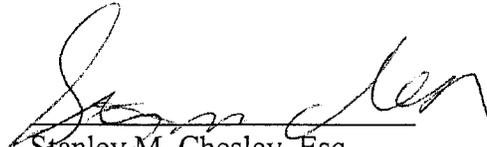
By: _____

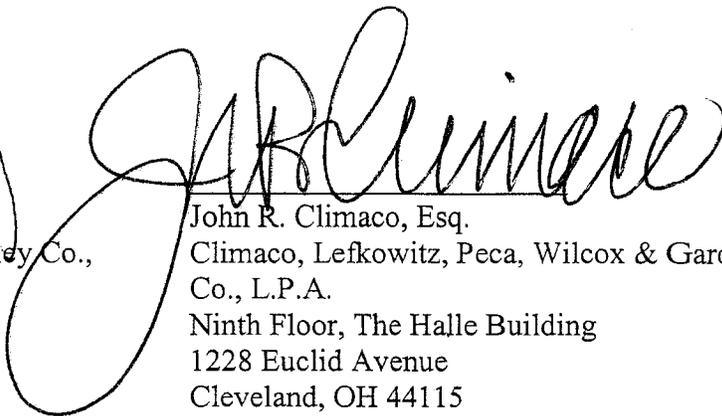
SULZER AG

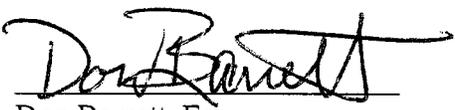
By: *A. John* General Counsel

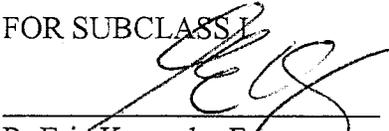
By: *[Signature]*

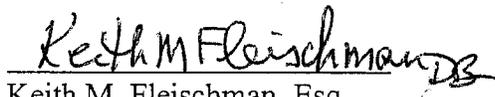
CLASS COUNSEL

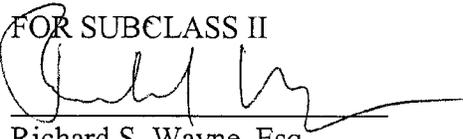

Stanley M. Chesley, Esq.
Waite, Schneider, Bayless & Chesley Co.,
L.P.A.
1513 Central Trust Tower
Fourth & Vine Street
Cincinnati, OH 45202

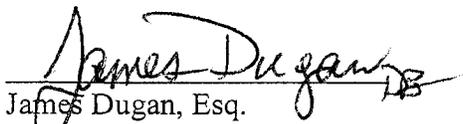

John R. Climaco, Esq.
Climaco, Lefkowitz, Peca, Wilcox & Garofoli
Co., L.P.A.
Ninth Floor, The Halle Building
1228 Euclid Avenue
Cleveland, OH 44115

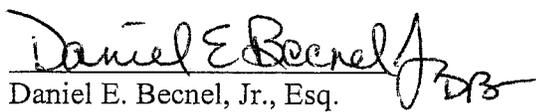

Don Barrett, Esq.
Barrett Law Office, P.A.
404 Court Square North
Post Office Box 987
Lexington, Mississippi 39095

FOR SUBCLASS I

R. Eric Kennedy, Esq.
Weisman, Goldberg & Weisman Co., L.P.A.
1600 Midland Building
Landmark Office Towers
Cleveland, Ohio 44115

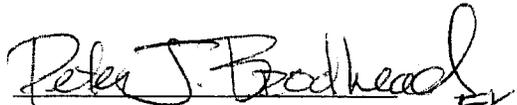

Keith M. Fleischman, Esq.
Milberg Weiss Bershad Hynes & Lerach LLP
One Pennsylvania Plaza
New York, NY 10119-0165

FOR SUBCLASS II

Richard S. Wayne, Esq.
Strauss & Troy
The Federal Reserve Building
150 East 4th
Cincinnati, OH 45202-4018


James Dugan, Esq.
Gauthier, Downing, LaBarre, Beiser & Dean
3500 N. Hullin Street
Metairie, LA 70002

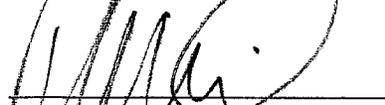

Daniel E. Becnel, Jr., Esq.
The Law Offices of Daniel E. Becnel, Jr.
106 West Seventh Street
P.O. Drawer H
Reserve, LA 70084

FOR SUBCLASS III


Peter J. Brodhead _{EK}

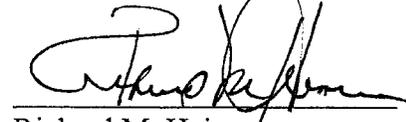
Spangenberg, Shibley & Liber LLP
1900 East Ninth Street
2400 National City Center
Cleveland, OH 44114-3400

FOR SUBCLASS IV


Phillip A. Ciano

Ciano & Goldwasser L.L.P.
The Huntington Building
925 Euclid Avenue, Suite 1995
Cleveland, OH 44115

FOR SUBCLASS V



Richard M. Heimann
Lief Cabraser Heimann & Bernstein, LLP
Embarcadero Center West
275 Battery Street, Suite 3000
San Francisco, CA 94111-3339

Exhibit A

ESCROW AGREEMENT

Exhibit B

**UNREVISED AFFECTED PRODUCT RECIPIENT FUND BENEFITS CLAIM FORM
(BLUE FORM)**

Exhibit C

**AFFECTED PRODUCT REVISION SURGERY FUND BENEFITS CLAIM FORM
(ORANGE FORM)**

Exhibit D

PHYSICIAN DECLARATION

Exhibit E

**EIF BENEFITS CLAIM FORM
(GREEN FORM)**

Exhibit F

**DERIVATIVE BENEFITS CLAIM FORM
(YELLOW FORM)**

Exhibit G

**UNINSURED MEDICAL EXPENSES CLAIM FORM
(RED FORM)**