CLASS ACTION
CANADA – WIDE SETTLEMENT AGREEMENT

Made as of April 10, 2015

Peters et al. Plaintiffs v. Merck Frosst Canada Ltd. et al. Defendants	PROVINCE OF ONTARIO Ontario Superior Court of Justice Toronto, Ontario Court File No. 07-CV-333698CP
Option consommateurs Petitioner Nicole Brousseau Designated Person v. Merck Frosst Canada Limitée et al. Respondents	PROVINCE OF QUEBEC Quebec Superior Court, District of Montreal No. 500-06-00040279
MacMillan et al. Plaintiffs v. Merck Frosst Canada & Co. et al. Defendants	PROVINCE OF SASKATCHEWAN Court of Queen's Bench of Saskatchewan Q.B. No. 2313 (2010)
Markovich et al. Plaintiffs v. Merck Frosst Canada & Co. et al. Defendants	PROVINCE OF ALBERTA Court of Queen's Bench of Alberta No. 1001-14447
Marcano et al. Plaintiffs v. Merck Frosst Canada Ltd. et al. Defendants	PROVINCE OF BRITISH COLUMBIA Supreme Court of British Columbia Vancouver, British Columbia No. S073863

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This Canada-Wide Settlement Agreement (this "Settlement Agreement") is entered into by and among:

(i) (u) Fiona Peters and Andrew Peters, individually and in their capacity as proposed representative plaintiffs in *Peters et al. v. Merck Frosst Canada Ltd.*, Court File No. 07-CV-333698CP (the "Ontario Class Action") (such plaintiffs, collectively, the "Ontario Plaintiffs");

(v) Option consommateurs and Nicole Brousseau, individually and in their capacity as proposed representative plaintiffs in *Option consommateurs, Petitioner, and Nicole Brousseau, Designated Person, v. Merck Frosst Canada Limitée et al.*, No: 500-06-000679-130 (the "Quebec Class Action") (such plaintiffs, the "Quebec Plaintiffs");

(w) Dorothy MacMillan and Elsie Klepskh, individually and in their capacity as proposed representative plaintiffs in *MacMillan et al. v. Merck Frosst Canada & Co. et al.*, Q.B. No. 2313 (2010) (the "Saskatchewan Class Action", and together with the Ontario Class Action and the Quebec Class Action, the "Designated Class Actions" (the Designated Class Actions are further described on Exhibit A)) (such plaintiffs, collectively, the "Saskatchewan Plaintiffs"), it being understood and agreed that, without limitation of the foregoing (and in addition to, and without limitation of, the execution and delivery hereof by the other "Plaintiffs" as set forth in clauses (i)(x), (y) and (z) below), the Ontario Plaintiffs, the Quebec Plaintiffs and the Saskatchewan Plaintiffs are entering into this Settlement Agreement on behalf of all plaintiffs and putative class members in all Specified Fosamax/Fosavance-Connected Proceedings (as defined below);

(x) Helen Markovich, Diane Soucy and Rita Collins, individually and in their capacity as proposed representative plaintiffs in *Markovich et al. v. Merck Frosst Canada & Co. et al.*, No. 1001-14447 (the "Putative Alberta Class Action") (such plaintiffs, collectively, the "Alberta Plaintiffs");

(y) Gabrielle Marcano and Lyle Irving Folkestad, individually and in their capacity as proposed representative plaintiffs in *Marcano et al. v. Merck Frosst Canada Ltd. et al.*, No. S073863 (the "Putative British Columbia Class Action", and together with the Putative Alberta

Class Action and the Designated Class Actions, collectively, the "Specified Fosamax/Fosavance-Connected Class Actions" (the Putative British Columbia Class Action and the Putative Alberta Class Action are further described on Exhibit B)) (such plaintiffs, collectively, the "British Columbia Plaintiffs"); and

(z) the Person listed on Exhibit C under the column entitled "Plaintiff" and whose name appears in the signature pages hereto under the heading "Other Plaintiffs and Plaintiffs' Law Firms" (the "Individual Plaintiff", and together with the Ontario Plaintiffs, the Quebec Plaintiffs, the Saskatchewan Plaintiffs, the Alberta Plaintiffs and the British Columbia Plaintiffs, the "Plaintiffs"; and the individual Action listed on Exhibit C, the "Individual Action", and together with the Specified Fosamax/Fosavance-Connected Class Actions, the "Specified Fosamax/Fosavance-Connected Proceedings");

(ii) Merck Canada Inc. and the other Persons whose names appear in the signature pages hereto under the heading "Merck Parties" (together with their respective successors, collectively, the "Merck Parties"); and

(iii) (w) the counsel in the Designated Class Actions listed under the heading entitled "Plaintiffs' Law Firm" on Exhibit A (collectively, "Class Counsel"), (x) the counsel whose names appear under the heading "Plaintiffs' Law Firm" on Exhibit B, (y) the counsel whose name appears under the heading "Plaintiff's Law Firm" on Exhibit C, and (z) the counsel whose name appear under the heading "Plaintiff's Law Firm" on Exhibit D ((w), (x), (y) and (z), collectively, the "Plaintiffs' Counsel"; the Plaintiffs, the Merck Parties and the Plaintiffs' Counsel, collectively, the "Parties").

R-E-C-I-T-A-L-S

A. The Parties intend by this Settlement Agreement to resolve in Canada, (i) with respect to all residents of Canada, all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance, (ii) without limitation of clause (i), with respect to all Releasors, all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected with Alendronate, and (iii) without limitation of clause (i) or (ii), all Fosamax/Fosavance-Connected Proceedings (in the case of any such Fosamax/Fosavance-

Connected Proceeding in which there are any defendants other than Merck Defendants, solely with respect to any Merck Defendants).

B. The Defendants (i) deny the allegations made in the Fosamax/Fosavance-Connected Proceedings, (ii) deny that any damages are payable, or that any Plaintiff or other Person is entitled to any other relief, in any Fosamax/Fosavance-Connected Proceeding, (iii) have not conceded or admitted, do not concede or admit and shall not be deemed to have conceded or admitted, any Liability of any kind with respect to any Claim in the Fosamax/Fosavance-Connected Proceedings, and have defences to all of the Claims in the Fosamax/Fosavance-Connected Proceedings. No Settlement Agreement Matter shall be offered or received in evidence in or before any Action (or otherwise), except only to seek Court approval of this Settlement Agreement or to give effect to and enforce the provisions of this Settlement Agreement.

C. The Parties have engaged in extensive, arms-length negotiations, with reference to prior relevant court decisions, through counsel with substantial experience in complex class proceedings, which have resulted in this Settlement Agreement (including each of the Exhibits, and Annex A, attached to this Settlement Agreement, each of which constitute an integral part of this Settlement Agreement).

D. The Plaintiffs and Plaintiffs' Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiffs' claims, and having regard to the burden and expense in prosecuting the Fosamax/Fosavance-Connected Proceedings, including the risks and uncertainties associated with trials and appeals, the Plaintiffs and Plaintiffs' Counsel have concluded that this Settlement Agreement is fair, reasonable, and in the best interests of the Plaintiffs and the classes they seek to represent.

E. The Merck Parties are entering into this Settlement Agreement in order to resolve the matters described in Recital A, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation.

F. Without limitation of Recital A, the Parties therefore wish to, and hereby do, fully and finally resolve all of the Fosamax/Fosavance-Connected Proceedings (in the case of any

such Fosamax/Fosavance-Connected Proceeding in which there are any defendants other than Merck Defendants, solely with respect to any Merck Defendants).

G. For the purposes of settlement only and contingent on approvals by the Class Action Courts as provided for in this Settlement Agreement, the Merck Parties have consented to the certification of a class in each of the Designated Class Actions. However, without limitation of Recital H, (i) this Settlement Agreement does not constitute in any way a precedent to support the certification of any Specified Fosamax/Fosavance-Connected Class Action or any other class, and the Merck Parties expressly reserve their rights to contest certification of any Specified Fosamax/Fosavance-Connected Class Action (or any other Fosamax/Fosavance-Connected Proceeding) other than as expressly provided (with respect to the Designated Class Actions) herein, and (ii) without limiting the generality of clause (i), this Settlement Agreement does not constitute, and shall not be deemed or construed as, an admission on the part of any Merck Party that any Specified Fosamax/Fosavance-Connected Class Action (or any other certified or putative class proceeding) is appropriate for trial as a class proceeding. In the event this Settlement Agreement is terminated, any class certification order with respect to any Designated Class Action shall be null and void ab initio and of no further force or effect and all Parties shall be deemed to be restored to their respective positions in and with respect to the Designated Class Actions as such positions existed immediately before this Settlement Agreement was executed.

H. No Settlement Agreement Matter constitutes, and no Settlement Agreement Matter shall be deemed or construed as, an admission on the part of any Merck Party that any Specified Fosamax/Fosavance-Connected Class Action (or any other certified or putative class proceeding) is appropriate for trial as a class proceeding, and the Merck Parties expressly reserve their respective rights to contest certification of the Specified Fosamax/Fosavance-Connected Class Actions (or any other certified or putative class proceeding), through decertification procedures or otherwise (in the case of any Designated Class Action, if this Settlement Agreement is terminated).

I. The Plaintiffs acknowledge that the gravamen of the Claims against the Merck Parties in the Fosamax/Fosavance-Connected Proceedings is an alleged failure to warn.

J. It is acknowledged that the Merck Parties would not have entered into this Settlement Agreement were it not for all of the above in Recitals A through I.

In consideration of the covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that automatically upon the Implementation Commencement Date, any and all Claims or Liabilities Connected With Alendronate which any Releasor or Province may have ever had or asserted, may then have or assert, or at any time thereafter can, shall or may have or assert, against any Releasee shall be forever extinguished and released, and, without limitation of the foregoing, (i) automatically upon the Implementation Commencement Date, the Fosamax/Fosavance-Connected Proceedings, other than the Designated Class Actions, and (ii) automatically upon the 30th day after the Award Payments Trigger Date, all of the Designated Class Actions, shall be dismissed (in the case of any Fosamax/Fosavance-Connected Proceeding in which there are any defendants other than Merck Defendants, solely with respect to any Merck Defendants) without costs and with prejudice, all subject to the approval of the Class Action Courts and all as more fully set forth herein and subject to the following terms and conditions:

SECTION 1 DEFINITIONS

1.1 **Definitions**. For the purpose of this Settlement Agreement (including its preamble and recitals), the terms designated by initial capitalization shall have the respective meanings ascribed to such terms in Annex A, which is incorporated herein by reference (or, if not defined therein and defined in the Claims Administration Procedures Exhibit (which also is incorporated herein by reference), ascribed to such terms in the Claims Administration Procedures Exhibit).

SECTION 2 BEST EFFORTS TO EFFECTUATE SETTLEMENT

2.1 **Best Efforts**. The Parties shall use their respective best efforts to effectuate the settlement set forth in this Settlement Agreement as promptly as reasonably practicable after the date hereof, including to avoid any development that would give rise to a right of termination by the Merck Parties pursuant to Section 9.1; provided that nothing in this Section 2.1 or Section 12.13(1) shall require (i) the Merck Parties to (x) waive any of their rights to terminate this Settlement Agreement, or (y) extend the Outside Date, or (ii) require the Merck Parties, Lead Counsel or any Party to (x) amend or waive any provision of this Settlement Agreement or exercise, or refrain from exercising, any discretion expressly granted to them hereunder in any particular manner or (y) make any monetary payment to, or commence any litigation against, any other Person other than as expressly set forth herein.

SECTION 3 SETTLEMENT APPROVAL AND DISMISSAL OF FOSAMAX LITIGATION

3.1 **Motions for Hearing/Opt-Out Notice, Approval and Enforcement**.

(1) Motions for Orders for Certification for Settlement and Approval of Notice of Settlement Approval Hearings. As soon as practicable after this Settlement Agreement is executed:

(a) Lead Counsel, on behalf of the putative representative Plaintiffs in the Ontario Class Action, shall bring a motion before the Ontario Court for the Ontario Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing;

(b) Lead Counsel, on behalf of the putative representative Plaintiffs in the Quebec Class Action, shall bring a motion before the Quebec Court for the Quebec Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing;

(c) Lead Counsel, on behalf of the putative representative Plaintiffs in the Saskatchewan Class Action, shall bring a motion before the Saskatchewan Court for the Saskatchewan Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing;

(d) Lead Counsel, on behalf of the putative representative Plaintiffs in the Putative Alberta Class Action, shall bring a motion before the Alberta Court for the Alberta Order for Approval of Notice of Settlement Approval Hearing; and

(e) Lead Counsel, on behalf of the putative representative Plaintiffs in the Putative British Columbia Class Action, shall bring a motion before the British Columbia Court for the British Columbia Order for Approval of Notice of Settlement Approval Hearing.

The orders sought pursuant to this Section 3.1(1) shall seek approval of notices in the Form of Exhibits 3.1(1)(f)-1 and 3.1(1)(f)-2 (collectively, the "Hearing/Opt-Out Notice").

(2) Hearing/Opt-Out Notice. The Hearings Notice Administrator shall cause the Hearing/Opt-Out Notice to be disseminated in accordance with the terms of the respective

Orders for Certification for Settlement and Approval of Notice of Settlement Approval Hearing, as applicable, issued by the Courts.

(3) Approval Motions.

(a) As soon as practicable after this Settlement Agreement is executed, Lead Counsel, on behalf of the putative representative Plaintiffs in the Ontario Class Action, shall bring a motion before the Ontario Court for the Ontario Settlement Approval Order. The hearing date on such motion shall not occur earlier than the 80th day after publication of the applicable Hearing/Opt-Out Notice (or such earlier day as may be agreed upon by the Merck Parties and Lead Counsel, each acting in their discretion).

(b) As soon as practicable after this Settlement Agreement is executed, Lead Counsel, on behalf of the putative representative Plaintiffs in the Quebec Class Action, shall bring a motion before the Quebec Court for the Quebec Settlement Approval Order. The hearing date on such motion shall not occur earlier than the 80th day after publication of the applicable Hearing/Opt-Out Notice (or such earlier day as may be agreed upon by the Merck Parties and Lead Counsel, each acting in their discretion).

(c) As soon as practicable after this Settlement Agreement is executed, Lead Counsel, on behalf of the putative representative Plaintiffs in the Saskatchewan Class Action, shall bring a motion before the Saskatchewan Court for the Saskatchewan Settlement Approval Order. The Saskatchewan Settlement Approval Order shall include a bar order providing that (i) the Plaintiffs and the Saskatchewan Settlement Class shall restrict their Claims against the Non-Merck Defendants such that: (a) no Released Claims/Liabilities are asserted; and (b) they shall be entitled to claim and recover from any particular Non-Merck Defendant only those damages (including punitive damages, if any), restitutionary award, disgorgement, interest and costs, if any, attributable solely to the conduct of such Non-Merck Defendant and the Bisphosphonates it manufactures, markets, distributes and/or sells and (ii) all Claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, Connected With Fosamax/Fosavance which were or could have been brought in the Specified Fosamax/Fosavance-Connected Class Actions or otherwise, by any Non-Merck Defendant or any other Person or party, against a Merck Releasee, are barred, prohibited and enjoined (unless such Claim against such Merck Releasee is made in respect of a

Claim by an Opt-Out) (the "Saskatchewan Bar Order"). The hearing date on such motion shall not occur earlier than the 80th day after publication of the applicable Hearing/Opt-Out Notice (or such earlier day as may be agreed upon by the Merck Parties and Lead Counsel, each acting in their discretion).

(d) As soon as practicable after the entry of the Ontario Settlement Approval Order and the Saskatchewan Settlement Approval Order, Lead Counsel shall bring a motion, within the Putative Alberta Class Action and before the Alberta Court, for the Alberta Settlement Recognition and Enforcement Order. The Alberta Settlement Recognition and Enforcement Order shall include a bar order providing that (i) the Plaintiffs and the putative class members of the Alberta Putative Class Action shall restrict their Claims against the Non-Merck Defendants such that: (a) no Released Claims/Liabilities are asserted; and (b) they shall be entitled to claim and recover from any particular Non-Merck Defendant only those damages (including punitive damages, if any), restitutionary award, disgorgement, interest and costs, if any, attributable solely to the conduct of such Non-Merck Defendant and the Bisphosphonates it manufactures, markets, distributes and/or sells and (ii) all Claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, Connected With Fosamax/Fosavance which were or could have been brought in the Specified Fosamax/Fosavance-Connected Class Actions or otherwise, by any Non-Merck Defendant or any other Person or party, against a Merck Releasee, are barred, prohibited and enjoined (unless such Claim against such Merck Releasee is made in respect of a Claim by an Opt-Out) (the "Alberta Bar Order").

(e) As soon as practicable after the entry of the Ontario Settlement Approval Order and the Saskatchewan Settlement Approval Order, Lead Counsel shall bring a motion, within the Putative British Columbia Class Action and before the British Columbia Court, for the British Columbia Settlement Recognition and Enforcement Order. The British Columbia Settlement Recognition and Enforcement Order shall include a bar order providing that (i) the Plaintiffs and the putative class members of the British Columbia Putative Class Action shall restrict their Claims against the Non-Merck Defendants such that: (a) no Released Claims/Liabilities are asserted; and (b) they shall be entitled to claim and recover from any particular Non-Merck Defendant only those damages (including punitive damages, if any), restitutionary award, disgorgement, interest and costs, if any, attributable solely to the conduct of

such Non-Merck Defendant and the Bisphosphonates it manufactures, markets, distributes and/or sells and (ii) all Claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, Connected With Fosamax/Fosavance which were or could have been brought in the Specified Fosamax/Fosavance-Connected Class Actions or otherwise, by any Non-Merck Defendant or any other Person or party, against a Merck Releasee, are barred, prohibited and enjoined (unless such Claim against such Merck Releasee is made in respect of a Claim by an Opt-Out) (the "British Columbia Bar Order").

(4) Approvals Notice. As soon as practicable after the occurrence of the Implementation Commencement Date, the Settlement Class Members shall be given notice (of the issuance of the Approval Orders and the occurrence of the Implementation Commencement Date) in the Form of Exhibits 3.1(4)-1 and 3.1(4)-2 (collectively, the "Approvals Notice" and, together with the Hearing/Opt-Out Notice, the "Settlement Notices"), and such Approvals Notice shall be disseminated in accordance with the terms of the respective Approval Orders.

(5) Notices in General. The Merck Parties and Lead Counsel shall cooperate in seeking to have the Courts approve the dissemination of a single Hearing/Opt-Out Notice (covering each of the proposed Ontario Settlement Approval Order, the proposed Quebec Settlement Approval Order, the proposed Saskatchewan Settlement Approval Order, the proposed Alberta Settlement Recognition and Enforcement Order and the proposed British Columbia Settlement Recognition and Enforcement Order) and a single Approvals Notice (covering each of the Ontario Settlement Approval Order, the Quebec Settlement Approval Order, the Saskatchewan Settlement Approval Order, the Alberta Settlement Recognition and Enforcement Order and the British Columbia Settlement Recognition and Enforcement Order, and the occurrence of the Implementation Commencement Date), and in any event to minimize the number of separate Settlement Notices and separate disseminations thereof.

(6) Motions for Settlement Class Action Certification.

(a) Each Designated Class Action shall be certified or authorized as a class proceeding solely for purposes of settlement and the approval of this Settlement Agreement (and, in the case of the Saskatchewan Class Action, solely with respect to the Merck Defendants).

(b) In the motions for certification for settlement of any Designated Class Action as a class proceeding and for the approval of this Settlement Agreement, the only common issue that the proposed representative Plaintiffs will seek to define is the following:

> Were the Merck Defendants negligent in the manufacture, marketing or distribution of Fosamax and/or Fosavance?

(c) In the motions for certification for settlement of any Designated Class Action as a class proceeding and for the approval of this Settlement Agreement, the only class that the proposed representative Plaintiffs will seek to define is (i) in the case of the Ontario Class Action, the Ontario Settlement Class, (ii) in the case of the Quebec Class Action, the Quebec Settlement Class, or (iii) in the case of the Saskatchewan Class Action, the Saskatchewan Settlement Class.

(7) Attornment. To the extent that any Settlement Class that is certified pursuant to this Settlement Agreement includes residents of a province or territory other than the province of the Class Action Court certifying or authorizing such Settlement Class, such Persons hereby attorn to the jurisdiction of such Class Action Court.

(8) Dismissal. Automatically upon the occurrence of the Implementation Commencement Date, all of the Fosamax/Fosavance-Connected Proceedings, other than the Designated Class Actions, shall be dismissed (in the case of any such Fosamax/Fosavance-Connected Proceeding in which there are any defendants other than Merck Defendants, solely with respect to any Merck Defendants), without costs and with prejudice. Automatically upon the 30th day after the Award Payments Trigger Date, all of the Designated Class Actions shall be dismissed (in the case of the Saskatchewan Class Action, solely against the Merck Defendants), without costs and with prejudice. In furtherance of the foregoing, the Approval Orders also shall provide for such dismissals of the Fosamax/Fosavance-Connected Proceedings (in the case of any such Fosamax/Fosavance-Connected Proceeding in which there are any defendants other than Merck Defendants, solely with respect to any Merck Defendants).

(9) Other Alendronate-Connected Proceedings. Without limitation of Section 3.1(8), each Plaintiffs' Counsel severally represents and warrants to each of the Merck Parties that, to the best of his, her, or its knowledge, as of the date of this Settlement Agreement, (i) there are no Alendronate-Connected Proceedings other than the Specified Fosamax/Fosavance-Connected

Proceedings and the proceedings listed on Exhibit D (the Specified Fosamax/Fosavance-Connected Proceedings, and the proceedings listed on Exhibit D, collectively, the "Specified Alendronate-Connected Proceedings") and (ii) Exhibit A, B, C or D, as the case may be, sets forth, with respect to each Specified Alendronate-Connected Proceeding, a complete and accurate list of each Counsel for each plaintiff in such Specified Alendronate-Connected Proceeding.

(10) Goulet Proceeding. Counsel in the Specified Alendronate-Connected Proceeding listed in Exhibit D covenants on behalf of the plaintiff and putative class members in that proceeding, and their law firm, to amend the Motion to Authorize the Bringing of a Class Action and any other pleadings in that proceeding such that such plaintiff and putative class members shall not assert any Released Claims/Liabilities; and shall restrict their Claims against the defendants in such proceeding such that they shall be entitled to claim and recover from any particular defendant only those damages (including punitive damages, if any), restitutionary award, disgorgement, interest and costs, if any, attributable solely to the conduct of such defendant and the Bisphosphonates it manufactures, markets, distributes and/or sells.

SECTION 4 SETTLEMENT BENEFITS

4.1 Payment of Settlement Amount.

(1) General. The Merck Parties agree to pay the Settlement Amount solely in accordance with, and subject to the terms and conditions of, this Settlement Agreement. The Merck Parties shall have no obligation under any circumstance to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement (including (i) to pay (or to make any payment on account of), or to reimburse any Settlement Class Member, any Settlement Class Member's Counsel, any Plaintiff or any Plaintiffs' Counsel for, any cost or expense incurred by any Settlement Class Member, any Settlement Class Member's Counsel, any Plaintiff or any Plaintiffs' Counsel or (ii) to make any payment to the Hearings Notice Administrator, the Claims Administrator, the Referee or any Special Master that is not expressly required to be made by the Merck Parties in respect of the Merck-Funded Administrative Expenses Amount pursuant to Section 4.1(4)(a) (subject to Section 4.1(4)(b)). Any term of this Settlement Agreement to the contrary notwithstanding, the Merck Parties shall have no obligation to pay any portion of the Settlement Amount, other than

as set forth in Section 4.1(4) with respect to Administrative Expenses, unless the Implementation Commencement Date occurs.

(2) Settlement Amount. Contingent on the occurrence of the Implementation Commencement Date (other than as set forth in Section 4.1(4) with respect to Administrative Expenses), the Merck Parties agree to pay the Settlement Amount (in Canadian dollars), consisting of the following:

(a) the Merck-Funded Eligible Claimant Amount, for (as expressly set forth in Section 4.9(2)) the Finally Determined Eligible Claimants;

(b) the Lost Income Fund Amount, for (as expressly set forth in Section 4.9(2)) the Finally Determined Eligible Product User Claimants who receive Lost Income Awards;

(c) the Provinces Amount, for the Provinces;

(d) the Class Counsel Amount, for (subject to Section 10.1(1)(e)) Class Counsel Fees; and

(e) the Merck-Funded Administrative Expenses Amount, for (subject to Section 4.1(4)(c)) Administrative Expenses.

(3) Funding of Settlement Amount. The Merck Parties shall pay the Merck-Funded Eligible Claimant Amount, the Lost Income Fund Amount, the Provinces Amount and the Class Counsel Amount as set forth (and only as set forth) in the immediately following sentence. Within thirty (30) days after the Implementation Commencement Date, Merck Canada Inc. shall pay to the Claims Administrator for deposit into the Settlement Account (or directly deposit into the Settlement Account):

(a) the entire Merck-Funded Eligible Claimant Amount;

(b) the entire Lost Income Fund Amount;

(c) the entire Provinces Amount, such payment to be distributed to the Provinces as specified in Exhibit 4.1(3)(c); and

(d) the entire Class Counsel Amount, for subsequent application as provided in Section 10.1(1).

(4) Administrative Expenses.

The Merck Parties shall pay the Merck-Funded Administrative Expenses Amount as set forth below (and only as set forth below) in this Section 4.1(4):

(a) No later than the tenth (10th) day of each calendar month, the Referee, any Special Master, the Hearings Notice Administrator and the Claims Administrator each shall deliver to Merck Canada Inc. and Lead Counsel a statement, in such form and in such detail as Merck Canada Inc. reasonably from time to time may specify, along with any relevant third-party invoices and receipts, itemizing and certifying (i) all Administrative Expenses (other than fees payable to the Referee, any Special Master, the Hearings Notice Administrator or the Claims Administrator, as the case may be) incurred by the Referee, any Special Master, the Hearings Notice Administrator or the Claims Administrator, as the case may be, during, and all fees constituting Administrative Expenses accrued by the Referee, any Special Master, the Hearings Notice Administrator or the Claims Administrator, as the case may be, during, the preceding calendar month, and (ii) all taxes constituting Administrative Expenses payable with respect to the amounts described in clause (i) (and, for the avoidance of doubt, in the case of each of (i) and (ii), not the subject of a prior statement under this Section 4.1(4)(a)). Within thirty (30) days of the mailing of such statement by the Referee, any Special Master, the Hearings Notice Administrator or the Claims Administrator, as the case may be, to Merck Canada Inc., Merck Canada Inc. shall pay to the Referee, any Special Master, the Hearings Notice Administrator or the Claims Administrator, as the case may be, as a payment of the Merck-Funded Administrative Expenses Amount, an amount equal to the Administrative Expenses payable to (or, with respect to taxes, payable with respect to other Administrative Expenses payable to) the Referee, any Special Master, the Hearings Notice Administrator or the Claims Administrator, as the case may be, with respect to the preceding calendar month and set forth in such statement as described above (except for any portion thereof that Merck Canada Inc. may dispute in good faith, which Merck Canada Inc. shall pay or deposit as described above in this sentence promptly upon resolution of such dispute). This Section 4.1(4)(a) is subject to Section 4.1(4)(b).

(b) Anything in Section 4.1(4)(a) to the contrary notwithstanding, neither Merck Canada Inc. nor any other Merck Party shall be required to make any payment pursuant to this Section 4.1(4) to the extent that, after giving effect to such payment, the aggregate amount paid by the Merck Parties pursuant to this Section 4.1(4) would exceed the Merck-Funded Administrative Expenses Amount. Accordingly, if the aggregate Administrative Expenses exceed the Merck-Funded Administrative Expenses Amount, the Merck-Funded Administrative Expenses Amount shall not be increased, but the Eligible Claimant Amount will be decreased by an amount equal to such excess and such excess Administrative Expenses shall be paid (at the direction of the Merck Parties and Lead Counsel) out of the Settlement Account.

(c) If, after the final Administrative Expenses have been paid (as established by the Claims Administrator to the reasonable satisfaction of the Merck Parties) or fixed or capped as specified in Section 4.1(4)(d), the aggregate amount of all Administrative Expenses is less than the Merck-Funded Administrative Expenses Amount, Merck Canada Inc. shall, within thirty (30) days of such final determination (and establishment to the satisfaction of the Merck Parties) of such aggregate Administrative Expenses, pay to the Claims Administrator for deposit into the Settlement Account (or deposit directly into the Settlement Account) an amount equal to such shortfall (or, if less, an amount equal to the excess of the Merck-Funded Administrative Expenses Amount over the aggregate amount of payments theretofore made by Merck Canada Inc. in respect of the Merck-Funded Administrative Expenses Amount), and the Eligible Claimant Amount shall be increased by an amount equal to such shortfall. For the avoidance of doubt, upon making the payment specified in the preceding sentence, the Merck Parties shall cease to have any further obligation to pay the Merck-Funded Administrative Expenses Amount.

(d) Since the Claims Administrator will be involved in the distribution of the Awards, prior to the completion of such distribution it may not be possible (prior to giving effect to this Section 4.1(4)(d)) to exactly determine the final aggregate Administrative Expenses. On the other hand, the final aggregate amount of Administrative Expenses (unless exactly equalling the Merck-Funded Administrative Expenses Amount) will result in either an increase or decrease in the Eligible Claimant Amount. Accordingly, the Merck Parties, Lead Counsel and the Claims Administrator may, at or before the time that the Claims Administrator, but for the need to establish the final aggregate Administrative Expenses amount, is ready to calculate the amounts of, and commence the distribution of, the Awards, enter into an agreement with the Claims

Administrator either fixing or capping any further Administrative Expenses to be paid to the Claims Administrator, and such fixed or capped amount shall be used for purposes of determining the final aggregate Administrative Expenses for purposes of this Settlement Agreement.

(5) Settlement Account.

(a) Except for any payments of Administrative Expenses directly to the Referee, any Special Master, the Hearings Notice Administrator or the Claims Administrator pursuant to Section 4.1(4)(a), each payment of any portion of the Settlement Amount shall be deposited into the Settlement Account. All funds held in the Settlement Account or by the Claims Administrator pursuant to this Settlement Agreement shall be deemed and considered to be held in trust solely for the benefit of the Settlement Class Members, shall only be distributed in accordance with this Settlement Agreement and/or further order of the Ontario Court and shall remain subject to the jurisdiction of the Ontario Court until such time as such funds shall be distributed pursuant to this Settlement Agreement and/or further order of the Ontario Court. The title of the Settlement Account shall at all times indicate the trust nature of the Settlement Account in a manner satisfactory to the Merck Parties. In no event shall the funds in the Settlement Account form any part of the property of the Claims Administrator or be available to creditors of the Claims Administrator, nor shall said funds be available to creditors of the Merck Parties apart from the specified dispositions provided for in this Settlement Agreement. Without limitation of the foregoing, no funds at any time shall be deposited into or held in the Settlement Account, and no amount on deposit in the Settlement Account at any time may be withdrawn or disbursed from the Settlement Account, in each case except as expressly provided in this Settlement Agreement. In no event shall any funds in the Settlement Account be commingled with any other funds or monies of the Claims Administrator or any of its Affiliates. The terms of the deposit arrangements with the relevant Canadian bank with respect to the Settlement Account shall at all times include that any withdrawal or other disbursement of funds from the Settlement Account shall require the dual authorization of at least two signatories, each of whom shall be a president, vice-president, treasurer or assistant treasurer (in each case, or its equivalent) of the Claims Administrator. From time to time, upon demand of the Merck Parties, the Claims Administrator shall provide evidence to the Merck Parties that the Settlement Account is being maintained in the manner specified in this Section 4.1(5)(a).

(b) The Claims Administrator shall invest the monies deposited into the Settlement Account in a bankers acceptance issued by a Schedule 1 chartered Canadian bank and all such investments shall be carried in the Settlement Account. All interest or other earnings accrued on any balance in the Settlement Account shall be credited to, and any losses incurred with respect to any investment of the monies deposited into the Settlement Account (including with respect to any liquidation of any such investment) shall be charged to, the Eligible Claimant Amount, and accordingly the Eligible Claimant Amount shall increase or decrease by such amount.

(c) Anything in this Settlement Agreement to the contrary notwithstanding, in no event shall the Merck Parties have any responsibility or Liability of any nature whatsoever with respect to the investment, disbursement or administration of any Settlement Amount payments that they make (including of any monies in the Settlement Account) including, but not limited to, the costs and expenses of such investment, disbursement and administration. Without limitation of the preceding sentence, (i) the Merck Parties shall have no responsibility or Liability of any nature whatsoever with respect to the Settlement Amount other than to fund the Settlement Amount as expressly set forth in Sections 4.1(3) and 4.1(4), and (ii) any payment by the Merck Parties (or any of them) of the Settlement Amount, in whole or in part, shall, to the extent of such payment, irrevocably satisfy such obligations of the Merck Parties with respect to the payment of the Settlement Amount.

4.2 **Claims Administrator**.

(1) The Claims Administrator. The Merck Parties and Lead Counsel shall propose a bilingual (French/English) Person to be appointed by the Class Action Courts as the Claims Administrator hereunder.

(2) Authority. The Claims Administrator shall have the authority to perform all actions, to the extent not expressly prohibited by, or otherwise inconsistent with, any provision of this Settlement Agreement, reasonably necessary for the implementation of, and the efficient and timely administration of, this Settlement Agreement. The Claims Administrator will use forms developed and approved by both the Merck Parties and Lead Counsel, and may recommend the development of any forms it deems necessary or desirable, for the implementation of this Settlement Agreement.

(3) Modification of Specified Forms. Without limitation of the foregoing, the Claims Administrator shall have the authority to recommend to the Merck Parties and Lead Counsel for their approval modifications and/or supplements to the form of Product User Claim Form, Derivative Claimant Claim Form, Deficiency Notice or Supplemental Claim Form (or to any other form developed and approved by the Merck Parties and Lead Counsel and provided to the Claims Administrator pursuant to Section 4.2(2)) to provide for more efficient administration of the Program Claim assessment process.

(4) Unclaimed Funds. If, twelve (12) months after the Award Payments Trigger Date, a balance exists in the Settlement Account as a result of returned or uncashed cheques, interest earned on the Settlement Amount and not allocated to Finally Determined Eligible Claimants, the Point Value not being permitted to exceed $500, the aggregate Lost Income Awards being less than the Lost Income Awards Cap Amount or any other reason, the balance in the Settlement Account shall be paid to the Provinces, such payment to be distributed among the Provinces in the same proportions as the Provinces Amount was distributed pursuant to Exhibit 4.1(3)(c).

(5) Document Preservation. The Claims Administrator shall preserve, in hard copy or electronic form, as the Claims Administrator deems appropriate, the submissions relating to all Program Claims (including all Claim Packages) until one (1) year after the last Award has been paid out and at such time shall dispose of the submissions, by shredding or such other means as will render the materials permanently illegible.

(6) Administrative Report. Within five (5) Business Days of the end of each calendar month, the Claims Administrator shall submit to the Merck Parties and Lead Counsel a report, in such form and in such detail as the Merck Parties reasonably from time to time may specify, itemizing and certifying, as follows:

(a) all Administrative Expenses then due and payable, or anticipated to become due and payable during the following calendar month;

(b) all payments of the Settlement Amount which, as of the end of such calendar month, have been fully determined, and otherwise are timely for payment; and

(c) any distributions made from, and monies remaining in, the Settlement Account.

4.3 **Hearings Notice Administrator**. The Merck Parties and Lead Counsel have entered into, or hereafter from time to time may enter into, (i) an agreement with the Hearings Notice Administrator with respect to the Hearings Notice Administrator acting as such hereunder or (ii) an agreement with the Claims Administrator with respect to the Claims Administrator acting as such hereunder.

4.4 **Claim Packages**.

(1) General. In order possibly to receive any Award, a Product User or Eligible Family Member must deliver to the Claims Administrator, not earlier than the Implementation Commencement Date and not later than the Claims Deadline Date, in a single submission, (i) a Product User Claim Form or a Derivative Claimant Claim Form, respectively, that is properly and fully completed, and properly and fully executed, as specified in the relevant Claim Form, and (ii) all records or other documents specified in the relevant Claim Form to be attached thereto or otherwise submitted therewith. If a Product User or an Eligible Family Member fails to submit a Claim Package by the Claims Deadline Date, such Person immediately shall cease to have any right possibly to receive any Award. Without limitation of the preceding sentence, the Claims Administrator shall not review any Claim Package delivered to it after the Claims Deadline Date. This Section 4.4(1) is subject to paragraphs 35 and 58 of the Claims Administration Procedures Exhibit.

(2) Lost Income Award Submissions. Without limitation of Section 4.4(1), in order possibly to receive a Lost Income Award (in addition to a Points-Based Award), a Product User (i) must (x) specifically apply for a Lost Income Award in Part B of the Product User Claim Form submitted pursuant to Section 4.4(1) and (y) submit with such Product User Claim Form all records or other documents (including Lost Income Documentation) specified in such Part of the Product User Claim Form to be attached thereto or otherwise submitted therewith, and (ii) such Product User shall have the burden of proving to the satisfaction of the Claims Administrator such Product User's Specified Documented Lost Wages and, in that connection, may be required by the Claims Administrator (pursuant to a Deficiency Notice) to produce further Lost Income Documentation, provided that this sentence is subject to paragraph 35 of the

Claims Administration Procedures Exhibit. Without limitation of Section 4.4(1), if a Product User fails to specifically apply for a Lost Income Award in Part B of the Product User Claim Form submitted pursuant to Section 4.4(1), such Product User immediately shall cease to have any right possibly to receive a Lost Income Award.

4.5 **Claims Administration.**

(1) Claims Administration Procedures Exhibit. The terms of the Claims Administration Procedures Exhibit are incorporated herein by this reference. Without limiting the generality of the preceding sentence, the Claims Administrator shall administer Program Claims in the manner described in Claims Administration Procedures Exhibit.

(2) Finality of Claims Administrator Determinations. Subject only to the Appeal Provisions, any determination by the Claims Administrator pursuant to the Claims Administration Procedures Exhibit, including any exercise, or non-exercise, by the Claims Administrator of any discretion granted to it under the Claims Administration Procedures Exhibit, shall be Final.

(3) No Liability. Nothing in the Claims Administration Procedures Exhibit absolves the Product Users or Eligible Family Members, or their respective Counsel, from their responsibility timely to comply with the requirements of Section 4.4 and the Claims Administration Procedures Exhibit. In particular, neither the Claims Administrator nor the Merck Parties shall have any responsibility or Liability for (i) any failure of an Eligible Claimant to qualify as a Finally Determined Eligible Product User Claimant or a Finally Determined Eligible Derivative Claimant, or (ii) any failure of a Finally Determined Eligible Product User Claimant to receive any Points or any particular Award, or any impact on any Points award, or any particular Award, to a Finally Determined Eligible Product User Claimant, as a result of any deficiency in such Eligible Claimant's submissions pursuant to any of said Sections.

(4) Reference Solely to Claim Package. In determining whether a Product User Claimant satisfies the Eligibility Requirements and in determining the Points award, and/or Tentative Lost Income Grant (if applicable), to be made to any particular Product User Claimant, and in determining whether a Derivative Claimant in fact is an Eligible Family Member, the Claims Administrator shall review and analyze only the Claim Package submitted by such

Claimant (and, in the case of a Derivative Claimant, to the extent relevant, the Claim Package submitted by the related Product User Claimant) in accordance with Section 4.4 and the Claims Administration Procedures Exhibit, but (for the avoidance of doubt) may in its discretion review and consider (but shall not be required to review or consider) any information, records or documents (including PME Records other than Required PME Records) or other materials included in such submitted Claim Package that were not required to be provided by the relevant Claim Form.

(5) Form of Submissions. All submissions by Claimants to the Claims Administrator of or relating to a Program Claim shall be made (i) electronically or (ii) in paper form delivered by regular Canada Post mail or by same-day or overnight courier (in the case of each of (i) and (ii) addressed to the electronic mail address or delivery address, as the case may be, of the Claims Administrator specified for such purpose). All submissions by mail shall be conclusively deemed to have been submitted to the Claims Administrator on the postmark date of such mail (if properly addressed as provided above in this Section 4.5(5)). All submissions delivered to the Claims Administrator by same-day or overnight courier shall be conclusively deemed to have been submitted to the Claims Administrator on the date the submissions were received by the Claims Administrator. All submissions by electronic mail shall be conclusively deemed to have been submitted to the Claims Administrator on the date the submissions are capable of being accessed from the electronic mail address of the Claims Administrator specified for such purpose. These provisions shall determine the timeliness of any submissions to the Claims Administrator. Submissions to the Claims Administrator by any other means, including facsimile, shall not be effective.

(6) Form of Communications; Claimant Counsel. All written communications from the Claims Administrator to a Claimant shall be transmitted via regular Canada Post mail to the last address (of such Claimant or, as specified in the following sentence, such Claimant's Counsel) provided by the Claimant to the Claims Administrator. Such written communications shall be directed to the Claimant's Counsel if the Claimant is represented by Counsel. All such communications shall be deemed to have been delivered on the date deposited by the Claims Administrator with Canada Post according to the records of the Claims Administrator. If a Finally Determined Eligible Claimant is represented by Counsel, payments by the Claims Administrator to such Finally Determined Eligible Claimant shall be made to such Finally

Determined Eligible Claimant's Counsel in trust for such Finally Determined Eligible Claimant. A Claimant shall be considered to be represented by Counsel in connection with a Program Claim only if the Claims Administrator has received written notice signed by the Claimant of the identity of the Claimant's Counsel (including by identification of such Counsel as the Claimant's Counsel on the Claimant's Claim Form), and such written notice has not been rescinded by a subsequent written notice by such Claimant to the Claims Administrator. A Claimant (and Counsel to a represented Claimant) shall be responsible for apprising the Claims Administrator of the Claimant's and Counsel's correct and current mailing address. The Claims Administrator shall have no responsibility for locating Claimants for any mailing returned to the Claims Administrator as undeliverable. The Claims Administrator shall have the discretion, but is not required, to reissue payments to Finally Determined Eligible Claimants returned as undeliverable under such policies and procedures as the Claims Administrator deems appropriate.

(7) Legal Representatives. The Legal Representative (or, if more than one, the Legal Representatives collectively) (i) of a particular Product User, in such capacity, may assert the rights under this Settlement Agreement of such Product User and (ii) of a particular Eligible Family Member, in such capacity, may assert the rights under this Settlement Agreement of such Eligible Family Member.

(8) Monthly Reports to Merck Parties and Lead Counsel. Promptly (and in any event within fifteen (15) days) following the end of each calendar month, the Claims Administrator shall electronically deliver to the Merck Parties and Lead Counsel (i) a report (A) specifying (v) each Claimant in respect of which a Claim Form or a Supplemental Claim Form was received by the Claims Administrator during such ended calendar month, (w) each Claimant in respect of which a Deficiency Notice, a Final Deficiency Notice or a Claim Determinations Letter was issued by the Claims Administrator during such ended calendar month, (x) each Claimant in respect of which a Claim Determination Form or a Finally Determined Eligible Derivative Claimant Points Calculation Report was posted to the CA Website during such ended calendar month, (y) each Claimant in respect of which a Lost Income Award Claim Non-Completeness Determination was made by the Claims Administrator during such ended calendar month, and (z) each Claimant Notice of Appeal, or response to a Merck Notice of Appeal, received by the Claims Administrator during such ended calendar month, and (B) specifying each Claimant and the status of the Program Claim of such Claimant as of the end of such ended calendar month,

and (ii) such other information regarding the results and status of the claims administration process under this Settlement Agreement as the Merck Parties may specify from time to time. Each such monthly report shall be in such form and in such detail (and include such supporting documentation) as the Merck Parties reasonably from time to time may specify.

4.6 **Audits.** The Claims Administrator shall conduct audits of Program Claims in a manner deemed appropriate by the Claims Administrator, Lead Counsel and the Merck Parties to determine whether any such Program Claims are fraudulent in any respect. Any Program Claim which is deemed by the Claims Administrator to be fraudulent in any respect shall cause the relevant Claimant (sometimes referred to below in this Section 4.6 as the "specified Claimant"), each Derivative Claimant with respect to the specified Claimant (if the specified Claimant is a Product User Claimant), and (if the specified Claimant is a Derivative Claimant and the related Product User Claimant was involved in or aware of the fraud) the related Product User Claimant, to be permanently disqualified from receiving any Award (and his or her Counsel, if any, possibly to be subject to sanctions) and, without limitation of the foregoing, any prior Award to each such disqualified Claimant to be revoked. The Claims Administrator shall disclose the identity of the specified Claimant and his or her Counsel to the Merck Parties and Lead Counsel, and the Merck Parties and Lead Counsel in turn will notify the relevant Class Action Court thereof. If any such revocation occurs prior to the payment of Awards, then the Award amounts shall be recalculated as necessary to reflect the effects of such revocation. If any such revocation occurs after the payment of Awards, then (A) each Claimant whose Award is revoked shall be required to pay to Merck Canada Inc. an amount equal to 100% of the Award paid to it, and (B) without limitation of clause (A) (but without duplication of any amounts actually paid pursuant to clause (A)), (I) the specified Claimant, (II) if involved in or aware of the fraud, the specified Claimant's Counsel, and (III) in each case if involved in or aware of the fraud, each other related Claimant and the Counsel for each such related Claimant, jointly and severally, shall be required to pay to Merck Canada Inc. an amount equal to 100% of the sum of (aa) the Award paid in respect of the specified Claimant plus (bb) if the specified Claimant is a Product User Claimant, any and all Awards paid to Derivative Claimants in respect of the specified Claimant. In addition to the foregoing, in the case of any such fraud, the Persons described in clauses (B)(I), (II) and (III) of the preceding sentence, jointly and severally, shall indemnify and hold harmless the Merck Parties and the Claims Administrator from and against any and all costs incurred by

any of them relating to the fraudulent claim, audit and disqualification, in addition to any other sanctions imposed by the Courts and law society. All of the foregoing shall be in addition to, and without limitation of, any other right or remedy that the Merck Parties might have against the specified Claimant or his or her Counsel, any related Claimant or his or her Counsel, or any other Person, in respect of such fraud.

4.7 **Eligibility Requirements Satisfaction Determinations**.

(1) Applicability of Eligibility Requirements. The Points Assessment Process shall apply only to those Enrolled Product User Claimants who are determined to satisfy the Eligibility Requirements as set forth below in this Section 4.7.

(2) Eligibility Requirements. The "Eligibility Requirements" for any Enrolled Product User Claimant shall be the following:

(A) such Enrolled Product User Claimant shall be a Product User;

(B) such Enrolled Product User Claimant shall satisfy the Event Gate Criteria as specified in Exhibit 4.7(2)(B) (the "Event Gate Criteria"); and

(C) such Enrolled Product User Claimant shall satisfy the "Usage Gate" criteria as specified in Exhibit 4.7(2)(C) (the "Usage Gate Criteria").

(3) Eligibility Requirements Satisfaction Determinations.

(a) The Claims Administrator initially will determine whether an Enrolled Product User Claimant satisfies the Eligibility Requirements. (If a Product User Claimant alleges more than one Eligible Event, the Claims Administrator will make such determination separately in relation to each such alleged Eligible Event.)

(b) Determinations of the Claims Administrator pursuant to Section 4.7(3)(a) shall be subject to the Appeal Provisions. Conversely, subject to the Appeal Provisions, determinations of the Claims Administrator pursuant to Section 4.7(3)(a) shall be Final.

4.8 **Points and Tentative Lost Income Grants**.

(1) Points Assessment Process.

(a) The Claims Administrator shall determine the number of points ("Points") to be awarded to each Approved Product User Claimant, based solely on the Point Awards Criteria. The Points award process described in this Section 4.8(1)(a) may be referred to herein as the "Points Assessment Process".

(b) The Points awarded to Approved Product User Claimants are subject in all respects to the Appeal Provisions. Conversely, subject to the Appeal Provisions, Points awards pursuant to the Points Assessment Process shall be Final.

(2) Finally Determined Eligible Derivative Claimants Points Awards. Points awards to Finally Determined Eligible Derivative Claimants shall be determined in accordance with Exhibit 4.8(2). Points awards to Finally Determined Eligible Derivative Claimants are entirely derivative of the Points awarded to the related Finally Determined Eligible Product User Claimant (and, potentially, the number of Finally Determined Eligible Derivative Claimants with respect to such related Finally Determined Eligible Product User Claimant), and accordingly are Final, provided that the Claims Administrator may, and shall at the direction of the Merck Parties and Lead Counsel, correct any Points awards to Finally Determined Eligible Derivative Claimants that are discovered (at any time prior to the commencement of the payment of Awards) to be manifestly in error. The Claims Administrator shall, with respect to each Product User Claimant that has become a Finally Determined Eligible Product User Claimant, within no more than 15 days following the end of the calendar month during which the later of (i) such Product User Claimant having so become a Finally Determined Eligible Product User Claimant and (ii) the status as Eligible Family Members (or not) of each Person who submitted a Derivative Claimant Claim Form in relation to such Finally Determined Eligible Product User Claimant has been determined by the Claims Administrator (in the case of a Finally Determined Eligible Product User Claimant that has more than one Eligible Event, in relation to each such Eligible Event) and all such determinations have become Final, occurs, electronically deliver to the Merck Parties and the CAP Parties a report in the form of Exhibit 4.8(2)-a (a "Finally Determined Eligible Derivative Claimant Points Calculation Report") setting forth the Claims Administrator's calculation of the Points awarded to each such Finally Determined Eligible

Derivative Claimant. For the avoidance of doubt, Points awards to Finally Determined Eligible Derivative Claimants are not derivative to any extent of any Tentative Lost Income Grant or actual Lost Income Award awarded to a related Finally Determined Eligible Product User Claimant (and Finally Determined Eligible Derivative Claimants shall not receive any award or other payment pursuant to this Settlement Agreement in respect of any Lost Income Award).

(3) Tentative Lost Income Grants. Lost Income Awards shall be determined by the Claims Administrator in the first instance on a tentative basis, (i) with respect to Approved Product User Claimants, (ii) subject to the immediately following sentence and to paragraph 36 of the Claims Administration Procedures Exhibit, in an amount equal to Claimants' respective Specified Lost Wages (as Documented in their respective Claim Packages) and otherwise in accordance with the Tentative Lost Income Grants Criteria, and (iii) without regard to the Lost Income Awards Cap Amount (such tentative determinations, collectively, the "Tentative Lost Income Grants"). No Tentative Lost Income Grant may be less than $27,000 (such that a Product User Claimant that, but for this sentence, would have received a Tentative Lost Income Grant of less than such amount shall not receive any Tentative Lost Income Grant), and no Tentative Lost Income Grant shall exceed $54,000. Tentative Lost Income Grants are subject in all respects to the Appeal Provisions. Conversely, subject to the Appeal Provisions, Tentative Lost Income Grants shall be Final.

(4) Only Finally Determined Eligible Claimants to Receive Monetary Payments. Any term of this Settlement Agreement to the contrary notwithstanding (including notwithstanding any award of Points, or any Tentative Lost Income Grant, made to a Person that does not become a Finally Determined Eligible Claimant), (i) Points, and Tentative Lost Income Grants, have no value except as, and to the extent, expressly specified in Section 4.9(2), and (ii) without limiting the generality of clause (i), only Finally Determined Eligible Claimants actually may receive an Award.

4.9 **Final Settlement Payments**.

(1) The Claims Administrator shall, promptly after Program Claim Assessment Completion, provide to the Merck Parties and Lead Counsel a final, complete list of (x) each Finally Determined Eligible Product User Claimant, and the respective numbers of Points awarded, and Points-Based Awards to be paid, to each such Finally Determined Eligible Product

User Claimant, (y) each Finally Determined Eligible Derivative Claimant in relation to each Finally Determined Eligible Product User Claimant (presented in such manner), and the respective numbers of Points awarded, and Points-Based Awards to be paid, to each such Finally Determined Eligible Derivative Claimant, and (z) each Finally Determined Eligible Product User Claimant who received a Tentative Lost Income Grant, and the respective amounts of the Tentative Lost Income Grants awarded, and actual Lost Income Awards to be paid, to each such Finally Determined Eligible Product User Claimant (the "Final Award List").

(2) Anything in this Settlement Agreement to the contrary notwithstanding, no payment shall be made to a Claimant pursuant to this Settlement Agreement other than to Finally Determined Eligible Claimants and as expressly set forth below in this Section 4.9(2). After (and only after) (i) Program Claim Assessment Completion has occurred, (ii) the thirtieth (30th) day after the Final Award List has been delivered to the Merck Parties and Lead Counsel, and (iii) the final Eligible Claimant Amount has been definitively determined (including that the aggregate amount of Class Counsel Fees to be paid out of the Settlement Account have been definitively and finally determined (including that all relevant Court orders have become Final Orders)) (the date of the last to occur of (i), (ii) and (iii), the "Award Payments Trigger Date"), the Claims Administrator shall make distributions as follows:

(x) each Finally Determined Eligible Product User Claimant that was awarded a Tentative Lost Income Grant shall be paid (as a distribution in respect of the Lost Income Fund Amount) an amount (such amount, a "Lost Income Award") equal to the product of (A) such Tentative Lost Income Grant, multiplied by (B)(I) if the aggregate Tentative Lost Income Grants made to all Finally Determined Eligible Product User Claimants does not exceed the Lost Income Awards Cap Amount, 1.0, or (II) if the aggregate Tentative Lost Income Grants made to all Finally Determined Eligible Product User Claimants exceeds the Lost Income Awards Cap Amount, a fraction the numerator of which equals the Lost Income Awards Cap Amount and the denominator of which equals the aggregate amount of all Tentative Lost Income Grants made to all Finally Determined Eligible Product User Claimants; and

(y) each Finally Determined Eligible Product User Claimant, and each Finally Determined Eligible Derivative Claimant, shall be paid (as a distribution in respect of the

Eligible Claimants Amount) an amount (such amount, a "Points-Based Award"; Points-Based Awards and Lost Income Awards, collectively, "Awards") equal to the product of (A) such Finally Determined Eligible Claimant's Points multiplied by (B) the Point Value.

For the avoidance of doubt, all references in this Section 4.9 to Points awards or to Tentative Lost Income Grants refer only to Points awards, or Tentative Lost Income Grants, respectively, that are, or have (after the expiration of all rights to submit Appeals, and the final resolution of all Appeals made, under the Settlement Agreement) become, Final. Payments to Finally Determined Eligible Derivative Claimants shall be subject to Section 1.6 of Exhibit 4.8(2) hereto. Promptly after making the payments pursuant to this Section 4.9(2), the Claims Administrator shall provide to Lead Counsel and counsel for the Merck Parties a final report concerning the disposition of the Program Claims and the Award payments made.

4.10 **Taxes**. All taxes payable on any interest which accrues on any funds at any time held in the Settlement Account, or otherwise payable in relation to the Settlement Amount, shall be the responsibility of the Settlement Class Members. The Claims Administrator, in consultation with Lead Counsel, shall be solely responsible to fulfill all tax reporting, tax filing and tax payment requirements arising from any funds held in the Settlement Account (including from any investment thereof), including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) with respect to any income earned with respect to any funds at any time held in the Settlement Account shall be paid from the Settlement Account, and shall accordingly decrease by such amount the Eligible Claimant Amount. For the avoidance of doubt, the Defendants shall have no responsibility to make any tax filings relating to the Settlement Account and shall have no responsibility to pay any taxes described above in this Section 4.10 (or any other taxes payable in respect of any Settlement Amount payment or any Award).

4.11 **Indemnification Regarding Misuse of Settlement Amount**.

Without limitation of Section 12.2 and the last sentence of Section 4.1(1), Class Counsel, jointly and severally, shall indemnify and hold harmless each Merck Party from and against any Losses incurred or suffered by, or imposed on, such Merck Party in connection with, arising out of or resulting from (i) any misuse or erroneous disbursement of any Settlement Amount

payment or any funds in the Settlement Account or (ii) any use of, or other action taken or failure to act by Class Counsel or by the Claims Administrator with respect to, any Settlement Amount payment, or any funds in the Settlement Account, not strictly in accordance with the provisions of this Settlement Agreement or any applicable order of any Class Action Court.

4.12 **Satisfaction of Liens; Fraud**.

For the avoidance of doubt, this Section 4 (including the Claims Administration Procedures Exhibit) is subject in all respects to Section 6. Furthermore, nothing in this Section 4 shall limit the Merck Parties' rights and remedies in the event of fraud or other intentional misconduct.

SECTION 5 RELEASES AND DISMISSALS

5.1 **Release of Releasees**.

(1) Release.

(a) Effective automatically upon, and as of (and as if granted upon), the Implementation Commencement Date (and without the necessity of any further action on the part of any Party or any Releasor), each Releasor hereby fully and forever, and irrevocably and unconditionally, releases, acquits, remises and forever discharges ("Releases") each Releasee from any and all Claims or Liabilities Connected With Alendronate which such Releasor may have ever had or asserted, may then have or assert, or at any time thereafter can, shall or may have or assert, against such Releasee, whether directly, indirectly, derivatively, as subrogee or in any other capacity (all such Released Claims or Liabilities (with respect to any particular Releasor) collectively, the "Released Claims/Liabilities"). Without limitation of the preceding sentence, (i) effective automatically upon the Implementation Commencement Date, each Releasor will be forever barred and enjoined from continuing, commencing, instituting or prosecuting any Action, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, asserting against any Releasee any Released Claim/Liability, and (ii) without limitation of the preceding clause (i), effective automatically upon, and as of (and as if granted upon), the Implementation Commencement Date (and without the necessity of any further action on the part of any Party or any Releasor), each Releasor hereby, to the extent that any Law may at any time purport to preserve such Releasor's right to assert at any time any

unknown and/or unanticipated (or any other) Released Claim/Liability, waives (to the fullest extent permitted by applicable Law) such Releasor's rights under such Law.

(b) The Parties intend the Release and waiver set forth in Section 5.1(1)(a) to be as broad as can possibly be created, and to apply under any and all circumstances, including (i) any additional and/or different facts that any Party and/or any Releasor may at any time hereafter learn or discover Connected With Alendronate (including any Releasee activities Connected With Alendronate and/or any damages or other relief any Releasor has ever claimed, or may at any time in the future claim, Connected With Alendronate) and (ii) if it is alleged, charged or proved that some or all of the Released Claims/Liabilities were caused in whole or in part by the negligence, negligence per se, gross negligence, fraud, breach of warranty, violation of Law, defective product, malice and/or conduct (including any act or omission) of any type of or by any Defendant, any other Releasee and/or any other Person. The Plaintiffs and Plaintiffs' Counsel understand and acknowledge the significance and consequences of Releasing all of the Released Claims/Liabilities and of the terms of the second sentence of Section 5.1(1)(a).

(c) For the avoidance of doubt, it is specifically acknowledged and agreed that the provisions of this Section 5.1 shall apply to each Releasor (i) whether or not such Releasor (or if such Releasor is a Derivative Person, whether or not such Releasor or its related Product User) submits a Claim Package or receives an Award, (ii) if such Releasor is a Derivative Person, whether or not such Releasor is an Eligible Family Member, and (iii) if such Releasor (or if such Releasor is a Derivative Person, such Releasor or his or her related Product User) receives an Award, regardless of the amount of such Award.

(2) Indemnification.

(a) From and after the Implementation Commencement Date, each Releasor shall indemnify and hold harmless each Merck Releasee from and against (i) any and all Claims that may be asserted, made, maintained or continued at any time after the Implementation Commencement Date against such Merck Releasee directly or indirectly on account of any Released Claim/Liability with respect to such Releasor (including any and all Claims made or asserted against any Merck Releasee by any Releasee that is not a Merck Releasee (a "Non-Merck Releasee") arising out of any Released Claim/Liability with respect to such Releasor asserted, made, maintained or continued at any time after the Implementation Commencement

Date by such Releasor against such Non-Merck Releasee) and (ii) any and all Losses incurred or suffered by, or imposed on, any Merck Releasee in connection with, arising out of or resulting from any Claim described in clause (i) of this sentence (including, but not limited to, any amount paid or to be paid in satisfaction of any such Claim).

(3) Dismissals. As provided in Section 3.1(8), this Settlement Agreement will result in the dismissal of all Fosamax/Fosavance-Connected Proceedings, including but not limited to the Specified Fosamax/Fosavance-Connected Proceedings (in the case of any Fosamax/Fosavance-Connected Proceeding in which there are any defendants other than Merck Defendants, solely with respect to any Merck Defendants).

5.2 **Consent and Release of Provinces**.

(1) Province Consents. This Settlement Agreement is subject to termination by the Merck Parties as set forth in Section 9.1(1) unless, prior to the Provinces Consent Outside Date, the Plaintiffs shall have obtained, and delivered to the Merck Parties, the written consent of each Province to this Settlement Agreement (including Sections 5.2(2) and 5.2(3)), each in the form of Exhibit 5.2(1) hereto (or in such other form (or forms) as may be consented to in writing by the Merck Parties acting in their discretion).

(2) Provincial Release.

(a) In consideration of the payment of the Provinces Amount to be made by the Merck Parties in accordance with the Settlement Agreement, effective automatically upon, and as of (and as if granted upon), the Implementation Commencement Date (and without the necessity of any further action on the part of any Party or any Province), each Province hereby (i) fully and forever, and irrevocably and unconditionally, Releases each Merck Releasee from any and all Claims or Liabilities Connected With Alendronate which such Province may have ever had or asserted, may then have or assert, or at any time thereafter can, shall or may have or assert, against such Merck Releasee, whether directly, indirectly, derivatively, as subrogee or in any other capacity, and (ii) fully and forever, and irrevocably and unconditionally, Releases each Non-Merck Releasee from any or all Claims or Liabilities Connected With Alendronate which such Province may have ever had or asserted, may then have or assert, or at any time thereafter can, shall or may have or assert, against such Non-Merck Releasee, whether directly, indirectly,

derivatively, as subrogee or in any other capacity, to the extent (with respect to this clause (ii) (but not clause (i))), with respect to each such Claim or Liability, such Non-Merck Releasee would have a Claim (including but not limited to a claim for damages and/or contribution and/or other relief under the provisions of the *Negligence Act* or other comparable provincial legislation and any amendments thereto, the common law, Quebec civil law, or any other statute) against a Merck Releasee, or any Merck Releasee otherwise would have any Liability to such Non-Merck Releasee, with respect to (x) any assertion of such Claim or Liability described in this clause (ii) above against such Non-Merck Releasee or (y) any Liability imposed on or suffered by such Non-Merck Releasee with respect to such Claim or Liability described above in this clause (ii) (all such Released Claims or Liabilities (with respect to any particular Province) described in clauses (i) and (ii), collectively, the "Provincial Released Claims/Liabilities"). Without limitation of the preceding sentence, (A) effective automatically upon the Implementation Commencement Date, each Province will be forever barred and enjoined from continuing, commencing, instituting or prosecuting any Action asserting against any Releasee any Provincial Released Claim/Liability, and (B) without limitation of the preceding clause (A), effective automatically upon, and as of (and as if granted upon), the Implementation Commencement Date (and without the necessity of any further action on the part of any Party or any Province), each Province hereby, to the extent that any Law may at any time purport to preserve such Province's right to assert at any time any unknown and/or unanticipated (or any other) Provincial Released Claim/Liability, waives (to the fullest extent permitted by applicable Law) such Province's rights under such Law.

(b) The Parties intend the Release and waiver set forth in Section 5.2(2)(a) to be as broad as can possibly be created, and to apply under any and all circumstances, including (i) any additional and/or different facts that any Party and/or any Province may at any time hereafter learn or discover Connected With Alendronate (including any Merck Releasee and/or Non-Merck Releasee activities Connected With Alendronate and/or any damages or other relief any Province has ever claimed, or may at any time in the future claim, Connected With Alendronate) and (ii) if it is alleged, charged or proved that some or all of the Provincial Released Claims/Liabilities were caused in whole or in part by the negligence, negligence per se, gross negligence, fraud, breach of warranty, violation of Law, defective product, malice and/or conduct (including any act or omission) of any type of or by any Merck Releasee, any Non-

Merck Releasee and/or any other Person. The Provinces and their respective counsel understand and acknowledge the significance and consequences of Releasing all of the Provincial Released Claims/Liabilities and of the terms of the second sentence of Section 5.2(2)(a).

(3) Approval Orders Confirmation of Provinces Releases. Without limitation of Section 5.2(2), each Approval Order shall (in addition to generally approving this Settlement Agreement (including Section 5.2(2))) include a specific provision to the effect of Section 5.2(2)(a), which shall be interpreted and enforced in accordance with Section 5.2(2)(b)).

SECTION 6 AWARD LIENS/CLAIMS

6.1 **Award Liens/Claims**.

(1) Payment of Liens.

(a) Each Finally Determined Eligible Claimant shall be solely responsible to resolve, satisfy and discharge any and all Award Liens with respect to such Finally Determined Eligible Claimant and no Merck Releasee shall have any Liability with respect thereto. No Award Liens may be asserted against any Merck Releasee, the Claims Administrator or the Settlement Amount (including any funds at any time held in the Settlement Account).

(b) In addition to and without limitation of the last sentence of Section 4.1(1) and Sections 6.1(1)(a) and 12.2, each Finally Determined Eligible Claimant shall indemnify and hold harmless each of (i) each Merck Releasee and (ii) the Claims Administrator from and against (x) any and all Claims made or asserted at any time against (A) in the case of (i), such (or any other) Merck Releasee or the Claims Administrator, or (B) in the cause of (ii), the Claims Administrator, by any Person for, arising out of or otherwise in respect of any Award Lien with respect to such Finally Determined Eligible Claimant and (y) any and all Losses incurred or suffered by, or imposed on, (A) in the case of (i), such Merck Releasee, or (B) in the case of (ii), the Claims Administrator, in connection with, arising out of or resulting from any Claim described in clause (x) (including any amount paid or required to be paid in satisfaction of any such Claim).

(2) The Fonds. Any amounts required by Law to be paid to the Fonds (with respect to the Settlement Amount or any portion thereof) under Section 42 of an Act Respecting Class

Actions, CQLR c R-2.1, shall be withheld by the Claims Administrator from, and paid by the Claims Administrator out of, the Eligible Claimant Amount, and remitted periodically by the Claims Administrator to the Fonds.

(3) Class Proceedings Funds; Third-Party Funding. Class Counsel, jointly and severally, represent, warrant and covenant to the Merck Parties that there does not, and shall not, exist in relation to this Settlement Agreement or any of the matters contemplated hereby any arrangement in respect of, or any payment required to be made to, (i) any class proceedings fund (other than a payment to the Fonds under Section 42 of an Act Respecting Class Actions, CQLR c R-2.1) or (ii) any third party funding source (in the case of this clause (ii), that would or could give rise to any Lien, Claim or interest (of, or in favour of, or held by, any Person) on, in, to or against any portion of the Settlement Amount, any amount at any time held in the Settlement Account or any Award. Without limitation of the foregoing, Class Counsel, jointly and severally, shall be responsible for satisfying any Lien, Claim or interest (of, or in favour of, or held by any Person) on, in, to or against any portion of the Settlement Amount, any amount at any time held in the Settlement Account or any Award arising out of or resulting from any arrangement or required payment described in the preceding sentence (other than a payment to the Fonds under Section 42 of an Act Respecting Class Actions, CQLR c R-2.1).

SECTION 7 OPTING OUT/IN

7.1 **Opt-Out Procedure**. The procedure for opting out of any particular Designated Class Action, including timing and notice requirements and the information required from the person seeking to opt out, shall be as set forth in the applicable Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing. In particular, Lead Counsel shall, as part of each respective motion for the applicable Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing, seek approval of (i) the Hearing/Opt-Out Notice, which shall include, *inter alia*, information regarding opting out of the applicable Designated Class Action and notice of the hearing at which Lead Counsel will seek the applicable Settlement Approval Order, and (ii) without limitation of the foregoing, a form for opting out in the Form of Exhibit 7.1. The Hearing/Opt-Out Notice in any event shall require that on a date (the "Opt-Out Deadline") not later than thirty (30) days (or such greater number of days as the Merck Parties in their discretion may consent to) from the first publication of the short form of the Hearing/Opt-Out Notice (but in any event, not later than thirty (30) days prior

to the Outside Date), members of the class certified by the applicable Court who wish to opt-out of such class must do so by submitting a duly executed opt-out form in the Form of Exhibit 7.1. The Hearings Notice Administrator shall cause the approved notice to be disseminated in accordance with the terms of the applicable Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing. For the avoidance of doubt, each Plaintiff irrevocably (except as expressly provided in Section 9.2) is a "Settlement Class Member" and a "Releasor" under this Settlement Agreement and agrees that (x) such Plaintiff shall not have any right to exercise, and in any event covenants that such Plaintiff shall not exercise, any right to opt out of the applicable Designated Class Action, and (y) any such opting out by such Plaintiff would (in addition to, pursuant to clause (x), not being effective) in any event not affect the status of such Plaintiff as a "Settlement Class Member" and a "Releasor" under this Settlement Agreement.

7.2 **Opt-Ins**. Each Opt-Out shall be entitled to opt back into the Designated Class Action of which he or she is a member (and thereby cease to be an Opt-Out), by executing, and delivering to the Claims Administrator, either (i) an instrument in the Form of Exhibit 7.2 (an "Opt-In Document") or (ii) from and after the Implementation Commencement Date, a Claim Form. Nothing in this Section 7.2 modifies the termination rights of the Merck Parties pursuant to Section 9.1 or the Claims Deadline Date.

SECTION 8 OPT-OUT REPORT

8.1 **Opt-Out Report**. The Hearings Notice Administrator shall (i) from time to time upon request by the Merck Parties and/or Lead Counsel, (ii) from time to time as specified in any Required Order, and (iii) in any event, between the twentieth (20th) day prior to the Outside Date and the Outside Date, provide the Merck Parties and Lead Counsel with a report (in the case of the report delivered between the twentieth (20th) day prior to the Outside Date and the Outside Date, as of the twentieth (20th) day prior to the Outside Date) advising as to the names of any Opt-Outs, the reasons for their opting out, if known, and a copy of all information provided by that Opt-Out (including a copy of the opt-out form executed and delivered by such Opt-Out pursuant to Section 7.1).

SECTION 9 TERMINATION OF SETTLEMENT AGREEMENT

9.1 **Termination of Settlement Agreement at Merck Parties' Option**.

(1) Termination. If:

(a) at the Outside Date, any Required Order has not been secured or has not become a Final Order;

(b) (x) at the Provinces Consent Outside Date, the Plaintiffs shall have failed, for any reason, to have obtained, and delivered to the Merck Parties, the written consent of each Province to this Settlement Agreement (including Sections 5.2(2) and 5.2(3)), each in the form of Exhibit 5.2(1) hereto (or in such other form (or forms) as may be consented to in writing by the Merck Parties acting in their discretion), or (y) at any time prior to the Provinces Consent Outside Date, Lead Counsel shall provide a written statement to the Merck Parties to the effect that the failure described in clause (x) will occur in relation to one or more Provinces;

(c) at any time, there exists (for any reason) (x) any Opt-Out or (y) without limitation of sub-clause (x), any Challenged Opt In;

(d) at the Outside Date, for any reason, any deadline for any Settlement Class Member opting out of any Designated Class Action shall not have expired; or

(e) at any time, (x) any litigation Connected With Fosamax/Fosavance (other than the Specified Fosamax/Fosavance-Connected Proceedings) shall be pending in or before any court in Canada, or (y) there shall exist any litigation Connected With Fosamax/Fosavance (other than the Specified Fosamax/Fosavance-Connected Proceedings) that (A) had been pending in or before any court in Canada at any time prior to, on or after the date of this Settlement Agreement and (B) shall have been dismissed, but in respect of which the court order effecting such dismissal has not become a Final Order;

then, in any such case, the Merck Parties may, at their option (and without limitation of any other rights that any Merck Party may have), terminate this Settlement Agreement in its entirety.

(2) Exercise of Termination Rights. The Merck Parties may exercise any termination right pursuant to Section 9.1(1) at any time (i) in the case of any termination pursuant to Section

9.1(1)(a) or Section 9.1(1)(d), after the Outside Date and prior to the close of business on the 30th day after the Outside Date, (ii) in the case of any termination pursuant to Section 9.1(1)(b), after the Provinces Consent Outside Date (or, in the case of any statement described in clause (y) of Section 9.1(1)(b), after the date of such statement) and prior to the close of business on the 30th day after the Outside Date, and (iii) in the case of any termination pursuant to Section 9.1(1)(c) or 9.1(1)(e), after the date of this Settlement Agreement and prior to the close of business on the 30th day after the Outside Date, and no delay in exercising, or any non-exercise, of any such right to terminate by the Merck Parties shall (prior to the close of business on the 30th day after the Outside Date) be construed as a waiver of such right.

(3) Notice of Exercise. The Merck Parties shall exercise any termination right pursuant to Section 9.1(1) by giving written notice thereof to Lead Counsel.

9.2 **Effects of Termination**. Upon any termination of this Settlement Agreement pursuant to Section 9.1(1), without limitation of Section 11 but otherwise any term of this Settlement Agreement to the contrary notwithstanding:

(a) this Settlement Agreement (with the exceptions of this Section 9.2 and Sections 11, 12.3, 12.4, 12.5, 12.8, 12.10, 12.11, 12.12, 12.14 and 12.15 and, to the extent relevant to the foregoing, Annex A, which shall survive) immediately shall terminate and (without limitation of the foregoing) the Merck Parties immediately shall cease to have any further financial obligations under this Settlement Agreement, provided that the Merck Parties will continue to be obligated to make payments as set forth in Section 4.1(4)(a) (subject to Section 4.1(4)(b)) with respect to the period prior to termination of this Settlement Agreement;

(b) all negotiations, statements and proceedings relating to this Settlement Agreement shall be deemed to be without prejudice to the rights of the Parties, and the Parties shall be deemed to be restored to their respective positions existing immediately before this Settlement Agreement was executed; and

(c) (i) all Parties shall be restored to their respective positions in and with respect to each of the Designated Class Actions as such positions existed immediately before this Settlement Agreement was executed, (ii) in furtherance and without limitation of clause (i), (x) any class certification or authorization order with respect to any Designated Class Action

automatically (and without the need for any further action by any Party or any Court) shall be null and void ab initio and of no further force or effect, and (y) any certification or authorization of a class in any jurisdiction for settlement shall be without prejudice to any position that any of the Parties may later take on any issue in any Specified Fosamax/Fosavance-Connected Class Action (or any other Fosamax/Fosavance-Connected Proceeding), and the Merck Parties' consent to certification for settlement shall not constitute, and shall not be deemed or construed as, an admission on the part of any Merck Party that any Specified Fosamax/Fosavance-Connected Class Action, or any other certified or putative class proceeding, is appropriate for trial as a class proceeding.

SECTION 10 LEGAL FEES AND DISBURSEMENTS

10.1 **Class Counsel Fees**.

(1) Class Counsel Fees.

(a) Class Counsel shall bring one or more motions to the relevant Class Action Courts for approval of the Class Counsel Fees, provided that the last of such motions shall be brought not later than promptly after the delivery of the Final Award List to Lead Counsel. Such Class Counsel Fees shall be awarded at the discretion of the Class Action Courts following a hearing.

(b) Class Counsel Fees may be paid out of the Settlement Account only to the extent such payment out of the Settlement Account (and the Settlement Amount) is approved by orders of the relevant Class Action Courts and such approval orders have become Final Orders.

(c) Any Class Counsel Fees awarded to Class Counsel as approved by the Class Action Courts in excess of the Class Counsel Amount shall come from, and dollar-for-dollar reduce, the Eligible Claimant Amount and (in any event) shall not come from the Merck Parties.

(d) In order to effect the payment of Class Counsel Fees as specified above in this Section 10.1, Lead Counsel may, at any time, and from time to time, after the Class Counsel Amount has been paid or deposited by the Merck Parties pursuant to Section 4.1(3)(d), direct the Claims Administrator to make, from the Settlement Account, such payments of Class Counsel

Fees as have been approved (pursuant to approval order(s) that have become Final Orders), by each Class Action Court whose approval thereof is required, to be made at such time. Any such direction shall (i) specify the amount of Class Counsel Fees to be paid by the Claims Administrator pursuant thereto and (ii) certify to the Claims Administrator that such payments have in fact been approved to be paid at such time as described in the preceding sentence. The Claims Administrator shall electronically deliver a copy of any such direction to the Merck Parties, and shall not make any payment pursuant to any such direction until the expiration of seven (7) days from the delivery of such notice to the Merck Parties.

(e) If, after the final disposition of all Class Counsel Fee motions made pursuant to Section 10.1(1)(b), the aggregate amount of Class Counsel Fees paid or authorized by the relevant Class Action Courts to be paid from the Settlement Account pursuant to this Section 10.1(1) is less than the Class Counsel Amount, then the Eligible Claimant Amount shall be increased by an amount equal to the excess of (x) the Class Counsel Amount over (y) the aggregate amount of Class Counsel Fees paid or authorized by the relevant Class Action Courts to be paid from the Settlement Account pursuant to Section 10.1(1)(b).

(2) Other Counsel Fees. Individual Settlement Class Members who have retained, or who in the process of making a claim do retain, counsel to assist them in making their individual claims pursuant to this Settlement Agreement shall be responsible for the legal fees and expenses of such counsel. No counsel (including Class Counsel) may, or shall, seek any fees from, or otherwise assert any Lien or claim against, any Merck Releasee, or any funds held by the Claims Administrator at any time, in connection with this Settlement Agreement or any Fosamax/Fosavance-Connected Proceeding except for Class Counsel seeking the Class Counsel Fees in the Class Action Courts as specified in Section 10.1(1).

SECTION 11 NO ADMISSION

11.1 **No Admission**.

(1) Whether or not the Implementation Commencement Date occurs or this Settlement Agreement is terminated:

(a) no Settlement Agreement Matter shall be deemed, construed or interpreted to be an admission, evidence of an admission or concession of any violation of any Law, or of

any other wrongdoing, fault, damages or Liability, by any Merck Releasee, or of the truth of any of the claims or allegations Connected With Alendronate made by any Plaintiff, any Settlement Class Member or any other Person in any Alendronate-Connected Proceeding or in any other pleading filed by any Plaintiff, any Settlement Class Member or any other claimant in any Alendronate-Connected Proceeding or otherwise made by any Plaintiff, any Settlement Class Member or any other claimant against any Merck Releasee;

(b) without limitation of clause (a), no Settlement Agreement Matter may or shall be offered or received in evidence in or before any Action (or otherwise), except to seek Court approval of this Settlement Agreement or to give effect to and enforce the provisions of this Settlement Agreement; and

(c) no Settlement Agreement Matter constitutes, and no Settlement Agreement Matter shall be deemed or construed as, an admission on the part of any Merck Party that any Specified Fosamax/Fosavance-Connected Class Action (or any other certified or putative class proceeding) is appropriate for trial as a class proceeding, and the Merck Parties expressly reserve their respective rights to contest certification of the Specified Fosamax/Fosavance-Connected Class Actions (or any other certified or putative class proceeding), through decertification procedures or otherwise (in the case of any Designated Class Action, if this Settlement Agreement is terminated).

(2) If any Person (other than a Merck Releasee) violates, or seeks to violate, Section 11.1(1)(b) in any respect, the restrictions of Section 11.1(1) shall not be applicable to the Merck Parties with respect to that Person.

SECTION 12 OTHER PROVISIONS

12.1 **Motions for Directions**.

(1) Application to the Class Action Courts. Except to the extent provided for in this Settlement Agreement, the mechanics of the implementation and administration of this Settlement Agreement shall be determined by the relevant Class Action Court(s) on motion brought by (but only by) the Merck Parties and Lead Counsel (and/or other Counsel as caused by Lead Counsel), or either of them.

(2) Motions Contemplated by Settlement Agreement. All motions contemplated by this Settlement Agreement, including applications to the Class Action Court(s) for directions, shall be on notice to (i)(x) Lead Counsel and (y) with respect to any action to be taken in or before the Quebec Court or any other matter that is specific to Quebec, Quebec Lead Counsel, and, with respect to any action to be taken in or before the Saskatchewan Court or any other matter that is specific to Saskatchewan, Saskatchewan Lead Counsel, (ii) the Merck Parties and (iii) any other relevant Parties.

12.2 **Merck Releasees Have No Liability for Administration**. The Merck Releasees have, and shall have, no responsibility or Liability whatsoever with respect to the administration of this Settlement Agreement (including for any act or omission (including any failure to act or delay in acting) of the Hearings Notice Administrator or the Claims Administrator).

12.3 **Facsimile Signatures**. This Settlement Agreement and any amendments thereto, to the extent signed and delivered by means of a facsimile machine or electronic scan (including in the form of an Adobe Acrobat PDF file format), shall be treated in all manner and respects as an original agreement and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

12.4 **Construction**. The Parties acknowledge and in any event agree that each and every term and condition of this Settlement Agreement has been mutually negotiated, prepared and drafted. The Parties further agree that if at any time any court is required to interpret or construe any term or condition of this Settlement Agreement or any agreement or instrument subject hereto, no consideration shall be given to the issue of which Party actually prepared, drafted or requested any term or condition of this Settlement Agreement, such that no statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement (or any particular provision of this Settlement Agreement) shall have any force and effect. The Parties further agree that the language contained or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

12.5 **Headings, References**. The headings of the Table of Contents, Articles and Sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Settlement Agreement. Any reference to an Exhibit

or Annex shall be deemed to refer to the applicable Exhibit or Annex attached hereto. When used in this Settlement Agreement or any Exhibit or Annex hereto, (i) the words "include" and "including" and words of similar import are not limiting and shall be construed to be followed by the words "without limitation," whether or not they are in fact followed by such words, and (ii) unless otherwise specified in any particular instance or the context otherwise requires in any particular instance, the term "or" is used in the inclusive sense of "and/or". Whenever reference is made in this Settlement Agreement or any Exhibit or Annex hereto to a matter being within or at the "discretion" of the Merck Parties or Lead Counsel, this means that such matter shall be within or at the sole and absolute discretion of the Merck Parties or Lead Counsel, respectively, and (without limitation of the foregoing) the Merck Parties or Lead Counsel, respectively, shall have no obligation to consent or otherwise agree to such matter. The definitions contained in this Settlement Agreement or any Exhibit or Annex hereto are applicable to the singular as well as the plural forms of such terms. As used herein or in any Exhibit or Annex hereto, (i) words of any gender (masculine, feminine, neuter) mean and include correlative words of the other genders and (ii) the term "dollars", and the symbol "$", shall mean Canadian dollars. References in this Settlement Agreement to any particular "Article" or "Section" shall, unless otherwise specified in any instance, refer to (x) in the case of any such reference appearing in this Settlement Agreement (disregarding for this purpose any Exhibit to this Settlement Agreement), or in Annex A to this Settlement Agreement, such specified Article or Section, as the case may be, of this Settlement Agreement (disregarding for this purpose any Exhibit to this Settlement Agreement) or (y) in case of any such reference appearing in any Exhibit to this Settlement Agreement, such specified Exhibit to this Settlement Agreement. Unless otherwise specified in any particular instance, the terms "this Settlement Agreement", "hereof", "hereunder", "herein", "hereto", and similar expressions refer to this Settlement Agreement and not to any particular section or portion of this Settlement Agreement.

12.6 **Binding Effect; Successors and Assigns**. This Settlement Agreement shall bind the Parties and, upon the Implementation Commencement Date, the Settlement Class Members, the Releasors and the Provinces, and shall inure to the benefit of the Parties and, upon the Implementation Commencement Date, the Settlement Class Members, the Defendants and the Releasees, and, in each case, their respective successors, estates and permitted assigns; provided, however, that neither this Settlement Agreement nor any of the rights, interests, or obligations

hereunder may be assigned by any Plaintiff without the prior written consent of the Merck Parties, and no right to apply for, or receive, any Award (or any portion thereof) may be assigned or pledged by any Settlement Class Member without the prior written consent of the Merck Parties. Any assignment in violation of this Section 12.6 shall be null and void ab initio. The Releases are intended to, and shall, benefit all of the Releasees, notwithstanding anything to the contrary set forth in this Settlement Agreement, and this Settlement Agreement is intended to, and does, directly benefit third parties. Anything in this Section 12.6 above to the contrary notwithstanding, this Settlement Agreement in any event may be modified as set forth in Section 12.10.

12.7 **Ongoing Jurisdiction**. Each of the Quebec Court and the Saskatchewan Court shall retain exclusive jurisdiction over all matters relating to the implementation and enforcement of this Settlement Agreement as this Settlement Agreement relates to the Designated Class Actions (or any other Fosamax/Fosavance-Connected Proceeding) pending in such Court or any member of the class in such Designated Class Actions. Except as provided in the preceding sentence, the Ontario Court shall retain exclusive jurisdiction over all matters relating to the implementation and enforcement of this Settlement Agreement. Lead Counsel, other Counsel as caused by Lead Counsel, and/or the Merck Parties, shall bring all applications with respect to the application and enforcement of this Settlement Agreement.

12.8 **Governing Law**. This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario, without regard to Ontario conflicts of law rules or principles.

12.9 **Entire Agreement**. This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes any and all prior and contemporaneous understandings, undertakings, negotiations, representations, communications, promises, agreements, agreements in principle, and memoranda of understanding in connection herewith. The Parties have not received or relied on any agreements, representations, or promises other than as contained in this Settlement Agreement. None of the Parties shall be bound by any prior obligations, conditions, or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

12.10 **Amendments, No Implied Waiver**. This Settlement Agreement may not be modified or amended except by, but may be modified or amended by, an instrument in writing executed by the Merck Parties and Lead Counsel, subject, in the case of any material modification or material amendment, to the approval thereof by the relevant Class Action Court(s). Except where a specific period for action or inaction is provided herein, no failure on the part of a Party to exercise, and no delay on the part of any Party in exercising, any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any waiver on the part of any Party of any such right, power or privilege, or any single or partial exercise of any such right, power or privilege, preclude any other or further exercise thereof or the exercise of any other right, power or privilege; nor shall any waiver on the part of a Party, on any particular occasion or in any particular instance, of any particular right, power or privilege operate as a waiver of such right, power or privilege on any other occasion or in any other instance.

12.11 **Survival**. The representations and warranties contained in this Settlement Agreement shall survive its execution and implementation, and the occurrence of the Implementation Commencement Date.

12.12 **Counterparts**. This Settlement Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall together constitute one and the same instrument. It shall not be necessary for any counterpart to bear the signature of all Parties hereto.

12.13 **Further Assurances**.

(1) General. From time to time following the execution of this Settlement Agreement (and including after the Implementation Commencement Date and/or after the determination and payment of the Awards), the Merck Parties, on the one hand, and each Party other than the Merck Parties, on the other hand, shall take such reasonable actions consistent with the terms of this Settlement Agreement as may reasonably be requested by the other, and otherwise reasonably cooperate with the other in a manner consistent with the terms of this Settlement Agreement as reasonably requested by the other, in each case as may be reasonably necessary in order further to effectuate the intent and purposes of this Settlement Agreement and to carry out the terms hereof.

(2) Certain Provinces and Territories. Without limitation of the generality of Section 12.13(1), from time to time following the execution of this Settlement Agreement (and including after the Implementation Commencement Date and/or after the determination and payment of the Awards), each of Lead Counsel and Plaintiffs' Counsel shall take such action as the Merck Parties reasonably may request with respect to the recognition and enforcement of the Ontario Settlement Approval Order and the Saskatchewan Settlement Approval Order in each province or territory in Canada.

12.14 **Language**. The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais. A French translation of this Settlement Agreement, all Exhibits or Annexes attached hereto, and all notices pursuant to this Settlement Agreement, in each case for convenience only, shall be prepared (or caused to be prepared) by the Merck Parties and provided to Lead Counsel (who shall cause such translation to be made available to Settlement Class Members upon their request). In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall be considered.

12.15 **Public Announcements**.

(1) Cooperation. The Parties shall cooperate in the public description of this Settlement Agreement and shall agree upon the timing of such description. Lead Counsel shall be permitted to respond to inquiries from the media for the sole purpose of explaining the Settlement and claims process. Plaintiffs and Plaintiffs' Counsel shall refer any such inquiries to Lead Counsel.

(2) Press Release. When the (or any) Approvals Notice is first disseminated in accordance with Section 3.1, Lead Counsel shall publish a press release, the form and content of which will be agreed to by the Merck Parties and Lead Counsel.

(3) Content of Public Announcements. Without limitation of Section 12.15(1), no public statements shall be made regarding the Fosamax/Fosavance-Connected Proceedings or their settlement which are in any way inconsistent with the terms of this Settlement Agreement. In particular, any public statements regarding the Fosamax/Fosavance-Connected Proceedings

will indicate clearly that the Settlement has been negotiated and agreed by the Parties and approved by the Courts without any admissions or findings of liability or wrongdoing, and without any admissions or conclusions as to the truth of any of the facts alleged in the Fosamax/Fosavance-Connected Proceedings, all of which are specifically denied. Any public statements that are inconsistent with the terms of this Settlement Agreement could cause irreparable harm, including harm to the business and reputation of the Merck Releasees.

12.16 **Claimant Confidentiality**. Any personal records or other personal information provided by or regarding a Settlement Class Member pursuant to this Settlement Agreement, and the amount of any Awards made under this Settlement Agreement (such amount information, "Award Information"), shall be kept private and confidential by the Parties and, in the case of Award Information, the recipients thereof and their respective Counsel, and shall not be disclosed except (i) to appropriate Persons to the extent necessary to process Program Claims or provide benefits under this Settlement Agreement, (ii) as otherwise expressly provided in this Settlement Agreement, (iii) as may be required by Law, (iv) as may be reasonably necessary in order to enforce, or for the Merck Parties or Lead Counsel to exercise their respective rights (including their respective response or appeal rights) under, this Settlement Agreement or (v) to the immediate family members, Counsel, accountants and/or financial advisors of such Settlement Class Member, if any (each of whom shall be instructed by such Finally Determined Eligible Claimant, upon such disclosure, to maintain and honour the confidentiality of such information). All Settlement Class Members shall be deemed to have consented to the disclosure of these records and other information for these purposes.

12.17 **Preamble and Recitals**. The preamble and recitals to this Settlement Agreement are true and form part of this Settlement Agreement.

12.18 **Exhibits and Annexes**. The Exhibits and Annexes hereto form part of this Settlement Agreement.

12.19 **Acknowledgements**. Each of the Parties hereby affirms and acknowledges that:

(a) he, she or a representative of such Party with the authority to bind such Party with respect to the matters set forth herein has read and understood this Settlement Agreement;

(b) the terms of this Settlement Agreement and the effects thereof (including, but not limited to, the terms of Section 5.1 hereof) have been fully explained to him, her, or the Party's representative by his, her, or its Counsel;

(c) he, she or such Party's representative fully understands each term of this Settlement Agreement and its effect (including, but not limited to, the terms of Section 5.1 hereof); and

(d) such Party has not relied upon any statement, representation or inducement (whether material, false, negligently made, or otherwise) of any other Party, including the Merck Parties, with respect to the first Party's decision to execute this Settlement Agreement.

12.20 **Notice**.

(a) Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another Party, or requires a Claimant to provide notice to the Merck Parties or Lead Counsel, such notice, communication, or document shall be provided by email, facsimile, regular Canada Post mail or overnight courier to the representatives for the Party to whom notice is being provided, as identified below:

For Plaintiffs, Lead Counsel and Class Counsel:

McKenzie Lake Lawyers LLP
140 Fullarton Street, Suite 1800
London, ON N6A 5P2 Canada
Attention: Michael J. Peerless
Facsimile: 519-672-2674
Email: peerless@mckenzielake.com

For Merck Parties:

Merck & Co., Inc.
2000 Galloping Hill Road
Kenilworth, New Jersey 07033
Attention: Mary E. Bartkus, Executive Director
& Senior Counsel
Facsimile: (908) 740-0980
Email: mary_bartkus@merck.com

With a copy to:

Blake, Cassels & Graydon LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto ON M5L 1A9 Canada
Facsimile: 416-863-2653
Attention: Cathy Beagan Flood, Partner
Email: cathy.beaganflood@blakes.com

(b) Any notice or other communication or document described in Section 12.20(a) shall be deemed to have been delivered to the relevant Party (i) if delivered by mail (and not required to be delivered in some other fashion), on the postmark date of such mail (or, in the absence of a postmark or if such postmark is illegible, on the date received), (ii) if delivered by same-day or overnight courier, on the date such notice or other communication or document was deposited with the same-day or overnight courier, (iii) if delivered by facsimile, when confirmation of its transmission has been recorded by the sender's facsimile machine, or (iv) if delivered (and expressly permitted or required to be delivered) by electronic mail, when it is capable of being accessed from the recipient's electronic mail address, in the case of each of (i) through (iv), if (and only if) addressed as specified above in this Section 12.20 for the relevant recipient Party.

12.21 **Civil Code**. The present Settlement Agreement constitutes a transaction in accordance with Articles 2631 and following of the Civil Code of Quebec, and the Parties are hereby renouncing to any errors of fact, of law and/or of calculation.

12.22 **Authorized Signatures**. Each of the undersigned represents that he, she or it is fully authorized to execute, deliver and perform this Settlement Agreement.

The Parties have executed this Settlement Agreement as of the date on the cover page.

Class Counsel

McKenzie Lake Lawyers LLP on behalf of itself and on behalf of all plaintiffs and class members represented by McKenzie Lake Lawyers LLP including plaintiffs and class members in Peters et al. v. Merck Frosst Canada Ltd. et al., Court File No. 07-CV-333698CP, Ontario Superior Court of Justice

By: _____
Michael J. Peerless

Sylvestre Fafard Painchaud, S.E.N.C.R.L. on behalf of itself and on behalf of all plaintiffs and class members represented by Sylvestre Fafard Painchaud, S.E.N.C.R.L. including plaintiffs and class members in Option consommateurs, Petitioner, and Nicole Brousseau, Designated Person, v. Merck Frosst Canada Limitée et al., No: 500-06-000679-130, Superior Court of Quebec

By: _____
Pierre Sylvestre

The Parties have executed this Settlement Agreement as of the date on the cover page.

Class Counsel

McKenzie Lake Lawyers LLP on behalf of itself and on behalf of all plaintiffs and class members represented by McKenzie Lake Lawyers LLP including plaintiffs and class members in Peters et al. v. Merck Frosst Canada Ltd. et al., Court File No. 07-CV-333698CP, Ontario Superior Court of Justice

By: _____
Michael J. Peerless

Sylvestre Fafard Painchaud, S.E.N.C.R.L. on behalf of itself and on behalf of all plaintiffs and class members represented by Sylvestre Fafard Painchaud, S.E.N.C.R.L. including plaintiffs and class members in Option consommateurs, Petitioner, and Nicole Brousseau, Designated Person, v. Merck Frosst Canada Limitée et al., No: 500-06-000679-130, Superior Court of Quebec

By: _____
Pierre Sylvestre 27-02-2015

Merchant Law Group LLP on behalf of itself and on behalf of all plaintiffs and class members represented by Merchant Law Group LLP including plaintiffs and class members in (a) MacMillan et al. v. Merck Frosst Canada & Co. et al., Q.B. No. 2313 (2010), Court of Queen's Bench of Saskatchewan, and (b) Markovich et al. v. Merck Frosst Canada & Co. et al., No. 1001-14447, Court of Queen's Bench of Alberta

By: 

E.F. Anthony Merchant Q.C.
Merchant Law Group LLP
2401 Saskatchewan Dr.
Regina, SK S4P 4H8
Phone: (306) 359-7777

Merchant Law Group LLP on behalf of itself and on behalf of all plaintiffs and class members represented by Merchant Law Group LLP in Goulet v. Novartis Pharma Canada Inc., et al., Court File No. 500-06-000523-106, Superior Court of Quebec, District of Montreal

By: _____

~~Anthony Tibbs~~ DANIEL CHUNG
Merchant Law Group LLP
#200 - 10 Notre-Dame E.
Montréal, Québec
H2Y 1B7
Phone: 514-248-7777
Fax: 514-842-6687

Other Specified Fosamax/Fosavance-Connected Class Action Counsel

Klein Lyons and Pihl Law Corporation, each on behalf of itself and on behalf of all plaintiffs and class members represented by each of Klein Lyons and Pihl Law Corporation, including plaintiffs and class members in Marcano et al. v. Merck Frosst Canada Ltd. et al., No. S073863, Supreme Court of British Columbia

By: _____
David A. Klein

By: _____
On behalf of Pihl Law Corporation

Other Specified Fosamax/Fosavance-Connected Class Action Counsel

Klein Lyons and Pihl Law Corporation, each on behalf of itself and on behalf of all plaintiffs and class members represented by each of Klein Lyons and Pihl Law Corporation, including plaintiffs and class members in Marcano et al. v. Merck Frosst Canada Ltd. et al., No. S073863, Supreme Court of British Columbia

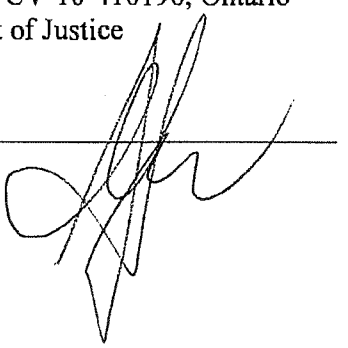
By: _____
David A. Klein

By: _____
On behalf of Pihl Law Corporation
DAVID. H. PIHL Q.C.

Other Plaintiffs and Plaintiffs' Law Firms

Grillone Law Firm on behalf of itself and on behalf of all plaintiffs represented by Grillone Law Firm including the plaintiff in Degrace v. Merck Frosst Canada Ltd. et al., Court File No. CV-10-410196, Ontario Superior Court of Justice

By: _____



Merck Parties

Merck Canada Inc.

By: _____
Name: Kirk S. Duguid
Title: Executive Director, Finance

Merck Frosst Canada & Co.

By: _____
Name: Kirk S. Duguid
Title: President

Merck & Co., Inc.
Merck Sharp & Dohme Corp.

By: _____
Name: Bruce N. Kuhlik
Title: Executive Vice President and
General Counsel

ANNEX A

DEFINITIONS

(1) ***Action*** means any action, suit, litigation, investigation, arbitration or other proceeding, in each case including in or before any court of law or equity, tribunal, Governmental Authority, administrative forum or any other forum and whether directly, representatively, derivatively, as subrogee or otherwise, including (for the avoidance of doubt) any Alendronate-Connected Proceeding.

(2) ***Administrative Expenses*** means (i) (x) all out-of-pocket costs and expenses incurred by the Hearings Notice Administrator or the Claims Administrator in disseminating any notice to Settlement Class Members contemplated by the Settlement Agreement, and (y) all other fees, or out-of-pocket costs and expenses, payable to the Hearings Notice Administrator or the Claims Administrator in connection with the Settlement Agreement, as specified in any agreement between the Hearings Notice Administrator or the Claims Administrator, as the case may be, on the one hand, and the Merck Parties and Lead Counsel, on the other hand, (ii) all fees, or out-of-pocket costs and expenses, payable to the Referee or any Special Master in connection with the Settlement Agreement, and (iii) any and all taxes payable with respect to any fee, cost or expense described in clause (i) or (ii).

(3) ***AFF*** means an atypical femur fracture.

(4) ***Affiliate*** means, as to any specified Person, any other Person that, directly or indirectly, controls, or is controlled by, or is under common control with, such specified Person. As used in this definition "control" (including the phrases "controlled by" and "under common control with"), when used with respect to any specified Person, means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such specified Person, whether through the ownership of voting securities or interests, by contract or otherwise.

(5) ***Alberta Bar Order*** has the meaning assigned to such term in Section 3.1(3)(d).

(6) ***Alberta Court*** means the Court of Queen's Bench of Alberta.

(7) ***Alberta Order for Approval of Notice of Settlement Approval Hearing*** means an order for, among other things, approval of a notice of a hearing with respect to an Approval Order, in the Form of Exhibit 3.1(1)(d).

(8) ***Alberta Plaintiffs*** has the meaning assigned to such term in the preamble.

(9) ***Alberta Settlement Recognition and Enforcement Order*** means an order of the Alberta Court for, among other things, (i) the recognition and enforcement of the Ontario Settlement Approval Order and the Saskatchewan Settlement Approval Order in such province, (ii) the Approvals Notice and (iii) the Alberta Bar Order, all in the Form of Exhibit 3.1(3)(d).

(10) ***Alendronate*** means alendronate sodium, a bisphosphonate that acts as a specific inhibitor of osteoclast-mediated bone resorption. For the avoidance of doubt, references to "Alendronate" include, but are not limited to, Fosamax/Fosavance.

(11) ***Alendronate-Connected Proceedings*** means the Fosamax/Fosavance-Connected Proceedings and any other Action Connected With Alendronate, if any, whether currently pending or pending as of the Implementation Commencement Date.

(12) ***Alendronate Distributor Releasees*** means each of (i) (x) the Alendronate Distributors (and each Affiliate of any Alendronate Distributor) and (ii) all other Releasees (the "Releasees" being determined, solely for purposes of this reference thereto, as if the punctuation and phrase ", or any other Merck Releasee or Alendronate Distributor Releasee" set forth in clause (iv) of the definition of the term "Releasees" instead read ", or against any other Merck Releasee"), past, present and/or future, in any way and/or any time related to any Alendronate Distributor (or any Affiliate thereof), including, but not limited to: (1) the past, present and/or future parents, subsidiaries, divisions, affiliates or joint venturers of any Alendronate Distributor (or any Affiliate thereof); (2) the respective past, present and/or future predecessors, successors, assigns or transferees (in each case (for the avoidance of doubt), direct or indirect) of any Person described in clause (i) or (ii)(1); and (3) the respective past, present and/or future insurers, shareholders (or the equivalent thereto), directors (or the equivalent thereto), officers (or the equivalent thereto), managers, principals, employees, consultants, advisors, attorneys, agents, servants, representatives, heirs, trustees, executors, estate administrators or personal

representatives (or the equivalent thereto) of any Alendronate Distributor (or any Affiliate thereof) or any Person described in clause (i), (ii)(1) or (ii)(2), other than the Merck Releasees.

(13) ***Alendronate Distributors*** means (i) all manufacturers, suppliers or distributors of Alendronate and (ii) all other Persons involved in the and/or any development, design, supplying of materials, manufacture, formulation, testing, distribution, prescribing, dispensing, sale, purchase, use, ingestion, clinical investigation, research, publication of research (or other publication), administration, regulatory approval, regulatory compliance, regulatory submission, advertising, promotion, marketing, communications with medical personnel, labelling and/or product monograph of and/or concerning Alendronate, in the case of each of (i) and (ii), whether past, present and/or future, other than the Merck Defendants.

(14) ***Appeal*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(15) ***Appeal Provisions*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(16) ***Approval Orders*** means the Ontario Settlement Approval Order, the Quebec Settlement Approval Order, the Saskatchewan Settlement Approval Order, the Alberta Settlement Recognition and Enforcement Order and the British Columbia Settlement Recognition and Enforcement Order.

(17) ***Approvals Notice*** has the meaning assigned to such term in Section 3.1(4).

(18) ***Approved Product User Claimant*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(19) ***Award*** has the meaning assigned to such term in Section 4.9(2).

(20) ***Award Information*** has the meaning assigned to such term in Section 12.16.

(21) ***Award Lien*** means, with respect to any Finally Determined Eligible Claimant, (i) any Lien, Claim or interest (of or in favour of, or held by, any other Person) on, in, to or against any Award paid or payable to or with respect to such Finally Determined Eligible Claimant (and/or the right to receive any Award) pursuant to the Settlement Agreement (or any portion

thereof), whether actual, asserted or unasserted, whether past, present or future, and whether known or unknown, or (ii) any amount owed, or claimed to be owed, by such Finally Determined Eligible Claimant, or any of such Finally Determined Eligible Claimant's personal representatives, heirs, estate, assigns, subrogees or trustees, to any other Person in respect of any such Award, including (in the case of each of (i) and (ii)) any of the foregoing (x) held or asserted by any Third Party Provider/Payor or any other Person having, or asserting, any interest in such Award (or portion thereof), or (y) existing or arising as a result of subrogation (contractual, statutory or otherwise), assignment (contractual, statutory or otherwise) or otherwise.

(22) ***Award Payments Trigger Date*** has the meaning assigned to such term in Section 4.9(2).

(23) ***Bisphosphonates*** means a class of drugs used primarily to increase bone mass and reduce the risk for fracture in patients and also to slow bone turnover in patients with Paget's disease of the bone and to treat bone metastases and lower elevated levels of blood calcium in patients with cancer.

(24) ***British Columbia Bar Order*** has the meaning assigned to such term in Section 3.1(3)(e).

(25) ***British Columbia Court*** means the Supreme Court of British Columbia.

(26) ***British Columbia Plaintiffs*** has the meaning assigned to such term in the preamble.

(27) ***British Columbia Order for Approval of Notice of Settlement Approval Hearing*** means an order for, among other things, approval of a notice of a hearing with respect to an Approval Order, in the Form of Exhibit 3.1(1)(e).

(28) ***British Columbia Settlement Recognition and Enforcement Order*** means an order of the British Columbia Court for, among other things, (i) the recognition and enforcement of the Ontario Settlement Approval Order and the Saskatchewan Settlement Approval Order in such province, (ii) the Approvals Notice and (iii) the British Columbia Bar Order, all in the Form of Exhibit 3.1(3)(e).

(29) ***CAP Parties*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(30) ***CA Website*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(31) ***Challenged Opt In*** means, as at any particular date, any Person who has executed and delivered to the Merck Parties an Opt-In Document, the validity or enforceability of which subsequently has been challenged by any Person (other than the Merck Parties).

(32) ***Claimant*** means, as the context may require, a Product User Claimant or a Derivative Claimant.

(33) ***Claimant Notice of Appeal*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(34) ***Claim Determination Form*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(35) ***Claim Determinations Letter*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(36) ***Claim Form*** means a Product User Claim Form or a Derivative Claimant Claim Form.

(37) ***Claim Package*** means a Product User Claim Package or a Derivative Claimant Claim Package.

(38) ***Claims*** means any and all rights, remedies, Actions, claims, demands, causes of action, suits at law or in equity, verdicts, suits of judgments, judgments and/or Liens of any kind whatsoever (including any of the foregoing (i) for wrongful death, personal injury and/or bodily injury, sickness, disease, emotional distress and/or injury, mental or physical pain and/or suffering, emotional and/or mental harm, fear of disease or injury, loss of enjoyment of life, grief, loss of guidance, care, companionship, consortium, support, services, society or affection, damage to familial relations, funeral expenses, loss of income or earning capacity, medical expenses, cost of insured services, medical screening or monitoring, Medical Services or any

other form of injury (in each case, whether past, present or future), (ii) under common or civil law and/or equity, or any federal, provincial or territorial Law (including any consumer protection, business practices, misleading advertising, drug, or health or hospital insurance, Law), or (iii) for, no matter when incurred, direct damages, indirect damages, consequential damages, incidental damages, punitive damages, compensatory damages, aggravated damages, exemplary damages, statutory damages, economic damages or any other form of damages or losses whatsoever, including pre-judgment or post-judgment interest, costs, expenses, class expenses (including Administrative Expenses), penalties or lawyers' fees (including Class Counsel Fees), or disgorgement of revenues or profits, accounting or any other equitable remedy whatsoever), whether based upon contract, breach of contract, warranty or covenant, breach of warranty or covenant, tort, negligence, negligence per se, gross negligence, recklessness, malice, joint and several liability, guarantee, contribution, reimbursement, subrogation, indemnity, defect, failure to warn, fault, strict liability, unjust enrichment, waiver of tort, disgorgement of revenue or profits, unfair competition, anticompetitive conduct, misrepresentation, fraud, common law fraud, statutory consumer fraud, defective product, quantum meruit, breach of fiduciary duty, violation of Law and/or any other legal (including common or civil law), statutory, equitable or other theory or right of action, whether direct, representative, derivative, as subrogee or otherwise, whether presently known or unknown, suspected or unsuspected, asserted or unasserted, developed or undeveloped, discovered or undiscovered, foreseen or unforeseen, anticipated or unanticipated, matured or unmatured, accrued or not accrued, or now recognized by Law or created or recognized in the future by Law or in any other manner, or otherwise (including any of the foregoing in any Alendronate-Connected Proceeding or in any other Action (or any other forum)).

(39) ***Claims Administration Procedures Exhibit*** means Exhibit 4.5(1).

(40) ***Claims Administrator*** means such Person as the Merck Parties and Lead Counsel may designate from time to time, and who shall have been approved by the Class Action Courts, to serve as the "Claims Administrator" under the Settlement Agreement.

(41) ***Claims Deadline Date*** means 120 days following the publication of the (or first) Approvals Notice in the Globe & Mail.

(42) ***Class Action Courts*** means the Ontario Court, the Quebec Court and the Saskatchewan Court.

(43) ***Class Counsel*** has the meaning assigned to such term in the preamble.

(44) ***Class Counsel Amount*** means $2,000,000.

(45) ***Class Counsel Fees*** means the fees, disbursements, costs, GST, and other applicable taxes or charges of Class Counsel.

(46) ***Connected With Alendronate*** means to any extent, or in any way, (i) arising out of, relating to, resulting from and/or connected with (in each case, directly or indirectly), or (ii) alleging or alleged to arise out of, relate to, result from and/or be connected with (in each case, directly or indirectly), Alendronate, including to any extent, or in any way, (x) arising out of, relating to, resulting from and/or connected with (in each case, directly or indirectly), or (y) alleging or alleged to arise out of, relate to, result from and/or be connected with (in each case, directly or indirectly), the and/or any manufacture, supplying of materials, distribution, development, design, formulation, testing, prescription, dispensing, sale, purchase, use, ingestion, clinical investigation, research, publication of research (or other publication), administration, regulatory approval, regulatory compliance, regulatory submission, advertising, promotion, marketing, communications with medical personnel, labelling and/or product monograph of and/or concerning Alendronate.

(47) ***Connected With Fosamax/Fosavance*** means to any extent, or in any way, (i) arising out of, relating to, resulting from and/or connected with (in each case, directly or indirectly), or (ii) alleging or alleged to arise out of, relate to, result from and/or be connected with (in each case, directly or indirectly), Fosamax/Fosavance, including to any extent, or in any way, (x) arising out of, relating to, resulting from and/or connected with (in each case, directly or indirectly), or (y) alleging or alleged to arise out of, relate to, result from and/or be connected with (in each case, directly or indirectly), the and/or any manufacture, supplying of materials, distribution, development, design, formulation, testing, prescription, dispensing, sale, purchase, use, ingestion, clinical investigation, research, publication of research (or other publication), administration, regulatory approval, regulatory compliance, regulatory submission, advertising,

promotion, marketing, communications with medical personnel, labelling and/or product monograph of and/or concerning Fosamax/Fosavance.

(48) ***Counsel*** means, with respect to any particular Person, a lawyer or law firm who represents such Person. For all purposes of the Settlement Agreement, the Claims Administrator, the Merck Parties and the Lead Counsel may treat as the "Counsel" of any particular Claimant the lawyer or law firm last identified as such in accordance with Section 4.5(6).

(49) ***Courts*** means the Class Action Courts, the Alberta Court and the British Columbia Court.

(50) ***Defendants*** means the Merck Defendants and the Non-Merck Defendants.

(51) ***Deficiency Notice*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(52) ***Derivative Claimant*** means a Person who has submitted (or on whose behalf there has been submitted) a Derivative Claimant Claim Form to the Claims Administrator. For the avoidance of doubt, a Counsel to a Person is not (in such capacity) a "Derivative Claimant".

(53) ***Derivative Claimant Claim Form*** means a claim form in the form of Annex A to Exhibit 4.8(2).

(54) ***Derivative Claimant Claim Package*** means, with respect to any particular Derivative Claimant, (i) the Derivative Claimant Claim Form submitted by or on behalf of such Derivative Claimant, and any records or other documents attached thereto or otherwise submitted therewith, and (ii) any Supplemental Claim Form submitted by or on behalf of such Derivative Claimant, and any records or other documents attached thereto or otherwise submitted therewith.

(55) ***Derivative Claim Statute*** means (i) the *Family Compensation Act*, R.S.B.C. 1996, c. 126, (ii) the *Fatal Accidents Act*, R.S.A. 2000, c. F-8, (iii) the *Tort-feasors Act*, R.S.A. 2000, c. T-5, (iv) The *Fatal Accidents Act*, R.S.S. 1978, c. F-11, (v) The *Fatal Accidents Act*, C.C.S.M., c. F50, (vi) the *Family Law Act*, R.S.O. 1990, c. F. 3, (vii) the *Civil Code of Québec*, LRQ, c. C-1991, (viii) the *Fatal Accidents Act*, S.N.B. 2012, c.104, (ix) the *Fatal Injuries Act*, R.S.N.S. 1989, c. 163, (x) the *Fatal Accidents Act*, R.S.N.L. 1990, c. F-6, (xi) the *Fatal Accidents Act*,

R.S.P.E.I. 1988, c. F-5, (xii) the *Fatal Accidents Act*, R.S.Y. 2002, c. 86, (xiii) the *Fatal Accidents Act*, R.S.N.W.T. 1988, c. F-3, (xiv) the *Fatal Accidents Act*, R.S.N.W.T. (Nu) 1988, c. F-3, or (xv) any other statute granting any Person (including any spouse, common-law spouse, same-sex spouse or partner, or any parent, grandparent, sibling or child, by birth, adoption or marriage (including common law or same-sex), of a Product User) (whether now living or deceased) the right to sue any Defendant or any other Releasee independently or derivatively, by reason of their familial (including spousal or conjugal) relationship with a Product User.

(56) ***Derivative Person*** means any Person (whether now living or deceased) having the right to sue any Defendant or any other Releasee independently or derivatively (i) under any Derivative Claim Statute, in relation to any Product User, or (ii) otherwise by reason of their familial (including spousal or conjugal) relationship with a Product User, including all spouses, common-law spouses, same-sex spouses or partners, as well as all parents, grandparents, siblings or children, by birth, adoption or marriage (including common law or same-sex), of a Product User, but excluding any Excluded Person.

(57) ***Designated Class Actions*** has the meaning assigned to such term in the preamble.

(58) ***Documented*** or ***Documentation*** means (i) Medical Records, billing records, tax returns, or T4 statements of remuneration paid or (ii) any other documentation or evidence requested, or otherwise found acceptable, by the Claims Administrator (with the consent of the Merck Parties and Lead Counsel).

(59) ***Dollars or $*** has the meaning assigned to such term in Section 12.5.

(60) ***Eligibility Requirements*** has the meaning assigned to such term in Section 4.7(2).

(61) ***Eligible Claimant*** means a Product User or an Eligible Family Member.

(62) ***Eligible Claimant Amount*** means $3,063,000, provided that the Eligible Claimant Amount (but not, for the avoidance of doubt, the Merck-Funded Eligible Claimant Amount) is subject to adjustment as expressly specified in the Settlement Agreement.

(63) ***Eligible Event*** means an ONJ or an AFF, in each case as established pursuant to the Event Gate Criteria specified in Exhibit 4.7(2)(B). It is understood and agreed that if any

Product User Claimant alleges to have suffered multiple AFFs in one leg, such Product User Claimant nonetheless will be required to specify in its Product User Claim Package a single instance of AFF in such leg as the basis of such Product User Claimant's Program Claim.

(64) ***Eligible Family Member*** means, in relation to any particular Product User, a person that was, at the time of the occurrence of the Eligible Event with respect to such Product User, the spouse (including common law or same-sex) of such Product User or a child of such Product User by birth, adoption or marriage (including common law or same-sex), excluding any Excluded Person. In the case of a Product User that has more than one Eligible Event, the Eligible Family Member status of any particular person (in relation to such Product User) shall be determined separately with respect to each such Eligible Event.

(65) ***Enrolled Claimant*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(66) ***Enrolled Product User Claimant*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(67) ***Event Gate Criteria*** has the meaning assigned to such term in Section 4.7(2)(B).

(68) ***Event Records*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(69) ***Excluded Person*** means (i) any Opt-Out, or (ii) any Person who has entered into, or enters into, an agreement (or on whose behalf an agreement has been entered into, or is entered into) with any Merck Party (other than the Settlement Agreement) at any time before, on or after the date hereof pursuant to which such Person and such Merck Party agree that such Person shall be an "Excluded Person" for purposes of the Settlement Agreement, as specified by the Merck Parties to Lead Counsel and the Claims Administrator from time to time, provided that if a Person ceases to constitute an Opt-Out after the Implementation Commencement Date, then (x) such Person automatically thereupon shall cease, for all purposes of the Settlement Agreement (including Section 5.1), to constitute an "Excluded Person" pursuant to clause (i) above and (y) without limiting the generality of clause (x) (but, for the avoidance of doubt, subject to clause (ii) above), such Person shall be bound by the terms of the Settlement

Agreement (including Section 5.1) as fully as if such Person had ceased to constitute an Opt-Out immediately prior to the Implementation Commencement Date.

(70) ***Final*** means final, binding and not subject to any objection or appeal (including to the Referee).

(71) ***Final Award List*** has the meaning assigned to such term in Section 4.9(1).

(72) ***Final Deficiency Notice*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(73) ***Finally Determined Eligible Claimants*** means the Finally Determined Eligible Product User Claimants and the Finally Determined Eligible Derivative Claimants.

(74) ***Finally Determined Eligible Derivative Claimant*** means a Derivative Claimant (i) that has finally (after the expiration of all rights to submit Appeals, and the final resolution of all Appeals made, under the Settlement Agreement) been determined pursuant to the Settlement Agreement to constitute an Eligible Family Member with respect to a Finally Determined Eligible Product User Claimant (in the case of a Derivative Claimant in relation to a Finally Determined Eligible Product User Claimant that has more than one Eligible Event, in relation to at least one such Eligible Event) and (ii) in the case of a Derivative Claimant in relation to a Finally Determined Eligible Product User Claimant that has more than one Eligible Event, whose status as an Eligible Family Member (or not) has (after the expiration of all rights to submit Appeals, and the final resolution of all Appeals made, under the Settlement Agreement) become Final in relation to each such Eligible Event.

(75) ***Finally Determined Eligible Derivative Claimant Points Calculation Report*** has the meaning assigned to such term in Section 4.8(2).

(76) ***Finally Determined Eligible Product User Claimant*** means a Product User Claimant (i) that has finally (after the expiration of all rights to submit Appeals, and the final resolution of all Appeals made, under the Settlement Agreement) been determined pursuant to the Settlement Agreement to satisfy (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event) the Eligibility Requirements, (ii) whose Points award has (after the expiration of all rights to submit Appeals,

and the final resolution of all Appeals made, under the Settlement Agreement) become Final, and (iii) in the context of Section 4.9 and if such Product User Claimant made a Lost Income Award claim in his or her Claim Package, whose entitlement to a Tentative Lost Income Grant (and, if applicable, the amount thereof) has finally (after the expiration of all rights to submit Appeals, and the final resolution of all Appeals made, under the Settlement Agreement) been disposed of.

(77) ***Final Order*** means, with respect to any particular order of a court, that such order has been issued and entered by such court, and the time to appeal or to seek permission to appeal such order has expired without any appeal being taken, or if an appeal from such final order is taken, the affirmance of such final order in its entirety, without modification, by the court of last resort to which an appeal of such order may be taken.

(78) ***Fonds*** means the *Fonds d'aide aux recours collectives du Québec*.

(79) ***Form*** means, in relation to any particular order, notice or other document, (i) in the form of the applicable Exhibit hereto with (x) appropriate insertions, deletions and other edits contemplated by such Exhibit or (y) other ministerial deviations from such Exhibit, or (ii) in such other form as is agreed by the Merck Parties and Lead Counsel (each acting in their discretion) and is approved by the relevant Court(s).

(80) ***Fosamax/Fosavance*** means (i) Fosamax, (ii) Fosavance or (iii) any other product containing Alendronate, either alone or in combination with any other ingredient or ingredients, at any time manufactured, supplied, marketed or distributed by any Merck Defendant or any past or present Affiliate or joint venturer of any Merck Defendant.

(81) ***Fosamax/Fosavance-Connected Proceedings*** means the Specified Fosamax/Fosavance-Connected Proceedings and any other Action Connected With Fosamax/Fosavance, if any, whether currently pending or pending as of the Implementation Commencement Date.

(82) ***Governmental Authority*** means any governmental authority or other governmental forum, including (i) Canada or any other country, any province, state, territory or possession of Canada or any other country, and any local or other governmental body, or other political subdivision, in or of any of the foregoing, (ii) any multinational organization or body

and (iii) any agency, board, bureau, court, commission, department, instrumentality or administration of any of the foregoing described in clauses (i) or (ii).

(83) ***Hearing/Opt-Out Notice*** has the meaning assigned to such term in Section 3.1(1).

(84) ***Hearings Notice Administrator*** means such Person as the Merck Parties and Lead Counsel may designate from time to time, and who shall have been approved by the Class Action Courts, to serve as the "Hearings Notice Administrator" under the Settlement Agreement.

(85) ***Implementation Commencement Date*** means the date on which all rights of the Merck Parties to terminate the Settlement Agreement have expired (or been expressly waived in writing by the Merck Parties) without any such termination right having been exercised.

(86) ***Individual Action*** has the meaning assigned to such term in the preamble.

(87) ***Individual Plaintiff*** has the meaning assigned to such term in the preamble.

(88) ***Law*** means any federal, national, supranational, foreign, state, provincial, territorial, local, county, municipal or similar statute, law, common law, writ, injunction, decree, guideline, policy, ordinance, regulation, rule, code, order, constitution, treaty, requirement, judgment or judicial or administrative decisions or doctrines of, or enacted, promulgated, issued, enforced or entered by, any Governmental Authority.

(89) ***Lead Counsel*** means McKenzie Lake Lawyers LLP (Michael J. Peerless).

(90) ***Legal Representative*** means, as to any particular natural person (including a deceased natural person), the estate, executor, administrator, guardian, conservator or other legal representative thereof.

(91) ***Liabilities*** means any and all debts, liabilities, covenants, promises, contracts, agreements and/or obligations of whatever kind, nature, description or basis, whether fixed, contingent or otherwise, whether presently known or unknown, developed or undeveloped, discovered or undiscovered, foreseen or unforeseen, matured or unmatured, or accrued or not accrued.

(92) ***Lien*** means any mortgage, lien, pledge, charge, security interest, encumbrance, assignment, subrogation right, third-party interest or adverse claim of any nature whatsoever, in each case whether statutory or otherwise, including any of the foregoing in relation to, any Third Party Provider/Payor or any lawyer or law firm.

(93) ***Losses*** means any and all damages, losses, costs, expenses (including, but not limited to, legal fees and expenses) and/or Liabilities.

(94) ***Lost Income Award*** has the meaning assigned to such term in Section 4.9(2).

(95) ***Lost Income Award Claim Non-Completeness Determination*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(96) ***Lost Income Awards Cap Amount*** means $162,000.

(97) ***Lost Income Documentation*** means Documentation with respect to lost gross income from wages (including in respect of such lost gross income from wages constituting Specified Lost Wages).

(98) ***Lost Income Fund Amount*** means $162,000.

(99) ***Medical Records*** has the meaning assigned to such term in the form of Product User Claim Form attached hereto as Exhibit 4.4(1).

(100) ***Medical Services*** means medical, paramedical, alternative non-medical treatment, dental, nursing care, counselling, social work, hospital, pharmaceutical or homecare services.

(101) ***Merck Defendants*** means the Merck Parties and the Putative Merck Defendants.

(102) ***Merck-Funded Administrative Expenses Amount*** means $500,000.

(103) ***Merck-Funded Eligible Claimant Amount*** means $3,063,000.

(104) ***Merck Notice of Appeal*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(105) ***Merck Parties*** has the meaning assigned to such term in the preamble.

(106) ***Merck Releasee*** means each of (i) the Merck Defendants (and each Affiliate of any Merck Defendant) and (ii) all other Releasees (the "Releasees" being determined, solely for purposes of this reference thereto, as if the punctuation and phrase ", or any other Merck Releasee or Alendronate Distributor Releasee" set forth in clause (iv) of the definition of the term "Releasees" instead read ", or against any other Alendronate Distributor Releasee,"), past, present and/or future, in any way and/or any time related to any Merck Defendant (or any Affiliate thereof), including, but not limited to: (1) the past, present and/or future parents, subsidiaries, divisions, affiliates or joint venturers of any Merck Defendant (or any Affiliate thereof), including Merck & Co., Inc. (formerly named Schering-Plough Corporation); (2) the respective past, present and/or future predecessors, successors, assigns or transferees (in each case (for the avoidance of doubt), direct or indirect) of any Person described in clause (i) or (ii)(1), including without limitation Merck Frosst Canada Inc.; and (3) the respective past, present and/or future insurers, shareholders (or the equivalent thereto), directors (or the equivalent thereto), officers (or the equivalent thereto), managers, principals, employees, consultants, advisors, attorneys, agents, servants, representatives, heirs, trustees, executors, estate administrators or personal representatives (or the equivalent thereto) of any Merck Defendant (or any Affiliate thereof) or any Person described in clause (i), (ii)(1) or (ii)(2).

(107) ***Non-Merck Defendants*** means the entities set forth under the column entitled "Non-Merck Defendants Named in Action" on Exhibits A, B and C.

(108) ***Non-Merck Releasee*** has the meaning assigned to such term in Section 5.1(2)(a).

(109) ***ONJ*** means osteonecrosis of the jaw.

(110) ***Ontario Class Action*** has the meaning assigned to such term in the preamble.

(111) ***Ontario Court*** means the Ontario Superior Court of Justice.

(112) ***Ontario Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing*** means an order for, among other things, (i) the certification, solely for settlement pursuant to the Settlement Agreement, of the Ontario Class Action as a class action proceeding with respect to the Ontario Settlement Class, and (ii) approval of a notice of a hearing with respect to an Approval Order, all in the Form of Exhibit 3.1(1)(a).

(113) ***Ontario Plaintiffs*** has the meaning assigned to such term in the preamble.

(114) ***Ontario Settlement Approval Order*** means an order of the Ontario Court for, among other things, the approval of the Settlement Agreement and the Approvals Notice, all in the Form of Exhibit 3.1(3)(a).

(115) ***Ontario Settlement Class*** means (i) all persons in Canada (including their estates) other than residents of Saskatchewan or Quebec or Excluded Persons, who were prescribed and ingested Fosamax/Fosavance prior to or on the date of the Ontario Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing, and (ii) all persons who by reason of his or her relationship to a member of the class described in clause (i) are entitled to make claims under any Derivative Claim Statute as a result of the death or personal injury of that class member.

(116) ***Ontario Settlement Class Members*** means each member of the Ontario Settlement Class (including their respective estates), including persons who are minors or are incapable or are under a disability.

(117) ***Opt-In Document*** has the meaning assigned to such term in Section 7.2.

(118) ***Opt-Out*** means, as at any particular date, any Settlement Class Member who (including, for the avoidance of doubt, any deceased Settlement Class Member whose estate) (i) after the date of the Settlement Agreement, has properly and timely opted out (or by operation of Law is deemed to have properly and timely opted out) of any Designated Class Action of which he or she is (or, but for such opt-out, would have been) a member, and (ii) has not either (x) executed and delivered to the Merck Parties a valid Opt-In Document or (y) at any time after the Implementation Commencement Date, executed and delivered to the Claims Administrator a Claim Form. For the avoidance of doubt, for purposes of this definition, the "Settlement Class Members" shall be determined disregarding clause (i) of (and the proviso to) the definition of the term "Excluded Person."

(119) ***Opt-Out Deadline*** has the meaning assigned to such term in Section 7.1.

(120) ***Outside Date*** means the close of business on March 1, 2016 or (if applicable) such later date and time as the Merck Parties may, in their discretion, specify from time to time

as the "Outside Date" by written notice to such effect to Lead Counsel (delivered prior to the Outside Date as in effect prior to delivery of such notice).

(121) ***Parties*** has the meaning assigned to such term in the preamble.

(122) ***Person*** means a natural person, partnership (whether general or limited), limited liability company, trust, estate, association (including any group, organization, co-tenancy, plan, board, council or committee), corporation, Governmental Authority, custodian, nominee, firm, joint venture, First Nation, aboriginal or native group or band, unincorporated organization or any other individual or entity (or series thereof) in its own or any representative capacity, in each case, whether domestic or foreign.

(123) ***Pharmacy Records*** has the meaning assigned to such term in the form of Product User Claim Form attached hereto as Exhibit 4.4(1).

(124) ***Plaintiffs*** has the meaning assigned to such term in the preamble.

(125) ***Plaintiffs' Counsel*** has the meaning assigned to such term in the preamble.

(126) ***PME Records*** has the meaning assigned to such term in the form of Product User Claim Form attached hereto as Exhibit 4.4(1).

(127) ***Point Awards Criteria*** means the criteria, methodologies, formulae, guidelines and other terms and conditions for determining Points awards set forth in Exhibit 4.8(1)(a).

(128) ***Point Value*** means the lesser of (i) the quotient of (x) the Eligible Claimant Amount, divided by (y) the aggregate number of Points awarded to all Finally Determined Eligible Claimants, and (ii) $500.

(129) ***Points*** has the meaning assigned to such term in Section 4.8(1)(a).

(130) ***Points Assessment Process*** has the meaning assigned to such term in Section 4.8(1)(a).

(131) ***Points-Based Award*** has the meaning assigned to such term in Section 4.9(2)(y).

(132) ***Product Identification Documentation*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(133) ***Product User Claimant*** means a Person who has submitted (or on whose behalf there has been submitted) a Product User Claim Form to the Claims Administrator. For the avoidance of doubt, a Counsel to a Person is not (in such capacity) a "Product User Claimant".

(134) ***Product User Claim Form*** means a claim form in the form of Exhibit 4.4(1).

(135) ***Product User Claim Package*** means, with respect to any particular Product User Claimant, (i) the Product User Claim Form submitted by or on behalf of such Product User Claimant, and any records or other documents (including PME Records and Lost Income Documentation) attached thereto or otherwise submitted therewith, and (ii) any Supplemental Claim Form submitted by or on behalf of such Product User Claimant, and any records or other documents (including PME Records and Lost Income Documentation) attached thereto or otherwise submitted therewith.

(136) ***Product Users*** means all persons resident in Canada who were prescribed and ingested Fosamax/Fosavance, whether now living or deceased, other than Excluded Persons.

(137) ***Program Claim*** means the submission of a Claim Package.

(138) ***Program Claim Assessment Completion*** means the final disposition (after the Claims Deadline Date) of all Program Claims (including the making of all Points awards and Tentative Lost Income Grants that will be made pursuant to the Settlement Agreement in respect of all Program Claims), in each case after the expiration of all rights to submit Appeals, and the final resolution of all Appeals made, under the Settlement Agreement, including for the avoidance of doubt that all Points awards or Tentative Lost Income Grants that have been made are, or have (after the expiration of all rights to submit Appeals, and the final resolution of all Appeals made, under the Settlement Agreement) become, Final.

(139) ***Provinces*** means Her Majesty the Queen in Right of each Province and Territory of Canada (including all provincial or territorial Ministers of Health or equivalents, as well as other departments, ministries and where appropriate agents), and all provincial or territorial

plans funding Medical Services and/or purchase of prescription drugs throughout Canada, including the Régie de l'assurance maladie du Québec.

(140) ***Provinces Amount*** means $650,000.

(141) ***Provinces Consent Outside Date*** means the close of business on the seventh day prior to the date established by the Ontario Court for the hearing in the Ontario Court with respect to the issuance of the Ontario Settlement Approval Order, or (if applicable) such later date and time (not later than the Outside Date) as the Merck Parties may, in their discretion, specify from time to time as the "Provinces Consent Outside Date" by written notice to such effect to Lead Counsel (delivered prior to the Outside Date).

(142) ***Provincial Released Claims/Liabilities*** has the meaning assigned to such term in Section 5.2(2)(a).

(143) ***Putative Alberta Class Action*** has the meaning assigned to such term in the preamble.

(144) ***Putative British Columbia Class Action*** has the meaning assigned to such term in the preamble.

(145) ***Putative Merck Defendants*** means any defendant, or any Person purported to be named as a defendant, in any Specified Fosamax/Fosavance-Connected Proceeding (other than the Merck Parties and the Non-Merck Defendants), for the avoidance of doubt notwithstanding that the name of such defendant or purported defendant may not accurately have been set forth in any such Specified Fosamax/Fosavance-Connected Proceeding.

(146) ***Quebec Class Action*** has the meaning assigned to such term in the preamble.

(147) ***Quebec Court*** means the Superior Court of Quebec.

(148) ***Quebec Lead Counsel*** means Sylvestre Fafard Painchaud, S.E.N.C.R.L. (Pierre Sylvestre).

(149) ***Quebec Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing*** means an order for, among other things, (i) the authorization,

solely for settlement pursuant to the Settlement Agreement, of the Quebec Class Action with respect to the Quebec Settlement Class, and (ii) approval of a notice of a hearing with respect to an Approval Order, all in the Form of Exhibit 3.1(1)(b).

(150) ***Quebec Plaintiffs*** has the meaning assigned to such term in the preamble.

(151) ***Quebec Settlement Approval Order*** means an order of the Quebec Court for, among other things, the approval of the Settlement Agreement and the Approvals Notice, all in the Form of Exhibit 3.1(3)(b).

(152) ***Quebec Settlement Class*** means (i) all persons resident in Quebec (including their estates and successors), other than Excluded Persons, who were prescribed and ingested Fosamax/Fosavance prior to or on the date of the Ontario Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing, and (ii) all persons who by reason of his or her relationship to a member of the class described in clause (i) are entitled to make claims under any Derivative Claim Statute as a result of the death or personal injury of that class member.

(153) ***Quebec Settlement Class Members*** means each member of the Quebec Settlement Class (including their respective estates), including persons who are minors or are incapable or are under a disability.

(154) ***Referee*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit.

(155) ***Released Claims/Liabilities*** has the meaning assigned to such term in Section 5.1(1)(a).

(156) ***Releases*** has the meaning assigned to such term in Section 5.1(1)(a). The terms ***Release*** and ***Releasing*** each shall have a correlative meaning.

(157) ***Releasees*** means, in relation to any particular Releasor or Province, each of: (i) (v) the Defendants, (w) without limiting the generality of clause (iii) below, all Alendronate Distributors, (x) all named defendants in any pending Action Connected With Alendronate to which such Releasor (and/or any Derivative Person with respect to such Releasor) is a party,

(y) all those who may have acted in concert with any Person referred to or described in clause (i)(v), (i)(w) or (i)(x) and (z) the respective insurers of each Person referred to or described in clause (i)(v), (i)(w), (i)(x) or (i)(y); (ii) each Person, past, present and/or future, in any way and/or at any time Connected With Alendronate; (iii) all manufacturers, suppliers of materials or distributors, all other Persons involved in the and/or any development, design, manufacture, formulation, testing, distribution, prescribing, dispensing, sale, purchase, use, ingestion, clinical investigation, research, publication of research (or other publication), administration, regulatory approval, regulatory compliance, regulatory submission, advertising, promotion, marketing, communications with medical personnel, labelling and/or product monograph of and/or concerning any product (including, but not limited to, Alendronate and/or any other product or products that such Releasor (and/or, in the case of a Releasor that is a Derivative Person, that the Product User with respect to such Derivative Person) used before, while or after taking Alendronate), all physicians, pharmacists or other healthcare providers, all sales representatives; pharmacies, hospitals or other medical facilities, and all advertisers, in the case of each of the foregoing, whether past, present and/or future; (iv) any Person which might assert a Claim (including but not limited to a claim for damages and/or contribution and/or other relief under the provisions of the *Negligence Act* or other comparable provincial legislation or any amendments thereto, the common law, Quebec civil law, or any other statute) against any Person referred to or described in clause (i), or against any other Merck Releasee or Alendronate Distributor Releasee, in respect of any Claim against such former Person Connected With Alendronate; (v) the respective past, present and/or future parents, subsidiaries, divisions, affiliates or joint venturers of each Person referred to or described in clause (i), (ii), (iii) or (iv), including Merck & Co., Inc. (formerly named Schering-Plough Corporation); (vi) the respective past, present and/or future predecessors, successors, assigns or transferees (in each case (for the avoidance of doubt), direct or indirect) of each Person referred to or described in clause (i), (ii), (iii), (iv) or (v), including without limitation Merck Frosst Canada Inc.; (vii) Health Canada or any other Governmental Authority; and (viii) the respective past, present and/or future shareholders (or the equivalent thereto), directors (or the equivalent thereto), officers (or the equivalent thereto), managers, principals, employees, consultants, advisors, lawyers, insurers, agents, servants, representatives, heirs, trustees, executors, estate administrators, successors, assigns or personal representatives (or the equivalent thereto) of each Person referred to or described in clause (i), (ii), (iii), (iv), (v), (vi) or (vii) (each of the foregoing clauses (i), (ii), (iii),

(iv), (v), (vi), (vii) and (viii) being in addition to, and without limitation of, any other of such clauses).

(158) ***Releasor*** means (i) each Product User and each Derivative Person (in each case regardless of (x) whether or not such Person (or if such Person is a Derivative Person, such Person or the related Product User) submits a Claim Package or receives an Award, or the amount of any Award, or (y) in the case of any Derivative Person, whether or not such Derivative Person is an Eligible Family Member), (ii) the respective successors, heirs, executors, administrators, trustees, assigns or subrogees of each Product User and each Derivative Person and (iii) the respective Affiliates, predecessors, successors or related Persons of each Person described in clause (i) or (ii).

(159) ***Required Orders*** means the Ontario Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing, the Ontario Settlement Approval Order, the Quebec Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing, the Quebec Settlement Approval Order, the Saskatchewan Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing, the Saskatchewan Settlement Approval Order, the Alberta Order for Approval of Notice of Settlement Approval Hearing, the Alberta Settlement Recognition and Enforcement Order, the British Columbia Order for Approval of Notice of Settlement Approval Hearing and the British Columbia Settlement Recognition and Enforcement Order.

(160) ***Required PME Records*** means all of the PME Records and other records or other documentation specified in Section 9 of Part A of the form of Product User Claim Form attached hereto as Exhibit 4.4(1).

(161) ***Saskatchewan Bar Order*** has the meaning assigned to such term in Section 3.1(3)(c).

(162) ***Saskatchewan Class Action*** has the meaning assigned to such term in the preamble.

(163) ***Saskatchewan Court*** means the Court of Queen's Bench of Saskatchewan.

(164) ***Saskatchewan Lead Counsel*** means Merchant Law Group LLP.

(165) ***Saskatchewan Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing*** means an order for, among other things, (i) the certification, solely for settlement pursuant to the Settlement Agreement, of the Saskatchewan Class Action as a class action proceeding with respect to the Saskatchewan Settlement Class, and (ii) approval of a notice of a hearing with respect to an Approval Order, all in the Form of Exhibit 3.1(1)(c).

(166) ***Saskatchewan Plaintiffs*** has the meaning assigned to such term in the preamble.

(167) ***Saskatchewan Settlement Approval Order*** means an order of the Saskatchewan Court for, among other things, (i) the approval of the Settlement Agreement and the Approvals Notice, and (ii) the Saskatchewan Bar Order, all in the Form of Exhibit 3.1(3)(c).

(168) ***Saskatchewan Settlement Class*** means (i) all persons in Canada who were prescribed, purchased or used any Bisphosphonate, such as Fosamax/Fosavance (including their estates), prior to or on the date of the Ontario Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing except the Excluded Persons and members of the Ontario Settlement Class and the Quebec Settlement Class, and (ii) all persons who by reason of his or her relationship to a member of the class described in clause (i) are entitled to make claims under any Derivative Claim Statute as a result of the death or personal injury of that class member.

(169) ***Saskatchewan Settlement Class Members*** means each member of the Saskatchewan Settlement Class (including their respective estates), including persons who are minors or are incapable or are under a disability.

(170) ***Settlement Account*** means an interest bearing trust account under the control of the Claims Administrator at a Schedule 1 chartered Canadian bank.

(171) ***Settlement Agreement or Settlement*** means the agreement to which this Annex A is attached, including the Recitals, Annexes and Exhibits thereto.

(172) ***Settlement Agreement Matters*** means (i) the Settlement Agreement and anything contained therein, and any document related to the Settlement Agreement, (ii) any and all negotiations, documents, discussions, and proceedings associated with the Settlement Agreement or any such other document, (iii) any statement, transaction or proceeding in, or in connection

with the negotiation, execution or implementation of, the Settlement Agreement or any such other document and (iv) any action taken to carry out the Settlement Agreement or any such other document.

(173) ***Settlement Amount*** means the Merck-Funded Eligible Claimant Amount, the Lost Income Fund Amount, the Provinces Amount, the Class Counsel Amount and the Merck-Funded Administrative Expenses Amount.

(174) ***Settlement Class*** means the Ontario Settlement Class, the Quebec Settlement Class or the Saskatchewan Settlement Class.

(175) ***Settlement Class Members*** means, collectively, the Ontario Settlement Class Members, the Quebec Settlement Class Members and the Saskatchewan Settlement Class Members.

(176) ***Settlement Notices*** has the meaning assigned to such term in Section 3.1(4).

(177) ***Special Master*** means any person from time to time appointed by any Class Action Court (based on a joint recommendation of the Merck Parties and Lead Counsel) to assist with administrative tasks related to the Settlement Agreement, including facilitating and coordinating among the various Courts.

(178) ***Specified Alendronate-Connected Proceedings*** has the meaning assigned to such term in Section 3.1(9).

(179) ***Specified Documented Lost Wages*** means, in relation to any particular Product User Claimant, such Product User's Specified Lost Wages, to the extent that such Specified Lost Wages are Documented.

(180) ***Specified Fosamax/Fosavance-Connected Class Actions*** has the meaning assigned to such term in the preamble.

(181) ***Specified Fosamax/Fosavance-Connected Proceedings*** has the meaning assigned to such term in the preamble.

(182) ***Specified Lost Wages*** means, in relation to any particular Product User Claimant, such Product User's past lost gross income from wages (during, and only during, the period specified in the Tentative Lost Income Grants Criteria), to the extent that such lost gross income from wages (i) are a result of such Product User's Eligible Event and (ii) have neither been reimbursed nor are eligible for reimbursement.

(183) ***Supplemental Claim Form*** means a supplemental claim form in the form of Exhibit 4.5(1)-34.

(184) ***Supporting Medical Documentation*** has the meaning assigned to such term in the Claims Administration Procedures Exhibit (including Event Records).

(185) ***Tentative Lost Income Grants*** has the meaning assigned to such term in Section 4.8(3).

(186) ***Tentative Lost Income Grants Criteria*** means the criteria, methodologies, formulae, guidelines and other terms and conditions for determining Tentative Lost Income Grants set forth in Exhibit 4.8(3).

(187) ***Third Party Provider/Payor*** means any provider or payor, in each case public or private, of (i) health, hospital, medical, physician, dental, healthcare and/or pharmaceutical services, products or expenses and/or (ii) any other form of compensation, including federal or provincial Governmental Authorities (or other Persons) providing services (including Medical Services) or benefits.

(188) ***Usage Gate Criteria*** has the meaning assigned to such term in Section 4.7(2)(C).

Exhibits

Exhibit A	Designated Class Actions
Exhibit B	Other Specified Fosamax/Fosavance-Connected Class Actions
Exhibit C	Individual Action
Exhibit D	Other Alendronate-Connected Proceeding
Exhibit 3.1(1)(a)	Ontario Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing
Exhibit 3.1(1)(b)	Quebec Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing
Exhibit 3.1(1)(c)	Saskatchewan Order for Certification for Settlement and Approval of Notice of Settlement Approval Hearing
Exhibit 3.1(1)(d)	Alberta Order for Approval of Notice of Settlement Approval Hearing
Exhibit 3.1(1)(e)	British Columbia Order for Approval of Notice of Settlement Approval Hearing
Exhibit 3.1(1)(f)-1	Hearing/Opt-Out Notice (Long Form)
Exhibit 3.1(1)(f)-2	Hearing/Opt-Out Notice (Short Form)
Exhibit 3.1(2)	Dissemination of Hearing/Opt-Out Notice
Exhibit 3.1(3)(a)	Ontario Settlement Approval Order
Exhibit 3.1(3)(b)	Quebec Settlement Approval Order
Exhibit 3.1(3)(c)	Saskatchewan Settlement Approval Order
Exhibit 3.1(1)(d)	Alberta Settlement Recognition and Enforcement Order
Exhibit 3.1(3)(e)	British Columbia Settlement Recognition and Enforcement Order
Exhibit 3.1(4)-1	Approvals Notice (Long Form)
Exhibit 3.1(4)-2	Approvals Notice (Short Form)
Exhibit 3.1(4)-a	Dissemination of Approvals Notice
Exhibit 4.1(3)(c)	Provinces Amount--Distribution
Exhibit 4.4(1)	Product User Claim Form
Exhibit 4.5(1)	Claims Administration Procedures
Exhibit 4.5(1)-27	Acknowledgement Letter
Exhibit 4.5(1)-29	Notice of Program Claim Disposition Recommendations to Claims Administrator
Exhibit 4.5(1)-33	Deficiency Notice
Exhibit 4.5(1)-34	Supplemental Claim Form
Exhibit 4.5(1)-35	Final Deficiency Notice
Exhibit 4.5(1)-38	Claim Determination Form
Exhibit 4.5(1)-39-A	Claim Determinations Letter (Notice of Product User Claimant's Ineligiblity)
Exhibit 4.5(1)-39-B	Claim Determinations Letter (Notice of Derivative Claimant's Ineligibility)
Exhibit 4.5(1)-39-C	Claim Determinations Letter (Notice to Approved Product User Claimant)
Exhibit 4.5(1)-39-D	Claim Determinations Letter (Notice to Approved Derivative Claimant)
Exhibit 4.5(1)-45-1	Claimant Notice of Appeal
Exhibit 4.5(1)-45-2	Merck Notice of Appeal
Exhibit 4.5(1)-45-3	Response to Appeal
Exhibit 4.5(1)-55	Letter of Final Resolution and Payment

Exhibit 4.7(2)(B)	Event Gate Criteria
Exhibit 4.7(2)(C)	Usage Gate Criteria
Exhibit 4.8(1)(a)	Point Awards Criteria
Exhibit 4.8(2)	Points Awards to Finally Determined Eligible Derivative Program Claimants
Exhibit 4.8(2)-a	Finally Determined Eligible Derivative Claimant Points Calculation Report
Exhibit 4.8(3)	Tentative Lost Income Grants Criteria
Exhibit 5.2(1)	Consent of Provinces
Exhibit 7.1	Opt-Out Form
Exhibit 7.2	Opt-In Document

EXHIBIT A

DESIGNATED CLASS ACTIONS
(In Alphabetical Order by Case Name)

Plaintiffs	Plaintiffs' Law Firm	Merck Defendants Named in Action	Non-Merck Defendants Named in Action	Action
Fiona Peters and Andrew Peters	McKenzie Lake Lawyers LLP	Merck Frosst Canada Ltd., Merck Frosst Canada & Co., Merck & Co. Inc.		Peters et al. v. Merck Frosst Canada Ltd. et al., Court File No. 07-CV-333698CP, Ontario Superior Court of Justice
Dorothy Macmillan and Elsie Klepskh	Merchant Law Group LLP	Merck Frosst Canada & Co., Merck Frosst Canada Ltd., Merck Sharp & Dohme Corp. and Merck & Co. Inc.	Bayer Inc., Novartis Pharmaceuticals Corp., Novartis Pharmaceuticals Corp., Novartis International AG, Procter & Gamble Pharmaceuticals Canada, Inc., Procter & Gamble Pharmaceuticals Inc., The Procter & Gamble Company, Hoffman-La Roche Limited, Hoffman-La Roche Inc., F. Hoffmann-La Roche AG, Warner Chilcott Canada Co., Warner Chilcott Pharmaceuticals Inc., Warner Chilcott PLC, Apotex Inc., Cobalt Pharmaceuticals Inc., Mylan Pharmaceuticals ULC, Pharmascinece Inc., Sandoz Canada Inc., and Teva Canada Limited	MacMillan et al. v. Merck Frosst Canada & Co. et al., Q.B. No. 2313 (2010), Court of Queen's Bench of Saskatchewan

Plaintiffs	Plaintiffs' Law Firm	Merck Defendants Named in Action	Non-Merck Defendants Named in Action	Action
Option consommateurs, Petitioner and Nicole Brousseau, Designated Person	Sylvestre Fafard Painchaud, LLP	Merck Frosst Canada Limitée and Merck & Co. Inc.		Option consommateurs and Nicole Brousseau v. Merck Frosst Canada Limitée et al., No: 500-06-000679-130, Superior Court of Quebec

EXHIBIT B

OTHER SPECIFIED FOSAMAX-CONNECTED CLASS ACTIONS
(In Alphabetical Order by Case Name)

Plaintiffs	Plaintiffs' Law Firm	Merck Defendants Named in Action	Non-Merck Defendants Named in Action	Action
Gabrielle Marcano and Lyle Irving Folkestad	Klein Lyons Pihl Law Corporation	Merck Frosst Canada Ltd., Merck Frosst Canada & Co., Merck & Co. Inc.	Procter & Gamble Pharmaceuticals Canada, Inc. and Procter and Gamble Inc.	Marcano et al. v. Merck Frosst Canada Ltd. et al., No. S073863, Supreme Court of British Columbia
Helen Markovich, Diane Soucy and Rita Collins	Merchant Law Group LLP	Merck Frosst Canada & Co., Merck Frosst Canada Ltd., Merck Sharp & Dohme Corp. and Merck & Co. Inc.	Novartis Pharmaceuticals Canada Inc., Novartis Pharmaceuticals Corp., Novartis International AG, Procter & Gamble Pharmaceuticals Canada, Inc., Procter & Gamble Pharmaceuticals Inc., Procter & Gamble Company, Warner Chilcott Canada Co., Warner Chilcott Pharmaceuticals Inc. and Warner Chilcott PLC	Markovich et al. v. Merck Frosst Canada & Co. et al., No. 1001-14447, Court of Queen's Bench of Alberta

EXHIBIT C

INDIVIDUAL ACTION

Plaintiff	Plaintiff's Law Firm	Merck Defendants Named in Action	Non-Merck Defendants Named in Action	Action
Bernice Degrace	Grillone Law Firm	Merck Frosst Canada Ltd., Merck Frosst Canada & Co. and Merck & Co. Inc.		Degrace v. Merck Frosst Canada Ltd. et al., Court File No. CV-10-410196, Ontario Superior Court of Justice

EXHIBIT D

OTHER ALENDRONATE-CONNECTED PROCEEDING

Plaintiff	Plaintiff's Law Firm	Merck Defendants Named in Action	Non-Merck Defendants Named in Action	Action
Colette Joly Goulet	Merchant Law Group LLP	None	Novartis Pharma Canada Inc., Novartis Pharmaceuticals Corp., Novartis International AG, Procter & Gamble Pharmaceuticals Canada Inc., Procter & Gamble Pharmaceuticals Inc., The Procter & Gamble Company, Warner Chilcott Canada Co., Warner Chilcott Pharmaceuticals Inc., and Warner Chilcott PLC	Goulet v. Novartis Pharma Canada Inc., et al., Court File No. 500-06-000523-106, Superior Court of Quebec, District of Montreal

EXHIBIT 3.1(1)(a)

ONTARIO ORDER FOR CERTIFICATION FOR SETTLEMENT AND APPROVAL OF NOTICE OF SETTLEMENT APPROVAL HEARING

Court File No. 07-CV-333698CP

(ONTARIO)

SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	, THE DAY
	)	
JUSTICE	)	OF , 2015

BETWEEN:

FIONA PETERS and ANDREW PETERS

Plaintiffs

- and -

MERCK FROSST CANADA LTD., MERCK FROSST CANADA & CO.

and MERCK & CO., INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION made by the Plaintiffs for an order, *inter alia*, certifying this action as a class proceeding for the purposes of settlement only; and approving the form of the notice that will advise class members of the hearing to approve the proposed settlement of this matter and of the time and

manner by which they may opt out of this proceeding, as well as the manner of publication of such notice, was heard at the Court House, 130 Queen Street West, Toronto, Ontario.

UPON READING the materials filed, including the Settlement Agreement attached hereto as Schedule "A," and on hearing the submissions of Lead Counsel and counsel for the Defendants:

1. **THIS COURT ORDERS** that for the purposes of this Order the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that this action be and is hereby certified as a class proceeding for settlement purposes only.

3. **THIS COURT ORDERS** that the Ontario Settlement Class is defined as:

   (a) all persons in Canada (including their estates) other than residents of Saskatchewan or Quebec or Excluded Persons, who were prescribed and ingested Fosamax and/or Fosavance prior to or on the date of this Order; and

   (b) all persons who by reason of his or her relationship to a member of the class described in paragraph (a) are entitled to make claims under any Derivative Claim Statute as a result of the death or personal injury of that class member.

4. **THIS COURT ORDERS** that Fiona Peters and Andrew Peters be and are appointed as the representative plaintiffs for the Ontario Settlement Class.

5. **THIS COURT ORDERS** that McKenzie Lake Lawyers LLP be and are hereby appointed as Lead Counsel.

6. **THIS COURT ORDERS** that the following issue is common to the Ontario Settlement Class:

   Were the Merck Defendants negligent in the manufacture, marketing or distribution of Fosamax and/or Fosavance?

7. **THIS COURT ORDERS** that all members of the Ontario Settlement Class who wish to opt out of the action, and thereby preserve their claims, if any, must elect not to file any Product User or

Derivative Claimant Claim Form under the Settlement Agreement and must mail a fully-completed and executed Opt-Out Form to the Hearings Notice Administrator which, to be effective, must be received or postmarked within thirty (30) days following first publication of the Hearing/Opt-Out Notice (Short Form) (Schedule B to this Order). No further opportunity to opt out of this action will be provided. Opt-Outs shall not be entitled to participate or have the opportunity to participate in the future in this action, shall not be entitled to any payments under the Settlement Agreement, and shall not be entitled to appear at any hearing or object to the settlement of this action or the Settlement Agreement.

8. **THIS COURT ORDERS** that if an Ontario Settlement Class Member described in paragraph 3(a) above (a "Product User") opts out, the related Ontario Settlement Class Members described in paragraph 3(b) ("Derivative Persons") shall be deemed to have also opted out of this class action.

9. **THIS COURT ORDERS** that a Derivative Person may not opt out of this class action unless the related Product User has validly and timely opted out.

10. **THIS COURT ORDERS** that no person may opt out a minor or mentally incapable Ontario Settlement Class Member without the permission of the Court after notice to the Children's Lawyer and/or the Public Guardian and Trustee, as the case may be.

11. **THIS COURT ORDERS** that the form and content of the Hearing/Opt-Out Notice, substantially in the form attached as Schedule "B" (Short Form) and Schedule "C" (Long Form) be and are hereby approved.

12. **THIS COURT ORDERS** that the Opt-Out Form be and is hereby approved substantially in the form attached hereto as Schedule "D".

13. **THIS COURT ORDERS** that the proposed manner of publishing the Hearing/Opt-Out Notice substantially as described in Schedule "E" be and is hereby approved (the "Notice Plan").

14. **THIS COURT ORDERS** that the Hearing/Opt-Out Notice and Notice Plan constitute fair and reasonable notice to the Settlement Class of the hearing in which the Plaintiffs will seek the Ontario Settlement Approval Order (the "Approval Hearing"), the right to opt-out of this proceeding, and the

right of Settlement Class Members to object to the settlement, and satisfies the requirements of sections 17, 19-21 and 29 of the *Class Proceedings Act* ("CPA").

15. **THIS COURT ORDERS** that • is appointed as Hearings Notice Administrator to carry out the Notice Plan and to receive any Opt-Out Forms or objections submitted, as well as to carry out the other functions, roles and responsibilities of the Hearings Notice Administrator contemplated in the Settlement Agreement, subject always to the terms and conditions of the Settlement Agreement, including the further Orders of this Court, as contemplated therein.

16. **THIS COURT ORDERS** that • is appointed as a Special Master to carry out the functions, roles and responsibilities of the Special Master contemplated in the Settlement Agreement, subject always to the terms and conditions of the Settlement Agreement, including the further Orders of this Court, as contemplated therein.

17. **THIS COURT ORDERS** that the Hearing/Opt-Out Notice shall be given to Settlement Class Members in the manner described in the Notice Plan as soon as practicable.

18. **THIS COURT ORDERS** that, within twenty (20) days after the expiration of the opt-out period, the Hearings Notice Administrator shall report to Lead Counsel and counsel for the Defendants by affidavit and advise as to the names and addresses of any Opt-Outs, the reasons for their opting out, if known, and a copy of all information provided by that Opt-Out (including a copy of the Opt-Out Form executed and delivered by such Opt-Out).

19. **THIS COURT ORDERS** that Ontario Settlement Class Members may submit written objections to the approval of the Settlement Agreement before the deadline set out in the Hearing/Opt-Out Notice to the Hearings Notice Administrator, who shall file all such submissions with the Court prior to the Approval Hearing. Ontario Settlement Class Members (or their counsel) who do not file a written objection and indicate that they (or their counsel) intend to appear at the Approval Hearing may not be entitled to appear and raise any objection at the Approval Hearing, at the Court's discretion.

20. **THIS COURT ORDERS** that the Hearings Notice Administrator shall provide copies of all objections received to Lead Counsel and the Defendants' counsel no later than 21 days prior to the Approval Hearing.

21. **THIS COURT ORDERS** that the costs and fees of the Hearings Notice Administrator and Special Master payable pursuant to the Settlement Agreement shall be paid by Merck Canada Inc. (formerly named Merck Frosst Canada Ltd.) on behalf of the Defendants and shall (if the Settlement Agreement is approved) be treated as partial payment of the Merck-Funded Administrative Expenses Amount.

22. **THIS COURT ORDERS** that if the Settlement Agreement is terminated in accordance with its terms, then, without restricting the application of the provisions of the Settlement Agreement:

(a) this Order, including the certification of this action as a class proceeding for settlement, shall be set aside and be of no further force or effect and without prejudice to any party, and this action shall be decertified as a class proceeding pursuant to section 10 of the CPA without prejudice to the Plaintiffs' ability to reapply for certification and the Defendants' ability to oppose such application for certification; and

(b) all negotiations, statements and proceedings relating to the Settlement Agreement shall be deemed to be without prejudice to the rights of the Parties, and the Parties shall be deemed to be restored to their respective positions existing immediately before the Settlement Agreement was executed.

_____

Justice
Ontario Superior Court of Justice

EXHIBIT 3.1(1)(b)

QUEBEC ORDER FOR CERTIFICATION FOR SETTLEMENT AND APPROVAL OF NOTICE OF SETTLEMENT APPROVAL HEARING

SUPERIOR COURT
(Class Action Division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N° 500-06-000679-130

DATE:

PRESIDING:

OPTION CONSOMMATEURS

PETITIONER

-and-

NICOLE BROUSSEAU

DESIGNATED PERSON

v.

MERCK FROSST CANADA LIMITÉE

-and-

MERCK & CO. INC.

RESPONDENTS

JUDGMENT

1. WHEREAS the Petitioners have filed a motion seeking an order, *inter alia*, authorizing a class action for the purposes of settlement only; and approving the form of the notice that will advise class members of the hearing to approve the proposed settlement of this matter and of the time and manner by which they may opt out of this proceeding, as well as the manner of publication of such notice.

2. And on reading the materials filed, including the Settlement Agreement attached as Schedule "A", the Affidavit of *, the Hearing/Opt-Out Notice and the Notice Plan, and on hearing the submissions of counsel for the Petitioners, Lead Counsel and the Defendants:

FOR THESE REASONS, THE COURT:

3. **DECLARES** that for the purposes of this Order the definitions set out in the Settlement Agreement apply to and are incorporated into this Order;

4. **AUTHORIZES** the institution of the class action for settlement purposes only;

5. **GRANTS** to Nicole Brousseau the status of designated representative for the purpose of instituting a class action for the benefit of the following Quebec Settlement Class:

   a. all persons resident in Quebec (including their estates and successors), other than Excluded Persons, who were prescribed and ingested Fosamax and/or Fosavance prior to or on **[date of first certification for settlement]**; and

   b. all persons who by reason of his or her relationship to a member of the class described in paragraph (a) are entitled to make claims under any Derivative Claim Statute as a result of the death or personal injury of that class member;

6. **IDENTIFIES** the following issue as common to the Quebec Settlement Class:

   Were the Merck Defendants negligent in the manufacture, marketing or distribution of Fosamax and/or Fosavance?

7. **ORDERS** that all members of the Quebec Settlement Class who wish to opt out of the action, and thereby preserve their claims, if any, must elect not to file any Product User or Derivative Claimant Claim Form under the Settlement Agreement and must mail a fully-completed and executed Opt-Out Form to the Hearings Notice Administrator which, to be effective, must be received or postmarked within thirty (30) days following first publication of the Hearing/Opt-Out Notice (Short Form) (Schedule C to this Order). No further opportunity to opt out of this action will be provided. Opt-Outs shall not be entitled to participate or have the opportunity to participate in the future in this action, shall not be entitled to any payments under the Settlement Agreement, and shall not be entitled to appear at any hearing or object to the settlement of this action or the Settlement Agreement;

8. **DECLARES** that if a Quebec Settlement Class Member described in paragraph 5(a) above (a "Product User") opts out, the related Quebec Settlement Class Members described in paragraph 5(b) ("Derivative Person") shall be deemed to have also opted out of this class action;

9. **DECLARES** that a Derivative Person may not opt out of this class action unless the related Product User has validly and timely opted out;

10. **ORDERS** that the motion to approve the Settlement Agreement shall be heard on •, at 10:00 a.m. at the Court House, Montreal, Quebec (the "Approval Hearing");

11. **APPROVES** the plan of dissemination of the notice substantially in the manner described in Schedule "B" (the "Notice Plan");

12. **APPROVES** the form and content of the Hearing/Opt-Out Notice, substantially in the form attached to the Judgment as Schedule "C" (Short Form) and Schedule "D" (Long Form), which shall be mailed/distributed as set forth in the Notice Plan;

13. **APPROVES** the Opt-Out Form substantially in the form attached to the Judgment as Schedule "E";

14. **APPROVES** • as Hearings Notice Administrator to carry out the Notice Plan and to receive any Opt-Out Forms or objections submitted by Quebec Settlement Class Members, as well as to carry out the other functions, roles and responsibilities of the Hearings Notice Administrator contemplated in the Settlement Agreement, subject always to the terms and conditions of the Settlement Agreement, including the further Orders of this Court, as contemplated therein;

15. **APPROVES** • as Special Master to carry out the functions, roles and responsibilities of the Special Master contemplated in the Settlement Agreement, subject always to the terms and conditions of the Settlement Agreement including the further Orders of this Court, as contemplated therein;

16. **ORDERS** that, within twenty (20) days after the expiration of the opt-out period, the Hearings Notice Administrator shall report to Lead Counsel and counsel for the Defendants by affidavit and advise as to the names and addresses of any Opt-Outs, the reasons for their opting out, if

known, and a copy of all information provided by that Opt-Out (including a copy of the Opt-Out Form executed and delivered by such Opt-Out);

17. **ORDERS** that Quebec Settlement Class Members may submit written objections to the approval of the Settlement Agreement before the deadline set out in the Hearing/Opt-Out Notice to the Hearings Notice Administrator, who shall file all such submissions with the Court prior to the Approval Hearing. Quebec Settlement Class Members (or their counsel) who do not file a written objection and indicate that they (or their counsel) intend to appear at the Approval Hearing may not be entitled to appear and raise any objection at the Approval Hearing, at the Court's discretion;

18. **ORDERS** that the Hearings Notice Administrator shall provide copies of all objections received to Lead Counsel and the Defendants' counsel no later than 21 days prior to the Approval Hearing;

19. **ORDERS** that the costs and fees of the Hearings Notice Administrator and Special Master payable pursuant to the Settlement Agreement shall be paid by Merck Canada Inc. (formerly named Merck Frosst Canada Ltd.) on behalf of the Defendants and shall (if the Settlement Agreement is approved) be treated as partial payment of the Merck-Funded Administrative Expenses Amount; and

20. **ORDERS** that if the Settlement Agreement is terminated in accordance with its terms, then, without restricting the application of the provisions of the Settlement Agreement:

    a. this Order, including the authorization of this action for settlement, shall be set aside and be of no further force or effect and without prejudice to any party, and this action shall be dismissed without prejudice to the Plaintiffs' ability to bring a new motion for authorization and the Defendants' ability to oppose such motion for authorization; and

    b. all negotiations, statements and proceedings relating to the Settlement Agreement shall be deemed to be without prejudice to the rights of the Parties with respect to Quebec, and the Parties shall be deemed to be restored to their respective positions with respect to Quebec existing immediately before the Settlement Agreement was executed;

21. **THE WHOLE**, without costs.

EXHIBIT 3.1(1)(c)

SASKATCHEWAN ORDER FOR CERTIFICATION FOR SETTLEMENT AND APPROVAL OF NOTICE OF SETTLEMENT APPROVAL HEARING

Q.B. No. 2313 (2010)

IN THE QUEEN'S BENCH
JUDICIAL CENTRE OF SASKATOON

B E T W E E N :

DOROTHY MACMILLAN and ELSIE KLEPSKH

Plaintiffs

- and -

BAYER INC., MERCK FROSST CANADA & CO., MERCK FROSST CANADA LTD., MERCK SHARP & DOHME CORP., MERCK & CO., INC., NOVARTIS PHARMACEUTICALS CANADA INC., NOVARTIS PHARMACEUTICALS CORP., NOVARTIS INTERNATIONAL AG, PROCTER & GAMBLE PHARMACEUTICALS CANADA INC., PROCTER & GAMBLE PHARMACEUTICALS INC., THE PROCTER & GAMBLE COMPANY, HOFFMAN-LA ROCHE LIMITED, HOFFMAN-LA ROCHE INC., F. HOFFMAN-LA ROCHE AG, WARNER CHILCOTT CANADA CO., WARNER CHILCOTT PHARMACEUTICALS INC., WARNER CHILCOTT PLC, APOTEX INC., COBALT PHARMACEUTICALS INC., MYLAN PHARMACEUTICALS ULC, PHARMASCINECE INC., SANDOZ CANADA INC., TEVA CANADA LIMITED

Defendants

Brought under *The Class Actions Act*, 2001, S.S. c. C-12.01

BEFORE THE HONOURABLE) ON DAY, THE

ORDER

UPON THE APPLICATION of the Plaintiffs pursuant to *The Class Actions Act*, S.S. 2001, c. C-12.01, as amended (the "CAA") and the inherent jurisdiction of the Court for an Order:

(a) certifying this action as a class proceeding for the purposes of settlement only;

(b) providing conditional approval of the terms and conditions of the settlement of this action and other proceedings related to the Bisphosphonates of the Merck Defendants as outlined in the Settlement Agreement dated April 10, 2015 attached to this Order as Schedule "A" (the "Settlement Agreement"), and in particular:

(i) approving the form of the notice that will advise class members of the hearing to approve the proposed settlement of this matter and of the time and manner by which they may opt out of this proceeding, as well as the manner of publication of such notice, and matters incidental thereto; and

(ii) fixing the time date and place of the hearing seeking final approval of the Settlement Agreement.

AND UPON HAVING READ:

(a) Notice of Motion dated ●, 2015;

(b) Affidavit of ●;

(c) Consent of ● consenting to being appointed as the Hearings Notice Administrator to, *inter alia*, disseminate the notice pursuant to this Order; and

(d) A draft of this Order.

AND UPON BEING ADVISED that:

(a) The plaintiffs in this and other actions and the Merck Defendants, by their counsel, have entered into a Settlement Agreement; and

(b) The Merck Defendants have consented to the terms of this Order, and the other defendants have not objected to the terms of this Order.

AND UPON HEARING:

(a) Counsel for the Plaintiffs;

(b) Lead Counsel; and

(c) Counsel for the Defendants;

IT IS HEREBY ORDERED AND DECLARED that:

1. For the purposes of this Order the definitions set out in the Settlement Agreement apply to and are incorporated into this Order;

2. This action is hereby certified as a class proceeding for settlement purposes only, against the Merck Defendants only, on behalf of the following Saskatchewan Settlement Class:

   (a) all persons in Canada who were prescribed, purchased or used any Bisphosphonate, such as Fosamax and/or Fosavance (including their estates), prior to or on **[date of first certification for settlement]** except the Excluded Persons and members of the Ontario Settlement Class and the Quebec Settlement Class; and

   (b) all persons who by reason of his or her relationship to a member of the class described in paragraph (a) are entitled to make claims under any Derivative Claim Statute as a result of the death or personal injury of that class member;

3. Dorothy MacMillan and Elsie Klepskh are appointed as the representative plaintiffs for the Saskatchewan Settlement Class;

4. Merchant Law Group is hereby appointed as class counsel for the Saskatchewan Settlement Class;

5. The following issue is common to the Saskatchewan Settlement Class:

   Were the Merck Defendants negligent in the manufacture, marketing or distribution of Fosamax and/or Fosavance?

6. This Order, including the certification against the Merck Defendants for settlement and the definitions of the Saskatchewan Settlement Class and the common issue for the Saskatchewan Settlement Class, is without prejudice to any position that the other Defendants may take in the

future with respect to certification, the proposed class definition or any proposed common issue(s) with respect to them;

7. The Settlement Agreement in its entirety is approved and incorporated by reference into this Order, subject to the Final Judgment and Order of this Court following the motion for final approval of the Settlement Agreement, which shall be heard on •, at * a.m. at the Court House, Saskatoon, Saskatchewan (the "Approval Hearing");

8. The Approval Hearing will be conducted:

   (a) to determine whether the Settlement Agreement is fair, reasonable, and in the best interests of the Saskatchewan Settlement Class and therefore is finally approved pursuant to section 38 of the CAA;

   (b) to enter an order of dismissal of this proceeding with prejudice and without costs effective upon the 30th day after the Award Payments Trigger Date;

   (c) to approve the Release of the Released Claims/Liabilities as specified in the Settlement Agreement; and

   (d) to rule on such other matters as the Court may deem appropriate;

9. All members of the Saskatchewan Settlement Class who wish to opt out of the action pursuant to section 18 of the CAA, and thereby preserve their claims, if any, must elect not to file any Product User or Derivative Claimant Claim Form under the Settlement Agreement and must mail a fully-completed and executed Opt-Out Form to the Hearings Notice Administrator and the Clerk of the Court which, to be effective, must be received or postmarked within thirty (30) days following first publication of the Hearing/Opt-Out Notice (Short Form) (Schedule B to this Order). No further opportunity to opt out of this action will be provided. Opt-Outs shall not be entitled to participate or have the opportunity to participate in the future in this action, shall not be entitled to any payments under the Settlement Agreement, and shall not be entitled to appear at any hearing or object to the settlement of this action or the Settlement Agreement;

10. If a Saskatchewan Settlement Class Member described in paragraph 2(a) above (a "Product User") opts out, the related Saskatchewan Settlement Class Members described in paragraph 2(b) ("Derivative Person") shall be deemed to have also opted out of this class action;

11. A Derivative Person may not opt out of this class action unless the related Product User has validly and timely opted out;

12. No person may opt out a minor or mentally incapable Saskatchewan Settlement Class Member without the permission of the Court after notice to the Public Guardian and Trustee;

13. The form and content of the Hearing/Opt-Out Notice, substantially in the form attached as Schedule "B" (Short Form) and Schedule "C" (Long Form) are hereby approved;

14. The Opt-Out Form is hereby approved substantially in the form attached hereto as Schedule "D";

15. The proposed manner of publishing the Hearing/Opt-Out Notice is hereby approved substantially as described in Schedule "E" (the "Notice Plan");

16. The Hearing/Opt-Out Notice and Notice Plan constitute fair and reasonable notice to the Settlement Class of the Approval Hearing, the right to opt-out of this proceeding and of Settlement Class Members' right to object to the settlement;

17. • is appointed as Hearings Notice Administrator to carry out the Notice Plan and to receive any Opt-Out Forms or objections submitted, as well as to carry out the other functions, roles and responsibilities contemplated in the Settlement Agreement, subject always to the terms and conditions of the Settlement Agreement, including the further Orders of this Court, as contemplated therein;

18. • is appointed as a Special Master to carry out the functions, roles and responsibilities of the Special Master contemplated in the Settlement Agreement, subject always to the terms and conditions of the Settlement Agreement, including the further Orders of this Court, as contemplated therein.

19. The Hearing/Opt-Out Notice shall be given to Settlement Class Members in the manner described in the Notice Plan as soon as practicable;

20. Within twenty (20) days after the expiration of the opt-out period, the Hearings Notice Administrator shall report to Lead Counsel and counsel for the Merck Defendants by affidavit and advise as to the names and addresses of any Opt-Outs, the reasons for their opting out, if known, and a copy of all information provided by that Opt-Out (including a copy of the Opt-Out Form executed and delivered by such Opt-Out);

21. Saskatchewan Settlement Class Members may submit written objections to the approval of the Settlement Agreement before the deadline set out in the Hearing/Opt-Out Notice to the Hearings Notice Administrator, who shall file all such submissions with the Court prior to the Approval Hearing. Saskatchewan Settlement Class Members (or their counsel) who do not file a written objection and indicate that they (or their counsel) intend to appear at the Approval Hearing may not be entitled to appear and raise any objection at the Approval Hearing, at the Court's discretion;

22. The Hearings Notice Administrator shall provide copies of all objections received to Lead Counsel and the Merck Defendants' counsel no later than 21 days prior to the Approval Hearing;

23. The costs and fees of the Hearings Notice Administrator and Special Master payable pursuant to the Settlement Agreement shall be paid by Merck Canada Inc. (formerly named Merck Frosst Canada Ltd.) on behalf of the Merck Defendants and shall (if the Settlement Agreement is approved) be treated as partial payment of the Merck-Funded Administrative Expenses Amount; and

24. If the Settlement Agreement is terminated in accordance with its terms, then, without restricting the application of the provisions of the Settlement Agreement:

    (a) this Order, including the certification of this action as a class proceeding for settlement, shall be set aside and be of no further force or effect and without prejudice to any party, and this action shall be decertified as a class proceeding pursuant to Section 12 of the

CAA without prejudice to the Plaintiffs' ability to reapply for certification and the Defendants' ability to oppose such application for certification; and

(b) all negotiations, statements and proceedings relating to the Settlement Agreement shall be deemed to be without prejudice to the rights of the Parties, and the Parties shall be deemed to be restored to their respective positions existing immediately before the Settlement Agreement was executed.

ISSUED at Saskatoon, Saskatchewan, this day of ■, 2015.

_____

Local Registrar

TO: [list parties and counsel]

EXHIBIT 3.1(1)(d)

ALBERTA ORDER FOR APPROVAL OF NOTICE OF SETTLEMENT APPROVAL HEARING

Form 47
[Rule 10.51]

Clerk's stamp:

COURT FILE NUMBER	**1001-14447**
COURT	**COURT OF QUEEN'S BENCH OF ALBERTA**
JUDICIAL CENTRE	**CALGARY**
PLAINTIFF(S)	**HELEN MARKOVICH, DIANE SOUCY, AND RITA COLLINS**
DEFENDANTS	**MERCK FROSST CANADA & CO., MERCK FROSST CANADA LTD., MERCK SHARP & DOHME CORP., MERCK & CO., INC., NOVARTIS PHARMACEUTICALS CANADA INC., NOVARTIS PHARMACEUTICALS CORP., NOVARTIS INTERNATIONAL AG, PROCTER & GAMBLE PHARMACEUTICALS CANADA INC., PROCTER & GAMBLE PHARMACEUTICALS INC., THE PROCTER & GAMBLE COMPANY, WARNER CHILCOTT CANADA CO., WARNER CHILCOTT PHARMACEUTICALS INC., AND WARNER CHILCOTT PLC**
	Brought under the *Class Proceedings Act*
DOCUMENT	**ORDER**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**Merchant Law Group** **c/o McKenzie Lake Lawyers LLP** **140 Fullarton Street, Suite 1800** **London, ON N6A 5P2 Canada** **Attention: Michael J. Peerless, Partner** **Telephone/Facsimile:**

DATE ON WHICH ORDER WAS PRONOUNCED: , 2015

LOCATION WHERE ORDER WAS PRONOUNCED: CALGARY

NAME OF JUDGE WHO MADE THIS ORDER: JUSTICE

ORDER

UPON THE APPLICATION of the Plaintiffs; AND UPON having heard representations of the Plaintiffs and the Merck Defendants; AND UPON reading the materials filed herein;

AND WHEREAS the above-styled proceeding was commenced in Alberta;

AND WHEREAS all members of the putative class in this proceeding are also members of putative class actions commenced in Ontario and/or Saskatchewan;

AND WHEREAS on April 10, 2015, a national settlement agreement (the "Settlement Agreement") was reached;

AND WHEREAS the Settlement Agreement is conditional upon recognition and enforcement by this Court of Approval Orders to be sought in Ontario and Saskatchewan, and requires the dismissal against the Merck Defendants of any Alendronate-Connected Proceedings brought by a Releasor in Alberta, including this proceeding;

IT IS HEREBY ORDERED THAT:

1. For the purposes of this Order the definitions set out in the Settlement Agreement, which is attached as Schedule A, apply to and are incorporated into this Order;

2. The form and content of the Hearing/Opt-Out Notice, substantially in the form attached as Schedule B (Short Form) and Schedule C (Long Form), are approved;

3. The proposed manner of publishing the Hearing/Opt-Out Notice is hereby approved substantially as described in Schedule D (the "Notice Plan");

4. The Hearing/Opt-Out Notice and Notice Plan constitute fair and reasonable notice to Settlement Class Members in Alberta of the settlement approval hearings to be heard by the Ontario

Superior Court of Justice and the Court of Queen's Bench of Saskatchewan (the "Ontario Hearing" and "Saskatchewan Hearing", respectively), of the right to opt-out of the Settlement Class, of the right to object to the settlement and of the hearing to be held by this Court relating to recognition and enforcement of the Ontario and Saskatchewan Settlement Approval Orders by this Court and the dismissal of all Alendronate-Connected Proceedings brought by any Releasor against any Releasee in Alberta, including dismissal of this proceeding against the Merck Defendants (the "Alberta Hearing");

5. No further notice of the Ontario, Saskatchewan or Alberta Hearings shall be required.

Justice of the Court of Queen's Bench of Alberta

EXHIBIT 3.1(1)(e)

BRITISH COLUMBIA ORDER FOR APPROVAL OF NOTICE OF SETTLEMENT APPROVAL HEARING

No. S073863
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

GABRIELLE MARCANO and LYLE IRVING FOLKESTAD

PLAINTIFFS

AND:

MERCK FROSST CANADA LTD., MERCK FROSST CANADA & CO., MERCK & CO., INC., PROCTER & GAMBLE PHARMACEUTICALS CANADA, INC. and PROCTER & GAMBLE INC.

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, C. 50

ORDER

BEFORE	THE HONOURABLE JUSTICE	●/●/2015

ON THE APPLICATION of the Plaintiff

[X] Coming on for hearing at ● a.m. in Vancouver on ●/●/2015 and on hearing counsel for the Plaintiff and counsel for the Defendants;

WHEREAS the above-styled proceedings were commenced in British Columbia;

WHEREAS all members of the putative class in this proceeding are also members of putative class actions commenced in Ontario and Saskatchewan;

WHEREAS on April 10, 2015, a national settlement agreement (the "Settlement Agreement") was reached;

WHEREAS the Settlement Agreement is conditional upon recognition and enforcement by this Court of the Approval Orders to be sought in Ontario and Saskatchewan, and requires the dismissal against the Merck Defendants of any Alendronate-Connected Proceedings brought by a Releasor in British Columbia, including this proceeding;

THIS COURT ORDERS that:

1. For the purposes of this Order the definitions set out in the Settlement Agreement, which is attached as Schedule A, apply to and are incorporated into this Order;

2. The form and content of the Hearing/Opt-Out Notice, substantially in the form attached as Schedule B (Short Form) and Schedule C (Long Form), are approved;

3. The proposed manner of publishing the Hearing/Opt-Out Notice is hereby approved substantially as described in Schedule D (the "Notice Plan");

4. The Hearing/Opt-Out Notice and Notice Plan constitute fair and reasonable notice to Settlement Class Members in British Columbia of the settlement approval hearings to be heard by the Ontario Superior Court of Justice and the Court of Queen's Bench of Saskatchewan (the "Ontario Hearing" and "Saskatchewan Hearing", respectively), of the right to opt-out of the Settlement Class, of the right to object to the settlement and of the hearing to be held by this Court relating to recognition and enforcement of the Ontario and Saskatchewan Settlement Approval Orders by this Court and the dismissal of all Alendronate-Connected Proceedings brought by any Releasor against any Releasee in British Columbia, including dismissal of this proceeding against the Merck Defendants (the "British Columbia Hearing");

5. No further notice of the Ontario, Saskatchewan or British Columbia Hearings shall be required.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS NOTED ABOVE:

APPROVED AS TO FORM:

_____

_____

Counsel for the Plaintiff

_____

_____

Counsel for the Defendants

BY THE COURT

Registrar

EXHIBIT 3.1(1)(f)-1

HEARING/OPT-OUT NOTICE (LONG FORM)

Court Authorized Notice of Certification of Bisphosphonate Class Actions for Settlement relating to Fosamax and Fosavance and Right to Opt Out

Hearings are to be held on dates specified hereinbelow.

Read this notice carefully as it may affect your rights.

TO ALL PERSONS IN CANADA WHO USED BISPHOSPHONATE DRUGS AND THEIR FAMILIES

Class proceeding lawsuits have been initiated in several provinces in relation to the ingestion and/or purchase of bisphosphonate drugs, including Fosamax and Fosavance.

Fosamax is a prescription medication for the treatment and prevention of osteoporosis. Fosavance is a prescription medication for the treatment of osteoporosis. They are part of a more general class of drugs known as "bisphosphonates." Bisphosphonates are used primarily to increase bone mass and reduce the risk for fracture in patients and also to slow bone turnover in patients with Paget's disease of the bone and to treat bone metastases and lower elevated levels of blood calcium in patients with cancer.

This notice is directed to all persons in Canada who were prescribed, purchased or used any bisphosphonate drug, such as Fosamax or Fosavance (including their estates), before or on [date of first certification for settlement] as well as their family members.

The Court of Queen's Bench of Saskatchewan has certified, for settlement purposes, against the Merck Defendants, the following class:

(a) all persons in Canada who were prescribed, purchased or used any Bisphosphonate, such as Fosamax and/or Fosavance (including their estates), prior to or on [date], except the Excluded Persons and members of the Ontario Settlement Class and the Quebec Settlement Class; and

(b) all persons who by reason of his or her relationship to a member of the class described in paragraph (a) are entitled to make claims under any Derivative Claim Statute as a result of the death or personal injury of that class member.

The Ontario Superior Court of Justice has certified, for settlement purposes, the following class:

(a) all persons in Canada (including their estates) other than residents of Saskatchewan or Quebec or Excluded Persons, who were prescribed and ingested Fosamax and/or Fosavance prior to or on [date]; and

(b) all persons who by reason of his or her relationship to a member of the class described in paragraph (a) are entitled to make claims under any Derivative Claim Statute as a result of the death or personal injury of that class member.

The Quebec Superior Court has certified, for settlement purposes, a class with substantially the same definition as the Ontario class, for residents of Quebec.

A national settlement agreement relating to Fosamax and Fosavance has been reached. If the settlement agreement is approved by these three Courts and not terminated in accordance with its terms, the agreement will settle all litigation in Canada relating to Fosamax and/or Fosavance.

The manufacturer and the distributor of Fosamax and Fosavance deny the plaintiffs' allegations and deny any wrongdoing or liability. The allegations made by the plaintiffs have not been proven in court.

Litigation against manufacturers of certain other bisphosphonates continues in Saskatchewan, Alberta, British Columbia and Quebec.

OPTING-OUT

Members of the classes described above who want to participate in the Fosamax/Fosavance settlement are automatically included and should not file the Opt-Out Form discussed below.

Individuals who want to exclude themselves from a class described above must complete, sign and return an Opt-Out Form to the Administrator at the address below postmarked by [date]. No one will be permitted to opt out of the class action unless the election to opt out is received by the Administrator before [date] at 5:00 p.m. Opt-Out Forms are available from the Administrator at [phone no]. No further opportunity to opt out will be provided.

An individual who opts-out will not be eligible to participate in the settlement. Any right to pursue a claim in a separate proceeding will not be affected. The defendants have reserved all of their arguments based on statutes of limitation, prescription or repose for class members who opt out of the settlement.

No person may opt out a minor or a mentally incapable individual without permission of the court after notice to the Children's Lawyer and/or Public Guardian and Trustee, as applicable. If a person who took Fosamax and/or Fosavance opts out, his or her family members will be deemed to have opted out. The family members of any Fosamax and/or Fosavance user cannot opt-out unless the product user does so as well. If a class member is deceased, his or her estate trustee has the right to opt out.

SUMMARY OF FOSAMAX/FOSAVANCE SETTLEMENT AGREEMENT

If you would like a copy of the settlement agreement, it is available at [website] or a copy can be obtained by contacting Class Counsel or the Administrator as listed below. If the settlement agreement is approved by all Canadian courts and is not terminated by the parties:

- The Merck Defendants, while not admitting liability, will pay a sum of $6,375,000 (inclusive of the payments to provincial and territorial governments described

hereinbelow, and of up to $2 million towards any awarded class counsel fees and disbursements and up to $500,000 of administrative expenses).

- Claimants or their estates may be eligible to receive settlement payments if they took Fosamax and/or Fosavance and then experienced osteonecrosis of the jaw ("ONJ") or an atypical femur fracture.
- The size of payments to eligible claimants who had ONJ or an atypical femur fracture will be based on the number of approved claims and other factors such as the nature of the adverse event alleged.
- Spouses and children of eligible claimants may also be eligible to receive settlement payments.
- Provincial and territorial governments will share $650,000 of the settlement fund, which shall be in full satisfaction of their purchases of Fosamax and/or Fosavance and of medical or dental services provided or to be provided to class members.

THE FOSAMAX/FOSAVANCE SETTLEMENT APPROVAL HEARING

A motion for approval of the settlement will be heard by the Ontario Court in Toronto on [date] at 10 a.m., by the Quebec Court in Montreal on [date], and the Saskatchewan Court in Saskatoon on [date] at 10 a.m. The Courts will determine whether the settlement is fair, reasonable, and in the best interests of class members. Class Counsel will also seek approval of fees, plus disbursements and taxes. Recognition and enforcement of the Ontario and Saskatchewan Courts' orders will be sought from the Courts of British Columbia and Alberta.

Class members who do not oppose the settlement need not appear at the hearing or take any other action at this time to indicate their desire to participate in the settlement. All class members who have not opted out have the right to present their arguments to the court as regards the settlement and the distribution of any balance remaining by making a written submission postmarked no later than [date] to the Administrator identified below. If no written submission is filed, you may not be entitled to participate, through oral submissions or otherwise, in the settlement approval hearing.

The written objection should include the following information:

1. The individual's name, address, telephone number, fax number and e-mail address.

2. A description of the reasons that the individual believes that he or she is a member of a class described above.

3. A brief statement of the nature of and reasons for the objection.

4. Whether he or she intends to appear at the Court hearing in person or through a lawyer and if through a lawyer, the lawyer's name, address, telephone number, fax number and e-mail address.

IMPORTANT DEADLINES

[DATE] Deadline for Class Members to opt out

[DATE] Deadline to submit written objection to the settlement

ADDITIONAL INFORMATION

An opt-out form and further information are available at [website] or by contacting the Administrator at [*].

If approval is granted by all courts, and the Settlement Agreement is not terminated, a further notice will be published advising of the claims deadline. A detailed instruction package on how to file a claim will be made available at [website] or from the Administrator.

Questions for Class Counsel should be directed by email or telephone to: [insert]

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

This notice has been authorized by the Ontario Superior Court of Justice, the Quebec Superior Court, the Court of Queen's Bench for Saskatchewan, the Court of Queen's Bench for Alberta and the British Columbia Supreme Court.

EXHIBIT 3.1(1)(f)-2

HEARING/OPT-OUT NOTICE (SHORT FORM)

HAVE YOU USED FOSAMAX, FOSAVANCE OR ANOTHER BISPHOSPHONATE?

IF YOU OR A FAMILY MEMBER HAS USED A BISPHOSPHONATE DRUG, PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

Class proceeding lawsuits have been initiated in several provinces in relation to the ingestion and/or purchase of bisphosphonate drugs, including Fosamax and Fosavance. Fosamax is a prescription medication for the treatment and prevention of osteoporosis. Fosavance is a prescription medication for the treatment of osteoporosis. They are part of a more general class of drugs known as "bisphosphonates." Bisphosphonates are used primarily to increase bone mass and reduce the risk for fracture in patients and also to slow bone turnover in patients with Paget's disease of the bone and to treat bone metastases and lower elevated levels of blood calcium in patients with cancer.

A national Settlement Agreement that settles all litigation in Canada relating to Fosamax and Fosavance has been reached and hearings have been scheduled to seek court approval. Litigation against manufacturers of certain other bisphosphonates continues in Saskatchewan, Alberta, British Columbia and Quebec.

OPTING-OUT OF BISPHOSPHONATE CLASS ACTIONS

Individuals who were prescribed and ingested a bisphosphonate drug on or before [date] who want to exclude themselves from the class proceedings must complete, sign and return an Opt-Out Form to the Administrator at the address below postmarked by [date].

The Opt-Out Form, as well as a more detailed notice regarding the effects of opting out, are available at [website] or from the Administrator at the contacts listed at the end of this notice.

FOSAMAX/FOSAVANCE SETTLEMENT AGREEMENT

If the Fosamax/ Fosavance Settlement Agreement is approved by the courts and is not terminated by the parties, the Merck Defendants, while not admitting liability, will pay a sum of $6,375,000.

If you, your spouse or parent, or a deceased person for whom you are the personal representative took Fosamax or Fosavance and then experienced osteonecrosis of the jaw ("ONJ") or an atypical femur fracture, you should immediately review the full legal notice in this matter to ensure you understand your legal rights. If you would like a copy of the full legal notice, and of the Settlement Agreement, they are available at [website] or can be obtained by contacting Class Counsel or the Administrator as listed below.

THE FOSAMAX/FOSAVANCE SETTLEMENT APPROVAL HEARING

A motion for approval of the settlement will be heard by the Ontario Court in Toronto on [date] at 10 a.m., by the Quebec Court in Montreal on [date], and the Saskatchewan Court in Saskatoon on [date] at 10 a.m. The Courts will determine whether the settlement is fair, reasonable, and in the best interests of class members. Class Counsel will also seek approval of fees, plus disbursements and taxes.

All class members who have not opted out have the right to present their arguments to the court as regards the settlement and the distribution of any balance remaining by making a written submission postmarked no later than [date] to the Administrator. A more detailed notice setting out the requirements for filing an objection is available at [website] or from the Administrator

IMPORTANT DEADLINES

[date] Deadline for bisphosphonate product users and their family members to opt out of the class actions

[date] Deadline to submit written objection to the Fosamax/Fosavance settlement

ADDITIONAL INFORMATION

An Opt-Out Form and further information are available at [website] or by contacting the Administrator:

[contact information]

If the Settlement Agreement is approved by the courts and is not terminated by the parties, a further notice will be published advising of the claims deadline. A detailed instruction package on how to file a claim will be made available at [website] or from the Administrator.

Questions for Class Counsel should be directed by email or telephone to:

[contact information]

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

EXHIBIT 3.1(2)

DISSEMINATION OF HEARING/OPT-OUT NOTICE

The Short Form of the Hearing/Opt-Out Notice shall be:

(a) published once in the following newspapers:

(i) The Globe & Mail (National Edition)

(ii) National Post (National)

(iii) The Sun (Vancouver, British Columbia)

(iv) Journal (Edmonton, Alberta)

(v) Herald (Calgary, Alberta)

(vi) Leader Post (Regina, Saskatchewan)

(vii) StarPhoenix (Saskatoon, Saskatchewan)

(viii) Free Press (Winnipeg, Manitoba)

(ix) La Liberté (Winnipeg, Manitoba)

(x) Brandon Sun (Brandon, Manitoba)

(xi) Star (Toronto, Ontario)

(xii) Sun (Toronto, Ontario)

(xiii) Citizen (Ottawa, Ontario)

(xiv) Spectator (Hamilton, Ontario)

(xv) Free Press (London, Ontario)

(xvi) Le Droit (Ottawa, Ontario)

(xvii) The Gazette (English - Montreal, Quebec)

(xviii) La Presse (French - Quebec)

(xix) Le Journal de Québec (French - Quebec)

(xx) Le Journal de Montreal (French - Quebec)

(xxi) Le Soleil (French - Quebec)

(xxii) Times-Transcript (Moncton, New Brunswick)

(xxiii) Telegraph Journal (St. John, New Brunswick)

(xxiv) L'Acadie Nouvelle (Caraquet, New Brunswick)

(xxv) Chronicle Herald – Halifax and Provincial Full Circulation (Halifax, Nova Scotia)

(xxvi) Cape Breton Post (Sydney, Nova Scotia)

(xxvii) Guardian (Charlottetown, Prince Edward Island)

(xxviii) Telegram (St. John's, Newfoundland)

(xxix) Western Star (Corner Brook, Newfoundland)

(xxx) News (Yukon)

(xxxi) News North (NWT) and

(xxxii) News North (Nunavut)

The Long Form of the Hearing/Opt-Out Notice shall be:

(b) posted on Class Counsel's Web sites;

(c) sent by direct mail to any class members who have contacted Class Counsel about the litigation or are known to Class Counsel and for whom Class Counsel has address information; and

(d) sent by direct mail to anyone requesting a copy.

The Hearing/Opt-Out Notice shall be available in both the English and French languages.

EXHIBIT 3.1(3)(a)

ONTARIO SETTLEMENT APPROVAL ORDER

Court File No. 07-CV-333698CP

(ONTARIO)
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	, THE DAY
	)	
JUSTICE	)	OF , 2015

BETWEEN:

FIONA PETERS and ANDREW PETERS

Plaintiffs

- and -

MERCK FROSST CANADA LTD., MERCK FROSST CANADA & CO.

and MERCK & CO., INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION made by the Plaintiffs for an order approving the settlement of this proceeding in accordance with a Settlement Agreement dated April 10, 2015 attached to this Order as Schedule "A" (the "Settlement Agreement"), and dismissing this action was heard this day at the Court House, 130 Queen Street West, Toronto, Ontario.

AND UPON READING the materials filed, including the Settlement Agreement and on hearing the submissions of Lead Counsel and counsel for the Defendants:

THIS COURT ORDERS AND DECLARES that:

1. For the purposes of this Order the definitions set out in the Settlement Agreement apply to and are incorporated into this Order;

2. The settlement as set forth in the Settlement Agreement is fair, reasonable and in the best interests of the members of the Ontario Settlement Class;

3. The settlement of this action on the terms set forth in the Settlement Agreement be and is hereby approved pursuant to section 29 of the *Class Proceedings Act, 1992,* S.O. 1992, c. 6 (the "CPA");

4. The Settlement Agreement in its entirety (including its preambles, recitals and exhibits) forms part of this Order, and has the full force and effect of an order of this Court;

5. The Settlement Agreement shall be implemented in accordance with its terms and is valid and binding on:

   (a) the Plaintiffs;

   (b) all members of the Ontario Settlement Class, including persons who are minors or are under a disability, as defined in the *Rules of Civil Procedure* ("*Rules*"); and

   (c) the Merck Defendants;

6. The need for service or notice of this or any further or subsequent steps in these proceedings on the Office of the Children's Lawyer or the Public Guardian and Trustee, as well as all other requirements in Rule 7 of the *Rules,* are hereby dispensed with;

7. This Order constitutes the full and final resolution of all Claims and Liabilities Connected With Alendronate including, without limitation, all claims and causes of action raised by

the Plaintiffs and all other Releasors in all Alendronate-Connected Proceedings commenced in Ontario;

8. Each Plaintiff and all other Releasors shall be deemed to have Released and do hereby Release each Releasee from any and all Released Claims/Liabilities as set out in Section 5.1(1) of the Settlement Agreement;

9. The Releasors are forever barred and enjoined from continuing, commencing, instituting or prosecuting any Action, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, asserting against any Releasee any Released Claim/Liability;

10. In consideration of the payment of the Provinces Amount to be made by the Merck Parties in accordance with the Settlement Agreement, effective automatically upon, and as of (and as if granted upon), the Implementation Commencement Date (and without the necessity of any further action on the part of any Party or the Province (as hereby defined to mean Her Majesty the Queen in Right of all provinces other than Quebec and Saskatchewan (including without limitation the Ministry of Health, as well as all other departments, ministries and where appropriate agents), and all plans funding Medical Services and/or purchase of prescription drugs), the Province shall be deemed to have, and does hereby, (i) fully and forever, and irrevocably and unconditionally, Release each Merck Releasee from any and all Claims or Liabilities Connected With Alendronate which the Province may have ever had or asserted, may then have or assert, or at any time thereafter can, shall or may have or assert, against such Merck Releasee, whether directly, indirectly, derivatively, as subrogee or in any other capacity, and (ii) fully and forever, and irrevocably and unconditionally, Release each Non-Merck Releasee from any or all Claims or Liabilities Connected With Alendronate which the Province may have ever had or asserted, may then have or assert, or at any time thereafter can, shall or may have or assert, against such Non-Merck Releasee, whether directly, indirectly, derivatively, as subrogee or in any other capacity to the extent (with respect to this clause (ii) (but not clause (i))), with respect to each such Claim or Liability, such Non-Merck Releasee would have a Claim (including but not limited to a claim for damages and/or

contribution and/or other relief under the provisions of the *Negligence Act* or other comparable provincial legislation and any amendments thereto, the common law, Quebec civil law, or any other statute) against a Merck Releasee, or any Merck Releasee otherwise would have any Liability to such Non-Merck Releasee, with respect to (x) any assertion of such Claim or Liability described in this clause (ii) above against such Non-Merck Releasee or (y) any Liability imposed on or suffered by such Non-Merck Releasee with respect to such Claim or Liability described above in this clause (ii) (all such Released Claims and Liabilities described in clauses (i) and (ii), collectively, the "Provincial Released Claims/Liabilities"). Without limitation of the preceding sentence, (A) effective automatically upon the Implementation Commencement Date, the Province will be forever barred and enjoined from continuing, commencing, instituting or prosecuting any Action asserting against any Releasee any Provincial Released Claim/Liability, and (B) without limitation of the preceding clause (A), effective automatically upon, and as of (and as if granted upon), the Implementation Commencement Date (and without the necessity of any further action on the part of any Party or the Province), the Province hereby, to the extent that any Law may at any time purport to preserve the Province's right to assert at any time any unknown and/or unanticipated (or any other) Provincial Released Claim/Liability, waives (to the fullest extent permitted by applicable Law) the Province's rights under such Law;

11. Each Releasor shall consent and shall be deemed to have consented to the dismissal as against the Releasees of each Alendronate-Connected Proceeding he, she or it has commenced, without costs and with prejudice;

12. Upon the occurrence of the Implementation Commencement Date, each Alendronate-Connected Proceeding commenced by a Releasor in Ontario (other than this Ontario Class Action) shall be and is hereby dismissed without costs and with prejudice;

13. • is appointed as Claims Administrator;

14. • is appointed as Referee for purposes of appeals pursuant to the Settlement Agreement;

15. The Claims Administrator and the Referee shall execute their obligations as set out in the Settlement Agreement;

16. For purposes of the enforcement of this Order, this Court will retain jurisdiction and the Defendants and Settlement Class Members attorn to the jurisdiction of this Court for these purposes;

17. The Defendants have no liability whatsoever with respect to the administration of the Settlement Agreement;

18. The Approvals Notice is hereby approved substantially in the form attached hereto as Schedule B (Short Form) and Schedule C (Long Form);

19. The plan for the publication and dissemination of the Approvals Notice, attached hereto as Schedule D, is approved and shall be performed;

20. This Court retains exclusive jurisdiction over all matters relating to the interpretation, administration, implementation, effectuation, and enforcement of this Order and the Settlement Agreement in Ontario and in respect of the Ontario Settlement Class;

21. On the 30th day after the Award Payments Trigger Date, the within action shall be dismissed against the Defendants without costs and with prejudice; and

22. If the Settlement Agreement is terminated in accordance with its terms, then, without restricting the application of the provisions of the Settlement Agreement:

    (a) this Order shall be set aside and be of no further force or effect, and without prejudice to any party, and this action shall be decertified as a class proceeding pursuant to section 10 of the CPA without prejudice to the Plaintiffs' ability to reapply for certification, the Defendants' ability to oppose such application for certification; and

    (b) all negotiations, statements and proceedings relating to the Settlement Agreement shall be deemed to be without prejudice to the rights of the Parties, and the Parties

shall be deemed to be restored to their respective positions existing immediately before the Settlement Agreement was executed.

_____

Justice
Ontario Superior Court of Justice

EXHIBIT 3.1(3)(b)

QUEBEC SETTLEMENT APPROVAL ORDER

SUPERIOR COURT
(Class Action Division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N° 500-06-000679-130

DATE:

PRESIDING:

OPTION CONSOMMATEURS

PETITIONER

-and-

NICOLE BROUSSEAU

DESIGNATED PERSON

v.

MERCK FROSST CANADA LIMITÉE

-and-

MERCK & CO. INC.

RESPONDENTS

JUDGMENT

1. The Petitioners have filed a motion seeking approval of the settlement of this proceeding in accordance with a Settlement Agreement dated April 10, 2015 attached to this Order as Schedule "A" (the "Settlement Agreement").

2. These class actions had previously been authorized on **[date]**.

3. The settlement as set forth in the Settlement Agreement is fair, reasonable and in the best interests of the Quebec Settlement Class Members.

4. And on reading the materials filed, including the Settlement Agreement, the Affidavit of *, the Approvals Notice and the Notice Plan, and on hearing the submissions of counsel for the Petitioners, Lead Counsel and the Defendants:

FOR THESE REASONS, THE COURT:

5. **DECLARES** that for the purposes of this Order the definitions set out in the Settlement Agreement apply to and are incorporated into this Order;

6. **APPROVES** the settlement of this action on the terms set forth in the Settlement Agreement pursuant to section 1025 of the *Code of Civil Procedure*, R.S.Q., c. C-25;

7. **ORDERS** that the Settlement Agreement in its entirety (including its preambles, recitals and exhibits) forms part of this Order, and has the full force and effect of an order of this Court;

8. **ORDERS** that the Settlement Agreement shall be implemented in accordance with its terms and is valid and binding on the Petitioners, Quebec Settlement Class Members and Defendants, including persons who are minors or are incapable or are under a disability;

9. **ORDERS** that this Order constitutes the full and final resolution of all Claims and Liabilities Connected With Alendronate including, without limitation, all claims and causes of action raised by the Petitioners and all other Releasors in all Alendronate-Connected Proceedings commenced in Quebec;

10. **ORDERS** that each Petitioner and all other Releasors shall be deemed to have Released and do hereby Release each Releasee from any and all Released Claims/Liabilities as set out in Section 5.1(1) of the Settlement Agreement;

11. **ORDERS** that the Releasors are forever barred and enjoined from continuing, commencing, instituting or prosecuting any Action, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, asserting against any Releasee any Released Claim/Liability;

12. **ORDERS** that in consideration of the payment of the Provinces Amount to be made by the Merck Parties in accordance with the Settlement Agreement, effective automatically upon, and as of (and as if granted upon), the Implementation Commencement Date (and without the necessity of any further action on the part of any Party or the Province (as hereby defined to mean Her Majesty the Queen in Right of Quebec (including without limitation the Minister of Health, as well as all other departments, ministries and where appropriate agents), and all Quebec plans funding Medical Services and/or purchase of prescription drugs, including the Régie de l'assurance maladie du Québec), the Province shall be deemed to have, and does hereby, (i) fully and forever, and irrevocably and unconditionally, Release each Merck Releasee from any and all Claims or Liabilities Connected With Alendronate which the Province may have ever had or asserted, may then have or assert, or at any time thereafter can, shall or may have or assert, against such Merck Releasee, whether directly, indirectly, derivatively, as subrogee or in any other capacity, and (ii) fully and forever, and irrevocably and unconditionally, Release each Non-Merck Releasee from any or all Claims or Liabilities Connected With Alendronate which the Province may have ever had or asserted, may then have or assert, or at any time thereafter can, shall or may have or assert, against such Non-Merck Releasee, whether directly, indirectly, derivatively, as subrogee or in any other capacity, to the extent (with respect to this clause (ii) (but not clause (i))), with respect to each such Claim or Liability, such Non-Merck Releasee would have a Claim (including but not limited to a claim for damages and/or contribution and/or other relief under the provisions of the *Negligence Act* or other comparable provincial legislation and any amendments thereto, the common law, Quebec civil law, or any other statute) against a Merck

Releasee, or any Merck Releasee otherwise would have any Liability to such Non-Merck Releasee, with respect to (x) any assertion of such Claim or Liability described in this clause (ii) above against such Non-Merck Releasee or (y) any Liability imposed on or suffered by such Non-Merck Releasee with respect to such Claim or Liability described above in this clause (ii) (all such Released Claims and Liabilities described in clauses (i) and (ii), collectively, the "Provincial Released Claims/Liabilities"). Without limitation of the preceding sentence, (A) effective automatically upon the Implementation Commencement Date, the Province will be forever barred and enjoined from continuing, commencing, instituting or prosecuting any Action asserting against any Releasee any Provincial Released Claim/Liability, and (B) without limitation of the preceding clause (A), effective automatically upon, and as of (and as if granted upon), the Implementation Commencement Date (and without the necessity of any further action on the part of any Party or the Province), the Province hereby, to the extent that any Law may at any time purport to preserve the Province's right to assert at any time any unknown and/or unanticipated (or any other) Provincial Released Claim/Liability, waives (to the fullest extent permitted by applicable Law) the Province's rights under such Law;

13. **ORDERS** that each Releasor shall consent and shall be deemed to have consented to the dismissal as against the Releasees of each Alendronate-Connected Proceeding commenced in Quebec he, she or it has commenced, without costs and with prejudice;

14. **ORDERS** that, upon the occurrence of the Implementation Commencement Date, each Alendronate-Connected Proceeding commenced by a Releasor in Quebec (other than this Class Action) shall be and is hereby dismissed by a Releasor without costs and with prejudice;

15. **APPROVES** • as Claims Administrator;

16. **ORDERS** that the Claims Administrator and the Referee shall execute their obligations as set out in the Settlement Agreement;

17. **APPROVES** • as Referee for purposes of appeals in conformity with the Settlement Agreement;

18. **ORDERS** that for purposes of the enforcement of this Order, the undersigned or, if she is unavailable, another judge of this Court will retain jurisdiction, and the Defendants and all members of the Quebec Settlement Class attorn to the jurisdiction of this Court for these purposes;

19. **ORDERS** that any amounts required by the Act respecting class actions to be paid to the Fonds d'aide aux recours collectives du Québec shall be withheld by the Claims Administrator from, and paid by the Claims Administrator out of, the Eligible Claimant Amount, and remitted periodically by the Claims Administrator to the Fonds;

20. **ORDERS** that the Defendants have no liability whatsoever with respect to the administration of the Settlement Agreement;

21. **APPROVES** the plan of dissemination of the Approvals Notice substantially in the manner described in Schedule "B" (the "Notice Plan");

22. **APPROVES** the form and content of the Approvals Notice, substantially in the form attached to the Judgment as Schedule "C" (Short Form) and Schedule "D" (Long Form), which shall be mailed/distributed as set forth in the Notice Plan;

23. **ORDERS** that on the 30th day after the Award Payments Trigger Date, the within action shall be dismissed against the Merck Defendants without costs and with prejudice; and

24. **ORDERS** that if the Settlement Agreement is terminated in accordance with the Settlement Agreement, then, without restricting the application of the provisions of the Settlement Agreement:

(a) this Order shall be set aside and be of no further force or effect, and without prejudice to any party, and this action shall be dismissed without prejudice to the Plaintiffs' ability to reapply for authorization, the Defendants' ability to oppose such application for authorization; and

(b) all negotiations, statements and proceedings relating to the Settlement Agreement shall be deemed to be without prejudice to the rights of the Parties with respect to Quebec, and the Parties shall be deemed to be restored to their respective positions with respect to Quebec existing immediately before the Settlement Agreement was executed.

25. **WITHOUT COSTS.**

EXHIBIT 3.1(3)(c)

SASKATCHEWAN SETTLEMENT APPROVAL ORDER

Q.B. No. 2313 (2010)

IN THE QUEEN'S BENCH
JUDICIAL CENTRE OF SASKATOON

B E T W E E N :

DOROTHY MACMILLAN and ELSIE KLEPSKH

Plaintiffs

- and -

BAYER INC., MERCK FROSST CANADA & CO., MERCK FROSST CANADA LTD., MERCK SHARP & DOHME CORP., MERCK & CO., INC., NOVARTIS PHARMACEUTICALS CANADA INC., NOVARTIS PHARMACEUTICALS CORP., NOVARTIS INTERNATIONAL AG, PROCTER & GAMBLE PHARMACEUTICALS CANADA INC., PROCTER & GAMBLE PHARMACEUTICALS INC., THE PROCTER & GAMBLE COMPANY, HOFFMAN-LA ROCHE LIMITED, HOFFMAN-LA ROCHE INC., F. HOFFMAN-LA ROCHE AG, WARNER CHILCOTT CANADA CO., WARNER CHILCOTT PHARMACEUTICALS INC., WARNER CHILCOTT PLC, APOTEX INC., COBALT PHARMACEUTICALS INC., MYLAN PHARMACEUTICALS ULC, PHARMASCINECE INC., SANDOZ CANADA INC., TEVA CANADA LIMITED

Defendants

Brought under *The Class Actions Act*, 2001, S.S. c. C-12.01

BEFORE THE HONOURABLE	)	ON DAY, THE
MR./MADAM JUSTICE	)	DAY OF , 2015
IN CHAMBERS	)	

ORDER

UPON THE APPLICATION of the Plaintiffs pursuant to *The Class Actions Act*, S.S. 2001, c. C-12.01, as amended (the "CAA") for a Final Judgment and Order approving the Settlement Agreement dated April 10, 2015 attached to this Order as Schedule A (the "Settlement Agreement"), and dismissing this action;

AND UPON HAVING READ:

(a) The pleadings and proceedings had and taken herein, including the Order of this Honourable Court dated ● granting conditional approval of the Settlement Agreement, and certifying this action as a class proceeding for settlement on behalf of the following Saskatchewan Settlement Class ("the Certification and Hearings Notice Approval Order"):

(i) all persons in Canada who were prescribed, purchased or used any Bisphosphonate, such as Fosamax and/or Fosavance (including their estates), prior to or on **[date]** except the Excluded Persons and members of the Ontario Settlement Class and the Quebec Settlement Class; and

(i) all persons who by reason of his or her relationship to a member of the class described in paragraph (a) are entitled to make claims under any Derivative Claim Statute as a result of the death or personal injury of that class member;

(b) Notice of Motion dated ●, 2015;

(c) Affidavit of ●;

(d) Brief of Law; and

(e) A draft of this Order.

AND UPON BEING ADVISED that:

(e) The Plaintiffs, their counsel and the Merck Defendants have entered into the Settlement Agreement;

(f) The Plaintiffs, the Merck Defendants, and their counsel have consented to the terms of this Order; and

(g) The other Defendants do not object to the terms of this Order.

AND UPON HEARING:

(a) Counsel for the Plaintiffs;

(b) Lead Counsel; and

(c) Counsel for the Defendants.

IT IS HEREBY ORDERED AND DECLARED that:

1. For the purposes of this Order the definitions set out in the Settlement Agreement apply to and are incorporated into this Order;

2. The settlement as set forth in the Settlement Agreement is fair, reasonable and in the best interests of the members of the Saskatchewan Settlement Class;

3. The settlement of this action on the terms set forth in the Settlement Agreement be and is hereby approved pursuant to s. 38 of the CAA;

4. The Settlement Agreement in its entirety (including its preambles, recitals and exhibits) forms part of this Order, and has the full force and effect of an order of this Court;

5. The Settlement Agreement shall be implemented in accordance with its terms and is valid and binding on:

(a) the Plaintiffs;

(b) all members of the Saskatchewan Settlement Class, including those persons who are minors, dependent adults or persons of unsound mind as defined in *The Queen's Bench Rules* ("*Rules*"); and

(c) the Merck Defendants;

6. The need for service or notice of this or any further or subsequent steps in these proceedings on the Public Guardian and Trustee, as well as all other requirements in *The Public Guardian and Trustee Act* and Rules 42 to 46 of the *Rules*, are hereby dispensed with;

7. This Order constitutes the full and final resolution of all Claims and Liabilities Connected With Alendronate including, without limitation, all claims and causes of action raised by the Plaintiffs and all other Releasors in all Alendronate-Connected Proceedings commenced in Saskatchewan;

8. Each Plaintiff and all other Releasors shall be deemed to have Released and do hereby Release each Releasee from any and all Released Claims/Liabilities as set out in Section 5.1(1) of the Settlement Agreement;

9. The Releasors are forever barred and enjoined from continuing, commencing, instituting or prosecuting any Action, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, asserting against any Releasee any Released Claim/Liabilitity;

10. In consideration of the payment of the Provinces Amount to be made by the Merck Parties in accordance with the Settlement Agreement, effective automatically upon, and as of (and as if granted upon), the Implementation Commencement Date (and without the necessity of any further action on the part of any Party or the Province (as hereby defined to mean Her Majesty the Queen in Right of Saskatchewan (including without limitation the Ministry of Health, as well as all other departments, ministries and where appropriate agents), and all Saskatchewan plans funding Medical Services and/or purchase of prescription drugs), the Province shall be deemed to have, and does hereby, (i) fully and forever, and irrevocably and unconditionally, Release each Merck Releasee from any and all Claims or Liabilities Connected With Alendronate which the Province may have ever had or asserted, may then have or assert, or at any time thereafter can, shall or may have or assert, against such Merck Releasee, whether directly, indirectly, derivatively, as subrogee or in any other capacity, and (ii) fully and forever, and irrevocably and unconditionally, Release each Non-Merck Releasee from any or all Claims or Liabilities

Connected With Alendronate which the Province may have ever had or asserted, may then have or assert, or at any time thereafter can, shall or may have or assert, against such Non-Merck Releasee, whether directly, indirectly, derivatively, as subrogee or in any other capacity to the extent (with respect to this clause (ii) (but not clause (i))), with respect to each such Claim or Liability, such Non-Merck Releasee would have a Claim (including but not limited to a claim for damages and/or contribution and/or other relief under the provisions of *The Contributory Negligence Act* or other comparable provincial legislation and any amendments thereto, the common law, Quebec civil law, or any other statute) against a Merck Releasee, or any Merck Releasee otherwise would have any Liability to such Non-Merck Releasee, with respect to (x) any assertion of such Claim or Liability described in this clause (ii) above against such Non-Merck Releasee or (y) any Liability imposed on or suffered by such Non-Merck Releasee with respect to such Claim or Liability described above in this clause (ii) (all such Released Claims and Liabilities described in clauses (i) and (ii), collectively, the "Provincial Released Claims/Liabilities"). Without limitation of the preceding sentence, (A) effective automatically upon the Implementation Commencement Date, the Province will be forever barred and enjoined from continuing, commencing, instituting or prosecuting any Action asserting against any Releasee any Provincial Released Claim/Liability, and (B) without limitation of the preceding clause (A), effective automatically upon, and as of (and as if granted upon), the Implementation Commencement Date (and without the necessity of any further action on the part of any Party or the Province), the Province hereby, to the extent that any Law may at any time purport to preserve the Province's right to assert at any time any unknown and/or unanticipated (or any other) Provincial Released Claim/Liability, waives (to the fullest extent permitted by applicable Law) the Province's rights under such Law;

11. Each Releasor shall consent and be deemed to have consented to the dismissal as against the Releasees of each Alendronate-Connected Proceeding commenced in Saskatchewan he, she or it has commenced, without costs and with prejudice;

12. Upon the occurrence of the Implementation Commencement Date, each Alendronate-Connected Proceeding commenced by a Releasor in Saskatchewan (other than this

Saskatchewan Class Action) shall be and is hereby dismissed without costs and with prejudice;

13. The Plaintiffs and the Saskatchewan Settlement Class shall restrict their Claims against the Non-Merck Defendants such that: (a) no Released Claims/Liabilities are asserted; and (b) they shall be entitled to claim and recover from any particular Non-Merck Defendant only those damages (including punitive damages, if any), restitutionary award, disgorgement, interest and costs, if any, attributable solely to the conduct of such Non-Merck Defendant and the Bisphosphonates it manufactures, markets, distributes and/or sells;

14. All Claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, Connected With Fosamax/Fosavance which were or could have been brought in the Designated Class Actions or otherwise, by any Non-Merck Defendant or any other Person or party, against a Merck Releasee, are barred, prohibited and enjoined (unless such Claim against such Merck Releasee is made in respect of a Claim by an Opt-Out);

15. • is appointed as Claims Administrator;

16. The Claims Administrator and the Referee shall execute their obligations as set out in the Settlement Agreement;

17. * is appointed as Referee for purposes of appeals pursuant to the Settlement Agreement;

18. For purposes of the enforcement of this Order, this Court will retain jurisdiction and the Merck Defendants and Settlement Class Members attorn to the jurisdiction of this Court for these purposes;

19. The Defendants have no liability whatsoever with respect to the administration of the Settlement Agreement; and

20. The Approvals Notice is hereby approved substantially in the form attached hereto as in the form attached hereto as Schedule B (Short Form) and Schedule C (Long Form) in the form attached hereto as Schedule B (Short Form) and Schedule C (Long Form);

21. The plan for the publication and dissemination of the Approvals Notice, attached hereto as Schedule D, is approved and shall be performed;

22. This Court retains exclusive jurisdiction over all matters relating to the interpretation, administration, implementation, effectuation, and enforcement of this Order and the Settlement Agreement in Saskatchewan and in respect of the Saskatchewan Settlement Class;

23. On the 30th day after the Award Payments Trigger Date, the within action shall be dismissed against the Merck Defendants without costs and with prejudice;

24. On the 30th day after the Award Payments Trigger Date, all claims of the Plaintiffs Dorothy MacMillan and Elsie Klepskh (who plead that they ingested the Merck Defendants' drugs) shall be dismissed without costs and with prejudice; and

25. If the Settlement Agreement is terminated in accordance with its terms, then, without restricting the application of the provisions of the Settlement Agreement:

    (c) this Order shall be set aside and be of no further force or effect, and without prejudice to any party and this action shall be decertified as a class proceeding pursuant to section 12 of *The Class Actions Act* without prejudice to the Plaintiffs' ability to reapply for certification, the Defendants' ability to oppose such application for certification; and

    (d) all negotiations, statements and proceedings relating to the Settlement Agreement shall be deemed to be without prejudice to the rights of the Parties, and the Parties shall be deemed to be restored to their respective positions existing immediately before the Settlement Agreement was executed.

Date: _____

EXHIBIT 3.1(3)(d)

ALBERTA SETTLEMENT RECOGNITION AND ENFORCEMENT ORDER

Clerk's Stamp

COURT FILE NUMBER	**1001-14447**
COURT	**COURT OF QUEEN'S BENCH OF ALBERTA**
JUDICIAL CENTRE	**CALGARY**
PLAINTIFF(S)	**HELEN MARKOVICH, DIANE SOUCY, AND RITA COLLINS**
DEFENDANTS	**MERCK FROSST CANADA & CO., MERCK FROSST CANADA LTD., MERCK SHARP & DOHME CORP., MERCK & CO., INC., NOVARTIS PHARMACEUTICALS CANADA INC., NOVARTIS PHARMACEUTICALS CORP., NOVARTIS INTERNATIONAL AG, PROCTER & GAMBLE PHARMACEUTICALS CANADA INC., PROCTER & GAMBLE PHARMACEUTICALS INC., THE PROCTER & GAMBLE COMPANY, WARNER CHILCOTT CANADA CO., WARNER CHILCOTT PHARMACEUTICALS INC., AND WARNER CHILCOTT PLC**
	Brought under the *Class Proceedings Act*

DATE ON WHICH ORDER WAS PRONOUNCED: ●, 2015

NAME OF MASTER/JUDGE WHO MADE THIS ORDER: **The Honourable Justice**

LOCATION OF HEARING: **Calgary, Alberta**

ON THE APPLICATION of the Plaintiffs, made in writing; AND ON READING the materials filed herein:

AND WHEREAS the Plaintiffs commenced this putative class action relating to bisphosphonate drugs (the "Alberta Proceeding");

AND WHEREAS on April 10, 2015, a national settlement agreement relating to the bisphosphonate drugs manufactured, marketed, distributed or sold by or for the Merck Defendants ("Fosamax" and "Fosavance," which are "Alendronates") (the "Settlement Agreement") was reached;

AND WHEREAS class actions relating to Fosamax and Fosavance had been commenced in Ontario and Quebec, and class actions relating to bisphosphonate drugs had been commenced in Saskatchewan and British Columbia in addition to the Alberta Proceeding;

AND WHEREAS on **[date]**, this Court found that: a) the notice and dissemination plan proposed by the Plaintiffs gave sufficient notice to the Settlement Class Members in Alberta of this application for recognition and enforcement of the settlement approval orders that would be requested from the Ontario Superior Court of Justice and the Court of Queen's Bench of Saskatchewan and dismissal of all Alendronate-Connected Proceedings brought by Releasors, and b) no further notice would be required;

AND WHEREAS on ●, the Honourable Justice ● of the Ontario Superior Court of Justice, who is responsible for the case management of the Ontario Class Action, approved the Settlement Agreement (the "Ontario Settlement Approval Order");

AND WHEREAS on ●, the Honourable Justice ● of the Court of Queen's Bench of Saskatchewan, who is responsible for the case management of the Saskatchewan Class Action, approved the Settlement Agreement (the "Saskatchewan Settlement Approval Order");

AND WHEREAS the undersigned have reviewed the Ontario and Saskatchewan Settlement Approval Orders and the Settlement Agreement provided as Schedules "A", "B" and "C" hereto;

AND WHEREAS the Ontario and Saskatchewan Settlement Approval Orders have declared that the Settlement Agreement is fair, reasonable and in the best interests of the members of the class;

AND WHEREAS the Settlement Agreement is conditional upon recognition and enforcement of the Ontario and Saskatchewan Settlement Approval Orders by this Court and requires the dismissal of all Alendronate-Connected Proceedings brought by any Releasor in Alberta;

IT IS HEREBY ORDERED THAT:

1. For purposes of this Order the definitions set out in the Settlement Agreement, which is attached as Schedule "A", are incorporated into this Order.

2. The Ontario Settlement Approval Order entered **[date]** in the Ontario Superior Court of Justice, Court File No. 07-CV-33698CP, attached as Schedule "B" hereto, and the Saskatchewan Settlement Approval Order entered **[date]** in the Court of Queen's Bench of Saskatchewan Q.B. No. 2313 (2010) attached as Schedule "C" hereto, shall be and hereby are enforced in Alberta as if they were orders or judgments of, and entered in, this Court.

3. The Settlement Agreement is binding upon all Plaintiffs and Settlement Class Members in Alberta (including persons who are minors or lack capacity, as defined in the *Alberta Rules of Court*), upon the occurrence of the Implementation Commencement Date.

4. Upon the occurrence of the Implementation Commencement Date, this Alberta Proceeding and any other Alendronate-Connected Proceeding commenced in Alberta by a Releasor shall be and is hereby dismissed against all Releasees without costs and with prejudice.

5. Upon the occurrence of the Implementation Commencement Date, all claims of the Plaintiffs Helen Markovich and Diane Soucy (who plead that they ingested the Merck Defendants' drugs) shall be dismissed without costs and with prejudice.

6. If this Alberta Proceeding is continued against the Non-Merck Defendants:

   (a) The Plaintiff and putative class members shall restrict their Claims against the Non-Merck Defendants such that:

      (i) no Released Claims/Liabilities are asserted; and

      (ii) they shall be entitled to claim and recover from any particular Non-Merck Defendant only those damages (including punitive damages, if any), restitutionary award, disgorgement, interest and costs, if any, attributable solely to the conduct of such Non-Merck Defendant and the Bisphosphonates it manufactures, markets, distributes and/or sells; and

   (b) All Claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, Connected With Fosamax/Fosavance which were or could have been brought in the Designated Class Actions or otherwise, by any Non-Merck Defendant or any other Person or party, against a Merck Releasee, are barred, prohibited and enjoined (unless such Claim against such Merck Releasee is made in respect of a Claim by an Opt-Out).

7. If the Settlement Agreement is terminated in accordance with its terms, then, without restricting the application of the provisions of the Settlement Agreement:

(a) this Order shall be set aside and be of no further force or effect; and

(b) all negotiations, statements and proceedings relating to the Settlement Agreement shall be deemed to be without prejudice to the rights of the Parties, and the Parties shall be deemed to be restored to their respective positions existing immediately before the Settlement Agreement was executed.

Justice of the Court of Queen's Bench of Alberta

APPROVED as to form and content, this
● day of ●, 2015

MERCHANT LAW GROUP LLP

Counsel to the Plaintiffs

EXHIBIT 3.1(3)(e)

BRITISH COLUMBIA SETTLEMENT RECOGNITION AND ENFORCEMENT ORDER

No. S073863
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

GABRIELLE MARCANO and LYLE IRVING FOLKESTAD

PLAINTIFFS

AND:

MERCK FROSST CANADA LTD., MERCK FROSST CANADA & CO., MERCK & CO., INC., PROCTER & GAMBLE PHARMACEUTICALS CANADA, INC. and PROCTER & GAMBLE INC.

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, C. 50

ORDER

BEFORE	THE HONOURABLE JUSTICE	●/●/2015

ON THE APPLICATION of the Plaintiffs, made in writing; AND ON READING the materials filed herein:

WHEREAS the Plaintiffs commenced this putative class action relating to bisphosphonate drugs (the "British Columbia Proceeding");

WHEREAS on April 10, 2015, a national settlement agreement relating to the bisphosphonate drugs manufactured, marketed, distributed or sold by or for the Merck Defendants ("Fosamax" and "Fosavance," which are "Alendronates") (the "Settlement Agreement") was reached;

WHEREAS class actions relating to Fosamax and Fosavance had been commenced in Ontario and Quebec, and class actions relating to bisphosphonate drugs had been commenced in Saskatchewan and Alberta in addition to the British Columbia Proceeding;

WHEREAS on **[date]**, this Court found that: a) the notice and dissemination plan proposed by the Plaintiffs gave sufficient notice to the Settlement Class Members in British Columbia of this application for recognition and enforcement of the settlement approval orders that would be requested from the Ontario Superior Court of Justice and the Court of Queen's Bench of Saskatchewan and dismissal of all Alendronate-Connected Proceedings brought by Releasors, and b) no further notice would be required;

WHEREAS on ●, the Honourable Justice ● of the Ontario Superior Court of Justice, who is responsible for the case management of the Ontario Class Action, approved the Settlement Agreement (the "Ontario Settlement Approval Order");

WHEREAS on ●, the Honourable Justice ● of the Court of Queen's Bench of Saskatchewan, who is responsible for the case management of the Saskatchewan Class Action, approved the Settlement Agreement (the "Saskatchewan Settlement Approval Order");

WHEREAS the undersigned have reviewed the Ontario and Saskatchewan Settlement Approval Orders and the Settlement Agreement provided as Schedules "A", "B" and "C" hereto;

WHEREAS the Ontario and Saskatchewan Settlement Approval Orders have declared that the Settlement Agreement is fair, reasonable and in the best interests of the members of the class;

WHEREAS the Settlement Agreement is conditional upon recognition and enforcement of the Ontario and Saskatchewan Settlement Approval Orders by this Court and requires the dismissal of all Alendronate-Connected Proceedings brought by any Releasor in British Columbia;

THIS COURT ORDERS that:

1. for purposes of this Order the definitions set out in the Settlement Agreement, which is attached as Schedule "A", are incorporated into this Order;

2. the Ontario Settlement Approval Order entered **[date]** in the Ontario Superior Court of Justice, Court File No. 07-CV-33698CP, attached as Schedule "B" hereto, and the Saskatchewan Settlement Approval Order entered **[date]** in the Court of Queen's Bench of Saskatchewan Q.B. No. 2313 (2010) attached as Schedule "C" hereto, shall be and hereby are enforced in British Columbia as if they were orders or judgments of, and entered in, this Court;

3. the Settlement Agreement is binding upon all Plaintiffs and Settlement Class Members in British Columbia (including persons under disability within the meaning of the *Supreme Court Civil Rules*), upon the occurrence of the Implementation Commencement Date;

4. upon the occurrence of the Implementation Commencement Date, this British Columbia Proceeding and any other Alendronate-Connected Proceeding commenced in British Columbia by a Releasor shall be and is hereby dismissed against all Releasees without costs and with prejudice;

5. upon the occurrence of the Implementation Commencement Date, if one or both of the Plaintiffs ingested the Merck Defendants' bisphosphonates, all such Plaintiff's claims shall be dismissed without costs and with prejudice;

6. if this British Columbia Proceeding is continued against the Non-Merck Defendants:

   (a) the Plaintiff and putative class members shall restrict their Claims against the Non-Merck Defendants such that:

      (i) no Released Claims/Liabilities are asserted; and

      (ii) they shall be entitled to claim and recover from any particular Non-Merck Defendant only those damages (including punitive damages, if any), restitutionary award, disgorgement, interest and costs, if any, attributable solely to the conduct of such Non-Merck Defendant and the Bisphosphonates it manufactures, markets, distributes and/or sells; and

   (b) all Claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, Connected With Fosamax/Fosavance which were or could have been brought in the Designated Class Actions or otherwise, by any Non-Merck Defendant or any other Person or party, against a Merck Releasee, are barred, prohibited and enjoined (unless such Claim against such Merck Releasee is made in respect of a Claim by an Opt-Out); and

7. if the Settlement Agreement is terminated in accordance with its terms, then, without restricting the application of the provisions of the Settlement Agreement:

   (a) this Order shall be set aside and be of no further force or effect; and

   (b) all negotiations, statements and proceedings relating to the Settlement Agreement shall be deemed to be without prejudice to the rights of the Parties, and the Parties

shall be deemed to be restored to their respective positions existing immediately before the Settlement Agreement was executed.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS NOTED ABOVE:

APPROVED AS TO FORM:

_____

Counsel for the Plaintiffs

_____

Counsel for the Defendants

EXHIBIT 3.1(4)-1

APPROVALS NOTICE (LONG FORM)

—NOTICE OF APPROVAL OF SETTLEMENT OF FOSAMAX/FOSAVANCE LITIGATION—

Read this notice carefully as it may affect your rights.

TO ALL PERSONS IN CANADA WHO USED FOSAMAX OR FOSAVANCE AND THEIR FAMILIES

Fosamax is a prescription medication for the treatment and prevention of osteoporosis. Fosavance is a prescription medication for the treatment of osteoporosis. They are part of a more general class of drugs known as "bisphosphonates."

This notice is directed to all persons in Canada who were prescribed and ingested Fosamax or Fosavance (including their estates), prior to or on [date of first certification for settlement] as well as their family members.

Please be advised that court approval has been granted for the national settlement agreement, which settles all litigation in Canada relating to Fosamax and Fosavance.

The Defendants deny the plaintiffs' allegations and deny any wrongdoing or liability. The allegations made by the plaintiffs have not been proven in court.

SUMMARY OF SETTLEMENT AGREEMENT

If you would like a copy of the settlement agreement, it is available at [website] or a copy can be obtained by contacting Class Counsel as listed below or by contacting the Claims Administrator.

- The Merck Defendants, while not admitting liability, will pay a sum of $6,375,000 (inclusive of the payments to provincial and territorial governments described hereinbelow, and of up to $2 million towards any awarded class counsel fees and disbursements and up to $500,000 of administrative expenses).
- Claimants or their estates may be eligible to receive settlement payments if they took Fosamax and/or Fosavance and then experienced osteonecrosis of the jaw ("ONJ") or an atypical femur fracture.
- The size of payments to eligible claimants who had ONJ or an atypical femur fracture will be based on the number of approved claims and other factors such as the nature of the adverse event alleged.
- Spouses and children of eligible claimants may also be eligible to receive settlement payments.
- Provincial and territorial governments will share $650,000 of the settlement fund, which shall be in full satisfaction of their purchases of Fosamax and/or Fosavance and of medical or dental services provided or to be provided to class members.

TO MAKE A CLAIM

To be entitled to a payment pursuant to the Settlement Agreement, Class Members must file a claim with the Claims Administrator on or before [date]. A detailed instruction package on how to file a claim is available at [website] or from the Claims Administrator at [phone no].

LEGAL FEES

The Courts have awarded interim legal fees, expenses and applicable taxes to Class Counsel in the total amount of $X. Pursuant to the settlement agreement, the Merck Defendants have agreed to pay up to $2 million towards the class counsel fees and disbursements. Class Counsel may request further legal fees after the claims deadline, once the total value of the settlement is known.

Claimants may retain their own lawyers to assist them in making individual claims under the Settlement Agreement. Claimants are responsible for paying the legal fees of any lawyer they retain.

IMPORTANT DEADLINES

[DATE] Deadline to file a claim

Because of the deadline, you must act without delay.

FURTHER INFORMATION

A complete copy of the Settlement Agreement and instructions to make a claim are available at [website] or by contacting the Claims Administrator at [*]. Questions for Class Counsel should be directed by email or telephone to:

[contact information]

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

This notice has been authorized by the Ontario Superior Court of Justice, the Quebec Superior Court and the Court of Queen's Bench for Saskatchewan.

EXHIBIT 3.1(4)-2

APPROVALS NOTICE (SHORT FORM)

HAVE YOU USED FOSAMAX OR FOSAVANCE?

IF YOU OR A FAMILY MEMBER HAS USED FOSAMAX OR FOSAVANCE, PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

Fosamax is a prescription medication for the treatment and prevention of osteoporosis. Fosavance is a prescription medication for the treatment of osteoporosis. They are part of a more general class of drugs known as "bisphosphonates."

A national settlement agreement that settles all litigation in Canada relating to Fosamax or Fosavance has been reached and has been approved by the courts.

The Merck Defendants, while not admitting liability, will pay a sum of $6,375,000.

If you, your spouse or parent, or a deceased person for whom you are the personal representative took Fosamax or Fosavance and then experienced osteonecrosis of the jaw ("ONJ") or an atypical femur fracture, you should immediately review the full legal notice in this matter to ensure you understand your legal rights.

IMPORTANT DEADLINES

[DATE] Deadline to file a claim

Because of the deadline, you must act without delay.

A copy of the full legal notice can be viewed at [website], from the Claims Administrator, who can be reached at [*], or from Class Counsel, as follows:

[contact information]

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

EXHIBIT 3.1(4)-a

DISSEMINATION OF APPROVALS NOTICE

The Short Form of the Approvals Notice shall be:

(a) published once in the following newspapers.

(i) The Globe & Mail (National Edition)

(ii) National Post (National)

(iii) The Sun (Vancouver, British Columbia)

(iv) Journal (Edmonton, Alberta)

(v) Herald (Calgary, Alberta)

(vi) Leader Post (Regina, Saskatchewan)

(vii) StarPhoenix (Saskatoon, Saskatchewan)

(viii) Free Press (Winnipeg, Manitoba)

(ix) La Liberté (Winnipeg, Manitoba)

(x) Brandon Sun (Brandon, Manitoba)

(xi) Star (Toronto, Ontario)

(xii) Sun (Toronto, Ontario)

(xiii) Citizen (Ottawa, Ontario)

(xiv) Spectator (Hamilton, Ontario)

(xv) Free Press (London, Ontario)

(xvi) Le Droit (Ottawa, Ontario)

(xvii) The Gazette (English - Montreal, Quebec)

(xviii) La Presse (French - Quebec)

(xix) Le Journal de Quebec (French - Quebec)

(xx) Le Journal de Montréal (French - Quebec)

(xxi) Le Soleil (French - Quebec)

(xxii) Times-Transcript (Moncton, New Brunswick)

(xxiii) Telegraph Journal (St. John, New Brunswick)

(xxiv) L'Acadie Nouvelle (Caraquet, New Brunswick)

(xxv) Chronicle Herald – Halifax and Provincial Full Circulation (Halifax, Nova Scotia)

(xxvi) Cape Breton Post (Sydney, Nova Scotia)

(xxvii) Guardian (Charlottetown, Prince Edward Island)

(xxviii) Telegram (St. John's, Newfoundland)

(xxix) Western Star (Corner Brook, Newfoundland)

(xxx) News (Yukon)

(xxxi) News North (NWT) and

(xxxii) News North (Nunavut)

The Long Form of the Approvals Notice shall be:

(b) posted on Class Counsel's Web sites;

(c) sent by direct mail to any class members who have contacted Class Counsel about the litigation or are known to Class Counsel and for whom Class Counsel has address information; and

(d) sent by direct mail to anyone requesting a copy.

The Approvals Notice shall be available in both the English and French languages.

A press release, the form and content of which will be agreed to by the Parties, will be issued to English and French media outlets across Canada to the extent agreed between the Parties.

EXHIBIT 4.1(3)(c)

PROVINCES AMOUNT -- DISTRIBUTION

Province/Territory	**Percentage (Population)[1]**	**Settlement Amount**
NFLD	1.5%	$9,750
PEI	0.4%	$2,600
NS	2.7%	$17,550
NB	2.2%	$14,300
QC	23.2%	$150,800
ON	38.5%	$250,250
MB	3.6%	$23,400
SK	3.2%	$20,800
AB	11.4%	$74,100
BC	13.0%	$84,500
YK	0.1%	$650
NWT	0.1%	$650
NU	0.1%	$650
Total	100%	$650,000

1. Source: Statistics Canada, CANSIM, table 051-0001 (2013).

EXHIBIT 4.4(1)

Must be Postmarked
No Later Than
[date]

PRODUCT USER CLAIM FORM

Private & Confidential

(Please type or use blue or black pen and write legibly)

THIS PRODUCT USER CLAIM FORM SHOULD BE COMPLETED BY OR ON BEHALF OF THE PRODUCT USER; IN OTHER WORDS, THE PERSON WHO ALLEGEDLY USED FOSAMAX OR FOSAVANCE. THIS FORM SHOULD NOT BE USED BY ANY SPOUSE OR CHILD TO ASSERT A DERIVATIVE CLAIM.

CATEGORY OF CLAIM:

Please check off below the type of event(s) you claim resulted from use of Fosamax/ Fosavance. Note: You are only allowed to claim one atypical femur fracture per leg. Only the three types of events listed below are eligible for this program:

CHECK THE APPLICABLE BOX(ES)

ATYPICAL FEMUR FRACTURE (LEFT LEG) ☐

ATYPICAL FEMUR FRACTURE (RIGHT LEG) ☐

OSTEONECROSIS OF THE JAW ☐

Please read the following "Agreement and Instructions" and complete the Claim Form in full.

DEADLINE TO SUBMIT ALL CLAIM DOCUMENTATION: [DATE]

AGREEMENT AND INSTRUCTIONS

A. This is a "Product User Claim Form" referred to in the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Parties and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Product User Claim Form shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Product User Claim Form and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

B. This Product User Claim Form is to be used for submitting an alleged personal injury claim and any lost income claim by or on behalf of any Product User. Only persons in Canada who were prescribed and ingested Fosamax and/or Fosavance, whether now living or deceased (other than any Excluded Person) can submit an alleged claim with respect to osteonecrosis of the jaw or an atypical femur fracture pursuant to the Settlement Agreement.

C. Please read this Product User Claim Form in its entirety and answer all inquiries on the Product User Claim Form itself (add additional sheets if necessary) and then sign and date the Product User Claim Form. **FAILURE TO FULLY ANSWER ALL INQUIRIES ON THE PRODUCT USER CLAIM FORM AND/OR SIGN THE PRODUCT USER CLAIM FORM WILL RESULT IN YOUR SUBMISSION BEING REJECTED. The foregoing notwithstanding, you must complete Part B of the Product User Claim Form only if you are claiming a Lost Income Award in addition to a Points-Based Award for personal injury, and your failure to complete Part B of the Product User Claim Form will not affect your application for a Points-Based Award. (The maximum Tentative Lost Income Grant that may be made to any particular Product User Claimant is capped at $54,000, and the aggregate amount of Lost Income Awards that may be made to all Product User Claimants is capped at $162,000.) However, you may not elect to complete only Part B of the Product User Claim Form; you must in all instances complete Parts A and C of the Product User Claim Form (and you cannot receive a Lost Income Award unless you are determined to be eligible to receive a Points-Based Award).**

D. **ON OR BEFORE [_____] YOU MUST SERVE** each of the following: (1) the completed and dated Product User Claim Form; (2) your medical, dental and pharmacy records (see Section 9 of Part A of the Product User Claim Form for a description of the medical, dental and pharmacy records requirements); and (3) the signed and dated Certificate of Service of Claim Form (with the appropriate box checked) attached to this Product User Claim Form. All of these materials are to be sent to the Claims Administrator at the following address:

[Insert CA contact info here]

E. **This Product User Claim Form, fully completed and properly signed, and all requisite medical, dental or pharmacy records and other documentation, must be submitted (as proven by either the post-mark date (if standard lettermail service is used) or the date received by the Claims Administrator (where same-day or overnight courier service is used) or the date the submission is capable of being accessed from the Claims Administrator's electronic mail address (if the submission by electronic mail is used)) no later than [_____]. FAILURE TO SUBMIT THESE MATERIALS ACCORDINGLY BY THE DEADLINE WILL RESULT IN YOUR CLAIM BEING REJECTED.**

F. Each Product User Claimant is required to provide the full names, relationship to the alleged Product User, date of birth and address of all spouses, common law spouses and/or children who may claim a separate award based upon any Points-Based Award made to the Product User Claimant, in Section 2 of Part A of the Product User Claim Form. (Each such related person separately must submit a Derivative Claimant Claim Form in accordance with the Settlement Agreement in order to claim a separate award based upon any such award, but such submission is not the responsibility of the Product User Claimant.)

G. To the extent that the person submitting this Product User Claim Form on behalf of a Product User Claimant is representing a minor, an incapable person, a person under a disability or the estate of a deceased person, such representative must represent and warrant that he or she is duly authorized as the proper representative to submit the claim and provide proof of same. It is the sole responsibility of the person submitting a claim to take the necessary steps to be appointed as the proper representative by court order, if the applicable law so requires. Additionally, all such persons must comply with all provisions of the Settlement Agreement. If your properly approved representative is required to report any award to any court, the amount of such award shall be maintained in the strictest confidence and all papers shall be filed under seal and all hearings held in private to the extent allowable under the applicable law. Drafts of all such court papers must be approved by the Merck Parties before filing with the court.

H. The signatories to the Product User Claim Form, the law firms with which they are affiliated (if any) and the Product User Claimant identified herein specifically agree to maintain the confidentiality of any awards of compensation that might result from the Settlement Agreement.

I. **Notice: The submission of a Product User Claim Form and/or any other documentation to the Claims Administrator, the Merck Parties, Class Counsel or anyone else does not mean that the Product User Claimant will receive any payment under the Settlement Agreement. There are strict eligibility criteria which have been approved by the Courts that a Product User Claimant must first satisfy in order to be entitled to payment under the Settlement Agreement.**

J. **Notice: You understand and agree, as evidenced by your signature below, that you are solely responsible for the complete and final satisfaction of any and all Liens (e.g., by a social assistance provider) that are attached or may become attached at a later date to any award or payment that you may receive under the Settlement Agreement.**

PRODUCT USER CLAIM FORM

UNLESS NOTED OTHERWISE, YOU MUST ANSWER ALL OF THE FOLLOWING QUESTIONS ON THIS FORM AND, IF NECESSARY, ATTACH ADDITIONAL SHEETS (Please type or use blue or black pen and write legibly)

PART A – TO BE COMPLETED IN ALL INSTANCES

1. Demographic Information Regarding Alleged Fosamax and/or Fosavance User:

a. Merck-branded product used (e.g., Fosamax or Fosavance): _____

b. Current name and other names (e.g., maiden names, married names) used by the alleged Product User for the ten years prior to the alleged Product User's alleged adverse event:

Prefix: □ Mr. □ Mrs. □ Miss □ Ms. □ Dr.

First Name Middle Name

Last Name

Prior Last Name

c. Alleged Product User's current or last known residence address:

Street Address

City Province /Territory Postal Code

( ) ( )

Daytime Phone Number Evening Phone Number e-mail address

d. If you are a resident of a province, territory or country other than as specified in 1.c above, please specify such other province, territory or country. (Note: If you leave the space below blank, you will be deemed to have been certified that you are a resident of the province or territory specified in 1.c above.):

Province/Territory Country

e. Alleged Product User's date of birth: _____

(Day/Month/Year)

f. Alleged Product User's health card number: _____

g. Language Preference:

English □ French □

2. Information about Spouse and/or Children

Information regarding any spouse (or former spouse) or child of the alleged Product User who may be entitled to submit a claim as derivative of the claim of the above-listed alleged Fosamax and/or Fosavance user. To be an Eligible Family Member, he or she must have been the spouse or child of the Product User at the time of the claimed atypical femur fracture and/or osteonecrosis of the jaw. Attach separate sheet(s) as necessary to answer all of the following questions for each such Eligible Family Member.

Note: Completion by the Product User Claimant of this Section does not relieve any related person listed therein from the requirement to submit a Derivative Claimant Claim Form; each such related person separately must submit a Derivative Claimant Claim Form in accordance with the Settlement Agreement in order to claim a separate award, but such submission is not the responsibility of the Product User Claimant.

Current name and other names (e.g., maiden names, married names) used by each Eligible Family Member and the nature of their relationship to the alleged Product User listed above:

Prefix: □ Mr. □ Mrs. □ Miss □ Ms. □ Dr.

First Name Middle Name

Last Name

Prior Last Name

Relationship to alleged Product User (*i.e.*, spouse (or former spouse) or child) Date of Birth (Day/Month/Year)

Period of spousal relationship to alleged Product User (if applicable) (specify dates):

Street Address

City Province /Territory Postal Code

( ) ( )
Daytime Phone Number Evening Phone Number e-mail address

Language Preference:

English □ French □

Additional Eligible Family Members Attached ____

3. Information about a Legal Representative (e.g. Executor of the Product User Claimant's Estate) (if applicable)

This Section is to be completed only if this claim is being made by a legal representative (e.g. guardian) on behalf of a Product User Claimant.

If you are completing this Product User Claim Form as a legal representative of the alleged Product User, please provide details about your relationship to the alleged Product User (*e.g.*, as the executor for the estate of an alleged Product User) and if you are a court-appointed representative, please attach copies of the court orders making such appointment:

Type of legal representative (e.g. executor of estate, guardian): _____

Prefix: □ Mr. □ Mrs. □ Miss □ Ms. □ Dr.

First Name Middle Name

Last Name

Prior Last Name

Relationship to alleged Product User (*i.e.*, spouse or child) Date of Birth (Day/Month/Year)

Street Address

City Province /Territory Postal Code

( ) ( )

Daytime Phone Number Evening Phone Number e-mail address

Language Preference:

English □ French □

4. Legal Counsel Identification (if applicable)

This Section is to be completed only if a lawyer is representing the alleged Product User.

Law Firm Name_____

Lawyer's Last Name _____First Name _____Middle Initial_____

Address_____

City _____ Province _____

Postal Code _____

Phone _____ Fax _____

Email _____

Law Society Number _____

Language Preference:

English □ French □

Note: If you complete Section 4 (of this Part A) above, all correspondence will be sent to your lawyer, who must notify the Claims Administrator of any change in mailing address. If you change lawyers, you must notify the Claims Administrator in writing of the new information.

5. Facts Concerning Alleged Product User's Ingestion of Fosamax (note that facts related to alleged use of Fosavance and generic-branded alendronate are requested below):

a. Date Fosamax use started: _____

b. Date Fosamax use stopped: _____

c. Dose of Fosamax most often used: _____

([__], [__] or [__]mg)

d. Frequency of use of Fosamax:

Everyday: □
As Needed: □
Other: □

If other, please specify: _____

e. Was the alleged Fosamax user taking Fosamax at the time of his/her Event?

YES _____ NO _____

f. List each healthcare provider who prescribed or provided Fosamax to the alleged Fosamax user. Please provide name(s), address and phone number:

_____

_____

_____

_____

g. List each pharmacy where Fosamax prescriptions were ever filled by or for the benefit of the alleged Fosamax user. Please provide name(s), address, and phone number:

_____

_____

_____

_____

_____

h. Please provide a copy of complete Pharmacy Records for the entire period of time spanning the first alleged use of Fosamax, through the alleged Eligible Event (or, if more than one Eligible Event is alleged, through the date of the last such alleged Eligible Event).

Complete Pharmacy Records Attached □□ OR
pages

In the absence of pharmacy records please complete the chart below:

Name of Medication	Date(s) Used	Name and address of ordering healthcare provider

i. If samples of Fosamax were ever provided to the alleged Fosamax user, for each provision of samples, please provide the name, address, and phone number of the healthcare provider who provided samples, the date the samples were provided, and the specific number of Fosamax pills provided to the alleged Fosamax user.

Sample Provider	Date Samples Provided	Number of Samples Provided

6. Facts Concerning Alleged Product User's Ingestion of Fosavance (if any):

a. Date Fosavance use started: _____

b. Date Fosavance use stopped: _____

c. Dose of Fosavance most often used: _____

([__], [__] or [__]mg)

d. Frequency of use of Fosavance:

Everyday: □
As Needed: □
Other: □

If other, please specify: _____

e. Was the alleged Fosavance user taking Fosavance at the time of his/her Event?

YES _____ NO _____

f. List each healthcare provider who prescribed or provided Fosavance to the alleged Fosavance user. Please provide name(s), address and phone number:

_____

_____

_____

_____

g. List each pharmacy where Fosavance prescriptions were ever filled by or for the benefit of the alleged Fosavance user. Please provide name(s), address, and phone number:

_____

_____

_____

_____

h. Please provide a copy of complete Pharmacy Records for the entire period of time spanning the first alleged use of Fosavance, through the alleged Eligible Event (or, if more than one Eligible Event is alleged, through the date of the last such alleged Eligible Event).

Complete Pharmacy Records Attached □□ OR
pages

In the absence of pharmacy records please complete the chart below:

Name of Medication	Date(s) Used	Name and address of ordering healthcare provider

i. If samples of Fosavance were ever provided to the alleged Fosavance user, for each provision of samples, please provide the name, address, and phone number of the healthcare provider who provided samples, the date the samples were

provided, and the specific number of Fosavance pills provided to the alleged Fosavance user.

Sample Provider	Date Samples Provided	Number of Samples Provided

7. Facts Concerning Alleged Product User's Ingestion of generic-branded alendronate (if any) (attach additional sheets answering all of the following questions for each brand used, if necessary):

a. Name of generic alendronate used _____

b. Date use of generic started: _____

c. Date generic use stopped: _____

d. Dose of generic most often used: _____
([__], [__] or [__]mg)

e. Frequency of use of generic:

Everyday: □
As Needed: □
Other: □

If other, please specify: _____

f. Was the alleged Product User taking the generic at the time of his/her Event?

YES _____ NO _____

g. List each healthcare provider who prescribed or provided the generic alendronate identified in (a) above to the alleged Product User. Please provide name(s), address and phone number:

h. Please provide a copy of complete Pharmacy Records for the entire period of time spanning the first alleged use of the generic alendronate identified in a. above, through the alleged Eligible Event (or, if more than one Eligible Event is alleged, through the date of the last such alleged Eligible Event).

Complete Pharmacy Records Attached □□ OR
pages

In the absence of pharmacy records please complete the chart below:

Name of Medication	Date(s) Used	Name and address of ordering healthcare provider

i. List each pharmacy where prescriptions for the generic alendronate identified in (a) above were ever filled by or for the benefit of the alleged Product User. Please provide name(s), address, and phone number:

j. If samples of the generic alendronate identified in (a) above were ever provided to the alleged Product User, for each provision of samples, please provide the name, address, and phone number of the healthcare provider who provided samples, the date the samples were provided, and the specific number of pills of that generic alendronate provided to the alleged Product User.

Sample Provider	Date Samples Provided	Number of Samples Provided

8. **Alleged Eligible Event(s):**

Please provide the information requested below for your alleged Eligible Event(s). Only the three types of Eligible Events listed below will be considered under the Settlement Agreement. NOTE: You are only allowed to claim one atypical femur fracture per leg.

a. Alleged Eligible Event:

CHECK THE APPLICABLE BOX(ES)

Atypical Femur Fracture (left leg)	□
Atypical Femur Fracture (right leg)	□
Osteonecrosis of the Jaw	□

b. Date of alleged Eligible Event: _____
(Day/Month/Year)

c. Where were you treated for your alleged Eligible Event? Please provide name(s), address and phone number for each hospital, medical center or dental or other healthcare facility.

d. ANSWER THIS QUESTION ONLY IF ALLEGED ELIGIBLE EVENT IS AN ATYPICAL FEMUR FRACTURE.

Who was the orthopedist, general practitioner or other doctor/physician or healthcare provider for the one (1) year period prior to the alleged Eligible Event, and who treated you immediately following your alleged Eligible Event for the alleged injuries sustained during your alleged Eligible Event?

NOTE: Please list all healthcare providers for the one (1) year prior to the alleged Eligible Event through six (6) months afterwards.

Please list name(s), address and phone number for each healthcare provider.

_____

_____

_____

_____

e. ANSWER THIS QUESTION ONLY IF THE ALLEGED ELIGIBLE EVENT IS OSTEONECROSIS OF THE JAW.

List the alleged Product User's primary care physician(s), dentist(s) or other dental or other healthcare providers for the one (1) year period prior to the alleged Eligible Event and who treated you immediately following and through six (6) months after your alleged Eligible Event occurred.

NOTE: Please list all healthcare providers for the one (1) year prior to the alleged Eligible Event through six (6) months afterwards.

Please list name(s), address and phone number for each healthcare provider.

_____

_____

_____

_____

NOTE: If you allege more than one Eligible Event, you must provide the information requested in this Section 8 separately with respect to each such alleged Eligible Event. Use duplicate pages as necessary.

9. Medical, Dental and Pharmacy Records Requirements:

NOTE: FAILURE TO COMPLY WITH THE FOLLOWING RECORDS REQUIREMENTS WILL RESULT IN YOUR CLAIM NOT BEING ELIGIBLE FOR PAYMENT.

It is a strict requirement of the Settlement Agreement that all Product User Claimants produce true, complete, and correct copies of the PME Records, as detailed and described below. This is necessary for the Claims Administrator to properly evaluate whether a Product User Claimant satisfies the Eligibility Requirements and to perform a valuation of the claim of each Product User Claimant. Accordingly, the Claims Administrator is going to be closely reviewing the completeness of each Claims Package to ensure that a complete set of the required PME Records has been produced and that there is no evidence that any records have been withheld or in any way altered by the Product User Claimant or the Product User Claimant's counsel.

Intentional withholding or alteration of records will be pursued in accordance with Section 4.6 of the Settlement Agreement with respect to fraudulent claims.

Definitions:

"Eligible Event" means osteonecrosis of the jaw or atypical femur fracture. Note: You are only allowed to claim one atypical femur fracture per leg. If a Product User Claimant has experienced multiple fractures in the same leg, he or she is required to specify in the Claim Package which fracture is to be the exclusive basis for the claim made with respect to that leg.

"Event Records" means:

(a) with respect to an alleged Eligible Event of osteonecrosis of the jaw ("ONJ"), (i) contemporaneous Medical Record containing a diagnosis of ONJ, or (ii) at least six (6) consecutive weeks of exposed bone, or (iii) at least eight (8) consecutive weeks of non-healing of an extraction socket or other oral dental surgical site; or

(b) with respect to an alleged Eligible Event of atypical femur fracture ("AFF"), (i) contemporaneous Medical Record containing a diagnosis of AFF or (ii) satisfaction of the case definition of AFF in the ASBMR Task Force's report published in JBMR Vol. 29, Issue 1, p. 14, Table 3 (2014).

"Medical Records" means the entire record maintained by an individual healthcare provider or facility (including without limitation a dentist or dental facility) relating to the medical and/or dental history, care, diagnosis and treatment of a Product User Claimant including new patient intake forms completed by or on behalf of a Product User Claimant, doctor's notes, dentist's notes, nurse's notes, physician's orders, consultation reports, laboratory test results, x-ray reports, CT scan reports, MRI scan reports, reports of any diagnostic procedures, tests or imaging studies, operative reports, history and physicals, pathology reports, admission summaries, discharge summaries, consent forms, prescription or medication administration records, and all communications between a healthcare provider and a Product User Claimant or between two or more healthcare providers relating to a Product User Claimant.

"Pharmacy Records" means all documents that relate to the preparation, dispensing and provision of medicine, medical devices, or other treatment modalities by a pharmacy or any other Person that dispenses prescription medication, or from a provincial healthcare organization that has a central registry of all prescriptions dispensed to an individual.

"PME Records" means Product Identification Documentation and Supporting Medical Documentation.

"Product Identification Documentation" means the following (in each case for the entire period of time spanning the first alleged use of Fosamax, Fosavance and/or generic Alendronate, through the alleged Eligible Event(s)):

(a)

(i) Pharmacy Records from all pharmacies that dispensed Fosamax, Fosavance and/or generic Alendronate to the Product User Claimant, or

(ii) in the event any Product User Claimant's Pharmacy Records no longer exist because said records were destroyed pursuant to a records retention policy, natural disaster or some other reason independent of the Product User Claimant,

(A) objective evidence satisfactory to the Claims Administrator, the Merck Parties and Lead Counsel that Pharmacy Records evidencing the prescription of Fosamax, Fosavance and/or generic Alendronate for the Product User Claimant no longer exist and stating the reason such Pharmacy Records do not exist; and

(B) other contemporaneous Medical Records documenting the Product User Claimant's Fosamax, Fosavance and/or generic Alendronate use (in which case the extent of such usage shall continue to be determined pursuant to Exhibit 4.7(2)(C) to the Settlement Agreement);

(b) records with respect to the Product User Claimant from a provincial healthcare organization that has a central registry of all prescriptions dispensed to an individual; or

(c) insurance records reflecting the Product User Claimant's purchase of Fosamax, Fosavance and/or generic Alendronate.

"Supporting Medical Documentation" means the following:

(i) Event Records; and

(ii) Medical Records from all healthcare providers (including without limitation in the case of an alleged Eligible Event of ONJ, a dentist or dental facility) who provided care and treatment to the Product User Claimant during (with respect to each alleged Eligible Event) a one year period of time preceding the alleged Eligible Event and following the alleged Eligible Event for six (6) months thereafter.

1. ALL Product User Claimants shall produce the following:

    1. A sworn statement, under a penalty of perjury, by the Product User Claimants that the PME Records produced are true, complete, and correct copies of the records provided by the healthcare (including without limitation dental healthcare) provider(s), pharmacy(ies), provincial healthcare organization(s) and/or insurance companies.

2. ALL Product User Claimants shall submit, with respect to his or her alleged Eligible Event(s):

1. all Supporting Medical Documentation; and

2. all Product Identification Documentation.

NOTE: If you allege more than one Eligible Event, the information provided pursuant to this Section 9 must meet the requirements set forth in this Section 9 with respect to each such alleged Eligible Event.

PART B – TO BE COMPLETED ONLY IF APPLYING FOR A LOST INCOME AWARD

NOTE: YOU MUST PROVIDE THE DOCUMENTATION SPECIFIED IN THIS PART B IN ORDER TO APPLY FOR A LOST INCOME AWARD IN ADDITION TO A POINTS-BASED AWARD FOR PERSONAL INJURY. HOWEVER, APPLICATION FOR A LOST INCOME AWARD CLAIM IS OPTIONAL; PRODUCT USERS DO NOT NEED TO APPLY FOR A LOST INCOME AWARD IN ORDER TO APPLY FOR, OR RECEIVE, A POINTS-BASED AWARD.

NOTE: THE CLAIMS ADMINISTRATOR WILL NOT MAKE TENTATIVE LOST INCOME GRANTS OF LESS THAN $27,000. ACCORDINGLY, IN ORDER POSSIBLY TO BE ELIGIBLE TO RECEIVE ANY TENTATIVE LOST INCOME GRANT, YOU WILL REQUIRED TO PRODUCE "DOCUMENTATION" (AS DEFINED BELOW) OF "SPECIFIED LOST WAGES" (AS DEFINED BELOW) OF NOT LESS THAN $27,000.

☐ I hereby make application for a Lost Income Award under the Settlement Agreement.

1. Facts Concerning Alleged Lost Income:

a. Product User Claimant's gross income from wages for each of the three consecutive 12-month periods prior to date of alleged Eligible Event:

First preceding 12-month period: $____.

Second preceding 12-month period: $____

Third preceding 12-month period: $____

b. Product User Claimant's gross income from wages for the 12-month period immediately succeeding the date of alleged Eligible Event: $_____

Note: If you allege more than one Eligible Event (in respect of which you allege to have

suffered Specified Lost Wages), the information provided pursuant to this Section 1 must be separately provided with respect to each such alleged Eligible Event (although in no event shall Specified Lost Wages for overlapping periods of time be counted more than once over all Eligible Events).

2. Facts Concerning Relationship of Alleged Lost Gross Income From Wages to Alleged Eligible Event.

Please describe below how the Product User Claimant's Specified Lost Wages asserted in Section 4 of this Part B below are a result of Product User Claimant's alleged Eligible Event(s).

_____
_____
_____
_____
_____

3. Facts Concerning Reimbursement, or Eligibility for Reimbursement, of Alleged Lost Gross Income From Wages Related to Alleged Eligible Event.

Please describe below any reimbursement that the Product User Claimant has received, or may be eligible to receive, in respect of all or any portion of the Product User Claimant's alleged lost gross income from wages alleged to have been suffered as a result of Product User Claimant's alleged Eligible Event(s).

_____
_____
_____
_____
_____

4. Asserted Specified Lost Wages.

The Product User Claimant's Specified Lost Wages are $_____. "Specified Lost Wages" means the Product User Claimant's past lost gross income from wages, to the extent that such lost gross income from wages (i) are a result of such Product User Claimant's alleged Eligible Event(s) and (ii) have neither been reimbursed nor are eligible for reimbursement.

5. Lost Income Documentation.

It is a strict requirement of the Settlement Agreement that all Product User Claimants produce true, complete, and correct copies of Documentation of Specified Lost Wages, as detailed and described below. This is necessary for the Claims Administrator to properly evaluate whether a Product User Claimant has incurred Specified Lost Wages and the amount

thereof and to perform a valuation of the Lost Income Award claim of each Product User Claimant under the Tentative Lost Income Grants Criteria. Accordingly, the Claims Administrator is going to be closely reviewing the completeness and sufficiency of the Documentation of Specified Lost Wages provided to ensure that adequate Documentation thereof has been produced and that there is no evidence that any relevant records have been withheld or in any way altered by the Product User Claimant or the Product User Claimant's counsel. Intentional withholding or alteration of records will be pursued in accordance with Section 4.6 of the Settlement Agreement with respect to fraudulent claims.

"Documentation" means (i) Medical Records, billing records, tax returns, or T4 statements of remuneration paid or (ii) any other documentation or evidence requested, or otherwise found acceptable, by the Claims Administrator (with the consent of the Merck Parties and Lead Counsel).

1. ALL Product User Claimants who apply for a Lost Income Award shall produce a sworn statement, under a penalty of perjury, by the Product User Claimants that (i) the Documentation produced (x) are true, complete, and correct copies of the records provided by the healthcare provider(s), employer(s) and/or governmental authorities, and (y) accurately reflect the Product User Claimant's gross income from wages for each of the 12-month periods covered in Section 1 of this Part B, above, and (ii) the Product User Claimant's Specified Lost Wages are not less than the amount specified in Section 4 of this Part B, and (iii) the Product User Claimant's asserted Specified Lost Wages specified in Section 4 of this Part B (x) are a result of such Product User Claimant's alleged Eligible Event(s) and (y) have neither been reimbursed nor are eligible for reimbursement.

2. ALL Product User Claimants who apply for a Lost Income Award shall submit, with respect to his or her alleged Eligible Event(s), Documentation of the Product User Claimant's gross income from wages for each of the 12-month periods covered in Section 1 of this Part B, above.

PART C – TO BE COMPLETED IN ALL INSTANCES

BY SIGNING BELOW, YOU ACKNOWLEDGE AND AGREE TO THE FOLLOWING:

A. YOU DECLARE UNDER PENALTY OF PERJURY THAT

(i) YOU ARE THE PRODUCT USER OR A LEGAL REPRESENTATIVE DISCLOSED IN SECTION 3 OF PART A ABOVE,

(ii) ALL THE INFORMATION PROVIDED AND SUBMITTED IN THIS PRODUCT USER CLAIM FORM IS TRUE AND CORRECT, AND

(iii) ALL COPIES OF PME RECORDS PROVIDED (AND DOCUMENTATION OF LOST INCOME, IF CLAIMED) ARE TRUE, COMPLETE AND CORRECT COPIES OF RECORDS PROVIDED BY APPLICABLE RECORDS CUSTODIANS.

B. IF YOU HAD PREVIOUSLY OPTED OUT OF THE CLASS ACTION OF WHICH YOU HAD BEEN A MEMBER, YOU HEREBY ELECT TO PARTICIPATE IN AND TO BE BOUND BY THE TERMS AND CONDITIONS OF THE SETTLEMENT AGREEMENT, INCLUDING WITHOUT LIMITATION SECTION 5.1 OF THE SETTLEMENT AGREEMENT. THIS MEANS, WITHOUT LIMITATION, THAT, BY EXECUTION OF THIS PRODUCT USER CLAIM FORM, PURSUANT TO THE SETTLEMENT AGREEMENT, YOU ARE GRANTING EACH RELEASEE (AS DEFINED IN THE SETTLEMENT AGREEMENT) A COMPLETE AND FINAL RELEASE OF ALL RELEASED CLAIMS/LIABILITIES (AS DEFINED IN THE SETTLEMENT AGREEMENT) AS SET OUT IN SECTION 5.1 OF THE SETTLEMENT AGREEMENT.

C. YOU WILL COMPLY WITH ANY AUDIT UNDERTAKEN IN THE DISCRETION OF THE CLAIMS ADMINISTRATOR, INCLUDING SIGNING A CONSENT FOR RELEASE OF MEDICAL INFORMATION IF REQUESTED TO DO SO. REFUSAL TO COMPLY WITH, OR INTERFERENCE WITH, AN AUDIT SHALL RESULT IN DISQUALIFICATION FROM RECEIPT OF ANY PAYMENT UNDER THE SETTLEMENT AGREEMENT, INCLUDING REVOCATION OF ANY AWARD PREVIOUSLY GRANTED.

D. YOU ARE SOLELY RESPONSIBLE TO RESOLVE, SATISFY AND DISCHARGE ANY AND ALL LIENS WITH RESPECT TO ANY AWARD GRANTED TO YOU (E.G. WHERE ANY AGENCY THAT HAS PROVIDED SOCIAL ASSISTANCE TO YOU IS ENTITLED TO A PORTION OF THE AWARD). NO LIENS MAY BE ASSERTED AGAINST MERCK, THE CLAIMS ADMINISTRATOR OR FUNDS AT ANY TIME HELD IN THE SETTLEMENT ACCOUNT.

Privacy Statement

All personal information provided by or on behalf of the Claimant to the Claims Administrator will be handled in accordance with applicable privacy laws and the Claims Administrator's privacy policies available at **[website]**. Such information will be used for the purposes of administering the Settlement Agreement, including evaluation by the Claims Administrator, Class Counsel, Defense Counsel, the Referee appointed by the Courts and the Courts of the Claimant's eligibility status under the Settlement Agreement. Personal information provided by the Claimant will not be disclosed without further express written consent of the Claimant, except to Class Counsel, Defense Counsel, the Referee appointed by the Courts and the Courts; to appropriate persons to the extent necessary to process claims or provide benefits under the Settlement Agreement; as otherwise expressly provided in the Settlement Agreement; pursuant to court order, or as otherwise permitted or required by law; as may be reasonably necessary in order to enforce, or for the Class Counsel or Defense Counsel to exercise their respective rights (including their respective response or appeal rights) under, the Settlement Agreement; or to the immediate family members, counsel, accountants and/or financial advisors of the Claimant (each of whom the Claimant shall instruct to maintain and honour the confidentiality of such information).

The "Claims Administrator" is defined as **[insert]**

"Defense Counsel" is defined as Merck Canada Inc. (formerly named Merck Frosst Canada Ltd.), Merck Frosst Canada & Co., Merck & Co., Inc., Merck Sharp & Dohme Corp. (formerly named Merck & Co., Inc.), Blake, Cassels & Graydon LLP and Goldman Ismail Tomaselli Brennan & Baum LLP.

"Class Counsel" is defined as McKenzie Lake Lawyers LLP.

PLEASE ENSURE THAT YOU SIGN AND DATE THIS FORM (BELOW) AND THAT YOU COMPLETE, SIGN AND DATE THE CERTIFICATE OF SERVICE OF CLAIM FORM. YOUR CLAIM WILL NOT BE PROCESSED WITHOUT THE CERTIFICATE.

Date : _____

_____
Product User Claimant's (or Legal Representative's) Signature

_____
Printed Name of Product User Claimant (or Legal Representative)

Date : _____

_____
Signature of Product User Claimant's Lawyer (if any)

_____
Printed Name of Product User Claimant's Lawyer

CERTIFICATE OF SERVICE OF CLAIM FORM

I, _____, declare that:
(insert name)

I am at least 18 years of age. My address is:

_____
Street Address City Prov Postal Code

My telephone number is: ( )_____

On _____, I caused to be served the following document(s):
Date

CLAIM FORM(S) FOR THE CLAIM(S) OF:

_____
(insert name(s) of all Claimants whose form(s) are being served with this certificate)

by enclosing the **originals** of said document(s) in (an) envelope(s) and delivering said envelope(s) to the Claims Administrator at the following address:

[insert CA contact info here]

in the following manner:

☐ BY MAIL: I know that the envelope was sealed, addressed to the Claims Administrator, with postage thereon fully prepaid, and placed for collection and mailing on this date, with regular Canada Post mail at:

_____; or
City Province

☐ BY ELECTRONIC SERVICE: I caused the electronic mail with attachments to be sent to the Claims Administrator at the following address:_____; or

☐ BY SAME-DAY OR OVERNIGHT COURIER: I enclosed the envelope(s) in an overnight courier envelope addressed to the Claims Administrator and deposited same with the overnight courier company.

I declare under penalty of perjury that all of the information provided in the Claim Form and in the Certificate of Service of Claim Form is true and correct.

Executed on _____, at _____
Date City Province

_____
Printed Name

_____
Signature

Reminder Checklist:

□ Please sign the above Product User Claim Form and Certificate of Service of Claim Form.

□ Remember to attach supporting documentation where applicable.

□ Keep a copy of the claim form and all supporting documentation for your records.

• The Claims Administrator will acknowledge receipt of your Product User Claim Form by mail within 60 days. Your Product User Claim Form is not deemed fully filed until you receive an acknowledgement postcard. If you do not receive an acknowledgement postcard within 60 days, please call the Claims Administrator toll free at **[insert]**.

• If you move, it is your responsibility to notify the Claims Administrator of your new address.

EXHIBIT 4.5(1)

CLAIMS ADMINISTRATION PROCEDURES

A. OVERVIEW OF SETTLEMENT ADMINISTRATION

1. The procedures set forth herein are for the administration of the Settlement Agreement and for the submission, processing, approval or denial, review and evaluation of Program Claims pursuant to the Settlement Agreement. These procedures shall be implemented by the Claims Administrator, subject to the ongoing authority and supervision of the Class Action Courts.

2. The Claims Administrator may adopt additional policies and procedures for the administration of the Settlement Agreement that are consistent with the Settlement Agreement (including these Claims Administration Procedures). These Claims Administration Procedures may not be modified or amended except by, but may be modified or amended by, an instrument in writing executed by the Merck Parties and Lead Counsel, subject, in the case of any material modification or material amendment, to the approval thereof by the Class Action Courts. Without limitation of the foregoing, the Claims Administrator may, with the consent of each of Merck Counsel and Lead Counsel (collectively, the "CAP Parties"), deviate in any particular instance from the terms of these Claims Administration Procedures if such deviation, if set forth in a formal modification or amendment to the Settlement Agreement, would not require the approval of the Class Action Courts as specified in the preceding sentence.

3. The Claims Administrator shall implement the Settlement Agreement so as to provide benefits to eligible Claimants in a timely and efficient manner, designed to treat similarly situated Claimants as uniformly as possible and to minimize, to the extent reasonably practicable, the administration and other transaction costs associated with the implementation of the Settlement Agreement.

4. The Claims Administrator shall provide copies of any written communication to or from the Claims Administrator relating in any way to the Settlement Agreement to the CAP Parties. Any counsel entitled to receive copies of such written communication under this provision may waive that entitlement by so advising the Claims Administrator.

5. All defined terms are as defined in the Settlement Agreement or herein. All calculations of time and deadlines pursuant to these Claims Administration Procedures shall be calculated in accordance with the Ontario *Rules of Civil Procedure* which are available at www.e-laws.gov.on.ca as Regulation 194 to the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

B. ROLES IN SETTLEMENT ADMINISTRATION

Role of the Claims Administrator

6. As provided for in the Settlement Agreement, the Claims Administrator shall be selected by the CAP Parties and appointed by the Class Action Courts, and shall be responsible for (i) reviewing, determining the sufficiency/completeness and eligibility of, and evaluating, claims pursuant to the Settlement Agreement and the relevant Exhibits thereto, and thereafter completing a Claim Determination Form for each claim reviewed, all as further specified herein and in the Settlement Agreement, and (ii) holding, investing and disbursing funds in the Settlement Account in accordance with the terms of the Settlement Agreement.

7. The Claims Administrator shall comply with Sections 4.1(5) and 4.10 of the Settlement Agreement. The Claims Administrator shall take all reasonable steps to minimize the imposition of taxes upon monies held from time to time in the Settlement Account.

8. Disbursement of any monies out of the Settlement Account shall only be made in accordance with the Settlement Agreement and these Claims Administration Procedures, or upon directions issued by the Quebec, Saskatchewan and/or Ontario Courts.

9. The Claims Administrator shall provide monthly written reports to the CAP Parties. In addition, either CAP Party may request reports or information not required by the Settlement Agreement or these Claims Administration Procedures. The Claims Administrator shall respond to any such request within seven (7) days.

10. In addition (and without limitation), the Claims Administrator shall be responsible for:

    (a) providing adequately trained, supervised and monitored personnel in such reasonable numbers as are required for the performance of its duties within reasonable timeframes;

    (b) setting up and maintaining a system for the handling of queries from Settlement Class Members and Claimants in both English and French, including a bilingual toll-free telephone line and web site;

    (c) preparing and distributing Claim Packages in both French and English;

    (d) developing, installing and implementing systems and procedures for receiving and processing Claim Packages, determining the completeness of Claim Packages and delivering Acknowledgment Letters, Deficiency Notices and/or Final Deficiency Notices to Claimants;

    (e) developing, installing and implementing systems and procedures for forwarding Appeals (and responses to Appeals) to the Referee (as defined hereinbelow) for review;

(f) developing, installing and implementing systems and procedures for reviewing the eligibility of Claim Packages, and assessing the appropriate Points awards (and, if applicable, Tentative Lost Income Grants), in accordance with the terms of the Settlement Agreement (including these Claims Administration Procedures), and delivering Claim Determinations Letters to Claimants;

(g) forwarding payment to Finally Determined Eligible Claimants;

(h) reporting as required by the Settlement Agreement (including these Claims Administration Procedures) including reporting on a monthly basis to the Merck Parties and Lead Counsel with respect to the implementation of the Settlement Agreement generally, and, without limiting the generality of the foregoing, as to the number of Claim Packages received, the number of claims processed, the type of claims processed, the total amount of money distributed, the amount of money remaining in the Settlement Account, the interest accrued, the number of Deficiency Notices delivered, the number of Final Deficiency Notices delivered, the number of Claim Determinations Letters delivered, and the number of Notices of Appeal submitted and resolved;

(i) making such modifications to the Claim Form (including in relation to the documentation specified therein to be provided) as the Claims Administrator may determine to be necessary or desirable in connection with the implementation of the Settlement Agreement, however, any such modification shall require the approval of (i) each of the CAP Parties and (ii) if such modification is material, the Class Action Courts;

(j) co-ordinating with the CAP Parties, and holding regular administrative conference calls to advise them of the progress of the administration of the Settlement Agreement. In addition, when deemed necessary by the Claims Administrator, calling special meetings on reasonable notice to all CAP Parties; and

(k) such other duties and responsibilities as the Quebec, Saskatchewan and/or Ontario Courts may from time to time direct.

11. The Claims Administrator shall employ persons, both English and French-speaking, with appropriate experience and/or provide appropriate training, in respect of the review of Claim Packages and PME Records (pharmacy, medical/dental and event records).

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

13. The Claims Administrator shall establish a bilingual website for the assistance of Claimants.

14. All written communications from the Claims Administrator to Claimants shall be delivered by regular Canada Post mail. The Claims Administrator shall direct such written communications to the Claimant's legal counsel if the Claimant is represented by counsel, otherwise, such written communications shall be directed to the last known

address provided by the Claimant to the Claims Administrator. The Claimant (or legal representative or legal counsel to a Claimant) shall be responsible for apprising the Claims Administrator of the Claimant's and representative or counsel's correct and current mailing address.

15. The Claims Administrator shall act according to the terms of the Settlement Agreement (including the Eligibility Requirements as set out in Section 4.7(2), Exhibits 4.7(2)(B) and 4.7(2)(C) (the Event Gate Criteria and Usage Gate Criteria, respectively), Exhibits 4.8(1)(a) and 4.8(2) (Point Awards Criteria), and Exhibit 4.8(3) (Tentative Lost Income Grants Criteria)), and these Claims Administration Procedures, and shall sign and adhere to a confidentiality agreement with respect to their work under the Settlement Agreement.

C. CLAIM PACKAGE REQUIREMENTS

General Provisions

16. A complete Product User Claim Package shall consist of a properly and fully completed, and properly and fully executed, Product User Claim Form (Exhibit 4.4(1) to the Settlement Agreement), along with all Product Identification Documentation, all Supporting Medical Documentation, and all other financial and/or other documentation specified in the Product User Claim Form to be attached thereto or otherwise submitted therewith.

17. A complete Derivative Claimant Claim Package shall consist of a properly and fully completed, and properly and fully executed, Derivative Claimant Claim Form (Annex A to Exhibit 4.8(2) to the Settlement Agreement), along with the necessary documentation to support a qualifying relationship to a qualifying Product User and all other documentation specified in the Derivative Claimant Claim Form to be attached thereto or otherwise submitted therewith.

18. Qualification for payment awards, for Product Users and Eligible Family Members alike, pursuant to the Settlement Agreement, requires the timely filing with the Claims Administrator of a complete Claim Package and all related documentation.

Claim Form

19. The relevant Claim Form shall be completed and executed by the Claimant and must include information regarding (without limitation) the identity, the address and other contact information for the Claimant (or his/her representative) and (in the case of a Product User Claim Form) all related Eligible Family Members, along with (in the case of a Product User Claim Form) the date and description of the alleged Eligible Event(s) which forms the basis of the claim.

20. Where a claim is filed on behalf of a deceased Claimant, it must be filed by an executor or other person with the legal authority to administer the Claimant’s estate and documentary proof of that legal authority must be submitted with the Claim Package.

21. Where a claim is filed for a Claimant under a legal disability, it must be filed by an individual with appropriate legal authority to represent the disabled Claimant and documentary proof of his or her legal authority to act on behalf of the Claimant must be submitted with the Claim Package.

Product Identification Documentation

22. A completed Product User Claim Package must include all "Product Identification Documentation", which is defined to mean the following (in each case for the entire period of time spanning the first alleged use of Fosamax, Fosavance and/or generic Alendronate, through the alleged Eligible Event(s)):

(a)

(x) Pharmacy Records from all pharmacies that dispensed Fosamax, Fosavance and/or generic Alendronate to the Product User Claimant, or

(xi) in the event any Product User Claimant's Pharmacy Records no longer exist because said records were destroyed pursuant to a records retention policy, natural disaster or some other reason independent of the Product User Claimant,

(a) objective evidence satisfactory to the Claims Administrator, the Merck Parties and Lead Counsel that Pharmacy Records evidencing the prescription of Fosamax, Fosavance and/or generic Alendronate for the Product User Claimant no longer exist and stating the reason such Pharmacy Records do not exist; and

(b) other contemporaneous Medical Records documenting the Product User Claimant's Fosamax, Fosavance and/or generic Alendronate use (in which case the extent of such usage shall continue to be determined pursuant to Exhibit 4.7(2)(C));

(b) records with respect to the Product User Claimant from a provincial healthcare organization that has a central registry of all prescriptions dispensed to an individual; or

(c) insurance records reflecting the Product User Claimant's purchase of Fosamax, Fosavance and/or generic Alendronate.

Supporting Medical Documentation

23. A completed Product User Claim Package must also include all "Supporting Medical Documentation" which is defined to mean the following:

(a) "Event Records", which are defined to mean:

(a) with respect to an alleged Eligible Event of osteonecrosis of the jaw ("ONJ"), (i) contemporaneous Medical Record containing a diagnosis of ONJ, or (ii) at least six (6) consecutive weeks of exposed bone, or (iii) at least eight (8) consecutive weeks of non-healing of an extraction socket or other oral dental surgical site; or

(b) with respect to an alleged Eligible Event of atypical femur fracture ("AFF'), (i) contemporaneous Medical Record containing a diagnosis of AFF or (ii) satisfaction of the case definition of AFF in the ASBMR Task Force's report published in JBMR Vol. 29, Issue 1, p. 14, Table 3 (2014); and

(b) Medical Records from all healthcare providers (including without limitation in the case of an alleged Eligible Event of ONJ, a dentist or dental facility) who provided care and treatment to the Product User Claimant during (with respect to each alleged Eligible Event) a one year period of time preceding the alleged Eligible Event and following the alleged Eligible Event for six (6) months thereafter.

Other Documentation – Income Loss Claims

24. If a Product User wishes to advance a Lost Income Award claim under the Settlement Agreement, Documentation reflecting the Product User's average gross income from wages for each of the three consecutive 12-month periods prior to the date of the alleged Eligible Event and for the 12-month period immediately succeeding the date of the alleged Eligible Event must be submitted with the Claim Package, all as specified in more detail in the Product User Claim Form. If a Product User alleges more than one Eligible Event (in respect of which such Product User alleges to have suffered Specified Lost Wages), the information provided as described in the preceding sentence must be separately provided with respect to each such alleged Eligible Event (although in no event shall Specified Lost Wages for overlapping periods of time be counted more than once over all Eligible Events).

25. The Claims Administrator shall first determine the Tentative Lost Income Grants to be made pursuant to the Settlement Agreement in accordance with the Tentative Lost Income Grants Criteria and otherwise in accordance with Section 4.8(3) of Settlement Agreement (including that any particular Tentative Lost Income Grant may not be less than $27,000 or more than $54,000).

26. Actual Lost Income Awards will be determined pursuant to Section 4.9 of the Settlement Agreement, including that actual Lost Income Awards cannot, in the aggregate, exceed $162,000.

D. PROCESSING OF CLAIMS

Claims Administrator's Acknowledgement of Claim

27. The Claims Administrator shall, within seven (7) days of its receipt of a Claim Package, (i) deliver a letter to the Claimant (in the form of Exhibit 4.5(1)-27 to the Settlement Agreement) acknowledging receipt of the Claim Package (an "Acknowledgement Letter") and assign an individual claim number to the Claim Package, and (ii) (x) post the contents of the Claim Package on the Claims Administrator's secure, read-only website (the "CA Website"), and (y) notify the CAP Parties of such receipt and posting (the later of (x) and (y) with respect to any particular Claim Package, the "Parties Notice Date").

CAP Parties Recommendations With Respect to Claim Packages

28. The CAP Parties shall be granted unlimited access to the CA Website at all times during the period of implementation and/or administration of the Settlement Agreement. The CAP Parties also shall also be entitled to obtain hard copies of (i) any Claim Package, or any part thereof, and/or (ii) any other submission of any Claimant delivered to the Claims Administrator by any Claimant (such as, for example, an appeal or a response to an appeal), upon request to the Claims Administrator.

29. The CAP Parties may jointly submit, or either CAP Party may unilaterally submit, recommendations to the Claims Administrator with respect to the disposition of any particular Claim Package ("Disposition Recommendations") by the 15th day of the second calendar month after the calendar month during which the Parties Notice Date occurs (such deadline, with respect to any particular Claim Package, the "M/LC Review Deadline"). Disposition Recommendations shall be submitted using the form set forth in Exhibit 4.5(1)-29 to the Settlement Agreement. The M/LC Review Deadline with respect to any particular Claim Package may be extended (i) for a single additional period of 45 days, by notice by either CAP Party to such effect delivered to the other CAP Party and the Claims Administrator prior to the M/LC Review Deadline then in effect, and/or (ii) for such additional period(s) of time as the CAP Parties jointly may determine, by notice by the CAP Parties to such effect to the Claims Administrator delivered to the Claims Administrator prior to the M/LC Review Deadline then in effect.

30. Any other term of these Claims Administration Procedures to the contrary notwithstanding, the Claims Administrator shall not take any action with respect to any particular Claim Package (other than the delivery of an Acknowledgment Letter as set forth above) until after the earlier of (with respect to such Claim Package) (i) the passage of the M/LC Review Deadline or (ii) a joint notice from each of the CAP Parties to the effect that they do not intend to deliver any, or any further, as the case may be, Disposition Recommendations (the earlier of (i) and (ii) with respect to any particular Claim Package, the "CA Review Commencement Date"). Without limitation of the preceding sentence and without limitation of paragraph 31, if a Deficiency Notice is issued with respect to any particular Claim Package, the Claims Administrator shall not take any further action with respect to such Claim Package until the deadline for submitting a Supplemental Claim Form in respect of such Deficiency Notice has passed.

31. If a Claimant shall submit a Supplemental Claim Form with respect to his or her Claim Package as described below, (i) the Claims Administrator shall, within seven (7) days of the Claim Administrator's receipt of such Supplemental Claim Form, (x) post the contents of the Supplemental Claim Form (and all materials submitted therewith) on the CA Website and (y) notify the CAP Parties of such receipt and posting (the later of (x) and (y) with respect to any particular Claim Package constituting a new "Parties Notice Date" with respect to such Claim Package), and (ii) any other term of these Claims Administration Procedures to the contrary notwithstanding, paragraph 29, and the first sentence of paragraph 30, above shall apply anew to (including that a new M/LC Review Deadline shall apply, and the CA Review Commencement Date shall be deferred, with respect to) the relevant Claim Package (as supplemented by such Supplemental Claim Form (and accompanying materials)).

Claims Administrator's Review of Claim Package Completeness

32. Subject to the last sentence of paragraph 30, and to paragraph 31, above, within sixty (60) days after (but not before) the CA Review Commencement Date with respect to any particular Claim Package, the Claims Administrator shall review the Claim Package to ensure that:

    (a) It includes a properly completed and executed Claim Form (including all required personal sworn statements);

    (b) It includes the required Product Identification Documentation;

    (c) It includes the required Supporting Medical Documentation;

    (d) It includes all other documentation required by the terms of the relevant Claim Form to be attached thereto or otherwise submitted therewith (e.g., proof of executorship or guardianship, relationship with a Product User, and/or Lost Income Documentation); and

    (e) It is received by the Claims Administrator by the Claims Deadline Date.

Procedures Where Deficiency Exists

33. If a Claim Package is submitted which the Claims Administrator determines does not satisfy the requirements specified in clause (a)-(d) of paragraph 32, or if the Claims Administrator in its discretion determines to require additional Lost Income Documentation (in the case of a Claimant who has applied for a Lost Income Award) (any of the foregoing, a "deficiency"), the Claims Administrator shall, within thirty (30) days of such determination, so advise the Claimant of any such deficiency/ies by delivering to the Claimant a notice in the form of Exhibit 4.5(1)-33 to the Settlement Agreement (a "Deficiency Notice"). The Deficiency Notice shall advise the Claimant as to the deficiency/ies in the Claim Package and shall provide the Claimant with a further thirty (30) days within which the Claimant has the right to cure any such deficiency/ies by way of completion and submission of a Supplemental Claim Form, along with further

documentation, as required. The Claims Administrator promptly shall post the Deficiency Notice on the CA Website and notify the CAP Parties of such posting.

34. The Claimant shall have the option, but (subject to and without limitation of paragraphs 35 and 36) shall not be required to, submit a properly executed Supplemental Claim Form, together with further documentation, within such thirty (30) period, curing the deficiency/ies identified by the Claims Administrator in the Deficiency Notice (and/or explaining why any such deficiency/ies are not being cured, what efforts have been made to comply with all requirements, and the reasons why the Claimant cannot fully comply). The Claims Administrator shall not consider a Supplemental Claim Form (or the documentation submitted therewith) unless it is properly executed and timely submitted.

35. Once the thirty (30) day cure period has expired, the Claims Administrator shall (subject to paragraph 31) (i) evaluate the Claim Package for determination of the Claimant's eligibility (according to the Eligibility Requirements) to receive a Points award and the amount thereof (in the case of a Product User Claimant), or the Claimant's status as an Eligible Family Member (in the case of a Derivative Claimant), if either (x) the Claimant has, pursuant to a properly executed, and timely submitted, Supplemental Claim Form, cured all of the deficiency/ies identified by the Claims Administrator in the Deficiency Notice (disregarding those relating solely to Part B of a Product User Claimant's Claim Form) as specified in paragraph 34 or (y) the Claimant has properly executed, and timely (subject to paragraph 58) submitted, a Claim Form (including a properly completed and executed Certificate of Service), has properly executed, and timely (subject to paragraph 58) submitted, all personal sworn statements required by such Claim Form (other than Part B of a Product User Claimant's Claim Form) and, notwithstanding that the Claimant did not cure all of the deficiency/ies cited in the Deficiency Notice (disregarding those relating solely to Part B of a Product User Claimant's Claim Form) as specified in paragraph 34, the information provided in the original Claim Package, as supplemented (if applicable) by a properly executed, and timely submitted, Supplemental Claim Form and the documentation provided therewith, is sufficient to permit the Claims Administrator accurately to determine (A) in the case of a Product User Claimant, whether such Claimant satisfies (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event) the Eligibility Requirements, or (B) in the case of a Derivative Claimant, such Claimant's status as an Eligible Family Member, and (ii) if applicable and if the Claimant is determined to satisfy (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event) the Eligibility Requirements pursuant to (i), evaluate the Claim Package for determination of the Claimant's entitlement to receive a Tentative Lost Income Grant and the amount thereof, if either (x) the Claimant has, pursuant to a properly executed, and timely submitted, Supplemental Claim Form, cured all of the deficiency/ies identified by the Claims Administrator in the Deficiency Notice (relating to Part B of the Product User Claimant's Claim Form) as specified in paragraph 34, or (y) notwithstanding that the Claimant did not cure all of the deficiency/ies cited in the Deficiency Notice (relating to Part B of the Product User Claimant's Claim Form) as specified in paragraph 34, the Claimant has properly executed, and timely (subject to paragraph 58) submitted, all personal sworn statements required by Part B of the Product User Claimant's Claim Form and the

information provided in the original Claim Package, as supplemented (if applicable) by a properly executed, and timely submitted, Supplemental Claim Form and the documentation provided therewith, is sufficient to permit the Claims Administrator accurately to make such Tentative Lost Income Grant determination (or is sufficient to permit the Claims Administrator accurately to determine whether or not the relevant Product User Claimant incurred Specified Documented Lost Wages of not less than $27,000). If the Claims Administrator determines that neither (i)(x) nor (i)(y) has been satisfied (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event), then, subject to the Claimant's appeal rights as set forth below, the Claimant shall cease to have any right possibly to receive any Award, and the Claims Administrator shall send a notice to such effect (in the form of Exhibit 4.5(1)-35 to the Settlement Agreement) (the "Final Deficiency Notice") to the Claimant. If the Claims Administrator determines that either (i)(x) or (i)(y) has been satisfied (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event), but (if applicable) that neither (ii)(x) nor (ii)(y) has been satisfied (any such latter determination, a "Lost Income Award Claim Non-Completeness Determination"), then, subject to the Claimant's appeal rights as set forth below, the Claimant shall cease to have any right possibly to receive any Lost Income Award (but the Claims Administrator shall not at such time send any notice to such effect to the Claimant). The Claims Administrator promptly shall post the Final Deficiency Notice on the CA Website and notify the CAP Parties of such posting.

36. For the avoidance of doubt, the burden shall be on Product User Claimants (if they otherwise are determined to satisfy the Eligibility Requirements) (i) in the case of a Product User Claimant that alleges more than one Eligible Event, to produce documentation sufficient, in relation to each such alleged Eligible Event, to permit the Claims Administrator accurately to determine whether such Claimant satisfies the Eligibility Requirements, and (ii) to (x) produce documentation sufficient to permit the Claims Administrator accurately to determine the number of Points to award to them pursuant to the Points Award Criteria and (y) if applicable, to prove to the satisfaction of the Claims Administrator such Product User Claimants' Specified Documented Lost Wages. Without limiting the generality of the foregoing, (A) if clause (i)(x) of paragraph 35 has not been satisfied in the case of a Product User Claimant that alleges more than one Eligible Event, then the standard set forth in clause (i)(y) of paragraph 35 shall be considered separately in relation to each such alleged Eligible Event and, if such standard is not satisfied in relation to any particular such alleged Eligible Event (but not in relation to each such alleged Eligible Event (in which case a Final Deficiency Notice would be sent to such Product User Claimant as set forth in paragraph 35)), then, subject to the Claimant's appeal rights as set forth below, the Claimant shall cease to have any right possibly to receive any Points-Based Award in respect of such particular alleged Eligible Event (including, if applicable, that the Claimant may not be considered to fall within AFF Group B (as opposed to AFF Group A)) (but the Claims Administrator shall not at such time send any notice to such effect to the Claimant), (B) in addition to, and without limitation of, clause (A), if, pursuant to paragraph 35, the Claims Administrator proceeds to evaluate the Claim Package of a Product User Claimant for determination of the Claimant's eligibility to receive a Points award (according to the Eligibility

Requirements) and the amount thereof notwithstanding that such Product User Claimant did not, pursuant to a properly executed, and timely submitted, Supplemental Claim Form, fully cure the deficiency/ies identified in a Deficiency Notice (disregarding those relating solely to Part B of Product User Claimant's Claim Form) as specified in paragraph 34, and the effect of such failure is such that the information included in such Claimant's Claim Package is not sufficient to permit the Claims Administrator accurately to determine whether such Claimant falls within any particular ONJ Group (other than ONJ Group 1), such Claimant (if otherwise determined to satisfy the Eligibility Requirements in relation to such alleged ONJ Eligible Event) shall be deemed to fall within ONJ Group 1, and (C) if, pursuant to paragraph 35, the Claims Administrator proceeds to evaluate the Claim Package of a Product User Claimant for determination of whether or not to make a Tentative Lost Income Grant to such Claimant and the amount thereof notwithstanding that such Product User Claimant did not fully cure the deficiency/ies identified in a Deficiency Notice (relating to Part B of the Product User Claimant's Claim Form) as specified in paragraph 34, and the effect of such failure is such that the information included in such Claimant's Claim Package is not sufficient to permit the Claims Administrator accurately to determine such Claimant's Specified Documented Lost Wages but is sufficient to permit the Claim Administrator accurately to determine whether or not such Claimant incurred Specified Documented Lost Wages of not less than $27,000, the Claims Administrator may not make a Tentative Lost Income Grant to such Claimant in excess of $27,000.

Procedure When Deficiency Cured and/or No Deficiency Identified

37. Subject to paragraphs 30 and 31, where (i) a Claim Package is deemed to be complete or (ii) after the time for curing deficiencies has elapsed, the Claims Administrator otherwise determines to proceed with the evaluation of such Claim Package as described in paragraph 35 (any Product User Claimant in respect of which (i) or (ii) occurs, an "Enrolled Product User Claimant"; any Derivative Claimant in respect of which (i) or (ii) occurs, an "Enrolled Derivative Claimant; and any Enrolled Product User Claimant or Enrolled Derivative Claimant, an "Enrolled Claimant"), the Claims Administrator shall so notify the CAP Parties.

38. Subject to paragraph 36 (to the extent applicable), the Claims Administrator shall then review the Claim Package to determine (i) in the case of an Enrolled Product User Claimant, whether the Claimant satisfies (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to each such alleged Eligible Event) the Eligibility Requirements (any such Enrolled Product User Claimant that is so determined to satisfy the Eligibility Requirements (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event) may be referred to as an "Approved Product User Claimant") and, if so, to determine the Points and, if applicable (and subject to paragraph 35), the Tentative Lost Income Grant to be awarded to such Claimant, all as specified in Sections 4.7 and 4.8 of the Settlement Agreement (and, if applicable, paragraph 36), and (ii) in the case of an Enrolled Derivative Claimant with respect to an Approved Product User Claimant, whether the Claimant is an Eligible Family Member with respect to such Approved Product User Claimant (in the case of an Approved Product User Claimant that has been determined to

satisfy the Eligibility Requirements in relation to more than one Eligible Event, in relation to each such Eligible Event in respect of which such Approved Product User Claimant has so been determined to satisfy the Eligibility Requirements) (any such Enrolled Derivative Claimant that is so determined to be an Eligible Family Member (in the case of an Approved Product User Claimant that has been determined to satisfy the Eligibility Requirements in relation to more than one Eligible Event, in relation to at least one such Eligible Event) may be referred to as an "Approved Derivative Claimant"; an Approved Product User Claimant or Approved Derivative Claimant may be referred to as an "Approved Claimant"). The Claims Administrator shall complete the appropriate Claim Determination Form (Exhibit 4.5(1)-38 to the Settlement Agreement) (a "Claim Determination Form") reflecting the Claim Administrator's determinations with respect to each Approved Claimant, post it to the CA Website and notify the CAP Parties of same, as soon as practicable after completing the review of the relevant Claim Package pursuant to this paragraph 38.

Notifying Claimants of Claim Determinations

39. The Claims Administrator shall notify each Enrolled Product User Claimant, and each Enrolled Derivative Claimant in relation to an Approved Product User Claimant, of the relevant determinations of the Claims Administrator pursuant to paragraphs 38 and, to the extent applicable, 36 (and, only in the case of an Approved Product User Claimant, any Lost Income Award Claim Non-Completeness Determination) by way of the appropriate Claim determinations letter (Exhibit 4.5(1)-39-A through Exhibit 4.5(1)-39-D to the Settlement Agreement) (a "Claim Determinations Letter") as soon as practicable after completing the review of the relevant Claim Package (and, if the relevant Claimant is an Approved Claimant, posting the Claim Determination Form in respect thereof to the CA Website, and notifying the CAP Parties of same) pursuant to paragraph 38. The Claims Administrator shall also advise the Claimant of their right of appeal, as set out in paragraphs 40-53 herein (collectively, the "Appeal Provisions"). In addition, promptly after any Product User Claimant is determined not to be eligible to receive any Points-Based Award (and such determination has become Final), the Claims Administrator shall send the appropriate Claim Determinations Letter to each Enrolled Derivative Claimant in relation to such Product User Claimant to the effect that such Enrolled Derivative Claimant is, for such reason, ineligible to receive any Points-Based Award. The Claims Administrator shall post each Claim Determinations Letter to the CA Website, and notify the CAP Parties of same, as promptly as practicable.

Appeal of Claims Administrator's Decision(s)

40. Following receipt of a Final Deficiency Notice or a Claim Determinations Letter, the Claimant shall have the right to appeal the Claims Administrator determinations with respect to rejection by the Claim Administrator of a request to consider a Claim Package submitted only after the Claims Deadline Date (as specified, and only as specified, in the penultimate sentence of paragraph 58), Claim Package deficiency, satisfaction of the Eligibility Requirements, status as an Eligible Family Member, a Points award (in the case of a Product User Claimant) (including any adverse determination pursuant to paragraph 36) and/or a Tentative Lost Income Grant (in the case of a Product User

Claimant) (including any adverse determination pursuant to paragraph 36) in respect of such Claimant, by delivering a notice of appeal (a "Claimant Notice of Appeal") to the Claims Administrator within thirty (30) days of the date of the Final Deficiency Notice or Claim Determinations Letter.

41. Failure of a Claimant to deliver a Claimant Notice of Appeal to the Claims Administrator within thirty (30) days of the mailing of the Final Deficiency Notice or a Claim Determinations Letter shall be deemed to constitute irrevocable acceptance by such Claimant of the Final Deficiency Notice or Claim Determinations Letter, as the case may be (and the determinations covered thereby). In addition, for the avoidance of doubt, the submission by a Claimant of a Claimant Notice of Appeal shall be deemed to constitute irrevocable acceptance by such Claimant of the Claim Determinations Letter in all respects other than the determinations specified in such Claimant Notice of Appeal as being appealed by such Claimant.

42. Following (i) the issuance of a Claim Determinations Letter in relation to any particular Claimant (and regardless of whether the Claimant submits an appeal with respect thereto), and/or (ii) in addition to clause (i) (and regardless of whether the Merck Parties submit an appeal pursuant to clause (i)), the submission of any appeal by any particular Claimant, the Merck Parties shall have the right to appeal one or more of the Claims Administrator determinations with respect to granting a request pursuant to paragraph 58 to consider a Claim Package originally submitted only after the Claims Deadline Date, Claim Package completeness/sufficiency, satisfaction of the Eligibility Requirements, status as an Eligible Family Member, a Points award and/or a Tentative Lost Income Grant, in respect of such Claimant (including any determination by the Claims Administrator in respect of such Claimant (x) not to issue a Deficiency Notice or (y) in respect of paragraph 35 or 36), by delivering a notice of appeal (a "Merck Notice of Appeal") to the Claims Administrator, in each case by not later than the 15th day of the second calendar month after the calendar month during which the later of the posting to the CA Website of, and receipt by Merck Counsel of notice from the Claims Administrator of, such Claim Determinations Letter or Claimant Notice of Appeal, as applicable, occurs. (An appeal by either a Claimant or the Merck Parties may be referred to herein as an "Appeal".)

43. The Claims Administrator shall, within seven (7) days of receipt of a Claimant Notice of Appeal or a Merck Notice of Appeal, (i) in the case of a Claimant Notice of Appeal, notify the CAP Parties of the same, (ii) in the case of a Merck Notice of Appeal, notify Lead Counsel and the relevant Claimant of the same, (iii) post the same to the CA Website and (iv) forward the Claim Package and Claimant Notice of Appeal or Merck Notice of Appeal, as the case may be, to the Referee.

44. Each of the Merck Parties and Lead Counsel may, by not later than the 15th day of the second calendar month after the calendar month during which the later of the posting to the CA Website of, and receipt by the CAP Parties of notice from the Claims Administrator of, a Claimant Notice of Appeal occurs, submit a response supporting or opposing the relevant Appeal. Any failure of the Merck Parties or Lead Counsel to file a response to such Appeal shall not affect the right of the other to file such a response.

Each of the relevant Claimant and Lead Counsel may, within thirty (30) days of the date of notice from the Claims Administrator to such Claimant of any Merck Notice of Appeal, submit a response to the relevant Appeal, in each case to the Claims Administrator.

45. Any Claimant Notice of Appeal or Merck Notice of Appeal shall be in the form of Exhibits 4.5(1)-45-1 and 4.5(1)-45-2, respectively, to the Settlement Agreement. Any response of the Merck Parties or Lead Counsel to any Appeal by a Claimant, or any response by a Claimant or Lead Counsel to any Appeal by the Merck Parties with respect to a Claimant, shall be in the form of Exhibit 4.5(1)-45-3 to the Settlement Agreement. The Merck Parties, in the case of a response or Appeal by the Merck Parties, shall be permitted to submit such records or other documents (including PME Records or Documentation), in addition to the Claim Package submitted by the relevant Claimant, as the Merck Parties in their discretion may determine to submit. A Claimant or Lead Counsel, in the case of an Appeal by a Claimant or a response by Lead Counsel or a Claimant, shall not be permitted to submit (and, without limitation of the foregoing, the Referee shall not consider) any PME Records, Documentation or other materials other than (i) the PME Records, Lost Income Documentation or other materials included in the Claim Package of the relevant Claimant timely submitted pursuant to the terms of these Claims Administration Procedures and (ii) in the case of a notice of an Appeal by a Derivative Claimant, to the extent relevant thereto, the Claim Package of the related Product User Claimant timely submitted pursuant to these Claims Administration Procedures.

46. The Claims Administrator shall, within seven (7) days of receipt of a response to an Appeal, (i) in the case of a response by a Claimant, notify the CAP Parties of the same, (ii) in the case of a response by Lead Counsel, notify the Merck Parties and the relevant Claimant of the same, (iii) in the case of a response by the Merck Parties, notify Lead Counsel and the relevant Claimant of the same, (iv) post the same to the CA Website and (v) forward the same to the Referee.

47. The Appeal process shall be conducted exclusively in writing. Each Appeal of a Claimant shall be reviewed solely on the basis of the relevant Notice of Appeal, any response timely submitted in connection therewith as specified hereinabove, the Claim Package submitted by the relevant Claimant and any records or other documentation timely submitted as specified hereinabove and in accordance with paragraph 45 (collectively, the "Appeal Materials").

48. All Appeal(s) of a Claimant and, with respect to such Claimant, the Merck Parties shall be heard together by the Referee. No Appeal with respect to any particular Claimant shall be considered by the Referee prior to the expiration (or express written waiver by the Person(s) having such rights) of (i) all rights of both the Claimant and the Merck Parties to submit an Appeal with respect to such Claimant and (ii) all rights of the Merck Parties, or the Claimant or Lead Counsel, as the case may be, to submit a response with respect to any such Appeal that is timely submitted. Whenever an appeal by the Merck Parties is involved and the subject(s) of such appeal include one or more of whether a request pursuant to paragraph 58 to consider a Claim Package originally submitted only

after the Claims Deadline Date should have been granted, whether a Deficiency Notice should have been issued, whether a Final Deficiency Notice should have been issued or whether a Product User Claimant satisfied (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event) the Eligibility Requirements (collectively, the "Basic Eligibility Matters"), (x) the Basic Eligibility Matters (in the order set forth above) shall be considered first by the Referee, and (y) if the Referee upholds such appeal of the Merck Parties with respect to any Basic Eligibility Matter, the Referee shall not consider any other determination(s) of the Claims Administrator that are the subject of such Appeal(s).

49. The standard of review to be applied on an Appeal with respect to any determinations by the Claims Administrator of Claim Package sufficiency or deficiency in respect of clause (i)(y) or (ii)(y) of paragraph 35, or clause (A), (B) or (C) of paragraph 36, or the amount of any Tentative Lost Income Grant, or any determination of the Claims Administrator in respect of paragraph 58, shall be whether the determination(s) of the Claims Administrator was/were an abuse of discretion (provided for the avoidance of doubt that it shall in any event constitute an abuse of discretion to make a Tentative Lost Income Grant to any particular Product User Claimant of less than $27,000 (and greater than zero) or in excess of $54,000 (or to make any Tentative Lost Income Grant at all to a Product User Claimant whose determined Specified Documented Lost Wages are less than $27,000)); otherwise the standard of review to be applied to such Appeal shall be whether the determination(s) of the Claims Administrator was/were correct or incorrect. In the case of any Appeal relating to whether a Product User Claimant satisfies the Eligibility Requirements (other than, for the avoidance of doubt, an Appeal of a Claims Administrator determination in respect of paragraph 36), the determination of the Referee shall be substituted for that of the Claims Administrator, and in the case of any determination by the Referee that the granting by the Claims Administrator of, or the refusal by the Claims Administrator to grant, a request to consider a Claim Package originally submitted only after the Claims Deadline Date was an abuse of discretion, the determination of the Claims Administrator to grant, or to decline to grant, respectively, such request shall be overturned; in all other cases, the Referee either may return the matter to the Claims Administrator for a further determination by the Claims Administrator (which itself shall be subject to the Appeal rights of the Claimant and the Merck Parties specified in the Appeal Provisions) or may substitute its own determination for that of the Claims Administrator.

50. The Referee shall review the Appeal Materials and submit to the Claims Administrator his or her decision along with brief written reasons therefor (the "Appeal Decision"). Within seven (7) days of receiving the Appeal Decision, the Claims Administrator shall notify the CAP Parties and the relevant Claimant thereof and post the same to the CA Website.

51. All Appeal Decisions shall be limited to those matters for which the relevant Appeal was brought and shall be final and binding and shall not be the subject of any further challenge, appeal, or revision, except in the case of a clerical or obvious error (which shall be subject to correction by the Referee).

52. If the nature of an Appeal Decision with respect to a particular Claimant (such as, for example, a Referee determination to the effect that the Claims Administrator should have determined that such Claimant satisfied (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event) the Eligibility Requirements) is such that any further determination(s) need to be made by the Claims Administrator with respect to such Claimant, the Claims Administrator shall make such further determination(s), and the terms of this Exhibit (including the reporting and notification terms of paragraphs 38 and 39 and the Appeal Provisions) shall apply anew to such further determination(s). If an Appeal Decision with respect to an Appeal by the Merck Parties in relation to any particular Claimant is that a Final Deficiency Notice should have been issued with respect to such Claimant or that such Claimant did not satisfy (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event) the Eligibility Requirements, such Claimant shall cease to have any right possibly to receive any Award. If an Appeal Decision with respect to an Appeal by the Merck Parties in relation to any particular Claimant is other than as described in the preceding sentence but is such that the Claims Administrator determination (in relation to such Claimant) not to issue a Deficiency Notice, or any determination of the Claims Administrator (in relation to such Claimant) in respect of clause (i) of paragraph 35, is overturned or must be re-considered, then the Claims Administrator shall re-commence anew its consideration of the Program Claim of such Claimant at the point in the process of the earliest of such Claims Administrator determinations that the Referee has overturned or required to be re-considered (and all sequentially later prior determinations of the Claims Administrator (including all prior determinations of the Claims Administrator in relation to any Lost Income Award claim) with respect to such Claimant shall be vacated), and the terms of this Exhibit (including the reporting and notification terms of paragraphs 38 and 39 and the Appeal Provisions) shall apply anew to any subsequent determinations of the Claims Administrator with respect to such Claimant. If an Appeal Decision with respect to an Appeal by the Merck Parties in relation to any particular Claimant is other than as described in the two preceding sentences but is such that any determination of the Claims Administrator (in relation to such Claimant) in respect of clause (A) or (B) of paragraph 36 is overturned or must be re-considered, then the Claims Administrator shall re-commence anew its consideration of the Points that should be awarded to such Claimant and, if applicable, its consideration of the Lost Income Award claim of such Claimant (and all prior determinations of the Claims Administrator with respect to the Points, and, if applicable, the Tentative Lost Income Grant, that should be awarded to such Claimant shall be vacated), and the terms of this Exhibit (including the reporting and notification terms of paragraphs 38 and 39 and the Appeal Provisions) shall apply anew to any subsequent determinations of the Claims Administrator with respect to the Points and, if applicable, the Tentative Lost Income Grant, that should be awarded to such Claimant. If an Appeal Decision with respect to an Appeal by the Merck Parties in relation to any particular Claimant is other than as described in the second and third preceding sentences but is such that any one or more of the Claims Administrator determinations (in relation to such Claimant) in respect of clause (ii) of paragraph 35 or clause (C) of paragraph 36 is overturned or must be re-considered, then the Claims Administrator shall re-commence anew its consideration of the Lost Income Award claim

of such Claimant at the point in the process of the earliest of such Claims Administrator determinations that the Referee has overturned or required to be re-considered (and all sequentially later prior determinations of the Claims Administrator with respect to the Lost Income Award claim of such Claimant shall be vacated), and the terms of this Exhibit (including the reporting and notification terms of paragraphs 38 and 39 and the Appeal Provisions) shall apply anew to any subsequent determinations of the Claims Administrator with respect to the Lost Income Award claim of such Claimant. If the nature of an Appeal Decision with respect to a particular Approved Product User Claimant that alleged more than one Eligible Event is a Referee determination to the effect that the Claims Administrator should have determined that such Claimant satisfied the Eligibility Requirements in respect of more of such alleged Eligible Events than was the case, then, in addition to the foregoing, the Claims Administrator also shall further determine the Eligible Family Member status, in relation to such additional Eligible Events, of the Enrolled Derivative Claimants with respect to such Approved Product User Claimant, and the terms of this Exhibit (including the reporting and notification terms of paragraphs 38 and 39 and the Appeal Provisions) shall apply anew to such further determination(s).

53. If the Referee determines that any Appeal was frivolous, the Referee in his or her discretion may award costs to be paid by the Claimant (in the case of an Appeal of such Claimant) or the Merck Parties (in the case of an Appeal of the Merck Parties) to the other.

54. The "Referee" shall be any person from time to time appointed by the Class Action Courts based on a joint recommendation of the Merck Parties and Lead Counsel to fulfill the functions of the "Referee" under the Settlement Agreement (including these Claims Administration Procedures), including to replace, with or without cause, the person then serving as such "Referee".

E. PAYMENT SCHEDULE FOR APPROVED CLAIMS

55. Promptly (and in any event within thirty (30) days following the Awards Payment Trigger Date, the Claims Administrator shall distribute the Awards in accordance with Section 4.9 of the Settlement Agreement along with a "Letter of Final Resolution and Payment" (in the form of Exhibit 4.5(1)-55 to the Settlement Agreement), which letter shall, in the case of a recipient of a Lost Income Award and if the Lost Income Awards are less than the Tentative Lost Income Grants, advise of the pro-rata reduction from the Tentative Lost Income Grants as a result of the Lost Income Awards Cap Amount.

F. MISCELLANEOUS

Timeliness of Submissions

56. All Claim Packages (and other submissions by Claimants to the Claims Administrator) shall be submitted to the Claims Administrator (i) electronically, (ii) in paper form delivered via regular Canada Post mail or courier, or (iii) by any other means agreed to by the CAP Parties and the Claims Administrator. All such submissions by electronic

mail shall be conclusively deemed to have been submitted to the Claims Administrator on the date the submissions are capable of being accessed from the electronic mail address of the Claims Administrator specified for such purpose. All such submissions by mail shall be conclusively deemed to have been submitted to the Claims Administrator on the postmark date of such mail. All such submissions by courier shall be conclusively deemed to have been submitted to the Claims Administrator on the date of receipt by the Claims Administrator of such submissions. Where the Claims Administrator and the CAP Parties agree to an alternative means of submission, the date of receipt by the Claims Administrator shall be conclusively deemed to be the date of submission.

57. In order to qualify for an Award, Claimants must submit their Claim Packages in accordance with the Settlement Agreement (including these Claims Administration Procedures) prior to the Claims Deadline Date. Claim Packages may not be submitted prior to the Implementation Commencement Date.

58. In the event that the Claims Administrator originally receives a Claim Package only after the Claims Deadline Date, the Claims Administrator shall process the Claim Package in the ordinary course upon, but only upon, the Claimant establishing good cause for originally submitting the Claim Package after the Claims Deadline Date (including for originally submitting the Claim Package as late as it was originally submitted), the determination of which rests exclusively with the Claims Administrator (after consultation with the CAP Parties). In order to assert such good cause, the Claimant must execute, and submit to the Claims Administrator along with Claimant's Claim Package, a letter setting forth such good cause. If (and only if) a Claim Package that is originally submitted after the Claims Deadline Date is accompanied by such a letter, a determination by the Claims Administrator that the Claimant has not established such good cause shall be subject to appeal pursuant to the Appeal Provisions. The Merck Parties also may appeal any Claims Administrator determination to grant a Claimant request to review a Claim Package that originally was submitted after the Claims Deadline Date.

Extension of Deadlines

59. In addition to and without limitation of paragraph 29, the CAP Parties jointly may from time to time in their absolute discretion extend any of the periods or deadlines prescribed herein relating to the administration or processing of claims (including in relation to submitting Appeals or responses thereto), either generally or in relation to particular Claimants.

60. No failure of the Claims Administrator or the Referee to meet any deadline for the administration, processing, evaluation or adjudication of claims shall give rise to any Claimant becoming entitled to receive any benefits pursuant to the Settlement Agreement, any right of Appeal by any Claimant or any liability of the Claims Administrator or the Referee to any Claimant.

Privacy of Communications

61. Any personal information provided by or regarding any Class Member or Claimant, or such information otherwise obtained pursuant to the Settlement Agreement (including these Claims Administration Procedures) shall be kept confidential and shall not be disclosed except to appropriate Persons to the extent necessary to process claims or provide benefits pursuant to the Settlement Agreement or as otherwise expressly provided in the Settlement Agreement (including Section 12.16 thereof) and the Exhibits thereto. All Claimants shall be deemed to have consented to the disclosure of this information for these purposes.

Meetings of Merck Parties and Lead Counsel

62. The CAP Parties shall (at a mutually agreed time or times, and in person, telephonically or otherwise) meet or otherwise confer as needed during the Claims Administration period and after the Claims Deadline Date to review matters with respect to Claim Packages, Claim Determinations Letters and Claimant Notices of Appeal posted to the CA Website and such other matters as the Merck Parties and Lead Counsel may in their discretion determine to review. Anything in this paragraph above to the contrary notwithstanding, neither the Merck Parties nor Lead Counsel shall have any Liability for any failure to comply, or any delay in complying, with this paragraph.

Satisfaction of Liens; Fraud

63. For the avoidance of doubt, these Claims Administration Procedures are subject in all respects to Section 6 of the Settlement Agreement. Furthermore, nothing in these Claims Administration Procedures shall limit the Merck Parties' rights and remedies in the event of fraud or other intentional misconduct.

Merck Counsel

64. For the purposes of this Exhibit, "Merck Counsel" shall mean such Person as the Merck Parties may from time to time specify, by notice to such effect to the Claims Administrator and Lead Counsel, to constitute such "Merck Counsel".

Notices

65. Where this Exhibit requires the Claims Administrator to provide notice or any other communication or document to a CAP Party (other than, for the avoidance of doubt, to post a document to the CA Website), such notice, communication or document shall, unless otherwise requested by a CAP Party in any particular instance (including any request for hard copies of Claim Packages pursuant to paragraph 28), be provided to such CAP Party in writing, by email.

Settlement Agreement

66. In the event of any conflict between these Claims Administration Procedures, on the one hand, and the provisions of the Settlement Agreement (other than these Claims

Administration Procedures), on the other hand, the provisions of the Settlement Agreement shall prevail.

EXHIBIT 4.5(1)-27

ACKNOWLEDGMENT LETTER

This is an Acknowledgement Letter referred to in the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Acknowledgement Letter shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Acknowledgement Letter and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

Date of this Acknowledgment Letter:

Claimant's Name: _____

Law Firm Representing Claimant:

This Acknowledgment Letter is to inform Claimant that **[insert name of Claims Administrator],** the Claims Administrator under the Settlement Agreement, received Claimant's Claim Package on **[insert date]**. The Claim Package has not yet been reviewed. The Claims Administrator might determine that the Claim Package is incomplete or that the Claimant is not eligible. Please watch for further communications from the Claims Administrator as they may contain instructions and deadlines.

[Insert Claims Administrator name, address and phone number]

EXHIBIT 4.5(1)-29

NOTICE OF PROGRAM CLAIM DISPOSITION RECOMMENDATIONS TO CLAIMS ADMINISTRATOR

This is a Notice of Program Claim Disposition Recommendations to Claims Administrator (this "Notice") with respect to the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Notice shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Notice and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

Date of this Notice: _____

Name of Program Claimant to whom this Notice applies: _____

Type of Claimant: ☐ Product User Claimant

☐ Derivative Claimant – Spouse

☐ Derivative Claimant – Child

Name of related Product User Claimant (if Program Claimant to whom this Notice applies is a Derivative Claimant): _____

Pursuant to the Claims Administration Procedures Exhibit, Merck Counsel and/or Lead Counsel hereby make the following recommendation(s) to the Claims Administrator with respect to the disposition of the above-referenced Program Claim, and respectfully request that the Claims Administrator consider such recommendation(s). Explanatory comments may, or may not, follow any such recommendation. (Please note that certain of the recommendation(s) set forth below may relate to matters that the Claims Administrator will not have to determine if the Claims Administrator follows another recommendation(s) set forth below. Such former recommendation(s) are set forth below in case the Claims Administrator determines not to follow such latter recommendation(s). For example, the recommendations below may include both a recommendation to issue a Final Deficiency Notice and a recommendation as to whether the Program Claimant satisfies (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to any or all of such alleged Eligible Events) the Eligibility Requirements; the latter such recommendation will become moot if the Claims Administrator determines to issue a Final Deficiency Notice.)

☐ A Deficiency Notice [should/should not] be issued with respect to the Program Claim.

_____

_____

☐ A Final Deficiency Notice [should/should not] be issued with respect to the Program Claim.

☐ A Lost Income Award Claim Non-Completeness Determination [should/should not] be made with respect to the Program Claim. (Product User Claimant)

☐ The Program Claim [should/should not] be determined to satisfy the Eligibility Requirements. (Product User Claimant)

☐ The Program Claimant has asserted more than one Eligible Event. While the

Program Claim should be determined to (i) constitute a Product User, and (ii) satisfy the Usage Gate Criteria and the Event Gate Criteria with respect to the asserted Eligible Event(s) of [_____ and _____], the Program Claim should not be determined to satisfy the Usage Gate Criteria and the Event Gate Criteria with respect to the asserted Eligible Event(s) of [_____ and _____]. (Product User Claimant)

☐ The Program Claimant has asserted more than one Eligible Event. While the Program Claimant should be determined to (i) constitute a Product User, and (ii) satisfy the Usage Gate Criteria and the Event Gate Criteria with respect to the asserted Eligible Event(s) of [_____ and _____], a Deficiency Notice having been issued with respect to this Program Claim, pursuant to clause (A) of paragraph 36 of the Claims Administration Procedures Exhibit, and clause (i)(y) of paragraph 35 of the Claims

Administration Procedures Exhibit referenced therein, the Claimant should be determined to cease to have any right possibly to receive any Points-Based Award in respect of the asserted Eligible Event(s) of [_____ and _____]. (Product User Claimant).

☐ The Program Claimant has asserted more than one Eligible Event. While the Program Claimant <u>should</u> be determined to (i) constitute a Product User, and (ii) satisfy the Usage Gate Criteria and the Event Gate Criteria with respect to the asserted Eligible Event(s) of [_____ and _____], a Deficiency Notice having been issued with respect to this Program Claim, clause (B) of paragraph 36 of the Claims Administration Procedures Exhibit should be applied in relation to the asserted Eligible Event of ONJ. (Product User Claimant)

☐ The Program Claimant should be awarded Points as set forth in the Product User Claimant's Points Award Recommendation Form attached hereto. (Product User Claimant)

☐ The Program Claimant has made an application for a Lost Income Award. A Deficiency Notice having been issued with respect to this Program Claim, a Lost Income Award Claim Non-Completeness Determination should be made in respect of such Lost Income Award Claim. (Product User Claimant)

☐ The Program Claimant has made an application for a Lost Income Award. A Tentative Lost Income Grant should not be made to the Program Claimant. (Product User Claimant)

☐ The Program Claimant has made an application for a Lost Income Award. Any Tentative Lost Income Grant made to the Program Claimant should be limited pursuant to clause (C) of paragraph 36 of the Claims Administration Procedures Exhibit. (Product User Claimant)

☐ The Program Claimant has made an application for a Lost Income Award. A Tentative Lost Income Grant should be made to the Program Claimant as set forth in the Product User Claimant's Tentative Lost Income Grant Recommendation Form attached hereto. (Product User Claimant)

☐ Program Claimant [should/should not] be determined to constitute an Eligible Family Member with respect to the above-referenced related Product User Claimant. (Derivative Claimant)

☐ The above-referenced related Product User Claimant has asserted more than one Eligible Event. While the Program Claimant <u>should</u> be determined to constitute an Eligible Family Member with respect to the asserted Eligible Event(s) of [_____ and _____], the Program Claimant <u>should not</u> be determined to constitute an Eligible Family Member with respect to the asserted Eligible Event(s) of [_____ and _____]. (Derivative Claimant)

☐ Other recommendations.

[INSERT SIGNATURE BLOCKS FOR MERCK COUNSEL AND/OR LEAD COUNSEL, AS APPROPRIATE]

This Notice must be delivered to the Claims Administrator at the below address:

[Insert Claims Administrator name, physical address and email address here]

PRODUCT USER CLAIMANT'S POINTS AWARD RECOMMENDATION FORM:
[INSERT PRODUCT USER CLAIMANT LAST NAME, FIRST NAME]

√	EVENT TYPE	POINTS AWARD RECOMMENDATION	Clause (B) of paragraph 36 of the Claims Administration Procedures Exhibit Should be Applied – √
_____	**AFF Group A**	_____	
_____	**AFF Group B**	_____	
_____	**ONJ Group 1**	_____	_____
_____	**ONJ Group 2**	_____	
_____	**ONJ Group 3**	_____	
_____	**ONJ Group 4**	_____	

PRODUCT USER CLAIMANT'S TENTATIVE LOST INCOME GRANT RECOMMENDATION FORM (IF APPLICABLE):
[INSERT PRODUCT USER CLAIMANT LAST NAME, FIRST NAME]

√	Determination	$
____	**1. Complete this Part 1 if it is Recommended that Clause (C) of Paragraph 36 of the Claims Administration Procedures Exhibit Should Not Apply to Lost Income Award Claim:**	
	a. Recommended Determined Specified Documented Lost Wages	**$_____**
	b. Recommended Tentative Lost Income Grant (lesser of 1.a. and $54,000, but zero if 1.a. is less than $27,000)	**$_____**
____	**2. Complete this Part 2 if it is Recommended that Clause (C) of Paragraph 36 of the Claims Administration Procedures Exhibit Should Apply to Lost Income Award Claim:**	
	a. Recommended Determined Specified Documented Lost Wages – not less than [insert amount not in excess of $27,000]	**$_____**
	b. Recommended Tentative Lost Income Grant ($27,000 if 2.a. is $27,000, but zero if 2.a. is less than $27,000 (i.e., either $27,000 or zero))	**$_____**

EXHIBIT 4.5(1)-33

DEFICIENCY NOTICE

FOSAMAX/FOSAVANCE CLASS ACTION CANADA-WIDE SETTLEMENT AGREEMENT

DEFICIENCY NOTICE
Private & Confidential

This is a Deficiency Notice referred to in the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Deficiency Notice shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Deficiency Notice and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

Date of Deficiency Notice: _____ Deadline to Respond: _____

Putative Product User Name: _____

Putative Eligible Family Member Name (if applicable): _____

Asserted Relationship of Putative Eligible Family Member to Putative Product User: _____

Law Firm Representing Claimant: _____

Alleged Event Type:

Atypical Femur Fracture (left leg)	□
Atypical Femur Fracture (right leg)	□
Osteonecrosis of the Jaw	□

Alleged Event Date: _____

This is an official Deficiency Notice from **[insert name of Claims Administrator]**.

We have reviewed the Claim Package you submitted in connection with the above-referenced Claim. We have determined that the Claim Package is deficient for the following reasons: (*Please check all that apply.)*

A. FOR ALL PUTATIVE PRODUCT USERS:

Deficient Product User Claim Form, Certifications or Correspondence:

☐ Incomplete Product User Claim Form (Parts A and/or C) submitted (Exhibit 4.4(1)).

Missing Sworn Statement:

☐ No sworn statement of Product User Claimant that the PME Records produced are true, complete and correct copies of the records provided by the healthcare (including without limitation dental healthcare) provider(s), pharmacy(ies), provincial healthcare organization(s) and/or insurance companies.

Deficient Event Records:

☐ No Event Records submitted.

☐ Incomplete Event Records submitted. (Pursuant to Section 9 of Part A of the Product User Claim Form, the Product User Claimant is required to produce (A) with respect to an alleged Eligible Event of ONJ, (i) contemporaneous Medical Record containing a diagnosis of ONJ, or (ii) at least six (6) consecutive weeks of exposed bone, or (iii) at least eight (8) consecutive weeks of non-healing of an extraction socket or other oral dental surgical site, or (B) with respect to an alleged Eligible Event of AFF, (i) contemporaneous Medical Record containing a diagnosis of AFF or (ii) satisfaction of the case definition of AFF in the ASBMR Task Force's report published in JBMR Vol. 29, Issue 1, p. 14, Table 3 (2014).) ("Medical Records" means the entire record maintained by an individual healthcare provider or facility (including without limitation a dentist or dental facility) relating to the medical and/or dental history, care, diagnosis and treatment of a Product User Claimant including new patient intake forms completed by or on behalf of a Product User Claimant, doctor's notes, dentist's notes, nurse's notes, physician's orders, consultation reports, laboratory test results, x-ray reports, CT scan reports, MRI scan reports, reports of any diagnostic procedures, tests or imaging studies, operative reports, history and physicals, pathology reports, admission summaries, discharge summaries, consent forms, prescription or medication administration records, and all communications between a healthcare provider and a Product User Claimant or between two or more healthcare providers relating to a Product User Claimant.)

Deficient Product Identification Documentation:

☐ No Product Identification Documentation submitted.

☐ Incomplete Product Identification Documentation submitted. (Pursuant to Section 9 of Part A of the Product User Claim Form, the Product User Claimant is required to produce the Product Identification Documentation. "Product Identification Documentation" means the following (in each case for the entire period of time spanning the first alleged use of Fosamax, Fosavance and/or generic Alendronate, through the alleged Eligible Event):

(a)

(i) Pharmacy Records from all pharmacies that dispensed Fosamax, Fosavance and/or generic Alendronate to the Product User Claimant, or

(ii) in the event any Product User Claimant's Pharmacy Records no longer exist because said records were destroyed pursuant to a records retention policy, natural disaster or some other reason independent of the Product User Claimant,

(A) objective evidence satisfactory to the Claims Administrator, the Merck Parties and Lead Counsel that Pharmacy Records evidencing the prescription of Fosamax, Fosavance and/or generic Alendronate for the Product User Claimant no longer exist and stating the reason such Pharmacy Records do not exist; and

(B) other contemporaneous Medical Records documenting the Product User Claimant's Fosamax, Fosavance and/or generic Alendronate use;

(b) records with respect to the Product User Claimant from a provincial healthcare organization that has a central registry of all prescriptions dispensed to an individual; or

(c) insurance records reflecting the Product User Claimant's purchase of Fosamax, Fosavance and/or generic Alendronate.

Deficient Historical Records.

☐ No Medical Records for the year preceding the alleged Eligible Event submitted.

☐ Historical Medical Records submitted do not range through the one year period of time preceding the alleged Eligible Event.

Deficient Follow-up Records.

☐ No follow-up records from healthcare providers (including without limitation, with respect to an alleged ONJ, dental healthcare providers) submitted.

☐ Follow-up records submitted do not range through six (6) month period post the alleged Eligible Event.

Other (Specify).

☐ _____

[Note to Claims Administrator: If the Program Claim alleges more than one Eligible Event, the above Part A of this Deficiency Notice has to be separately completed with respect to each alleged Eligible Event (identifying, in each case, which alleged Eligible Event is being covered)].

B. FOR PUTATIVE PRODUCT USERS – PART B OF PRODUCT USER CLAIM FORM ONLY (APPLICATION FOR LOST INCOME AWARD):

Deficient Product User Claim Form:

☐ Incomplete Product User Claim Form (Part B) submitted (Exhibit 4.4(1)).

Missing Sworn Statement:

☐ No sworn statement of Product User Claimant that (i) the Documentation produced (x) are true, complete, and correct copies of the records provided by the healthcare provider(s), employer(s)

and/or governmental authorities, and (y) accurately reflect the Product User Claimant's gross income from wages for each of the 12-month periods covered in Section 1 of Part B of the Product User Claim Form, and (ii) the Product User Claimant's Specified Lost Wages are not less than the amount specified in Section 4 of Part B of the Product User Claim Form, and (iii) the Product User Claimant's asserted Specified Lost Wages specified in Section 4 of Part B of the Product User Claim Form (x) are a result of such Product User Claimant's alleged Eligible Event and (y) have neither been reimbursed nor are eligible for reimbursement.

Deficient Lost Income Documentation:

☐ No Documentation of past lost gross income from wages submitted.

☐ Insufficient Documentation with respect to asserted past lost gross income from wages submitted. (Pursuant to Section 5 of Part B of the Product User Claim Form, the Product User Claimant is required to produce, with respect to his or her alleged Eligible Event, Documentation of the Product User Claimant's gross income from wages for each of the 12-month periods covered in Section 1 of Part B of the Product User Claim Form.)

☐ Further Documentation with respect to asserted lost gross income from wages (including without limitation in respect of such asserted lost gross income from wages constituting Specified Lost Wages) is required by the Claims Administrator (specify).

_____

Other (Specify).

☐ _____

[Note to Claims Administrator: If the Program Claim alleges more than one Eligible Event in respect of which the Claimant is alleging to have suffered Specified Lost Wages, the above Part B of this Deficiency Notice has to be separately completed with respect to each such alleged Eligible Event (identifying, in each case, which alleged Eligible Event is being covered)].

C. FOR ALL PUTATIVE ELIGIBLE FAMILY MEMBERS:

☐ Incomplete Derivative Claimant Claim Form submitted (Annex A to Exhibit 4.8(2)).

☐ For spouses of Product User Claimants, no copy of marriage certificate or other document evidencing Eligible Family Member's relationship to Product User Claimant submitted.

☐ For children of Product User Claimants, no birth certificate or other relevant documentation establishing the date of birth of the Eligible Family Member was submitted, or, if the last name of the child is different from that of the Product User Claimant, no documentation establishing that the Eligible Family Member is the child of the Product User Claimant was submitted.

☐ Other (specify):

[Note to Claims Administrator: If the Program Claim of the relevant Product User Claimant alleges more than one Eligible Event, the above Part C of this Deficiency Notice has to be separately completed with respect to each such alleged Eligible Event (identifying, in each case, which alleged Eligible Event is being covered)].

PROCEDURE AND DEADLINE FOR CURING DEFICIENCY(IES):

Your deadline to submit a Response to this Deficiency Notice is set out on page 1 of this form (30 days from the date of this notice) (the "Deadline"). We have enclosed with this Notice a Supplemental Claim Form for you to submit by the Deadline. Please include with your Supplemental Claim Form all required Certification(s) and/or copies of records necessary to cure the deficiencies specified in this Deficiency Notice. In the event that you are unable to submit the required records, you may fill out the [ ] paragraph on page [ ] of the Supplemental Claim Form explaining why any such deficiency/ies are not being cured, what efforts have been made to comply with all requirements, and the reasons why you cannot fully comply. ***No extensions will be granted.*** If you fail to submit a Supplemental Claim Form by the Deadline, or in the event that you submit such a Supplemental Claim Form but fail to include with your Supplemental Claim Form all required Certification(s) and/or copies of records necessary to cure the deficiencies specified in this Deficiency Notice, your Claim may be deemed ***ineligible*** to participate in the Fosamax/Fosavance Class Action Canada-Wide Settlement and you may immediately cease to have any right possibly to receive an Award. Your Supplemental Claim Form and all required Certifications and/or records should be sent to **[insert Claims Administrator here]** at the below address before the Deadline.

Should you have any questions regarding this Deficiency Notice or the procedures required to cure the deficiencies specified in this Deficiency Notice, please contact the Claims Administrator at the below address and/or phone number:

[Insert Claims Administrator here]

Cc: Merck
Lead Counsel

EXHIBIT 4.5(1)-34

SUPPLEMENTAL CLAIM FORM

FOSAMAX/FOSAVANCE: CLASS ACTION
CANADA-WIDE SETTLEMENT AGREEMENT

SUPPLEMENTAL CLAIM FORM

Private & Confidential

(Please type or use blue or black pen and write legibly)

This is a Supplemental Claim Form referred to in the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Supplemental Claim Form shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Supplemental Claim Form and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

NOTE: This Response and all additional records you rely upon in support of your claim must be filed within 30 days after the date of your Deficiency Notice (the Deadline is set out at page 1 of your Deficiency Notice). No extension will be granted.

Date of Deficiency Notice: _____

Date of Supplemental Claim Form: _____

Claimant Name: _____

Claimant Type: ☐ **Product User** ☐ **Eligible Family Member**

If Eligible Family Member, relationship to Product User Claimant: ☐ **Spouse** ☐ **Child**

Law Firm Representing Claimant: _____

Alleged Event Type:

Atypical Femur Fracture (left leg) □

Atypical Femur Fracture (right leg) □
Osteonecrosis of the Jaw □

Alleged Event Date: _____

In response to the Claims Administrator's Notice of Deficient Claim Package sent in connection with the above-referenced Claim, Claimant responds as follows:

☐ Claimant now submits all required certifications, sworn statements and/or records necessary to cure the deficiency(ies) specified in the Deficiency Notice. Additional certifications and/or records submitted with this Supplemental Claim Form include the following: (*Please check all that apply.*)

A. FOR PRODUCT USERS – PRODUCT USER CLAIM FORM (PARTS A AND C):

☐ Complete Product User Claim Form (Parts A and C).

☐ Product User Claimant's sworn statement that the PME Records produced are true, complete and correct copies of the records provided by the healthcare provider(s), pharmacy(ies), provincial healthcare organization(s) and/or insurance companies.

☐ Complete Event Records.

☐ Complete Product Identification Documentation.

☐ Complete historical records from healthcare (including without limitation, with respect to an alleged ONJ, dental healthcare) providers who treated Product User Claimant during the one (1) year period prior to the alleged Eligible Event.

☐ Complete follow-up records from healthcare (including without limitation, with respect to an alleged ONJ, dental healthcare) providers who treated Product User Claimant during the six (6) month period post the alleged Eligible Event.

Note: If the Program Claim alleged, and Part A of the Deficiency Notice cited deficiencies in respect of, more than one Eligible Event, the above Part A of this Supplemental Claim Form has to be separately completed with respect to each such alleged Eligible Event in respect of which Part A of the Deficiency Notice citied deficiencies (identifying, in each case, which alleged Eligible Event is being covered). (*Add additional pages as necessary.*)

B. FOR PRODUCT USERS – PRODUCT USER CLAIM FORM – PART B (APPLICATION FOR LOST INCOME AWARD):

☐ Complete Product User Claim Form (Part B).

☐ Product User Claimant's sworn statement that (i) the Documentation produced by the Product User Claimant (x) are true, complete, and correct copies of the records provided by the healthcare provider(s), employer(s) and/or governmental authorities, and (y) accurately reflect the Product User Claimant's gross income from wages for each of the 12-month periods covered in Section 1 of Part B of the Product User Claim Form, and (ii) the Product User Claimant's Specified Lost

Wages are not less than the amount specified in Section 4 of Part B of the Product User Claim Form, and (iii) the Product User Claimant's asserted Specified Lost Wages specified in Section 4 of Part B of the Product User Claim Form (x) are a result of such Product User Claimant's alleged Eligible Event and (y) have neither been reimbursed nor are eligible for reimbursement .

☐ Documentation/further Documentation with respect to asserted lost gross income from wages (including without limitation with respect to such asserted lost gross income from wages constituting Specified Lost Wages) submitted.

Note: If the Program Claim alleged, and Part B of the Deficiency Notice cited deficiencies in respect of, more than one Eligible Event in respect of which the Claimant alleged to have suffered Specified Lost Wages, the above Part B of this Supplemental Claim Form has to be separately completed with respect to each such alleged Eligible Event in respect of which Part B of the Deficiency Notice citied deficiencies (identifying, in each case, which alleged Eligible Event is being covered). (*Add additional pages as necessary.*)

C. FOR ELIGIBLE FAMILY MEMBERS:

☐ Complete Derivative Claimant Claim Form.

☐ For spouses of Product User Claimants, copy of marriage certificate or other document evidencing Eligible Family Member's relationship to Product User Claimant.

☐ For children of Product User Claimants, copy of birth certificate or other relevant documentation establishing the date of birth of the Eligible Family Member, or, if the last name of the child is different from that of the Product User Claimant, documentation establishing that the Eligible Family Member is the child of the Product User Claimant.

Note: If the Program Claim of the alleged Product User Claimant alleged, and Part C of the Deficiency Notice cited deficiencies (in relation to the Derivative Claimant) in respect of, more than one Eligible Event, the above Part C of this Supplemental Claim Form has to be separately completed with respect to each such alleged Eligible Event in respect of which Part C of the Deficiency Notice citied deficiencies (identifying, in each case, which alleged Eligible Event is being covered). (*Add additional pages as necessary.*)

D. FOR ALL CLAIMANTS:

Please specify exactly why you believe the certifications and/or records you have submitted cure the deficiency(ies) identified in the Deficiency Notice.

Any records that were/are not: a) submitted with your Product User or Derivative Claimant Claim Form; or b) submitted with this form, will not be considered by the Claims Administrator in assessing your claim.

_____

_____

_____

☐ *If you cannot fully comply with all certifications and/or records requirements, please describe what efforts you have made to fully comply, and the reasons why you cannot fully comply.*

☐ Claimant is unable to submit certifications and/or records sufficient to cure the deficiencies identified in the Deficiency Notice, and no longer wishes to proceed with the above-referenced Claim.

☐ Claimant is unable to submit certifications and/or records sufficient to cure the deficiencies identified in the Deficiency Notice in relation to his/her submission for a Lost Income Award, and no longer wishes to proceed with the above-referenced submission for a Lost Income Award.

PLEASE ENSURE THAT YOU SIGN AND DATE THIS FORM (BELOW).

Date: _____

_____

Claimant's Signature (or Signature of Legal Representative identified in the Claimant's prior Claim Form)

_____

Printed Name of Claimant (or Legal Representative)

_____

Printed Address of Claimant

_____

_____

Date: _____

_____

Signature of Claimant's Lawyer (if any)

_____

Printed Name of Claimant's Lawyer

_____

Law Firm Name, Address, Phone/Fax

_____

_____

_____

I declare under penalty of perjury under the laws of the Province of _____, that all of the information provided in my initial Claim Form and this Supplemental Claim Form is true and correct and that all copies of records submitted with both forms are true, complete and correct copies of records provided by the applicable records custodians.

Executed on _____, at _____
Date City Province

_____
Printed Name

_____
Signature

This Supplemental Claim Form, including all certifications and/or records attached to it, should be mailed to the Claims Administrator at the below address:

[**Insert Claims Administrator here]**

EXHIBIT 4.5(1)-35

FINAL DEFICIENCY NOTICE

This is a Final Deficiency Notice with respect to the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Final Deficiency Notice shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Final Deficiency Notice and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

Date of Final Deficiency Notice: _____

Deadline to Appeal Final Deficiency Notice: _____

Claimant Name: _____

Type of Claimant:

☐ **Product User Claimant**

☐ **Derivative Claimant – Spouse**

☐ **Derivative Claimant - Child**

Law Firm Representing Claimant: _____

Alleged Eligible Event(s) Type for Product User Claimant: _____

Alleged Eligible Event Date(s) for Product User Claimant: _____

This is an official Final Deficiency Notice from **[insert name of Claims Administrator]**. As previously disclosed to you in the Deficiency Notice dated [**insert date of Deficiency Notice**], the Claims Administrator determined that the Claim Package submitted in connection with the above-referenced Program Claim was deficient for the reasons specified in the Deficiency Notice. The Deficiency Notice also informed you that you had **30 days** from the date of the Deficiency Notice ("Deficiency Cure Deadline") to respond and cure the specified deficiencies, and that no extensions beyond 30 days after the date of the Deficiency Notice would be granted.

The Deficiency Cure Deadline for the above-referenced Claimant has now expired, and the Claims Administrator has determined that you have failed to take sufficient corrective action, for the following reasons:

☐ Claimant did not properly execute, and submit by the Claims Deadline Date, a Claim Form (including a properly completed and executed Certificate of Service), or did not properly execute, and submit by the Claims Deadline Date, all personal sworn

statements required by the applicable Claim Form (other than Part B of the Product User Claim Form).

☐ Claimant did not respond to the Deficiency Notice by a properly executed, and timely submitted, Supplemental Claim Form, and the information provided in the original Claim Package is not sufficient to permit the Claims Administrator accurately to determine (i) in the case of a Product User Claimant, whether the Claimant satisfies (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event) the Eligibility Requirements, or (ii) in the case of a Derivative Claimant, the Claimant's status as an Eligible Family Member.

☐ Although Claimant responded to the Deficiency Notice by a properly executed, and timely submitted, Supplemental Claim Form, Claimant did not cure all of the deficiency/ies cited in the Deficiency Notice (disregarding those relating solely to Part B of Product User Claimant's Claim Form) as specified in paragraph 34 of the Claims Administration Procedures Exhibit and the information provided in the original Claim Package, as supplemented by such Supplemental Claim Form and the documentation provided therewith, is not sufficient to permit the Claims Administrator accurately to determine (i) in the case of a Product User Claimant, whether the Claimant satisfies (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event) the Eligibility Requirements, or (ii) in the case of a Derivative Claimant, the Claimant's status as an Eligible Family Member.

Therefore, for the above reason(s), the Claims Administrator has concluded that Claimant shall now immediately cease to have any right possibly to receive an Award in connection with the above-referenced Program Claim.

Pursuant to the Appeal Provisions of the Settlement Agreement, Claimant has a right to appeal the issuance of this Final Deficiency Notice.

Should the Claimant wish to appeal this Final Deficiency Notice, or if Claimant has any questions regarding this Notice or the appeal process, please contact [**insert name of Claims Administrator**] at the below address and/or phone number for more information. The Claims Administrator will provide or make available to the Claimant a form for use in preparing the appeal (a "PRODUCT USER CLAIMANT NOTICE OF APPEAL" or a "DERIVATIVE CLAIMANT NOTICE OF APPEAL").

Any appeal submitted in response to this Final Deficiency Notice must be delivered to the Claims Administrator within thirty (30) days of the date of this Final Deficiency Notice (specified on page 1 hereof). Failure to timely deliver an appeal in accordance with the Appeal Provisions of the Settlement Agreement shall constitute irrevocable acceptance by the Claimant of the relevant determination(s) of the Claims Administrator.

[Insert Claims Administrator name, physical address and email address here]

Cc: Merck
Lead Counsel

EXHIBIT 4.5(1)-38

CLAIM DETERMINATION FORM - APPROVED DERIVATIVE CLAIMANT

This is a Claim Determination Form – Approved Derivative Claimant with respect to the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Claim Determination Form – Approved Derivative Claimant shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Claim Determination Form – Approved Derivative Claimant and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

Date of this Claim Determination Form – Approved Derivative Claimant: _____

Approved Derivative Claimant Name: _____

Approved Derivative Claimant Date of Birth: _____

Related Product User Claimant Name: _____

Relationship of Approved Derivative Claimant to Product User Claimant:

☐ Spouse ☐ Child

Law Firm Representing Approved Derivative Claimant: _____

The Claims Administrator has determined that the above-referenced Approved Derivative Claimant is **ELIGIBLE** to receive a Points-Based Award pursuant to the Settlement Agreement. In making this determination, the Claims Administrator has concluded the following:

1. The above-referenced Approved Derivative Claimant is in fact an Eligible Family Member (in the case of an Approved Derivative Claimant in relation to an Approved Product User Claimant in relation to more than one Eligible Event, in relation to at least one such Eligible Event).
   Cite to Record(s) confirming Approved Derivative Claimant is an Eligible Family Member (separately with respect to each Eligible Event in respect of which Approved Derivative Claimant was determined to constitute an Eligible Family Member):

   _____
   _____
   _____
   _____

2. The Product User Claimant to whom this Approved Eligible Family Member is related is an Approved Product User Claimant.

	ONJ	AFF- Right Leg	AFF- Left Leg
In the case of an Approved Derivative Claimant in relation to an Approved Product User Claimant in relation to more than one Eligible Event, the Eligible Event(s) in respect of which the Approved Derivative Claimant was determined NOT to constitute an Eligible Family Member (if applicable):	☐	☐	☐

Event Date(s) for Eligible Event(s) in respect of which the Approved Derivative Claimant was determined NOT to constitute an Eligible Family Member (if applicable): _____

Reasons for Approved Derivative Claimant being determined NOT to constitute an Eligible Family Member with respect to particular Eligible Event(s) (if applicable):

_____

_____

_____

_____

NOTE: The Claims Administrator shall post this Claim Determination Form - Approved Derivative Claimant to the CA Website, and notify the CAP Parties thereof by email, as soon as practicable after completing the review of the relevant Claim Package pursuant to paragraph 38 of the Claims Administration Procedures Exhibit.

[**Insert email addresses for Merck Counsel and Lead Counsel]**

EXHIBIT 4.5(1)-38

CLAIM DETERMINATION FORM - APPROVED PRODUCT USER CLAIMANT

This is an Claim Determination Form - Approved Product User Claimant with respect to the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Claim Determination Form - Approved Product User Claimant shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Claim Determination Form - Approved Product User Claimant and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

Date of this Claim Determination Form - Approved Product User Claimant Report: _____

Approved Product User Claimant Name: _____

Approved Product User Claimant Date of Birth: _____

Law Firm Representing Approved Product User Claimant: _____

PART A – ELIGIBILITY FOR POINTS-BASED AWARD

The Claims Administrator has determined that the above-referenced Approved Product User Claimant is **ELIGIBLE** to receive a Points-Based Award pursuant to the Settlement Agreement, i.e., the Claims Administrator has concluded that the Approved Product User Claimant's Program Claim satisfies all Eligibility Requirements specified in Section 4.7 of the Settlement Agreement, including the requirements of both the Event Gate and the Usage Gate, as established in Exhibits 4.7(2)(B) and 4.7(2)(C) of the Settlement Agreement.

The Claims Administrator has made the following determinations with respect to the above-referenced Claim's Eligibility and Points Award:

Approved Product User Claimant's Eligible Event(s) That Satisfy Eligibility Requirements:	ONJ	AFF-Right Leg	AFF- Left Leg
	☐	☐	☐

Event Date(s) for Approved Eligible Event(s): _____

Citation(s) to PME Record(s) confirming that Approved Product User Claimant passes Event Gate (separately with respect to each approved Eligible Event):

_____

_____

_____

_____

Citation(s) to PME Record(s) confirming that Approved Product User Claimant passes Usage Gate (separately with respect to each approved Eligible Event):

_____

_____

_____

_____

In the case of an Approved Product User Claimant that alleged more than one Eligible Event, the Eligible Event(s) that were NOT deemed eligible for a Points-Based Award:	ONJ	AFF-Right Leg	AFF- Left Leg
	☐	☐	☐

Event Date(s) for alleged Eligible Event(s) that were NOT deemed eligible for a Points-Based Award: _____

Reasons for alleged Eligible Event(s) not passing Event Gate (separately with respect to each disapproved Eligible Event):

_____

_____

_____

_____

Reasons for alleged Eligible Event(s) not passing Usage Gate (separately with respect to each disapproved Eligible Event):

_____

_____

_____

_____

List of alleged Eligible Event(s) disapproved pursuant to clause (A) of paragraph 36 of Claims Administration Procedures Exhibit, and reasons therefor:

_____

_____

_____

_____

[INSERT APPROVED PRODUCT USER CLAIMANT LAST NAME, FIRST NAME]

√	EVENT TYPE	POINTS AWARDED	Determination pursuant to clause (B) of paragraph 36 clause (B) of the Claims Administration Procedures Exhibit – √
_____	**AFF Group A**	_____	
_____	**AFF Group B**	_____	
_____	**ONJ Group 1**	_____	_____
_____	**ONJ Group 2**	_____	
_____	**ONJ Group 3**	_____	
_____	**ONJ Group 4**	_____	

PART B – DISPOSITION OF LOST INCOME AWARD CLAIM (IF APPLIED FOR)

The Claims Administrator has made the following determinations with respect to the above-referenced Approved Product User Claimant's Claim for a Lost Income Award:

☐ Denied due to Claim Package incompleteness/insufficiency with respect to Lost Income Award Claim

☐ Tentative Lost Income Grant of $_____ made, as set forth below:

APPROVED PRODUCT USER CLAIMANT'S TENTATIVE LOST INCOME GRANT (IF APPLICABLE) FORM:
[INSERT APPROVED PRODUCT USER CLAIMANT LAST NAME, FIRST NAME]

√	Determination	$
____	**1. Clause (C) of Paragraph 36 of the Claims Administration Procedures Exhibit was Determined Not to be Applicable, and:** **a. Determined Specified Documented Lost Wages**	**$_____**
	b. Tentative Lost Income Grant (lesser of 1.a. and $54,000, but zero if 1.a. is less than $27,000)	**$_____**
____	**2. Clause (C) of Paragraph 36 of the Claims Administration Procedures Exhibit Determined to be Applicable, and:** **a. Determined Specified Documented Lost Wages – not less than [insert amount not in excess of $27,000]**	**$_____**
	b. Tentative Lost Income Grant ($27,000 if 2.a. is $27,000, but zero if 2.a. is less than $27,000) (i.e., $27,000 or zero)	**$_____**

Citation(s) to Lost Income Documentation supporting the Tentative Lost Income Grant specified above (and, if applicable, reasons for determination that clause (C) of paragraph 36 of Claims Administration Procedures Exhibit was applicable):

NOTE: ***The Claims Administrator shall post this Claim Determination Form - Approved Product User Claimant to the CA Website, and notify the CAP Parties thereof by email, as soon as practicable after completing the review of the relevant Claim Package pursuant to paragraph 38 of the Claims Administration Procedures Exhibit.***

[**Insert email addresses for Merck Counsel and Lead Counsel]**

EXHIBIT 4.5(1)-39-A

NOTICE OF PRODUCT USER CLAIMANT'S INELIGIBILITY

This is a Notice of Product User Claimant's Ineligibility with respect to the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Notice of Product User Claimant's Ineligibility shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Notice of Product User Claimant's Ineligibility and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

Date of this Notice of Product User Claimant's Ineligibility: _____

Deadline to Appeal Notice of Product User Claimant's Ineligibility: _____

Product User Claimant Name: _____

Law Firm Representing Product User Claimant: _____

This Notice is to inform Product User Claimant that, after reviewing the Claim Package submitted in connection with the above-referenced Program Claim, the Claims Administrator for the Fosamax/Fosavance Class Action Canada-Wide Settlement (**insert name of Claims Administrator**) has determined that the following identified Product User Claimant,

[INSERT PRODUCT USER CLAIMANT NAME]

is **INELIGIBLE** to receive any Award pursuant to the Settlement Agreement - i.e., that Product User Claimant does not satisfy (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event) the Eligibility Requirements set forth in the Settlement Agreement - for the following reasons: [*Check all that apply*]:

1. Product User Status

☐ The Claims Administrator has concluded that the Product User Claimant is an Excluded Person.

Comments: _____

_____

_____

_____

☐ The Claims Administrator has concluded that the Product User Claimant is not "resident in Canada."

Comments: _____

2. Gates

☐ The Program Claim fails to satisfy the requirements of the Event Gate Criteria, as established in Exhibit 4.7(2)(B) of the Settlement Agreement because: [*Check all that apply*]

☐ There is insufficient evidence in the PME Records produced of (i) with respect to an alleged Eligible Event of osteonecrosis of the jaw ("ONJ"), (x) contemporaneous Medical Record containing a diagnosis of ONJ, or (y) at least six (6) consecutive weeks of exposed bone, or (z) at least eight (8) consecutive weeks of non-healing of an extraction socket or other oral dental surgical site, or (ii) with respect to an alleged Eligible Event of atypical femur fracture ("AFF"), (x) contemporaneous Medical Record containing a diagnosis of AFF or (y) satisfaction of the case definition of AFF in the ASBMR Task Force's report published in JBMR Vol. 29, Issue 1, p. 14, Table 3 (2014).

Comments: _____

☐ The Program Claim fails to satisfy the requirements of the Usage Gate Criteria, as established in Exhibit 4.7(2)(C) of the Settlement Agreement because: [*Check all that apply*]:

☐ There is insufficient evidence in the PME Records produced of twelve (12) months of Alendronate ingestion prior to [date of first certification for settlement].

Comments: _____

☐ There is insufficient evidence in the PME Records produced that six (6) months of Product User Claimant's Alendronate ingestion prior to [date of first certification for settlement] was Fosamax and/or Fosavance.

Comments: _____

☐ There is insufficient evidence in the PME Records produced of eight (8) complete and consecutive weeks of Alendronate ingestion within one (1) year prior to onset of the Product User Claimant's alleged ONJ or AFF (and prior to [date of first certification for settlement]).

Comments: _____

☐ There is insufficient evidence in the PME Records produced of eight (8) complete and consecutive weeks of Fosamax and/or Fosavance ingestion within Product User Claimant's history of Alendronate usage (and prior to [date of first certification for settlement]).

Comments: _____

[Note to Claims Administrator: If the Program Claim alleges more than one Eligible Event, the above Part 2 has to be separately completed with respect to each alleged Eligible Event (identifying, in each case, which alleged Eligible Event is being covered)].

Pursuant to the Appeal Provisions of the Settlement Agreement, the Product User Claimant has the right to appeal the Claims Administrator's determination that Product User Claimant does not (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event) satisfy the Eligibility Requirements (any such appeal, a "Product User Claimant Appeal"). Please also be advised that if the Product User Claimant makes such an Appeal, then Merck (in addition to responding to such Appeal)

may also appeal any of the Claims Administrator's affirmative determinations regarding the completeness/sufficiency of the Claim Package (including without limitation any determination of the Claims Administrator in respect of paragraph 35 or 36 of the Claims Administration Procedures Exhibit).

Any Product User Claimant Appeal must be delivered to the Claims Administrator within thirty (30) days of the date of this Notice of Product User Claimant's Ineligibility (specified on page 1 hereof). Failure to timely deliver a Product User Claimant Appeal shall constitute irrevocable acceptance by the Product User Claimant of the relevant determination(s) of the Claims Administrator.

Should the Product User Claimant wish to appeal this determination, or if Product User Claimant has any questions regarding this Notice of Product User Claimant's Ineligibility or the appeal process, please contact [**insert name of Claims Administrator**] at the below address and/or phone number for more information. The Claims Administrator will provide or make available to the Product User Claimant a form for use in preparing the Product User Claimant Appeal (the "PRODUCT USER CLAIMANT NOTICE OF APPEAL"). In submitting a Product User Claimant Appeal, the Product User Claimant is required to specifically identify the PME Records contained within the Product User Claim Package that support Product User Claimant's position. **Product User Claimant may NOT rely on or submit any records that were not contained in the Product User Claim Package originally submitted.**

[Insert Claims Administrator name, physical address and email address here]

Cc: Merck
Lead Counsel

EXHIBIT 4.5(1)-39-B

NOTICE OF DERIVATIVE CLAIMANT'S INELIGIBILITY

[Note to Claims Administrator: This Notice is to be sent only to an Enrolled Derivative Claimant, and only if either (i) the related Product User Claimant has been determined to be an Approved Product User Claimant but the Derivative Claimant has been determined NOT to be an Eligible Family Member in respect of such Product User Claimant (in the case of an Approved Product User Claimant in relation to more than one Eligible Event, in relation to any such Eligible Event) or (ii) the related Product User Claimant has been determined not to be eligible to receive any Points-Based Award (and such determination has become Final).]

This is a Notice of Derivative Claimant's Ineligibility with respect to the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Notice of Derivative Claimant's Ineligibility shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Notice of Derivative Claimant's Ineligibility and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

Date of this Notice of Derivative Claimant's Ineligibility: _____

Deadline to Appeal Notice of Derivative Claimant's Ineligibility: _____

Derivative Claimant Name: _____

Related Product User Claimant Name: _____

Asserted Relationship of Derivative Claimant to Product User Claimant:

☐ Spouse ☐ Child

Law Firm Representing Derivative Claimant: _____

This Notice is to inform Derivative Claimant that, after reviewing the Claim Packages submitted in connection with the above-referenced putative Product User Claimant's and Derivative Claimant's Program Claims, the Claims Administrator for the Fosamax/Fosavance Class Action Canada-Wide Settlement (**insert name of Claims Administrator**) has determined that the following identified Derivative Claimant,

[DERIVATIVE CLAIMANT NAME]

is **INELIGIBLE** to receive an Award pursuant to the Settlement Agreement for the following reasons: [*Check all that apply*].

☐ The Claims Administrator has concluded that the Derivative Claimant is not an Eligible Family Member with respect to the Product User Claimant specified above (in

the case of an Approved Product User Claimant in relation to more than one Eligible Event, in relation to any such Eligible Event).

Comments: _____

_____

_____

☐ The Claims Administrator has determined that the Product User Claimant specified above is not an Approved Product User Claimant.

Comments: _____

_____

_____

Pursuant to the Appeal Provisions of the Settlement Agreement, a Derivative Claimant has the right to appeal the Claims Administrator's determination that he or she is ineligible to receive an Award pursuant to the Settlement Agreement on the grounds that the Derivative Claimant is not an Eligible Family Member with respect to a Product User Claimant (in the case of an Approved Product User Claimant in relation to more than one Eligible Event, in relation to any such Eligible Event) (any such appeal, a "Derivative Claimant Appeal"). **However, no Derivative Claimant may make an appeal on behalf of his or her related Product User Claimant**. Please also note that if a timely-filed Derivative Claimant Appeal is made, then Merck (in addition to responding to such Appeal) may also appeal the Claims Administrator's affirmative determinations regarding the completeness/sufficiency of the Derivative Claimant's Claim Package (including without limitation any determination of the Claims Administrator in respect of paragraph 35 of the Claims Administration Procedures Exhibit). *See* the Appeal Provisions of the Settlement Agreement.

Any Derivative Claimant Appeal must be delivered to the Claims Administrator within thirty (30) days of the date of this Notice of Derivative Claimant's Ineligibility (specified on page 1 hereof). Failure to timely deliver a Derivative Claimant Appeal shall constitute irrevocable acceptance by the Derivative Claimant of the relevant determination(s) of the Claims Administrator.

Should the Derivative Claimant wish to appeal this determination, or if Derivative Claimant has any questions regarding the appeal process, please contact [**insert name of Claims Administrator**] at the below address and/or phone number for more information. The Claims Administrator will provide or make available to the Derivative Claimant a form for use in preparing the Derivative Claimant Appeal (the "DERIVATIVE CLAIMANT NOTICE OF APPEAL"). In submitting a Derivative Claimant Notice of Appeal, the Approved Derivative

Claimant is required to specifically identify the documents contained within the original Claim Package that support the Approved Derivative Claimant's position in such appeal. **The Derivative Claimant may NOT rely on or submit any records or documents that were not contained in the Claim Package originally submitted by the Derivative Claimant.**

[Insert Claims Administrator name, physical address and email address]

Cc: Merck
Lead Counsel

EXHIBIT 4.5(1)-39-C

NOTICE TO APPROVED PRODUCT USER CLAIMANT OF ELIGIBILITY, POINTS AWARD AND DISPOSITION OF LOST INCOME AWARD CLAIM

This is a Notice to Approved Product User Claimant of Eligibility, Points Award and Disposition of Lost Income Award Claim with respect to the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Notice to Approved Product User Claimant of Eligibility, Points Award and Disposition of Lost Income Award Claim shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Notice to Approved Product User Claimant of Eligibility, Points Award and Disposition of Lost Income Award Claim and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

Date of Notice to Approved Product User Claimant of Eligibility, Points Award and Disposition of Lost Income Award Claim:

_____

Deadline to Appeal Approved Product User Claimant's Points Award and/or Disposition of Lost Income Award Claim:

_____

Approved Product User Claimant Name: _____

Approved Product User Claimant Date of Birth: _____

Law Firm Representing Approved Product User Claimant: _____

Eligible Event(s) Satisfying Eligibility Requirements: _____

Eligible Event Date(s): _____

PART A – ELIGIBILITY AND POINTS-BASED AWARD

This Notice is to inform Approved Product User Claimant that, after reviewing the Claim Package submitted in connection with the above-referenced Program Claim, the Claims Administrator for the Fosamax/Fosavance Class Action Canada-Wide Settlement, (**insert name of Claims Administrator)**, has determined that the following identified Product User Claimant,

[INSERT APPROVED PRODUCT USER CLAIMANT NAME]

is **ELIGIBLE** to receive a Points-Based Award pursuant to the Settlement Agreement, i.e., the Claims Administrator has concluded that the Product User Claimant's Program Claim satisfies (in the case of a Product User Claimant that alleged more than one Eligible Event, in relation to

(and only in relation to) the Eligible Events specified above under "Eligible Event(s) Satisfying Eligibility Requirements")) all Eligibility Requirements specified in Section 4.7 of the Settlement Agreement, including the requirements of both the Event Gate and the Usage Gate, as established in Exhibits 4.7(2)(B) and 4.7(2)(C) to the Settlement Agreement.

Enclosed is an Approved Product User Claimant Points Award Determination Form that the Claims Administrator has completed after reviewing the Claim Package submitted in connection with the above-referenced Program Claim. Please note that the number of Points awarded to Product User Claimant has been determined pursuant to the Points Award Criteria in Exhibit 4.8(1)(a) to the Settlement Agreement. Each Finally Determined Eligible Product User Claimant shall receive a monetary payment, in respect of the Points awarded to Product User Claimant, pursuant to the claims payment provisions set forth in Section 4.9 of the Settlement Agreement. The monetary value of the Points will be determined only after the Program Claims assessment and determination process has been definitively and finally completed with respect to all Claimants (and Program Claim Assessment Completion otherwise has occurred).

[PART A2 – INELIGIBILITY OF PARTICULAR ALLEGED ELIGIBLE EVENT(S)

This Notice is also to inform Product User Claimant that the Claims Administrator has determined that Product User Claimant will not receive any Points-Based Award in respect of the following Eligible Event(s) that were alleged in Product User Claimant's Program Claim:

Eligible Event(s) NOT deemed eligible for Points-Based Award:	ONJ	AFF- Right Leg	AFF- Left Leg
	☐	☐	☐

Event Date(s) for Eligible Event(s) NOT deemed eligible for Points-Based Award: _____

The reasons for such determination(s) were as follows: [*Check all that apply*]:

☐ The alleged Eligible Event fails to satisfy the requirements of the Event Gate Criteria, as established in Exhibit 4.7(2)(B) of the Settlement Agreement because: [*Check all that apply*]

☐ There is insufficient evidence in the PME Records produced of (i) with respect to an alleged Eligible Event of osteonecrosis of the jaw ("ONJ"), (x) contemporaneous Medical Record containing a diagnosis of ONJ, or (y) at least six (6) consecutive weeks of exposed bone, or (z) at least eight (8) consecutive weeks of non-healing of an extraction socket or other oral dental surgical site, or (ii) with respect to an alleged Eligible Event of atypical femur fracture ("AFF"), (x) contemporaneous Medical Record containing a diagnosis of AFF or (y) satisfaction of the case definition of AFF in the ASBMR Task Force's report published in JBMR Vol. 29, Issue 1, p. 14, Table 3 (2014).

_____ Comments: _____

☐ The Program Claim fails to satisfy the requirements of the Usage Gate Criteria, as established in Exhibit 4.7(2)(C) of the Settlement Agreement because: [*Check all that apply*]:

☐ There is insufficient evidence in the PME Records produced of twelve (12) months of Alendronate ingestion prior to [date of first certification for settlement].

Comments: _____

☐ There is insufficient evidence in the PME Records produced that six (6) months of Product User Claimant's Alendronate ingestion prior to [date of first certification for settlement] was Fosamax and/or Fosavance.

Comments: _____

☐ There is insufficient evidence in the PME Records produced of eight (8) complete and consecutive weeks of Alendronate ingestion within one (1) year prior to onset of the Product User Claimant's alleged ONJ or AFF (and prior to [date of first certification for settlement]).

Comments: _____

☐ There is insufficient evidence in the PME Records produced of eight (8) complete and consecutive weeks of Fosamax and/or Fosavance ingestion within Product User Claimant's history of Alendronate usage (and prior to [date of first certification for settlement]).

Comments: _____

_____

_____

[Note to Claims Administrator: The above Part A2 is to be included only if (i) the Program Claim alleges more than one Eligible Event and (ii) one or more of the Eligible Events alleged in the Program Claim is determined NOT to be eligible for a Points-Based Award. If Part A2 is to be included, Part A2 has to be separately completed with respect to each alleged Eligible Event determined to be ineligible (identifying, in each case, which alleged Eligible Event is being covered).]**]**

PART B – TENTATIVE LOST INCOME AWARD APPLICATION DISPOSITION (IF APPLICABLE)

This Notice is to inform you that, after reviewing the Lost Income Award claim included in the Claim Package submitted in connection with the above-referenced Program Claim (if applicable), the Claims Administrator has determined the following [*Only items checked below are applicable.*]:

☐ Claimant did not timely respond to a Deficiency Notice by a properly executed, and timely submitted, Supplemental Claim Form, and the information provided in the original Claim Package is not sufficient to permit the Claims Administrator accurately to determine both (i) the Claimant's entitlement to receive a Tentative Lost Income Grant and (ii) whether or not the Product User Claimant incurred Specified Documented Lost Wages of not less than $27,000. Therefore, for the above reason(s), the Claims Administrator has concluded that Claimant shall cease to have any right possibly to receive a Lost Income Award in connection with the above-referenced Program Claim.

☐ Although Claimant timely responded to a Deficiency Notice by a properly executed, and timely submitted, Supplemental Claim Form, Claimant did not cure all of the deficiency/ies cited in the Deficiency Notice (relating to the Product User's claim for a Lost Income Award) as specified in paragraph 34 of the Claims Administration Procedures Exhibit, and the information provided in the original Claim Package, as supplemented by such Supplemental Claim Form and the documentation provided therewith, is not sufficient to permit the Claims Administrator accurately to determine both (i) the Claimant's entitlement to receive a Tentative Lost Income Grant and (ii) whether or not the Product User Claimant incurred Specified Documented Lost Wages of not less than $27,000. Therefore, for the above reason(s), the Claims Administrator has concluded that Claimant shall cease to have any right possibly to receive a Lost Income Award in connection with the above-referenced Program Claim.

☐ Enclosed is an Approved Product User Claimant Tentative Lost Income Grant Determination Form that the Claims Administrator has completed after reviewing the Claim Package submitted in connection with the above-referenced Program Claim. Please note that the Tentative Lost Income Grant awarded to Product User Claimant has

been determined pursuant to Section 4.8(3) of the Settlement Agreement. Each Finally Determined Eligible Product User Claimant that receives a Tentative Lost Income Grant shall receive a monetary payment in respect thereof pursuant to (and only pursuant to) the claims payment provisions set forth in Section 4.9 of the Settlement Agreement (and, if applicable, clause (C) of paragraph 36 of the Claims Administration Procedures Exhibit). The monetary value of Tentative Lost Income Grants will be determined only after the Program Claims assessment and determination process has been definitively and finally completed with respect to all Claimants (and Program Claim Assessment Completion otherwise has occurred). In particular, if the aggregate amount of all Tentative Lost Income Grants (that have become Final) made to all Finally Determined Eligible Product User Claimants exceeds the Lost Income Cap Amount of $162,000, then all such Tentative Lost Income Grants shall be pro-rated downwards so that the actual Lost Income Awards paid to such Finally Determined Eligible Product User Claimants exactly equals $162,000.

PART C – APPEAL RIGHTS

Please be advised that, as set forth in the Appeal Provisions of the Settlement Agreement, the Merck Parties may appeal any of the Claims Administrator's affirmative determinations regarding this Program Claim, including the completeness/sufficiency of the Product User Claimant's Claim Package (including any determination in respect of paragraph 35 or 36 of the Claims Administration Procedures Exhibit), the Product User Claimant's satisfaction of the Eligibility Requirements, the Points awarded to the Product User Claimant and/or any Tentative Lost Income Grant made to the Product User Claimant. As set forth in the Appeal Provisions of the Settlement Agreement, the Approved Product User Claimant also has the right to appeal the Points awarded to the Product User Claimant, any determination that the Product User Claimant's Program Claim failed to satisfy the Eligibility Requirements in respect of one or more of the Eligible Events alleged in the Product User Claimant's Program Claim (in the case of a Product User Claimant that alleged more than one Eligible Event), any adverse determination pursuant to paragraph 36 of the Claims Administration Procedures Exhibit in respect of an alleged Eligible Event and/or (if applicable) the disposition specified herein of Product User Claimant's application for a Lost Income Award (any such appeal, a "Product User Claimant Appeal"). **Any Product User Claimant Appeal must be delivered to the Claims Administrator within thirty (30) days of the date of this Notice to Approved Product User Claimant of Eligibility, Points Award and Disposition of Lost Income Award Claim (specified on page 1 hereof). Failure to timely deliver a Product User Claimant Appeal shall constitute irrevocable acceptance by the Product User Claimant of the relevant determination(s) of the Claims Administrator. In addition, the submission of a Product User Claimant Appeal by an Approved Product User Claimant is deemed to constitute irrevocable acceptance by such Claimant of the Claim Determinations Letter in all respects other than the determinations specified in such Product User Claimant Appeal.**

Should the Approved Product User Claimant wish to make a Product User Claimant Appeal, or if Approved Product User Claimant has any questions regarding this Notice to Approved Product User Claimant of Eligibility, Points Award and Disposition of Lost Income Award Application or the appeal process, please contact [**insert name of Claims**

Administrator] at the below address and/or phone number for more information. The Claims Administrator will provide or make available to the Approved Product User Claimant a form for use in preparing the appeal (the "PRODUCT USER CLAIMANT NOTICE OF APPEAL"). In submitting a Product User Claimant Notice of Appeal, the Approved Product User Claimant is required to specifically identify the PME Records, or Lost Income Documentation, contained within the original Claim Package that support the Approved Product User Claimant's position in such appeal. **The Approved Product User Claimant may NOT rely on or submit any records that were not contained in the original Product User Claim Package.**

[Insert Claims Administrator name, physical address and email address here]

Cc: Merck; Lead Counsel

APPROVED PRODUCT USER CLAIMANT'S POINTS AWARD DETERMINATION FORM:
[INSERT APPROVED PRODUCT USER CLAIMANT LAST NAME, FIRST NAME]

√	EVENT TYPE	POINTS AWARDED	Determination was made pursuant to clause (B) of paragraph 36 of the Claims Administration Procedures Exhibit – √
_____	**AFF Group A**	_____	
_____	**AFF Group B**	_____	
_____	**ONJ Group 1**	_____	_____
_____	**ONJ Group 2**	_____	
_____	**ONJ Group 3**	_____	
_____	**ONJ Group 4**	_____	

APPROVED PRODUCT USER CLAIMANT'S TENTATIVE LOST INCOME GRANT (IF APPLICABLE) FORM:
[INSERT APPROVED PRODUCT USER CLAIMANT LAST NAME, FIRST NAME]

√	Determination	$
____	**1. Clause (C) of Paragraph 36 of the Claims Administration Procedures Exhibit was Determined Not to be Applicable, and:**	
	a. Determined Specified Documented Lost Wages	**$_____**
	b. Tentative Lost Income Grant (lesser of 1.a. and $54,000, but zero if 1.a. is less than $27,000)	**$_____**
____	**2. Clause (C) of Paragraph 36 of the Claims Administration Procedures Exhibit Determined to be Applicable, and:**	
	a. Determined Specified Documented Lost Wages – not less than [insert amount not in excess of $27,000]	**$_____**
	b. Tentative Lost Income Grant ($27,000 if 2.a. is $27,000, but zero if 2.a. is less than $27,000) (i.e., $27,000 or zero)	**$_____**

Reasons for determination that clause (C) of paragraph 36 of Claims Administration Procedures Exhibit was applicable (if applicable):

_____
_____
_____
_____

EXHIBIT 4.5(1)-39-D

NOTICE TO APPROVED DERIVATIVE CLAIMANT OF ELIGIBILITY

[Note to Claims Administrator: This Notice is to be sent only to an Approved Derivative Claimant, and only if, and after, the related Product User Claimant is determined to be an Approved Product User Claimant.]

This is a Notice to Approved Derivative Claimant of Eligibility referred to in the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Notice to Approved Derivative Claimant of Eligibility shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Notice to Approved Derivative Claimant of Eligibility and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

Date of this Notice to Approved Derivative Claimant of Eligibility:

_____

Approved Derivative Claimant's Name: _____

Related Approved Product User Claimant Name:

_____

Relationship of Approved Derivative Claimant to Approved Product User Claimant:

☐ Spouse ☐ Child

Law Firm Representing Approved Derivative Claimant:

_____

This Notice is to inform Approved Derivative Claimant that, after reviewing the Claim Package submitted in connection with the above-referenced Program Claim, the Claims Administrator for the Fosamax/Fosavance Class Action Canada-Wide Settlement (**insert name of Claims Administrator**) has determined that the following identified Approved Derivative Claimant,

[INSERT APPROVED DERIVATIVE CLAIMANT NAME]

is **ELIGIBLE** to receive a Points-Based Award pursuant to the Settlement Agreement, i.e., the Claims Administrator has concluded that (i) the Product User Claimant to whom the Derivative Claimant is related is an Approved Product User Claimant and (ii) the Derivative Claimant is in fact an Eligible Family Member with respect to such Approved Product User Claimant (in the case of an Approved Product User Claimant in relation to more than one Eligible Event, in relation to each such Eligible Event in respect of which such Approved Product User Claimant

has been determined to satisfy the Eligibility Requirements **[**(except as otherwise specified hereinbelow)**]**).

[This Notice is also to inform Derivative Claimant that the Claims Administrator has determined that Derivative Claimant is NOT an Eligible Family Member (and accordingly will not receive any Points-Based Award) in respect of the following Eligible Event(s) of the related Approved Product User Claimant (in respect of which such Approved Product User Claimant has been determined to satisfy the Eligibility Requirements):

Eligible Event(s) of Approved Product User Claimant in respect of which such Approved Product User Claimant has been determined to satisfy the Eligibility Requirements, but Derivative Claimant was determined NOT to constitute an Eligible Family Member:	ONJ	AFF-Right Leg	AFF- Left Leg
	☐	☐	☐

Event Date(s) for such Eligible Event(s): _____

The reasons for such determination(s) were as follows:

_____
_____
_____
_____**]**

Please be advised that, as set forth in the Appeal Provisions of the Settlement Agreement, the Merck Parties may appeal any of the Claims Administrator's affirmative determinations regarding this Program Claim (including the completeness/sufficiency of the Derivative Claimant's Claim Package) and/or regarding the Program Claim of the related Approved Product User Claimant – only a Finally Determined Eligible Derivative Claimant (i.e., a Derivative Claimant (i) that has finally (after the expiration of all rights to submit Appeals, and the final resolution of all Appeals made, under the Settlement Agreement) been determined pursuant to the Settlement Agreement to constitute an Eligible Family Member with respect to a Finally Determined Eligible Product User Claimant (in the case of a Derivative Claimant in relation to a Finally Determined Eligible Product User Claimant that has more than one Eligible Event, in relation to at least one such Eligible Event) and (ii) in the case of a Derivative Claimant in relation to a Finally Determined Eligible Product User Claimant that has more than one Eligible Event, whose status as an Eligible Family Member (or not) has (after the expiration of all rights to submit Appeals, and the final resolution of all Appeals made, under the Settlement Agreement) become Final in relation to each such Eligible Event) will receive Points awards, and monetary payments, pursuant to the Settlement Agreement. **[**As set forth in the Appeal Provisions of the Settlement Agreement, the Derivative Claimant also has the right to appeal any determination that the Derivative Claimant does not constitute an Eligible Family Member with respect to one or more of the Eligible Events of the related Approved Product User Claimant (any such appeal, a "Derivative Claimant Appeal"). **Any Derivative Claimant Appeal must be delivered to the Claims Administrator within thirty (30) days of the date of this Notice to Approved Derivative Claimant of Eligibility (specified on page 1 hereof). Failure to timely**

deliver a Derivative Claimant Appeal shall constitute irrevocable acceptance by the Derivative Claimant of the relevant determination(s) of the Claims Administrator.]

The Points that will be awarded to Finally Determined Eligible Derivative Claimants, and the Points-Based Awards that will be paid in respect thereof, are described in Exhibit 4.8(2) to, and Sections 4.8(2) and 4.9 of, the Settlement Agreement. Since the Points awarded to Finally Determined Eligible Derivative Claimants are entirely derivative of the Points awarded to the related Finally Determined Eligible Product User Claimants, such Points awards accordingly are Final (and not subject to appeal). The Claims Administrator may, and shall at the direction of the Merck Parties and Lead Counsel, correct any Point awards to Finally Determined Eligible Derivative Claimants that are discovered (at any time prior to the commencement of the payment of Awards) to be manifestly in error.

If the Approved Derivative Claimant **[**wishes to make a Derivative Claimant Appeal, or if Approved Derivative Claimant**]** has any questions regarding this Notice to Approved Derivative Claimant of Eligibility **[**or the appeal process**]**, please contact [**insert name of Claims Administrator**] at the below address and/or phone number for more information. **[**The Claims Administrator will provide or make available to the Approved Derivative Claimant a form for use in preparing the appeal (the "DERIVATIVE CLAIMANT NOTICE OF APPEAL"). In submitting a Derivative Claimant Notice of Appeal, the Approved Derivative Claimant is required to specifically identify the documents contained within the original Claim Package that support the Approved Derivative Claimant's position in such appeal. **The Approved Derivative Claimant may NOT rely on or submit any records that were not contained in the Claim Package originally submitted by the Derivative Claimant.]**

[Note to Claims Administrator: The square bracketed/shaded language hereinabove (other than the other Note to Claims Administrator hereinabove) is to be included only if (i) the related Product User Claimant is determined to constitute an Approved Product User Claimant in relation to more than one Eligible Event and (ii) the Derivative Claimant is determined to constitute an Eligible Family Member with respect to one, but not all, of such Eligible Events.]

[Insert Claims Administrator name, address and phone number]

Cc: Merck
Lead Counsel

EXHIBIT 4.5(1)-45-1-a

PRODUCT USER CLAIMANT NOTICE OF APPEAL

This is a Product User Claimant Notice of Appeal with respect to the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Product User Claimant Notice of Appeal shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Product User Claimant Notice of Appeal and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

NOTE: ***This Product User Claimant Notice of Appeal must be filed within 30 days of the date of the Claims Administrator notice to Product User Claimant setting forth the Claims Administrator determination(s) that is/are the subject of this appeal. Failure to timely deliver this Product User Claimant Notice of Appeal shall constitute irrevocable acceptance by the Product User Claimant of the relevant determination(s) of the Claims Administrator.***

Date of this Product User Claimant Notice of Appeal: _____

Product User Claimant Name: _____

Law Firm Representing Product User Claimant: _____

Product User Claimant now submits this Product User Claimant Notice of Appeal because Product User Claimant respectfully disagrees with one or multiple of the Claims Administrator's determination(s), as specified below: [*Check all that apply.*]

A. CLAIM PACKAGE - POINTS-BASED AWARD APPLICATION

☐ The Claims Administrator's denial of a request to consider the Product User Claimant's Claim Package originally submitted only after the Claims Deadline Date, was an abuse of discretion (hereinafter referred to as a "Late Filing Rejection Appeal"). [*State precisely why you believe that the Claims Administrator's determination was an abuse of discretion, and please identify the specific content from your letter to the Claims Administrator submitted with your Claim Package (and asserting good cause for submitting your Claim Package after the Claims Deadline Date) that you believe supports your position that you had good cause for submitting your Claim Package after the Claims Deadline Date.*]

_____
_____
_____
_____
_____
_____
_____
_____

☐ The Claims Administrator has incorrectly concluded that the Product User Claimant's Claim Package was not complete. [*Please provide specific detail including specific reference(s) to any documents submitted in the Product User Claimant Claim Package that support your position that the Claims Administrator's determination was incorrect.*]

☐ The Claims Administrator has incorrectly concluded that the Product User Claimant did not properly execute, and submit by the Claims Deadline Date, a Product User Claim Form (including a properly completed and executed Certificate of Service), or did not properly execute, and submit by the Claims Deadline Date, all personal sworn statements required by the applicable Claim Form (other than Part B of the Product User Claim Form). [*Please provide specific detail that supports your position that the Claims Administrator's determination was incorrect.*]

☐ The Claims Administrator has incorrectly concluded that the Claimant did not, pursuant to a properly executed, and timely submitted, Supplemental Claim Form, cure all of the deficiency/ies identified by the Claims Administrator in a Deficiency Notice (disregarding those relating solely to Part B of Product User Claimant's Claim Form) as specified in paragraph 34 of the Claims Administration Procedures Exhibit. [*Please provide specific detail including specific reference(s) to any documents submitted in the Product User Claim Package that support your position that the Claims Administrator's determination was incorrect.*]

☐ The Claims Administrator has incorrectly concluded that Claimant did not respond to the Deficiency Notice by a properly executed, and timely submitted, Supplemental Claim Form. [*Please provide specific detail including specific reference(s) to any documents submitted in the Product User Claim Package that support your position that the Claims Administrator's determination was incorrect.*]

☐ The Claims Administrator's determination that the information provided in the original Claim Package was not sufficient to permit the Claims Administrator accurately to determine whether the Product User Claimant satisfies (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event) the Eligibility Requirements, was an abuse of discretion, for the following reasons. [*State precisely why you believe that the Claims Administrator's determination was an abuse of discretion, and please identify the specific documents from the Product User Claim Package that you believe support your position that the information included in Product User Claimant's Claim Package was sufficient to permit the Claims Administrator accurately to determine whether the Program Claim satisfies (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event) the Eligibility Requirements. Conclusory statements without specifically-referenced evidence from the Claim Package will not be accepted.*]

☐ The Claims Administrator's determination that the information provided in the original Claim Package, as supplemented by a properly executed, and timely submitted, Supplemental Claim Form and the documentation provided therewith, was not sufficient to permit the Claims Administrator accurately to determine whether the Product User Claimant satisfies (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event) the Eligibility Requirements, was an abuse of discretion, for the following reasons. [*State precisely why you believe that the Claims Administrator's determination was an abuse of discretion, and please identify the specific documents from the Product User Claim Package that you believe support your position that the information included in Product User Claimant's Claim Package was sufficient to permit the Claims Administrator accurately to determine whether the Program Claim satisfies (in the case of a Product User Claimant that alleges more than one Eligible Event, in relation to at least one such alleged Eligible Event) the Eligibility Requirements. Conclusory statements without specifically-referenced evidence from the Claim Package will not be accepted.*]

B. ELIGIBILITY REQUIREMENTS-SPECIFIC

☐ The Claims Administrator incorrectly concluded that Product User Claimant is an Excluded Person. [*Please explain why Product User Claimant believes he/she is not an Excluded Person.*]

☐ The Claims Administrator incorrectly concluded that Product User Claimant is not a Product User because Product User Claimant is not "resident in Canada." [*Please explain why Product User Claimant believes he/she was "in Canada."*]

☐ The Claims Administrator incorrectly concluded that Product User Claimant fails to meet the requirements of the Event Gate Criteria, as established in Exhibit 4.7(2)(B) of the Settlement Agreement, for the following reasons: [*State precisely why you disagree with the Claims Administrator's determination that the Product User Claimant fails the Event Gate, and identify the specific documents within your Claim Package that support your position that you satisfied the Event Gate Criteria. Conclusory statements without specifically-referenced evidence from the Claim Package will not be accepted. If you alleged more than one Eligible Event, you must identify the particular alleged Eligible Event(s) in respect of which this position is asserted.*]

☐ The Claims Administrator incorrectly concluded the Product User Claimant fails to meet the requirements of the Usage Gate Criteria, as established in Exhibit 4.7(2)(C) of the Settlement Agreement, for the following reasons: [*State precisely why you disagree with the Claims Administrator's determination that Product User Claimant fails the Usage Gate, and please identify the specific documents within your Claim Package that support your position that you satisfied the Usage Gate Criteria. Conclusory statements without specifically-referenced evidence from the Claim Package will not be accepted. If you alleged more than one Eligible Event, you must identify the particular alleged Eligible Event(s) in respect of which this position is asserted.*]

C. POINTS-BASED AWARD-SPECIFIC

☐ The Claims Administrator's determination that the effect of Product User Claimant's failure to, pursuant to a properly executed, and timely submitted, Supplemental Claim Form, fully cure the deficiency/ies identified in a Deficiency Notice was such that the information included in Product User Claimant's Claim Package was not sufficient to permit the Claims Administrator accurately to determine whether Product User Claimant falls within any particular ONJ Group (other than ONJ Group 1), was an abuse of discretion, for the following reasons: [*Please state precisely why you believe that the Claims Administrator's determination was an abuse of discretion, and please identify the specific documents from the Product User Claim Package that you believe support your position that the information included in Product User Claimant's Claim Package was sufficient to permit the Claims Administrator accurately to determine whether the Program Claim falls within any particular ONJ Group (other than ONJ Group 1). Conclusory statements without specifically-referenced evidence from the Claim Package will not be accepted.*]

☐ The determination of the Claims Administrator of the specific AFF Group or ONJ Group, as the case may be, that is applicable to Product User Claimant was incorrect, and the Product User Claimant asserts that the proper AFF Group or ONJ Group, as the case may be, with respect to Product User Claimant is as specified immediately below:

☐ AFF Group A	☐ AFF Group B
☐ ONJ Group 1	☐ ONJ Group 2
☐ ONJ Group 3	☐ ONJ Group 4

[*Please state precisely why you disagree with the Claims Administrator's determination regarding the AFF Group or ONJ Group, as the case may be, applicable to Product User Claimant, and please identify the specific documents from the Product User Claim Package that you believe support your position that the Claims Administrator's AFF Group or ONJ Group, as the case may be, determination is incorrect. If you alleged more than one Eligible Event, you must identify the particular alleged Eligible Event(s) in respect of which this position is asserted. Conclusory statements without specifically-referenced evidence from the Claim Package will not be accepted.*]

D. TENTATIVE LOST INCOME AWARD APPLICATION – SPECIFIC (IF APPLICABLE)

☐ The Claims Administrator has incorrectly concluded that Claimant did not, pursuant to a properly executed, and timely submitted, Supplemental Claim Form, cure all of the deficiency/ies cited in the Deficiency Notice (relating to the Product User's claim for a Lost Income Award) as specified in paragraph 34 of the Claims Administration Procedures Exhibit. [*Please provide specific detail including specific reference(s) to any documents submitted in the Product User Claim Package that support your position that the Claims Administrator's determination was incorrect.*]

☐ The Claims Administrator has incorrectly concluded that Claimant did not respond to the Deficiency Notice by a properly executed, and timely submitted, Supplemental Claim Form. [*Please provide specific detail including specific reference(s) to any documents submitted in the Product User Claim Package that support your position that the Claims Administrator's determination was incorrect.*]

☐ The Claims Administrator's determination that the information provided in the original Claim Package was not sufficient to permit the Claims Administrator accurately to determine both (i) the Claimant's entitlement to receive a Tentative Lost Income Grant and (ii) whether or not the Product User Claimant incurred Specified Documented Lost Wages of not less than $27,000, was an abuse of discretion, for the following reasons. [*State precisely why you believe that the Claims Administrator's determination was an abuse of discretion, and please identify the specific documents from the Product User Claim Package that you believe support your position that the information included in Product User Claimant's Claim Package was sufficient to permit the Claims Administrator accurately to determine both (i) the Claimant's entitlement to receive a Tentative Lost Income Grant and (ii) whether or not the Product User Claimant incurred Specified Documented Lost Wages of not less than $27,000. Conclusory statements without specifically-referenced evidence from the Claim Package will not be accepted.*]

☐ The Claims Administrator's determination that the information provided in the original

Claim Package, as supplemented by a properly executed, and timely submitted, Supplemental Claim Form and the documentation provided therewith, was not sufficient to permit the Claims Administrator accurately to determine both (i) the Claimant's entitlement to receive a Tentative Lost Income Grant and (ii) whether or not the Product User Claimant incurred Specified Documented Lost Wages of not less than $27,000, was an abuse of discretion, for the following reasons. [*State precisely why you believe that the Claims Administrator's determination was an abuse of discretion, and please identify the specific documents from the Product User Claim Package that you believe support your position that the information included in Product User Claimant's Claim Package was sufficient to permit the Claims Administrator accurately to determine both (i) the Claimant's entitlement to receive a Tentative Lost Income Grant and (ii) whether or not the Product User Claimant incurred Specified Documented Lost Wages of not less than $27,000. Conclusory statements without specifically-referenced evidence from the Claim Package will not be accepted.*]

☐ The Claims Administrator's determination, pursuant to clause (C) of paragraph 36 of the Claims Procedures Exhibit, that the effect of Product User Claimant's failure to, pursuant to a properly executed, and timely submitted, Supplemental Claim Form, fully cure the deficiency/ies identified in a Deficiency Notice (relating to Part B of Product User Claimant's Claim Form) as specified in paragraph 34 of the Claims Administration Procedures Exhibit was such that the information included in Product User Claimant's Claim Package was not sufficient to permit the Claims Administrator accurately to determine such Claimant's Specified Documented Lost Wages, was an abuse of discretion, for the following reasons: [*Please state precisely why you believe that the Claims Administrator's determination was an abuse of discretion, and please identify the specific documents from the Product User Claim Package that you believe support your position that the information included in Product User Claimant's Claim Package was sufficient to permit the Claims Administrator accurately to determine the*

Claimant's Specified Documented Lost Wages, was an abuse of discretion, for the following reasons. Conclusory statements without specifically-referenced evidence from the Claim Package will not be accepted.]

☐ Product User Claimant disagrees with the Claims Administrator's determination of Product User Claimant's Specified Documented Lost Wages.
[*Please state precisely why you disagree with the Claims Administrator's determination of Product User Claimant's Specified Documented Lost Wages, and please identify the specific documents from the Product User Claim Package that you believe support your position. Conclusory statements without specifically-referenced evidence from the Claim Package will not be accepted.*]

NOTE: Product User Claimant may NOT rely on, reference, or submit any records or documents that were not contained in the Product User Claim Package originally submitted (or, solely in the case of a Late Filing Rejection Appeal. Claimant's statement of good cause for submitting a Claim Package after the Claims Deadline Date set forth in such Claimant's letter to the Claims Administrator to such effect submitted with Claimant's Claim Package). Please be sure to keep a file copy of any documents submitted in connection with this Product User Claimant Notice of Appeal.

PLEASE ENSURE THAT YOU SIGN AND DATE THIS FORM WHERE INDICATED BELOW, INCLUDING THE CERTIFICATIONS.

I declare under penalty of perjury under the laws of the Province of _____, that all of the information provided in this Product User Claimant Notice of Appeal and the Certificate of Service is true and correct. I also certify that I have not relied on, referenced or submitted with this Appeal any documents or evidence not originally included in my Product User Claim Package.

Executed on _____, at _____

Date City Province

_____

Printed Name

_____

Signature

Date: _____

_____
Claimant's Signature

_____
Printed Name of Claimant

_____

_____

_____
Printed Address of Claimant

Date: _____

_____
Signature of Claimant's Lawyer (if any)

_____
Printed Name of Claimant's Lawyer

_____

_____

_____
Law Firm Name, Address, Phone/Fax

CERTIFICATE OF SERVICE

I, _____, declare that:
(insert name)

I am at least 18 years of age. My address is:

_____
Street Address City Prov Postal Code

My telephone number is: (_____) _____

On _____, I caused to be served the following document(s):
Date

PRODUCT USER CLAIMANT NOTICE OF APPEAL(S) FOR THE CLAIM(S) OF:

_____
(insert name(s) of all Claimants whose forms(s) are being served with this certificate)

by enclosing the **originals** of said document(s) in (an) envelope(s) and delivering said envelope(s) to the Administrator at the following address:

[insert CA contact info here]

in the following manner:

☐ BY MAIL: I know that the envelope was sealed, addressed to the Administrator, with postage thereon fully prepaid, and placed for collection and mailing on this date, with regular Canada Post mail at:

_____ ; or
City Province

☐ BY ELECTRONIC SERVICE: I caused the electronic mail with attachments to be sent to the Administrator at the following address:_____; or

☐ BY SAME-DAY OR OVERNIGHT COURIER: I enclosed the envelope(s) in an overnight courier envelope addressed to the Administrator and deposited same with the overnight courier company.

EXHIBIT 4.5(1)-45-1-b

DERIVATIVE CLAIMANT NOTICE OF APPEAL

This is a Derivative Claimant Notice of Appeal with respect to the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Derivative Claimant Notice of Appeal shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Derivative Claimant Notice of Appeal and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

NOTE: ***This Derivative Claimant Notice of Appeal must be filed within thirty (30) days of the date of the Claims Administrator notice to Derivative Claimant setting forth the Claims Administrator determination(s) that is/are the subject of this Appeal. Failure to timely deliver this Derivative Claimant Notice of Appeal shall constitute irrevocable acceptance by the Derivative Claimant of the relevant determination(s) of the Claims Administrator.***

Date of this Derivative Claimant Notice of Appeal: _____

Derivative Claimant Name: _____

Related Product User Claimant Name: _____

Asserted Relationship of Derivative Claimant to Product User Claimant:

☐ Spouse ☐ Child

Law Firm Representing Derivative Claimant: _____

Derivative Claimant now submits this Derivative Claimant Notice of Appeal because Derivative Claimant respectfully disagrees with one or multiple of the Claims Administrator's determination(s), as specified below: [*Check all that apply*.]

☐ The Claims Administrator's denial of a request to consider the Derivative Claimant's Claim Package originally submitted only after the Claims Deadline Date, was an abuse of discretion (hereinafter referred to as a "Late Filing Rejection Appeal"). [*State precisely why you believe that the Claims Administrator's determination was an abuse of discretion, and please identify the specific content from your letter to the Claims Administrator submitted with your Claim Package (and asserting good cause for submitting your Claim Package after the Claims Deadline Date) that you believe supports your position that you had good cause for submitting your Claim Package after the Claims Deadline Date.*]

_____

_____

_____

☐ The Claims Administrator has incorrectly concluded that the Derivative Claimant's Claim Package was not complete. [*Please provide specific detail including specific reference(s) to any documents submitted in the Derivative Claimant Claim Package that support your position that the Claims Administrator's determination was incorrect.*]

☐ The Claims Administrator has incorrectly concluded that the Derivative Claimant did not properly execute, and submit by the Claims Deadline Date, a Claim Form (including a properly completed and executed Certificate of Service). [*Please provide specific detail that supports your position that the Claims Administrator's determination was incorrect.*]

☐ The Claims Administrator has incorrectly concluded that the Derivative Claimant did not, pursuant to a properly executed, and timely submitted, Supplemental Claim Form, cure all of the deficiency/ies identified by the Claims Administrator in a Deficiency Notice as specified in paragraph 34 of the Claims Administration Procedures Exhibit. [*Please provide specific detail including specific reference(s) to any documents submitted in the Derivative Claimant Claim Package that support your position that the Claims Administrator's determination was incorrect.*]

☐ The Claims Administrator has incorrectly concluded that the Derivative Claimant did not respond to the Deficiency Notice by a properly executed, and timely submitted, Supplemental Claim Form. [*Please provide specific detail including specific reference(s) to any documents submitted in the Derivative Claimant Claim Package that support your position that the Claims Administrator's determination was incorrect.*]

☐ The Claims Administrator's determination that the information provided in the original Claim Package was not sufficient to permit the Claims Administrator accurately to determine the Claimant's status as an Eligible Family Member, was an abuse of discretion. [*State precisely why you believe that the Claims Administrator's determination was an abuse of discretion, and please identify the specific documents from the Derivative Claimant Claim Package that you believe support your position that the information included in Derivative Claimant's Claim Package was sufficient to permit the Claims Administrator accurately to determine the Claimant's status as an Eligible Family Member. Conclusory statements without specifically-referenced evidence from the Claim Package will not be accepted.*]

☐ The Claims Administrator's determination that the information provided in the original Claim Package, as supplemented by a properly executed, and timely submitted, Supplemental Claim Form and the documentation provided therewith, was not sufficient to permit the Claims Administrator accurately to determine the Claimant's status as an Eligible Family Member, was an abuse of discretion. [*State precisely why you believe that the Claims Administrator's determination was an abuse of discretion, and please identify the specific documents from the Derivative Claimant Claim Package that you believe support your position that the information included in Derivative Claimant's Claim Package was sufficient to permit the Claims Administrator accurately to determine the Claimant's status as an Eligible Family Member. Conclusory statements without specifically-referenced evidence from the Claim Package will not be accepted.*]

☐ The Claims Administrator's determination that Derivative Claimant is not in fact an Eligible Family Member with respect to the Product User Claimant specified above (in the

case of an Approved Product User Claimant in relation to more than one Eligible Event, in relation to any such Eligible Event) is incorrect for the following reason(s): [*Please provide specific detail including specific reference(s) to any documents submitted in the Derivative Claimant Claim Package that support your position that you are in fact an Eligible Family Member with respect to the Product User Claimant specified above. Conclusory statements without specifically-referenced evidence from the Claim Package will not be accepted.*]

☐ In the case of an Approved Derivative Claimant in relation to an Approved Product User Claimant (in respect of more than one Eligible Event), the Claims Administrator's determination that Derivative Claimant is not in fact an Eligible Family Member with respect to the Eligible Events specified below is incorrect for the following reason(s): [*Please provide specific detail including the specific Eligible Event(s) in respect of which Approved Derivative Claimant asserts the he/she is in fact an Eligible Family Member and specific reference(s) to any documents submitted in the Derivative Claimant Claim Package that support your position that you are in fact an Eligible Family Member with respect to Eligible Event(s). Conclusory statements without specifically-referenced evidence from the Claim Package will not be accepted.*]

NOTE: ***Derivative Claimant may NOT rely on, reference, or submit any records or documents that were not contained in the original Derivative Claimant Claim Package (or, solely in the case of a Late Filing Rejection Appeal. Claimant's statement of good cause for submitting a Claim Package after the Claims Deadline Date set forth in such Claimant's letter to the Claims Administrator to such effect submitted with Claimant's Claim Package). Please be sure to keep a file copy of any documents submitted in connection with this Derivative Claimant Notice of Appeal.***

PLEASE ENSURE THAT YOU SIGN AND DATE THIS FORM WHERE INDICATED BELOW, INCLUDING THE CERTIFICATION ON THE LAST PAGE.

Date: _____

_____
Derivative Claimant's Signature

_____
Printed Name of Derivative Claimant

_____

_____
Printed Address of Derivative Claimant

Date: _____

_____
Signature of Derivative Claimant's Lawyer (if any)

_____
Printed Name of Derivative Claimant's Lawyer

_____

Law Firm Name, Address, Phone/Fax

CERTIFICATE OF SERVICE

I, _____, declare that:
(insert name)

I am at least 18 years of age. My address is:

_____
Street Address City Prov Postal Code

My telephone number is: (_____) _____

On _____, I caused to be served the following document(s):
Date

DERIVATIVE CLAIMANT NOTICE OF APPEAL FOR THE CLAIM(S) OF:

_____
(insert name(s) of all Claimants whose forms(s) are being served with this certificate)

by enclosing the **originals** of said document(s) in (an) envelope(s) and delivering said envelope(s) to the Administrator at the following address:

[insert CA contact info here]

in the following manner:

☐ BY MAIL: I know that the envelope was sealed, addressed to the Administrator, with postage thereon fully prepaid, and placed for collection and mailing on this date, with regular Canada Post mail at:

_____ ; or
City Province

☐ BY ELECTRONIC SERVICE: I caused the electronic mail with attachments to be sent to the Administrator at the following address:_____; or

☐ BY SAME-DAY OR OVERNIGHT COURIER: I enclosed the envelope(s) in an overnight courier envelope addressed to the Administrator and deposited same with the overnight courier company.

I declare under penalty of perjury under the laws of the Province of _____, that all of the information provided in this Derivative Claimant Appeal is true and correct. I also certify that I have not relied on, referenced or submitted with this Appeal any documents or evidence not originally included in my Derivative Claimant Claim Package.

Executed on _____, at _____

Date City Province

_____

Printed Name

_____

Signature

EXHIBIT 4.5(1)-45-2

MERCK NOTICE OF APPEAL

This is a Merck Notice of Appeal with respect to the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Merck Notice of Appeal shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Merck Notice of Appeal and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

Date of this Merck Notice of Appeal: _____

Name of Claimant to whom this Appeal applies: _____

Type of Claimant:

☐ Product User Claimant

☐ Derivative Claimant – Spouse

☐ Derivative Claimant - Child

Subject of Appeal [*Please check all that apply.*]:

☐ Grant by the Claims Administrator pursuant to paragraph 58 of the Claims Administration Procedures Exhibit of a request to consider a Claim Package originally submitted only after the Claims Deadline Date

☐ Claim Package Completeness/Sufficiency (including any determination of the Claims Administrator in respect of paragraph 35 or 36 of the Claims Administration Procedures Exhibit) – Other Than in Relation to Part B of the Product User Claim Form (Lost Income Award Claim)

☐ Claim Package Completeness/Sufficiency (including any determination of the Claims Administrator in respect of paragraph 35 or 36 of the Claims Administration Procedures Exhibit) – in Relation to Part B of the Product User Claim Form (Lost Income Award Claim)

☐ Satisfaction of Eligibility Requirements

☐ Points Award Determination

☐ Tentative Lost Income Grant

☐ Eligible Family Member Determination

Please state in detail the basis(es) of this appeal and why you believe the determination of the Claims Administrator with respect to the above-referenced Program Claim was incorrect and/or an abuse of discretion [*Attach additional sheets if necessary.*]

Please specify and submit any PME Records, Documentation and/or any additional documents or records that you believe support your position that the determination of the Claims Administrator with respect to the above-referenced Program Claim was incorrect and/or an abuse of discretion [*Attach additional sheets if necessary*.]

[INSERT SIGNATURE BLOCK FOR MERCK]

This Notice of Appeal, including any certifications and/or records attached to it, should be delivered to the Claims Administrator, Lead Counsel, and the Referee at the below addresses:

[Insert Claims Administrator, Lead Counsel and Referee names, physical addresses and email addresses here.]

EXHIBIT 4.5(1)-45-3

RESPONSE TO APPEAL

This is a Response to Appeal with respect to the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Response to Appeal shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Response to Appeal and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

If this Response is filed by Merck or Lead Counsel in support of or in opposition to an Appeal of a Claimant, this Response must be submitted no later than the 15th day of the second calendar month following the calendar month during which the later of the posting to the CA Website of, and receipt by the CAP Parties of notice from the Claims Administrator of, the relevant Claimant Notice of Appeal occurs. If this Response is filed by the Claimant or Lead Counsel in response to a Merck Notice of Appeal, then this Response must be filed within thirty (30) days of the date of the Claims Administrator notice to Claimant of the Merck Notice of Appeal.

Date of this Response to Appeal: _____

Response to Appeal Submitted By:

☐ Merck Parties ☐ Lead Counsel

☐ Product User Claimant ☐ Derivative Claimant

CLAIM INFORMATION:

Name of Claimant to which this Response applies: _____

Type of Claimant: ☐ Product User Claimant

☐ Derivative Claimant – Spouse

☐ Derivative Claimant – Child

Law Firm Representing Claimant: _____

Product User Claimant's Eligible Event(s) Type: _____

Product User Claimant's Eligible Event Date(s): _____

Subject of Appeal and Response [*Please check all that apply.*]:

- ☐ Grant by the Claims Administrator of a request to consider a Claim Package originally submitted only after the Claims Deadline Date

- ☐ Denial by the Claims Administrator of a request to consider a Claim Package originally submitted only after the Claims Deadline Date (hereinafter referred to as a "Late Filing Rejection Appeal")

- ☐ Claim Package Completeness/Sufficiency (including any determination of the Claims Administrator in respect of paragraph 35 or 36 of the Claims Administration Procedures Exhibit) – Other Than in Relation to Part B of the Product User Claim Form (Lost Income Award Claim)

- ☐ Claim Package Completeness/Sufficiency (including any determination of the Claims Administrator in respect of paragraph 35 or 36 of the Claims Administration Procedures Exhibit) – in Relation to Part B of the Product User Claim Form (Lost Income Award Claim)

- ☐ Satisfaction of Eligibility Requirements

- ☐ Points Award Determination

- ☐ Tentative Lost Income Grant

- ☐ Eligible Family Member Determination

Please state in detail the basis(es) of this Response, and why you support or oppose the determinations of the Claims Administrator that are the subject of the above-referenced Appeal. [*Attach additional sheets if necessary.*]

_

Please identify and cite to any specific PME Records or Lost Income Documentation from the Claimant's Claim Package submitted pursuant to Section 4.4 of the Settlement Agreement, and paragraph 34 of the Claims Administration Procedures Exhibit (or, solely in the case of a Late Filing Rejection Appeal, Claimant's letter to the Claims Administrator submitted with Claimant's Claim Package (and asserting good cause for submitting Claimant's Claim Package after the Claims Deadline Date), that you believe support your position. [*Attach additional sheets if necessary*.]

For Merck Parties only: Please identify and cite to any documents (including without limitation PME Records and/or Documentation), in addition to the PME Records or Lost Income Documentation from the Claimant's Claim Package submitted pursuant to Section 4.4 of the Settlement Agreement, and paragraph 34 of the Claims Administration Procedures Exhibit (or, in the case of a Late Filing Rejection Appeal, Claimant's letter to the Claims Administrator submitted with Claimant's Claim Package (and asserting good cause for submitting Claimant's

Claim Package after the Claims Deadline Date), that you believe support your position. [*Attach additional sheets if necessary.*].

Lead Counsel and Claimants may NOT submit in conjunction with this Response any PME Records and/or Documentation, or other materials, other than the PME Records, Lost Income Documentation or other materials included in the Claim Package of the Claimant timely submitted pursuant to Section 4.4 of the Settlement Agreement and paragraph 34 of the Claims Administration Procedures Exhibit (or, solely in the case of a Late Filing Rejection Appeal, Claimant's letter to the Claims Administrator submitted with Claimant's Claim Package (and asserting good cause for submitting Claimant's Claim Package after the Claims Deadline Date). The Merck Parties may submit in conjunction with this Response such records or documents (including PME Records and/or Documentation), in addition to the Claim Package submitted by such Claimant pursuant to Section 4.4 of the Settlement Agreement and paragraph 34 of the Claims Administration Procedures Exhibit (or, in the case of a Late Filing Rejection Appeal, Claimant's letter to the Claims Administrator submitted with Claimant's Claim Package (and asserting good cause for submitting Claimant's Claim Package after the Claims Deadline Date), as the Merck Parties may determine to submit.

PLEASE ENSURE THAT YOU SIGN AND DATE THIS FORM WHERE INDICATED BELOW. INCLUDING THE CERTIFICATION ON THE LAST PAGE.

Date: _____

_____
Claimant's Signature

_____
Printed Name of Claimant

_____

_____

_____
Printed Address of Claimant

Date: _____

_____
Signature of Claimant's Lawyer (if any)

_____
Printed Name of Claimant's Lawyer

_____

_____

_____
Law Firm Name, Address, Phone/Fax

[INSERT SIGNATURE BLOCKS FOR MERCK AND LEAD COUNSEL]

CERTIFICATE OF SERVICE

I, _____, declare that:
(insert name)

I am at least 18 years of age. My address is:

_____
Street Address City Prov Postal Code

My telephone number is: (_____) _____

On _____, I caused to be served the following document(s):
Date

RESPONSE TO OBJECTION/APPEAL FOR THE CLAIM(S) OF:

_____
(insert name(s) of all Claimants whose forms(s) are being served with this certificate)

by enclosing the **originals** of said document(s) in (an) envelope(s) and delivering said envelope(s) to the Administrator at the following address:

[insert contact information for CA, Merck, Lead Counsel and Appeal Court here]

in the following manner:

☐ BY MAIL: I know that the envelope was sealed, addressed to the above parties, with postage thereon fully prepaid, and placed for collection and mailing on this date, with regular Canada Post mail at:

_____ ; or
City Province

☐ BY ELECTRONIC SERVICE: I caused the electronic mail with attachments to be sent to the above parties at the electronic addresses listed above; or

☐ BY SAME-DAY OR OVERNIGHT COURIER: I enclosed the envelope(s) in an overnight courier envelope addressed to the above parties and deposited same with the overnight courier company.

I declare under penalty of perjury under the laws of the Province of _____, that all of the information provided in this Response to Appeal and the Certificate of Service is true and correct.

Executed on _____, at _____

Date City Province

_____

Printed Name

_____

Signature

EXHIBIT 4.5(1)-55

LETTER OF FINAL RESOLUTION AND PAYMENT

This is a Letter of Final Resolution and Payment referred to in the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Acknowledgement Letter shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Acknowledgement Letter and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

Date of this Letter of Final Resolution and Payment:

_____

Claimant's Name: _____

Law Firm Representing Claimant:

_____

[insert name of Claims Administrator], the Claims Administrator under the Settlement Agreement, is pleased to inform you that you are herewith receiving, or otherwise will be receiving, your Points-Based Award payment of $[_____][, and your Lost Income Award payment of $[_____],] pursuant to the Settlement Agreement.

The number of Points you were awarded was [_____] and the Point Value was $[_____]. Your Points-Based Award equals the product of such two amounts.

[**Insert if applicable**: Your Lost Income Award is lower than your Tentative Lost Income Grant because the aggregate amount of all final Tentative Lost Income Grants made to Finally Determined Eligible Product User Claimants exceeded the Lost Income Cap Amount of $162,000. As a result, all such Tentative Lost Income Grants were reduced pro rata so that the aggregate amount thereof exactly equaled $162,000.]

[Insert Claims Administrator name, address and phone number]

Cc: Merck
Lead Counsel

EXHIBIT 4.7(2)(B)

EVENT GATE CRITERIA

Capitalized terms used but not defined in this Exhibit shall have the respective meanings assigned to such terms in the Settlement Agreement to which this Exhibit is attached, including in Annex A thereto.

In order to satisfy the "Event Gate" criteria, a Product User Claimant must prove that such Enrolled Product User Claimant suffered either ONJ or an AFF, in each case as specified below.

ONJ Criteria

1. contemporaneous Medical Record containing a diagnosis of ONJ;

OR

2. at least six consecutive weeks of exposed bone;

OR

3. at least 8 consecutive weeks of non-healing of an extraction socket or other oral or dental surgical site.

AFF Criteria

1. contemporaneous Medical Record containing a diagnosis of AFF;

OR

2. satisfaction of the case definition of AFF in the ASBMR Task Force's report published in JBMR Vol. 29, Issue 1, p. 14, Table 3 (2014).

EXHIBIT 4.7(2)(C)

USAGE GATE CRITERIA

Capitalized terms used but not defined in this Exhibit shall have the respective meanings assigned to such terms in the Settlement Agreement to which this Exhibit is attached, including in Annex A thereto.

In order to satisfy the "Usage Gate" criteria, an Enrolled Product User Claimant must prove the following:

1. Twelve (12) months of Alendronate ingestion prior to [date of first certification for settlement], six (6) months of which must be Fosamax and/or Fosavance; AND

2. Eight (8) complete and consecutive weeks of Alendronate ingestion within one (1) year prior to onset of the Enrolled Product User Claimant's alleged ONJ or AFF (and prior to [date of first certification for settlement]); and eight (8) complete and consecutive weeks of Fosamax and/or Fosavance ingestion within Enrolled Product User Claimant's history of Alendronate usage (and prior to [date of first certification for settlement]).

EXHIBIT 4.8(1)(a)

POINT AWARDS CRITERIA

Below is the methodology and criteria that will be utilized by the Claims Administrator to and award "Points" to Approved Product User Claimants -- as set forth in Section 4.8 of the Settlement Agreement, and subject to paragraph 36 of the Claims Administration Procedures Exhibit.

Event Level	**"Points"**	**Maximum Payments ($500 cap per Point)**
ONJ Group 4[2]	86	$43,000
ONJ Group 3[3]	35	$17,500
ONJ Group 2[4]	20	$10,000
ONJ Group 1[5]	16	$8,000
AFF Group B[6]	85	$42,500
AFF Group A[7]	35	$17,500

2. ONJ Event Category 4: a pathologic fracture, severe refractory osteomyelitis, resection (total or partial), currently draining external fistula, or disfigurement; or meets the ONJ Event Category 3 injury criteria and required hospitalization for a total of five or more days for treatment of those injuries or due to emotional disturbance directly attributed by the claimant's treating physician to the claimant's dental condition.

3. ONJ Event Category 3: necrotic and exposed bone in the jaw, or bone that can be probed through an intraoral or extraoral fistula in the maxillofacial region, for at least eight consecutive weeks' duration requiring treatment of multiple debridements or surgical intervention for the ONJ; or (a) resolved, external fistula; or (b) internal fistula requiring surgery to resolve.

4. ONJ Event Category 2: satisfaction of one of the three criteria for ONJ Event Category 1, and treatment of a single debridement or spicule removal(s); or resolution of claimant's ONJ upon the administration of intravenous antibiotics, or in response to other non-surgical treatment other than that described in Event Category 1.

5. ONJ Event Category 1: (1) necrotic and exposed bone in the jaw, or bone that can be probed through an intraoral or extraoral fistula in the maxillofacial region, for at least six consecutive weeks' duration; (2) non-healing of at least eight consecutive weeks after a tooth extraction or other dental or oral procedure; or (3) medical or dental records that document a final ONJ diagnosis contemporaneous with the condition.

6. AFF Event Category B: Atypical femur fractures in both legs. To be eligible to receive an AFF Event Category B payment (which is one payment for both fractures), the fracture in each leg must independently satisfy the AFF Event Gate Criteria and Usage Gate Criteria described elsewhere in the Settlement Agreement. In addition, no claimant will be eligible for a payment for more than one fracture in a leg.

7. AFF Event Category A: Atypical femur fracture in one leg.

EXHIBIT 4.8(2)

POINTS AWARDS TO FINALLY DETERMINED ELIGIBLE DERIVATIVE PROGRAM CLAIMANTS

Capitalized terms used but not defined in this Exhibit shall have the respective meanings assigned to such terms in the Settlement Agreement to which this Exhibit is attached, including in Annex A thereto.

1.1. Eligible Events

Only Finally Determined Eligible Derivative Claimants in respect of Finally Determined Eligible Product User Claimants shall receive Points awards, as set out below.

1.2. Spouses and Children under the age of 18 of Eligible Product Users

A Finally Determined Eligible Derivative Claimant that is (i) a spouse (including common law spouses and same-sex spouses) of a Finally Determined Eligible Product User Claimant on the date of the Eligible Event of such Finally Determined Eligible Product User Claimant or (ii) a child of a Finally Determined Eligible Product User Claimant which child was under the age of 18 on the date of the Eligible Event of such Finally Determined Eligible Product User Claimant, shall receive a Points award equal to 6% of the Points awarded to such Finally Determined Eligible Product User Claimant in respect of such Eligible Event, subject to sections 1.4 and 1.5 below. (In the case of a Finally Determined Eligible Product User Claimant that receives a Points award with respect to more than one Eligible Event, this section 1.2 shall be applied separately with respect to each such Eligible Event.)

1.3. Children of Eligible Product Users over the age of 18

A Finally Determined Eligible Derivative Claimant that is a child of a Finally Determined Eligible Product User Claimant which child was 18 years of age or over on the date of the Eligible Event of such Finally Determined Eligible Product User Claimant shall receive a Points award equal to 2% of the Points awarded to such Finally Determined Eligible Product User Claimant in respect of such Eligible Event, subject to sections 1.4 and 1.5 below. (In the case of a Finally Determined Eligible Product User Claimant that receives a Points award with respect to more than one Eligible Event, this section 1.3 shall be applied separately with respect to each such Eligible Event.)

1.4. Supporting Documentation for Eligible Family Members

In order to possibly be eligible for compensation (in the event that his or her related Product User Claimant is determined to be a Finally Determined Eligible Product User Claimant), Eligible Family Members must properly and fully complete and submit to the Claims Administrator the Derivative Claimant Claim Form as set forth in Annex A to this Exhibit 4.8(2) and provide to the Claims Administrator proof of one's relationship to the prospective Finally Determined Eligible Product User Claimant, all prior to the Claims Deadline Date. For example:

(a) Spouses must provide a copy of their marriage certificate or other document evidencing the relationship to the relevant Product User Claimant;

(b) Children of Product User Claimants must provide a birth certificate or other relevant documentation which establishes the date of birth of the Eligible Family Member, and, if the last name of the child is different from that of the Product User Claimant, documentation which establishes that the Eligible Family Member is the child of the Product User Claimant.

Each putative Eligible Family Member is encouraged to submit his or her Derivative Claimant Claim Form and proof of relationship together with the Claims Package submitted by such putative Eligible Family Member's related Product User Claimant for ease of administration. Any putative Eligible Family Member that does not timely submit the Derivative Claimant Claim Form and proof of relationship described above shall not be entitled to any compensation pursuant to the Settlement Agreement (but shall nonetheless be bound by the terms thereof, including the Release set forth therein).

1.5. Maximum Eligible Family Member Payments Per Family

In the event that, prior to the application of this section 1.5, the aggregate number of Points that would be awarded to all Finally Determined Eligible Derivative Claimants with respect to any particular Finally Determined Eligible Product User Claimant would exceed an amount equal to 20% of the number of Points awarded to such Finally Determined Eligible Product User Claimant, the number of Points awarded to each such Finally Determined Eligible Derivative Claimant shall be pro-rated such that, after giving effect to this section 1.5, the aggregate number of Points actually awarded to all such Finally Determined Eligible Derivative Claimants with respect to such particular Finally Determined Eligible Product User Claimant exactly equals an amount equal to 20% of the number of Points awarded to such Finally Determined Eligible Product User Claimant. For the avoidance of doubt, the same 20% overall cap set forth in the preceding sentence applies even if the related Finally Determined Eligible Product User Claimant receives a Points award with respect to more than one Eligible Event.

1.6. Eligible Family Member Settlement Payment Provisions

(a) Any Points-Based Award which is payable to a Finally Determined Eligible Derivative Claimant who is a child of a Finally Determined Eligible Product User Claimant and which child is, at the time of payment, 18 years of age or older, shall be paid directly to the said Finally Determined Eligible Derivative Claimant.

(b) With respect to any Points-Based Award which is payable to a Finally Determined Eligible Derivative Claimant who is a child of a Finally Determined Eligible Product User Claimant and which child is, at the time of payment, under age 18 at the time of payment, Points-Based Awards under $5,000.00 shall be paid to the related Finally Determined Eligible Product User Claimant in trust, while Points-Based Awards of $5,000.00 or more shall be paid into the Class Action Court unless otherwise ordered by the Class Action Court.

(c) Payments to any Finally Determined Eligible Derivative Claimant pursuant to the Settlement Agreement shall be subject to Section 6 of the Settlement Agreement in all respects.

ANNEX A TO EXHIBIT 4.8(2)

DERIVATIVE CLAIMANT CLAIM FORM

Must be Postmarked
No Later Than
[date]

FOSAMAX/FOSAVANCE: CLASS ACTION
CANADA-WIDE SETTLEMENT AGREEMENT

DERIVATIVE CLAIMANT CLAIM FORM
Private & Confidential
(Please type or use blue or black pen and write legibly)

A. This is a "Derivative Claimant Claim Form" referred to in the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Derivative Claimant Claim Form shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Derivative Claimant Claim Form and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

B. This form is to be used for submitting a claim by or on behalf of a spouse (including common law or same-sex spouses) or child (by birth, marriage or adoption) of a Product User Claimant who had an atypical femur fracture or osteonecrosis of the jaw (the "Eligible Event").

To be eligible to make a claim, you must have been the spouse or child of the Product User Claimant at the time of the Eligible Event.

C. Please read this Derivative Claimant Claim Form in its entirety and answer all inquiries on the Derivative Claimant Claim Form itself (add additional sheets if necessary) and then sign and date the Derivative Claimant Claim Form. **FAILURE TO FULLY ANSWER ALL INQUIRIES ON THE DERIVATIVE CLAIMANT CLAIM FORM, INCLUDING PROVIDING ALL REQUIRED DOCUMENTATION AND/OR TO SIGN THE DERIVATIVE CLAIMANT CLAIM FORM, WILL RESULT IN YOUR SUBMISSION BEING REJECTED.**

D. This Derivative Claimant Claim Form, fully completed and properly signed, the Certificate of Service of Derivative Claimant Claim Form (with the appropriate box checked) attached to this Derivative Claimant Claim Form and all requisite documentation, including proof of your relationship (i.e., marriage certificate, birth

certificate, baptismal papers, separation agreement, adoption papers, custody judgment, divorce judgment, affidavit) to the Product User Claimant on the date of the alleged Eligible Event, must be submitted (as proven by either the post-mark date (if standard lettermail service is used) or the date received by the Claims Administrator (where same-day or overnight courier service is used) or the date the submission is capable of being accessed from the Claims Administrator's electronic mail address (if the submission by electronic mail is used)) no later than [_____]. Failure to submit these materials accordingly by this deadline will result in you not being entitled to any compensation pursuant to the Settlement Agreement (but you shall nonetheless shall remain bound by the terms thereof, including the Release set forth therein).

E. To the extent that the person submitting this Derivative Claimant Claim Form on behalf of a putative Eligible Family Member is representing a minor, an incapable person, a person under a disability or the estate of a deceased person, such representative must represent and warrant that he or she is duly authorized as the proper representative to submit the claim and provide proof of same. It is the sole responsibility of the person submitting a claim to take the necessary steps to be appointed as the proper representative by court order, if the applicable law so requires. Additionally, all such persons must comply with all provisions of the Settlement Agreement. If your properly approved representative is required to report any award to any court, the amount of such award shall be maintained in the strictest confidence and all papers shall be filed under seal and all hearings held in private to the extent allowable under the applicable law. Drafts of all such court papers must be approved by the Merck Parties before filing with the court.

F. The signatories to this Derivative Claimant Claim Form, the law firms with which they are affiliated (if any) and the putative Eligible Family Member identified herein specifically agree to maintain the confidentiality of any awards that might result from the Settlement Agreement.

G. **Notice:** In order to possibly be eligible for compensation (in the event that your related Product User Claimant is determined to be a Finally Determined Eligible Product User Claimant), you must properly and fully complete and submit to the Claims Administrator this Derivative Claimant Claim Form and provide to the Claims Administrator proof of one's relationship to your related Product User Claimant, all prior to the Claims Deadline Date. For example:

(a) Spouses must provide a copy of their marriage certificate or other document evidencing the relationship to the relevant Product User Claimant;

(b) Children of Product User Claimants must provide a birth certificate or other relevant documentation which establishes the date of birth of the Eligible Family Member, and, if the last name of the child is different from that of the Product User Claimant, documentation which establishes that the Eligible Family Member is the child of the Product User Claimant.

H. You are encouraged to submit this Derivative Claimant Claim Form and proof of relationship together with the Claims Package submitted by your related Product User Claimant for ease of administration.

I. Notice: The submission of a Derivative Claimant Claim Form and/or any other documentation to the Claims Administrator, the Merck Parties, Class Counsel or anyone else does not mean that you will receive any payment under the Settlement Agreement. A Finally Determined Eligible Derivative Claimant will be entitled to receive a payment pursuant to the Settlement Agreement only if the related Product User Claimant becomes entitled to receive such a payment as a Finally Determined Eligible Product User Claimant. There are strict eligibility criteria which have been approved by the Courts that a Product User Claimant must first satisfy in order to be entitled to payment under the Settlement Agreement.

J. Notice: You understand and agree, as evidenced by your signature below, that you are solely responsible for the complete and final satisfaction of any and all Liens (e.g., by a social assistance provider) that are attached or may become attached at a later date to any award or payment that you may receive under the Settlement Agreement.

Section 1 - Information re: Alleged Fosamax and/or Fosavance User (Product User Claimant)

a.

Last Name First Name Middle Initial

b. Alleged Product User Claimant's current or last known residence address:

Street Address

City Province /Territory Postal Code

( ) ( )

Daytime Phone Number Evening Phone Number e-mail address

c. Alleged Product User Claimant's date of birth :

(Day/Month/Year)

d. Alleged Product User Claimant's Eligible Event(s):

Atypical Femur Fracture (left leg) □

Atypical Femur Fracture (right leg) □

Osteonecrosis of the Jaw □

Section 2 - Eligible Family Member Identification

Before completing this section, you MUST complete Section 1 and identify the alleged Fosamax and/or Fosavance user who is your source of entitlement to make a claim.

a. Relationship to Product User Claimant

_____

b. Derivative Claimant's full name

_____

Last Name First Name Middle Initial

c. Address:

_____

Street Address

_____

City Province /Territory Postal Code

( ) ( )

_____

Daytime Phone Number Evening Phone Number e-mail address

d. Derivative Claimant's date of birth : _____

(Day/Month/Year)

e. Period of spousal relationship to alleged Product User (if applicable) (specify dates):

_____

f. Language Preference:

English □ French □

I have included the following supporting documentation as proof of relationship on the date (or respective dates) of the alleged Eligible Event (or alleged Eligible Events):

□ Birth Certificate
□ Baptismal Certificate
□ Marriage Certificate
□ Separation Contract
□ Custody Judgment
□ Adoption papers

□ Affidavit
□ Divorce judgment (if you are in a common-law relationship and were previously married)

If you are represented by legal counsel, please complete Section 3. Please ensure your relationship documentation is enclosed and send this Claim Form to the Claims Administrator.

Section 3 – Legal Counsel Identification (if applicable)
This section is to be completed <u>only</u> if a lawyer is representing the Derivative Claimant.

Prefix: □ Mr. □ Mrs. □ Miss □ Ms. □ Dr.

First Name Middle Name

Last Name

Prior Last Name

Street Address

City Province /Territory Postal Code

( ) ( )
Daytime Phone Number Evening Phone Number e-mail address

Language Preference:

English □ French □

Section 4 – Legal Representative Identification (if applicable)
This section is to be completed <u>only</u> if this claim is being made by a legal representative (e.g. guardian) on behalf of a Derivative Claimant.

If you are completing this Derivative Claimant Claim Form as a legal representative of a Derivative Claimant, please provide details about your relationship to the Derivative Claimant (*e.g.*, as the guardian of a person who suffers from a disability) and if you are a court-appointed representative, please attach copies of the court orders making such appointment:

Type of legal representative (e.g. guardian): _____

Prefix: □ Mr. □ Mrs. □ Miss □ Ms. □ Dr.

First Name Middle Name

Last Name

Prior Last Name

Street Address

City Province /Territory Postal Code

( ) ( )
Daytime Phone Number Evening Phone Number e-mail address

Language Preference:

English □ French □

Section 5 – Eligible Family Member Verification Signature
By signing below, you acknowledge and agree to the following:

A. YOU DECLARE UNDER PENALTY OF PERJURY THAT

(i) YOU ARE AN ELIGIBLE FAMILY MEMBER WITH RESPECT TO THE PERSON IDENTIFIED IN SECTION 1 ABOVE OR THEIR LEGAL REPRESENTATIVE DISCLOSED IN SECTION 4 ABOVE;

(ii) ALL THE INFORMATION PROVIDED AND SUBMITTED IN THIS DERIVATIVE CLAIMANT CLAIM FORM IS TRUE AND CORRECT; AND

(iii) ALL COPIES OF RECORDS SUBMITTED WITH THIS FORM ARE TRUE, COMPLETE AND CORRECT COPIES OF RECORDS PROVIDED BY APPLICABLE RECORDS CUSTODIANS.

B. IF YOU HAD PREVIOUSLY OPTED OUT OF THE CLASS ACTION OF WHICH YOU ARE A MEMBER, YOU HEREBY ELECT TO PARTICIPATE IN AND TO BE BOUND BY THE TERMS AND CONDITIONS OF THE SETTLEMENT AGREEMENT, INCLUDING WITHOUT LIMITATION SECTION 5.1 OF THE SETTLEMENT AGREEMENT. THIS MEANS, WITHOUT

LIMITATION, THAT, BY EXECUTION OF THIS DERIVATIVE CLAIMANT CLAIM FORM, PURSUANT TO THE SETTLEMENT AGREEMENT, YOU ARE GRANTING EACH RELEASEE (AS DEFINED IN THE SETTLEMENT AGREEMENT) A COMPLETE AND FINAL RELEASE OF ALL RELEASED CLAIMS/LIABILITIES (AS DEFINED IN THE SETTLEMENT AGREEMENT) AS SET OUT IN SECTION 5.1 OF THE SETTLEMENT AGREEMENT.

C. YOU WILL COMPLY WITH ANY AUDIT UNDERTAKEN IN THE DISCRETION OF THE CLAIMS ADMINISTRATOR, INCLUDING SIGNING A CONSENT FOR RELEASE OF MEDICAL INFORMATION IF REQUESTED TO DO SO. REFUSAL TO COMPLY WITH, OR INTERFERENCE WITH, AN AUDIT SHALL RESULT IN DISQUALIFICATION FROM RECEIPT OF ANY PAYMENT UNDER THE SETTLEMENT AGREEMENT, INCLUDING REVOCATION OF ANY AWARD PREVIOUSLY GRANTED.

D. YOU ARE SOLELY RESPONSIBLE TO RESOLVE, SATISFY AND DISCHARGE ANY AND ALL LIENS WITH RESPECT TO ANY AWARD GRANTED TO YOU (E.G. WHERE ANY AGENCY THAT HAS PROVIDED SOCIAL ASSISTANCE TO YOU IS ENTITLED TO A PORTION OF THE AWARD). NO LIENS MAY BE ASSERTED AGAINST MERCK, THE CLAIMS ADMINISTRATOR OR FUNDS AT ANY TIME HELD IN THE SETTLEMENT ACCOUNT.

Privacy Statement

All personal information provided by or on behalf of the Claimant to the Claims Administrator will be handled in accordance with applicable privacy laws and the Claims Administrator's privacy policies available at **[website]**. Such information will be used for the purposes of administering the Settlement Agreement, including evaluation by the Claims Administrator, Class Counsel, Defense Counsel, the Referee appointed by the Courts and the Courts of the Claimant's eligibility status under the Settlement Agreement. Personal information provided by the Claimant will not be disclosed without further express written consent of the Claimant, except to Class Counsel, Defense Counsel, the Referee appointed by the Courts and the Courts; to appropriate persons to the extent necessary to process claims or provide benefits under the Settlement Agreement; as otherwise expressly provided in the Settlement Agreement; pursuant to court order, or as otherwise permitted or required by law; as may be reasonably necessary in order to enforce, or for the Class Counsel or Defense Counsel to exercise their respective rights (including their respective response or appeal rights) under the Settlement Agreement; or to the immediate family members, counsel, accountants and/or financial advisors of the Claimant (each of whom the Claimant shall instruct to maintain and honour the confidentiality of such information).

The "Claims Administrator" is defined as **[insert]**

"Defense Counsel" is defined as Merck Canada Inc. (formerly named Merck Frosst Canada Ltd.), Merck Frosst Canada & Co., Merck & Co., Inc., Merck Sharp & Dohme Corp. (formerly named Merck & Co., Inc.), Blake, Cassels & Graydon LLP and Goldman Ismail Tomaselli Brennan & Baum LLP.

"Class Counsel" is defined as McKenzie Lake Lawyers LLP.

PLEASE ENSURE THAT YOU SIGN AND DATE THIS FORM (BELOW) <u>AND</u> THAT YOU COMPLETE, SIGN AND DATE THE CERTIFICATE OF SERVICE OF CLAIM FORM. YOUR CLAIM WILL <u>NOT</u> BE PROCESSED WITHOUT THE CERTIFICATE.

Date : _____

_____

Eligible Family Member's Signature (or Legal Representative)

_____

Printed Name of Eligible Family Member (or Legal Representative)

Date : _____

_____

Signature of Eligible Family Member's Lawyer (if any)

_____

Printed Name of Eligible Family Member's Lawyer

Certificate of Service of Derivative Claimant Claim Form

I, _____, declare that:
(insert name)

I am at least 18 years of age. My address is:

_____
Street Address City Prov Postal Code

My telephone number is: ( )_____

On _____, I caused to be served the following document(s):
Date

DERIVATIVE CLAIMANT CLAIM FORM(S) FOR THE CLAIM(S) OF:

_____
(insert name(s) of all Claimants whose form(s) are being served with this certificate)

by enclosing the **originals** of said document(s) in (an) envelope(s) and delivering said envelope(s) to the Claims Administrator at the following address:

[insert]

in the following manner:

☐ BY MAIL: I know that the envelope was sealed, addressed to the Claims Administrator, with postage thereon fully prepaid, and placed for collection and mailing on this date, with regular Canada Post mail at:

_____; or
City Province

☐ BY ELECTRONIC SERVICE: I caused the electronic mail with attachments to be sent to the Claims Administrator at the following address:_____; or

☐ BY SAME-DAY OR OVERNIGHT COURIER: I enclosed the envelope(s) in an overnight courier envelope addressed to the Claims Administrator and deposited same with the overnight courier company.

I declare under penalty of perjury that all of the information provided in the Derivative Claimant Claim Form and in the Certificate of Service of Derivative Claimant Claim Form is true and correct.

Executed on _____, at _____

Date City Province

_____

Printed Name

_____

Signature

Reminder Checklist:

□ Please sign the above Derivative Claimant Claim Form and Certificate of Service of Claim Form.

□ Remember to attach supporting documentation where applicable.

□ Keep a copy of the claim form and all supporting documentation for your records.

• The Claims Administrator will acknowledge receipt of your Derivative Claimant Claim Form by mail within 60 days. Your Derivative Claimant Claim Form is not deemed fully filed until you receive an acknowledgement postcard. If you do not receive an acknowledgement postcard within 60 days, please call the Claims Administrator toll free at **[insert]**.

• If you move, it is your responsibility to notify the Claims Administrator of your new address.

EXHIBIT 4.8(2)-a

FINALLY DETERMINED ELIGIBLE DERIVATIVE CLAIMANT POINTS CALCULATION REPORT

This is a Finally Determined Eligible Derivative Claimant Points Calculation Report with respect to the Class Action Canada-Wide Settlement Agreement dated April 10, 2015 relating to Fosamax and Fosavance (sometimes referred to as "alendronate") for the resolution in Canada, and with respect to all residents of Canada, of all Claims against, and all Liabilities of, the Merck Defendants and the other Releasees Connected With Fosamax/Fosavance (the "Settlement Agreement"). Capitalized terms used but not defined in this Finally Determined Eligible Derivative Claimant Points Calculation Report shall have the respective meanings assigned to such terms in the Settlement Agreement, including in Annex A thereto. In the event of any conflict between any term of this Finally Determined Eligible Derivative Claimant Points Calculation Report and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

Date of this Finally Determined Eligible Derivative Claimant Points Calculation Report: _____

Finally Determined Eligible Product User Claimant Name: _____

Date(s) of Eligible Event(s) of Finally Determined Eligible Product User Claimant (with respect to any particular Eligible Event, the "Determination Date"): (Note to Claims Administrator: There may be different Determination Dates with respect to the different Eligible Events of a particular Finally Determined Eligible Product User Claimant that receives a Points award with respect to more than one Eligible Event.) _____

POINTS AWARD CALCULATION
FOR FINALLY APPROVED ELIGIBLE DERIVATIVE PROGRAM CLAIMANT

A. Points Awarded to Finally Determined Eligible Product User Claimant: [insert amount] (Note to Claims Administrator**:** In the case of a Finally Determined Eligible Product User Claimant that receives a Points award with respect to more than one Eligible Event, complete this Part A with respect to each such Eligible Event, separately specifying each such particular Eligible Event and the Points awarded in relation to such Eligible Event.)

B. Gross Percentage Factor Table

Relationship of Finally Determined Eligible Derivative Claimant to Finally Determined Eligible Product User Claimant	**Gross Percentage Factor**
Finally Determined Eligible Derivative Claimant was spouse of Finally Determined Eligible Product User Claimant on Determination Date ("Spouse")	6% (of the Points awarded to Finally Determined Eligible Product User Claimant)

Relationship of Finally Determined Eligible Derivative Claimant to Finally Determined Eligible Product User Claimant	Gross Percentage Factor
Finally Determined Eligible Derivative Claimant was child of Finally Determined Eligible Product User Claimant and under the age of 18 on Determination Date ("Minor Child")	6% (of the Points awarded to Finally Determined Eligible Product User Claimant)
Finally Determined Eligible Derivative Claimant was child of Finally Determined Eligible Product User Claimant and over the age of 18 on Determination Date ("Adult Child")	2% (of the Points awarded to Finally Determined Eligible Product User Claimant)

C. **Gross Points Awarded to Finally Determined Eligible Derivative Claimants Prior to any Required Proration** (Notes to Claims Administrator: In the case of a Finally Determined Eligible Product User Claimant that receives a Points award with respect to more than one Eligible Event, complete this Part C in relation to each such Eligible Event (specifying such particular Eligible Event) and (in relation to each such Eligible Event) in relation to each person finally determined to constitute an Eligible Family Member (in relation to such Finally Determined Eligible Product User Claimant) in relation to such particular Eligible Event. (Specifically note in this regard that the same person may constitute an Eligible Family Member in relation to one, but not another, such Eligible Event, and that a particular person may have a different status (e.g., Minor Child vs. Adult Child) in relation to different Eligible Events.) Add additional rows as necessary.)

Name(s) of Each Finally Determined Eligible Derivative Claimant(s) in respect of Finally Determined Eligible Product User (in respect of particular Eligible Event, if applicable)	Relationship to Finally Determined Eligible Product User – Either Spouse, Minor Child or Adult Child (in respect of particular Eligible Event, if applicable)	Date of Birth of Finally Determined Eligible Derivative Claimant	Percentage Factor Per Settlement Agreement, Prior to any Required Proration = Applicable Percentage from Gross Percentage Factor Table in "B." above (in respect of particular Eligible Event, if applicable) ("Gross Percentage Factor")	Gross Points Awarded to Finally Determined Eligible Derivative Claimant Prior to any Required Proration = (i) Points Awarded to Finally Determined Eligible Product User Claimant (in respect of particular Eligible Event, if applicable) (as set forth in "A." above), multiplied by (ii) the Gross Percentage Factor
			___%	

_____	___%
_____	___%
_____	___%
_____	___%
_____	___%

D. **Points Awarded to Finally Determined Eligible Derivative Claimants After any Required Proration:** This Part "D." is to be completed if the aggregate of all Point figures (for all Finally Determined Eligible Derivative Claimant(s), and in respect of all Eligible Events of such Finally Determined Eligible Product User Claimant (if applicable)) in the last column of Part "C." above ("Aggregate Gross FDEDC Points") exceeds 20% of the total Points awarded to the related Finally Determined Eligible Product User Claimant (in respect of all Eligible Events of such Finally Determined Eligible Product User Claimant, if applicable), per Part "A." above ("Aggregate Related FDEPUC Points"); in such case, the "Reduction Factor" for purposes of this Part "D." will equal (i) 0.20, divided by (ii) Aggregate Gross FDEDC Points /Aggregate Related FDEPUC Points. (Note to Claims Administrator: Add additional rows as necessary.)

Name(s) of Each Finally Determined Eligible Derivative Claimant(s) in respect of Finally Determined Eligible Product User	**Aggregate Gross Points (Prior to Proration) Awarded to Such Finally Determined Eligible Derivative Claimant (in respect of all Eligible Events of related Finally Determined Eligible Product User, if applicable), per last column of "C." above**	**Points Awarded to Such Finally Determined Eligible Derivative Claimant After Required Proration = (i) Amount Set Forth in Column to Immediate Left, multiplied by (ii) the Reduction Factor**
_____		
_____		
_____		
_____		
_____		
_____		

E. **Total number of Points awarded to all Finally Determined Eligible Derivative Claimants related to this particular Finally Determined Eligible Product User Claimant: [insert amount, equal to aggregate of all Point figures in (i) if "D" above is NOT required to be completed, the last column of "C." above, or (ii) if "D" above is required to be completed, the last column of "D." above:]**

NOTE: The Claims Administrator shall post to the CA Website, and electronically deliver to the Merck Parties and the CAP Parties, this Finally Determined Eligible Derivative Claimant Points Calculation Report within no more than 15 days following the end of the calendar month during which it first becomes possible definitively to make the calculations set forth herein – i.e., (i) the related Product User Claimant has become a Finally Determined Eligible Product User Claimant and (ii) the status as Eligible Family Members (or not) of each person who submitted a Derivative Claimant Claim Form in relation to such Finally Determined Eligible Product User Claimant has been determined by the Claims Administrator and all such determinations have become Final. See Section 4.8(2) of the Settlement Agreement.

[Insert email addresses for Merck Parties and Lead Counsel]

EXHIBIT 4.8(3)

TENTATIVE LOST INCOME GRANTS CRITERIA

To be eligible for a Tentative Lost Income Grant, a Product User Claimant must establish, through the Documentation required by the Product User Claim Form, that he or she lost gross income from wages of at least $27,000 (or an aggregate of at least $27,000 as a result of multiple Eligible Events) as a result of, and within one year following the date of, such Product User Claimant's Eligible Event (or, if such Product User Claimant has multiple Eligible Events, with respect to any particular such Eligible Event, within one year following the date of such Eligible Event) that has neither been reimbursed nor is eligible for reimbursement. If a Product User Claimant alleges more than one Eligible Event, (i) only those alleged Eligible Events that satisfy the Eligibility Requirements shall be considered "Eligible Events" for purposes of determining such Product User Claimant's Specified Documented Lost Wages, and (ii) in no event shall Specified Lost Wages for overlapping periods of time be counted more than once over all Eligible Events.

EXHIBIT 5.2(1)

CONSENT OF PROVINCES

[On McKenzie Lake Lawyers LLP Letterhead]

As counsel for the Provinces as defined in the Settlement Agreement attached as Schedule "A", I am authorized to and hereby confirm the consent of every Province, including, for greater certainty, the:

a) Alberta Director of Third Party Liability;

b) British Columbia Minister of Health;

c) Manitoba Minister of Health;

d) New Brunswick Minister of Health;

e) Newfoundland Minister of Health and Community Services;

f) Northwest Territories Minister of Health and Social Services;

g) Nova Scotia Minister of Health and Fitness;

h) Nunavut Minister of Health and Social Services;

i) General Manager of the Ontario Health Insurance Plan;

j) Prince Edward Island Minister of Health and Wellness;

k) Régie de l'assurance maladie du Québec;

l) Saskatchewan Minister of Health; and

m) Yukon Minister of Health and Social Services

to the settlement set out in the Settlement Agreement attached as Schedule "A", including without limitation the release set out in section 5.2(2) thereof.

Sincerely,

Michael J. Peerless LSUC# 34127P

EXHIBIT 7.1

OPT-OUT FORM

OPT-OUT FORM

This is NOT a Claim Form. This Form EXCLUDES you and members of your family from the Fosamax/Fosavance Resolution. DO NOT use this Form if you wish to seek compensation under the Resolution Program.

Class proceeding lawsuits have been initiated in several provinces in relation to the ingestion and/or purchase of bisphosphonate drugs, including Fosamax and/or Fosavance.

Fosamax is a prescription medication for the treatment and prevention of osteoporosis. Fosavance is a prescription medication for the treatment of osteoporosis. They are part of a more general class of drugs known as "bisphosphonates." Bisphosphonates are used primarily to increase bone mass and reduce the risk for fracture in patients and also to slow bone turnover in patients with Paget's disease of the bone and to treat bone metastases and lower elevated levels of blood calcium in patients with cancer.

The Court of Queen's Bench of Saskatchewan has conditionally certified, for settlement purposes, against the Merck Defendants, the following class:

> (a) all persons in Canada who were prescribed, purchased or used any Bisphosphonate, such as Fosamax and/or Fosavance (including their estates), prior to or on **[date]**, except the Excluded Persons and members of the Ontario Settlement Class and the Quebec Settlement Class; and
>
> (b) all persons who by reason of his or her relationship to a member of the class described in paragraph (a) are entitled to make claims under any Derivative Claim Statute as a result of the death or personal injury of that class member.

The Ontario Superior Court of Justice has conditionally certified, for settlement purposes, the following class:

> (a) all persons in Canada (including their estates) other than residents of Saskatchewan or Quebec or Excluded Persons, who were prescribed and ingested Fosamax and/or Fosavance prior to or on [**date**]; and
>
> (b) all persons who by reason of his or her relationship to a member of the class described in paragraph (a) are entitled to make claims under any Derivative Claim Statute as a result of the death or personal injury of that class.

The Quebec Superior Court has conditionally certified, for settlement purposes, a class with substantially the same definition as the Ontario class, for residents of Quebec.

If you want to opt out of the Saskatchewan, Ontario or Quebec Settlement Class (in which case you cannot participate in the Fosamax/Fosavance Resolution), this Opt-Out Form must be

completed, signed, sent and postmarked by regular Canada Post mail or fax, **no later than [DATE]** to the Hearings Notice Administrator at the address listed at the end of this Opt-Out Form. No further opportunity to opt out will be provided.

No person may opt out a minor or a mentally incapable individual without permission of the court after notice to the Children's Lawyer and/or Public Guardian and Trustee, as applicable. If a person who took Fosamax and/or Fosavance opts out, his or her family members will be deemed to have opted out. The family members of any Fosamax and/or Fosavance user cannot opt-out unless the product user does so as well. If a class member is deceased, his or her estate trustee has the right to opt out.

Please read the entire form and follow the instructions carefully.

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

a. Bisphosphonate product(s) (drug) used (e.g. Fosamax or Fosavance): _____

b. Current name and other names (e.g., maiden names, married names) used by the alleged Product User for the past ten years:

Prefix: □ Mr. □ Mrs. □ Miss □ Ms. □ Dr.

First Name Middle Name

Last Name

Prior Last Name

Relationship to alleged Product User (*i.e.*, spouse or child) Date of Birth (Day/Month/Year)

Street Address

City Province /Territory Postal Code

( ) ( )

Daytime Phone Number Evening Phone Number e-mail address

Language Preference:

English □ French □

d. Alleged Product User's date of birth: _____
(Day/Month/Year)

e. Spouse of alleged Product User who is also a member of a Class described above: _____

f. Child(ren) of alleged Product User who are also members of a Class described above: _____

_____

_____

_____

_____

II. Legal Representative Information (if applicable): If you are filing this Opt-Out Form as the legal representative of a Settlement Class Member (e.g. as the executor of his or her estate), please provide the following information about ***yourself*** and attach a copy of your court approval or other authorization to represent the Settlement Class Member.

_____
Last Name First Name Middle Initial

_____
Street Address

_____
City Province /Territory Postal Code

( ) ( )
Daytime Phone Number Evening Phone Number e-mail address

_____
Type of Legal Representative (e.g. executor, guardian)

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

_____ minor (court order appointing guardian or property or custody order, if any, or sworn affidavit of the person with custody of the minor);

_____ a mentally incapable person (copy of a continuing power of attorney for property, or a Certificate of statutory guardianship);

_____ Certificate of Appointment as Estate Trustee.

III. Lawyer Information (if applicable): If you or the Settlement Class Member have hired a lawyer in connection with a claim arising from the Settlement Class Member's use of a bisphosphonate drug (including Fosamax or Fosavance), please provide the following information about the lawyer:

Law Firm Name_____

Lawyer's Last Name _____First Name _____Middle Initial_____

Address_____

City _____ Province _____

Postal Code _____

Phone _____ Fax _____

Email _____

Law Society Number _____

IV. A. Do you believe you (or the Settlement Class Member, if you are the Settlement Class Member's legal representative) would be entitled to an award from the Settlement?

YES NO

B. If you answered IV(A) in the affirmative, please explain why you believe you (or the Settlement Class Member, if you are the Settlement Class Member's legal representative) would be entitled to an award from the Settlement.

_____

_____

_____

C. If you answered IV (A) in the affirmative, please identify which category of claim best describes the injury that you allege you experienced (or you allege was experienced by the Class Member, if you are the Class Member's legal representative):

_____ atypical femur fracture (left leg);

_____ atypical femur fracture (right leg);

_____ osteonecrosis of the jaw; or

_____ spouse or child of a Product User who alleges an injury listed above.

V. Pendency of Fosamax and/or Fosavance Lawsuits and/or Claims (if applicable): Are you (or the Settlement Class Member, if you are the Settlement Class Member's legal representative) involved in any pending Fosamax and/or Fosavance-related lawsuit or claim and/or do you (or the Settlement Class Member) intend to commence any Fosamax and/or Fosavance-related lawsuit?

YES NO

If you answered "yes", and are involved in **on-going** bisphosphonate-related litigation or other dispute, please describe the name of, venue of, docket number (if a filed lawsuit) and parties to the lawsuit(s) and/or claim(s):

_____
_____
_____
_____
_____
_____

VI. Acceptance and Acknowledgement

I have read the foregoing and understand that by opting out, I will never be eligible to receive any compensation pursuant to the Fosamax/Fosavance Resolution Program. I further understand that if I am the Product User, all my family members who might otherwise make a claim for compensation pursuant to the Fosamax/Fosavance Resolution Program are deemed to have opted out as well, and will never be eligible to receive such compensation. I further understand that by opting out I and my family members shall not be entitled to participate in (i) the Ontario class action relating to Fosamax/Fosavance (*Peters et al. v. Merck Frosst Canada Ltd. et al.*, Court File No. 07-CV-333698CP), (ii) the Quebec class action relating to Fosamax/Fosavance (*Option consommateurs and Nicole Brousseau v. Merck Frosst Canada Limitée et al*., No: 500-06-000679-130), or (iii) the Saskatchewan class action relating to Fosamax/Fosavance (*MacMillan et al. v. Merck Frosst Canada & Co. et al.*, Q.B. No. 2313 (2010)), or object to the settlement of those actions or the Settlement Agreement.

_____

Date signed Signature
(Settlement Class Member or Executor, Administrator, or Personal Representative)

Print Name

Each Settlement Class Member (including the spouse or child of a Product User) who wishes to opt out must sign and file an Opt-Out Form. However, as noted above, the family members of any Product User who opts out will be deemed to have opted out, even if the family members fail to submit an Opt-Out Form. The family members of any Product User cannot opt out unless the Product User does so as well, by submitting a completed Opt-Out Form by the date set out below.

To be effective as an election to opt out of the Settlement Class, this Form must be completed, signed, sent and postmarked by regular Canada Post mail **no later than [DATE]** to the address listed below.

The consequences of returning this Opt-Out Form are explained in the Hearing/Opt-Out Notice published in relation to the Fosamax/Fosavance litigation. If you have questions about using or completing this Form, contact your lawyer or call the Administrator's Information Line at **[insert number]**

[insert]

THE INFORMATION CONTAINED IN THIS FORM WILL REMAIN CONFIDENTIAL

EXHIBIT 7.2

OPT-IN DOCUMENT

RE-ELECTION AND OPTING-IN ACCEPTANCE
Release and Discharge

B E T W E E N :

[Name]

("Opt-Out")

– and –

[Insert parties to relevant class]

WHEREAS the Opt-Out is a person who falls within the class certified pursuant to the Order of Justice ● dated **[date]** (the "Class"), in ● (the "Settlement Class Action");

AND WHEREAS a settlement has been reached with respect to all litigation relating to Fosamax or Fosavance pursuant to the Settlement Agreement attached hereto as Exhibit "A";

AND WHEREAS the Opt-Out opted-out of the Class Proceeding on or before **[date]** in accordance with the Order of Justice ● dated **[date]**;

AND WHEREAS the Opt-Out has reviewed the terms of the Settlement Agreement, and now wishes to be bound by the terms and conditions of the Settlement Agreement in accordance with Section 7.2 of the Settlement Agreement as though the Opt-Out Member had not opted out of the Class Proceeding;

NOW THEREFORE:

1. The Opt-Out hereby (i) rescinds his or her Opt-Out Form and opts back into the Settlement Class Action, and (ii) in any event, elects to be bound by the terms and conditions of the Settlement Agreement (Exhibit A), including (without limitation) granting the Releasees a complete and final release of all Released Claims/Liabilities as set out in Section 5.1 of the Settlement Agreement, in each case as though the Opt-Out had not opted out of the Settlement Class Action.

2. The Opt-Out also confirms that he or she had an opportunity to review a copy of the Settlement Agreement, and that he or she had ample opportunity to retain legal counsel before signing this Re-election and Opting In Acceptance or to receive information about the Settlement from the settlement website at **[website]** or by contacting Lead Counsel.

3. The Opt-Out acknowledges and agrees that he or she received sufficient explanation of the terms and conditions of the Settlement Agreement, and hereby confirms that he or she has fully understood such terms and conditions.

4. It is expressly understood and agreed by the Opt-Out that the Settlement constitutes a compromise and settlement of claims which are disputed and denied by the Merck Parties.

5. The Opt-Out agrees that this Re-election and Opting In Acceptance shall be governed and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable in Ontario and will be treated in all respects as an Ontario contract.

6. If the Settlement Agreement is terminated, the Settlement Class Action will be decertified, and both the Opt-Out's original Opt-Out Form and this Re-election and Opting In Acceptance will be rescinded and have no force or effect. The Opt-Out and the parties to the Settlement Class Action will be restored to their respective positions existing immediately before the Settlement Agreement was executed.

EXECUTED in the presence of:)
)
)

[Name of Opt-Out]

_____
Signature

_____

_____

_____

Address of Opt-Out

_____
Print name of Witness

Witness Signature

)
_____)

)
_____)
Date: