

APPENDIX “A” – DISTRIBUTION PROTOCOL

THE UNINFECTED CLAIMS FUND

The Uninfected Claims Fund is defined in the Settlement Agreement as a fund to compensate claims by the Uninfected Class as well as claims by the Ontario Ministry of Health.

The Uninfected Claims Fund shall be 30% of \$1,056,050, or approximately \$316,815.

Authorized Claimants

To qualify as an Authorized Claimant, the Eligible Claimant must complete a valid eligibility form and submit it on a timely basis prior to the Claims Bar Deadline along with a copy of one or more pieces of the following government-issued proof of identification (“Proof of Identification”):

- (a) driver’s license;
- (b) Ontario Health Insurance Program (OHIP) card;
- (c) birth certificate;
- (d) Liquor Control Board of Ontario (LCBO) BYID card;
- (e) Ontario Student Record (OSR); or
- (f) passport.

A valid eligibility form will require the Eligible Claimant to declare that he or she:

- (a) received dental services from the Defendant prior to June 9, 2017 and
- (b) was advised that he or she was exposed to Hepatitis B, Hepatitis C and HIV.

The manner of completing the eligibility form will be determined by the Claims Administrator in consultation with Class Counsel and Counsel for the Defendant.

The Claims Administrator shall determine if a claimant is an Eligible Claimant on the basis of the documentation produced by the claimant, applying the civil evidentiary standard of the balance of probabilities. The Claims Administrator shall provide notice to the claimant regarding whether or not he or she has been accepted as an Eligible Claimant within thirty (30) days of receipt of the claimant’s document productions (the “Decision Review Period”).

The Claims Administrator shall promptly provide a notice of ineligibility (the “Ineligibility Notice”) to:

- (a) any claimant who submitted a claims form during the Claims Period but who is not on the Class Member List; or

- (b) any claimant who is on the Class Member List and who submitted a claims form during the Claims Period, but whose claims form was invalid and/or was not accompanied by Proof of Identification.

The Ineligibility Notice shall notify the claimant that he or she is not an Eligible Claimant and shall provide a reason for that determination (either that the claimant is not on the Class Member List or that the claimant's form was invalid and/or was not accompanied by acceptable Proof of Identification). Any person who receives an Ineligibility Notice shall have thirty (30) days from the date the Ineligibility Notice is delivered to establish to the satisfaction of the Claims Administrator that he or she is an Eligible Claimant.

The Settlement Agreement provides that each Eligible Claimant who makes a proper claim prior to the Claim Deadline shall be paid a *pro rata* share of the Uninfected Claims Fund, to a maximum of \$500.00 payable to each Authorized Claimant, and the Claims Administrator shall pay this compensation to the Authorized Claimant.

Ontario Ministry of Health – Subrogated Claims

Section 31 of the *Health Insurance Act* (HIA) confirms that the Ontario Ministry of Health has a legislated right of recovery for the cost of both past and probable future care costs to be provided to class members for treatment of injuries resulting from the incident or incidents (“the Exposure”) giving rise to this claim.

The Ontario Ministry of Health advises:

- (a) Each attendance upon a family doctor or walk-in clinic doctor costs \$34.00 each;
- (b) Each blood test for Hepatitis B, Hepatitis C and HIV costs \$8.00 each;
- (c) An exposed individual would be expected to undergo three (3) blood tests;
- (d) An exposed individual would be expected to attend upon a family doctor or walk-in clinic doctor two (2) times to order the initial round of testing and to go over the results once the testing is completed.

On this basis, the total cost to the Ontario Ministry of Health for each class member who went for testing as advised by Public Health would be \$92.00 each.

The Ministry of Health has advised Class Counsel that it has no way of determining how many class members went to a doctor and/or for blood testing, unless it is provided with the names and Health Card numbers for each class member. At present, it cannot determine the exact quantum of its subrogated interest.

Class Counsel has negotiated a tentative resolution with the Ontario Ministry of Health of its subrogated interest related to doctor visits and blood testing incurred as a consequence of Class Members who were advised of their exposure to Hepatitis B, Hepatitis C and HIV. The Ontario Ministry of Health has agreed to accept \$20,000 all-inclusive to fully satisfy its subrogated claim as it relates to those class members who were only exposed to, but did not contract, Hepatitis B, Hepatitis C and HIV. This is subject to Court approval.

The payment of the \$20,000 to the Ontario Ministry of Health would reduce the Uninfected Claims Fund from \$316,815 to approximately \$296,815.

General

The decision of the Claims Administrator is a final and binding decision, and there is no right of appeal.

At no point shall the Claims Administrator assess entitlement to compensation for all Authorized Claimants and the Ontario Ministry of Health in an aggregate or total amount that exceeds 30% of the Net Settlement Amount.

THE INFECTED CLAIMS FUND

The Infected Claims Fund is defined in the Settlement Agreement as a fund to compensate claims by the Infected Class, the Cross-Infected Class and FLA Class, as well as claims by the Ontario Ministry of Health.

The Infected Claims Fund shall be 70% of \$1,056,050, or approximately \$739,235.

Authorized Claimants (Infected Class) of the Infected Claims Fund

To make a proper claim to the Infected Claims Fund, each Infected Class Member must provide to the Claims Administrator prior to the Claims Bar Deadline, and to the satisfaction of the Claims Adjudicator:

- (a) a Declaration that he or she received dental services from the Defendant prior to June 9, 2017 and was advised that he or she was exposed to Hepatitis B, Hepatitis C and HIV; and
- (b) an Ontario laboratory test report confirming that he or she was Positive for Hepatitis B, Hepatitis C or HIV on a date that follows the Class Member receiving dental services provided by the Defendant, and prior to June 9, 2017.

The Claims Administrator shall determine if a claimant is an Eligible Claimant on the basis of the documentation produced by the claimant, applying the civil evidentiary standard of the balance of probabilities. The Claims Administrator shall provide notice to the claimant regarding whether or not he or she has been accepted as an Eligible Claimant within thirty (30) days of receipt of the claimant's document productions (the "Decision Review Period").

The Claims Administrator shall promptly provide a notice of ineligibility (the "Ineligibility Notice") to:

- (a) any claimant who submitted a claims form during the Claims Period but who is not on the Class Member List; or
- (b) any claimant who is on the Class Member List and who submitted a claims form during the Claims Period, but whose claims form was invalid and/or was not accompanied by Proof of Identification.

The Ineligibility Notice shall notify the claimant that he or she is not an Eligible Claimant and shall provide a reason for that determination (either that the claimant is not on the Class Member List

or that the claimant's form was invalid and/or was not accompanied by acceptable Proof of Identification). Any person who receives an Ineligibility Notice shall have thirty (30) days from the date the Ineligibility Notice is delivered to establish to the satisfaction of the Claims Administrator that he or she is an Eligible Claimant.

The decision of the Claims Administrator is a final and binding decision, and there is no right of appeal.

Authorized Claimants (Cross-Infected Class) of the Infected Claims Fund

To make a proper claim to the Infected Claims Fund, each Cross-Infected Class Member must provide to the Claims Administrator prior to the Claims Bar Deadline, and to the satisfaction of the Claims Adjudicator:

- (a) a Declaration that the Cross-Infected Class Member was in a relationship of sufficient proximity, including but not limited to a conjugal relationship, with an Infected Class Member, and this Infected Class Member must:
 - (i) have received dental services from the Defendant prior to June 9, 2017;
 - (ii) provide an Ontario laboratory test report confirming that he or she was Positive for Hepatitis B, Hepatitis C or HIV on a date that follows the Infected Class Member receiving dental services provided by the Defendant, and prior to June 9, 2017.
- (b) an Ontario laboratory test report confirming that he or she was Positive for Hepatitis B, Hepatitis C or HIV on a date that follows the Class Member receiving dental services provided by the Defendant, and prior to June 9, 2017.

The Claims Administrator shall determine if a claimant is an Eligible Claimant on the basis of the documentation produced by the claimant, applying the civil evidentiary standard of the balance of probabilities. The Claims Administrator shall provide notice to the claimant regarding whether or not he or she has been accepted as an Eligible Claimant within thirty (30) days of receipt of the claimant's document productions (the "Decision Review Period").

The Claims Administrator shall promptly provide a notice of ineligibility (the "Ineligibility Notice") to:

- (a) any claimant who submitted a claims form during the Claims Period but who is not on the Class Member List; or
- (b) any claimant who is on the Class Member List and who submitted a claims form during the Claims Period, but whose claims form was invalid and/or was not accompanied by Proof of Identification.

The Ineligibility Notice shall notify the claimant that he or she is not an Eligible Claimant and shall provide a reason for that determination (either that the claimant is not on the Class Member List or that the claimant's form was invalid and/or was not accompanied by acceptable Proof of Identification). Any person who receives an Ineligibility Notice shall have thirty (30) days from the

date the Ineligibility Notice is delivered to establish to the satisfaction of the Claims Administrator that he or she is an Eligible Claimant.

The decision of the Claims Administrator is a final and binding decision, and there is no right of appeal.

Authorized Claimants (FLA Class) of the Infected Claims Fund

To make a proper claim to the Infected Claims Fund, each FLA Class Member must provide to the Claims Administrator prior to the Claims Bar Deadline, and to the satisfaction of the Claims Adjudicator:

- (a) a Declaration that the FLA Class Member is the parent, grandparent, child, sibling or spouse within the meaning of section 61 of the Family Law Act, R.S.O. 1990, c.F-3, as amended, of an Infected Class Member, and this Infected Class Member must:
 - (i) have received dental services from the Defendant prior to June 9, 2017;
 - (ii) provide an Ontario laboratory test report confirming that he or she was Positive for Hepatitis B, Hepatitis C or HIV on a date that follows the Infected Class Member receiving dental services provided by the Defendant, and prior to June 9, 2017.

The Claims Administrator shall determine if a claimant is an Eligible Claimant on the basis of the documentation produced by the claimant, applying the civil evidentiary standard of the balance of probabilities. The Claims Administrator shall provide notice to the claimant regarding whether or not he or she has been accepted as an Eligible Claimant within thirty (30) days of receipt of the claimant's document productions (the "Decision Review Period").

The Claims Administrator shall promptly provide a notice of ineligibility (the "Ineligibility Notice") to:

- (a) any claimant who submitted a claims form during the Claims Period but who is not on the Class Member List; or
- (b) any claimant who is on the Class Member List and who submitted a claims form during the Claims Period, but whose claims form was invalid and/or was not accompanied by Proof of Identification.

The Ineligibility Notice shall notify the claimant that he or she is not an Eligible Claimant and shall provide a reason for that determination (either that the claimant is not on the Class Member List or that the claimant's form was invalid and/or was not accompanied by acceptable Proof of Identification). Any person who receives an Ineligibility Notice shall have thirty (30) days from the date the Ineligibility Notice is delivered to establish to the satisfaction of the Claims Administrator that he or she is an Eligible Claimant.

The decision of the Claims Administrator is a final and binding decision, and there is no right of appeal.

Ontario Ministry of Health – Subrogated Claims

Section 31 of the *Health Insurance Act* (HIA) confirms that the Ontario Ministry of Health has a legislated right of recovery for the cost of both past and probable future care costs to be provided to class members for treatment of injuries resulting from the incident or incidents (“the Exposure”) giving rise to this claim. Consequently, the Ministry of Health:

- (a) Shall be advised by the Claims Adjudicator of the names and Health Card Numbers of each Authorized Claimant at the conclusion of the Claims Bar Deadline;
- (b) Shall be provided the opportunity to determine its actual costs incurred to date in relation to diagnosing and treating the Authorized Claimant’s Hepatitis B, Hepatitis C or HIV infection;
- (c) Shall be provided the opportunity to determine its probable future care costs in relation to treating the Authorized Claimant’s Hepatitis B, Hepatitis C or HIV infection;
- (d) Shall submit a claim to the Claims Adjudicator for such past and probable future care costs;

Claims Adjudication Process for Infected Class, Cross-Infected Class and FLA Class

The Claims Administrator shall provide the Claims Adjudicator with each Eligible Claim made by Infected Class Members, Cross-Infected Class Members and FLA Class Members, as the Claims and supporting information is received, prior to the Claims Bar Deadline.

At any time prior to the Claims Bar Deadline, and thereafter as required by the Claims Adjudicator, the Claims Adjudicator may require and request that additional information be submitted by a Class Member who submits a Claim. Such Class Members shall have until the later of thirty (30) days from the date of the request from the Claims Adjudicator or the Claims Bar Deadline to provide the requested information. Any person who does not respond to such a request for information within this period shall be forever barred from receiving any payments pursuant to the Settlement, subject to any Order of the Court to the contrary but will in all other respects be subject to and bound by the provisions of this Agreement and the releases contained herein.

The Claims Adjudicator may, at his or her sole discretion, convene a hearing with the Class Member to consider additional information or receive oral submissions in addition to the materials provided by the Class Member.

The Claims Adjudicator shall consider all the information and evidence provided by or on behalf of the Class Member and shall make a decision regarding entitlement to compensation from the Infected Claims Fund.

If the Claims Adjudicator is persuaded that a Class Member is an Authorized Claimant, the Claims Adjudicator shall assess and determine entitlement to compensation from the Infected Claims Fund and shall direct the Claims Administrator to pay this compensation to the Authorized Claimant.

After the Claims Bar Deadline, and after all claims are considered and determined by the Claims Adjudicator, including claims by the Ontario Ministry of Health, the Claims Adjudicator shall

assess entitlement to compensation for all Authorized Claimants and the Ontario Ministry of Health in an aggregate or total amount that shall not exceed 70% of the Net Settlement Amount.

Right of Reversion

Any residual funds maintained in the Escrow Account, after all payments are made in accordance with the Distribution Protocol, shall revert to and be paid to the Defendant.

Reporting

The Claims Administrator shall report to Class Counsel, Counsel for the Defendant and the Court regarding the disposition of the Net Settlement Amount to Eligible Class Members, including the number of Eligible Class Members to whom payments were made, the results of any determinations regarding Ineligibility Notices, and the distribution of any remaining amounts in the Escrow Account. The report to the Court shall be delivered to Class Counsel, Defence Counsel and to the Court as soon as practicable after the completion of the Settlement administration.