

SULZER SETTLEMENT TRUST CLAIMS ADMINISTRATOR PROCEDURE			
CAP No.	12	Effective Date	November 1, 2002
Subject	Claims by Insurers Not Already a Party to a Settlement Agreement with Sulzer		

1. Purpose. The Class Action Settlement Agreement in *In re: Sulzer Hip Prosthesis and Knee Prosthesis Product Liability Litigation* (“Settlement Agreement”) provides that the Sulzer Settlement Trust shall pay insurers or other parties that make payments on behalf of Class Members for medical expenses and would have a subrogated claim with respect to payment of such expenses up to \$15,000 in respect of an Affected Product Revision Surgery. [S.A. §3.9(a)]. This Claims Administrator Procedure (“CAP”) clarifies the process for administering claims made by such insurers or other parties, or their assignees or agents, who have not otherwise entered into an agreement with Sulzer (“Non-Settled Insurers”). Capitalized terms not otherwise defined in this CAP shall have the meanings given them in the Settlement Agreement.

2. Standard Settlement Agreement for Payment of New Third Party Payors. Sulzer has prepared a standard Settlement Agreement to settle, compromise and forever and finally resolve all present and future claims that the company has or may have under state or federal law for medical items and services that have been furnished by Non-Settled Insurers to Class Members (“Standard Settlement Agreement”)(Exhibit A to this CAP). Sulzer agrees that the Claims Administrator may tender a Standard Settlement Agreement to Non-Settled Insurers, and that to the extent that payments made pursuant to a Standard Settlement Agreement contribute to exhaustion of the Subrogation and Uninsured Expenses Sub-Fund of the Professional Services Fund, Sulzer shall fund, pursuant to Section 3.9(a) of the Settlement Agreement, to the Sulzer Settlement Trust amounts necessary to pay Third-Party Payors in respect of subrogation or other claims for medical expenses paid by Third-Party Payors.

3. Exemption from CAP 8 for Standard Settlement Agreements. CAP 8 requires the Claims Administrator to seek Court approval of any contract which requires payment by the Sulzer Settlement Trust of \$25,000 or more. The Claims Administrator shall not be required to seek the Court’s approval for Standard Settlement Agreements executed pursuant to this CAP.

4. Claim Pursuant to Standard Settlement Agreement. New Third Party Payors may, upon request, execute a Standard Settlement Agreement and the Claims Administrator shall have the discretion to join in a Standard Settlement Agreement with such New Third Party Payor. Upon receipt of a certification by a Non-Settled Insured, pursuant to Section 1 of the Standard Settlement Agreement, the Claims Administrator shall confirm, to the extent records in his possession permit, that no other Third Party Payor or Class Member has received payment for the Class Member who is the subject of the Non-Settled Insured, no lien has been filed with respect to the Class Member, and that the Class Member who is the subject of the Non-Settled Insured’s request has not submitted a Red Form seeking Uninsured APR benefits, or a Blue Form seeking Unrevised APR benefits, or an Orange Form seeking APRS Fund benefits which the Claims Administrator has determined to be invalid. If no other such payment or claim has

been made, then the Claims Administrator shall pay the Non-Settled Insured the lesser of the Non-Settled Insured's actual expenses or \$15,000.00 within 60 days of execution of the Standard Settlement Agreement. The Claims Administrator may seek Sulzer's approval to enter into a Standard Settlement Agreement for an amount in excess of \$15,000 in respect of a single APR.

5. **Duration of this CAP.** This CAP shall apply to all Claims processed or paid after the Effective Date stated above and shall terminate upon the earlier of: (i) cancellation or modification of this CAP by the Claims Administrator; or (ii) an order of the Court canceling or modifying the terms of this CAP.

APPROVED:

CLAIMS ADMINISTRATOR

By: _____

(signature)

Name: James J. McMonagle

Date: October 23, 2002

CLASS COUNSEL

By: _____

(signature)

Name: R. Eric Kennedy

Date: October 23, 2002

SULZER (now Centempulse)

By: _____

(signature)

Name: David S. Wise

Date: November 1, 2002

Exhibit A
Standard Settlement Agreement

THIRD PARTY PAYOR SETTLEMENT AND RELEASE AGREEMENT

This Third Party Payor Settlement and Release Agreement ("Settlement Agreement") is entered into this _____ day of _____, 2002 by _____ ("Third Party Payor") and the Sulzer Claims Administrator on behalf of the Released Parties, as defined herein.

RECITALS

WHEREAS, on March 13, 2002, Sulzer Orthopedic Inc. ("SOUS") received final approval of a Class Action Settlement for certain claims arising in connection with the Inter-Op Shell and the Tibial Baseplate from the United States District Court for the Northern District of Ohio (the "Court"), and styled In re: Sulzer Hip Prosthesis and Knee Prosthesis Liability Litigation (MDL No. 1401) (the "Class Action Settlement"). All capitalized terms not expressly defined herein shall have the same meaning as given in the Class Action Settlement;

WHEREAS, under the Class Action Settlement, SOUS has established a Subrogation and Uninsured Expenses Sub-Fund of the Professional Services Fund to be funded in the amount of sixty Million (\$60) Dollars for the resolution of certain subrogation claims;

WHEREAS, SOUS admits that it manufactured the Affected Products but denies that it is liable for any subrogation or other claims related to the payment of medical items and services furnished to any Class Member; and

WHEREAS, Third Party Payor enters into this Settlement Agreement in order to settle, compromise and forever and finally resolve all present and future claims that the company has or may have under state or federal law for medical items and services that have been furnished to the Class Member(s) identified herein.

NOW THEREFORE, for and in consideration of the release granted hereby, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, it is agreed that:

1. Class Member(s). Third Party Payor certifies that it has a claim of subrogation against SOUS, Sulzer Medica Ltd., and/or Sulzer AG, (the "Released Parties") for the payment of Covered Revision Surgeries furnished to certain Class Member(s) set forth on Attachment A. Third Party Payor certifies that it has provided Claims Administrator with accurate and true information demonstrating the actual amount(s) it has incurred paying for Covered Revision Surgery(ies) furnished to Class Member and any other reasonable information necessary for Claims Administrator to satisfy Third Party Payor's claim against the Sulzer Settlement Trust.

2. Payment. On behalf of the Sulzer Settlement Trust, the Claims Administrator shall pay to Third Party Payor an amount equal to the lesser of the actual amounts paid by Third Party Payor for the Class Member(s) identified on Attachment A or \$15,000 within sixty (60) days after execution of this Settlement Agreement. The specific amounts to be paid for each Class Member and accepted by Third Party Payor as payment in full are set forth on Attachment A.

3. Release. Upon satisfaction of any payment obligations under this Settlement Agreement for a Class Member whose name appears on Attachment A, the Third Party Payor shall release and forever discharge the Release Parties as follows;

a. The release and discharge is given on behalf of Third Party Payor its present and former divisions, parent companies, subsidiaries, affiliates, predecessors, successors, assigns, heirs, administrators, and executors, together with all present and former agents, shareholders, directors, officers, employees, owners, representatives and attorneys of all such entities and all persons acting by, through, under or in concert with any of them;

b. The release and discharge provided by Third Party Payor in exchange for the payment outlined above covers all claims, demands, damages, lawsuits, and causes of action of whatsoever character and kind, whether known or unknown, whether for reimbursement, subrogation or otherwise, Third Party Payor have now or in the future, related to or arising from an Affected Product covered under the Class Action Settlement, including future claims for costs of Covered Revision Surgeries, and claims for costs of the original Affected Product, as against the Class Member, his/her heirs, assigns, administrators, executors, and all persons acting through, under or in concert with him/her and as against Released Parties, the Sulzer Settlement Trust and/or the Sulzer Claims Administrator including their present and former divisions, parent companies, subsidiaries, affiliates, predecessors, successors, assigns, heirs, administrators, and executors, together with all present and former agents, shareholders, directors, officers, employees, owners, representatives and attorneys of all such entities and all persons acting by, through, under or in concert with any of them.

c. Upon satisfaction of the payment obligations under this Settlement Agreement, the Third Party Payor shall discontinue any efforts to recoup payment for medical items and services related to an Affected Product directly from such Class Member or any other party including any provider or supplier that furnished medical items and services in connection with the Affected Product Recipient's Covered Revision Surgery.

4. No Admission of Liability or Wrongdoing. This Settlement Agreement and Release will not be used or construed by any person or entity or offered in

evidence in any action or proceeding as an admission or confession of liability or wrongdoing on the part of any Released Party.

5. Entire Agreement. Except as provided herein, this Settlement Agreement and Release comprises the entire agreement and understanding of the parties with respect to the subject matter and there are no agreements or understandings other than those contained herein.

6. Severability. The provisions of this Settlement Agreement shall be deemed severable, and the invalidity or unenforceability of any provision (or part thereof) of this Settlement Agreement shall in no way affect the validity or enforceability of any other provisions (or remaining part thereof).

7. Successors. This Settlement Agreement shall be binding upon and inure to the benefit of the parties and their predecessors, successors, purchasers and assigns.

8. Governing Law. This Settlement Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without reference to its conflicts of law provision.

9. Venue. Third Party Payor waives any objections and agrees to submit to the jurisdiction of the United States District Court for the Northern District of Ohio to resolve any and all disputes arising in connection with this Settlement Agreement.

10. Modifications. The Settlement Agreement is intended to be a binding contract. No change, modification, termination or attempted waiver of any of the provisions of the Settlement Agreement shall be binding upon any party hereto unless reduced to writing and signed by the party against whom enforcement is sought.

11. Voluntarily Entered. This Settlement Agreement is voluntarily made after ample opportunity to review the document with any individuals, advisors and counsel so desired.

12. No Third-Party Beneficiaries. Nothing in this Settlement Agreement creates any rights in any third parties.

13. Counterparts and Facsimile. The parties may execute this Settlement Agreement in counterpart hereto. The parties hereby warrant and covenant: (a) that each has taken all action necessary to authorize execution of this Settlement Agreement; (b) that this Settlement Agreement and each of its terms is binding; (c) that each has the requisite power and authority to perform the acts stated herein; (d) that the undersigned signatory for each party has the authority to bind that party; (e) that it has not assigned or delegated to any third party all or any part of the rights and obligations set forth herein; and (f) that it owns and has not assigned, conveyed, pledged, encumbered, or otherwise transferred, in whole or in part, any of the causes

of action, claims, or debts released herein. The parties may exchange signatures to this Settlement Agreement by facsimile and such signatures shall be deemed to be original and effective to bind the parties.

IN WITNESS WHEREOF, the parties have hereto executed the Settlement Agreement on the ___ day of _____, 2002.

CLAIMS ADMINISTRATOR

By: _____

Name: _____

Title: _____

[THIRD PARTY PAYOR]

By: _____

Name: _____

Title: _____

ATTACHMENT A

CLASS MEMBER NAME _____ **PAYMENT AMOUNT**