

**AMERICAN MEDICAL SYSTEMS WOMEN'S PELVIC MESH  
CLASS ACTION NATIONAL SETTLEMENT AGREEMENT**

Made as of June 25, 2019

Between

**SHARON HARPER AND GERALD HARPER**

**Plaintiffs**

- and -

**AMERICAN MEDICAL SYSTEMS CANADA INC., AMERICAN MEDICAL SYSTEMS  
INC., and ENDO PHARMACEUTICALS**

**Defendants**

AND

**LINDA-SUE MIDDLETON AND HOWARD BOSSCHER**

**Plaintiffs**

-and-

**AMERICAN MEDICAL SYSTEMS CANADA INC., AMERICAN MEDICAL SYSTEMS  
INC., and ENDO PHARMACEUTICALS**

**Defendants**

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#### **PREAMBLE & RECITALS**

A. The Parties hereby enter into this Settlement Agreement to settle the class proceedings styled *Harper v. American Medical Systems et al.* and *Middleton v. American Medical Systems et al.*, commenced in the Ontario Superior Court of Justice under Court File No. CV-15-527760-00CP and CV-15-529000-00CP, respectively, and *Louise Fréchette c. American Medical Systems et al.*, commenced in the Superior Court of Quebec under Court File number 200-06-000178-148, and pursuant to the terms and conditions set forth herein, and subject to approval by the Court on a national basis;

B. WHEREAS, prior to 2015, American Medical Systems, Inc. was reorganized as American Medical Systems, LLC, a Delaware limited liability company which was a wholly-owned indirect subsidiary of Endo International plc;

C. WHEREAS, American Medical Systems, LLC operated two lines of business: the men's health business and the women's health business (the latter of which included the AMS Women's Pelvic Mesh Devices that are referenced in this Settlement Agreement);

D. WHEREAS, during 2015, American Medical Systems, LLC and certain other subsidiaries of Endo Health Solutions Inc. engaged in its men's health business were sold to Boston Scientific Corporation ("BSC"), and a new entity, Astora Women's Health, LLC assumed liability for the women's health business of American Medical Systems, LLC, and certain of its subsidiaries, including any liabilities related to AMS Women's Pelvic Mesh Devices;

E. WHEREAS, American Medical Systems Canada, Inc. was a corporation organized under the laws of Canada;

F. WHEREAS, during 2015, as part of the aforementioned transactions involving the sale of Endo Health Solutions Inc.'s men's health business to BSC, all the shares of American Medical Systems Canada, Inc., which were owned by Endo Health Solutions Inc., were sold to BSC or one of its subsidiaries, and since that date American Medical Systems Canada, Inc. has been amalgamated with Boston Scientific Ltd., a Canadian company, which was the successor in the amalgamation;

G. WHEREAS, in connection with the sale of Endo Health Solutions Inc.'s men's health business to BSC as described above, the parties entered into agreements under which, among other things, an affiliated entity of Endo Pharmaceuticals Inc. agreed to indemnify BSC and its affiliates for all losses based on, arising out of, with respect to or by reason of Endo's women's health business, including all out of pocket costs and expenses arising out of or relating to product liability claims arising from implants of AMS Women's Pelvic Mesh Devices;

H. WHEREAS, the Ontario Proceedings were certified as national class actions by the Ontario Superior Court of Justice pursuant to Orders issued on May 28, 2015;

I. WHEREAS, the Ontario Proceedings allege, *inter alia*, negligence, with respect to the design of the Defendants' transvaginal mesh devices used to treat stress urinary incontinence and/or pelvic organ prolapse, which allegations the Defendants deny;

J. WHEREAS, the Plaintiffs, by Class Counsel, will seek terminations with prejudice and without reservation as against the Defendants, of the Parallel Actions commenced in British Columbia, Alberta and Saskatchewan with respect to the same subject matter and alleging substantially similar causes of action on behalf of a national class as asserted in the Ontario Proceedings, such actions having been filed, but not certified, and to be further particularized herein;

K. WHEREAS, the Parties intend by this Settlement Agreement to resolve all claims for damages alleged to be due in any way related to the use of AMS Women's Pelvic Mesh Devices by (a) all women resident in Canada, including their estates, who were implanted with an AMS Women's Pelvic Mesh Device(s); (b) all persons resident in Canada who by virtue of a personal relationship to one or more of such persons described in (a) have claims for common law or statutory damages; and (c) all Provincial Health Insurers' claims with respect to Settling Claimants (as further particularized below);

L. WHEREAS, Class Counsel shall bring a motion on consent to amend the Certification Orders issued May 28, 2015, to amend the class period and add Additional AMS SUI and POP Mesh Device(s) to the class definition as further described herein and to provide an opt out period for persons in the Expanded Class;

M. WHEREAS, counsel to the Parties have conducted settlement negotiations in good faith and at arms-length over many years to come to the within resolution;

N. WHEREAS, the Defendants do not admit, through the execution of this Settlement Agreement or otherwise, any allegation of unlawful or otherwise actionable conduct alleged in the Proceedings or otherwise and in fact deny any such allegations;

O. WHEREAS, the Plaintiffs, Class Counsel, and the Defendants agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against the Released Parties or evidence of the truth of any of the Plaintiffs' allegations against the Released Parties, which allegations are expressly denied by the Defendants;

P. WHEREAS, the Defendants do not hereby attorn to the jurisdiction of the Ontario Court or any other court or tribunal in respect of any civil, criminal or administrative process except to

the extent they have previously done so in the Proceedings and as is expressly provided in this Settlement Agreement with respect to the Proceedings;

Q. WHEREAS, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement provides substantial benefits to Class Members and is fair, reasonable and in the best interests of Class Members based on an analysis of the facts and applicable law, taking into account the extensive burdens and expense of litigation, including the risks and uncertainties associated with protracted trials and appeals, as well as the fair, cost-effective and assured method provided in this Settlement Agreement of resolving the claims of Class Members;

R. WHEREAS, the Defendants have similarly concluded that this Settlement Agreement is desirable in order to avoid the time, risk, uncertainty and expense of defending multiple and protracted litigation, and to resolve finally and completely the pending and potential claims of Class Members;

S. WHEREAS, the Parties intend by this Settlement Agreement to finally resolve, on a national basis, without admission of liability, the Proceedings and all of the present and future claims of Class Members for or relating in any way to AMS Women's Pelvic Mesh Devices;

T. WHEREAS, the Parties shall seek an order approving the Settlement and if the Settlement Approval Order is obtained, the Parties shall seek the Dismissal Orders;

U. WHEREAS, the Provincial Health Insurers have confirmed, or shall confirm, that they approve, and will not object to court approval of, the settlement provided for in this Settlement Agreement, and they will accept a payment, as provided for in the Compensation Protocol, in satisfaction of all Provincial Health Insurer Rights of Recovery that they may have, whether by subrogation or by independent right of action, respecting Settling Claimants' implantation with any AMS Women's Pelvic Mesh Devices;

V. NOW THEREFORE, subject to the issuance of the Settlement Approval Order, the Quebec Recognition and Enforcement Order and the Dismissal Orders, this Settlement Agreement embodies the terms of the resolution of claims of Class Members and of the Provincial Health Insurers.

## SECTION 1 - DEFINITIONS

Unless a particular section of this Settlement Agreement explicitly provides for another interpretation, the following terms, as used in this Settlement Agreement and its exhibits, shall have the meanings set forth below. Terms used in the singular shall be deemed to include the plural, and vice versa, where appropriate. Feminine pronouns and female references shall be deemed to include the masculine, and vice versa, where appropriate.

- (a) **“Additional AMS SUI and POP Mesh Device(s)”** means each of Straight-In Sacral Colpopexy System, InteMesh Silicone-coated sling/silicone-coated surgical mesh with or without InhibiZone, InteXen Porcine Dermal Matrix, Intepro Large pore polypropylene Y mesh, and Triangle.
- (b) **“AMS”** means Astora Women’s Health, LLC, a wholly owned indirect subsidiary of Endo Pharmaceuticals Inc., as successor in interest to the women’s health business of American Medical Systems, Inc.;
- (c) **“AMS POP Transvaginal Mesh Devices”** means each of Apogee® (including, but not limited to, Apogee® Vault Suspension System, Apogee® System with Cape, Apogee® System with Bio-Cape, Apogee® Enhanced, Apogee® System with IntePro®, Apogee® System with IntePro® Lite, and Apogee® System with InteXen® LP), Elevate® (including, but not limited to, Elevate® Apical and Posterior Prolapse Repair System with IntePro® Lite, Elevate® Apical and Posterior Prolapse Repair System with InteXen® LP, Elevate® Anterior & Apical Prolapse Repair System with IntePro® Lite, Elevate® Anterior & Apical Prolapse Repair System with InteXen® LP, Elevate® PC Apical & Posterior Prolapse Repair System, and Elevate® PC Anterior & Apical Prolapse Repair System), and Perigee® (including, but not limited to, Perigee® System, Perigee® System with IntePro®, Perigee® System with Biologic InteGraft, Perigee® Enhanced, Perigee® System with IntePro® Lite, Perigee® Plus, Perigee® Plus with IntePro® Lite and Perigee® System with InteXen® LP);
- (d) **“AMS SUI Transvaginal Mesh Devices”** means each of SPARC® (including, but not limited to, SPARC® Sling System), BioArc® (including, but not limited to,



BioArc® TO Sling Kit, BioArc® TO System with InteXen® LP, BioArc® SP Sling Kit and BioArc® SP System with InteXen® LP), Monarc® (including, but not limited to, Monarc® Subfascial Hammock, Monarc® C Subfascial Hammock and Monarc® + Subfascial Hammock), MiniArc® (including, but not limited to, MiniArc® Single-Incision Sling System, MiniArc® Precise™ Single-Incision Sling System, and MiniArc® Pro™ Single-Incision Sling System), In-Fast® (including, but not limited to, In-Fast® Bone Screw System, In-Fast Ultra® Bone Screw System, In-Fast® Sling System, In-Fast Ultra® Sling System and In-Fast® with Influence-TRG Gelseal) and RetroArc™ (including, but not limited to, RetroArc™ Retropubic Sling System);

- (e) **“AMS Women’s Pelvic Mesh Device(s)”** means AMS SUI Transvaginal Mesh Devices, AMS POP Transvaginal Mesh Devices, and Additional AMS SUI and POP Mesh Device(s);
- (f) **“Certification Orders”** shall mean the orders of the Court dated May 28, 2015 in respect of the certification of the Ontario Proceedings under the *Class Proceedings Act, 1992*;
- (g) **“Certification Amendment Orders”** shall be the Orders amending the class definitions in the Ontario Proceedings to extend the class period up to and including the date the Certification Amendment Orders are granted and to add the Additional AMS SUI and POP Mesh Device(s), substantially in the form of Schedule “B” hereto;
- (h) **“Claims Administration Costs”** means all costs, other than Class Counsel Legal Fees, required to implement this Settlement Agreement, including without limitation, costs required to satisfy the notice provisions;
- (i) **“Claims Administrator”** means Ricepoint or such other administrator agreed to between the Parties and approved by the Court;
- (j) **“Class”** means, collectively, the Primary POP Class, the Primary SUI Class, the Family POP Class, the Family SUI Class and the Expanded Class but, for greater certainty, does not include any Opt Out or Provincial Health Insurer;

- (k) **“Class Counsel”** means, collectively, Siskinds LLP, Siskinds Desmeules Avocats s.e.n.c.r.l., Rochon Genova LLP and Merchant Law Group;
- (l) **“Class Counsel Legal Fees”** means all legal fees, disbursements and applicable taxes in respect of all legal services provided by Class Counsel or any other law firm for the benefit of the Class, as approved by the Court, but does not include fees for legal services for the benefit of particular Settling Claimants (which are payable by the Settling Claimant);
- (m) **“Class Members”** (each a Class Member) means members of the Primary POP Class, the Primary SUI Class, the Family POP Class, the Family SUI Class and the Expanded Class but, for greater certainty, does not include any Opt Out or Provincial Health Insurer;
- (n) **“Compensation Protocol”** means the Court-approved plan for administering this Settlement Agreement and distributing the Settlement Amount to Class Members;
- (o) **“Courts”** means the Court of Queen’s Bench for Alberta, the British Columbia Supreme Court, the Ontario Superior Court of Justice, the Superior Court of Quebec the Court of Queen’s Bench for Saskatchewan, or, in the singular, any one of them as may be referred to or appropriate in the context in which it is used;
- (p) **“Defendants”** means AMS and Endo Pharmaceuticals Inc.;
- (q) **“Defendants’ Counsel”** means the law firm of Blake, Cassels & Graydon LLP and such other legal counsel as may represent AMS and Endo Pharmaceuticals Inc. in respect of the Ontario Proceedings;
- (r) **“Dismissal Orders”** means those orders, in a form to be agreed between the Parties, that grant dismissal and/or termination with prejudice and without reservation of the Parallel Actions as they relate to the Defendants and as may be necessary and appropriate, to conclude related litigation and give effect to this Settlement Agreement across Canada and includes the Quebec Recognition and Enforcement Order;

- (s) **“Effective Date”** means the date on which: (i) evidence of approval/consent to this Settlement Agreement and all executed Provincial Health Insurers Releases have been secured and provided to counsel for the Defendants; (ii) the Settlement Approval Order becomes a Final Order; (iii) the Quebec Recognition and Enforcement Order becomes a Final Order; and (iv) all of the Dismissal Orders have been obtained and become Final Orders;
- (t) **“Expanded Class”** means:
  - (i) Class Members who are part of the Primary SUI Class or Primary POP Class and who were implanted with an AMS SUI Transvaginal Mesh Device or AMS POP Transvaginal Mesh Device on or after May 29, 2015;
  - (ii) Class Members who are part of the Family SUI Class or Family POP Class and who by virtue of a personal relationship to one or more persons in the Primary SUI Class or Primary POP Class who were implanted with an AMS SUI Transvaginal Mesh Device or AMS POP Transvaginal Mesh Device on or after May 29, 2015, have standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c.F.3 or analogous provincial legislation or at common law;
  - (iii) all women resident in Canada who were implanted with one or more Additional AMS SUI and POP Mesh Device(s); and
  - (iv) all persons resident in Canada who by virtue of a personal relationship to one or more women in Canada who were implanted with one or more Additional AMS SUI and POP Mesh Devices(s), have standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c.F.3 or analogous provincial legislation or at common law.
- (u) **“Expanded Class Period”** means the additional period of time reflected by the amendment to the class definitions for the Original SUI Class and the Original POP

Class in the Certification Amendment Orders, and for greater certainty, being May 29, 2015 to the date the Certification Amendment Orders are granted;

- (v) **“Family POP Class”** means all persons resident in Canada who by virtue of a personal relationship to one or more such persons in the Primary POP Class have standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c. F. 3 or analogous provincial legislation or at common law;
- (w) **“Family SUI Class”** means all persons resident in Canada who by virtue of a personal relationship to one or more such persons in the Primary SUI Class have standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c. F. 3 or analogous provincial legislation or at common law;
- (x) **“Final Order”** means any order contemplated by this Settlement Agreement from which no appeal lies or in respect of which any right of appeal has expired without the initiation of proceedings in respect of that appeal, or proposed appeal, such as the delivery of a notice of appeal or application for leave to appeal;
- (y) **“Future Injury Fund”** shall mean a portion of the Settlement Amount to be allocated to Class Members making claims after the Initial Claim Deadline as defined in the Compensation Protocol and prior to the Supplemental Claim Deadline as defined in the Compensation Protocol, as agreed to by both the Plaintiffs and the Defendants;
- (z) **“Hearing Notice”** means the notice (in long, abridged and press release form) approved by the Court, in a form agreed to by the Parties, in English and French, which advises Class Members of the hearing to approve the settlement provided for in this Settlement Agreement and advises Class Members who have opt out rights pursuant to the Certification Amendment Orders of the method to do so;
- (aa) **“Hearing Notice Order”** means the order of the Ontario Superior Court of Justice that approves the Hearing Notice and Hearing Notice Plan, in a form agreed to by the Parties;

- (bb) **“Hearing Notice Plan”** means the method by which the Hearing Notice is disseminated, in a form agreeable to the Parties and approved by the Court;
- (cc) **“Net Settlement Proceeds”** means the Settlement Amount less the amounts payable in respect of Claims Administration Costs, Class Counsel Legal Fees and any other costs associated with claims administration and notice of settlement approval hearing and, where the settlement is approved, notice of settlement approval;
- (dd) **“Non-Refundable Expenses”** means the costs of publishing and distributing the Hearing Notice, including the associated professional fees, and any Claims Administration Costs incurred prior to any termination of this Settlement Agreement pursuant to section 5;
- (ee) **“Non-Settling Defendant”** shall mean any person or entity other than Defendants or a Released Party, against whom or which a Released Claim has been or is hereafter made, asserted, or commenced in any action (irrespective of whether Defendants or another Released Party are also parties to that action), by any Class Member who has not timely and properly opted-out;
- (ff) **“Ontario Court”** means the Ontario Superior Court of Justice;
- (gg) **“Ontario Proceedings”** means *Harper v. American Medical Systems et al.* and *Middleton v. American Medical Systems et al.*, commenced in the Ontario Superior Court of Justice under Court File No. CV-15-527760-00CP and CV-15-529000-00CP, respectively;
- (hh) **“Original POP Class”** means (a) all persons resident in Canada who were or are implanted with an AMS POP Transvaginal Mesh Device at any time on or before May 28, 2015; and (b) all persons resident in Canada who by virtue of a personal relationship to one or more such persons described in (a) above, have standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c. F. 3 or analogous provincial legislation or at common law;

- (ii) **“Original SUI Class”** means (a) all persons resident in Canada who were or are implanted with an AMS SUI Transvaginal Mesh Device at any time on or before May 28, 2015; and (b) all persons resident in Canada who by virtue of a personal relationship to one or more such persons described in (a) above, have standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c. F. 3 or analogous provincial legislation or at common law;
- (jj) **“Opt Out”** means a person who would have been a Class Member but for her timely and valid request for exclusion pursuant to (i) the orders issued on May 28, 2015, approving the notice and opt out procedures following certification of the Ontario Proceedings as national class actions; or (ii) the process set out in section 6.1 of this Settlement Agreement;
- (kk) **“Opt Out Deadline”** means the date sixty (60) days after the date on which the Hearing Notice is first published, or such other date as the Parties agree and may be approved by the Court;
- (ll) **“Opt Out Form”** means the form for requesting exclusion from the Class as defined in the Certification Amendment Orders;
- (mm) **“Opt Out Threshold”** shall mean the threshold agreed upon by the Plaintiffs and Defendants, delivered to the Court under seal and kept confidential by the Plaintiffs, the Defendants and the Court;
- (nn) **“Parallel Actions”** means *Caroline Snyder v. American Medical Systems Canada Inc., et al* (Ontario Court File Number CV-15-527794-00CP (Toronto)) (“Snyder Action”), *Teresa Koehn and Hart Koehn v. American Medical Systems Canada et al*, (British Columbia Court file number VLC-S-S-147664) (“Koehn BC Action”); *Rosemary Maximovich and Stephan Maximovich v. American Medical Services Inc., AMS Canada Inc., Endo Pharmaceuticals, Boston Scientific Corporation, Boston Scientific Ltd., Coloplast Canada, C.R. Bard Inc., Bard Canada Inc., Bard Medical Division, Johnson & Johnson, Ethicon Inc., Ethicon Women’s Health and Urology, Johnson & Johnson Medical Companies Inc., Mentor Corporation, AMS LLC, Atrium Medical Corporation* (Saskatchewan Court File No: Q.B. No. 1190 of

2013) ("Saskatchewan Action"), and *Kathleen Boschman and Robert Boschman v. American Medical Services Inc., AMS Canada Inc., Endo Pharmaceuticals, Boston Scientific Corporation, Boston Scientific Ltd., Coloplast A/S, Coloplast Canada, C.R. Bard, Inc., Bard Canada Inc., Bard Medical Division, Johnson & Johnson, Ethicon Inc., Ethicon Women's Health and Urology, Gynecare Inc., Ethicon Sarl, Johnson & Johnson Medical Companies, Mentor Corporation, AMS* (Alberta Court File No.: 1203 17913) ("Alberta Action");

- (oo) **"Parties"** means the Plaintiffs and the Defendants;
- (pp) **"Plaintiffs"** shall mean (i) Sharon Harper and Gerald Harper, individually and collectively in their capacities both personally and as representative of the Primary SUI Class, the Family SUI Class and Class Members of the Expanded Class who were implanted with one or more Additional AMS SUI and POP Mesh Devices and all persons who by virtue of a personal relationship to one or more women in Canada who were implanted with one or more Additional AMS SUI and POP Mesh Device(s), have standing in this action pursuant to section 6(1) of the *Family Law Act*, RSO 1990, c.F.3 or analogous provincial legislation or at common law, and (ii) Linda-Sue Middleton and Howard Bosscher, individually and collectively in their capacities both personally and as representatives of the Primary POP Class and Family POP Class defined herein;
- (qq) **"Primary POP Class"** shall mean all persons resident in Canada who were or are implanted with an AMS POP Transvaginal Mesh Device at any time on or before the date of the Amended Certification Orders;
- (rr) **"Primary SUI Class"** shall mean all persons resident in Canada who were or are implanted with an AMS SUI Transvaginal Mesh Device at any time on or before the date of the Amended Certification Orders;
- (ss) **"Proceedings"** shall mean the Ontario Proceedings, the Quebec Proceeding and the Parallel Actions;

- (tt) **“Provincial Health Insurers”** means all provincial and territorial Ministries of Health or equivalents, and/or provincial and territorial plans funding medical services throughout Canada as listed on Schedule “C” hereto;
- (uu) **“Provincial Health Insurer Release”** means the form of Release, attached hereto as Schedule “D” to be executed in exchange for any payment hereunder to a Provincial Health Insurer prior to the Settlement Approval Hearing;
- (vv) **“Provincial Health Insurer Rights of Recovery”** means all statutory authority for the recovery of costs of insured health or medical services, as defined in the empowering legislation of each jurisdiction and listed on Schedule “C” hereto;
- (ww) **“Quebec Proceeding”** means *Louise Fréchette c. American Medical Systems et al*, commenced in the Superior Court of Quebec under Court File number 200-06-000178-148;
- (xx) **“Quebec Recognition and Enforcement Order”** shall mean the order of the Quebec Court recognizing and enforcing the Settlement Approval Order and dismissing the Quebec Proceeding, in a form to be agreed between the Parties;
- (yy) **“Released Claims”** means any and all legal, equitable, administrative or other claims of any kind, regardless of the legal, equitable, statutory or other theory on which they are based, including all existing, future, known, and unknown claims, actions, demands, causes of action, cross-claims, counterclaims, obligations, contracts, indemnity, contribution, suits, debts, sums, accounts, controversies, rights, damages, costs, lawyers’ fees, administration costs, losses, expenses, and all liabilities whatsoever existing now or arising in the future., whether class, individual or otherwise in nature, including direct, contingent or absolute, accrued, mature, derivative, subrogated, personal, assigned, discovered, undiscovered, suspected, unsuspected, disclosed, undisclosed, asserted, unasserted, known, unknown inchoate, or otherwise relating in any way to any conduct anywhere: 1) that arise directly or indirectly out of, relating to, or in any way connected with AMS Women’s Pelvic Mesh Device(s); 2) that have been brought or could be brought by the Class that relate to the AMS Women’s Pelvic Mesh Device(s);



and/or 3) relating to the creation, design, manufacture, testing, distribution, promotion, advertising, sale, administration, research, development, efficacy, inspection, clinical investigation, licensing, regulatory approval or authorization, packaging, labelling, use, marketing, recommendation, implantation, revision, excision, disposal, compliance with regulatory obligations or reporting requirements, warnings and post-sale warnings, packaging, instructions for use, condition, promises, and any other matter arising out of, relating to, resulting from, or in any way connected with or related to the AMS Women's Pelvic Mesh Device(s), including by way of example but without limitation, failure to warn, design defect, manufacturing defect, and/or labeling, of AMS Women's Pelvic Mesh Device(s); 4) any alleged representations, promises, statements, warranties (express or implied) or guarantees given or made by anyone affiliated with or representing the Released Parties relating to the AMS Women's Pelvic Mesh Device(s); and 5) this Settlement Agreement relating to the AMS Women's Pelvic Mesh Device(s), except for a claim or action to enforce the terms of this Release. Subject to the foregoing, the "Released Claims" include all claims for damages or remedies of whatever kind or character, known or unknown, that are now recognized or that may be created or recognized in the future by statute, regulation, judicial decision, or in any other manner, for or in respect of, arising out of or relating to any AMS Women's Pelvic Mesh Device, including:

- (i) Personal injury and/or bodily injury, latent injury, future injury, progression of existing injury, damage, disease, death, fear of death, disease or injury, mental or physical pain or suffering, emotional or mental harm, anguish, or loss of enjoyment of life;
- (ii) Compensatory damages, general damages, special damages, punitive, exemplary, and statutory and other damages or penalties of any kind;
- (iii) Loss of wages, income, earnings or earning capacity;
- (iv) Medical expenses, doctor, hospital, nursing, and drug bills;

- (v) Loss of support, services, consortium, companionship, society or affection, or damage to familial relations, by spouses, former spouses, parents, children, other relatives who by virtue of a personal relationship to one or more such persons in the Primary POP Class or the Primary SUI Class or the Expanded Class have standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c. F. 3 or analogous provincial legislation or at common law;
- (vi) Consumer protection remedies of any kind, including, but not limited to, remedies under provincial consumer protection legislation or the *Competition Act*, disgorgement of profit, and other similar claims whether arising under statute, regulation, or judicial decision;
- (vii) Wrongful death and survivorship;
- (viii) Medical screening and monitoring;
- (ix) Injunctive and declaratory relief;
- (x) Economic or business losses;
- (xi) Prejudgment or post-judgment interest; and
- (xii) Legal fees.

Notwithstanding the foregoing, the Provincial Health Insurer Rights of Recovery are Released Claims only to the extent provided for in the Provincial Health Insurer Release attached to the Settlement Agreement as Schedule "D";

- (zz) **"Released Parties"** means, jointly and severally, individually and collectively, the Defendants, AMS, American Medical Systems Holdings Inc., Endo Health Solutions Inc., Endo Pharmaceuticals Holdings, Inc., and any and all of their present, future and former, direct and indirect, parents, subsidiaries, divisions, affiliates, controlling persons, general or limited partners, insurers, vendors, contractors and assigns, and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated or related, and all of their respective past, present and future officers, directors, employees, agents,

shareholders, attorneys, trustees, servants and representatives, and the predecessors, successors, purchasers, heirs, executors, estate administrators, assigns and personal representatives (or equivalent thereto) of each of the foregoing; any and all suppliers of materials, components, and services used in the manufacture of any AMS Women's Pelvic Mesh Devices, including the labelling, packaging, marketing and selling thereof, along with any and all of their present, future and former, direct and indirect, parents, subsidiaries, divisions, affiliates, controlling persons, general or limited partners, insurers, vendors, contractors and assigns, and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated or related, and all of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives, and the predecessors, successors, purchasers, heirs, executors, estate administrators, assigns and personal representatives (or equivalent thereto) of each of the foregoing; any and all distributors, including the labelling, packaging, marketing and selling thereof, of AMS Women's Pelvic Mesh Devices, including wholesale distributors, private label distributors, retail distributors, hospitals and clinics, and all of their present, future and former, direct and indirect, parents, subsidiaries, divisions, affiliates, controlling persons, general or limited partners, insurers, vendors, contractors and assigns, and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated or related, and all of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives, and the predecessors, successors, purchasers, heirs, executors, estate administrators, assigns and personal representatives (or equivalent thereto) of each of the foregoing;

- (aaa) **"Releasors"** shall mean, jointly and severally, individually and collectively, the Plaintiffs and the Class Members and all of their present, future and former representatives, predecessors, successors, heirs, executors, administrators, insurers and assigns;
- (bbb) **"Settlement Agreement"** means this agreement, including the recitals, exhibits and schedules;

- (ccc) **"Settlement Amount"** means CAD \$20,858,488.48 inclusive of all interest, taxes, costs, Class Counsel Legal Fees, and Claims Administration Costs;
- (ddd) **"Settlement Approval Notice"** means the notice approved by the Ontario Court, in full and abridged forms, and a press release, all in a form agreed to by the Parties, which advises Class Members of the approval of the settlement provided for in this Settlement Agreement;
- (eee) **"Settlement Approval Notice Order"** means the order of the Ontario Superior Court of Justice that approves the Settlement Approval Notice and Settlement Approval Notice Plan, in a form agreed to by the Parties;
- (fff) **"Settlement Approval Notice Plan"** means the method by which the Settlement Approval Notice is disseminated, in a form agreeable to the Parties and approved by the Ontario Court;
- (ggg) **"Settlement Approval Order"** means the orders or judgments issued by the Ontario Court substantially in the form of Schedule A hereto.
- (hhh) **"Settling Claimant"** (together, the Settling Claimants) means each Class Member who files a claim pursuant to the Compensation Protocol; and
- (iii) **"Trust Account"** means a guaranteed investment vehicle, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, S.C. 1991, c.46) held at the Bank of Montreal under the control of Siskinds LLP or the Claims Administrator, once appointed, for the benefit of the Settlement Claimants as provided for in this Settlement Agreement.

## **SECTION 2 - SETTLEMENT APPROVAL**

### **2.1 Best Efforts**

- (1) The Parties shall use their best efforts to implement this settlement and to secure the prompt, complete and final dismissal with prejudice of the Ontario Proceedings as against the Defendants, to obtain the Quebec Recognition and Enforcement Order, and to obtain Dismissal

Orders in the Parallel Actions as they relate to AMS and the Defendants. Pending approval of the Settlement Agreement, the Parties agree to hold the Ontario Proceedings, the Quebec Proceeding, and the Parallel Actions in abeyance.

## **2.2 Motion Seeking Approval of Hearing Notice and Certification Amendment Orders**

- (1) The Plaintiffs shall file motions in the Ontario Court, on consent of the Defendants, as soon as practicable after this Settlement Agreement is executed, for an order approving the Hearing Notice and Hearing Notice Plan (the Hearing Notice Order).
- (2) Concurrently with the filings provided for in section 2.2(1), and on consent of the Defendants, the Plaintiffs will seek the Certification Amendment Orders.
- (3) The Certification Amendment Orders shall be substantially in the form attached as Schedule "B" or such other form as the Plaintiffs and Defendants agree and the Ontario Court approves.
- (4) Prior to the filing of the motion materials in connection with this section, Class Counsel will provide them to counsel for the Defendants in draft form for comment.

## **2.3 Motion Seeking Settlement Approval Order and Settlement Approval Notice Order**

- (1) The Plaintiffs shall file a motion with the Ontario Court for the Settlement Approval Order and Settlement Approval Notice Order as soon as practicable after:
  - (a) the Certification Amendment and Hearing Notice Orders have been granted;
  - (b) the Hearing Notice has been provided to Class Members in accordance with the Hearing Notice Order; and
  - (c) the time has expired to opt-out in accordance with section 6.1(1).
- (2) Prior to filing the motion materials in connection with this section, Class Counsel will provide them to counsel for the Defendant in draft form for comment.
- (3) Prior to attending the Settlement Approval Hearing, Class Counsel will provide all of the executed Provincial Health Insurer Releases to counsel for the Defendant.

- (4) This Settlement Agreement shall only become final on the Effective Date.

#### **2.4 Pre-Motion Confidentiality**

- (1) Until the motion required by section 2.2 is brought, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without the prior written consent of Counsel for the Defendants and Class Counsel, as the case may be, except as required for the purposes of financial reporting, the preparation of financial records (including tax returns and financial statements), as necessary to give effect to its terms, or as otherwise required by law. Nothing in this section shall bar counsel from communicating with clients or the Provincial Health Insurers, provided that they also shall be required to maintain confidentiality consistent with the provisions of this section.

#### **2.5 Dismissal of Parallel Proceedings**

- (1) Once the Ontario Court has granted the Settlement Approval Order, the Class Counsel will file a motion seeking the Quebec Recognition and Enforcement Order in the Quebec Proceeding on consent of the Defendants, and on a without costs basis.
- (2) Once the Ontario Court has granted the Settlement Approval Order, the Defendants will file motions seeking the Dismissal Orders of the Parallel Actions on consent of Class Counsel, and on a without costs basis.

### **SECTION 3 - NOTICE TO THE CLASS**

#### **3.1 The Notices**

- (1) The Parties have agreed to the form, contents and method of dissemination of the Hearing Notice and Hearing Notice Plan, subject to court approval, which shall be sought by way of the Plaintiffs' motion.
- (2) The Settlement Approval Notice shall be disseminated in accordance with the Settlement Approval Notice Plan as soon as practicable after the Effective Date.
- (3) The costs of publishing and distributing the Hearing Notice and the Settlement Approval Notice, including the associated professional fees, will be paid out of the Settlement Amount.

### **3.2 Notice of Termination**

- (1) If this Settlement Agreement is terminated and the Ontario Court orders that notice be given to the Class, the Defendants will cause any such notice, in a form approved by the Ontario Court, to be published and disseminated as the Ontario Court directs.
- (2) If this Settlement Agreement is terminated, the Defendants shall be solely liable for the Non-Refundable Expenses and any costs associated with the Hearing Notice that have been incurred as at the date of termination, or which may arise as described in section 3.2(1).

### **3.3 Cooperation**

- (1) The Parties shall cooperate, assist one another and the Claims Administrator and undertake all reasonable actions in order to ensure that the Hearing Notice and Settlement Approval Notice are disseminated in a timely manner by the Claims Administrator.

### **3.4 Payment of Settlement Amount**

- (1) AMS shall pay \$100,000.00 CAD to Class Counsel for deposit into the Trust Account within 21 days of the date of the Hearing Notice Order.
- (2) AMS shall pay the balance of the Settlement Amount (\$20,758,488.88 CAD) to Class Counsel for deposit into the Trust Account within 10 days of the Effective Date.
- (3) Payment of the Settlement Amount shall be made by wire transfer. At least ten (10) days prior to the Settlement Amount becoming due, Class Counsel will provide, in writing, the following information necessary to complete the wire transfers: name of bank, address of bank, ABA number, SWIFT number, name of beneficiary, beneficiary's bank account number, beneficiary's address and bank contact details.
- (4) The Settlement Amount to be provided in accordance with the terms of this Settlement Agreement shall be provided in full satisfaction of the Released Claims against the Released Parties.
- (5) The Settlement Amount shall be inclusive of all amounts, including, without limitation, interest, costs, Class Counsel Fees and Claims Administration Costs and, if any, amounts payable to the Fonds d'aide aux actions collectives.

(6) The Defendants shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement.

(7) Once the appointment of the Claims Administrator has been approved by the Ontario Court, Class Counsel shall transfer control of the Trust Account to the Claims Administrator.

(8) Class Counsel and the Claims Administrator shall maintain the Trust Account as provided for in this Settlement Agreement and shall not pay out all or any part of the money in the Trust Account, except in accordance with this Settlement Agreement, or in accordance with an order of the Ontario Court obtained after notice to the Parties.

### **3.5 Taxes and Interest**

(1) Except as hereinafter provided, all interest earned on the Settlement Amount in the Trust Account shall accrue to the benefit of the Class Members and the Provincial Health Insurers, and shall become and remain part of the Trust Account and the Net Settlement Proceeds.

(2) All taxes payable on any interest which accrues on the Settlement Amount in the Trust Account or otherwise in relation to the Settlement Amount shall be paid from the Trust Account. Siskinds LLP or the Claims Administrator, as appropriate, shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Trust Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Trust Account.

(3) The Defendants shall have no responsibility to make any filings relating to the Trust Account and will have no responsibility to pay tax on any income earned on the Settlement Amount or pay any taxes on the money in the Trust Account, unless this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, in which case the interest earned on the Settlement Amount in the Trust Account or otherwise shall be paid to the Defendants who, in such case, shall be responsible for the payment of all taxes on such interest not previously paid by Siskinds LLP or the Claims Administrator.



### **3.6 Compensation Protocol**

- (1) Class Counsel will draft the Compensation Protocol, to be approved by the Ontario Court. The Compensation Protocol will provide for a Future Injury Fund, the applicable claims deadline and the amount of which will be agreed to by both the Plaintiffs and the Defendants. Otherwise, the Defendants shall have no involvement in the formulation, drafting, or approval of the Compensation Protocol, except that Class Counsel may consult with the Defendants and/or Defendants' Counsel to formulate the Compensation Protocol at Class Counsel's sole discretion.
- (2) Upon approval by the Ontario Court, the Compensation Protocol will be provided to the Claims Administrator for use in determining the amount each Class Member (and Provincial Health Insurer, if relevant) will be entitled to by way of recovery from the Net Settlement Proceeds.

### **3.7 Claims and Claimants**

- (1) Class Members and Provincial Health Insurers shall be eligible for the relief provided for in this Settlement Agreement and the Compensation Protocol.

### **3.8 Cy Près Distribution**

- (1) Any *de minimus* funds remaining after distribution of the Net Settlement Proceeds pursuant to the Compensation Protocol, whether as a result of failure of Class Members to make claims or as a result of cheques having become stale dated and/or such other forms of payment as may be made to Settling Claimants and which may otherwise expire without having been claimed, shall be distributed to an organization to benefit women's health as proposed by Class Counsel and approved by the Ontario Court, in accordance with the Compensation Protocol.
- (2) The Act respecting the Fonds d'aide aux actions collectives, CQLR c F-3.2.0.1.1 will apply to the portion of any remaining balance, if any, attributable to Class Members resident in Quebec.

## **SECTION 4 - DISTRIBUTION OF THE SETTLEMENT AMOUNT**

- (1) On or after the Effective Date, the Claims Administrator shall distribute the Net Settlement Amount to the Settling Claimants and Provincial Health Insurers in accordance with the Compensation Protocol, after payment of the following:
  - (a) Class Counsel Legal Fees, as approved by the Ontario Court;

- (b) all of the costs and expenses reasonably and actually incurred in connection with the provision of Settlement Approval Notice in accordance with the Notice Plan;
  - (c) any remaining Claims Administration Costs, including the professional fees of the Claims Administrator; and
  - (d) any taxes required by law to be paid to any governmental authority.
- (2) Payments made to the Provincial Health Insurers shall be in full and final satisfaction of all Provincial Health Insurer Rights of Recovery they may have in relation to Settling Claimants' implantation with an AMS Women's Pelvic Mesh Device, for the costs of services, pursuant to the legislation of each jurisdiction, whether already provided or to be provided to Settling Claimants.
- (3) In order to receive a payment, a Provincial Health Insurer must execute the Provincial Health Insurer Release.
- (4) Notwithstanding any other provision in this Settlement Agreement, the Provincial Health Insurer Rights of Recovery (if any) with regard to a Class Member who is not a Settling Claimant is not satisfied, released or in any way modified by this Settlement Agreement or any order made or step taken pursuant to it.

## **SECTION 5 - TERMINATION**

### **5.1 General**

- (1) Termination rights are as follows:
- (a) The Defendants shall have the right to terminate this Settlement Agreement in the event that:
    - (i) any of the Provincial Health Insurers (a) do not confirm their approval of this Settlement Agreement or (b) object to court approval of the settlement provided for in this Settlement Agreement;
    - (ii) a Dismissal Order is denied by one or more of the Courts;

- (iii) The Ontario Court approves this Settlement Agreement in a materially modified form that is not agreed to by both the Plaintiffs and the Defendants;
  - (iv) The Ontario Court issues an order approving the Settlement Agreement in a materially modified form that is not agreed to by both the Plaintiffs and the Defendants;
  - (v) The Quebec Court does not issue the Quebec Recognition and Enforcement Order in Quebec;
  - (vi) The Quebec Recognition and Enforcement Order is reversed on appeal;
  - (vii) a Dismissal Order entered by one or more of the Courts is reversed on appeal; or
  - (viii) The Opt Out Threshold is exceeded.
- (b) Each of the Parties shall have the right to terminate this Settlement Agreement in the event that:
- (i) a Settlement Approval Order is denied and, following appeal, the denial of the Settlement Approval Order becomes a Final Order; or
  - (ii) a Settlement Approval Order is entered but reversed on appeal and the reversal becomes a Final Order.
- (2) Any order, ruling or determination made (or rejected) by the Ontario Court with respect to Class Counsel Fees shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.
- (3) In all cases, failure of the Defendant to pay the Settlement Amount in accordance with this Settlement Agreement shall be grounds to terminate the Settlement Agreement.

## **5.2 Effect of Termination**

- (1) In the event this Settlement Agreement is terminated in accordance with its terms:
- (a) it shall be null and void and shall have no force or effect, and the Parties shall not be bound by its terms, except as specifically provided in 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;
  - (c) the Defendants shall reimburse Class Counsel for the Non-Refundable Expenses; and
  - (d) the Parties shall be returned to the status quo ante in respect of the Ontario Proceedings.

## **5.3 Survival**

- (1) Notwithstanding section 5.2(1) of this Settlement Agreement, if this Settlement Agreement is terminated, the provisions of this section, and sections 3.2, 5.4, 5.5, 7.1 and 7.2, and the definitions applicable thereto of this Settlement Agreement, shall survive termination and shall continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of interpreting these sections of this Settlement Agreement, but for no other purposes.

## **5.4 Accounting**

- (1) If this Settlement Agreement is terminated after the Settlement Amount has been paid pursuant to section 3.4(1), Class Counsel shall account to the Ontario Court and the Parties for all payments made from the Trust Account by no later than fifteen (15) days after such termination.

## **5.5 Termination Orders**

- (1) If this Settlement Agreement is terminated, Class Counsel shall, within thirty (30) days after termination, apply to the Ontario Court, on notice to the Claims Administrator, for an order:

- (a) declaring this Settlement Agreement null and void and of no force or effect except for the provisions of those sections listed in section 5.3(1) of this Settlement Agreement; and
  - (b) setting aside the Settlement Approval Order in accordance with the terms of this Settlement Agreement.
- (2) Subject to section 5.5(2) of this Settlement Agreement, the Parties shall consent to the orders sought in any motion made pursuant to section 5.5(1) of this Settlement Agreement.
- (3) If there is any dispute about the termination of this Settlement Agreement, the Ontario Court shall determine any dispute by motion on notice to the Parties.

## **SECTION 6 - OPT OUT PROVISIONS**

### **6.1 Opting Out**

- (1) Persons who were or are implanted with an AMS SUI Transvaginal Mesh Device or an AMS POP Transvaginal Mesh Device on or after May 29, 2015 and on or before the date of the Certification Amendment Orders, and persons who have standing in this action by virtue of a personal relationship with one or more such persons, pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c.F.3 or analogous provincial legislation or at common law, who would become Class Members as a result of the Certification Amendment Orders, but who were neither Class Members nor Opt Outs prior to the Certification Amendment Orders, may exclude themselves from the Class;
- (2) Persons who were implanted with an Additional AMS SUI and POP Mesh Device and persons who have standing in this action by virtue of a personal relationship with one or more such persons, pursuant to section 61(1) of the *Family Law Act* RSO 1990, c.F.3 or analogous provincial legislation or at common law, who would become Class Members as a result of the Certification Amendment Orders, but who were neither Class Members nor Opt Outs prior to the Certification Amendment Orders, may exclude themselves from the Class;
- (3) Persons described in section 6.1(1) and (2) above may exclude themselves from the Class by exercising their rights to opt out pursuant to s. 9 of the *Class Proceedings Act, 1992*, SO 1992,

c 6, by submitting a complete and signed Opt Out Form to Siskinds LLP in accordance with the Hearing Notice Order, by the Opt Out Deadline.

(4) In the event that an Opt Out seeks to retain Class Counsel for any purpose related to the Proceeding, Class Counsel hereby agree to refuse to represent the Opt Out.

(5) Notwithstanding any other provision in this Settlement Agreement, no person who was implanted with an AMS SUI Transvaginal Mesh Device or AMS POP Transvaginal Mesh Device on or before May 28, 2015 and no person who has standing in this action by virtue of a personal relationship with one or more such persons, pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c.F.3 or analogous provincial legislation or at common law, shall be entitled to opt out of the Ontario Proceedings, the Quebec Proceedings, or Parallel Actions, or otherwise become an Opt Out, as a result of the Certification Amendment Orders.

(6) Notwithstanding any other provision in this Settlement Agreement, and for greater certainty, no person who was a member of the Original POP Class or a member of the Original SUI Class shall be entitled to opt out of the Ontario Proceedings, the Quebec Proceedings or Parallel Actions, or otherwise become an Opt Out, as a result of the Certification Amendment Orders.

## **6.2 Opt Out Report**

(1) Class Counsel shall provide Defendants' Counsel with a report advising as to the number of Opt Outs pursuant to section 6.1(1), the reasons for their opting out and details of the Opt Out's individual claim, if known, and a copy of all information provided, including the Opt Out Form, within thirty (30) days of the Opt Out Deadline.

## **6.3 Defendants' Rights Reserved**

(1) The Defendants reserve all of their legal rights and defences with respect to any Opt Outs.

(2) Under article 580 of the *Code of Civil Procedure* of Quebec, a class member eligible to opt out pursuant to section 6.1(3), who does not discontinue an originating application having the same subject matter as the Ontario Proceedings before the time for opting out has expired, is deemed to have opted out.

## **SECTION 7 - EFFECT OF SETTLEMENT**

### **7.1 No Admission of Liability**

(1) The Plaintiffs and the Releasees expressly reserve all of their rights if the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason. Further, whether or not the Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, shall not be deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Releasees, or of the truth of any of the claims or allegations contained in the Proceedings or any other pleading filed by the Plaintiffs.

### **7.2 Agreement Not Evidence**

(1) The Parties agree that, whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a pending or future proceeding to approve and/or enforce this Settlement Agreement, to defend against the assertion of Released Claims, or as otherwise required by law.

### **7.3 No Further Litigation**

(1) Except with respect to the enforcement or administration of this Settlement Agreement, neither the Plaintiffs nor Class Counsel (whether directly or via local counsel in any Canadian Province or Territory) may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any Person which relates to or arises from the Released Claims. Moreover, subject to the other terms of this Settlement Agreement, the Plaintiffs and Class Counsel (whether directly or via local counsel in any Canadian Province or Territory) may not divulge to anyone for any purpose any information obtained in the course of the Proceedings or the negotiation and preparation of this Settlement Agreement, except to the extent such information is otherwise publicly available (so long as the information does not become publicly available through a breach of this section) or unless ordered to do so by a court of competent jurisdiction.

(2) Section 7.3(1) shall be inoperative to the extent that it requires any lawyer who is a member of the Law Society of British Columbia to breach his or her obligations under section 3.2-10 of the Law Society of British Columbia's Code of Professional Conduct for British Columbia by refraining from participation or involvement in any claim or action in a British Columbia Court.

## **SECTION 8 - RELEASES AND DISMISSALS**

### **8.1 Exclusive Remedy**

(1) This Settlement Agreement shall be the exclusive remedy for all claims by or through Class Members respecting their implantation with AMS Women's Pelvic Mesh Device(s).

(2) On the Effective Date, each Class Member, whether or not he or she submits a claim or otherwise receives compensation, shall be deemed by this Settlement Agreement to have completely and unconditionally released, forever discharged, and acquitted the Released Parties from the Released Claims.

(3) In consideration for the Settlement Amount, Class Counsel agrees, on behalf of the Class Members, that any prosecution of a settled claim in breach of section 8.1(2) shall cause irreparable harm to the Released Parties, in respect of which a stay or injunction is an appropriate remedy. For the same consideration, Class Counsel agree on behalf of Class Members to cooperate with the Released Parties in seeking such a stay or injunction.

### **8.2 Third-Party Contribution or Indemnity Claims**

(1) Class Members who commence or continue litigation against any person or entity who may make a claim for contribution and/or indemnity against any Released Party, shall limit the value and right of recovery of such claim against such person or entity to the quantum of damages, interest, costs and all losses and other compensation proven and apportioned against such person or entity, severally and not jointly with any Released Party.

(2) In the event that litigation commenced or continued by a Class Member who has not opted-out of the Proceedings results in a claim over or judgment against any or all of the Defendants and/or any other Released Party to pay any amount to any party, such Class Member shall then fully hold harmless, reimburse and indemnify the Defendants and/or other Released Parties for the



full amount of such claim over or judgment, together with any interest, exclusive of counsel fees and disbursements incurred by Defendants and/or Released Parties in defence of such claims.

(3) Class Counsel on behalf of Class Members agrees that the lack of a judicial determination that Defendants or other Released Parties are joint tortfeasors does not preclude Non-Settling Defendants from obtaining the right to limit any judgment against them to the quantum of damages, interest, costs and all losses and other compensation proven and apportioned against such Non-Settling Defendant pursuant to section 8.1(1) herein.

(4) The provisions in sections 8.2(1)-(3) are intended to obviate the necessity and expense of having Defendants and the Released Parties added or remain as parties on the record and obliged to participate in a trial merely for the purpose of determining if in fact they were tortfeasors so as to entitle Non-Settling Defendants to limit any recovery against such Non-Settling Defendants to the quantum of damages, interest, costs and all losses and other compensation proven and apportioned against them as provided in section 8.2(1) herein.

(5) To the extent that the provision of benefits to any Claimant under this Settlement Agreement may give rise to a claim or potential claim for subrogation or reimbursement against Defendants and/or Released Parties by any person or entity other than a Provincial Health Insurer, the Claimant with respect to whom such claim or potential claim relates shall be responsible for resolving such claim or potential claim prior to receiving any benefits under this Settlement Agreement.

(6) To the extent that any such claim for subrogation or reimbursement is asserted against Defendants and/or Released Parties by any person or entity other than a Provincial Health Insurer notwithstanding this provision, such Claimant shall then fully hold harmless, reimburse and indemnify the Defendants or Released Parties for the full amount of such claims, together with any interest, exclusive of counsel fees and disbursements incurred by Defendants or Released Parties in the defence of such claims.

### **8.3 Other Litigation**

(1) Nothing in this Settlement Agreement modifies, releases, discharges and/or acquits any claims for damages or remedies of whatever kind or character, known or unknown, that are now recognized or that may be created or recognized in the future by statute, regulation, judicial

decision, or in any other manner, for or in respect of, arising out of or relating to any claims that are asserted or could be asserted in *Susan Vester and Darin Vester v. Boston Scientific Ltd. and Boston Scientific Corporation*, Court File No.: CV-15-527310 CP or *Mélanie Boucher et autres c. Boston Scientific et autres*, No.: 200-06-000156-128 and any language that could be construed to so require shall be read not to.

(2) The Released Claims do not include any claims for damages or remedies of whatever kind or character, known or unknown, that are now recognized or that may be created or recognized in the future by statute, regulation, judicial decision, or in any other manner, for or in respect of, arising out of or relating to devices other than the AMS Women's Pelvic Mesh Devices.

#### **SECTION 9 - SUBMITTING CLAIMS**

(1) Claims shall be submitted by Class Members in the manner contemplated by the Compensation Protocol, or in any other manner approved by the Ontario Court.

#### **SECTION 10 - LIMITATION DEFENCE**

(1) Except as provided herein, no Class Member who satisfies the criteria for payment pursuant to the Compensation Protocol shall be considered ineligible to receive a payment pursuant to this Settlement Agreement on the basis of any statute of limitation or repose, prescription period, or any other limitation or prescription defence.

(2) Nothing in this Settlement Agreement shall constitute or be deemed to constitute a waiver by the Defendants or Released Parties of defences based on statutes of limitation or repose, prescription periods or any other limitation or prescription defence with respect to any Opt Out.

#### **SECTION 11 - AMENDMENTS TO THE SETTLEMENT AGREEMENT**

(1) The Parties may amend this Settlement Agreement in writing, by consent and upon approval of the Ontario Court.

#### **SECTION 12 - LEGAL FEES AND DISBURSEMENTS**

##### **12.1 Fee Approval**

(1) Class Counsel shall bring a motion to the Ontario Court for the determination of Class Counsel Legal Fees to be paid from the Settlement Amount.

- (2) The approval of the Settlement Agreement is not contingent on the outcome of any motion regarding Class Counsel Legal Fees.
- (3) Class Counsel shall not be precluded from making additional motions to the Ontario Court for expenses incurred as a result of implementing the terms of this Settlement Agreement. All amounts awarded on account of Class Counsel Legal Fees shall be paid from the Settlement Amount.
- (4) The Released Parties hereby acknowledge and agree that they are not parties to the motions concerning the approval of Class Counsel Legal Fees, they will have no involvement in the approval process to determine the amount of Class Counsel Legal Fees and they will not take any position or make any submissions concerning Class Counsel Legal Fees.

## **12.2 Individual Claims**

- (1) Class Members who retain lawyers to assist them in making their individual claims for compensation pursuant to this Settlement Agreement or to appeal the classification or rejection of their claim for compensation, shall be responsible for the legal fees and expenses of such lawyers.
- (2) If a Class Member retains Class Counsel to assist him or her in making his or her individual claim for compensation under this Settlement Agreement, Class Counsel hereby agree to cap their fees at fifteen percent (15%) of the amount awarded to that Class Member.

## **SECTION 13 - CLAIMS ADMINISTRATOR**

### **13.1 Appointment of Claims Administrator**

- (1) The Parties will jointly propose a Claims Administrator to be appointed by the Ontario Court for the purpose of processing and classifying claims and paying claims as provided in this Settlement Agreement and under the authority of the Ontario Court. The Claims Administrator shall follow the Compensation Protocol.
- (2) The Claims Administrator shall be bilingual (French/English).

### **13.2 Investment Guidelines**

- (1) The Claims Administrator shall invest all funds in its possession under this Settlement Agreement in the classes of securities provided in section 26 of the *Trustee Act*, RSO 1990, c. T 23.
- (2) All fees and costs of any custodian holding and/or investing such funds shall be paid out of the income of such funds and shall not be the responsibility of Defendants.
- (3) All taxes due and owing on investment proceeds shall be paid by the Claims Administrator from the settlement funds.

### **13.3 Confidentiality Obligations**

- (1) The Claims Administrator and any person appointed by the Claims Administrator to assist in the processing of claims must sign and adhere to a confidentiality statement by which they agree to keep confidential any information concerning Class Members, and the Claims Administrator shall institute procedures to ensure that the identity of all Class Members, and all information regarding their claims and submissions, will be kept confidential and not be provided to persons except as may otherwise be provided in this Settlement Agreement or as may be required by law.
- (2) The Claims Administrator shall be subject to removal by the Ontario Court for cause. In the event of such removal, any successor Claims Administrator shall be identified and appointed as set forth in section 13.1(1).

## **SECTION 14 - MISCELLANEOUS PROVISIONS**

### **14.1 Ongoing Authority**

- (1) The Ontario Court shall retain exclusive and continuing jurisdiction over the approval, implementation and administration, interpretation and enforcement of this Settlement Agreement and the Plaintiffs, Class Members and Defendants attorn to the jurisdiction of the Ontario Court for such purposes

### **14.2 Recitals**

- (1) The Parties represent and warrant that the recitals referred to in section 1 are accurate and agree that they form part of this Settlement Agreement.

#### **14.3 Negotiated Agreement**

(1) This Settlement Agreement is the product of arm's length negotiations between Class Counsel, counsel for the Defendants, and/or parties represented by counsel. No Party shall be deemed to be the drafter of this Settlement Agreement or any provisions hereof. No presumption shall be deemed to exist in favor of or against any Party as a result of the preparation or negotiation of this Settlement Agreement.

(2) This Settlement Agreement shall be binding on the Parties regardless of any change in the law that might occur after the date each Party signed this Settlement Agreement.

#### **14.4 Entire Agreement**

(1) This Settlement Agreement, including its recitals and exhibits, as well as other documents expressly referred to and defined herein (e.g. the Certification Amendment Orders, Hearing Notice, Hearing Notice Plan, Hearing Notice Order, Settlement Approval Notice, Settlement Approval Notice Plan, Settlement Approval Order, Settlement Approval Notice Order, Dismissal Orders, Provincial Health Insurer Release, Quebec Recognition and Enforcement Order, and Dismissal Orders) constitutes the entire agreement by and among the Parties with regard to the subject matter of this Settlement Agreement and, on the Effective Date, shall supersede any previous agreements and understandings between the Parties with respect to the subject matter of this Settlement Agreement.

#### **14.5 Counterparts**

(1) This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

(2) Each of the signatories hereto warrant and represent that they are authorized to enter into this Settlement Agreement on behalf of the Parties on whose behalf this Settlement Agreement has been executed.

#### **14.6 Class Member Notification**

(1) All communications from the Claims Administrator to Class Members may be made by regular mail to such person's last mailing address provided by such person to the Claims Administrator.

#### **14.7 Governing Law**

(1) This Settlement Agreement shall be governed by and interpreted pursuant to the laws of Ontario.

#### **14.8 Severability**

(1) If any provision of this Settlement Agreement is held to be void or invalid, the same shall not affect any other provision and the remainder shall be effective as though such provision had not been contained herein.

#### **14.9 Dates**

(1) Dates referred to in this Settlement Agreement may be altered with the written consent of the Parties and, as necessary, with the approval of the Ontario Court.

#### **14.10 Party Notification**

(1) Any notification, request, instruction or other document to be given by any Party to any other Party to this Settlement Agreement (other than class notification) shall be in writing and shall be addressed as follows:

(a) If to: THE PLAINTIFFS and/or CLASS COUNSEL,

Charles M. Wright & Daniel E. H. Bach  
Siskinds LLP  
680 Waterloo Street  
London, ON N6A 3V8  
Tel.: (519) 672-2121  
Fax: (519) 672-6065  
Email :charles.wright@siskinds.com  
daniel.bach@siskinds.com

Erika Provencher  
Siskinds Desmeules Avocats s.e.n.c.r.l.  
43 Rue Buade, Bur 320  
Québec City, QC, G1R 4A2  
Tel.: (418) 694-2009  
Fax: (418) 694-0281  
Email : erika.provencher@siskindsdesmeules.com

Joel Rochon  
Rochon Genova LLP

121 Richmond St W #900  
Toronto, ON M5H 2K1  
Tel.: (416) 548-9874  
Fax: (416) 363-0263  
Email : jrochon@rochongenova.com

Evatt Merchant  
Merchant Law Group  
116 Albert Street, Suite 300  
Ottawa, ON K1P 5G3  
Tel.: (613) 366-2795  
Fax: (866) 433-8262  
Email : emerchant@merchantlaw.com

- (b) If to: American Medical Systems Canada Inc., American Medical Systems Inc.  
and Endo Pharmaceuticals Inc.

Jill M. Lawrie  
Blake, Cassels & Graydon LLP  
199 Bay Street, Suite 4000  
Commerce Court West  
Toronto, ON M5L 1A9  
Tel: (416) 863-3082  
Fax: (416) 863-2653  
Email: jill.lawrie@blakes.com

#### **14.11 French Translation**

- (1) Class Counsel shall prepare a French translation of this Settlement Agreement.
- (2) Class Counsel shall be responsible for the costs incurred to translate settlement documents into French, as necessary or required by the Quebec court. The text of the translation shall be subject to approval by the Defendants.
- (3) In case of any ambiguity or dispute about interpretation, the English version is official and shall prevail.

#### **14.12 English Language Clause**

- (1) Les parties ont convenu que cette Entente soit rédigée en anglais.

#### **14.13 Motions for Directions**

- (1) Class Counsel or the Defendants may apply to the Ontario Court for directions in respect of the interpretation, implementation and administration of this Settlement Agreement.
- (2) All motions contemplated by this Settlement Agreement shall be on notice to the Plaintiffs and Defendants, as applicable.

#### **14.14 Acknowledgements**

- (1) Each of the Parties hereby affirms and acknowledges that:
  - (a) He, she, they or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;
  - (b) The terms of this Settlement Agreement and the effects thereof have been fully explained to him, her, them or the Party's representative by his, her or its counsel;
  - (c) He, she, they or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
  - (d) No Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of the Settlement Agreement, with respect to the first Party's decision to execute the Settlement Agreement.

#### **14.15 Authorized Signatures**

- (1) Each of the undersigned represents that he, she or they is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Parties identified above their respective signatures and their law firms.

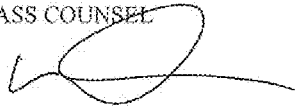


**Date of Execution**

(2) The Parties have executed the Settlement Agreement as of the date on the cover page.

Dated: June 25, 2019

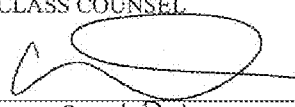
CLASS COUNSEL



Name: Daniel Bach  
SISKINDS LLP  
Class Counsel

Dated: June 25, 2019

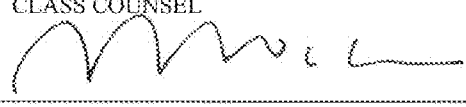
CLASS COUNSEL



Name: Daniel Bach  
SISKINDS DESMEULES AVOCATS S.E.N.C.R.L.,  
Class Counsel

Dated: 26 June, 2019

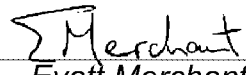
CLASS COUNSEL



Name:  
ROCHON GENOVA LLP  
Class Counsel

Dated: June 26th, 2019

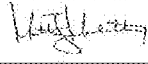
CLASS COUNSEL



Name: Evatt Merchant  
MERCHANT LAW GROUP  
Class Counsel

Dated: June 25, 2019

ASTORA WOMEN'S HEALTH, LLC AND ENDO  
PHARMACEUTICALS INC.



Name:  
*I have authority to bind the corporations*

**SCHEDULE "A": SETTLEMENT APPROVAL ORDERS**

Court File No. CV-15-527760-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE

)

\_\_\_\_\_, THE ●th

JUSTICE P. PERELL

)

DAY OF ●, 2019

B E T W E E N:

*(Court Seal)*

SHARON HARPER and GERALD HARPER

Plaintiffs

and

AMERICAN MEDICAL SYSTEMS CANADA INC., AMERICAN MEDICAL  
SYSTEMS INC., and ENDO PHARMACEUTICALS

Defendants

-and-

Court File No.: CV-15-529000-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

LINDA-SUE MIDDLETON and HOWARD BOSSCHER

Plaintiffs

and

AMERICAN MEDICAL SYSTEMS CANADA INC., AMERICAN MEDICAL SYSTEMS  
INC., and ENDO PHARMACEUTICALS

Defendants

*Proceedings under the Class Proceedings Act, 1992*

**ORDER  
(SETTLEMENT APPROVAL)**

**THIS MOTION**, made by the plaintiffs for an Order approving the Settlement Agreement entered between the Plaintiffs and the Defendants was heard this day at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

**ON READING** the materials filed, including the Settlement Agreement dated ●, and on hearing the submissions of counsel for the Plaintiffs and counsel for the Defendants;

**AND ON BEING ADVISED** that the Plaintiffs and the Defendants consent to this Order;

1. **THIS COURT ORDERS** that, for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. **THIS COURT ORDERS** that in the event of a conflict between the terms of this Order and the Settlement Agreement, the terms of this Order shall prevail.
3. **THIS COURT ORDERS** that the Settlement Agreement is fair, reasonable and in the best interests of the Class.
4. **THIS COURT ORDERS** that the Settlement Agreement is hereby approved pursuant to section 12, 19, 20, 29(2), and 29(3) of the *Class Proceedings Act, 1992* S.O. 1992, c. 6 and shall be implemented and enforced in accordance with its terms.
5. **THIS COURT ORDERS** that all provisions of the Settlement Agreement (including its Recitals and Definitions) form part of this Order and are binding upon the Class Members who did not opt out of this action in accordance with the orders issued on May 28, 2015, approving the

notice and opt out procedures following certification of the Ontario Proceedings as national class actions or in accordance with the Settlement Hearing Notice Order of this Court dated ● (the "Hearing Notice Order"), including those persons who are mentally incapable, Class Counsel, the Related Counsel Firms, the Provincial Health Insurers and the Defendants.

6. **THIS COURT ORDERS** that the release as provided at section 8.1 of the Settlement Agreement is approved and will take effect upon the Effective Date.

7. **THIS COURT ORDERS** that the form and content of the Settlement Approval Notice, substantially in the full and abridged forms attached as Schedule "B" is approved.

8. **THIS COURT ORDERS** that the Notice Plan attached as Schedule "C" is approved.

9. **THIS COURT ORDERS** that this proceeding be and is hereby dismissed against the Defendants, without costs and with prejudice, and that such dismissal shall be a defence to any subsequent action in respect of the subject matter hereof.

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THE HONOURABLE JUSTICE P. PERELL

**SCHEDULE "B": CERTIFICATION AMENDMENT ORDERS**

Court File No. CV-15-527760-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE )  
 )  
 ) , THE  
JUSTICE P. PERELL ) DAY OF , 2019

B E T W E E N :

SHARON HARPER and GERALD HARPER  
Plaintiffs  
and

AMERICAN MEDICAL SYSTEMS CANADA INC., AMERICAN MEDICAL SYSTEMS  
INC., and ENDO PHARMACEUTICALS  
Defendants

*Proceedings under the Class Proceedings Act, 1992*

**ORDER  
(CERTIFICATION AMENDMENT)**

**THIS MOTION**, made by the plaintiffs for an Order amending the Certification Order of Justice Perell dated May 28, 2015, was heard this day at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

**ON READING** the materials filed on this motion, on hearing the submissions of counsel for the Parties and on consent of the Parties;

1. **THIS COURT ORDERS** that, except as otherwise specified in, or as modified by, this Order, capitalized terms used herein shall have the meaning ascribed to them in the Settlement Agreement.

2. **THIS COURT ORDERS** that the definition of the Original SUI Class in the Certification Order dated May 28, 2015 (attached hereto as "Schedule A") be amended to provide for an Expanded Class as follows:

- a. All persons resident in Canada who were or are implanted with an AMS SUI Transvaginal Mesh Device at any time on or before the date of this Order (the "Primary SUI Class");
- b. All persons resident in Canada who by virtue of a personal relationship to one or more such persons described in (a) above, have standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c. F. 3 or analogous provincial legislation or at common law (the "Family SUI Class");
- c. All persons resident in Canada who were or are implanted with one or more Additional AMS SUI and POP Mesh Device(s); and
- d. All persons resident in Canada who by virtue of a personal relationship to one or more such persons described in (c) above have standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c. F. 3 or analogous provincial legislation or at common law.

3. **THIS COURT ORDERS** that:

- a. only the following individuals may exclude themselves from the class:
  - i. persons who were or are implanted with an AMS SUI Transvaginal Mesh Device on or after May 29, 2015 and on or before the date of this Order and persons who have standing in this action by virtue of a personal relationship with one or more such persons described in paragraph 2b above, but who were neither Class Members nor Opt Outs prior to the Certification Amendment Orders, or
  - ii. persons resident in Canada who were or are implanted with one or more Additional AMS SUI and POP Mesh Device(s) and persons who have standing in this action by virtue of a personal relationship with one or more such persons described in paragraph 2d above, but who were neither Class Members nor Opt Outs prior to the Certification Amendment Orders;
- b. persons described in Paragraph 3a above may exclude themselves from the Class by exercising their right to opt out by submitting a complete and signed Opt Out Form to Siskinds LLP in accordance with the Hearing Notice Order, by the Opt Out Deadline;
- c. no person who was implanted with an AMS SUI Transvaginal Mesh Device on or before May 28, 2015 or who was not implanted with an Additional AMS SUI and POP Mesh Device and no person who has standing in this action by virtue of a

personal relationship with one or more such persons described in paragraphs 2b and 2d above may exclude themselves from the Class;

- d. no person who was a member of the Original SUI Class shall be entitled to opt out of this class proceeding or otherwise become an Opt Out pursuant to this Order or otherwise;
- e. the Opt Out Form is approved substantially in the form attached as Schedule "B";  
and
- f. a person eligible to opt out and who opts out of this class proceeding in the manner provided for in this Order shall be an Opt Out and shall not be a Class Member.

---

THE HONOURABLE JUSTICE P. PERELL



THE HONOURABLE )  
 )  
 ) , THE  
 )  
 JUSTICE P. PERELL ) DAY OF , 2019

LINDA-SUE MIDDLETON and HOWARD BOSSCHER  
Plaintiffs  
and

AMERICAN MEDICAL SYSTEMS CANADA INC., AMERICAN MEDICAL SYSTEMS  
INC., and ENDO PHARMACEUTICALS  
Defendants

**ORDER  
(CERTIFICATION AMENDMENT)**

**ON READING** the materials filed on this motion, on hearing the submissions of counsel for the Parties and on consent of the Parties:

1. **THIS COURT ORDERS** that, except as otherwise specified in, or as modified by, this Order, capitalized terms used herein shall have the meaning ascribed to them in the Settlement Agreement.

2. **THIS COURT ORDERS** that the definition of the Original POP Class in the Certification Order dated May 28, 2015 (attached hereto as “Schedule A”) be amended to provide for an Expanded Class as follows:

- a. All persons resident in Canada who were or are implanted with an AMS POP Transvaginal Mesh Device at any time on or before the date of this Order (the “Primary POP Class”); and
- b. All persons resident in Canada who by virtue of a personal relationship to one or more such persons described in (a) above, have standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c. F. 3 or analogous provincial legislation or at common law (the “Family POP Class”)

3. **THIS COURT ORDERS** that:

- a. only persons who were or are implanted with an AMS POP Transvaginal Mesh Device on or after May 29, 2015 and on or before the date of this Order and persons who have standing in this action by virtue of a personal relationship with one or more such persons described in paragraph 2b above, but who were neither Class Members nor Opt Outs prior to the Certification Amendment Orders may exclude themselves from the Class;
- b. persons described in Paragraph 3(a) above may exclude themselves from the Class by exercising their right to opt out by submitting a complete and signed Opt Out Form to Siskinds LLP in accordance with the Hearing Notice Order, by the Opt Out Deadline;

- e. no person who was implanted with an AMS POP Transvaginal Mesh Device on or before May 28, 2015 and no person who has standing in this action by virtue of a personal relationship with one or more such persons may exclude themselves from the Class;
- d. no person who was a member of the Original POP Class shall be entitled to opt out of this class proceeding or otherwise become an Opt Out pursuant to this Order or otherwise;
- e. the Opt Out Form is approved substantially in the form attached as Schedule "B";  
and
- f. a person eligible to opt out and who opts out of this class proceeding in the manner provided for in this Order shall be an Opt Out and shall not be a Class Member.

---

THE HONOURABLE JUSTICE P. PERELL

### SCHEDULE "C": LIST OF PROVINCIAL HEALTH INSURERS

Province/ Territory	Ministry / Department	Legislation	Right of Recovery
Nova Scotia	Minister of Health and Wellness Department of Health and Wellness	<i>Health Services and Insurance Act</i> , RSNS 1989, c 197	"cost of the care, services and benefits"
New Brunswick	Minister of Health  Executive Council	<i>Medical Services Payment Act</i> , RSNB 1973, c M-7  <i>Health Services Act</i> , RSNB 2014, c 112	"entitled services"
Prince Edward Island	Minister of Health and Wellness	<i>Health Services Payment Act</i> , RSPEI 1988, c H-2  <i>Hospital and Diagnostic Services Insurance Act</i> , RSPEI 1988, c H-8	"basic health services" "insured services"
Newfoundland and Labrador	Minister of Health and Community Services	<i>Medical Care and Hospital Insurance Act</i> , SNL2016 cM-5.01	"insured services"
Ontario	Minister of Health and Long-Term Care	<i>Health Insurance Act</i> , RSO 1990 c H 6  <i>Home Care and Community Services Act 1994</i> , S.O., 1994, c.26	"insured services" "approved services"
Manitoba	Minister of Health, Seniors and Active Living	<i>Health Services Insurance Act</i> , CCSM, 2015 c H35	"insured services"
Saskatchewan	Minister of Health	<i>The Health Administration Act</i> , SS 2014, c E-13.1	"health services"
Quebec	Régie de l'assurance maladie du Québec	<i>Health Insurance Act</i> , 2017 CQLR c A-29	"insured services"

Province/ Territory	Ministry / Department	Legislation	Right of Recovery
		<i>Hospital Insurance Act</i> , CQLR c A-28	
Yukon	Minister of Health and Social Services	<i>Hospital Insurance Services Act</i> , RSY 2002, c 112 <i>Health Care Insurance Plan Act</i> , RSY 2002, c.107	“insured services” “insured health services”
Northwest Territories and Nunavut	Minister of Health and Social Services	<i>Hospital Insurance and Health and Social Services Administration Act</i> , RSNWT 1998, c T-3 <i>Medical Care Act</i> , R.S.N.W.T. 1988, c.M-8	“insured services”
Alberta	Minister of Health	<i>Crown’s Right of Recovery Act</i> , SA 2009, c C-35	“the Crown’s cost of health services”
British Columbia	Minister of Health	<i>Healthcare Costs Recovery Act</i> , SBC 2008 c. 27	“health care services”

#### **SCHEDULE "D": PROVINCIAL HEALTH INSURER CONSENT AND RELEASE**

**WHEREAS** [province specific legislation] (the "**Act**") permits a direct or subrogated claim (a "**Claim**") for the recovery of the costs for [insured services or analogous term] that have been incurred in the past and that will probably be incurred in the future and as further described in the Act and its regulations (collectively ["**Insured Services or Analogous Term**"]);

**AND WHEREAS** proceedings were commenced in Ontario, Saskatchewan, Alberta, British Columbia and Quebec against Endo Pharmaceuticals Inc., American Medical Systems Canada Inc. American Medical Systems Inc., and other named affiliated, related and parent companies, (collectively, "**Endo Entities**") on behalf of proposed classes of Canadian residents who were implanted with an AMS POP Transvaginal Mesh Device and/or an AMS SUI Transvaginal Mesh Device and/or an Additional AMS SUI and POP Mesh Device (the "**AMS Women's Pelvic Mesh Devices**" as further defined in the National Settlement) (the "**Proceedings**");

**AND WHEREAS** pursuant to a Mesh Device Class Action National Settlement Agreement dated • (the "**National Settlement**") the Proceedings and all of the present and future claims of Class Members (as defined in the National Settlement) for or relating in any way to AMS Women's Pelvic Mesh Devices fully resolved, on a national basis, without admission of liability;

**AND WHEREAS** the Provincial Health Insurer (as defined in the National Settlement) hereby consents to the National Settlement;

**AND WHEREAS** pursuant to the National Settlement, Class Members will have an opportunity to submit individual claims for settlement benefits (the "**Settling Claimants**" as further defined in the National Settlement);

**IN CONSIDERATION OF** the sum of • (\$•) paid to the Provincial Health Insurer as good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the undersigned, •, on behalf of the Provincial Health Insurer (hereinafter "**Releasor**"), releases any and all Claims, including but not limited to causes of action, claims over, indemnities, losses, covenants and liabilities for the Provincial Health Insurer's Rights of Recovery (as defined in the Settlement Agreement) for the [insured services or analogous term], in equity or at law, pursuant to [province specific legislation as described in Schedule C], whether by way of subrogation rights or by independent right of action, arising in any way in relation to or arising from the implantation of AMS Women's Pelvic Mesh Devices in the Settling Claimants that the Releasor now has or may have for or by reason of any cause, matter or thing whatsoever whether already in existence or arising in the future, whether presently known or unknown, and thereby forever releases and discharges any and all such Claims against the Endo Entities, their parents, subsidiaries and affiliated, related, predecessor or successor companies or entities and each of their respective directors, officers, shareholders, employees, servants, distributors, agents, trustees, successors, administrators, assigns, insurers and re-insurers, both present and former (hereinafter collectively referred to as the "**Releasees**").

**AND THE MINISTER/DEPARTMENT OF HEALTH REPRESENTS AND CONFIRMS** that s/he has authority to bind the Releasor.

**AND THE RELEASOR ACKNOWLEDGES** and agrees that s/he has not been induced to execute this Release by reason of any representation or warranty of any nature or kind whatsoever and that there is no condition express or implied or collateral agreement affecting the said release.

**AND FOR THE SAID CONSIDERATION** the Releasor covenants and agrees not to make a claim or to commence or take proceedings against any of the Releasees, including any person, firm, partnership, business or corporation who or which might claim contribution from, or to be indemnified by, the Endo Entities, in respect of those matters to which this release applies.

**AND IT IS UNDERSTOOD** that Releasees, and each of them, do not admit any liability to the Releasor or others and that such liability is specifically and expressly denied.

**IN WITNESS WHEREOF** the Releasor • has hereunto set his/her hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
On behalf of the [Province]  
Minister/Department of Health