

**SCHEDULE D**  
**FUNDING AGREEMENT**

**MADE AS OF**

**15 JUNE 1999**

## FUNDING AGREEMENT

THIS AGREEMENT is made as of 15 June 1999

B E T W E E N:

**THE ATTORNEY GENERAL OF CANADA** (“Canada”), **HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA** (“British Columbia”), **HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ALBERTA** (“Alberta”), **HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF SASKATCHEWAN** (“Saskatchewan”), **HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF MANITOBA** (“Manitoba”), **HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO** (“Ontario”), **LE GOUVERNEMENT DU QUÉBEC** (“Québec”), **HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF NEW BRUNSWICK** (“New Brunswick”), **HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF NOVA SCOTIA** (“Nova Scotia”), **HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF PRINCE EDWARD ISLAND** (“PEI”), **HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF NEWFOUNDLAND** (“Newfoundland”), **THE GOVERNMENT OF THE NORTHWEST TERRITORIES** (“Northwest Territories”), **THE GOVERNMENT OF NUNAVUT** (“Nunavut”), **THE GOVERNMENT OF THE YUKON TERRITORY** (“Yukon Territory”), (collectively, the “FPT Governments”),

-and-

**ANITA ENDEAN**, plaintiff in the British Columbia Transfused Class Action (the “British Columbia Transfused Plaintiff”), **MARTIN HENRY GRIFFEN** and **ANNA KARDISH**,

plaintiffs in the Ontario Transfused Class Action (the “Ontario Transfused Plaintiffs”), **DOMINIQUE HONHON**, plaintiff in the Québec Transfused Class Action (the “Québec Transfused Plaintiff”), **CHRISTOPHER FORREST MITCHELL**, plaintiff in the British Columbia Hemophilia Class Action (the “British Columbia Hemophilia Plaintiff”), **JAMES KREPPNER** and **BARRY ISAAC**, plaintiffs in the Ontario Hemophilia Action (the “Ontario Hemophilia Plaintiffs”) and **DAVID PAGE**, plaintiff in the Québec Hemophilia Class Action (the “Québec Hemophilia Plaintiff”) (collectively, the “Class Action Plaintiffs”).

WHEREAS:

A. On 21 June 1996 the Québec Transfused Plaintiff commenced Action No. 500-06-000016-960 in the Superior Court of the Province of Québec for the District of Montreal against Canada, Québec, the CRCS and others (the “Québec Transfused Class Action”); on 19 September 1996 the British Columbia Transfused Plaintiff commenced Action No. C965349 in the Vancouver Registry of the Supreme Court of British Columbia against Canada, British Columbia and the CRCS (the “British Columbia Transfused Class Action”); and on 10 February 1998 the Ontario Transfused Plaintiffs commenced Action No. 98-CV-141369 in the Ontario Court (General Division), at Toronto, against Canada, Ontario and the CRCS (the “Ontario Transfused Class Action”) (collectively, the “Transfused Class Actions”).

B. On 24 April 1998 the Ontario Hemophilia Plaintiffs commenced Action No. 98-CV-146405 in the Ontario Court (General Division), at Toronto, against the CRCS and Canada (the “Ontario Hemophilia Class Action”); on 1 May 1998 the British Columbia Hemophilia Plaintiff commenced Action No. A981187 in the Vancouver Registry of the Supreme Court of British Columbia against the CRCS and Canada (the “British Columbia Hemophilia Class Action”); and on 7 May 1998 the Québec Hemophilia Plaintiff commenced Action No. 500-06-000068-987 in the Superior Court of the Province of Québec for the District of Montréal against the CRCS, Canada and Québec (the “Québec Hemophilia Class Action”) (collectively, the “Hemophilia Class Actions”).

C. Pursuant to the Settlement Agreement, the FPT Governments agreed to enter into this Agreement to provide for the payment by the FPT Governments of certain amounts in relation to the funding, in whole or in part, of the Disbursements (including payments under the Plans), on and subject to the terms set out in this Agreement.

D. The FPT Governments have agreed to establish the Trust for the purpose, among other things, of receiving such amounts from time to time from the FPT Governments and thereafter holding, investing and distributing such amounts and any other funds subsequently received by the Trust, on and subject to the terms set out in this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the premises and the covenants and agreements herein contained, the Parties agree as follows:

## **ARTICLE ONE INTERPRETATION**

### **1.01 Definitions**

In this Agreement, in addition to the terms defined in the description of the Parties set out above:

**“Administrative Costs”** as at any time means the amounts as at such time referred to in paragraphs (c), (d), and (e) (other than Program Costs) of the definition of Other Fees and Disbursements in this Section 1.01 and Administrative Costs without any reference to a time means those amounts that if paid would constitute Administrative Costs as at any time.

**“Administrator”** means the administrator appointed by the Courts and its successors appointed from time to time pursuant to the provisions of the Settlement Agreement.

**“Agreement”** means this agreement including its recitals, as amended, supplemented or restated from time to time.

**“Approval Date”** means the date when the judgments or orders of the Courts approving the Settlement Agreement become final and, as a result, this Agreement becomes effective.

**“Auditors”** means the auditors appointed by the Courts and their successors appointed from time to time pursuant to the provisions of the Settlement Agreement.

**“Blood”** means Blood as defined in the Transfused HCV Plan or, in relation to hemophiliacs, as defined in the Hemophiliac HCV Plan.

**“Business Day”** means a day other than a Saturday or a Sunday or a day observed as a holiday under the laws of the Province or Territory in which the person to whom such notice is given is situated or the federal laws of Canada applicable in the said Province or Territory.

**“Class Action Counsel”** means the respective counsel for each of the Class Action Plaintiffs.

**“Class Actions”** has the meaning set out in Section 1.01 of the Settlement Agreement.

**“Class Members”** means, collectively, the Transfused Class Members and the Hemophiliac Class Members.

**“Class Period”** means the period from and including 1 January 1986 to and including 1 July 1990.

**“Contribution Account”** has the meaning set out in Section 4.03.

**“Contribution Account Balance”** of an FPT Government as at any time means an amount equal to the sum of the Proportionate Contributions plus the Proportionate Interest Amount minus the Proportionate Disbursements, each of such FPT Government as at such time.

**“Contribution Amount”** as at any time means an amount equal to the sum of \$1.118 billion plus the Total Interest Amount as at such time.

**“Courts”** means, collectively, the Supreme Court of British Columbia, the Superior Court of Justice for Ontario and the Superior Court of Québec.

**“Dependants”** has the meaning set out in Section 1.01 of the Transfused HCV Plan and the Hemophiliac HCV Plan.

**“Disbursements”** as at any time means an amount equal to the sum of the Plan Disbursements plus the Other Fees and Disbursements, each as at such time, and Disbursements without any reference to a time means those amounts that if paid would constitute Plan Disbursements or Other Fees and Disbursements as at any time.

**“EAP”** means the HIV Extraordinary Assistance Plan announced by the Federal Government on 14 December 1989.

**“Expert Costs”** as at any time means the amounts as at such time referred to in paragraph (d) of the definition of Other Fees and Disbursements in this Section 1.01 and Expert Costs without any reference to a time means those amounts that if paid would constitute Expert Costs as at any time.

**“Federal Government”** means the government of Canada.

**“Fund Counsel”** means the counsel appointed by the Courts and its successors appointed from time to time pursuant to the provisions of the Settlement Agreement.

**“Fund Year”** means the period from 1 April to 31 March in the immediately succeeding year except for the initial period which will commence on the Approval Date and end at the close of business on 31 March 2000 and the last period which will commence on 1 April and end on the last day of the Term.

**“HCV”** means the Hepatitis C virus.

**“HCV Infected Person”** has the meanings set out in Section 1.01 of both of the Plans.

**“Hemophiliac Class Members”** means Class Members as defined in the Hemophiliac HCV Plan.

**“Hemophiliac HCV Plan”** means the plan attached as Schedule B to the Settlement Agreement.

**“HIV”** means the human immunodeficiency virus.

**“HIV Secondarily-Infected Persons”** means persons who are entitled to receive compensation under the Program.

**“Interest Calculation Date”** means the last day of an Interest Period.

**“Interest Period”** means the calendar quarterly period commencing on the first days of January, April, July and October in each year during the Term with the first period commencing on 1 April 1998 provided that, if the Term ends prior to the end of an Interest Period, such Interest Period will end on the last day of the Term.

**“Investment Advisors”** means the investment advisors appointed by the Courts and their successors appointed from time to time pursuant to the provisions of the Settlement Agreement.

**“Joint Committee”** has the meaning set out in Section 1.01 of the Settlement Agreement.

**“Opted-Out Primarily-Infected Hemophiliac”** has the meaning set out in Section 1.01 of the Hemophiliac HCV Plan.

**“Opted-Out Primarily-Infected Person”** has the meaning set out in Section 1.01 of the Transfused HCV Plan.

**“Other Fees and Disbursements”** as at any time means the aggregate of the following amounts, to the extent that they have been paid prior to or as at such time:

- (a) an amount equal to the aggregate of all Program Disbursements, provided the amount determined under this (a) will at no time exceed \$57.6 million;
- (b) an amount equal to the total of (i) the aggregate of all amounts paid by any FPT Government, in respect of either a final judgment of a court in a contested action or a settlement approved by one of the Courts, to any person who opted out of a Class Action or a Class Member who is not otherwise bound by the provisions of the Settlement Agreement or any other person who claims over or brings a third party claim against any FPT Government in any way relating to or arising from, in the case of a Transfused Class Member, the infection of a

Primarily-Infected Person with HCV during the Class Period or, in the case of a Hemophiliac Class Member, the infection of a Primarily-Infected Hemophiliac with HCV from Blood (including, in each case, the infection of a Secondarily-Infected Person) and (ii) the aggregate of all amounts each of which is an amount equal to one-third of the defence costs (including costs of counsel, disbursements and applicable taxes) arising out of any action (whether an FPT Government has been successful in defending an action or not) or settlement and approved by one of the Courts;

- (c) an amount equal to the aggregate of all fees, costs, disbursements and applicable taxes (other than income taxes) of counsel representing any of the Class Action Plaintiffs, as approved by the Court in which the Class Action was commenced;
- (d) an amount equal to the aggregate of all amounts paid pursuant to contracts between any of the FPT Governments with experts or consultants entered into at the request of counsel representing any of the Class Action Plaintiffs; and
- (e) as approved by the Courts, an amount equal to the aggregate of all costs of administering the Settlement Agreement and Schedules including the fees, disbursements and other costs of the Administrator, the Trustee, the Auditors, the Fund Counsel, the Referees, the Arbitrators, the Investment Advisors, the members of the Joint Committee, the costs of any application to the Courts pursuant to the Settlement Agreement, and the Program Costs, including the fees, disbursements and other costs of the Program Administrator, to a maximum of \$2 million,

and Other Fees and Disbursements without any reference to a time means those amounts that if paid would constitute Other Fees and Disbursements as at any time.

**“Parties”** means the FPT Governments and the Class Action Plaintiffs.

**“Plan Disbursements”** as at any time means the aggregate of all amounts that have been paid under the Plans prior to or as at such time and Plan Disbursements without any reference to a time means those amounts that if paid would constitute Plan Disbursements as at any time.

**“Plans”** means, collectively, the Hemophiliac HCV Plan and the Transfused HCV Plan.

**“Primarily-Infected Hemophiliac”** has the meaning set out in Section 1.01 of the Hemophiliac HCV Plan.

**“Primarily-Infected Person”** has the meaning set out in Section 1.01 of the Transfused HCV Plan.

**“Program”** means the Program attached as Schedule C to the Settlement Agreement.

**“Program Administrator”** means the person who administers the Program and its successor from time to time under contract with Health Canada.

**“Program Costs”** at any time means the amounts as at such time which are costs of administering the Program and Program Costs without any reference to a time means those amounts that if paid would constitute Program Costs as at any time.

**“Program Disbursements”** at any time means the amounts as at such time paid under the Program to HIV Secondarily-Infected Persons and Program Disbursements without any reference to a time means those amounts that if paid would constitute Program Disbursements as at any time.

**“Program Disbursements and Costs”** as at any time means an amount equal to the sum of the Program Disbursements plus the Program Costs, each as at such time, and Program Disbursements and Costs without any reference to a time means those amounts that if paid would constitute Program Disbursements and Costs as at any time.

**“Proportionate Contributions”** of an FPT Government as at any time means an amount equal to:

- (a) in the case of the Federal Government, an amount equal to (i) \$851,978,925.40 plus (ii) an amount equal to 8/11 of the amount by which (A) the Total Interest Amount as at the date the Federal Government makes its required contribution under Section 4.02(1) (for purposes of applying the definition of Interest Period to this calculation, such date will be deemed to be the last day of the Term) exceeds (B) the Total Interest Amount as at 31 March 1999, minus (iii) the Withheld Amount, and
- (b) in the case of a PT Government, the amount of all contributions made by such PT Government to the Trust prior to or as at such time.

**“Proportionate Disbursements”** of an FPT Government as at any time means an amount equal to:

- (a) in the case of the Federal Government, 8/11 (i.e., 72.7273%) of the Disbursements as at such time, and
- (b) in the case of a PT Government, the Sharing Proportion of such PT Government as at such time multiplied by 3/11 (i.e., 27.2727%) of the Disbursements as at such time.

**“Proportionate Interest Amount”** of an FPT Government as at any time means the aggregate of all amounts each of which is an amount determined as at each Interest Calculation Date occurring prior to or as at such time equal to the Treasury Bill Rate for the Interest Period ending on such Interest Calculation Date multiplied by the proportion that the number of days in the Interest Period (including the first and last days of the Interest Period) is of 365 days or 366 days, as the case may be, and multiplied by the average of the



Proportionate Principal Amount as at the first day of such Interest Period and the Proportionate Principal Amount as at such Interest Calculation Date.

**“Proportionate Principal Amount”** of an FPT Government as at any time is an amount determined as at such time equal to the sum of the Proportionate Contributions of such FPT Government as at such time plus the Proportionate Interest Amount of such FPT Government as at the immediately preceding Interest Calculation Date minus an amount equal to the Proportionate Disbursements of such FPT Government as at the first-mentioned time.

**“Provinces”** means, collectively, British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, PEI and Newfoundland.

**“PT Governments”** means the governments of the Provinces and Territories.

**“Secondarily-Infected Person”** has the meaning set out in Section 1.01 of the Transfused HCV Plan or the Hemophilic HCV Plan, as applicable.

**“Settlement Agreement”** means the agreement made as of 15 June 1999 between the FPT Governments and the Class Action Plaintiffs and its recitals and Schedules, as amended, supplemented or restated from time to time.

**“Settlement Amount”** as at any time means an amount equal to the sum of the amount of the Trust Fund as at such time plus the amount of the remaining obligations, if any, of the FPT Governments under Section 4.01 and minus the amount by which the estimated Other Fees and Disbursements as at the end of the Term exceeds the Other Fees and Disbursements as at such time.

**“Sharing Proportion”** of a PT Government as at any time means the proportion that the sum of:

- (i) the aggregate amount of the Disbursements (other than Program Disbursements and Costs and Administrative Costs) as at such time which are payable in relation to persons who were resident in the Province or Territory (as determined pursuant to Section 1.07(1)(a)) of such PT Government; plus
- (ii) the aggregate amount of the Program Disbursements and Costs as at such time which are payable in relation to persons who were resident in the Province or Territory (as determined pursuant to section 1.07(1)(b)) of such PT Government, and, for this purpose, Program Costs will be considered to be paid in relation to persons who were resident in a Province or Territory in proportion to the Program Disbursements paid in relation to persons who were resident in such Province or Territory; plus
- (iii) the aggregate of amounts each of which is an amount determined in respect of each Fund Year ending prior to or as at such time equal to the amount

determined when the Administrative Costs as at the end of such Fund Year which were paid in such Fund Year is multiplied by the quotient obtained when the population of the Province or Territory using estimated census data from Statistics Canada on July 1 of such Fund Year is divided by the aggregate population of all the Provinces and Territories using estimated census data from Statistics Canada as at such date;

is of the aggregate of the Disbursements (other than Administrative Costs) as at such time and the Administrative Costs as at such time which were paid in a Fund Year ending prior to or as at such time.

**“Spouse”** has the meaning set out in Section 1.01 of the Transfused HCV Plan or the Hemophiliac HCV Plan, as applicable.

**“Term”** means the period from and including the Approval Date to the date when the Settlement Agreement is terminated.

**“Territories”** means, collectively, the Northwest Territories, Nunavut and the Yukon Territory.

**“Total Interest Amount”** as at any time means the aggregate of all amounts each of which is an amount determined as at each Interest Calculation Date occurring prior to or as at such time equal to the Treasury Bill Rate for the Interest Period ending on such Interest Calculation Date multiplied by the proportion that the number of days in the Interest Period (including the first and last days of the Interest Period) is of 365 days or 366 days, as the case may be, and multiplied by the average of the Total Principal Amount as at the first day of such Interest Period and the Total Principal Amount as at such Interest Calculation Date.

**“Total Principal Amount”** as at any time is an amount determined as at such time equal to the sum of \$1.118 billion plus an amount equal to the Total Interest Amount as at the immediately preceding Interest Calculation Date minus an amount equal to the sum of the Other Fees and Disbursements plus the Plan Disbursements, each as at the first-mentioned time.

**“Transfused Class Members”** means Class Members as defined in the Transfused HCV Plan.

**“Transfused HCV Plan”** means the plan attached as Schedule A to the Settlement Agreement.

**“Treasury Bill Rate”** means, for each Interest Period, the money market yield of the three-month Federal Government treasury bill for the first day of such Interest Period as determined and, from time to time, published by the Bank of Canada, provided that, if the first day of an Interest Period is not a Business Day, the Treasury Bill Rate will be determined as if the first day of the Interest Period were the next following Business Day.

**“Trust”** means the Trust to be created pursuant to this Agreement.

**“Trustee”** means the trustee appointed by the Courts from time to time pursuant to the provisions of the Settlement Agreement.

**“Trust Fund”**, at any time, means each of the following money and other assets that are at such time held by the Trustee pursuant to this Agreement:

- (a) the funds received by the Trustee on trust from time to time from the FPT Governments;
- (b) any investments in which such funds may from time to time be invested;
- (c) any proceeds of disposition of any investments; and
- (d) all income, interest, profit, gains and accretions and additional assets, rights and benefits of any kind or nature whatsoever arising, directly or indirectly, from or in connection with or accruing to any of the foregoing.

**“Withheld Amount”** means an amount equal to the sum of the Expert Costs plus the Program Disbursements and Costs plus an amount equal to the aggregate of all fees, costs, disbursements and applicable taxes of Class Action Counsel, each as at the Approval Date, which have been paid by the FPT Governments prior to or on the Approval Date.

## **1.02 Headings**

The division of this Agreement into Articles and Sections and the insertion of a table of contents and headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “herein”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Appendices are to Articles, Sections and Appendices of this Agreement.

## **1.03 Extended Meanings**

In this Agreement words importing the singular number only include the plural and *vice versa*, words importing any gender include all genders and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations, corporations and governmental authorities. The term “including” means “including without limiting the generality of the foregoing”.

## **1.04 No Contra Proferentum**

The Parties acknowledge that their respective legal counsel have reviewed and participated in settling the terms of this Agreement and they agree that any rules of

construction to the effect that any ambiguity is to be resolved against the drafting party is not applicable in interpreting this Agreement.

### **1.05 Statutory References**

In this Agreement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any statute is to that statute as enacted on the date hereof or as the same may from time to time be amended, re-enacted or replaced and includes any regulations made thereunder.

### **1.06 Day for any Action**

If any day on or by which any action required to be taken hereunder is not a Business Day, such action must be taken on or by the next succeeding day which is a Business Day.

### **1.07 Residence**

(1) For the purposes of determining the liability of each of the Provinces and Territories hereunder:

- (a) with respect to Disbursements (other than Program Disbursements and Costs), a person will be deemed to be resident in the Province or Territory where the relevant Primarily-Infected Person or Opted-Out Primarily-Infected Person or Primarily-Infected Hemophiliac or Opted-Out Primarily-Infected Hemophiliac, as the case may be, was ordinarily resident when he or she first received or took Blood during the Class Period, and, for this purpose, if the relevant Primarily-Infected Person or Opted-Out Primarily-Infected Person or Primarily-Infected Hemophiliac or Opted-Out Primarily-Infected Hemophiliac was not resident in Canada when he or she first received or took Blood during the Class Period, he or she will be deemed to have been resident in the Province or Territory where he or she first received or took Blood during the Class Period, and
- (b) with respect to Program Disbursements and Costs, a person will be deemed to be resident in the Province or Territory where the relevant HIV primarily-infected person was ordinarily resident when he or she first applied for compensation under the EAP.

(2) For purposes of this Agreement, ordinarily resident means the place where the person, in the settled routine of his or her life, regularly, normally or customarily lives. In making this determination, all relevant factors will be considered. Notwithstanding the above, a person will be deemed to be resident in the Province or Territory in which he or she has a permanent home available to him or her, or, if the person has no permanent home available to him or her in any Province or Territory or a permanent home available to him or her in more than one Province or Territory, in any such Province or Territory in which he or she has an

habitual abode, or, if the person has no habitual abode in any such Province or Territory or an habitual abode in more than one such Province or Territory, in any such Province or Territory where his or her Spouse is ordinarily resident or, if the person has no such Spouse resident in any such Province or Territory or if the Spouse is ordinarily resident in more than one such Province or Territory, in any such Province or Territory where the majority of his or her Dependants are ordinarily resident, or, if the person has no such Dependants or the majority of such Dependants are not ordinarily resident in any one such Province or Territory, in any such Province or Territory in which the person has the closest personal property and social ties.

### **1.08 Currency**

All references to currency herein are to lawful money of Canada.

## **ARTICLE TWO PURPOSES AND EFFECT OF AGREEMENT**

### **2.01 Purpose**

The purpose of this Agreement is to (i) provide for the establishment of the Trust for the benefit of Class Members and other persons entitled to be paid out of the Trust in accordance with this Agreement and the Settlement Agreement, (ii) provide for the payment of the Contribution Amount to the Trust, (iii) provide that the Federal Government is severally liable to pay an amount equal to the Proportionate Contribution of the Federal Government to the Trust on or prior to the Approval Date representing 8/11 (i.e., 72.7273%) of the Contribution Amount as at the time of such payment minus the Withheld Amount, (iv) provide that each PT Government is severally liable to pay to the Trust a portion of 3/11 (i.e., 27.2727%) of the Contribution Amount as at the time that the liability is being determined, (v) provide that the several liability of each PT Government is based on the Sharing Proportion of the PT Governments as at the time that the liability is being determined, and (vi) provide for the payment of the Disbursements out of the Trust, in the manner set out in this Agreement.

### **2.02 Binding Effect**

On the Approval Date this Agreement will become effective and be binding on and after the Approval Date on all the FPT Governments and all the Class Members including the Class Action Plaintiffs.

## **ARTICLE THREE SETTLEMENT AMOUNT**

### **3.01 Settlement Amount**

The Administrator will be entitled to receive amounts from the Trustee from time to time on behalf of Class Members pursuant to this Agreement, provided that in no event will

the Administrator be entitled to receive any amount on behalf of the Class Members pursuant to this Agreement as at any time in excess of the Settlement Amount as at such time.

### **3.02 Canadian Income Taxes**

(1) If any income taxes under the *Income Tax Act* (Canada) or the equivalent provisions of the income tax act of any Province or Territory are paid by the Trustee in respect of income of the Trust, the FPT Government to which the taxes were paid will pay an amount equivalent to the amount so paid to the Trustee and such amount will thereafter form part of the Trust Fund.

(2) The amount of compensation paid to or received by a Class Member pursuant to a Plan will not be required to be included in the taxable income of the recipient thereof under the *Income Tax Act* (Canada) or the equivalent provisions of the income tax act of any Province or Territory, provided however, that this provision will not apply in respect of any amount of compensation paid to or received by a person other than the person that, but for any assignment of any amount of compensation payable under a Plan, would be the person entitled to the compensation under the Plan or in respect of any tax payable under Part XIII of the *Income Tax Act* (Canada) or the equivalent provisions of the income tax act of any Province or Territory by any Class Member or any amount required to be withheld by the Trustee or the Administrator on account of such tax in respect of any compensation paid or received under a Plan.

### **3.03 No Additional Liability**

For greater certainty, subject to Section 3.02, neither the Administrator nor any of the Class Members will have any recourse if the Settlement Amount as at any time is insufficient to fund Plan Disbursements to be paid at or after such time.

## **ARTICLE FOUR CONTRIBUTION AMOUNT**

### **4.01 Liability to Pay**

(1) The Federal Government is severally liable to make the single payment provided for in Section 4.02(1) (representing 8/11 (i.e., 72.7273%) of the Contribution Amount as at the date of such payment minus the Withheld Amount). Subject to Section 3.02 of this Agreement, the Federal Government will not be liable to pay any further amounts pursuant to this Agreement.

(2) The several liability of each of the PT Governments under this Agreement added together will equal 3/11 (i.e., 27.2727%) of the Contribution Amount as at the time that the liability is being determined.

(3) Each PT Government will be severally liable to pay a proportion of the Contribution Amount as at the time that the liability is being determined, such liability to be determined in accordance with Section 4.01(4). Subject to Section 3.02 of this Agreement, no PT Government will be liable to pay any further amounts pursuant to this Agreement as at the time that the liability is being determined.

(4) Each PT Government will be severally liable to pay the Sharing Proportion of such PT Government as at the time that the liability is being determined multiplied by 3/11 (i.e., 27.2727%) of the Contribution Amount as at the time that the liability is being determined.

(5) Notwithstanding any other provision of this Agreement, for purposes of this Agreement, each FPT Government will be considered to have paid the Trustee hereunder as at any time an amount equal to the sum of the Proportionate Contributions and the Proportionate Interest Amount of such PT Government as at such time. For greater certainty, the crediting of the Proportionate Interest Amount of a PT Government as against the required contributions of such PT Government is intended to give PT Governments credit for interest at the Treasury Bill Rate for any advance contributions (such deemed interest being computed after their share of Disbursements).

#### **4.02 Payment**

(1) On or prior to the Approval Date, the Federal Government will transfer an amount equal to the Proportionate Contribution of the Federal Government by electronic fund transfer to an account therefore specified by the Trustee in full satisfaction of all its liabilities and obligations to pay any part of the Contribution Amount hereunder.

(2) Subject to Section 4.01, each PT Government will make payments to the Trustee (by way of lump-sum or periodic payments or any combination thereof) such that the Contribution Account of such PT Government has at all times a positive or zero balance.

#### **4.03 Contribution Account**

(1) The Trustee will establish a separate journal account for each of the FPT Governments (a "Contribution Account").

(2) The amount standing to the credit of a Contribution Account of an FPT Government as at any time will be the Contribution Account Balance of such FPT Government as at such time.

#### **4.04 Calculation and Notice of Payments**

(1) The Sharing Proportion of each PT Government will be calculated by the PT Governments from time to time. The PT Governments will notify the Trustee of the Sharing Proportions within one month following the Approval Date and upon any changes therein.

(2) The Administrator will notify the Trustee and each of the FPT Governments of the Plan Disbursements to be made in respect of the preceding month within five Business Days after the end of each month. The notice from the Administrator will set out the facts upon which the calculation of such Plan Disbursements is based and the residence information set out in the statutory declaration declared by each claimant.

(3) The Program Administrator will notify the Trustee and each of the FPT Governments of the Program Disbursements to be made in respect of the preceding month within five Business Days after the end of each month. The notice from the Program Administrator will set out the facts upon which the calculation of such Program Disbursements is based and the residence information set out in the application of each claimant.

(4) The Trustee will notify each of the FPT Governments of the amounts to be paid pursuant to paragraphs (b) (c), (d) and (e) of the definition of Other Fees and Disbursements in Section 1.01 in respect of the preceding month within five Business Days after the end of each month.

#### **4.05 No Additional Liability**

For greater certainty, subject to Section 3.02, no FPT Government will be liable to pay any additional amounts pursuant to this Agreement if the Contribution Amount as at any time is insufficient to fund the Disbursements as at such time.

## **ARTICLE FIVE SETTLEMENT OF TRUST**

### **5.01 Settlement of the Trust**

The FPT Governments will settle on and pay to the Trustee the sum of \$100 for the purpose of creating and settling the Trust. The Trustee will accept such sum on trust to deal with the same, and all other assets at any time forming part of the Trust Fund, upon the trusts and subject to the terms contained in this Agreement.

### **5.02 Nature of the Trust**

The Trust will be trust established for the following purposes:

- (a) to acquire the funds payable by each of the FPT Governments pursuant to the provisions of Article Four;
- (b) to hold the Trust Fund;
- (c) to make the Disbursements pursuant to the provisions of Article Six;



- (d) to invest cash in investments pursuant to the provisions of Article Seven; and
- (e) to do such other acts and things as are incidental to the foregoing, and to exercise all powers that are necessary or useful to carry on the activities of the Trust or to carry out the provisions of this Agreement.

### **5.03 Legal Entitlements**

The legal ownership of the assets of the Trust and the right to conduct the business of the Trust will be, subject to the specific limitations contained herein, vested exclusively in the Trustee and the Class Members and other beneficiaries of the Trust have no right to compel or call for any partition, division or distribution of any of the assets of the Trust except in an action to enforce the provisions of the Settlement Agreement. No Class Member or any other beneficiary of the Trust will have or is deemed to have any right of ownership in any of the assets of the Trust.

## **ARTICLE SIX DISBURSEMENTS**

### **6.01 Monthly Payments for Plans**

(1) Within eight Business Days after the end of each month, the Administrator on behalf of the Class Members will requisition from the Trustee an amount equal to the amount of all Plan Disbursements to be paid by the Administrator pursuant to the Plans in respect of the immediately preceding month as set out in the notice given pursuant to Section 4.04(2).

(2) Within 10 Business Days after the end of each month, the Trustee will transfer an amount equal to the amount requisitioned by the Administrator pursuant to Section 6.01(1) to the Administrator on behalf of the Class Members by electronic fund transfer to an account specified by the Administrator.

### **6.02 Monthly Payments for Program**

(1) Within eight Business Days after the end of each month, the Program Administrator on behalf of HIV Secondarily-Infected Persons will requisition from the Trustee an amount equal to the amount of all Program Disbursements to be made to HIV Secondarily-Infected Persons pursuant to the Program in respect of the immediately preceding month as set out in the notice given pursuant to Section 4.04(3).

(2) Within 10 days after the end of each month, the Trustee will transfer an amount equal to the amount requisitioned by the Program Administrator pursuant to Section 6.02(1) to the Program Administrator on behalf of the HIV Secondarily-Infected Persons by electronic fund transfer to an account specified by the Program Administrator, provided that the aggregate amount of such disbursements cannot exceed \$57.6 million.

### **6.03 Payments for Actions and Settlements**

If any amount is payable by any FPT Government pursuant to either a final judgment of a court in a contested action or a settlement approved by one of the Courts to any person who opted out of a Class Action or a Class Member who is not otherwise bound by the provisions of the Settlement Agreement or any other person who claims over or brings a third party claim against any FPT Government in any way relating to or arising from, in the case of a Transfused Class Member, the infection of a Primarily- Infected Person with HCV during the Class Period or, in the case of a Hemophiliac Class Member, the infection of a Primarily- Infected Hemophiliac with HCV from Blood (including, in each case, the infection of a Secondarily-Infected Person) and an FPT Government delivers to the Trustee:

- (a) a notarized copy of a final judgment (as defined in Section 1.07 of the Settlement Agreement) or minutes of settlement and a notarized copy of an order of a Court approving the minutes of settlement; and/or
- (b) a notarized copy of an order of a Court approving the defence costs (including costs of counsel, disbursements and applicable taxes (other than income taxes)) arising out of any action or settlement,

in the month following the receipt of such documents the Trustee will transfer an amount equal to the amount payable pursuant to the final judgment or minutes of settlement plus one-third of all defence costs (whether an FPT Government has been successful in defending an action or not) as so approved to the applicant FPT Government in trust by electronic fund transfer to an account specified by the applicant FPT Government.

### **6.04 Payments to Class Action Counsel**

If a notarized copy of an order of the Court in which a Class Action was commenced approving the fees, costs, disbursements and applicable taxes (other than income taxes) of Class Action Counsel representing the Class Action Plaintiff in such Class Action is delivered to the Trustee, in the month following the receipt of such documents the Trustee will transfer an amount equal to the aggregate amount of such fees, costs, disbursements and taxes by electronic fund transfer to an account specified by such Class Action Counsel.

### **6.05 Payments for Administration Costs**

If a notarized copy of an order of a Court approving any of the costs of administering the Settlement Agreement, including the costs referred to in paragraphs (d) and (e) of the definition of Other Fees and Disbursements in Section 1.01 is delivered to the Trustee, in the month following the receipt of such documents the Trustee will pay an amount equal to the amount of such costs to or to the order of the payee thereof as set out in the Court Order by cheque or, if requested by such payee, by electronic fund transfer to an account specified by the payee. For greater certainty, a Court may approve specific costs or the terms of any commitment under which costs will be payable on an ongoing basis and, in the latter case,

such costs will be payable by the Trustee in the month following delivery of an invoice therefor.

## **ARTICLE SEVEN INVESTMENTS**

### **7.01 Investment**

(1) The Trustee will invest the assets of the Trust in accordance with the investment instructions delivered to the Trustee from time to time by the Joint Committee within the investment guidelines approved by the Courts.

(2) In investing the assets of the Trust, the Joint Committee will:

- (b) invest in the best interests of the beneficiaries of the Trust with a view to achieving a maximum rate of return without undue risk of loss, having regard to the ability of the Trust to meet its financial obligations;
- (c) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances, having regard to the overall rate of return and risk of loss of the entire portfolio of investments held by the Trust; and
- (d) recommend the names of recognized professional investment and asset management advisors for appointment as the Investment Advisors.

## **ARTICLE EIGHT INCOME AND CAPITAL**

### **8.01 Disbursements**

All Disbursements paid out of the Trust will be considered to have been paid first out of the income of the Trust and next out of the capital of the Trust.

### **8.02 Additions to Capital**

Any income of the Trust not paid as Disbursements in a Fund Year will at the end of such Fund Year be added to the capital of the Trust.

### **8.03 Tax Elections**

For each taxation year of the Trust, the Trustee will file any available elections and designations under the *Income Tax Act* (Canada) and equivalent provisions of the income tax act of any Province or Territory and take any other reasonable steps such that the Trust and

no other person is liable to taxation on the income of the Trust, including the filing of an election under subsection 104(13.1) of the *Income Tax Act* (Canada) and equivalent provisions of the income tax act of any Province or Territory for each taxation year of the Trust and the amount to be specified under such election will be the maximum allowable under the *Income Tax Act* (Canada) or the income tax act of any Province or Territory, as the case may be.

## **ARTICLE NINE RECORDS, REPORTING AND FINANCIAL STATEMENTS**

### **9.01 Records**

The Trustee will keep such books, records and accounts as are necessary or appropriate to document the assets of the Trust and each transaction of the Trust. Without limiting the generality of the foregoing, the Trustee will keep, at its principal office in Toronto, records of all transactions of the Trust and a list of the assets held in trust and a record of the Contribution Account Balance for each Contribution Account from time to time.

### **9.02 Quarterly Reporting**

The Trustee will deliver to the Administrator, the Fund Counsel, the Joint Committee and each of the FPT Governments, within 30 days after the end of each calendar quarter, a quarterly report setting forth the assets held as at the end of such quarter in the Trust Fund (including the term, interest rate or yield and maturity date of each investment) and a record of the Contribution Account Balance for each Contribution Account during such quarter.

### **9.03 Annual Reporting**

The Auditors will deliver to the Administrator, the Trustee, the Fund Counsel, the Joint Committee, each of the FPT Governments and the Courts, within 60 days after the end of each Fund Year:

- (a) the audited financial statements of the Trust for the most recently completed Fund Year together with the report of the Auditors thereon; and
- (b) a report setting forth a summary of the assets held in trust as at the end of the Fund Year for the Trust Fund and the Disbursements made during the preceding Fund Year.

## **ARTICLE TEN AMENDMENT AND TERMINATION**

### **10.01 Amendment**

No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by the FPT Governments and the Joint Committee and approved by the Courts.

## **10.02 Termination**

(1) This Agreement and the Trust will terminate on the date on which the Courts declare the Settlement Agreement to be terminated pursuant to the provisions of the Settlement Agreement.

(2) As soon as practicable after the termination of the Trust, the Trustee will transfer the assets in the Trust Fund to the FPT Governments in accordance with this provision. The amount to be paid to each FPT Government will be determined as follows:

- (b) if the amount of the Trust Fund is equal to or exceeds the aggregate of amounts each of which is an amount determined in respect of each FPT Government equal to the Contribution Account Balance of such FPT Government as at the time the determination is being made, each FPT Government will be paid an amount equal to the amount of its Contribution Account Balance as at such time and the excess, if any, will be distributed among the FPT Governments in proportion to the average of the Contribution Account Balance of each FPT Government at the end of each month over the term of this Agreement, or
- (c) if the amount of the Trust Fund is less than the aggregate of amounts each of which is an amount determined in respect of each FPT Government equal to the Contribution Account Balance of such FPT Government as at the time the determination is being made, the amount of the Trust Fund will be distributed among the FPT Governments in proportion to the Contribution Account Balance of each FPT Government as at such time.

(3) For purposes of this Section 10.02, the Contribution Account Balance of each FPT Government as at the time the determination is being made will be adjusted as follows:

- (a) the Contribution Account Balance of the Federal Government as at such time will be increased by an amount that reflects the amount by which the Contribution Account Balance of the Federal Government would be increased if the Federal Government's contribution under Section 4.02(1) had been increased on the date of such payment by 3/11 (i.e., 27.2727%) of the Withheld Amount, and
- (b) the Contribution Account Balance of each PT Government as at such time will be reduced by an amount that reflects the amount by which the Contribution Account Balance of such PT Government would be reduced if such PT Government's contributions to the Trust under this Agreement were reduced by the Sharing Proportion of such PT Government as at such time multiplied by 3/11 (i.e., 27.2727%) of the Withheld Amount (such reduction of contributions being made to the first contribution or contributions of such PT Government).

## **ARTICLE ELEVEN GENERAL**

### **11.01 Notices**

Any notice or other communication to be given in connection with this Agreement will be given in writing and will be given by personal delivery or by electronic communication addressed to the recipient as follows:

- (a) to the Attorney General of Canada:

Justice Canada, Department of Health  
Brooke Claxton Building, 2nd Floor  
Tunney's Pasture  
P. O. Box: Postal Locator: 0902D  
Ottawa, Ontario  
K1A 0K9

Attention: Senior General Counsel  
Facsimile No.: (613) 957-1327

- (b) to Her Majesty the Queen In Right of the Province of British Columbia:

c/o Ministry of the Attorney General  
6th Floor, 1001 Douglas Street  
Victoria, B.C.  
V8W 2C5

Attention: Supervising Counsel  
Facsimile No.: (250) 356-9154

- (c) to Her Majesty the Queen In Right of the Province of Alberta:

c/o Alberta Justice  
Civil Law Branch, 5th Floor  
9833 - 109th Street  
Edmonton, Alberta  
T5K 2E8

Attention: Minister of Health and Wellness  
Facsimile No.: (780) 415-0961

Attention: Minister of International and Intergovernmental  
Relations

- (d) to Her Majesty the Queen In Right of the Province of Saskatchewan:

c/o Saskatchewan Justice  
Civil Law Division  
9th Floor  
1874 Scarth Street  
Regina, Saskatchewan  
S4P 3V7

Attention: Darryl Bogdasavich, Q.C.  
Facsimile No.: (306) 787-0581

- (e) to Her Majesty the Queen In Right of the Province of Manitoba:

Manitoba Justice  
Suite 730  
405 Broadway  
Winnipeg, Manitoba  
R3C 3L6

Attention: Director of Legal Services  
Facsimile No.: (204) 948-2041

- (f) to Her Majesty the Queen In Right of Ontario:

c/o Ministry of the Attorney General for Ontario  
Director, Crown Law Office Civil  
8th Floor, 720 Bay Street  
Toronto, Ontario  
M5G 2K1

Facsimile No.: (416) 326-4181

- (g) to Le Gouvernement du Québec:

c/o La Procureure Générale du Québec  
1, rue Notre-Dame est, 8<sup>e</sup> étage  
Montreal, Québec  
H2Y 1B6

Attention: Robert Monette  
Facsimile No.: (514) 873-7074

- (h) to Her Majesty the Queen In Right of the Province of New Brunswick:

c/o Department of Justice  
Legal Services Branch  
Room 444, Centennial Building  
670 King Street  
P. O. Box 6000  
Fredericton, New Brunswick  
E3B 5H1

Attention: William A. Anderson  
Facsimile No.: (506) 453-3275

- (i) to Her Majesty the Queen In Right of the Province of Nova Scotia:

Department of Health  
P. O. Box 488  
Halifax, Nova Scotia  
B3J 2R8

Attention: Deputy Minister of Health  
Facsimile No.: (902) 424-0559



- (j) to Her Majesty the Queen In Right of the Province of Prince Edward Island:

Department of Community Affairs and Attorney General  
P. O. Box 2000  
11 Kent Street, 1st Floor  
Charlottetown, Prince Edward Island  
C1A 7N8

Attention: Adele MacLeod  
Facsimile No.: (902) 368-4563

- (k) to Her Majesty the Queen In Right of the Province of Newfoundland:

Department of Justice  
Confederation Building  
P. O. Box 8700  
St. John's, Newfoundland  
A1B 4J6

Attention: Mrs. Lynn Spracklin, Q.C.  
Deputy Attorney General  
Facsimile No.: (709) 729-2129

- (l) to The Government of the Northwest Territories:

Government of the Northwest Territories  
Legislative Assembly (2)  
P. O. Box 1320  
Yellowknife, Northwest Territories  
X1A 2L9

Attention: The Honourable Floyd Roland  
Minister of Health and Social Services  
Facsimile No.: (867) 873-0399

- (m) to The Government of Nunavut:

Department of Justice  
Government of Nunavut  
P. O. Box 800  
Iqaluit, NT  
X0A 0H0

Attention: Nora Sanders  
Deputy Minister of Justice

Facsimile No.: (867) 979-5977

(n) to The Government of the Yukon Territory:

c/o Yukon Justice  
Legal Services, 2nd Floor  
Andrew Philipsen Law Centre  
2130 Second Avenue  
Whitehorse, Yukon  
Y1A 5C3

Attention: Director of Legal Services  
Facsimile No.: (867) 393-6379

(o) to Anita Endean:

c/o Camp Church & Associates  
4th Floor, Randall Building  
555 West George Street  
Vancouver, British Columbia  
V6B 1Z5

Attention: J.J. Camp, Q.C.  
Facsimile No.: (604) 689-7554

(p) to Martin Henry Griffen and Anna Kardish:

c/o Gignac, Sutts  
600 Westcourt Place  
251 Goyeau Street  
Windsor, Ontario  
N9A 6V4

Attention: Harvey T. Strosberg, Q.C.  
Facsimile No.: (519) 258-9527

(q) to Dominique Honhon:

c/o Pierre R. Lavigne  
220-440 Laurier Avenue, West  
Ottawa, Ontario  
K1R 7X6

Facsimile No.: (613) 782-2445

and to:

Marchand, Magnan, Melanson, Forget  
Ste. 1640  
600 rue de la Gauchetiere  
Montreal, Québec  
H3B 4L8

Attention: Michel Savonitto  
Facsimile No.: (514) 861-0727

(r) to Christopher Forrest Mitchell:

c/o Blake, Cassels & Graydon  
Three Bentall Centre, Suite 2600  
595 Burrard Street  
Vancouver, British Columbia  
V7X 1L3

Attention: Marvin R. V. Storrow  
Facsimile No.: (604) 631-3309

(s) to James Kreppner and Barry Isaac:

c/o Hodgson Tough Shields DesBrisay O'Donnell  
36 Toronto Street, Suite 550  
Toronto, Ontario  
M5C 2C5

Attention: Bonnie A. Tough  
Facsimile No.: (416) 304-6406

(t) to David Page:

c/o Petit Blaquièrre Dagenais  
5929, Transcanadienne, Suite 230  
Ville St-Laurent, Québec  
H4T 1Z6

Attention: Jean Blaquièrre  
Facsimile No.: (514) 744-8003

or to such other address, individual or electronic communication number as a Party may from time to time advise by notice given pursuant to this Section. Any notice or other communication will be exclusively deemed to have been given, if given by personal delivery,

on the day of actual delivery thereof and, if given by electronic communication, on the day of transmittal thereof if transmitted during normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not so transmitted.

### **11.02 Benefit of the Agreement**

This Agreement will enure to the benefit of and be binding upon the respective successors and assigns of the Parties.

### **11.03 Counterparts**

This Agreement may be executed in English or French in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same agreement.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement.

SIGNED, SEALED AND DELIVERED ) THE ATTORNEY GENERAL OF  
in the presence of: ) CANADA

)

)

)

)

) By: "Ivan G. Whitehall" \_\_\_\_\_

) Name: I. G. Whitehall, Q.C.

) Office: Chief General Counsel

)

)

) HER MAJESTY THE QUEEN IN THE

) RIGHT OF THE PROVINCE OF BRITISH

) COLUMBIA

)

)

) By: "Penny Priddy" \_\_\_\_\_

) Name: Honourable Penny Priddy, Minister of

) Office: Health and Minister Responsible for Seniors

)

)

) HER MAJESTY THE QUEEN IN THE

) RIGHT OF THE PROVINCE OF ALBERTA

)

)

) By: "Halvar Jonson" \_\_\_\_\_

) Name: H. C. Jonson

) Office: Minister of Health and Wellness

)

)

) And: "S. McClellan" \_\_\_\_\_

) Name: Hon. Shirley McClellan, Minister of  
) Office: International and Intergovernmental Affairs  
)

) HER MAJESTY THE QUEEN IN THE  
) RIGHT OF THE PROVINCE OF  
) SASKATCHEWAN  
)  
)

) By: "Pat Atkinson"  
) Name: Pat Atkinson  
) Office: Minister of Health  
)  
)

) HER MAJESTY THE QUEEN IN THE  
) RIGHT OF THE PROVINCE OF  
) MANITOBA  
)  
)

) By: "Eric Stefanson"  
) Name: Honourable Eric Stefanson  
) Office: Minister of Health  
)  
)

) HER MAJESTY THE QUEEN IN  
) RIGHT OF ONTARIO  
)  
)

) By: "Jeffrey C. Lozon"  
) Name: Jeffrey C. Lozon  
) Office: Deputy Minister of Health  
)  
)

) LE GOUVERNEMENT DU QUÉBEC  
)  
)

) By: "P. Marois"  
) Name: Pauline Marois  
) Office: Ministre d'État à la Santé et aux Services sociaux  
)  
)

) And: "J. Facal"  
) Name: Joseph Facal, Ministre délégué aux  
) Office: Affaires intergouvernementales canadiennes  
)  
)

) HER MAJESTY THE QUEEN IN THE  
) RIGHT OF THE PROVINCE OF NEW

) BRUNSWICK  
)  
)  
) By: “Ann Breault”  
) Name: Ann Breault  
) Office: Minister of Health and Community Services

) HER MAJESTY THE QUEEN IN THE  
) RIGHT OF THE PROVINCE OF NOVA  
) SCOTIA  
)  
)  
) By: “James A. Smith”  
) Name: Dr. James A. Smith  
) Office: Minister of Health

) HER MAJESTY THE QUEEN IN THE  
) RIGHT OF THE PROVINCE OF PRINCE  
) EDWARD ISLAND  
)  
)  
) By: “Mildred Dover”  
) Name: Mildred Dover  
) Office: Minister of Health and Social Services

) HER MAJESTY THE QUEEN IN THE  
) RIGHT OF THE PROVINCE OF  
) NEWFOUNDLAND  
)  
)  
)

Deborah E. Fry  
Deputy Minister

) By: “Joan Aylward”  
) Name: Joan Marie Aylward  
) Office: Minister of Health and Community Services

Tim Murphy  
Assistant Deputy Minister

) And: “Andrew F. Noseworthy”  
) Name: Andrew F. Noseworthy  
) Office: D. M. Intergovernmental Affairs  
)

) THE GOVERNMENT OF  
) THE NORTHWEST TERRITORIES  
)  
)  
) By: "Floyd K. Roland"  
) Name: Floyd K. Roland  
) Office: Minister of Health and Social Services  
)

) THE GOVERNMENT OF NUNAVUT  
)  
)  
) By: "Edward Picco"  
) Name: Edward Picco  
) Office: Minister of Health and Social Services  
)

) THE GOVERNMENT OF THE YUKON )  
TE  
RR  
IT  
OR  
Y

)  
)  
) By: "David Sloan"  
) Name: David Sloan  
) Office: Minister, Health and Social Services  
)  
)

"J. J. Camp"  
as to the signature of  
Anita Endean

) "Anita Endean"  
) Anita Endean  
)  
)

"Harvey T. Strosberg"  
as to the signature of  
Martin Henry Griffen

) "M. H. Griffen"  
) Martin Henry Griffen  
)  
)

"Harvey T. Strosberg"  
as to the signature of  
Anna Kardish

) "A. Kardish"  
) Anna Kardish  
)  
)

"Pierre R. Lavigne"  
as to the signature of  
Dominique Honhon

) "Dominique Honhon"  
) Dominique Honhon  
)  
)

<u>“David Gruber”</u>	)	)
as to the signature of	)	) <u>“Christopher Mitchell”</u>
Christopher Forrest Mitchell	)	Christopher Forrest Mitchell
	)	)
	)	)
	)	)
<u>“David Robins”</u>	)	) <u>“James Kreppner”</u>
as to the signature of	)	James Kreppner
James Kreppner	)	)
	)	)
	)	)
<u>“Elena Likhof”</u>	)	) <u>“Barry M. Isaac”</u>
as to the signature of	)	Barry Isaac
Barry Isaac	)	)
	)	)
	)	)
	)	)
<u>“David Robins”</u>	)	) <u>“David Page”</u>
as to the signature of	)	David Page
David Page	)	)



## TABLE OF CONTENTS

### ARTICLE ONE INTERPRETATION

1.01	Definitions	3
1.02	Headings	10
1.03	Extended Meanings	11
1.04	No Contra Proferentum	11
1.05	Statutory References	11
1.06	Day for any Action	11
1.07	Residence	11
1.08	Currency	12

### ARTICLE TWO PURPOSES AND EFFECT OF AGREEMENT

2.01	Purpose	12
2.02	Binding Effect	13

### ARTICLE THREE SETTLEMENT AMOUNT

3.01	Settlement Amount	13
3.02	Canadian Income Taxes	13
3.03	No Additional Liability	13

### ARTICLE FOUR CONTRIBUTION AMOUNT

4.01	Liability to Pay	14
4.02	Payment	14
4.03	Contribution Account	15
4.04	Calculation and Notice of Payments	15
4.05	No Additional Liability	15

### ARTICLE FIVE SETTLEMENT OF TRUST

5.01	Settlement of the Trust	16
5.02	Nature of the Trust	16
5.03	Legal Entitlements	16

ARTICLE SIX  
DISBURSEMENTS

6.01	Monthly Payments for Plans .....	17
6.02	Monthly Payments for Program .....	17
6.03	Payments for Actions and Settlements .....	17
6.04	Payments to Class Action Counsel .....	18
6.05	Payments for Administration Costs .....	18

ARTICLE SEVEN  
INVESTMENTS

7.01	Investment .....	18
------	------------------	----

ARTICLE EIGHT  
INCOME AND CAPITAL

8.01	Disbursements .....	19
8.02	Additions to Capital .....	19
8.03	Tax Elections .....	19

ARTICLE NINE  
RECORDS, REPORTING AND FINANCIAL STATEMENTS

9.01	Records .....	19
9.02	Quarterly Reporting .....	20
9.03	Annual Reporting .....	20

ARTICLE TEN  
AMENDMENT AND TERMINATION

10.01	Amendment .....	20
10.02	Termination .....	20

ARTICLE ELEVEN  
GENERAL

11.01	Notices .....	22
11.02	Benefit of the Agreement .....	28
11.03	Counterparts .....	28