

## SCHEDULE N – ELIGIBILITY REQUIREMENTS

### **Who is eligible to participate in the Settlement Class?**

If you received a Durom Acetabular Component (“Durom Cup”) in Canada, then you are eligible to participate in the settlement.

The compensation that you are eligible to receive as a member of the settlement class will be determined based on your status on September 1, 2015. This is referred to as the “Eligibility Deadline.” You are required to submit your claim and the documentation required elsewhere in this Settlement Agreement on or before *[insert claims deadline date]*. This is referred to as the “Claims Deadline.”

### **How is eligibility determined?**

In order to participate, you must provide Product Identification that confirms the reference number (sometimes referred to as “catalogue number”) and lot number of the device that was implanted, in addition to other documents required by the Settlement Agreement. Product Identification confirms that you were implanted with a Durom Cup. Product Identification can be found on the peel-and-stick label (the “Label”) from the Durom Cup that should be affixed to the medical record from your implant surgery (sometimes called the implant operative report). You can obtain your implant surgery medical record from the hospital where your implant surgery occurred or from your physician. To be eligible for settlement, the reference/catalogue number on the Label must be one of the following:

01.00214.044  
01.00214.046  
01.00214.048  
01.00214.050  
01.00214.052  
01.00214.054  
01.00214.056  
01.00214.058  
01.00214.060  
01.00214.062  
01.00214.064  
01.00214.066

The image below is an *example* of Product Identification. Please note that not all product labels are identical to the example provided below, but they are all similar to it. This example is provided to help you identify the location of the reference and lot numbers of your device so that you can confirm that you are eligible for settlement.

<b>REF</b> 01.00214.050	EDI: 0100214050	
<b>LOT</b> 2420836	 2013-03 Qty: 001	
Metasul® Durom® Acetabular Component uncemented 50/ ø44 Code J		
CoCrMo (Protasul®-21WF) ISO 5832-12		
C.P. Titanium (Protasul®-Ti) ISO 5832-2		
		
*+R84401002140501/13090242083606F*		25955v02 - LB1v02
Zimmer GmbH, CH-8404 Winterthur, Switzerland / www.zimmer.com		

If, and only if, you are unable to obtain the Label because the implant surgery hospital could not locate it in your hospital medical records, then you may provide the following to prove that you received a Durom Cup:

- a. If the Durom Cup has been explanted from your body and it still exists, you must provide (1) a color photograph of the Durom Cup that shows the identification numbers on the edge of the Durom Cup, and (2) a Physician Declaration confirming that you were implanted with a Durom Cup and the date of the implantation;

OR

- b. If you cannot obtain a photograph because your Durom Cup is not within your possession, custody, or control, you must provide (1) a copy of your implant surgery operative report from the hospital where you were implanted, in which your surgeon confirms that you were implanted with a Durom Cup, and (2) a Physician Declaration confirming that you were implanted with a Durom Cup and the date of implantation.

**Important Note:** Failure to provide Product Identification in the manner stated above by the Claims Deadline insert date will render you ineligible to recover under this Settlement Agreement.

**When will my status under the Settlement Agreement be determined? What if I have scheduled a revision surgery, but the revision surgery will not occur before the Eligibility Deadline?**

The Eligibility Deadline is an absolute deadline unless, as of the Eligibility Deadline, you have a Scheduled Revision Surgery. A “Scheduled Revision Surgery” means that you have selected and confirmed a date with a surgeon on which you will undergo a surgery to remove the Durom Cup that was implanted in your hip (referred to as a “Revision Surgery”), but that date will occur after

the Eligibility Deadline. Note that a Scheduled Revision Surgery refers only to a surgery to remove the Durom Cup, and does not include revision surgeries performed for other reasons.

If you have a Scheduled Revision Surgery as of the Eligibility Deadline, then the determination of the compensation owed to you will be postponed until the Scheduled Revision Surgery occurs, provided that you submit a Physician Declaration by the Claims Deadline that confirms:

- a. That the physician signing the declaration determined that a revision surgery is required;
- b. The date on which your need for a Revision Surgery was diagnosed; and
- c. The date on which your revision surgery took place.

No compensation will be provided to you unless and until the revision surgery occurs.

### **What if I decide not to have a Scheduled Revision Surgery?**

If the surgery is cancelled and not rescheduled because you have decided not to have the Scheduled Revision Surgery, you may receive compensation under the Settlement Agreement as an unrevised claimant. In that case, you will submit a Claimant Declaration on or before the Claims Deadline denoting that you are unrevised, and any compensation to which you are entitled will be determined accordingly.

### **What if I must cancel a Scheduled Revision Surgery because I am medically unable to proceed?**

If the Scheduled Revision Surgery cannot occur due to a realistic medical risk to your life or health, as defined elsewhere in the Settlement Agreement, you may receive compensation under the Settlement Agreement as an unrevised claimant for whom revision is medically precluded. In that case, you will submit the appropriate documentation that reflects this status (as defined in the Settlement Agreement) on or before the Claims Deadline and your compensation will be determined accordingly.

**Important note:** The Eligibility Deadline is an absolute deadline for the determination of compensable injuries in all cases except for those individuals who have a properly documented Scheduled Revision Surgery. No other exceptions will be made.

### **Can the Claims Deadline be extended for any reason?**

No, the Claims Deadline is an absolute deadline for which there are no exceptions.