

**MAREMONT ASBESTOS PERSONAL INJURY TRUST**  
**DISTRIBUTION PROCEDURES**

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TRUST DISTRIBUTION PROCEDURES**

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## **MAREMONT ASBESTOS PERSONAL INJURY TRUST DISTRIBUTION PROCEDURES**

The Maremont Asbestos Personal Injury Trust Distribution Procedures (the “**TDP**”) contained herein provide for resolving all Asbestos Personal Injury Claims (“**Asbestos Claims**”) as defined in the Modified Joint Prepackaged Plan of Reorganization of Maremont Corporation and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code, dated as of May 14, 2019 (as it may be amended or modified, the “**Plan**”),<sup>1</sup> as provided in and required by the Plan and the Maremont Personal Injury Trust Agreement (the “**Trust Agreement**”). The Plan and the Trust Agreement establish the Maremont Asbestos Personal Injury Trust (the “**Asbestos Trust**”). The trustee of the Asbestos Trust (the “**Trustee**”) shall implement and administer this TDP in accordance with the Trust Agreement.

### **ARTICLE 1**

#### **INTRODUCTION**

**1.1 Purpose.** This TDP has been adopted pursuant to the Trust Agreement. It is designed to provide fair, equitable and substantially similar treatment for all similarly situated Asbestos Claims that may presently exist or may arise in the future.

**1.2 Interpretation.** Except as may otherwise be provided below, nothing in this TDP shall be deemed to create a substantive right for any claimant. The rights and benefits provided herein, if any, to holders of Asbestos Claims shall vest in such holders as of the Effective Date.

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<sup>1</sup> Capitalized terms used herein and not otherwise defined shall have the meanings assigned to them in the Plan and, as applicable, the Trust Agreement.

## **ARTICLE 2**

### **OVERVIEW**

**2.1 Asbestos Trust Goals.** The goal of the Asbestos Trust is to treat all similarly situated claimants equitably and in accordance with the requirements of Section 524(g) of the Bankruptcy Code. This TDP furthers that goal by setting forth procedures for processing and paying the Debtors' several shares of the unpaid portion of the liquidated value of Asbestos Claims, with the intention of paying all claimants over time as equivalent a share as possible of the value of their claims based on historical values for substantially similar claims in the tort system. To this end, the TDP establishes five (5) asbestos-related diseases ("**Disease Levels**") which have presumptive medical and exposure requirements ("**Medical/Exposure Criteria**") and specific liquidated values ("**Scheduled Values**") and one of which has a liquidated value for those claims that qualify as an Extraordinary Claim as defined in Section 5.4 below ("**Maximum Value**").

The Disease Levels, Medical/Exposure Criteria, Scheduled Values and Maximum Value, which are set forth in Sections 5.3 and 5.4 below, have all been selected and derived with the intention of achieving a fair allocation of the Asbestos Trust assets as among claimants suffering from these different Disease Levels in light of the best available information considering the settlement history of the Debtors and the rights claimants would have in the tort system absent the bankruptcy. Except as set forth in Section 5.11 hereof, a claimant may not assert more than one Asbestos Claim hereunder.

Historically, Debtors Maremont and MEP have been subjected to thousands of personal injury and wrongful death claims asserting that they are liable for damages caused by exposure to asbestos-containing products that Maremont or its predecessor(s)-in-interest and certain

successor-in-interest allegedly used, sold, manufactured, marketed, produced or distributed. Maremont manufactured, distributed, and sold aftermarket automotive products, including friction products such as brake linings, disc pads, and clutch facings, and aftermarket mufflers. As defined in the Plan, the “**Debtor Product Lines**” includes, among other products, all asbestos-containing products historically manufactured, sold, or distributed by, or branded with the name of or under a license granted by (a) any of the Debtors or any predecessor thereof or any subsidiary of any of the foregoing and/or (b) Nuturn Corporation or Ferodo America, Inc. as successors-in-interest to Maremont’s Friction Products Business with respect to all of the Debtors’ business lines.

Because of the nature of certain of the Debtor Products Lines, the vast majority of asbestos-related claims asserted against Maremont and MEP were asserted by (1) professional auto mechanics who were allegedly exposed to the Debtor Product Lines while working as professional mechanics in the automotive industry (“**Occupationally Exposed Claims**”); or (2) individual auto enthusiasts who worked on maintenance and upgrades to automobiles at home (“**Shade Tree Mechanic Claims**”). Because of the nature of the claims pool and the limited resources of the Asbestos Trust, this TDP only provides for the payment by the Asbestos Trust of Asbestos Claims based on certain diseases. The Trustee shall supervise the review of filed Asbestos Claims with the goal of approving only those Asbestos Claims that provide evidence of the type of exposure that was required by Maremont for settlement of claims in the tort system. To that end, the claim forms will contain objective criteria to qualify for payment. For example, such forms will require detailed employment history with years of service and the Asbestos Trust may make reasonable inquiries of claimants and/or co-workers, friends and relatives as to the

nature and extent of a claimant's exposure to the Debtor Product Lines. Affidavit guidelines will also be developed by the Asbestos Trust to be used by Shade Tree Mechanic Claims.

**2.2 Claims Liquidation Procedures.** Except as set forth below with respect to Disease Level V Claims, Asbestos Claims shall be processed based on their place in the FIFO Processing Queue (as defined in Section 5.1(a)(1)) to be established pursuant to Section 5.1(a)(1) below. The Asbestos Trust shall take all reasonable steps to resolve Asbestos Claims as efficiently and expeditiously as possible at each stage of claims processing and arbitration, which steps may include, in the Asbestos Trust's sole discretion, conducting settlement discussions with claimants' representatives with respect to more than one claim at a time, provided that the claimants' respective positions in the FIFO Processing Queue are maintained and each claim is individually evaluated pursuant to the valuation factors set forth herein. The Asbestos Trust shall also make every reasonable effort to resolve each year at least that number of Asbestos Claims required to exhaust the applicable Maximum Annual Payments (as that term is defined in Section 2.4 below).

The Asbestos Trust shall, except as otherwise provided below, liquidate all Asbestos Claims under the Expedited Review Process described in Section 5.3(a) below. Based upon the Debtors' claims settlement history, applicable tort law, and current projections of present and future unliquidated claims, the Scheduled Values for all Disease Levels have been established as set forth in Section 5.3(a)(3).

A Disease Level V (Mesothelioma 2) claim seeking to qualify as an Extraordinary Claim (as defined in Section 5.4(a)) and all Foreign Claims (as defined in Section 5.3(b)) may be liquidated only pursuant to the IR Process (as defined in Section 5.3(b)(1)).



All unresolved disputes over a claimant's medical condition or exposure history shall be subject to binding or non-binding arbitration as set forth in Section 5.9 below, at the election of the claimant, under the ADR Procedures (as defined in Section 5.9(a)) that are to be established by the Asbestos Trust. Asbestos Claims that are the subject of a dispute with the Asbestos Trust that cannot be resolved by non-binding arbitration may enter the tort system as provided in Sections 5.10 and 7.6 below. However, if and when a claimant obtains a judgment in the tort system, the judgment shall be payable as provided in Section 7.7 below (subject to, as applicable, the Payment Percentage (as defined in Section 4.1 below), and the Maximum Annual Payments, Maximum Available Payment and Claims Payment Ratio provisions set forth in Sections 2.4 and 2.5 herein).

**2.3 Establishment and Application of the Payment Percentage.** The initial Payment Percentage (the "**Initial Payment Percentage**") shall be 29.1%.<sup>2</sup> The Payment Percentage may thereafter be adjusted upwards or downwards from time to time by the Asbestos Trust, with the consent of the Trust Advisory Committee ("**TAC**") and the Legal Representative for Future Claims ("**FCR**"). After the Distribution Value as defined in Section 2.4 below for a Shade Tree Mechanic Claim or the liquidated value of an Occupationally Exposed Claim as defined in Section 5.3(a)(3) below is determined pursuant to the procedures set forth herein under the Expedited Review Process, IR Process, arbitration, or litigation in the tort system, the claimant shall ultimately receive a pro rata share of that value based on a Payment Percentage described in Section 4.2 below. The Payment Percentage shall also apply to all sequencing adjustments paid pursuant to Section 7.5 below.

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<sup>2</sup> The current initial payment percentage assumes initial funding of not less than \$58 million. Should the initial funding be between \$58 million and \$65 million, the initial payment percentage will increase proportionately. To the extent the Asbestos Trust is funded with less than \$58 million or more than \$65 million the initial payment percentage may be adjusted.

The Payment Percentage may be adjusted upwards or downwards after a two (2) year re-evaluation period by the Asbestos Trust with the consent of the TAC and the FCR to reflect then-current estimates of the Asbestos Trust's assets and its liabilities, as well as the then-estimated value of then-pending and future claims. If the Payment Percentage is increased over time, claimants whose claims were liquidated and paid in prior periods under the TDP shall receive additional payments only as provided in Section 4.3 below. Because there is uncertainty in the prediction of both the number and severity of future Asbestos Claims, and the amount of the Asbestos Trust's assets, no guarantee can be made of any Payment Percentage of an Asbestos Claim's liquidated value.

**2.4 Asbestos Trust's Determination of the Maximum Annual Payment.** After calculating the Payment Percentage, the Asbestos Trust shall create two models of cash flow, principal and income year-by-year to be paid over its entire life to ensure that all present and future holders of Occupationally Exposed Claims ("**Occupational Model**") and Shade Tree Mechanic Claims ("**Shade Tree Model**") (collectively, "**Models**") are compensated at the Payment Percentage. In each year, based upon the Occupational Model of cash flow, the Asbestos Trust shall be empowered to pay out the portion of its funds payable for that year to Occupationally Exposed Claims according to the Occupational Model (the "**Occupational Maximum Annual Payment**"). In each year, based upon the Shade Tree Model of cash flow, the Asbestos Trust shall be empowered to pay out the portion of its funds payable for that year to Shade Tree Mechanic Claims according to the Shade Tree Model (the "**Shade Tree Maximum Annual Payments**") and together with the Occupational Maximum Annual Payments, the "**Maximum Annual Payments**"). The Asbestos Trust's distributions to Occupationally Exposed Claims and Shade Tree Mechanic Claims for that year shall not exceed the applicable Maximum

Annual Payment. All approved Shade Tree Mechanic Claims shall be paid at the end of each year and shall be paid the lesser of the pro rata share of the Shade Tree Maximum Annual Payment or the liquidated values established by the Asbestos Trust, subject to the Payment Percentage (“**Distribution Value**”). The Payment Percentage and the Maximum Annual Payments are based on projections over the lifetime of the Asbestos Trust. If such long-term projections are revised, the Payment Percentage may be adjusted accordingly, which will result in new Models of the Asbestos Trust’s anticipated cash flow and a new calculation of the Occupational Maximum Annual Payment and the Shade Tree Maximum Annual Payment.

Year-to-year variations in the Asbestos Trust’s flow of claims or the value of its assets, including earnings thereon, will not mean necessarily that the long-term projections are inaccurate; they may simply reflect normal variations, both up and down, from the smooth curve created by the Asbestos Trust’s long-term projections. If, in a given year, however, asset values, including earnings thereon, are below projections, the Asbestos Trust may need to distribute less in that year than would otherwise be permitted based on the applicable Maximum Annual Payments derived from long-term projections. Accordingly, the applicable Maximum Annual Payments for a given year may be temporarily decreased if the present value of the assets of the Asbestos Trust as measured on a specified date during the year is less than the present value of the assets of the Asbestos Trust projected for that date by the Models described in the foregoing paragraph. The Asbestos Trust shall make such a comparison whenever the Trustee becomes aware of any information that suggests that such a comparison should be made. If the Asbestos Trust determines that as of the date in question, the present value of the Asbestos Trust’s assets is less than the projected present value of its assets for such date, then it will remodel the cash flow year-by-year to be paid over the life of the Asbestos Trust based upon the reduced value of the

total assets as so calculated and identify the reduced portion of its funds to be paid for that year, which will become the “**Temporary Maximum Annual Payments**” (additional reductions in the Maximum Annual Payments can occur during the course of that year based upon subsequent calculations). If in any year the Maximum Annual Payments were temporarily reduced as a result of an earlier calculation and, based upon a later calculation, the difference between the projected present value of the Asbestos Trust’s assets and the actual present value of its assets has decreased, the Temporary Maximum Annual Payments shall be increased to reflect the decrease in the differential. In no event, however, shall the Temporary Maximum Annual Payments exceed the original Maximum Annual Payments. As a further safeguard, the Asbestos Trust’s distribution to Occupationally Exposed Claims for the first nine months of a year shall not exceed 85% of the Occupational Maximum Annual Payment determined for that year. To the extent the Occupational Maximum Annual Payment is reached in a given year, the Asbestos Trust may continue processing such claims, but shall delay issuing offers or releases until January 1 of the next year. If on December 31 of a given year, the original Maximum Annual Payments for such year is not in effect, the original Maximum Annual Payments for the following year shall be reduced proportionately.

The remaining portion of the Occupational Maximum Annual Payment (the “**Maximum Available Payment**”) shall be allocated and used to satisfy all previously liquidated Occupationally Exposed Claims subject to the Claims Payment Ratio set forth in Section 2.5 below; provided, however, that if the Occupational Maximum Annual Payment is reduced during a year pursuant to the provisions above, the Maximum Available Payment shall be adjusted accordingly. The Occupational Maximum Annual Payment shall apply to offers on all Occupationally Exposed Claims.

**2.5 Claims Payment Ratio.** A Claims Payment Ratio has been determined which, as of the Effective Date, has been set at 90% for Category A claims, which consist of Asbestos Claims involving Disease Level IV) and at 10% for Category B claims, which are Asbestos Claims involving Disease Levels I-III. In each year, after the determination of the Occupational Maximum Available Payment described in Section 2.4 above, 90% of that amount shall be available to pay Category A claims and 10% shall be available to pay Category B claims that have been liquidated since the Effective Date; provided, however, that if the Occupational Maximum Annual Payment is reduced during the year pursuant to Section 2.4 above, the amounts available to pay Category A and Category B claims shall be recalculated based on the adjusted Occupational Maximum Available Payment. In the event there are insufficient funds in any year to pay the liquidated claims within either or both of the Categories, the available funds allocated to the particular Category shall be paid to the maximum extent to claimants in that Category based on their place in the FIFO Payment Queue described in Section 5.1(b) below. Claims for which there are insufficient funds allocated to the relevant Category shall be carried over to the next year where they shall be placed at the head of the FIFO Payment Queue. If there is a decrease in the Payment Percentage prior to the payment of such claims, such claims shall nevertheless be entitled to be paid at the Payment Percentage that they would have been entitled to receive but for the application of the Claims Payment Ratio. If, at the end of any calendar year during the first three years the Asbestos Trust is accepting claims, there are excess funds in Category A, because there is an insufficient amount of liquidated claims to exhaust the respective Maximum Available Payment amount for that Category, then the excess funds for that Category shall be rolled over and remain dedicated to Category A. Notwithstanding any other provision herein, if, at the end of any calendar year following the third anniversary of the date

the Asbestos Trust began accepting claims, there are excess funds available in Category B and insufficient funds in Category A to pay such Category's claims, then the Trustee may transfer up to a specified amount of excess funds (the "**Permitted Transfer Amount**" as defined below) to Category A to cover the shortfall; provided, however, that the Trustee shall never transfer more than the amount of the Category A shortfall. The "Permitted Transfer Amount" shall be determined as follows: (a) the Trustee shall first determine the cumulative amount allocated to Category B based on the Claims Payment Ratio since the date the Asbestos Trust last calculated its Payment Percentage; (b) the Trustee shall then determine the cumulative amount that the Asbestos Trust estimated would be paid to Category B since the date the Asbestos Trust last calculated its Payment Percentage; (c) the Trustee shall then subtract the amount determined in (b) from the amount determined in (a), and the difference between the two shall be referred to as the "Permitted Transfer Amount." The Trustee shall provide the TAC and the FCR with the Permitted Transfer Amount calculation thirty (30) days prior to making a transfer. If, at the end of any calendar year following the third anniversary of the date the Asbestos Trust began accepting claims, there are excess funds in either or both Categories because there is an insufficient amount of liquidated claims to exhaust the respective Maximum Available Payment amount for that Category, or, in a year where there was a transfer from Category B to Category A, if the amount transferred was less than the amount of excess funds, then the excess funds for the Category or Categories with excess funds shall be rolled over and remain dedicated to the respective Category to which they were originally allocated.

During the first nine months of a given year, the Asbestos Trust's payments to claimants in either Category shall not exceed the amount of any excess funds that were rolled over for such

Category from the prior year plus 85% of the amount that would otherwise be available for payment to claimants in such Category.

In considering whether to make any amendments to the Claims Payment Ratio and/or its rollover provisions, the Trustee shall consider the reasons for which the Claims Payment Ratio and its rollover provisions were adopted, the settlement history that gave rise to its calculation, and the foreseeability or lack of foreseeability of the reasons why there would be any need to make an amendment. In that regard, the Trustee should keep in mind the interplay between the Payment Percentage and the Claims Payment Ratio as it affects the net cash actually paid to claimants.

No amendment to the Claims Payment Ratio may be made without the consent of the TAC members and the FCR as set forth in the Trust Agreement and Article 3 below. The consent process set forth in Sections 5.7(b) and 6.6(b) of the Trust Agreement shall apply in the event of any amendments to the Claims Payment Ratio. The Trustee, with the consent of the TAC and the FCR, may offer the option of a reduced Payment Percentage to holders of claims in either Category A or Category B in return for prompter payment (the “**Reduced Payment Option**”).

**2.6 Indirect Asbestos Personal Injury Claims.** As set forth in Section 5.6 below, any Indirect Asbestos Personal Injury Claim shall be subject to the same categorization, evaluation, and payment provisions of this TDP as all other Asbestos Claims.

### **ARTICLE 3**

#### **TDP ADMINISTRATION**

**3.1 Trust Advisory Committee and Future Claimants’ Representative.** Pursuant to the Plan and the Trust Agreement, the Asbestos Trust and this TDP shall be administered by the Trustee in consultation with the TAC, which represents the interests of holders of present

Asbestos Claims, and the FCR, who represents the interests of holders of Asbestos Claims that will be asserted in the future. The duties of the TAC and FCR with respect to the Asbestos Trust are set forth in the Trust Agreement. The Trustee shall obtain the consent of the TAC and the FCR on any amendments to this TDP pursuant to Section 9.1 below, and on such other matters as are otherwise required below and in Section 2.2(f) of the Trust Agreement. The Trustee shall also consult with the TAC and the FCR on such matters as are provided below and in Section 2.2(e) of the Trust Agreement. The initial Trustee, the initial members of the TAC and the initial FCR are identified in the Trust Agreement.

**3.2 Consent and Consultation Procedures.** In those circumstances in which consultation or consent is required, the Trustee shall provide written notice to the TAC and the FCR of the specific amendment or other action that is proposed. The Trustee shall not implement such amendment nor take such action unless and until the parties have engaged in the Consultation Process described in Sections 5.7(a) and 6.6(a), or the Consent Process described in Sections 5.7(b) and 6.6(b), of the Trust Agreement, respectively.

#### **ARTICLE 4**

##### **PAYMENT PERCENTAGE: PERIODIC ESTIMATES**

**4.1 Uncertainty of Debtors' Personal Injury Asbestos Liabilities.** As discussed above, there is inherent uncertainty regarding the Debtors' total asbestos-related tort liabilities, as well as the total value of the assets available to the Asbestos Trust to pay Asbestos Claims. Consequently, there is inherent uncertainty regarding the amounts that holders of Asbestos Claims will receive. To seek to ensure substantially equivalent treatment of all present and future Asbestos Claims, the Trustee must determine from time to time the percentage of full liquidated



value that holders of present and future Asbestos Claims shall be likely to receive, *i.e.*, the **“Payment Percentage”** described in Section 2.3 above and Section 4.2 below.

**4.2 Computation of Payment Percentage.** As provided in Section 2.3 above, the Payment Percentage shall be established by the Trustee with the consent of the TAC and the FCR, and shall apply to all Asbestos Claims.

The Payment Percentage shall be subject to change pursuant to the terms of this TDP and the Trust Agreement if the Trustee with the consent of the TAC and FCR determines that an adjustment is required. No less frequently than once every two (2) years, commencing with the first day of January occurring after the Effective Date, the Trustee shall reconsider the then-applicable Payment Percentage to assure that it is based on accurate, current information and may, after such reconsideration, change the Payment Percentage, if necessary, with the consent of the TAC and the FCR. The Trustee shall also reconsider the then-applicable Payment Percentage at shorter intervals if he or she deems such reconsideration to be appropriate or if requested to do so by the TAC or the FCR. In any event, no less frequently than once every twelve (12) months commencing on the date that the Asbestos Trust first makes available the proof of claim forms and other claims materials required to file a claim with the Asbestos Trust (the six-month anniversary of the date the Asbestos Trust first makes available the proof of claim form and other claims materials required to file a claim being referred to herein as the **“Initial Claims Filing Date”**), the Trustee shall compare the liability forecast on which the then applicable Payment Percentage is based with the actual claims filing and payment experience of the Asbestos Trust to date. If the results of the comparison call into question the ability of the Asbestos Trust to continue to rely upon the current liability forecast, the Trustee shall undertake a reconsideration of the Payment Percentage.

The Trustee must base his or her determination of the Payment Percentage on current estimates of the number, types, and values of present and future Asbestos Claims, the value of the assets then available to the Asbestos Trust for their payment, all anticipated administrative and legal expenses, and any other material matters that are reasonably likely to affect the sufficiency of funds to pay a comparable percentage of full value to all holders of Asbestos Claims. When making these determinations, the Trustee shall exercise common sense and flexibly evaluate all relevant factors.

**4.3 Applicability of the Payment Percentage.** Except as otherwise provided (a) in Section 5.1(b) below for Asbestos Claims involving deceased or incompetent claimants for which approval of the Asbestos Trust's offer by a court or through a probate process is required, (b) in the paragraph below with respect to Released Claims, and (c) in Section 2.5 above with respect to Asbestos Claims whose payment is delayed as a result of the Claims Payment Ratio, no holder of any other Asbestos Claim shall receive a payment that exceeds the liquidated value of the claim times the Payment Percentage in effect at the time of payment; provided, however, that if there is a reduction in the Payment Percentage, the Trustee, in his or her sole discretion, may cause the Asbestos Trust to pay an Asbestos Claim based on the Payment Percentage that was in effect prior to the reduction if such Asbestos Claim was filed and actionable with the Asbestos Trust ninety (90) days or more prior to the date the Trustee proposed the new Payment Percentage in writing to the TAC and the FCR (the "**Proposal Date**") and the processing of such claim was unreasonably delayed due to circumstances beyond the control of the claimant or the claimant's counsel, but only if such claim had no deficiencies for the ninety (90) days prior to the Proposal Date.

If a redetermination of the Payment Percentage has been proposed in writing by the Trustee to the TAC and the FCR but has not yet been adopted, the claimant shall receive the lower of the current Payment Percentage or the proposed Payment Percentage. However, if the proposed Payment Percentage was the lower amount but was not subsequently adopted, the claimant shall thereafter receive the difference between the lower proposed amount and the higher current amount. Conversely, if the proposed Payment Percentage was the higher amount and was subsequently adopted, the claimant shall thereafter receive the difference between the lower current amount and the higher adopted amount.

Notwithstanding anything contained herein, if the proposed Payment Percentage is lower than the current Payment Percentage, a claimant whose Asbestos Claim was liquidated prior to the Proposal Date and who either (a) transmitted<sup>3</sup> an executed release to the Asbestos Trust prior to the Proposal Date or (b) with respect to those claimants who had received releases fewer than thirty (30) days prior to the Proposal Date, transmitted an executed release to the Asbestos Trust within thirty (30) days of the claimant's receipt of the release (the claims described in (a) and (b) are collectively referred to herein as the "**Released Claims**") shall be paid based on the current Payment Percentage (the "**Released Claims Payment Percentage**"). For purposes hereof, (a) a claimant represented by counsel shall be deemed to have received a release on the date that the claimant's counsel receives the release, (b) if the Asbestos Trust transmits a release electronically, the release shall be deemed to have been received on the date the Asbestos Trust transmits the offer notification, and (c) if the Asbestos Trust places the release in the U.S. mail, postage prepaid, the release shall be deemed to have been received three (3) business days after such mailing date. A delay in the payment of the Released Claims for any reason, including

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<sup>3</sup> For purposes of this sentence, "transmitted" is defined as the date/time postmarked if submitted by mail or the date/time uploaded if submitted electronically.

delays resulting from limitations on payment amounts in a given year pursuant to Section 2.4 or Section 2.5 hereof, shall not affect the rights of the holders of the Released Claims to be paid based on the Released Claims Payment Percentage.

At least thirty (30) days prior to proposing in writing to the TAC and the FCR a change in the Payment Percentage, the Trustee shall issue a written notice to claimants or claimants' counsel indicating that the Trustee is reconsidering such Payment Percentage.

If the Trustee, with the consent of the TAC and the FCR, makes a determination to increase the Payment Percentage, the Trustee shall make supplemental payments to all claimants who previously liquidated their claims against the Asbestos Trust and received payments based on a lower Payment Percentage. The amount of any such supplemental payment for Occupationally Exposed Claims shall be, the liquidated value of the claim in question, times the newly adjusted Payment Percentage, less all amounts previously paid to the claimant with respect to the claim (excluding the portion of such previously paid amounts that was attributable to any sequencing adjustment paid pursuant to Section 7.5 below). The amount of any such supplemental payment for Shade Tree Mechanic Claims shall be the Distribution Value, times the newly adjusted Payment Percentage, less all amounts previously paid to the claimant with respect to the claim (excluding the portion of such previously paid amounts that was attributable to any sequencing adjustment paid pursuant to Section 7.5 below).

The Trustee's obligation to make a supplemental payment to a claimant shall be suspended in the event the payment in question would be less than \$250, and the amount of the suspended payment shall be added to the amount of any prior supplemental payment/payments that was/were also suspended because it/they would have been less than \$250. However, the

Trustee's obligation shall resume and the Trustee shall pay any such aggregate supplemental payments due the claimant at such time that the total exceeds \$250.

## **ARTICLE 5**

### **RESOLUTION OF ASBESTOS CLAIMS**

#### **5.1 Ordering, Processing and Payment of Asbestos Claims.**

##### **5.1(a) Ordering of Claims.**

**5.1(a)(1) Establishment of the FIFO Processing Queue.** The Asbestos Trust shall order claims that are sufficiently complete to be reviewed for processing purposes on a FIFO basis except as otherwise provided herein (the "**FIFO Processing Queue**"). The claimant's position in the FIFO Processing Queue shall be determined by the date the claim is filed with the Asbestos Trust. If any claims are filed on the same date, the claimant's position in the FIFO Processing Queue shall be determined by the date of the diagnosis of the asbestos-related disease for which the claim was filed. If any claims are filed and diagnosed on the same date, the claimant's position in the FIFO Processing Queue shall be determined by the claimant's date of birth, with older claimants given priority over younger claimants.

**5.1(a)(2) Effect of Statutes of Limitation and Repose.** All unliquidated Asbestos Claims must meet either (i) for claims first filed in the tort system against a Debtor prior to the Petition Date, the applicable federal or state statute of limitation and repose that was in effect at the time of the filing of the claim in the tort system, or (ii) for claims not filed against a Debtor in the tort system prior to the Petition Date, the applicable federal or state statute of limitation that was in effect at the time of the filing with the Asbestos Trust. However, the running of the relevant statute of limitation shall be tolled as of the earliest of (A) the actual filing of the claim against a Debtor prior to the Petition Date, whether in the tort system or by

submission of the claim to a Debtor pursuant to an administrative settlement agreement; (B) the tolling of the claim against a Debtor prior to the Petition Date by an agreement or otherwise, provided such tolling is still in effect on the Petition Date; or (C) the Petition Date.

If an Asbestos Claim meets any of the tolling provisions described in the preceding sentence and the claim was not barred by the applicable federal or state statute of limitation at the time of the tolling event, it shall be treated as timely filed if it is actually filed with the Asbestos Trust within three (3) years after the Initial Claims Filing Date, or within three (3) years after the date of the diagnosis of the disease for which the claim is filed, whichever occurs later. In addition, any Asbestos Claims that were first diagnosed after the Petition Date, irrespective of the application of any relevant federal or state statute of limitation or repose, may be filed with the Asbestos Trust within three (3) years after the date of diagnosis or within three (3) years after the Initial Claims Filing Date, whichever occurs later. However, the processing of any Asbestos Claim by the Asbestos Trust may be deferred at the election of the claimant pursuant to Section 6.3 below.

**5.1(b) Payment of Claims.** Occupationally Exposed Claims that have been liquidated by the Expedited Review Process as provided in Section 5.3(a)(1) below, by arbitration as provided in Section 5.9 below, or by litigation in the tort system provided in Section 5.10 below, shall be paid in FIFO order based on the date their liquidation became final (the “**FIFO Payment Queue**”), all such payments being subject to the applicable Payment Percentage, the Occupational Maximum Annual Payment, the Claims Payment Ratio and the sequencing adjustment provided for in Section 7.5 below.

All Shade Tree Mechanic Claims that have been liquidated by the Expedited Review Process as provided in Section 5.3(a)(1) below, the IR Process as provided in Section 5.3(b)

below, by arbitration as provided in Section 5.9 below, or by litigation in the tort system provided in Section 5.10 below, shall be paid at the end of each year and shall be paid the Distribution Value, all such payments being subject to the Payment Percentage, the Shade Tree Maximum Annual Payment provisions above, and the sequencing adjustment provided for in Section 7.5 below.

Where the claimant is deceased or incompetent, and the settlement and payment of his or her claim must be approved by a court of competent jurisdiction or through a probate process prior to acceptance of the claim by the claimant's representative, an offer made by the Asbestos Trust on the claim shall remain open so long as proceedings before that court or in that probate process remain pending, provided that the Asbestos Trust has been furnished with evidence that the settlement offer has been submitted to such court or in the probate process for approval. If the offer is ultimately approved by the court or through the probate process and accepted by the claimant's representative, the Asbestos Trust shall pay the claim in the amount so offered, multiplied by the Payment Percentage in effect at the time the offer was first made.

If any Occupationally Exposed Claims are liquidated on the same date, the claimant's position in the FIFO Payment Queue shall be determined by the date of the diagnosis of the claimant's asbestos-related disease for which the claim was filed. If any Occupationally Exposed Claims are liquidated on the same date and the respective holders' asbestos-related diseases were diagnosed on the same date, the position of those claims in the FIFO Payment Queue shall be determined by the Asbestos Trust based on the dates of the claimants' birth, with older claimants given priority over younger claimants.

## **5.2 Reserved.**

**5.3 Resolution of Unliquidated Asbestos Claims.** As soon as possible after the establishment of the Asbestos Trust, the Trustee, with the consent of the TAC and the FCR, shall adopt procedures for reviewing and liquidating all unliquidated Asbestos Claims, which shall include deadlines for processing such claims. Such procedures shall also require that claimants seeking resolution of unliquidated Asbestos Claims must first file a proof of claim form, together with the required supporting documentation, in accordance with the provisions of Sections 6.1 and 6.2 below. It is anticipated that the Asbestos Trust shall provide an initial response to the claimant within six (6) months of receiving the proof of claim form.

The proof of claim form shall require the claimant to assert his or her claim for the highest Disease Level for which the claim qualifies at the time of filing. Irrespective of the Disease Level alleged on the proof of claim form, all claims shall be deemed to be a claim for the highest Disease Level for which the claim qualifies at the time of filing, and all lower Disease Levels for which the claim may also qualify at the time of filing or in the future shall be treated as subsumed into the higher Disease Level for both processing and payment purposes.

The proof of claim form shall also require the claimant to specify whether the claim is asserted to be an Occupationally Exposed Claim or a Shade Tree Mechanic Claim as defined in Section 2.1 above. The Trustee shall have the right (in addition to all other rights) to challenge any such assertion or designation.

Upon filing of a valid proof of claim form with the required supporting documentation, the claimant shall be placed in the FIFO Processing Queue in accordance with the ordering criteria described in Section 5.1(a) above. When the claim reaches the top of the FIFO Processing Queue, the Asbestos Trust shall process and liquidate the claim based upon the medical/exposure evidence submitted by the claimant and under the process elected by the



claimant, if such an elections is available under this TDP for the Disease Level alleged by the claimant.

**5.3(a) Expedited Review Process.**

**5.3(a)(1) In General.** The Expedited Review Process is designed primarily to provide an expeditious, efficient and inexpensive method for liquidating all Asbestos Claims (except those involving Disease Level V Extraordinary Claims and all Foreign Claims, which shall only be liquidated pursuant to the IR Process) eligible for payment under this TDP. Expedited Review is also intended to provide qualifying claimants a fixed and certain claims payment.

Thus, except as set forth in Sections 2.4 and 5.1(b) above, claims that undergo Expedited Review and meet the presumptive Medical/ Exposure Criteria for the relevant Disease Level shall be paid the Scheduled Value for such Disease Level set forth in Section 5.3(a)(3) below. All claims liquidated by Expedited Review Process shall be subject to the Payment Percentage, the applicable Maximum Annual Payment, Maximum Available Payment and Claims Payment Ratio limitations set forth above.

Subject to the provisions of Section 5.7, the claimant's eligibility to receive the Scheduled Value for his or her Occupationally Exposed Claim under the Expedited Review Process shall be determined solely by reference to the Medical/Exposure Criteria set forth below.

Subject to the provisions of Section 5.7, the claimant's eligibility to receive the lesser of the pro rata share of the Shade Tree Maximum Annual Payment or Scheduled Value for his or her Shade Tree Mechanic Claim under the Expedited Review Process shall be determined solely by reference to the Medical/Exposure Criteria set forth below.

**5.3(a)(2) Claims Processing Under Expedited Review Process.**

All claimants seeking liquidation of their claims pursuant to Expedited Review Process shall file the Asbestos Trust's proof of claim form. As a proof of claim form is reached in the FIFO Processing Queue, the Asbestos Trust shall determine whether the claim described therein meets the Medical/Exposure Criteria for one of the Disease Levels, and shall advise the claimant of its determination. Except as provided herein for Shade Tree Mechanic Claims, if a Disease Level is determined, the Asbestos Trust shall tender to the claimant an offer of payment of the Scheduled Value for the relevant Disease Level that is subject to the applicable Payment Percentage, together with a form of release approved by the Asbestos Trust. If the claimant accepts the Scheduled Value and returns the release properly executed, the claim shall be placed in the FIFO Payment Queue, following which the Asbestos Trust shall disburse payment subject to the limitations of the Occupational Maximum Annual Payment, Maximum Available Payment, and the Claims Payment Ratio.

**5.3(a)(3) Disease Levels, Scheduled Values and Medical/Exposure Criteria.** The five Disease Levels covered by this TDP, together with the Medical/Exposure Criteria and the Scheduled Values for these Disease Levels are set forth below. Except as provided herein, these Disease Levels, Scheduled Values, and Medical/Exposure Criteria shall apply to all Asbestos Claims filed with the Asbestos Trust on or before the Initial Claims Filing Date provided in Section 4.2. In addition, commencing on January 1, 2020, the Asbestos Trust shall increase these valuation amounts proportionately by one percent (1%) per annum. Any such increases shall be applicable to offers made following the dates of such increases.

<u>Disease Level</u>	<u>Scheduled Value</u>	<u>Medical/Exposure Criteria</u>
Mesothelioma 2 (Level V)	\$12,100	(1) Diagnosis <sup>4</sup> of mesothelioma; (2) Substantial Debtor Exposure <sup>5</sup> ; and (3) claim qualifies as Shade Tree Mechanic Claim as defined in Section 2.1. Holders of a Disease Level V Claim may also seek to establish that such claim qualifies as an Extraordinary Claim under Section 5.4(a) below. No presumption of validity shall be available for any claims in this category.
Mesothelioma (Level IV)	\$111,500	(1) Diagnosis of mesothelioma; (2) Debtor Exposure as defined in Section 5.7(b)(3); and (3) claimant qualifies as an Occupationally Exposed Claim as defined in Section 2.1.
Lung Cancer (Level III)	\$25,400	(1) Diagnosis of a primary lung cancer plus evidence of an underlying Bilateral Asbestos-Related Nonmalignant Disease, <sup>6</sup> (2) six months Debtor Exposure prior to December 31, 1982, (3) Significant Occupational Exposure <sup>7</sup> to asbestos, (4) claimant qualifies as an Occupationally Exposed Claim as defined in Section 2.1, and (5) supporting medical documentation establishing asbestos exposure as a contributing factor in causing the lung cancer in question
Other Cancer (Level II)	\$5,400	(1) Diagnosis of a primary colo-rectal, laryngeal, esophageal, pharyngeal, or stomach cancer, plus evidence of an

<sup>4</sup> The requirements for a diagnosis of an asbestos-related disease that may be compensated under the provisions of this TDP are set forth in Section 5.7 below.

<sup>5</sup> “**Substantial Debtor Exposure**” requires that the claimant (1) to demonstrate meaningful and credible exposure to the Debtor Product Lines; and (2) provide evidence that claimant’s Debtor Product Lines exposure was substantial in duration.

<sup>6</sup> Evidence of “Bilateral Asbestos-Related Nonmalignant Disease,” for purposes of meeting the criteria for establishing Disease Levels II and III means either (i) a chest X ray read by a qualified B reader of 1/0 or higher on the ILO scale or (ii)(x) a chest X ray read by a qualified B reader or other Qualified Physician, (y) a CT scan read by a Qualified Physician, or (z) pathology, in each case showing either bilateral interstitial fibrosis, bilateral pleural plaques, bilateral pleural thickening, or bilateral pleural calcification. Evidence submitted to demonstrate (i) or (ii) above must be in the form of a written report stating the results (*e.g.*, an ILO report, a written radiology report or a pathology report). Solely for asbestos claims filed against a Debtor or another defendant in the tort system prior to the Commencement Date, if an ILO reading is not available, either (i) a chest X ray or a CT scan read by a Qualified Physician, or (ii) pathology, in each case showing bilateral interstitial fibrosis, bilateral pleural plaques, bilateral pleural thickening, or bilateral pleural calcification consistent with or compatible with a diagnosis of asbestos-related disease, shall be evidence of a Bilateral Asbestos-Related Nonmalignant Disease for purposes of meeting the presumptive medical requirements of Disease Levels II or III. Pathological proof of asbestosis may be based on the pathological grading system for asbestosis described in the Special Issue of the Archives of Pathology and Laboratory Medicine, “Asbestos-associated Diseases,” Vol. 106, No. 11, App. 3 (October 8, 1982). For all purposes of this TDP, a “Qualified Physician” is a physician who is board-certified (or in the case of Canadian Claims or Foreign Claims, a physician who is certified or qualified under comparable medical standards or criteria of the jurisdiction in question) in one or more relevant specialized fields of medicine such as pulmonology, radiology, internal medicine or occupational medicine; provided, however, subject to the provisions of Section 5.8, that the requirement for board certification in this provision shall not apply to otherwise qualified physicians whose X ray and/or CT scan readings are submitted for deceased holders of Asbestos Claims.

<sup>7</sup> The term “Significant Occupational Exposure” is defined in Section 5.7(b)(2) below.

<u>Disease Level</u>	<u>Scheduled Value</u>	<u>Medical/Exposure Criteria</u>
		underlying Bilateral Asbestos-Related Nonmalignant Disease, (2) six months Debtor Exposure prior to December 31, 1982, (3) Significant Occupational Exposure to asbestos, (4) claimant qualifies as an Occupationally Exposed Claim as defined in Section 2.1, and (5) supporting medical documentation establishing asbestos exposure as a contributing factor in causing the other cancer in question.
Severe Asbestosis (Level I)	\$25,400	(1) Diagnosis of asbestosis with ILO of 2/1 or greater, or asbestosis determined by pathological evidence of asbestos, plus (a) TLC less than 65%, <sup>8</sup> or (b) FVC less than 65% and FEV1/FVC ratio greater than 65%, (2) six months Debtor Exposure prior to December 31, 1982, (3) Significant Occupational Exposure to asbestos, (4) claimant qualifies as an Occupationally Exposed Claim as defined in Section 2.1, and (5) supporting medical documentation establishing asbestos exposure as a contributing factor in causing the pulmonary disease in question.

### 5.3(b) Individual Review Process.

(1) **In General.** Whether a Disease Level V Claim qualifies as an Extraordinary Claim under Section 5.4(a) shall be established only under the Individual Review Process (“**IR Process**”).

The liquidated value of all Foreign Claims<sup>9</sup> asserted or payable under this TDP shall be established only under the IR Process. Asbestos Claims of individuals exposed in Canada who were resident in Canada when such claims were filed (“**Canadian Claims**”) shall not be considered Foreign Claims hereunder and shall be eligible for liquidation under the Expedited Review Process. Accordingly, a “**Foreign Claim**” is an Asbestos Claim with respect to which the claimant’s exposure to an asbestos-containing product, or to conduct that exposed the claimant to an asbestos-containing product, for which the Debtors have legal responsibility as

<sup>8</sup> Actual measured value as opposed to the percentage of predicted.

<sup>9</sup> The Debtors have represented that they have no history of paying Foreign Claims. Should the Asbestos Trust receive any Foreign Claims, prior to processing the Foreign Claims, the Trustee, in consultation with TAC and the FCR, shall develop the procedures and requirements for the submission, evaluation and payment of Foreign Claims.

a result of the purchase of or exposure to asbestos-containing products outside the United States and its Territories and Possessions.

**5.4 Categorizing Claims as Extraordinary and/or Exigent or Extraordinary Claims.**

**5.4(a) “Extraordinary Claim”** means a Shade Tree Mechanic Claim that otherwise satisfies the Medical Criteria for Disease Level– V, and that is held by a claimant whose exposure to asbestos was at least 75% the result of exposure to asbestos-containing product, or to conduct that exposed the claimant to an asbestos-containing product, for which the Debtors have legal responsibility, and there is little likelihood of a substantial recovery elsewhere. All such Extraordinary Claims shall be presented for IR Process and, if valid, shall be entitled, except as set forth below, to a liquidation value of up to \$34,264 (“**Maximum Value**”), multiplied by the applicable Payment Percentage.

Any dispute as to Extraordinary Claim status shall be submitted to a special panel established by the Asbestos Trust with the consent of the TAC and FCR (the “**Extraordinary Claims Panel**”). All decisions of the Extraordinary Claims Panel shall be final and not subject to any further administrative or judicial review. An Extraordinary Claim shall be paid at the end of each year and shall be paid the lesser of the pro rata share of the Shade Tree Maximum Annual Payment or the Maximum Value, subject to the Payment Percentage.

**5.4(a)(1) Requirement to Identify Other Claims.** A claimant asserting an Extraordinary Claim must submit the information described in Section 5.4(a)(2) about all other claims asserted by the claimant that relate in any way to the alleged injuries for which the claimant seeks compensation. Other claims about which information must be submitted include claims by the claimant, the claimant’s decedent, and any present or past

Holder of the Claim. Such other claims include, but are not limited to, the following: (a) lawsuits filed in any court, arbitration proceedings before any panel or tribunal, and administrative proceedings (such as workers' compensation claims) before any governmental or quasi-governmental body; (b) claims that were resolved or settled without the institution of litigation (such as pre-filing settlements reached after notification of the existence of a claim without the need to file a lawsuit); and (c) claims that have been submitted in bankruptcy proceedings or to other asbestos trusts or settlement facilities that resulted from bankruptcy proceedings.

**5.4(a)(2) Information Required About Other Claims.** A claimant asserting an Extraordinary Claim shall submit the following information for each other claim: (a) the name of the entity against whom the other claim was made, (b) the date of the other claim, and (c) the amounts of all payments received or to be received from the entity to whom the other claim was submitted. The claimant must also submit copies of any documents submitted to or served upon any such entity containing information regarding the alleged injured party's contact with or exposure to asbestos or asbestos-containing products, including without limitation any claim forms submitted to other asbestos trusts or settlement facilities that resulted from bankruptcy proceedings (along with any attachments), ballots submitted by or on behalf of the claimant in any bankruptcy case, and any discovery response filed or served in tort litigation. The claimant shall also certify that, to the best of his knowledge, at that time, with the exception of the other claims that have been expressly disclosed and identified by the claimant, no other entity is known to the claimant to be potentially responsible for the alleged injuries that are the basis of the Extraordinary Claim.

**5.4(a)(3) Authorization for Release of Information.** A claimant asserting an Extraordinary Claim shall execute a release of information form in favor of the Asbestos Trust, in the form attached hereto as Appendix I, authorizing all other asbestos trusts or settlement facilities against whom any such other claim has been made or asserted based on the injured party's injury to release to the Asbestos Trust all information submitted to it by such claimant or entity who made such other claim and to disclose the status of any such claim and the amount and date of any payment on the claim. The release of information form shall authorize the Asbestos Trust to obtain all submissions made by the claimant or his or her heirs, executors, successors, or assigns in the future to any other asbestos trust or settlement facility. The Asbestos Trust may amend the form attached as Appendix I from time to time to add newly established asbestos trusts or settlement facilities. These authorizations will be used not only to verify information provided in connection with particular Extraordinary Claims but also in connection with the Asbestos Trust's periodic audits for fraud

**5.4(a)(4) Claimant Certification.**

(i) If the claimant asserting an Extraordinary Claim is or has been represented by an attorney in any litigation or in the filing of other asbestos trust claims based on the injury that forms the basis for the Extraordinary Claim, the claimant's attorney shall provide a certification under penalty of perjury. The certification shall affirm that the attorney has fully investigated the alleged injuries that are the basis of the Extraordinary Claim, including conferring with any other attorneys who represent the claimant asserting an Extraordinary Claim with respect to claims against other asbestos trusts or any other entity, and that no good-faith basis exists, at the time the certification is executed, to bring a claim against any entity that is not identified in the proof of claim form submitted to the Asbestos Trust by the claimant asserting an Extraordinary Claim.

(ii) If the claimant asserting an Extraordinary Claim has not been represented by an attorney in any litigation or in the filing of other asbestos trust claims based on the injury that forms the basis for the Extraordinary Claim, the claimant shall provide a certification under penalty of perjury that he or she has fully investigated the alleged injuries that are the basis of the Extraordinary Claim, and that no good-faith basis exists, at the time the certification is executed, to bring a claim against any entity that is not identified in the proof of claim form submitted to the Asbestos Trust by the claimant.

**5.4(b) Exigent Claims.** At any time the Asbestos Trust may liquidate and pay Occupationally Exposed Claims that qualify as Exigent Health Claims or Exigent Hardship Claims (together, “**Exigent Claims**”) as defined below. An Exigent Claim, following its liquidation, shall be placed first in the FIFO Payment Queue ahead of all other Asbestos Claims and shall be subject to the Payment Percentage, Occupational Maximum Annual Payment and Claims Payment Ratio described above.

**5.4(b)(1) Exigent Health Claims.** An Occupationally Exposed Claim qualifies for payment as an Exigent Health Claim if the claim meets the Medical/Exposure Criteria for Mesothelioma (Disease Level IV) and the claimant is living when the claim is filed. A claim in Disease Levels I-III qualifies as an Exigent Health Claim if the claim meets the Medical/Exposure Criteria for the Disease Level, and the claimant provides a declaration or affidavit made under penalty of perjury by a physician who has examined the claimant within one hundred twenty (120) days of the date of declaration or affidavit in which the physician states (a) that there is substantial medical doubt that the claimant will survive beyond six (6) months from the date of the declaration or affidavit, and (b) that the claimant’s terminal condition is caused by the relevant asbestos-related disease.



**5.4(b)(2) Exigent Hardship Claims.** An Occupationally Exposed Claim qualifies for payment as an Exigent Hardship Claim if the claim meets the Medical/Exposure Criteria for Disease Levels I-IV and the Asbestos Trust, in its sole discretion, determines (i) that the claimant needs immediate financial assistance based on the claimant's expenses and all sources of available income, and (ii) that there is a causal connection between the claimant's dire financial condition and the claimant's asbestos-related disease.

**5.5 Secondary Exposure Claims.** If a claimant alleges an asbestos-related disease resulting solely from exposure to an occupationally exposed person, such as a family member, the claimant must establish that the occupationally exposed person would have met the exposure requirements under this TDP that would have been applicable had that person filed a direct claim against the Asbestos Trust. In addition, the claimant with secondary exposure must establish that he or she is suffering from Disease Levels I-IV described in Section 5.3(a)(3) above, that his or her own exposure to the occupationally exposed person occurred within the same time frame as the occupationally exposed person was exposed to asbestos, asbestos-containing products, or conduct for which the Debtors have legal responsibility, and that such secondary exposure was a cause of the claimed disease. All other liquidation and payment rights and limitations under this TDP shall be applicable to such claims.

**5.6 Indirect Asbestos Personal Injury Claims.** Indirect Asbestos Personal Injury Claims asserted against the Asbestos Trust shall be treated as presumptively valid and paid by the Asbestos Trust subject to the applicable Payment Percentage if the holder of such claim (the "**Indirect Claimant**") establishes to the satisfaction of the Trustee that (i) the Indirect Claimant has paid in full the liability and obligation of the Asbestos Trust to the individual claimant to whom the Asbestos Trust would otherwise have had a liability or obligation under this TDP (the

**“Direct Claimant”**) (and which has not been paid by the Asbestos Trust), (ii) the Direct Claimant and the Indirect Claimant have forever and fully released the Asbestos Trust from all liability to the Direct Claimant, and (iii) the claim is not otherwise barred by a statute of limitations or repose or by other applicable law. In no event shall any Indirect Claimant have any rights against the Asbestos Trust superior to the rights of the related Direct Claimant against the Asbestos Trust, including any rights with respect to the timing, amount or manner of payment. In addition, no Indirect Asbestos Personal Injury Claim may be liquidated and paid in an amount that exceeds what the Indirect Claimant has actually paid the related Direct Claimant.

To establish a presumptively valid Indirect Asbestos Personal Injury Claim, the Indirect Claimant’s aggregate liability for the Direct Claimant’s claim must also have been fixed, liquidated and paid fully by the Indirect Claimant by settlement (with an appropriate full release in favor of the Asbestos Trust) or a Final Order (as defined in the Plan) provided that such claim is valid under the applicable state law. In any case where the Indirect Claimant has satisfied the claim of a Direct Claimant against the Asbestos Trust under applicable law by way of a settlement, the Indirect Claimant shall obtain for the benefit of the Asbestos Trust a release in form and substance satisfactory to the Trustee.

If an Indirect Claimant cannot meet the presumptive requirements set forth above, including the requirement that the Indirect Claimant provide the Asbestos Trust with a full release of the Direct Claimant’s claim, the Indirect Claimant may request that the Asbestos Trust review the Indirect Asbestos Personal Injury Claim individually to determine whether the Indirect Claimant can establish under applicable state law that the Indirect Claimant has paid all or a portion of a liability or obligation that the Asbestos Trust had to the Direct Claimant. If the Indirect Claimant can show that it has paid all or a portion of such a liability or obligation, the

Asbestos Trust shall reimburse the Indirect Claimant the amount of the liability or obligation so paid, times the then applicable Payment Percentage. However, in no event shall such reimbursement to the Indirect Claimant be greater than the amount to which the Direct Claimant would have otherwise been entitled. Further, the liquidated value of any Indirect Asbestos Personal Injury Claim paid by the Asbestos Trust to an Indirect Claimant shall be treated as an offset to or reduction of the full liquidated value of any Asbestos Claim that might be subsequently asserted by the Direct Claimant against the Asbestos Trust.

Any dispute between the Asbestos Trust and an Indirect Claimant over whether the Indirect Claimant has a right to reimbursement for any amount paid to a Direct Claimant shall be subject to the ADR Procedures provided in Section 5.9 below. If such dispute is not resolved by said ADR Procedures, the Indirect Claimant may litigate the dispute in the tort system pursuant to Sections 5.10 and 7.6 below.

The Trustee may develop and approve a separate proof of claim form for Indirect Asbestos Personal Injury Claims. Indirect Asbestos Personal Injury Claims that have not been disallowed, discharged, or otherwise resolved by prior order of the Bankruptcy Court shall be processed in accordance with procedures to be developed and implemented by the Trustee consistent with the provisions of this Section 5.6, which procedures (a) shall determine the validity, acceptability and enforceability of such claims; and (b) shall otherwise provide the same liquidation and payment procedures and rights to the holders of such claims as the Asbestos Trust would have afforded the holders of the underlying valid Asbestos Claims.

## **5.7 Evidentiary Requirements.**

### **5.7(a) Medical Evidence.**

**5.7(a)(1) In General.** All diagnoses of a Disease Level shall be accompanied by either (i) a statement by the physician providing the diagnosis that at least ten (10) years have elapsed between the date of first exposure to asbestos or asbestos-containing products and the diagnosis, or (ii) a history of the claimant's exposure sufficient to establish a 10-year latency period.

**5.7(a)(1)(A) Disease Level I.** All diagnoses of Severe Asbestosis (Disease Level I) shall be based, in the case of a claimant who was living at the time the claim was filed, upon a physical examination of the claimant by the physician providing the diagnosis of the asbestos-related disease. All living claimants must also provide (i) an ILO reading of 2/1 or greater or pathological evidence of asbestosis and (ii) pulmonary function testing (unless the claimant is able to meet the requirements in (1)(c) of the Medical/Exposure Criteria for Severe Asbestosis in Section 5.3(a)(3) above).<sup>10</sup>

**5.7(a)(1)(B) Disease Levels II - V.** All diagnoses of an asbestos-related malignancy (Disease Levels II - V) shall be based upon either (i) a physical examination of the claimant by the physician providing the diagnosis of the asbestos-related

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<sup>10</sup> "Pulmonary function testing" or "PFT" shall mean testing that is in material compliance with the quality criteria established by the American Thoracic Society ("**ATS**") and is performed on equipment which is in material compliance with ATS standards for technical quality and calibration. PFT performed in a hospital accredited by The Joint Commission ("**JC**"), or performed, reviewed or supervised by a board certified pulmonologist or other Qualified Physician shall be presumed to comply with ATS standards, and the claimant may submit a summary report of the testing. If the PFT was not performed in a JC-accredited hospital, or performed, reviewed or supervised by a board certified pulmonologist or other Qualified Physician, the claimant must submit the full report of the testing (as opposed to a summary report); provided, however, that if the PFT was conducted prior to the Effective Date of the Plan and the full PFT report is not available, the claimant must submit a declaration signed by a Qualified Physician or other qualified party, in the form provided by the Asbestos Trust, certifying that the PFT was conducted in material compliance with ATS standards.

disease, or (ii) a diagnosis of such a malignant Disease Level by a board-certified pathologist or by a pathology report prepared at or on behalf of a hospital accredited by The Joint Commission.

**5.7(a)(2) Credibility of Medical Evidence.** Before making any payment to a claimant, the Asbestos Trust must have reasonable confidence that the medical evidence provided in support of the claim is credible and consistent with recognized medical standards. The Asbestos Trust may require the submission of X-rays, CT scans, detailed results of pulmonary function tests, laboratory tests, tissue samples, results of medical examination or reviews of other medical evidence, and may require that medical evidence submitted comply with recognized medical standards regarding equipment, testing methods and procedures to assure that such evidence is reliable. Medical evidence (i) that is of a kind shown to have been received in evidence by a state or federal judge at trial, (ii) that is consistent with evidence submitted to a Debtor to settle for payment similar disease cases prior to the Debtors' bankruptcy, or (iii) that is a diagnosis by a physician shown to have previously qualified as a medical expert with respect to the asbestos-related disease in question before a state or federal judge, using the same methodology or standard, is presumptively reliable, although the Asbestos Trust may seek to rebut the presumption. Notwithstanding the foregoing or any other provision of this TDP, any medical evidence submitted by a physician or entity that the Asbestos Trust has determined, after consulting with the TAC and the FCR, to be unreliable shall not be acceptable as medical evidence in support of any Asbestos Claim.

In addition, claimants who otherwise meet the requirements of this TDP for payment of an Asbestos Claim shall be paid irrespective of the results in any litigation at any time between the claimant and any other defendant in the tort system. However, any relevant evidence submitted in a proceeding in the tort system, other than any findings of fact, a verdict, or a

judgment, involving another defendant may be introduced by either the claimant or the Asbestos Trust in any Arbitration proceeding conducted pursuant to 5.9.

**5.7(a)(3) Reliance by Asbestos Trust on Finding of another Asbestos Trust.** The Trustee may review the governing documents of another asbestos trust or claims facility and, with the consent of the TAC and the FCR, and for the sole purpose of accepting the medical diagnosis of a claimant determine to accept the disease level classifications as found by such other asbestos trust or claims facility in lieu of the medical evidence claimants are required to submit under this TDP.

**5.7(b) Exposure Evidence.**

**5.7(b)(1) In General.** As set forth above in Section 5.3(a)(3), to qualify for any Disease Level, the claimant must demonstrate a minimum exposure to asbestos, asbestos-containing products, or conduct for which the Asbestos Trust has legal responsibility. Claims based on conspiracy theories that involve no exposure to asbestos, asbestos-containing products, or conduct for which the Asbestos Trust has legal responsibility are not compensable under this TDP. To meet the presumptive exposure requirements of Expedited Review set forth in Section 5.3(a)(3) above, the claimant must show (i) for all Disease Levels, Debtor Exposure as defined in Section 5.7(b)(3) below; and (ii) for Severe Asbestosis (Disease Level I), Other Cancer (Disease Level II), or Lung Cancer (Disease Level III), the claimant must show six (6) months Debtor Exposure plus Significant Occupational Exposure to asbestos.

**5.7(b)(2) Significant Occupational Exposure.** “**Significant Occupational Exposure**” means employment for a cumulative period of at least five (5) years in an industry and an occupation in which the claimant (a) handled raw asbestos fibers on a regular basis; (b) fabricated asbestos-containing products so that the claimant in the fabrication process

was exposed on a regular basis to raw asbestos fibers; (c) altered, repaired or otherwise worked with an asbestos-containing product such that the claimant was exposed on a regular basis to asbestos fibers; or (d) was employed in an industry and occupation such that the claimant worked on a regular basis in close proximity to workers engaged in the activities described in (a), (b) and/or (c).

**5.7(b)(3) Debtor Exposure.** The claimant must demonstrate meaningful and credible exposure to asbestos, asbestos-containing products, or conduct for which the Asbestos Trust has legal responsibility as described in this Section 5.7(b)(3) (“**Debtor Exposure**”). That meaningful and credible exposure evidence may be established by an affidavit or sworn statement of the claimant, by an affidavit or sworn statement of a co-worker or the affidavit or sworn statement of a family member in the case of a deceased claimant (providing the Asbestos Trust finds such evidence reasonably reliable), by invoices, employment, construction or similar records, or by other credible evidence. The specific exposure information required by the Asbestos Trust to process a claim shall be set forth on the proof of claim form to be used by the Asbestos Trust. The Asbestos Trust can also require submission of other or additional evidence of exposure when it deems such to be necessary.

Evidence submitted to establish proof of Debtor Exposure is for the sole benefit of the Asbestos Trust, not third parties or defendants in the tort system. Except with respect to Disease Level 5, the Asbestos Trust has no need for, and therefore claimants are not required to furnish the Asbestos Trust with, evidence of exposure to specific asbestos products other than those for which the Asbestos Trust has responsibility, except to the extent such evidence is required elsewhere in this TDP. Similarly, failure to identify Debtor Product Lines in the claimant’s underlying tort action, or to other bankruptcy trusts, does not preclude the claimant from

recovering from the Asbestos Trust, provided the claimant otherwise satisfies the medical and exposure requirements of this TDP.

**5.7(b)(3)(A) Presumptive Occupations.** Because of the nature of the Debtors' businesses, the Asbestos Trust shall consider that there is a limited universe of occupations in which claimants are likely to have been directly exposed to asbestos, asbestos-containing products, or conduct for which the Asbestos Trust has legal responsibility. Those occupations are automotive mechanics (the "**Presumptive Occupations**"). The Asbestos Trust may add occupations to the Presumptive Occupations if the Trustee determines, with the consent of the TAC and FCR, that based on an analysis of claims submitted to the Asbestos Trust establishing Debtor Exposure, claimants with such occupations are likely to have been directly exposed to asbestos, asbestos-containing products, or conduct for which the Asbestos Trust has legal responsibility. The Asbestos Trust may also remove occupations from the Presumptive Occupations if it determines that such occupations should not have been included.

**5.7(b)(3)(B) Standard of Exposure.** In order for a claim to be approved by the Asbestos Trust, the injured party must have worked in a Presumptive Occupation and must demonstrate to the Asbestos Trust's satisfaction that he or she worked directly with the Debtor Product Lines. When evaluating whether an injured party has demonstrated that he or she worked directly with the Debtors' Product Lines, the Asbestos Trust shall base its determination upon whether the circumstances of the injured party's exposure to the product are the same as those of claimants with respect to which the Debtors historically paid claims.

**5.8 Claims Audit Program.** The Asbestos Trust, with the consent of the TAC and the FCR, shall develop methods for auditing (i) the reliability of medical evidence, including



additional reading of X-rays, CT scans and verification of pulmonary function tests, and (ii) the reliability of evidence of exposure to asbestos, including exposure to asbestos-containing products for which the Asbestos Trust has legal responsibility and occupational evidence (a claims audit program). The Asbestos Trust may hire independent third-parties to implement the audit programs. In the event that the Asbestos Trust reasonably determines that any individual or entity has engaged in a pattern or practice of providing unreliable evidence to the Asbestos Trust, it may decline to accept additional evidence from such provider in the future.

The Asbestos Trust shall utilize the services of a third-party claims processing facility (the “**Claims Processor**”) to assist in the evaluation of claims submitted to the Asbestos Trust. The Asbestos Trust shall participate in a cross-trust audit program. Such cross-trust audit program shall include a comparison of claims filed with the Asbestos Trust against claims filed with all other asbestos trusts administered by the Claims Processor that participate in the cross trust audit program but in any case shall include no fewer than four other trusts. The filing of any claim with the Asbestos Trust, regardless of the treatment sought, shall constitute consent for each other asbestos trust participating in the cross-trust audit program to release to the entity overseeing the cross-trust audit program all information submitted to such other asbestos trust by or on behalf of the claimant pursuant to the provisions of the cross-trust audit program and to disclose the status of any such claim and the amount and date of any payment on the claim.

To the extent that the Asbestos Trust or the entity overseeing the claims audit program or cross-trust audit program believe that it is relevant, nothing herein shall preclude the Asbestos Trust or the entity overseeing the claims audit program or cross-trust audit program, in the Asbestos Trust’s sole discretion, from reviewing or taking into consideration other claims filed in state court complaints or against trusts in addition to those trusts involved in the cross-trust audit

program. Any claimant subject to the claims audit program or cross-trust audit program shall cooperate and, if requested, provide the Asbestos Trust or the entity overseeing the claims audit program or cross-trust audit program with authorization to obtain from other asbestos trusts any information such claimant has submitted to such other asbestos trusts.

Further, in the event that an audit reveals that fraudulent information has been provided to the Asbestos Trust, the Asbestos Trust may penalize any claimant or claimant's attorney by rejecting the Asbestos Claim or by other means including, but not limited to, requiring the source of the fraudulent information to pay the costs associated with the audit and any future audit or audits, reordering the priority of payment of all affected claimants' Asbestos Claims, raising the level of scrutiny of additional information submitted from the same source or sources, increasing the filing fee for future claims submitted by such claimant or claimant's attorney, refusing to accept additional evidence from the same source or sources, seeking the prosecution of the claimant or claimant's attorney for presenting a fraudulent claim in violation of 18 U.S.C. § 152, and seeking sanctions from the Bankruptcy Court.

## **5.9 Arbitration.**

**5.9(a) Establishment of ADR Procedures.** The Asbestos Trust, with the consent of the TAC and the FCR, shall institute binding and non-binding arbitration procedures ("**ADR Procedures**") for resolving disputes concerning whether the claimant's medical condition or exposure history meets the requirements of this TDP for purposes of categorizing a claim involving Disease Levels I-V.

In all arbitrations, the arbitrator shall consider the same medical and exposure evidentiary requirements that are set forth in Section 5.7 above. With respect to all claims eligible for arbitration, the claimant, but not the Asbestos Trust, may elect either non-binding or binding

arbitration. The ADR Procedures may be modified by the Asbestos Trust with the consent of the TAC and the FCR.

**5.9(b) Limitations on and Payment of Arbitration Awards.** The arbitrator shall not return an award in excess of the Scheduled Value for the appropriate Disease Level as set forth in Section 5.3(a)(3) above, and for an Extraordinary Claim Disease Level V, the arbitrator shall not return an award greater than the Maximum Value as set forth in Section 5.4 above. A claimant who submits to arbitration and who accepts the arbitral award shall receive payments in the same manner as one who accepts the Asbestos Trust's original valuation of the claim.

**5.10 Litigation.** Claimants who elect non-binding arbitration and then reject their arbitral awards retain the right to institute a lawsuit in the tort system against the Asbestos Trust pursuant to Section 7.6 below. However, a claimant shall be eligible for payment of a judgment for monetary damages obtained in the tort system from the Asbestos Trust's available cash only as provided in Section 7.7 below.

**5.11 Second Disease Claims.** The holder of a Severe Asbestosis (Disease Level I) claim may assert a new Asbestos Claim against the Asbestos Trust for a Mesothelioma (Disease Level IV) claim that is subsequently diagnosed. Any additional payments to which such claimant may be entitled with respect to the Mesothelioma (Disease Level IV) claim shall be reduced by the amount paid to the claimant for the Severe Asbestosis (Disease Level I) claim.

## **ARTICLE 6**

### **CLAIMS MATERIALS**

**6.1 Claims Materials.** The Asbestos Trust shall prepare suitable and efficient claims materials ("**Claims Materials**") for all Asbestos Claims, and shall provide such Claims

Materials upon a written request for such materials to the Asbestos Trust. The proof of claim form to be submitted to the Asbestos Trust shall require the claimant to assert the highest Disease Level for which the claim qualifies at the time of filing. The proof of claim form shall also include a certification by the claimant or his or her attorney sufficient to meet the requirements of Rule 11(b) of the Federal Rules of Civil Procedure. In developing its claim filing procedures, the Asbestos Trust shall make every reasonable effort to provide claimants with the opportunity to utilize currently available technology at their discretion, including filing claims and supporting documentation over the Internet. The proof of claim form to be used by the Asbestos Trust shall be developed by the Asbestos Trust and submitted to the TAC and the FCR for approval; it may be changed by the Asbestos Trust with the consent of the TAC and the FCR.

**6.2 Content of Claims Materials.** The Claims Materials shall include a copy of this TDP, such instructions as the Trustee shall approve, and a detailed proof of claim form. This TDP has been prepared with the goal of simplifying the filing of claims, reducing paperwork by claimants, and reducing the cost of reviewing claims in an effort to maximize distribution to claimants, as well as ensuring the accuracy of such submissions. Accordingly, instead of collecting some or all of the claims information from a claimant or the claimant's attorney, the Asbestos Trust may, with the consent of the claimant or the claimant's attorney, obtain such information from electronic databases maintained by any other asbestos claims resolution organization. If requested by the claimant, the Asbestos Trust shall accept information provided electronically. The claimant may, but shall not be required to, provide the Asbestos Trust with evidence of recovery from other defendants and claims resolution organizations.

**6.3 Withdrawal or Deferral of Claims.** A claimant can withdraw an Asbestos Claim at any time upon written notice to the Asbestos Trust and file another claim subsequently

without affecting the status of the claim for statute of limitations purposes, but any such claim filed after withdrawal shall be given a place in the FIFO Processing Queue based on the date of such subsequent filing. A claimant can also request that the processing of his or her Asbestos Claim by the Asbestos Trust be deferred for a period not to exceed two (2) years without affecting the status of the claim for statute of limitations purposes, in which case the claimant shall also retain his or her original place in the FIFO Processing Queue. During the period of such deferral, a sequencing adjustment on such claimant's Asbestos Claim as provided in Section 7.5 hereunder shall not accrue and payment thereof shall be deemed waived by the claimant. Except for Asbestos Claims held by representatives of deceased or incompetent claimants for which court or probate approval of the Asbestos Trust's offer is required, or an Asbestos Claim for which deferral status has been granted, a claim shall be deemed to have been withdrawn if the claimant neither accepts, rejects, nor initiates arbitration within one (1) year of the Asbestos Trust's written offer of payment or rejection of the claim. Upon written request and good cause, the Asbestos Trust may extend the withdrawal or deferral period for an additional six (6) months,

**6.4 Filing Requirements and Fees.** Each claimant must submit a filing fee of \$100 to have an Asbestos Claim processed by the Asbestos Trust. The fee shall be refunded in full to claimants who receive and accept payment of a settlement offer from the Asbestos Trust. The filing fee may be changed by the Trustee with the consent of the TAC and the FCR. The Asbestos Trust may impose a higher filing fee as set forth in Section 5.8 above.

**6.5 Confidentiality of Claimants' Submissions.** All submissions to the Asbestos Trust by a holder of an Asbestos Claim, including a proof of claim form and materials related thereto, shall be treated as made in the course of settlement discussions between the holder and the Asbestos Trust, and intended by the parties to be confidential and to be protected by all

applicable state and federal privileges and protections, including but not limited to those directly applicable to settlement discussions. The Asbestos Trust will preserve the confidentiality of such claimant submissions, and shall disclose the contents thereof only, with the permission of the holder, to another trust established for the benefit of asbestos personal injury claimants pursuant to section 524(g) of the Bankruptcy Code or other applicable law, to such other persons as authorized by the holder, or in response to a valid subpoena of such materials issued by the Bankruptcy Court, a Delaware State Court, or the United States District Court for the District of Delaware. Furthermore, the Asbestos Trust shall provide counsel for the holder a copy of any such subpoena immediately upon being served; provided, however, that if a subpoena seeks records or information pertaining to more than fifty (50) claimants, the Asbestos Trust may instead first provide a copy of the subpoena to counsel for the TAC and the FCR and delay providing a copy of the subpoena to counsel for individual holders of Asbestos Claims until, in the Trustee's judgment, it appears likely that information or records relating to the holders may have to be produced in response to the subpoena. In such a case, the Asbestos Trust shall ensure that the notice that is provided to counsel for the holders allows such counsel sufficient time to object to the production. The Asbestos Trust shall on its own initiative or upon request of the claimant in question take all necessary and appropriate steps to preserve said privileges before the Bankruptcy Court, a Delaware State Court, or the United States District Court for the District of Delaware and before those courts having appellate jurisdiction related thereto. Notwithstanding anything in the foregoing to the contrary, with the consent of the TAC and the FCR, the Asbestos Trust may, in specific limited circumstances, disclose information, documents or other materials reasonably necessary in the Asbestos Trust's judgment to preserve, litigate, resolve, or settle coverage, or to comply with an applicable obligation under an insurance policy

or settlement agreement; provided, however, that the Asbestos Trust shall take any and all steps reasonably feasible in its judgment to preserve the further confidentiality of such information, documents and materials, and prior to the disclosure of such information, documents or materials to a third party, the Asbestos Trust shall receive from such third party a written agreement of confidentiality that (a) ensures that the information, documents and materials provided by the Asbestos Trust shall be used solely by the receiving party for the purpose stated in the agreement and (b) prohibits any other use or further dissemination of the information, documents and materials by the third party except as set forth in the written agreement of confidentiality. Nothing in this TDP, the Plan or the Trust Agreement expands, limits or impairs the obligation under applicable law of a claimant to respond fully to lawful discovery in any underlying civil action regarding his or her submission of factual information to the Asbestos Trust for the purpose of obtaining compensation for asbestos-related injuries from the Asbestos Trust.

## **ARTICLE 7**

### **GENERAL GUIDELINES FOR LIQUIDATING AND PAYING CLAIMS**

**7.1 Showing Required.** To establish a valid Asbestos Claim, a claimant must meet the requirements set forth in this TDP.

**7.2 Costs Considered.** Notwithstanding any provisions of this TDP to the contrary, the Trustee shall always give appropriate consideration to the cost of investigating and uncovering invalid Asbestos Claims so that the payment of valid Asbestos Claims is not further impaired by such processes with respect to issues related to the validity of the medical evidence supporting an Asbestos Claim. The Trustee shall also have the latitude to make judgments regarding the amount of transaction costs to be expended by the Asbestos Trust so that valid Asbestos Claims are not unduly further impaired by the costs of additional investigation. Nothing

herein shall prevent the Trustee, in appropriate circumstances, from contesting the validity of any claim against the Asbestos Trust whatever the costs, or declining to accept medical evidence from sources that the Trustee has determined to be unreliable pursuant to the Claims Audit Program described in Section 5.8 above or otherwise.

**7.3 Discretion to Vary the Order and Amounts of Payments in Event of Limited Liquidity.** Consistent with the provisions hereof and subject to the FIFO Processing and Payment Queues and the Maximum Annual Payment, Maximum Available Payment and Claims Payment Ratio requirements set forth above, the Trustee shall proceed as quickly as possible to liquidate valid Asbestos Claims, and shall make payments to holders of such claims in accordance with this TDP promptly as funds become available and as claims are liquidated, while maintaining sufficient resources to pay future valid claims in substantially the same manner.

Because the Asbestos Trust's income over time remains uncertain, and decisions about payments must be based on estimates that cannot be done precisely, they may have to be revised in light of experiences over time, and there can be no guarantee of any specific level of payment to claimants. However, the Trustee shall use his or her best efforts to treat similar claims in substantially the same manner, consistent with his or her duties as Trustee, the purposes of the Asbestos Trust, and the practical limitations imposed by the inability to predict the future with precision.

In the event that the Asbestos Trust faces temporary periods of limited liquidity, the Trustee may, with the consent of the TAC and the FCR, (a) suspend the normal order of payment, (b) temporarily limit or suspend payments altogether, (c) offer a Reduced Payment



Option as described in Section 2.5 above and/or (d) commence making payments on an installment basis.

**7.4 Punitive Damages.** Except as provided below for claims asserted under the Alabama Wrongful Death Statute, in determining the value of any liquidated or unliquidated Asbestos Claim, punitive or exemplary damages, i.e., damages other than compensatory damages, shall not be considered or paid, notwithstanding their availability in the tort system. Similarly, no punitive or exemplary damages shall be payable with respect to any claim litigated against the Asbestos Trust in the tort system pursuant to Sections 5.10 above and 7.6 below. The only damages that may be awarded pursuant to this TDP to Alabama claimants who are deceased and whose personal representatives pursue their claims only under the Alabama Wrongful Death Statute shall be compensatory damages determined pursuant to the statutory and common law of the Commonwealth of Pennsylvania, without regard to the choice of law principles.

**7.5 Sequencing Adjustment.**

**7.5(a) In General.** Subject to the limitations set forth below, a sequencing adjustment shall be paid on all Asbestos Claims with respect to which the claimant has had to wait a year or more for payment, provided, however, that no claimant shall receive a sequencing adjustment for a period in excess of seven (7) years, or for a period when the claim was deferred or withdrawn at the claimant's request. The sequencing adjustment factor shall be the one-year U.S. Treasury bill interest rate in effect on January 1 of the year in which the accrual of the sequencing adjustment commences. The rate of the sequencing adjustment shall be adjusted each January 1 to correspond to the one-year Treasury bill interest rate then in effect. The applicable sequencing adjustment shall be calculated based only on the value of the claim specified in

Section 7.5(b) or (c) below, subject to the Payment Percentage; any accrued but unpaid sequencing adjustment shall not be included in such calculation.

**7.5(b) Unliquidated Asbestos Claims.** A sequencing adjustment shall be payable on the Scheduled Value of any unliquidated Asbestos Claim, whether the claim is liquidated under Expedited Review, IR Process, or by arbitration. No sequencing adjustment shall be paid on any claim liquidated in the tort system pursuant to Section 5.10 above and Section 7.6 below. Sequencing adjustments on all such unliquidated claims shall be measured from the date of payment back to the earliest of the date that is one year after the date on which (a) the claim was filed against a Debtor prior to the Petition Date; (b) the claim was filed against another defendant in the tort system on or after the Petition Date but before the Effective Date; (c) the claim was filed with the Bankruptcy Court during the pendency of the Chapter 11 proceeding; or (d) the claim was filed with the Asbestos Trust after the Effective Date.

**7.6 Suits in the Tort System.** If the holder of a disputed claim disagrees with the Asbestos Trust's determination regarding the Disease Level of the claim or the claimant's exposure history, and if the holder has first submitted the claim to non-binding arbitration as provided in Section 5.9 above, the holder may file a lawsuit against the Asbestos Trust in the Claimant's Jurisdiction as defined in Section 9.3 below. Any such lawsuit must be filed by the claimant in his or her own right and name and not as a member or representative of a class, and no such lawsuit may be consolidated with any other lawsuit. All defenses (including, with respect to the Asbestos Trust, all defenses which could have been asserted by a Debtor) shall be available to both sides at trial; however, the Asbestos Trust may waive any defense and/or concede any issue of fact or law. If the claimant was alive at the time the initial pre-petition complaint was filed or on the date the proof of claim form was filed with the Asbestos Trust, the

case shall be treated as a personal injury case with all personal injury damages to be considered even if the claimant has died during the pendency of the claim.

**7.7 Payment of Judgments for Money Damages.** If and when a claimant obtains a judgment in the tort system, the claim shall be placed in the FIFO Payment Queue based on the date on which the judgment became final. Thereafter, the claimant shall receive from the Asbestos Trust an initial payment (subject to the applicable Payment Percentage and the Maximum Annual Payment, Maximum Available Payment and Claims Payment Ratio provisions set forth above) of an amount equal to the greater of (i) the Asbestos Trust's last offer to the claimant or (ii) the award that the claimant declined in non-binding arbitration; provided, however, that in no event shall such payment amount exceed the amount of the judgment obtained in the tort system. The claimant shall receive the balance of the judgment, if any, in five (5) equal installments in years six (6) through ten (10) following the year of the initial payment (also subject to the applicable Payment Percentage and the Maximum Annual Payment, Maximum Available Payment and Claims Payment Ratio provisions above in effect on the date of the payment of the subject installment).

The total amounts paid with respect to such claims shall not exceed the relevant Scheduled Value for the appropriate Disease Level as set forth in Section 5.3(b)(2) above, and for an Extraordinary Claim involving one of those Disease Levels, the arbitrator shall not return an award greater than the Maximum Value for such a claim as set forth in Section 5.3(b)(2) above. Under no circumstances shall (a) a sequencing adjustment be paid pursuant to Section 7.5 or (b) interest be paid under any statute on any judgments obtained in the tort system.

**7.8 Releases.** As a condition to receiving any payment from the Asbestos Trust, a claimant shall be required to execute the Asbestos Personal Injury Claimant Release attached

hereto as Exhibit 1. In the case of an Indirect Personal Injury Claim, the Indirect Claimant. The Trustee may modify the provisions of the Asbestos Personal Injury Claimant Release with the consent of the TAC and FCR, provided, however, that notwithstanding anything to the contrary in this TDP, the Trustee may not modify any provision that would materially impact the rights and protections afforded to the Reorganized Debtors, the Non-Debtor Affiliates, the Settling Insurers and Representatives of the foregoing under the Asbestos Personal Injury Claimant Release without the written consent of Meritor and the Reorganized Debtors, including, without limitation, (i) the scope and the terms of the release of the Reorganized Debtors, the Non-Debtor Affiliates, the Settling Insurers, and the Representatives of each of the foregoing (each as defined in the Plan), (ii) the requirement that the Asbestos Trust obtain a properly-executed Asbestos Personal Injury Claimant Release from any claimant as a pre-condition to making a distribution to any such claimant.

**7.9 Third-Party Services.** Nothing in this TDP shall preclude the Asbestos Trust from contracting with another asbestos claims resolution organization to provide services to the Asbestos Trust so long as decisions about the categorization and liquidated value of Asbestos Claims are based on the relevant provisions of this TDP, including the Disease Levels, Scheduled Values, and Medical/Exposure Criteria set forth above.

## **ARTICLE 8**

### **MEDICARE**

#### **8.1 Medicare.**

(a) It is the position of the parties to the Trust Agreement that the Protected Parties will have no reporting obligations in respect of their contributions to the Asbestos Trust, or in respect of any payments, settlements, resolutions, awards, or other claim liquidations by the

Asbestos Trust, under the reporting provisions of 42 U.S.C. §1395y et seq. or any other similar statute or regulation, and any related rules, regulations, or guidance issued in connection therewith or relating thereto (“MSPA”), including Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (P. L. 110-173), or any other similar statute or regulation, and any related rules, regulations, or guidance issued in connection therewith or relating thereto (“MMSEA”). Unless and until there is definitive regulatory, legislative, or judicial authority (as embodied in a final non-appealable decision from the United States Court of Appeals for the Third Circuit or the United States Supreme Court), or a letter from the Secretary of Health and Human Services confirming that the Protected Parties have no reporting obligations under MMSEA with respect to any settlements, payments, or other awards made by the Asbestos Trust or with respect to contributions the Protected Parties have made or will make to the Asbestos Trust, the Asbestos Trust shall, at its sole expense, in connection with the implementation of the Plan, act as a reporting agent for the Protected Parties, and shall timely submit all reports that would be required to be made by any of the Protected Parties under MMSEA on account of any claims settled, resolved, paid, or otherwise liquidated by the Asbestos Trust or with respect to contributions to the Asbestos Trust. The Asbestos Trust, in its role as reporting agent for the Protected Parties, shall follow all applicable guidance published by the Centers for Medicare & Medicaid Services of the United States Department of Health and Human Services and/or any other agent or successor entity charged with responsibility for monitoring, assessing, or receiving reports made under MMSEA (collectively, “CMS”) to determine whether or not, and, if so, how, to report to CMS pursuant to MMSEA.

(b) As long as the Asbestos Trust is required to act as a reporting agent for any Protected Party pursuant to the provisions of Section 8.1(a) above, the Asbestos Trust shall

within ten (10) business days following the end of each calendar quarter, provide a written certification to the party designated in writing by each Protected Party for which the Asbestos Trust is required to act as reporting agent, confirming that all reports to CMS required by Section 8.1(a) above have been submitted in a timely fashion, and identifying (i) any reports that were rejected or otherwise identified as noncompliant by CMS, along with the basis for such rejection or noncompliance, and (ii) any payments to Medicare benefits recipients or Medicare-eligible beneficiaries that the Asbestos Trust did not report to CMS.

(c) With respect to any reports rejected or otherwise identified as noncompliant by CMS, the Asbestos Trust shall, upon request by a Protected Party for which the Asbestos Trust is required to act as reporting agent, promptly provide copies of the original reports submitted to CMS, as well as any response received from CMS with respect to such reports; provided, however, that the Asbestos Trust may redact from such copies the names, Social Security numbers other than the last four digits, health insurance claim numbers, taxpayer identification numbers, employer identification numbers, mailing addresses, telephone numbers, and dates of birth of the injured parties, claimants, guardians, conservators and/or other personal representatives, as applicable. With respect to any such reports, the Asbestos Trust shall reasonably undertake to remedy any issues of noncompliance identified by CMS and resubmit such reports to CMS, and, upon request by a Protected Party, provide such Protected Party with copies of such resubmissions; provided, however, that the Asbestos Trust may redact from such copies the names, Social Security numbers other than the last four digits, health insurance claim numbers, taxpayer identification numbers, employer identification numbers, mailing addresses, telephone numbers, and dates of birth of the injured parties, claimants, guardians, conservators

and/or other personal representatives, as applicable. In the event the Asbestos Trust is unable to remedy any issues of noncompliance, the provisions of Section 8.1(g) below shall apply.

(d) As long as the Asbestos Trust is required to act as a reporting agent for a Protected Party pursuant to Section 8.1(a) above, with respect to each claim of a Medicare benefits recipient or Medicare-eligible beneficiary that was paid by the Asbestos Trust and not reported to CMS, the Asbestos Trust shall, upon request by such Protected Party, promptly provide the claimant's name, last four digits of the claimant's Social Security number, the year of the claimant's birth, the claimants' asbestos-related disease, and any other information that may be necessary in the reasonable judgment of such Protected Party to satisfy its obligations, if any, under MMSEA, as well as the basis for the Asbestos Trust's failure to report the payment. In the event the Protected Party informs the Asbestos Trust that it disagrees with the Asbestos Trust's decision not to report a claim paid by the Asbestos Trust, the Asbestos Trust shall promptly report the payment to CMS. All documentation relied upon by the Asbestos Trust in making a determination that a payment did not have to be reported to CMS shall be maintained for a minimum of six years following such determination. The Protected Parties shall keep any information and documents received from the Asbestos Trust pursuant to this Section 8.1(d) confidential and shall not use such information for any purpose other than meeting obligations under MSPA and/or MMSEA.

(e) As long as the Asbestos Trust is required to act as a reporting agent for any Protected Party pursuant to Section 8.1(a) above, the Asbestos Trust shall make the reports and provide the certifications required by Section 8.1(a) and (b) above until such time as the Protected Party shall determine, in its reasonable judgment, that it has no further legal obligation under MMSEA or otherwise to report any settlements, resolutions, payments, or liquidation

determinations made by the Asbestos Trust or contributions to the Asbestos Trust. Furthermore, following any permitted cessation of reporting, or if reporting has not previously commenced due to the satisfaction of one or more of the conditions set forth in Section 8.1(a) above, and if the Protected Party reasonably determines, based on subsequent legislative, administrative, regulatory, or judicial developments, that reporting is required, then the Asbestos Trust shall promptly perform its obligations under Section 8.1(a) and (b) above.

(f) Section 8.1(a) above is intended to be purely prophylactic in nature, and does not imply, and shall not constitute an admission, that any Protected Party, is, in fact, an “applicable plan” within the meaning of MMSEA, or that any Protected Party has a legal obligation to report any actions undertaken by the Asbestos Trust or contributions to the Asbestos Trust under MMSEA or any other statute or regulation.

(g) In the event that CMS concludes that reporting done by the Asbestos Trust in accordance with Section 8.1(a) above is or may be deficient in any way, and has not been corrected to the satisfaction of CMS in a timely manner, or if CMS communicates to the Asbestos Trust or any of the Protected Parties a concern with respect to the sufficiency or timeliness of such reporting, or there appears to a Protected Party a reasonable basis for a concern with respect to the sufficiency or timeliness of such reporting or non-reporting based upon the information received pursuant to Section 8.1(b), (c) or (d) above, or other credible information, then each Protected Party shall have the right to submit its own reports to CMS under MMSEA, and the Asbestos Trust shall provide in a timely manner to any Protected Party that elects to file its own reports such information as the electing Protected Party may require in order to comply with MMSEA, including, without limitation, the full reports filed by the Asbestos Trust pursuant to Section 8.1(a) above without any redactions. Such Protected Party



shall keep any information it receives from the Asbestos Trust pursuant to this Section 8.1(g) confidential and shall not use such information for any purpose other than meeting obligations under MSPA and/or MMSEA.

(h) Notwithstanding any other provision hereof, if the Asbestos Trust is required to act as a reporting agent for any of the Protected Parties pursuant to the provisions contained herein, then such Protected Parties shall take all steps necessary and appropriate as required by CMS to permit any reports contemplated by Section 8.1 to be filed. Furthermore, until a Protected Party provides the Asbestos Trust with any necessary information regarding that Protected Party's identifying information that may be required by CMS's Coordination of Benefits Contractor to effectuate reporting, the Asbestos Trust shall have no obligation to report under Section 8.1 (a) above with respect to any such entity that has not provided such information and the Asbestos Trust shall have no indemnification obligation under Section 8.1 to such Protected Party for any penalty, interest, or sanction that may arise solely on account of the Protected Party's failure to timely provide such information to the Asbestos Trust in response to a timely request by the Asbestos Trust for such information.

(i) The Trustee shall obtain prior to remittance of funds to claimants' counsel or to the claimant, if pro se, in respect of any Asbestos Claim a certification from the claimant to be paid that said claimant has or will provide for the payment and/or resolution of any obligations owing or potentially owing under MSPA in connection with, or relating to, such Asbestos Claim and that the Protected Parties also are beneficiaries of such certification. The Asbestos Trust shall provide a quarterly certification of its compliance with the terms of the immediately preceding sentence to the party designated in writing by each Protected Party for which the Asbestos Trust is required to act as reporting agent, and shall permit reasonable audits

by such Protected Parties, no more often than quarterly, to confirm the Asbestos Trust's compliance with this Section 8.1(i) during which Protected Parties may request copies of claimant certifications. For the avoidance of doubt, the Asbestos Trust shall be obligated to comply with the requirements of this Section 8.1(i) regardless of whether a Protected Party elects to file its own reports under MMSEA pursuant to Section 8.1(g) above. The Protected Parties shall keep any information and documents received from the Asbestos Trust pursuant to this Section 8.1(i).

## **ARTICLE 9**

### **MISCELLANEOUS**

**9.1 Amendments.** Except as otherwise provided herein, the Trustee may amend, modify, delete, or add to any provisions of this TDP (including, without limitation, amendments to conform this TDP to advances in scientific or medical knowledge or other changes in circumstances), provided he or she first obtains the consent of the TAC and the FCR pursuant to the Consent Process set forth in Sections 5.7(b) and 6.6(b) of the Trust Agreement, except that the right to amend the Claims Payment Ratio is governed by the provisions of Section 2.5 above, and the right to adjust the Payment Percentage is governed by Section 4.2 above. Nothing herein is intended to preclude the TAC or the FCR from proposing to the Trustee, in writing, amendments to this TDP. Any amendment proposed by the TAC or the FCR shall remain subject to Section 7.3 of the Trust Agreement. For the avoidance of doubt, nothing herein shall permit the Trustee, TAC or FCR to amend any provision in this TDP that would materially impact the rights and protections afforded to the Reorganized Debtors, the Non-Debtor Affiliates, the Settling Insurers and Representatives of the foregoing under the Plan without the written consent of Meritor and the Reorganized Debtors, including, without limitation, (i) the scope and the

terms of the release of the Reorganized Debtors, the Non-Debtor Affiliates, the Settling Insurers, and the Representatives of each of the foregoing (each as defined in the Plan) included in the Asbestos Personal Injury Claimant Release or (ii) the requirement that the Asbestos Trust obtain a properly-executed Asbestos Personal Injury Claimant Release as a pre-condition to making a distribution to a claimant.

**9.2 Severability.** Should any provision contained in this TDP be determined to be unenforceable, such determination shall in no way limit or affect the enforceability and operative effect of any and all other provisions of this TDP. Should any provision contained in this TDP be determined to be inconsistent with or contrary to the Debtors' obligations to any insurance company providing insurance coverage to a Debtor in respect of claims for personal injury based on exposure to an asbestos-containing product or to conduct for which a Debtor has legal responsibility, the Asbestos Trust with the consent of the TAC and the FCR may amend this TDP and/or the Trust Agreement to make the provisions of either or both documents consistent with the duties and obligations of the Debtors to said insurance company.

**9.3 Governing Law.** Except for purposes of determining the liquidated value of any Asbestos Claim, administration of this TDP shall be governed by, and construed in accordance with, the laws of the State of Delaware. The law governing the liquidation of Asbestos Claims in the case of arbitration or litigation in the tort system shall be the law of the Claimant's Jurisdiction as described below.

For these purposes, the "**Claimant's Jurisdiction**" is the jurisdiction in which the claim was filed (if at all) against a Debtor in the tort system prior to the Petition Date. If the claim was not filed against a Debtor in the tort system prior to the Petition Date, the claimant may elect as the Claimant's Jurisdiction either (i) the jurisdiction in which the claimant resides at the time of

diagnosis or when the claim is filed with the Asbestos Trust; or (ii) a jurisdiction in which the claimant experienced exposure to an asbestos-containing product or to conduct for which a Debtor has legal responsibility.

**APPENDIX I**

**AUTHORIZATION FOR RELEASE OF RECORDS OF OTHER ASBESTOS TRUSTS  
AND SETTLEMENT FACILITIES**

TO WHOM IT MAY CONCERN:

The claimant named below hereby authorizes each other asbestos trust or settlement facility listed in the attachment hereto to provide directly to the Maremont Asbestos Personal Injury Trust (“Asbestos Trust”), or any of its representatives, all submissions made by claimant and (if different from the claimant) the party whose injury forms the basis of the claim (the “Injured Party”), including claim forms, any attachments to claim forms, and any amended or supplemental claim forms. Claimant expressly acknowledges that the other asbestos trust or settlement facility may provide such documents directly to the Asbestos Trust and need not obtain any further authorization from the claimant or his/her representatives.

A copy of this Authorization shall be as valid as the original. This Authorization contains no expiration date and may be exercised by the Trust at any time. If claimant’s representative has signed this Authorization, a notarized power of attorney is attached.

Name of Claimant: \_\_\_\_\_  
Social Security No.: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_

Name of Injured Party (if different from claimant): \_\_\_\_\_  
Social Security No.: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_

Name of representative for claimant or Injured Party:

Signing party: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Notarized:

Attachment: List of Other Asbestos Trusts and Settlement Facilities

### List of Other Asbestos Trusts and Settlement Facilities

A&I Corp. Asbestos Bodily Injury Trust	Forty-Eight Insulations Qualified Settlement Trust	Raytech Corp. Asbestos Personal Injury Settlement Trust
A-Best Asbestos Settlement Trust	Fuller-Austin Asbestos Settlement Trust	Rock Wool Mfg Company Asbestos Trust
AC&S Asbestos Settlement Trust	G-I Asbestos Settlement Trust	Rutland Fire Clay Company Asbestos Trust
Amatex Asbestos Disease Trust Fund	H.K. Porter Asbestos Trust	Shook & Fletcher Asbestos Settlement Trust
APG Asbestos Trust	Hercules Chemical Company, Inc. Asbestos Trust	Skinner Engine Co. Asbestos Trust
API, Inc. Asbestos Settlement Trust	J.T. Thorpe Settlement Trust	Stone and Webster Asbestos Trust
Armstrong World Industries Asbestos Personal Injury Settlement Trust	JT Thorpe Company Successor Trust	Swan Asbestos and Silica Settlement Trust
ARTRA 524(g) Asbestos Trust	Kaiser Asbestos Personal Injury Trust	T H Agriculture & Nutrition, LLC Industries Asbestos Personal Injury Trust
ASARCO LLC Asbestos Personal Injury Settlement Trust	Keene Creditors Trust	Thorpe Insulation Company Asbestos Personal Injury Settlement Trust
Babcock & Wilcox Company Asbestos Personal Injury Settlement Trust	Lummus 524(g) Asbestos PI Trust	United States Gypsum Asbestos Personal Injury Settlement Trust
Bartells Asbestos Settlement Trust	Lykes Tort Claims Trust	United States Lines, Inc. and United States Lines (S.A.) Inc. Reorganization Trust
Brauer 524(g) Asbestos Trust	M.H. Detrick Company Asbestos Trust	United States Mineral Products Company Asbestos Personal Injury Settlement Trust

Burns and Roe Asbestos Personal Injury Settlement Trust	Manville Personal Injury Settlement Trust	UNR Asbestos-Disease Claims Trust
C.E. Thurston & Sons Asbestos Trust	Muralo Trust	Utex Industries, Inc. Successor Trust
Celotex Asbestos Settlement Trust	NGC Bodily Injury Trust	Wallace & Gale Company Asbestos Settlement Trust
Combustion Engineering 524(g) Asbestos PI Trust	Owens Corning Fibreboard Asbestos Personal Injury Trust (OC Sub-Fund)	Western MacArthur-Western Asbestos Trust
Congoleum Plan Trust	Owens Corning Fibreboard Asbestos Personal Injury Trust (FB Sub-Fund)	W.R. Grace Trust
DII Industries, LLC Asbestos PI Trust	PLI Disbursement Trust	Pittsburgh Corning Trust
Eagle-Picher Industries Personal Injury Settlement Trust	Plibrico Asbestos Trust	Bondex Trust
Federal Mogul U.S. Asbestos Personal Injury Trust	Porter Hayden Bodily Injury Trust	Flintkote Company and Flintkote Mines Limited Asbestos Personal Injury Trust
ffMLC Asbestos Personal Injury Trust	Metex Asbestos Trust	Leslie Controls, Inc. Asbestos Personal Injury Trust
Plant Insulation Company Asbestos Settlement Trust	Quigley Co. Inc. Asbestos Personal Injury Trust	Yarway Asbestos Personal Injury Trust
GST Settlement Facility	Geo. V. Hamilton, Inc. Asbestos Trust	