

## **A-BEST PRODUCTS COMPANY, INC.**

### **FIRST AMENDED ASBESTOS PERSONAL INJURY SETTLEMENT TRUST DISTRIBUTION PROCEDURES**

The A-Best Products Company, Inc. Asbestos Personal Injury Settlement Trust Distribution Procedures (“*TDP*”), as amended and contained herein, provide for resolving all Asbestos Claims (as that term is defined in the A-Best Products Company, Inc. Plan of Reorganization (“*Plan*”)) caused by exposure to asbestos-containing products for which A-Best Products Company, Inc. (“*A-Best*”) and its predecessors, successors, and assigns have legal responsibility (hereinafter for all purposes of this TDP referred to as “*PI Trust Claims*”), as provided in and required by the Plan and by the A-Best Asbestos Settlement Trust Agreement (“*Trust Agreement*”). The Plan and Trust Agreement establish the A-Best Asbestos Settlement Trust (“*Trust*”). The Trustee of the Trust (“*Trustee*”) shall implement and administer this TDP in accordance with the Trust Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings assigned to them in the Plan and the Trust Agreement.

#### **SECTION 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 PI Trust Claims that may presently exist or may arise in the future in substantially the same manner.

**1.2 Interpretation.** Nothing in this TDP shall be deemed to create a substantive right for any claimant.

**1.3 Effective Date of the Trust.** The Effective Date of the Trust for purposes of these procedures shall be the date the initial Trustee signs the Trust Agreement (“*Effective Date of the Trust*”).

#### **SECTION 2**

##### **Overview**

**2.1 Trust Goals.** The goal of the Trust is to treat all claimants equitably and in a substantially equivalent manner. This TDP furthers that goal by setting forth procedures for processing claims generally on an impartial, first-in-first-out (“*FIFO*”) basis, 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 a schedule of four asbestos-related diseases (“*Disease Levels*”), each of which has presumptive medical and exposure requirements (“*Medical/Exposure Criteria*”) and specific liquidated values (“*Scheduled Values*”). The Disease Levels, Medical/Exposure Criteria, and Scheduled Values, which are set forth in Section 4.2(a), have all been selected and derived with

the intention of achieving a fair allocation of the Trust funds as among claimants suffering from different disease processes in light of the best available information considering the settlement history of A-Best and the rights claimants would have in the tort system absent the bankruptcy.

**2.2 Overview of Claims Liquidation Procedures.** PI Trust Claims shall be processed based on their place in one of two processing queues: the Malignant Claims Queue and the Nonmalignant Claims Queue. The history of claims against A-Best is limited, thus making it difficult for the Trust and its professionals to make projections as to the number and type of claims that may be filed with the Trust. Given the uncertainty surrounding the number and type of claims against A-Best, initially the Trust only will process claims in the Malignant Claims Queue. After twelve months, the Trustee will evaluate the number and type of claims filed, and will re-evaluate the Payment Percentage and Scheduled Values and may alter the order for processing claims.

The Trustee shall take all reasonable steps to resolve PI Trust Claims as efficiently and expeditiously as possible at each stage of claims processing. To this end, the Trustee, in his or her sole discretion, may conduct settlement discussions with claimants' representatives with respect to more than one claim at a time, provided that the claimants' respective positions in the processing queues are maintained and each claim is individually liquidated.

The Trustee shall liquidate all PI Trust Claims, in accordance with Section 4.2.

All disputes shall be subject to binding or non-binding arbitration as set forth in Section 4.7 below, at the election of the claimant. PI Trust Claims that are the subject of a dispute with the Trust that cannot be resolved by non-binding arbitration may enter the tort system as provided in Section 4.8 below. However, if and when a claimant obtains a judgment in the tort system, the judgment will be payable (subject to the Payment Percentage) as provided in Section 3 below.

**2.3 Overview of Application of the Payment Percentage.** After the liquidated value of a PI Trust Claim is determined pursuant to the procedures set forth herein for claim processing, arbitration, or litigation in the tort system, the claimant will ultimately receive a pro-rata share of that value based on a Payment Percentage described in Section 3 below. The Payment Percentage shall apply to all claims. No holder of a PI Trust Claim shall receive a payment that exceeds the Payment Percentage times the liquidated value of the claim.

The Payment Percentage may be adjusted upwards or downwards from time to time by the Trust to reflect then-current estimates of the Trust's assets and its liabilities, as well as the then-estimated value of 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 will not receive additional payments. Because there is uncertainty in the prediction of both the number and severity of future claims, and the amount of the Trust's assets, no guarantee can be made of any Payment Percentage of a PI Trust Claim's liquidated value. Notwithstanding the above, in the event that there is a material and substantial increase in the Payment Percentage, the Trustee has the discretion to make additional payments to claimants.

## SECTION 3

### Payment Percentage; Periodic Estimates

**3.1 Uncertainty of A-Best's Asbestos Liabilities.** There is inherent uncertainty regarding A-Best's total asbestos-related tort liabilities, as well as the total value of the assets available to the Trust to pay PI Trust Claims. Consequently, there is inherent uncertainty regarding the amounts that holders of PI Trust Claims will receive. To ensure substantially equivalent treatment of all present and future PI Trust Claims, the Trustee must determine from time to time the percentage of full liquidated value that holders of present and future PI Trust Claims will be likely to receive, *i.e.*, the "**Payment Percentage.**"

**3.2 Computation of Payment Percentage.** As provided in Section 2.3 above, the Payment Percentage shall apply to PI Trust Claims. The Payment Percentage shall be subject to change pursuant to the terms of this TDP and the Trust Agreement if the Trustee determines that an adjustment is required. As soon as practicable after the Claims Bar Date, as defined in Section 4.1(a)(2) below, 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. The Trustee shall also reconsider the then applicable Payment Percentage at shorter intervals if he or she deems such reconsideration to be appropriate.

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 PI Trust Claims, the value of the assets then available to the 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 PI Trust Claims. When making these determinations, the Trustee shall exercise common sense and flexibly evaluate all relevant factors.

## SECTION 4

### Resolution of PI Trust Claims.

#### **4.1 Ordering, Processing and Payment of Claims.**

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

**(1) Establishment of the Processing Queues.** The Trust will order claims that are sufficiently complete to be reviewed for processing purposes on a FIFO basis in two separate processing queues (the "**FIFO Processing Queues**"). All claims for a malignant disease shall be placed in the "**Malignant Claims Queue**"; all claims for a nonmalignant disease shall be placed in the "**Nonmalignant Claims Queue**". A claimant's position in the respective FIFO Processing Queue shall be determined as of the earlier of (i) the date prior to the Petition Date (if any) that the specific claim was either filed against A-Best in the tort system or was

actually submitted to A-Best pursuant to an administrative settlement agreement; (ii) the filing date of the claim after the Petition Date but prior to the Effective Date of the Trust against another defendant in the tort system; or (iii) the date after the Effective Date of the Trust that the claim was filed with the Trust.

If any claims are filed on the same date, the claimant's position in the respective FIFO Processing Queue shall be determined by the date of the diagnosis of the claimant's asbestos-related disease. If any PI Trust Claims are both diagnosed on the same dates, the position of those claims in the FIFO Processing Queue shall be determined by the date of the claimant's birth, with older claimants given priority over younger claimants.

**(2) Bar Date.** All PI Trust Claims that existed as of the Effective Date of the Trust must be filed with the Trust on or before twelve months after the Trust sends out Claims Materials (the "***Claims Filing Bar Date***"). The Claims Materials will identify the Claims Filing Bar Date. Any claim that existed as of the Effective Date of the Trust that is filed after the Claims Filing Bar Date shall not be processed or paid by the Trust.

**(3) Effect of Statutes of Limitations and Repose.** To be eligible for a place in either FIFO Processing Queue, a PI Trust Claim must meet either: (i) for claims first filed in the tort system against A-Best prior to the Petition Date, the applicable federal, state, and foreign statute of limitations 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-Best in the tort system prior to the Petition Date, the applicable federal, state and foreign statute of limitations and repose that is in effect at the time of the filing with the Trust. However, the running of any unexpired applicable statute of limitations shall be tolled for purposes of these TDP as of the earliest of (A) the actual filing date of the claim against A-Best prior to the Petition Date, whether in the tort system or by submission of the claim to A-Best pursuant to an administrative settlement agreement; (B) the filing date of the claim after the Petition Date but prior to the Effective Date of the Trust against another defendant in the tort system; (C) the filing date of the requisite proof of claim for voting purposes in this Chapter 11 proceeding prior to the Effective Date; or (D) the filing of a proof of claim with the requisite supporting documentation with the Trust after the Effective Date of the Trust. If a PI Trust Claim meets any of the tolling provisions described in the preceding sentence, it will be treated as timely filed regardless of the date that it is actually filed with the Trust. Any claims that were first diagnosed after the Petition Date, irrespective of any relevant statute of limitations, may be filed with the Trust within two (2) years after the date of diagnosis or within two (2) years after the Effective Date of the Trust, whichever occurs later.

**(b) Processing of Claims.** The Trust will process the claims in the Malignant Claims Queue first. Prior to the Claims Filing Bar Date the Trust will process only claims in the Malignant Claims Queue. After the Claims Filing Bar Date, the Trustee may, in his or her sole discretion, establish a different claims processing order, including an order that allows claims in the Nonmalignant Claims Queue to be processed before particular claims in the Malignant Claims Queue. Claims that were not filed against A-Best in the tort system or actually submitted to A-Best pursuant to an administrative settlement agreement prior to the Petition Date, or against another defendant in the tort system prior to the Plan Filing Date, shall not be processed

until after the Claims Filing Bar Date regardless whether the claim is for a malignant or non-malignant claim.

**(c) Payment of Claims.** Once PI Trust Claims have been liquidated by the process as provided in Section 4.2(a) below, by arbitration as provided in Section 4.7 below, or by litigation in the tort system provided in Section 4.8 below, such claims shall be paid, all such payments being subject to the applicable Payment Percentage. The Trustee retains the sole discretion to determine the order in which claims are paid and may suspend payments at any time.

When the claimant is deceased or incompetent, and the settlement and payment of his or 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 Trust on the claim shall remain open so long as proceedings before that court or in that probate process remain pending, provided that the Trust has been furnished with evidence that the settlement offer has been submitted to such court or 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 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.

**4.2 Resolution of PI Trust Claims.** Claimants seeking resolution of PI Trust Claims must first file a proof of claim form, together with the required supporting documentation. Within six months after the Effective Date of the Trust, the Trust shall adopt internal operating procedures for the purposes of implementing the Plan, Trust Agreement, and this TDP, which shall include internal deadlines for processing all PI Trust Claims.

All claims filed with the Trust shall be deemed to be a claim for the highest Disease Level for which the claim qualifies at the time of filing, with all lower Disease Levels for which the claim then qualifies or may qualify in the future subsumed into the higher Disease Level for both processing and payment purposes. Upon filing of a valid proof of claim form with the required supporting documentation, the claim shall be placed in the appropriate FIFO Processing Queue in accordance with the ordering criteria described in Section 4.1(a).

No claim shall be eligible for payment unless the claimant has initiated a lawsuit for recovery of damages for the claimant's asbestos related injuries in the tort system.

**(a) Disease Levels, Scheduled Values and Medical/Exposure Criteria.** The four Disease Levels covered by this TDP, together with the Medical/Exposure Criteria for each and the Scheduled Values are set forth below.

A claimant, who establishes with a medical examination that he is suffering from one of the Disease Levels and who provides evidence that the alleged exposure to a specific asbestos-containing product manufactured or distributed by A-Best or its predecessors, was at the worksite listed on the Worksite List during the Qualifying Date Range, as defined in Section

4.4(b)(1) below and attached as Exhibit A may be eligible for the Scheduled Values for the relevant Disease Level.

<b>Disease Level</b>	<b>Scheduled Values</b>	<b>Medical/Exposure Criteria</b>
Mesothelioma (Level IV)	\$30,500	(1) Diagnosis <sup>1</sup> of mesothelioma; (2) the requisite evidence of occupational exposure at a Worksite to a specific asbestos-containing product manufactured or distributed by A-Best or its predecessors; (3) six months exposure to A-Best asbestos-containing products; and (4) five years cumulative occupational asbestos exposure.
Lung Cancer (Level III)	\$6,800	(1) Diagnosis of a primary lung cancer plus evidence of an underlying Bilateral Asbestos-Related Nonmalignant Disease; (2) the requisite evidence of occupational exposure at a Worksite to a specific asbestos-containing product manufactured or distributed by A-Best or its predecessors; (3) supporting medical documentation establishing asbestos exposure as a contributing factor in causing the lung cancer in question; (4) six months exposure to A-Best asbestos-containing products; and (5) five years cumulative occupational asbestos exposure.
Other Cancer (Level II)	\$2,800	(1) Diagnosis of a primary colorectal, laryngeal, esophageal, pharyngeal, or stomach cancer plus evidence of an underlying Bilateral Asbestos-Related Nonmalignant Disease; (2) the requisite evidence of occupational exposure at a Worksite to a specific asbestos-containing product manufactured or distributed by A-Best or its predecessors; (3) supporting medical documentation establishing asbestos exposure as a contributing factor in causing the other cancer in question; (4) six months exposure to A-Best asbestos-containing products; and (5) five years cumulative occupational asbestos exposure.
Asbestos-Related Non-Malignant Disease (Level I)	\$1,100	(1) Diagnosis of a Bilateral Asbestos-Related Nonmalignant Disease; (2) the requisite evidence of occupational exposure at a Worksite to a specific asbestos-containing product manufactured or distributed by A-Best or its

<sup>1</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 4.4 below.

	predecessors; (3) six months exposure to A-Best asbestos-containing products; and (4) five years cumulative occupational asbestos exposure.
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**4.3 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 Trust. In addition, the claimant with secondary exposure must establish that he or she is suffering from one of the four Disease Levels described in Section 4.2 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 products produced by A-Best and that such secondary exposure was a cause of the claimed disease. The proof of claim form included in Exhibit B hereto contains an additional section for Secondary Exposure Claims. All other liquidation and payment rights and limitations under this TDP shall be applicable to such claims.

**4.4 Evidentiary Requirements**

**(a) Medical.**

**(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 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. A finding by a physician after the Petition Date that a claimant’s disease is “consistent with” or “compatible with” asbestosis will not alone be treated by the Trust as a diagnosis.

**(A) Bilateral Asbestos-Related Nonmalignant Disease.** Evidence of Bilateral Asbestos-Related Nonmalignant Disease for purposes of meeting the criteria for establishing Disease Levels I, II, and III, means a report submitted by a qualified physician who has examined the claimant stating that the claimant has or had either (i) a chest X-ray read by a qualified B reader of 1/0 or higher on the ILO scale or (ii) (a) an X-ray read by a qualified B reader, (b) a CT scan read by a qualified physician, or (c) pathology, in each case showing either bilateral interstitial fibrosis, bilateral pleural plaques, bilateral pleural thickening, or bilateral pleural calcification.

Solely for claims filed against A-Best prior to the Petition Date, if an ILO reading is not available, either (1) a chest X-ray or CT scan read by a qualified physician, or (ii) pathology, in each case showing either 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 Bilateral Asbestos-Related Nonmalignant Disease for purposes of meeting the medical requirements of Disease Levels I, II, and III.

**(B) Asbestos Related Malignancy.** All diagnoses of an asbestos-related malignancy (Disease Levels II – IV) shall be based upon either (i) a physical examination of the claimant by the physician providing the diagnosis, or (ii) on a diagnosis of such a malignant Disease Level by a board-certified pathologist. For claims filed against A-Best prior to the Petition Date, if a report from a physician who has examined the claimant is not available, the claimant may submit a report from a physician who has reviewed the claimant’s medical records.

**(2) Credibility of Medical Evidence.** Before making any payment to a claimant, the Trust must have reasonable confidence that the medical evidence provided in support of the claim is credible and consistent with recognized medical standards. The 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-Best to settle for payment similar disease cases prior to A-Best’s bankruptcy, or (iii) 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, is presumptively reliable, although the Trust may seek to rebut the presumption.

**(b) Exposure.**

**(1) In General.** As set forth in Section 4.2(a) above, to qualify for any Disease Level, the claimant must demonstrate a minimum exposure to an asbestos-containing product manufactured or distributed by A-Best. To meet the minimum exposure requirement, the claimant must show by clear and convincing evidence six months of exposure to A-Best’s asbestos-containing products plus five years cumulative occupational asbestos exposure. In order to show exposure to a specific asbestos-containing product manufactured or distributed by A-Best, a claimant must show that, during the applicable Qualifying Date Range<sup>2</sup>, he or she was employed at a site on the Worklist as listed on attached Exhibit A and that he or she was employed at that site on a task or tasks that would bring him/her in contact with a specific A-Best product.

**(2) Exposure Evidence.** The Trustee may consider as evidence an affidavit of the claimant, an affidavit of one or more Co-workers<sup>3</sup> or the affidavit of a family

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<sup>2</sup> The Qualifying Date Range is the period that A-Best supplied a site with asbestos-containing product, and includes the period from the date of A-Best’s first sale of asbestos-containing product to a site through a date following the date of A-Best’s last sale of asbestos-containing product to that site. For sites on the Worksite List, the Qualifying Date Range for particular A-Best products is specified on the list.

<sup>3</sup> As used herein, “Co-worker” shall mean one or more individuals who provide competent sworn testimony (i) that the claimant worked with or around A-Best products and (ii) that asbestos-containing products manufactured or distributed by A-Best were present at the worksite during the relevant period. A Co-worker’s affidavit must provide evidence sufficient to show that the Co-worker meets this definition.



member in the case of a deceased claimant (providing the Trustee finds such evidence clear and convincing), social security statement of earnings record information or other competent documentary evidence. The Trustee may also require submission of other or additional evidence of exposure when the Trustee deems such to be necessary.

In evaluating exposure evidence, the Trustee may take into account the following factors:

(A) Site of Employment: A-Best and its predecessors maintained a comprehensive set of sales order forms for all sales and distribution of A-Best product from 1971-1984. From those sales order forms, A-Best developed a comprehensive list of sites that are known to have received A-Best asbestos-containing product, and the date ranges such sites received A-Best asbestos-containing product, as set forth in the attached Exhibit A.

(B) Date: A-Best product sales records show that A-Best did not manufacture or distribute asbestos-containing product after 1984. Claims based on alleged exposures after 1984 are thus not subject to liquidation by the Trust.

(C) Industry/Occupation: A-Best had a specialized product line: industrial safety clothing for use in high heat applications. Because of the specialized nature and use of A-Best asbestos-containing product, the Trustee shall consider that there is a limited universe of occupations in a similarly limited range of industries in which claimants are likely to have been directly exposed to A-Best's asbestos-containing industrial safety clothing.

**4.5 Claims Audit Program.** The Trustee may develop methods for auditing the reliability of medical evidence, including additional reading of x-rays, CT scans and verification of pulmonary function tests, as well as the reliability of evidence of exposure to asbestos, including exposure to asbestos-containing products manufactured or distributed by A-Best or its predecessors. In the event that the Trust reasonably determines that any individual or entity has engaged in a pattern or practice of providing unreliable medical evidence to the Trust, it may decline to accept additional evidence from such provider in the future.

Further, in the event that an audit reveals that fraudulent information has been provided to the Trust, the Trust may penalize any claimant or claimant's attorney by disallowing the PI Trust 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' PI Trust Claims, raising the level of scrutiny of additional information submitted from the same source or sources, 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.

**4.6 Second Disease (Malignancy) Claims.** The holder of a PI Trust Claim involving a non-malignant asbestos-related disease (Disease Level I) may assert a new PI Trust Claim against the Trust for a malignant disease (Disease Levels II - IV) that is subsequently diagnosed. Any additional payments to which such claimant may be entitled with respect to such malignant asbestos-related disease shall not be reduced by the amount paid for the non-malignant asbestos-related disease, provided that the malignant disease had not been diagnosed by the time the claimant was paid with respect to his or her original claim involving the non-malignant disease.

#### **4.7 Arbitration.**

**(a) Establishment of ADR Procedures.** The Trust shall institute binding and non-binding arbitration procedures for resolving disputes concerning processing and payment of claims or application of these TDP.

In all arbitrations, the arbitrator shall consider the same medical and exposure evidentiary requirements that are set forth in Section 4.4 above. With respect to all claims eligible for arbitration, the claimant, but not the Trust, may elect either non-binding or binding arbitration.

**(b) Claims Eligible for Arbitration.** In order to be eligible for arbitration, the Trust's review of a claim must be complete. A claim will be treated as completed for these purposes when the claim has been reviewed by the Trust, the Trust has made an offer on the claim, the claimant has rejected the offer, and the claimant has notified the Trust of the rejection in writing. A claim will also be treated as completed if the Trust has rejected the claim.

**(c) 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 4.2(a) above. A claimant who submits to arbitration and who accepts the arbitral award will receive payments in the same manner as one who accepts PI Trust's original valuation of the claim.

**4.8 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 Trust. Any award against the Trust shall be paid as follows: The Scheduled Value of the claim shall be reduced by the Payment Percentage and paid when the claimant obtains a final nonappealable judgment against the Trust. The remainder of any award (the award minus the Scheduled Value) shall be paid in annual installments over ten years, with each year's payment being subject to the Payment Percentage then in effect. The Trust shall not pay awards of interest, fees, costs, or expenses.

## **SECTION 5**

### **Claims Materials**

**5.1 Claims Materials.** The Trust shall prepare suitable and efficient claims materials ("*Claims Materials*") for all PI Trust Claims, and shall provide such Claims Materials upon a

written request for such materials to the Trust. The proof of claim form to be submitted to the 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. A copy of the proof of claim form to be used by the Trust for PI Trust Claims is included in Exhibit B hereto. The proof of claim form may be changed by the Trust.

**5.2 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. If feasible, the forms used by the Trust to obtain claims information shall be the same or substantially similar to those used by other asbestos claims resolution organizations. Instead of collecting some or all of the claims information from a claimant or the claimant's attorney, the Trust may also obtain such information from electronic data bases maintained by any other asbestos claims resolution organization. However, the Trust shall inform the claimant that it plans to obtain information as available from such other organizations and may do so unless the claimant objects in writing or provides such information directly to the Trust. If requested by the claimant, the Trust shall accept information provided electronically. The claimant may, but will not be required to, provide the Trust with evidence of recovery from other asbestos defendants and claims resolution organizations.

**5.3 Withdrawal of Claims.** A claimant can withdraw a PI Trust Claim at any time upon written notice to the Trust and file another claim subsequently without affecting the status of the claim for statute of limitations and repose purposes, but any such claim filed after withdrawal shall be given a place in the respective FIFO Processing Queue based upon the date of such subsequent filing. Except for claims held by representatives of deceased or incompetent claimants as set forth in Section 4.1(c), a claim will be deemed to have been withdrawn if the claimant neither accepts or rejects within six months the Trust's offer of payment or rejection of the claim. Upon written request and good cause, the Trust may, in its sole discretion, extend this period for an additional six months.

## SECTION 6

### **General Guidelines for Liquidating and Paying Claims**

**6.1 Showing Required.** To establish a valid PI Trust Claim, a claimant must meet the requirements set forth in this TDP. The Trust may require the submission of X-rays, CT scans, laboratory tests, medical examinations or reviews, other medical evidence, or any other evidence to support or verify the claim, and may further require that medical evidence submitted comply with recognized medical standards regarding equipment, testing methods, and procedures to assure that such evidence is reliable.

**6.2 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 PI Trust Claims so that the payment of valid PI Trust Claims is not further impaired by such processes with respect to issues related to the validity of the medical evidence

supporting a PI Trust Claim. The Trustee shall also have the latitude to make judgments regarding the amount of transaction costs to be expended by the Trust so that valid PI Trust 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 Trust whatever the costs, or to decline to accept medical evidence from sources that the Trustee has determined to be unreliable pursuant to the Claims Audit Program described in Section 4.5 above.

**6.3 Punitive Damages and Interest.** In determining the value of PI Trust Claim, punitive or exemplary damages, *i.e.*, damages other than compensatory damages and interest, shall not be considered or allowed, notwithstanding their availability in the tort system.

**6.4 Releases.** The Trustee shall have the discretion to determine the form and substance of the releases to be provided to the Trust in order to maximize recovery for claimants against other tortfeasors without increasing the risk or amount of claims for indemnification or contribution from the Trust. As a condition to making any payment to a claimant, the Trust shall obtain a general, partial, or limited release as appropriate in accordance with the applicable state or other law. If allowed by state law, the endorsing of a check or draft for payment by or on behalf of a claimant shall constitute such a release.

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

**6.6 PI Trust Disclosure of Information.** Periodically, but not less often than once a year, the Trust shall make available to claimants and other interested parties, the number of claims by disease levels that have been resolved by the Trust.

## SECTION 7

### Miscellaneous

**7.1 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 follows the notice provision of Article V of the Trust Agreement.

**7.2 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.

**7.3 Governing Law.** Except for purposes of determining the liquidated value of any PI Trust Claim, administration of this TDP shall be governed by, and construed in accordance with, the laws of the State of Ohio.

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