

**FAIRBANKS ASBESTOS PERSONAL INJURY TRUST  
DISTRIBUTION PROCEDURES**

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

The Fairbanks Asbestos Personal Injury Trust Distribution Procedures (the “**TDP**”) contained herein provide for resolving all “**Asbestos Claims**” as defined in the Plan of Reorganization of The Fairbanks Company under Chapter 11 of the Bankruptcy Code dated as of March 24, 2021 (as it may be amended or supplemented, the “**Plan**”),<sup>1</sup> as provided in and required by the Plan and the Fairbanks Asbestos Personal Injury Trust Agreement (the “**Trust Agreement**”). The Plan and Trust Agreement establish the Fairbanks Asbestos Personal Injury Trust (the “**Asbestos Trust**”). The Asbestos Trustee of the Asbestos Trust (the “**Trustee**”) shall implement and administer this TDP in accordance with the Trust Agreement.

### **SECTION I**

#### **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 Asbestos Claims that may presently exist or may arise in the future.

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

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<sup>1</sup> All capitalized terms used herein and not otherwise defined shall have the meanings assigned to them in the Plan and the Trust Agreement, and such definitions are incorporated herein by referenced.

## SECTION II

### Overview

**2.1 Asbestos Trust Goal.** The goal of the Asbestos Trust is to treat all claimants similarly and equitably 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 several share of The Fairbanks Company (“**Fairbanks**” or the “**Debtor**”) with respect to the unpaid portion of the liquidated value of Asbestos 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 paid by the Debtor for substantially similar claims in the tort system. To this end, the TDP establishes a schedule of six asbestos-related diseases (“**Disease Levels**”), which have presumptive medical and exposure requirements (“**Medical/Exposure Criteria**”) and five of which have specific liquidated values (“**Scheduled Values**”). Five of the Disease Levels also have anticipated average values (“**Average Values**”) and caps on their liquidated values (“**Maximum Values**”). The Disease Levels, Medical/Exposure Criteria, Scheduled Values, Average Values and Maximum Values, 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 funds as among claimants suffering from different disease processes in light of the best available information, considering the settlement history of the Debtor and the rights claimants would have in the tort system absent the bankruptcy. A claimant may not assert more than one Asbestos Claim hereunder, subject to the provisions set forth in Section 5.9 below.

**2.2 Asbestos Claims Liquidation Procedures.** Asbestos Claims shall be processed based on their place in the FIFO Processing Queue to be established pursuant to Section 5.1(a)

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 in Section 5.3(b)(2) below. The Asbestos Trust shall also make every reasonable effort to resolve each year at least that number of Asbestos Claims required to exhaust the Maximum Annual Payment, as such term is defined below.

The Asbestos Trust shall, except as otherwise provided below, liquidate all Asbestos Claims (except Foreign Claims as defined in Section 5.3(b)(1) below) that meet the presumptive Medical/Exposure Criteria of Disease Levels I–III and V–VI under the Expedited Review Process described in Section 5.3(a) below. Claims that do not meet the presumptive Medical/Exposure Criteria for the relevant Disease Level may undergo the Asbestos Trust's Individual Review Process described in Section 5.3(b) below. In such a case, notwithstanding that the claim does not meet the presumptive Medical/Exposure Criteria for the relevant Disease Level, the Asbestos Trust can offer the claimant an amount up to the Scheduled Value for that Disease Level if the Asbestos Trust is satisfied that the claimant has presented a claim that would be cognizable and valid in the tort system.

Asbestos Claims involving Disease Levels II–III and V–VI tend to raise more complex valuation issues than the Asbestos Claims in Disease Levels I. Accordingly, in lieu of liquidating such claimant's claim under the Expedited Review Process, claimants holding claims involving these Disease Levels may alternatively seek to establish a liquidated value for the

claim that is greater than its Scheduled Value by electing the Asbestos Trust's Individual Review Process. However, the liquidated value of an Asbestos Claim that undergoes the Individual Review Process for valuation purposes may be determined to be less than its Scheduled Value, and in any event shall not exceed the Maximum Value for the relevant Disease Level set forth in Section 5.3(b)(3) below, unless the claim qualifies as an Extraordinary Claim as defined in Section 5.4(a) below, in which case its liquidated value cannot exceed the maximum extraordinary value specified in that provision for such claims. Level IV (Lung Cancer 2) claims and Foreign Claims, as defined in Section 5.3(b)(1) below, may be liquidated<sup>2</sup> only pursuant to the Asbestos Trust's Individual Review Process.

Based upon the Debtor's claims settlement history in light of applicable tort law, and current projections of present and future unliquidated claims, the Scheduled Values and Maximum Values set forth in Section 5.3(b)(3) have been established for each of the four (4) Disease Levels that are eligible for Individual Review of their liquidated values.

The Trustee shall use reasonable best efforts to ensure that the Asbestos Trust processes claims such that over time the combination of domestic settlements at the Scheduled Values and those resulting from the Individual Review Process for the four more serious Disease Levels approximates the Average Values set forth in Section 5.3(b)(3) below for each such Disease Level.

All unresolved disputes over a claimant's medical condition, exposure history and/or the validity or liquidated value of the claim shall be subject to binding or non-binding arbitration as set forth in Section 5.10 below, at the election of the claimant, under ADR Procedures established by the Asbestos Trust. Asbestos Claims that are the subject of a dispute with the

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<sup>2</sup> For purposes of this TDP, "liquidated" means approved and valued by the Asbestos Trust.



Asbestos Trust that cannot be resolved by non-binding arbitration may enter the tort system as provided in Sections 5.11 and 7.6 below. However, if a claimant obtains a judgment in the tort system, such judgment shall be payable (subject to the Payment Percentage and Maximum Annual Payment provisions set forth below) as provided in Section 7.7 below.

**2.3 Application of the Payment Percentage.** After the liquidated value of an Asbestos Claim is determined pursuant to the procedures set forth herein for Expedited Review, Individual Review, arbitration or litigation in the tort system, the claimant shall ultimately receive a pro-rata share of that value based on the Payment Percentage described in Section 4.2 below. The Payment Percentage shall also apply to all Pre-Petition Liquidated Claims as provided in Section 5.2 below.

A Payment Percentage (the “**Initial Payment Percentage**”) shall be set pursuant to Section 4.2 below promptly after the Asbestos Trust is established by the Trustee with the consent of the Asbestos Trust Advisory Committee (the “**TAC**”) and the Future Claimants’ Representative (the “**FCR**”) (who are described in Section 3.1 below). The Initial Payment Percentage shall be calculated on the assumption that the Average Values set forth in Section 5.3(b)(3) below shall be achieved with respect to existing present claims and projected future claims involving Disease Levels II–VI.

The Payment Percentage may thereafter be adjusted upwards or downwards from time to time 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 aggregate value of then-pending and future claims. Any adjustment to the Initial Payment Percentage shall be made only pursuant to Section 4.2 below. 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 value of the Asbestos Trust's assets over time, no guarantee can be made of any particular Payment Percentage that will be applicable to 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 model the cash flow, principal and income year-by-year to be paid over its entire life to ensure that all present and future holders of Asbestos Claims are compensated at the Payment Percentage. In each year, based upon the model of cash flow, the Asbestos Trust shall be empowered to pay out the portion of its funds payable for that year according to the model (the "**Maximum Annual Payment**"). The Asbestos Trust's aggregate distributions to all claimants for that year shall not exceed the Maximum Annual Payment. The Payment Percentage and the Maximum Annual Payment figures are based on projections over the lifetime of the Asbestos Trust. As noted in Section 2.3 above, if such long-term projections are revised, the Payment Percentage may be adjusted accordingly, which would result in a new model of the Asbestos Trust's anticipated cash flow and a new calculation of the 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 original Maximum Annual Payment derived from long-term projections. Accordingly, the original Maximum Annual Payment 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 cash flow model 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 Payment.**" Additional reductions in the Maximum Annual Payment can occur during the course of that year based upon subsequent calculations. If in any year the Maximum Annual Payment was 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 Payment shall be increased to reflect the decrease in the differential. In no event, however, shall the Temporary Maximum Annual Payment exceed the original Maximum Annual Payment. As a further safeguard, the Asbestos Trust's distribution to all claimants for the first nine months of a year shall not exceed 85% of the Maximum Annual Payment determined for that year. If on December 31 of a given year, the original Maximum Annual Payment for such year is not in effect, the original Maximum Annual Payment for the following year shall be reduced proportionately.

Claims that are not paid during a year because of insufficient funds in the Maximum Annual Payment for such year shall be carried over to the next year, and 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, any 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 Maximum Annual Payment.

Notwithstanding any other provision hereof, if, at the end of a calendar year, there is an excess amount of Maximum Annual Payment funds (or Temporary Maximum Annual Payment funds if a Temporary Maximum Annual Payment is in effect at the end of the calendar year) because there is an insufficient amount of liquidated claims to exhaust the Maximum Annual Payment (or the Temporary Maximum Annual Payment), the excess amount shall be rolled over into the next calendar year and shall be available for use by the Asbestos Trust to pay claims.

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

### **SECTION III**

#### **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 may be asserted in the future. The Trustee shall obtain the consent of the TAC and the FCR on any amendments to this TDP pursuant to Section 8.1 below, and on such other matters as are otherwise required below or 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 or 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.

## **SECTION IV**

### **Payment Percentage; Periodic Estimates**

**4.1 Uncertainty of the Debtor's Personal Injury Asbestos Liabilities.** As discussed above, there is inherent uncertainty regarding the Debtor's total asbestos-related 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 shall 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 are 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 Initial Payment Percentage shall be set by the Trustee with the consent of the TAC and the FCR promptly after the Asbestos Trust is established.

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 three (3) years, commencing with the date that is three (3) years 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 form 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 claim 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(c) 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 and (b) in the paragraph below with respect to Released Claims, no holder of any 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 is the lower amount but is 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 is the higher amount and is 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 delays resulting from limitations on payment amounts in a given year pursuant to Sections 2.4 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 also make supplemental payments to all claimants who previously liquidated their claims against the Asbestos Trust and received

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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.



payments based on a lower Payment Percentage. The amount of any such supplemental payment 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 Asbestos Trust's obligation to make a supplemental payment to a claimant shall be suspended in the event the payment in question would be less than \$250.00, 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 \$250.00. However, the Asbestos Trust's obligation shall resume, and the Asbestos Trust shall pay any such aggregate supplemental payments due the claimant at such time that the total exceeds \$250.00.

## **SECTION V**

### **Resolution of Asbestos Claims.**

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

##### **5.1(a) Ordering of Asbestos 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, with claimants with earlier diagnosis dates given priority over later diagnosed

claimants. 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 the Debtor prior to the Petition Date, the applicable federal, state or foreign statutes of limitation and repose that were in effect at the time of the filing of the claim in the tort system, or (ii) for claims not filed against the Debtor in the tort system prior to the Petition Date, the applicable federal, state or foreign statutes of limitation and repose that were in effect at the time of the filing with the Asbestos Trust. However, the running of the relevant statute of limitation and repose shall be tolled as of the earliest of (X) the actual filing of the claim against the Debtor prior to the Petition Date, whether in the tort system or by submission of the claim to the Debtor pursuant to an administrative settlement agreement; (Y) the tolling of the claim against the Debtor prior to the Petition Date by an agreement or otherwise, provided such tolling is still in effect on the Petition Date; or (Z) the Petition Date. If an Asbestos Claim meets any of the tolling provisions described in the preceding sentence and was not barred by the applicable federal, state or foreign statute of limitation and repose 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. In addition, any Asbestos Claim that was first diagnosed after the Petition Date, irrespective of the application of any relevant federal, state or foreign statute of limitation and 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. Notwithstanding any other provision hereof, if the holder of an Asbestos Claim cannot meet the presumptive Medical Criteria set forth herein for any Disease Level, the applicable statute of limitation shall not begin running until the holder receives the evidence necessary to establish such Medical Criteria.

**5.1(b) Payment of Asbestos Claims.** Asbestos Claims that have been liquidated by the Expedited Review Process as provided in Section 5.3(a) below, by the Individual Review Process as provided in Section 5.3(b) below, by arbitration as provided in Section 5.10 below or by litigation in the tort system as provided in Section 5.11 below, shall be paid in FIFO order based on the date their liquidation became final (the “**FIFO Payment Queue**”); all such payments are subject to the applicable Payment Percentage, the Maximum Annual Payment and the sequencing adjustment provided for in Section 7.5 below, except as otherwise provided herein. All Pre-Petition Liquidated Claims, as defined in Section 5.2 below, shall also be subject to the applicable Payment Percentage and the Maximum Annual Payment.

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 is 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 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, with claimants having earlier diagnosis dates given priority over later-diagnosed claimants. If any 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 Resolution of Pre-Petition Liquidated Claims.**

**5.2(a) Processing and Payment.** As soon as practicable after the Effective Date, the Asbestos Trust shall pay, upon submission by the claimant of the appropriate documentation, all Asbestos Claims that were liquidated by (i) a binding settlement agreement for the particular claim entered into prior to the Petition Date that is judicially enforceable by the claimant, (ii) a jury verdict or non-final judgment in the tort system obtained prior to the Petition Date or (iii) a judgment that became final and non-appealable prior to the Petition Date (collectively "**Pre-Petition Liquidated Claims**"). In order to receive payment from the Asbestos Trust, the holder of a Pre-Petition Liquidated Claim must submit all documentation necessary to demonstrate to the Asbestos Trust that the claim was liquidated in the manner described above, which documentation shall include (A) a court authenticated copy of the jury verdict (if applicable), a non-final judgment (if applicable) or a final judgment (if applicable) and (B) the name, social security number and date of birth of the claimant and the name and address of the claimant's lawyer; provided, however, that such documentation shall not be required with respect to any Pre-Petition Liquidated Claim that Debtor has identified to the Asbestos Trust as a Pre-Petition Liquidated Claim as to which all conditions to payment under the applicable agreement, jury

verdict or judgment have been satisfied. Debtor shall deliver to the Asbestos Trust a list of the Pre-Petition Liquidated Claims that Debtor has approved for payment, which claims shall be entitled to rely upon the exception set forth in the preceding sentence.

The liquidated value of a Pre-Petition Liquidated Claim shall be the unpaid portion of the amount agreed to in the binding settlement agreement, the unpaid portion of the amount awarded by the jury verdict or non-final judgment or the unpaid portion of the amount of the final judgment, as the case may be, plus interest, if any, that has accrued on that amount in accordance with the terms of the agreement, if any, or under applicable state law for settlements or judgments, as of the Petition Date; however, except as otherwise provided in Section 7.4 below, the liquidated value of a Pre-Petition Liquidated Claim shall not include any punitive or exemplary damages. In addition, the amounts payable with respect to such claims shall be subject to the Maximum Annual Payment and Payment Percentage provisions. In the absence of a Final Order of the Bankruptcy Court determining whether a settlement agreement is binding and judicially enforceable, a dispute between the claimant and the Asbestos Trust over this issue shall be resolved pursuant to the same procedures in this TDP that are provided for resolving the validity and/or liquidated value of an Asbestos Claim (*i.e.*, arbitration and litigation in the tort system as set forth in Sections 5.10 and 5.11 below).

Pre-Petition Liquidated Claims shall be processed and paid in accordance with their order in a separate FIFO queue to be established by the Asbestos Trust based on the date the Asbestos Trust received all required documentation for the particular claim. If any Pre-Petition Liquidated Claims were filed on the same date, the claimants' position in the FIFO queue for such claims shall be determined by the date on which the claim was liquidated. If any Pre-Petition Liquidated Claims were both filed and liquidated on the same dates, the position of the claimants

in the FIFO queue shall be determined by the dates of the claimants' birth, with older claimants given priority over younger claimants.

**5.2(b) Marshalling of Security.** Holders of Pre-Petition Liquidated Claims that are secured by letters of credit, appeal bonds, or other security or sureties shall first exhaust their rights against any applicable security or surety before making a claim against the Asbestos Trust. Only in the event that such security or surety is insufficient to pay the Pre-Petition Liquidated Claim in full shall the deficiency be processed and paid as a Pre-Petition Liquidated Claim by the Asbestos Trust.

**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 three (3) 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.

Upon filing of a valid proof of claim form with the required supporting documentation, the claim 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 the claimant fails to elect either the Individual Review Process or the Expedited Review Process, then the Asbestos Trust shall process and liquidate the claim under the Expedited Review Process, although the claimant shall retain the right to request Individual Review as described in Section 5.3(b) below.

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

**5.3(a)(1) In General.** The Asbestos Trust's Expedited Review Process is designed primarily to provide an expeditious, efficient, consistent and inexpensive method for liquidating all valid Asbestos Claims (except those involving Lung Cancer 2 – Disease Level IV and Foreign Claims, which shall only be liquidated pursuant to the Asbestos Trust's Individual Review Process), where the claim can easily be verified by the Asbestos Trust as meeting the presumptive Medical/Exposure Criteria for the relevant Disease Level. Expedited Review thus provides claimants with a substantially less burdensome process for pursuing Asbestos Claims than does the Individual Review Process described in Section 5.3(b) below. Expedited Review is also intended to provide qualifying claimants a fixed and certain claims value.

Claims that undergo Expedited Review and meet the presumptive Medical/Exposure Criteria for the relevant Disease Level shall be liquidated at the Scheduled Value for such Disease Level set forth in Section 5.3(a)(3) below. However, all claims liquidated by Expedited Review shall be subject to the applicable Payment Percentage and the Maximum Annual

Payment limitations set forth above. Claimants holding claims that cannot be liquidated by Expedited Review because they do not meet the presumptive Medical/Exposure Criteria for the relevant Disease Level may elect the Asbestos Trust's Individual Review Process set forth in Section 5.3(b) below.

Subject to the provisions of Section 5.8 below, the claimant's eligibility to have his or her Asbestos Claim liquidated at the Scheduled Value pursuant to the Expedited Review Process shall be determined solely by reference to the Medical/Exposure Criteria set forth below for each of the Disease Levels eligible for Expedited Review.

**5.3(a)(2) Claims Processing Under Expedited Review.** All claimants seeking liquidation of their claims pursuant to Expedited Review 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 five Disease Levels eligible for Expedited Review, and shall advise the claimant of its determination. 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 multiplied by the applicable Payment Percentage, together with the form of release approved by the Asbestos Trust. If the claimant accepts the Asbestos Trust's offer of payment 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 Maximum Annual Payment.

**5.3(a)(3) Disease Levels, Scheduled Values and Medical/Exposure Criteria.** The six Disease Levels covered by this TDP, together with the Medical/Exposure Criteria for each and the Scheduled Values for the five Disease Levels eligible for Expedited



Review, are set forth below. These Disease Levels, Scheduled Values, and Medical/Exposure Criteria shall apply to all Asbestos Claims (except Pre-Petition Liquidated Claims) filed with the Asbestos Trust on or before the Initial Claims Filing Date for which the claimant elects the Expedited Review Process. Thereafter, for purposes of administering the Expedited Review Process, the Trustee may, with the consent of the TAC and the FCR, add to, change, or eliminate Disease Levels, Scheduled Values, or Medical/Exposure Criteria; develop subcategories of Disease Levels, Scheduled Values or Medical/Exposure Criteria; or determine that a novel or exceptional Asbestos Claim is compensable even though it does not meet the Medical/Exposure Criteria for any of the then current Disease Levels.

<u><b>Disease Level</b></u>	<u><b>Scheduled Value</b></u>	<u><b>Medical/Exposure Criteria</b></u>
Mesothelioma (Level VI)	\$85,000	(1) Diagnosis <sup>4</sup> of mesothelioma, and (2) Fairbanks Exposure as defined in Section 5.7(b)(3) below.
Lung Cancer 1 (Level V)	\$50,000	(1) Diagnosis of a primary lung cancer plus evidence of an underlying Bilateral Asbestos-Related Nonmalignant Disease <sup>5</sup> , (2) six months

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<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> Evidence of “**Bilateral Asbestos-Related Nonmalignant Disease**,” for purposes of meeting the criteria for establishing Disease Levels I, III, and V, 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 the Debtor or another defendant in the tort system prior to the Petition 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 I, III, and V.

<u>Disease Level</u>	<u>Scheduled Value</u>	<u>Medical/Exposure Criteria</u>
		Fairbanks Exposure, (3) Significant Occupational Exposure <sup>6</sup> to asbestos, and (4) supporting medical documentation establishing asbestos exposure as a contributing factor in causing the lung cancer in question.
Lung Cancer 2 (Level IV)	None	<p>(1) Diagnosis of a primary lung cancer; (2) Fairbanks Exposure, and (3) supporting medical documentation establishing asbestos exposure as a contributing factor in causing the lung cancer in question.</p> <p>Lung Cancer 2 (Level IV) claims are claims that do not meet the more stringent medical and/or exposure requirements of Lung Cancer 1 (Level V) claims. All claims in this Disease Level shall be individually evaluated. The estimated likely average of the individual evaluation awards for this category is \$15,000, with such awards capped at \$50,000 unless the claim qualifies for Extraordinary Claim treatment.</p> <p>Level IV claims that show no evidence of either an underlying Bilateral Asbestos-Related Nonmalignant Disease or Significant Occupational Exposure may be individually evaluated, although it is not expected that such claims shall be treated as having any significant</p>

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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 below, 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. In addition, for all purposes of this TDP, if the diagnostic images being interpreted in such regard are digital images, then a written report of a Qualified Physician confirming that the images reviewed are with reasonable medical certainty equivalent to those that would qualify for the required ILO grade shall be acceptable as well.

<sup>6</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>
Other Cancer (Level III)	\$20,000	value, especially if the claimant is also a Smoker. <sup>7</sup> In any event, no presumption of validity shall be available for any claims in this category.  (1) Diagnosis of a primary colo-rectal, laryngeal, esophageal, pharyngeal, or stomach cancer, plus evidence of an underlying Bilateral Asbestos-Related Nonmalignant Disease, (2) six months Fairbanks Exposure, (3) Significant Occupational Exposure to asbestos, and (4) supporting medical documentation establishing asbestos exposure as a contributing factor in causing the other cancer in question.
Severe Asbestosis (Level II)	\$40,000	(1) Either (a) a diagnosis of asbestosis with ILO of 2/1 or greater, or asbestosis determined by pathological evidence of asbestosis, plus (x) TLC less than 65%, or (y) FVC less than 65% and FEV1/FVC ratio greater than 65%, <sup>8</sup> (b) an “Asbestosis Death,” which is defined to mean a death where (x) asbestosis is listed as the cause or a significant contributing cause of death on the death certificate or (y) a report from a Qualified Physician who is a pathologist, a pulmonologist or an occupational medicine physician states that asbestosis was a significant contributing cause of death, or (c) a diagnosis of asbestosis with ILO of 2/1 or greater, or asbestosis determined by pathological evidence of asbestosis, plus (x) a Qualified Physician who is a pulmonologist or an occupational medicine

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<sup>7</sup> There is no distinction between Non-Smokers and Smokers for either Lung Cancer 1 (Level V) or Lung Cancer 2 (Level IV), although a claimant who meets the more stringent requirements of Lung Cancer 1 (Level V) (evidence of an underlying Bilateral Asbestos-Related Nonmalignant Disease plus Significant Occupational Exposure), and who is also a Non-Smoker, may wish to have his or her claim individually evaluated by the Asbestos Trust. In such a case, absent circumstances that would otherwise reduce the value of the claim, it is anticipated that the liquidated value of the claim might well exceed the \$50,000 Scheduled Value for Lung Cancer 1 (Level V) shown above. “**Non-Smoker**” means a claimant who either (a) never smoked or (b) has not smoked during any portion of the twelve (12) years immediately prior to the diagnosis of the lung cancer. A “**Smoker**” is a claimant who does not qualify as a Non-Smoker.

<sup>8</sup> This must be the actual measured value as opposed to the percentage of predicted.

<u>Disease Level</u>	<u>Scheduled Value</u>	<u>Medical/Exposure Criteria</u>
		physician prescribes oxygen to the injured party, (y) the treating Qualified Physician states that the predominant cause of the need for oxygen is asbestosis, and (z) the oxygen is needed by the injured party to perform activities of daily life (e.g., not oxygen that is prescribed only for comfort care, at night, for surgery, or on occasion), (2) six months Fairbanks Exposure, (3) Significant Occupational Exposure to asbestos, and (4) supporting medical documentation establishing asbestos exposure as a contributing factor in causing the pulmonary disease in question.
Asbestosis/Pleural Disease (Level I)	\$1,000	(1) Diagnosis of Bilateral Asbestos-Related Nonmalignant Disease, plus (a) TLC less than 80%, or (b) FVC less than 80% and FEV1/FVC ratio greater than or equal to 65%, and (2) six months Fairbanks Exposure, (3) Significant Occupational Exposure to asbestos, and (4) supporting medical documentation establishing asbestos exposure as a contributing factor in causing the pulmonary disease in question.

### **5.3(b) Individual Review Process.**

**5.3(b)(1) In General.** Subject to the provisions set forth below, a claimant may elect to have his or her Asbestos Claim reviewed for purposes of determining whether the claim would be cognizable and valid in the tort system even though it does not meet the presumptive Medical/Exposure Criteria for any of the Disease Levels set forth in Section 5.3(a)(3) above. In addition or alternatively, a claimant may elect to have a claim undergo the Individual Review Process for purposes of determining whether the liquidated value of a claim involving Disease Levels II, III, V, or VI exceeds the Scheduled Value for the relevant Disease Level also set forth in said provision. However, until such time as the Asbestos Trust has made an offer on such claim pursuant to Individual Review, the claimant may change his or her

Individual Review election and have the claim liquidated pursuant to the Asbestos Trust's Expedited Review Process (except those claims involving Lung Cancer 2 – Disease Level IV, and Foreign Claims, which shall only be liquidated pursuant to the Asbestos Trust's Individual Review Process). In the event of such a change in the processing election, the claimant shall nevertheless retain his or her place in the FIFO Processing Queue.

The liquidated value of all Foreign Claims payable under this TDP shall be established only under the Asbestos Trust's Individual Review 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, at the claimant's election, either the Expedited Review Process or the Individual Review Process. Accordingly, a "**Foreign Claim**" is an Asbestos Claim with respect to which the claimant's exposure to an asbestos-containing product or conduct for which the Debtor has legal responsibility occurred outside of the United States and its Territories and Possessions, and outside of the Provinces and Territories of Canada.<sup>9</sup>

In reviewing Foreign Claims, the Asbestos Trust shall take into account all relevant procedural and substantive legal rules to which the claims would be subject in the Claimant's Jurisdiction as defined in Section 5.3(b)(2) below. The Asbestos Trust shall determine the liquidated value of Foreign Claims based on historical settlements and verdicts in the Claimant's Jurisdiction as well as the other valuation factors set forth in Section 5.3(b)(2) below.

For purposes of the Individual Review Process for Foreign Claims, the Trustee, with the consent of the TAC and the FCR, may develop separate Medical/Exposure Criteria and

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<sup>9</sup> Notwithstanding any other provision of the TDP, all issues related to Foreign Claims shall be agreed to by the Trustee, the TAC and the FCR.

standards, as well as separate requirements for physician and other professional qualifications, which shall be applicable to all Foreign Claims channeled to the Asbestos Trust; provided however, that such criteria, standards or requirements shall not effectuate substantive changes to the claims eligibility requirements under this TDP, but rather shall be made only for the purpose of adapting those requirements to the particular licensing provisions and/or medical customs or practices of the foreign country in question.

At such time as the Asbestos Trust has sufficient historical settlement, verdict and other valuation data for claims from a particular foreign jurisdiction, the Trustee, with the consent of the TAC and the FCR, may also establish a separate valuation matrix for any such Foreign Claims based on that data.

**5.3(b)(1)(A) Review of Medical/Exposure Criteria.** The Asbestos Trust's Individual Review Process provides a claimant with an opportunity for individual consideration and evaluation of an Asbestos Claim that fails to meet the presumptive Medical/Exposure Criteria for a Disease Level. In such a case, the Asbestos Trust shall either deny the claim or, if the Asbestos Trust is satisfied that the claimant has presented a claim that would be cognizable and valid in the tort system, the Asbestos Trust can offer the claimant a liquidated value amount up to the Scheduled Value for that Disease Level.

**5.3(b)(1)(B) Review of Liquidated Value.** Claimants holding claims in Disease Levels II-III and V-VI shall also be eligible to seek Individual Review of the liquidated value of their claims, as well as of their medical/exposure evidence. The Individual Review Process is intended to result in payments equal to the full liquidated value for each claim multiplied by the Payment Percentage; however, the liquidated value of any Asbestos Claim that undergoes Individual Review may be determined to be less than the Scheduled Value the

claimant would have received under Expedited Review. Moreover, the liquidated value for a claim involving Disease Levels II-III or V-VI shall not exceed the Maximum Value for the relevant Disease Level set forth in Section 5.3(b)(3) below, unless the claim meets the requirements of an Extraordinary Claim described in Section 5.4(a) below, in which case its liquidated value cannot exceed the maximum extraordinary value set forth in that provision for such claims. Because the detailed examination and valuation process pursuant to Individual Review may require additional time and effort, claimants electing to undergo the Individual Review Process may be paid the liquidated value of their Asbestos Claims later than would have been the case had the claimant elected the Expedited Review Process. Subject to the provisions of Section 5.8 below, the Asbestos Trust shall devote reasonable resources to the review of all claims to ensure that there is a reasonable balance maintained in reviewing all classes of claims.

#### **5.3(b)(2) Valuation Factors to Be Considered in Individual Review.**

The Asbestos Trust shall liquidate the value of each Asbestos Claim that undergoes Individual Review based on the historic liquidated values of other similarly situated claims in the tort system for the same Disease Level. The Asbestos Trust shall thus take into consideration all of the factors that affect the severity of damages and values within the tort system including, but not limited to, credible evidence of (i) the degree to which the characteristics of a claim differ from the presumptive Medical/Exposure Criteria for the Disease Level in question; (ii) factors such as the claimant's age, disability, employment status, disruption of household, family or recreational activities, dependents, special damages, and pain and suffering; (iii) the industry of exposure; (v) settlement and verdict histories and other law firms' experience in the Claimant's Jurisdiction for similarly situated claims; and (vi) settlement and verdict histories for the claimant's law firm for similarly situated claims. Where the claimant's law firm submits clear and convincing evidence

to the Asbestos Trust, and the Trustee determines, in his or her sole discretion, that the claimant's law firm, prior to the Petition Date, played a substantial role in the prosecution, trial and resolution of asbestos personal injury claims against the Debtor in the Claimant's Jurisdiction, such as actively participating in court appearances, discovery and trial of the subject cases (evidence will be required of all three phases: prosecution, trial and resolution for each law firm involved; necessary evidence will include evidence of active participation in the cases; and the mere referral of a case, without further involvement will not be viewed as having played a substantial role in the prosecution and resolution of a case), irrespective of whether a second law firm also was involved, the Asbestos Trust shall include such cases in the settlement and verdict histories for the claimant's law firm in the Claimant's Jurisdiction. If this occurs, the claimant's law firm shall certify, as required by the Asbestos Trust, that it has provided all settlement and verdict history information for asbestos cases against the Debtor in which claimant's law firm, prior to the Petition Date, played a substantial role in the prosecution, trial and resolution of asbestos personal injury claims against the Debtor in the Claimant's Jurisdiction, as described above.

For these purposes, the “**Claimant's Jurisdiction**” is the jurisdiction in which the claim was filed (if at all) against the Debtor in the tort system prior to the Petition Date. If the claim was not filed against the 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 the Debtor has legal responsibility.



With respect to the “Claimant’s Jurisdiction” in the event a personal representative or authorized agent makes a claim under this TDP for wrongful death with respect to which the governing law of the Claimant’s Jurisdiction could only be the Alabama Wrongful Death Statute, the Claimant’s Jurisdiction for such claim shall be the Commonwealth of Pennsylvania, and such claimant’s damages shall be determined pursuant to the statutory and common laws of the Commonwealth of Pennsylvania without regard to its choice of law principles. The choice of law provision in Section 7.4 below applicable to any claim with respect to which, but for this choice of law provision, the applicable law of the Claimant’s Jurisdiction pursuant to Section 5.3(b)(2) is determined to be the Alabama Wrongful Death Statute, shall only govern the rights between the Asbestos Trust and the claimant, and, to the extent the Asbestos Trust seeks recovery from any entity that provided insurance coverage to the Debtor, the Alabama Wrongful Death Statute shall govern.

**5.3(b)(3) Scheduled, Average, and Maximum Values.** The Scheduled, Average and Maximum Values for domestic claims involving Disease Levels I–VI are the following:

<b><u>Scheduled Disease</u></b>	<b><u>Scheduled Value</u></b>	<b><u>Average Value</u></b>	<b><u>Maximum Value</u></b>
Mesothelioma (Level VI)	\$85,000	\$150,000	\$225,000
Lung Cancer 1 (Level V)	\$50,000	\$68,000	\$90,000
Lung Cancer 2 (Level IV)	None	\$15,000	\$50,000
Other Cancer (Level III)	\$20,000	\$25,000	\$35,000
Severe Asbestosis (Level II)	\$40,000	\$55,000	\$75,000
Asbestosis/Pleural Disease (Level I)	\$1,000	None	None

These Scheduled Values, Average Values and Maximum Values shall apply to all Asbestos Claims other than Pre-Petition Liquidated Claims filed with the Asbestos Trust on or before the Initial Claims Filing Date as provided in Section 5.1 above. Thereafter, the Asbestos Trust, with the consent of the TAC and the FCR pursuant to Sections 5.7(b) and 6.6(b) of the Trust Agreement, may change these valuation amounts for good cause and consistent with other restrictions on the amendment power. In addition, commencing on January 1, 2022, the Asbestos Trust shall increase these valuation amounts by one percent (1%) per annum. Any such increases shall be applicable to offers made following the dates of such increases.

#### **5.4 Categorizing Asbestos Claims as Extraordinary and/or Exigent Hardship.**

**5.4(a) Extraordinary Claims.** “**Extraordinary Claim**” means an Asbestos Claim that otherwise satisfies the Medical Criteria for the relevant Disease Level and that is held by a claimant whose exposure to asbestos (i) occurred predominantly as a result of working in a manufacturing facility of the Debtor during a period in which the Debtor was manufacturing asbestos-containing products at that facility, or (ii) was at least 75% the result of Fairbanks Exposure (as defined in Section 5.7(b)(3) below), and in either case there is little likelihood of a substantial recovery elsewhere. All such Extraordinary Claims shall be presented for Individual Review and, if valid, shall be entitled to an award of up to a maximum extraordinary value of five (5) times the Scheduled Value set forth in Section 5.3(b)(3) above for claims qualifying for Disease Levels I–III and V–VI, and five (5) times the Average Value for claims in Disease Level IV, in either case multiplied by the applicable Payment Percentage.

Any dispute as to Extraordinary Claim status shall be submitted to a special Extraordinary Claims panel established by the Asbestos Trust with the consent of the TAC and the 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, following its liquidation, shall be placed in the FIFO Payment Queue based on its date of liquidation and shall be paid subject to the Maximum Available Payment described above.

To be eligible for a payment under this TDP, the holder of an Asbestos Claim submitted for Extraordinary Claim review must provide the following additional information:

**5.4(a)(1)(A) Requirement to Identify Other Claims.** A claimant seeking Extraordinary Claim review must submit the information described in Section 5.4(a)(1)(B) 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 Asbestos Claim. 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 claim resolution facilities that resulted from bankruptcy proceedings.

**5.4(a)(1)(B) Information Required About Other Claims.** A claimant seeking Extraordinary Claim review 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 claim resolution 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 or her 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)(1)(C) Authorization for Release of Information.** Any claimant seeking Extraordinary Claim review shall execute a release of information form in favor of the Asbestos Trust, in the form attached as Appendix I, authorizing all other asbestos trusts and claim resolution 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 claim resolution facility. The Asbestos Trust may amend the form attached as Appendix I from time to time to add newly established asbestos trusts or claim resolution facilities. The Asbestos Trust may utilize the authorization form not only to verify information provided in connection with particular Extraordinary Claims but also in connection with audits pursuant to the provisions of Section 5.8 hereof.

**5.4(a)(1)(D) Claimant Certification.** If the claimant seeking Extraordinary Claim review 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 the 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 the Extraordinary Claim. If the claimant seeking Extraordinary Claim Review 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 Hardship Claims.** At any time the Asbestos Trust may liquidate and pay Asbestos Claims that qualify as Exigent Hardship Claims as defined below. Such claims may be considered separately no matter what the order of processing otherwise would have been under this TDP. Notwithstanding any other provision hereof, an Exigent Hardship Claim, following its liquidation, shall be placed first in the FIFO Payment Queue ahead of all other liquidated Asbestos Claims. An Asbestos Claim qualifies for payment as an Exigent Hardship Claim if the claim meets the Medical/Exposure Criteria for Severe Asbestosis (Disease Level II)

or an asbestos-related malignancy (Disease Levels III–VI), and the Asbestos Trust, in its sole discretion, determines that (i) the claimant needs financial assistance on an immediate basis based on the claimant’s expenses and all sources of available income, and (ii) 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 for the claimant’s Disease Level that would have been applicable had the occupationally exposed 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 one of the six Disease Levels described in Section 5.3(a)(3) above or an asbestos-related disease otherwise compensable under this TDP, 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 or asbestos-containing products manufactured, produced or distributed by the Debtor or to conduct for which the Debtor has 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 Claims.** An Indirect Asbestos Claim asserted against the Asbestos Trust shall be treated as presumptively valid and paid by the Asbestos Trust subject to the applicable Payment Percentage if (a) such claim satisfied the requirements of any bar date for such claim established by the Bankruptcy Court, if applicable, and is not otherwise disallowed by Section 502(e) of the Code or subordinated under Section 509(c) of the Code, (b) 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**”), (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 limitation and repose or by other applicable law and (c) the Asbestos Trust has not yet paid the Direct Claimant. 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 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 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) and such claim must be 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 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 and the Asbestos Trust has not already paid the Direct Claimant, the Asbestos Trust shall reimburse the Indirect Claimant the amount of the liability or obligation so paid, multiplied by 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 under this TDP. Further, the liquidated value of any Indirect Asbestos 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 5.10 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 5.11 and 7.6 below.

The Trustee may develop and approve a separate proof of claim form for Indirect Asbestos Claims. Indirect Asbestos 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 shall (a) determine the validity, acceptability and enforceability of such claims; and (b) 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 Levels I–II.** Except for asbestos claims filed against the Debtor or any other defendant in the tort system prior to the Petition Date, all diagnoses of a non-malignant asbestos-related disease (Disease Levels I–II) 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) for Disease Levels I, evidence of Bilateral Asbestos-Related Nonmalignant Disease (as defined in Footnote 5 above); (ii) for Disease Level II, an ILO reading of 2/1 or greater or pathological evidence of asbestosis and 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>10,11</sup>

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<sup>10</sup> All diagnoses of Asbestos/Pleural Disease (Disease Levels I) not based on pathology shall be presumed to be based on findings of bilateral asbestosis or pleural disease, and all diagnoses of Mesothelioma (Disease Level VI) shall be presumed to be based on findings that the disease involves a malignancy. However, the Asbestos Trust may rebut such presumptions.

<sup>11</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

In the case of a claimant who was deceased at the time the claim was filed, all diagnoses of Asbestosis/Pleural Disease (Disease Level I) shall be based upon either (i) a physical examination of the claimant by the physician providing the diagnosis of the asbestos-related disease; (ii) pathological evidence of the non-malignant asbestos-related disease; or (iii) evidence of Bilateral Asbestos-Related Nonmalignant Disease (as defined in Footnote 5 above). In the case of a claimant who was deceased at the time the claim was filed, all diagnoses of Severe Asbestosis (Disease Level II) shall be based upon either (i) a physical examination of the claimant by the physician providing the diagnosis along with an ILO reading of 2/1 or greater, (ii) pathological evidence of asbestosis or (iii) the medical documentation required for an “Asbestosis Death” in Section 5.3(a)(3) above. In the case of a Severe Asbestosis diagnosis based on (i) or (ii) in the preceding sentence, the claimant must also provide 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).

**5.7(a)(1)(B) Disease Levels III–VI.** All diagnoses of an asbestos-related malignancy (Disease Levels III–VI) shall be based upon either (i) a physical examination of the claimant by the physician providing the diagnosis of the asbestos-related disease, or (ii) a

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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 on Accreditation of Healthcare Organizations (“JCAHO”), 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 an JCAHO-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 PI Trust, certifying that the PFT was conducted in material compliance with ATS standards.

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 JCAHO.

**5.7(a)(1)(C) Exception to the Exception for Certain Pre-Petition Claims.** If the holder of an Asbestos Claim that was filed against the Debtor or any other defendant in the tort system prior to the Petition Date has available a report of a diagnosing physician engaged by the holder or his or her law firm who conducted a physical examination of the holder as described in Sections 5.7(a)(1)(A) above, or if the holder has filed such medical evidence and/or a diagnosis of the asbestos-related disease by a physician not engaged by the holder or his or her law firm who conducted a physical examination of the holder with another asbestos-related personal injury settlement trust that requires such evidence, without regard to whether the claimant or the law firm engaged the diagnosing physician, the holder shall provide such medical evidence and/or diagnosis to the Asbestos Trust notwithstanding the exception in Section 5.7(a)(1)(A) above.

**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 examinations 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 the Debtor to settle for payment similar disease cases prior to the Petition Date, 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, federal or foreign judge, is presumptively reliable, although the Asbestos Trust may seek to rebut the presumption. 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 Individual Review proceeding conducted pursuant to Section 5.3(b) above or any Extraordinary Claim proceeding conducted pursuant to Section 5.4(a) above.

#### **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 such exposure 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, Fairbanks Exposure as defined in Section 5.7(b)(3) below; and (ii) for Asbestosis/Pleural Disease (Disease Level I), Severe Asbestosis (Disease Level II), Other Cancer (Disease Level III) or Lung Cancer 1 (Disease Level IV), six (6) months Fairbanks Exposure, plus Significant Occupational Exposure to asbestos. If the claimant cannot meet the relevant presumptive exposure requirements for a Disease Level eligible for Expedited Review, the claimant may seek Individual Review pursuant

to Section 5.3(b) above of his or her claim based on exposure to asbestos, asbestos-containing products or conduct for which the Asbestos Trust has legal responsibility.

**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 such 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) above.

**5.7(b)(3) Fairbanks Exposure.** The claimant must demonstrate meaningful and credible exposure to asbestos, asbestos-containing products or conduct for which the Asbestos Trust has legal responsibility (“**Fairbanks Exposure**”). That meaningful and credible exposure evidence may be established by an affidavit or sworn statement of the claimant, a co-worker, or 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. In order for a claim to be approved by the Asbestos Trust, the claimant must demonstrate to the Asbestos Trust’s satisfaction that the relevant occupationally-exposed person worked with the Debtor’s asbestos-containing gaskets, packing and/or valves in settings where those products were being ground, scraped, brushed, cut,

removed or physically manipulated in such a manner as to cause the release of asbestos fibers.<sup>12</sup>

The specific exposure information required by the Asbestos Trust to process a claim under either Expedited or Individual Review shall be set forth on the proof of claim form to be used by the Asbestos Trust. The Asbestos Trust may also require submission of other or additional evidence of exposure when it deems such to be necessary.

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 Debtor has legal responsibility, except to the extent such evidence is required elsewhere in this TDP. Similarly, failure to identify the Debtor's products 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 satisfies the medical and exposure requirements of this TDP.

**5.7(b)(3)(A) Qualifying Occupations.** Because of the nature of the Debtor's asbestos-containing products, 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-products or conduct for which the Asbestos Trust has legal responsibility. Those occupations are laborer, steelworker, electrician, mechanic, insulator, millwright, pipefitter, steamfitter, plumber and welder (the "**Qualifying Occupations**"). The Asbestos Trust may add occupations to the Qualifying Occupations. The Asbestos Trust may also remove

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<sup>12</sup> Based on the Debtor's history, the Asbestos Trust believes that these are the only asbestos-containing products for which the Asbestos Trust has legal responsibility. A claimant may seek to prove that other such products exist, in which case the Asbestos Trust shall review the evidence and make a determination. If the Asbestos Trust determines that the Asbestos Trust is responsible for other asbestos-containing products, the Trustee, the TAC and the FCR shall amend this TDP and add references to such products to the relevant provisions of the TDP.

occupations from the Qualifying Occupations if it determines that such occupations should not have been included.

**5.7(b)(3)(B) Standard of Exposure.** In order for a claimant to establish that Fairbanks Exposure occurred, if the injured party worked in a Qualifying Occupation, he or she must demonstrate to the Asbestos Trust's satisfaction that he or she worked at a site where the Debtor's asbestos-containing gaskets, packing and/or valves were present. If an injured party did not work in one of the Qualifying Occupations but believes that he or she can demonstrate that he or she worked with the Debtor's asbestos-containing gaskets, packing and/or valves in settings where those products were being ground, scraped, brushed, cut, removed or physically manipulated in such a manner as to cause the release of asbestos fibers, he or she will be required to present evidence of such exposure to the Asbestos Trust for the Asbestos Trust's consideration.

**5.8 Claims Audit Program.** The Asbestos Trust, with the consent of the TAC and the FCR, shall develop a Claims Audit Program. Such Program may include 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 for which the Asbestos Trust has legal responsibility. In the event that the Asbestos Trust reasonably determines that any individual or entity has engaged in a pattern or practice of providing unreliable medical 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

and shall participate in a cross-trust audit program (the “**Cross-Trust Audit Program**”). The 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 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 (the “**Auditor**”) 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 the date of any payment on the claim to the Auditor.

To the extent that the Trustee believes that it is relevant, nothing herein shall preclude the Asbestos Trust or the Auditor, in the Trustee’s sole discretion, from reviewing or taking into consideration filed state court complaints or claims filed against other asbestos trusts. Any claimant subject to the Asbestos Trust’s Claims Audit Program or Cross-Trust Audit Program shall cooperate and, if requested by the Trustee, provide the Asbestos Trust or the Auditor with authorization to obtain from other asbestos trusts any information such claimant has submitted to such other asbestos trusts.

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, 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 Second Disease (Malignancy) Claims.** Notwithstanding the provisions of Section 2.1 above that a claimant may not assert more than one Asbestos Claim hereunder, the holder of an Asbestos Claim involving a non-malignant asbestos-related disease (Disease Levels I–II) may assert a new Asbestos Claim against the Asbestos Trust for a malignant disease (Disease Levels III–VI) that is subsequently diagnosed. Any additional payments to which such claimant may be entitled with respect to such malignant asbestos-related disease shall be reduced by the amount paid for the non-malignant asbestos-related disease.

**5.10 Arbitration.**

**5.10(a) Establishment of ADR Procedures.** The Trustee, with the consent of the TAC and the FCR, shall establish binding and non-binding arbitration procedures, as part of the Alternative Dispute Resolution (“**ADR**”) Procedures to be established by the Trustee with the consent of the TAC and the FCR, for resolving disputes concerning whether a pre-petition settlement agreement with the Debtor is binding and judicially enforceable in the absence of a Final Order of the Bankruptcy Court determining the issue, whether the Asbestos Trust's rejection or denial of a claim was proper, or 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–VI. Binding and non-binding arbitration shall also be available for resolving disputes over the liquidated value of a claim, as well as disputes over the Debtor's share of the unpaid portion of a Pre-Petition Liquidated Claim described in Section 5.2 above and disputes over the validity of an Indirect Asbestos Claim.

In all arbitrations, the arbitrator shall consider the same medical and exposure evidentiary requirements that are set forth in Section 5.7 above. In the case of an arbitration involving the liquidated value of a claim involving Disease Levels II–VI, the arbitrator shall consider the same valuation factors that are set forth in Section 5.3(b)(2) above. In order to facilitate the Individual Review Process with respect to such claims, the Asbestos Trust may develop a valuation model that enables the Asbestos Trust to efficiently make initial liquidated value offers on those claims in the Individual Review setting. In an arbitration involving any such claim, the Asbestos Trust shall neither offer into evidence or describe any such model nor assert that any information generated by the model has any evidentiary relevance or should be used by the arbitrator in determining the presumed correct liquidated value in the arbitration. The underlying data that was used to create the model may be relevant and may be made available to the arbitrator but only if provided to the claimant or his or her counsel ten (10) days prior to the arbitration proceeding. 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.

**5.10(b) Claims Eligible for Arbitration.** In order to be eligible for arbitration, the claimant must first complete the Individual Review Process with respect to the disputed issue as well as any processes required under the ADR Procedures. Individual Review shall be treated as completed for these purposes when the claim has been individually reviewed by the Asbestos Trust, the Asbestos Trust has made an offer on the claim, the claimant has rejected the liquidated value resulting from the Individual Review, and the claimant has notified the Asbestos Trust of the rejection in writing. Individual Review shall also be treated as completed if the Asbestos Trust has rejected the claim.

**5.10(c) Limitations on and Payment of Arbitration Awards.** In the case of a non-Extraordinary Claim involving Disease Level I, the arbitrator shall not return an award in excess of the Scheduled Value for such claim. In the case of a non-Extraordinary Claim involving Disease Levels II–VI, the arbitrator shall not return an award in excess of the Maximum Value for the appropriate Disease Level as set forth in Section 5.3(a)(3) above, and for an Extraordinary Claim involving any Disease Level, the arbitrator shall not return an award greater than the maximum extraordinary value for such a claim as set forth in Section 5.4(a) 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.

**5.11 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 7.5 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 7.6 below.

## **SECTION VI**

### **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 effort to provide claimants with the opportunity to utilize currently available technology at their discretion, including filing claims and supporting documentation over the internet and electronically by disk or CD-ROM. The proof of claim form to be used by the Asbestos Trust shall be developed by the Trustee and submitted to the TAC and the FCR for approval; it may be changed by the Trustee 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. If feasible, the forms used by the Asbestos Trust to obtain claims information shall be the same or substantially similar to those used by other asbestos claims resolution organizations. 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 purposes of statutes of limitations or repose, 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 three (3) 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 \$50 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.

**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 Trust, and intended by the parties to be confidential and to be protected by all applicable state and federal privileges, 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 (i) 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, (ii) to such other persons as authorized by the holder or (iii) 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 after 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 within the Asbestos Trust Assets; 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.

**6.6 English Language.** All claims, claim forms, submissions, and evidence submitted to the Asbestos Trust or in connection with any claim or its liquidation shall be in the English language.

## **SECTION VII**

### **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 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 implemented pursuant to 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 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 and liabilities over time remain uncertain, and decisions about payments must be based on estimates that cannot be done precisely, such decisions 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 and/or (c) 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 5.11 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 its choice of law principles. The choice of law provision in this Section 7.4 applicable to any claim with respect to which, but for this choice of law provision, the applicable law of the Claimant's Jurisdiction pursuant to Section 5.3(b)(2) is determined to be the Alabama Wrongful Death Statute, shall only govern the rights between the Asbestos Trust and the claimant including, but not limited to, suits in the tort system pursuant to Section 7.6 below.

## **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 that meets the requirements of Disease Levels I-III or V-VI, whether the claim is liquidated under Expedited Review, Individual Review or by arbitration. A sequencing adjustment on an Asbestos Claim that meets the requirements of Disease Level IV shall be based on the Average Value of such a claim (unless the Asbestos Claim is valued at less than the Average Value, in which case the sequencing adjustment shall be based on the Asbestos Claim's actual valuation). No sequencing adjustment shall be paid on any claim liquidated in the tort system pursuant to Section 5.9 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 the 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.

**7.5(c) Pre-Petition Liquidated Claims.** A sequencing adjustment shall also be payable on the liquidated value of all Pre-Petition Liquidated Claims described in Section 5.2(a) above. In the case of Pre-Petition Liquidated Claims liquidated by verdict or judgment, the sequencing adjustment shall be measured from the date of payment back to the date that is one (1) year after the date that the verdict or judgment was entered; provided, however, that in no event shall the sequencing adjustment be measured from a date prior to the Petition Date if the liquidated value of the Pre-Petition Liquidated Claim includes pre-petition interest. In the case of Pre-Petition Liquidated Claims liquidated by a binding, judicially enforceable settlement, the

sequencing adjustment shall be measured from the date of payment back to the date that is one (1) year after the Petition 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, the claimant's exposure or medical history, the validity of the claim or the liquidated value of the claim, and if the holder has first submitted the claim to non-binding arbitration as provided in Section 5.10 above, the holder may file a lawsuit against the Asbestos Trust in the Claimant's Jurisdiction as defined in Section 5.3(b)(2) above. 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 the Debtor, except as otherwise provided in the Plan) 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 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 provisions above in effect on the date of the payment of the subject installment).

In the case of a non-Extraordinary Claim involving Disease Level I, the total amount paid with respect to such claim shall not exceed the Scheduled Value for such Disease Level as set forth in Section 5.3(b)(3) above. In the case of a claim that does not attain classification under a Disease Level, the amount payable shall not exceed the Scheduled Value for the Disease Level most comparable to the disease proven. In the case of non-Extraordinary Claims involving Disease Levels II-VI, the total amounts paid with respect to such claims shall not exceed the Maximum Values for such Disease Levels set forth in Section 5.3(b)(3). In the case of Extraordinary Claims, the total amounts paid with respect to such claims shall not exceed the maximum extraordinary values for such claims set forth in Section 5.4(a) above. Under no circumstances shall 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 a form of release. The initial form of release is attached hereto as Appendix II. The Trustee may modify the provisions of the release so long as he or she first obtains the consent of the TAC, the FCR, the Debtor and Liberty Mutual.

**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, Average Values, Maximum Values, and Medical/Exposure Criteria set forth above.

## **SECTION VIII**

### **Miscellaneous**

**8.1 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 the Trustee 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 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.

**8.2 Severability.** Should any provision contained in this TDP be determined to be unenforceable, such determination shall in no way limit or affect the enforceability or 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 Debtor's obligations to any insurance company providing insurance coverage to the Debtor in respect of claims for personal injury based on exposure to an asbestos-containing product or to conduct for which the 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 Debtor to said insurance company.

**8.3 Governing Law.** Except for purposes of determining the validity and/or 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 determination of validity and/or liquidation of Asbestos Claims in the case of Individual Review, arbitration or litigation in the tort system shall be the law of the Claimant's Jurisdiction as described in Section 5.3(b)(2) above.