

**FEDERAL-MOGUL**  
**ASBESTOS PERSONAL INJURY TRUST**  
**DISTRIBUTION PROCEDURES**

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## **FEDERAL-MOGUL**

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

The Federal-Mogul Asbestos Personal Injury Trust Distribution Procedures (“U.S. TDP”) contained herein provide for resolving in accordance with the terms of the Federal-Mogul Fourth Amended Joint Plan of Reorganization, as such Plan may be amended, modified or supplemented from time to time (“Plan”) and the Federal-Mogul Asbestos Personal Injury Trust Agreement (“U.S. Asbestos Trust Agreement”) all Asbestos Personal Injury Claims (as defined in the Plan and hereinafter for all purposes of this U.S. TDP referred to as “Asbestos Trust Claims”) caused by exposure to asbestos-containing products for which Federal-Mogul and/or its wholly owned direct or indirect subsidiaries (Turner & Newell (“T&N”) and its direct or indirect U.S. subsidiaries, Gasket Holdings Inc. (“Flexitallic”) and Ferodo America Inc. (“Ferodo”) (collectively the “T&N Entities”); Federal-Mogul Products Inc. (“FMP”); Felt Products Mfg. Co. (“Fel-Pro”); and Federal-Mogul’s former division Vellumoid (“Vellumoid”); and their successors, and assigns (each a “Federal-Mogul Entity,” and collectively the “Federal-Mogul Entities”) have legal responsibility under applicable tort law, as provided in and by the Plan and the U.S. Asbestos Trust Agreement.

The Plan and U.S. Asbestos Trust Agreement establish the Federal-Mogul Asbestos Personal Injury Trust (the “U.S. Asbestos Trust”). The Trustees of the U.S. Asbestos Trust (“Trustees”) shall implement and administer this U.S. TDP in accordance with the U.S. Asbestos Trust Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings assigned to them in the Plan and the U.S. Asbestos Trust Agreement.

## SECTION I

### Introduction

**1.1. Purpose.** This U.S. TDP has been adopted pursuant to the U.S. Asbestos Trust Agreement and the Plan. It is designed to provide fair, equitable, and substantially similar treatment for all Asbestos Trust Claims that may presently exist or may arise in the future; provided, however, that the provisions of this U.S. TDP set forth below are in all respects subject to the following sections 1.1(a).

**1.1(a) Treatment of CVA Asbestos Claims.** As set forth in Sections 4.2 and 4.5 of the Plan, the U.S. Asbestos Trust shall assume liability for all Asbestos Personal Injury Claims, including, without limitation, CVA Asbestos Claims. The U.S. Asbestos Trust, however, shall direct all CVA Asbestos Claims to the U.K. Asbestos Trust for resolution in accordance with the Principal CVAs. The treatment of and payments to the holders of CVA Asbestos Claims by the U.K. Asbestos Trust in accordance with the Principal CVAs shall be the sole treatment and payments available to the holders of CVA Asbestos Claims. Such treatment and payments shall be deemed to be treatment and payments by the U.S. Asbestos Trust, and the holders of CVA Asbestos Claims shall have no other rights under this U.S. TDP or against the U.S. Asbestos Trust or entitlement to any direct payments from the U.S. Asbestos Trust in respect of such CVA Asbestos Claims.

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

## SECTION II

### Overview

#### **2.1. U.S. Asbestos Trust Goals and Subfunds.**

**2.1(a) Goals.** The goal of the U.S. Asbestos Trust is to treat all claimants equitably. To achieve this goal, the U.S. Asbestos Trust creates four (4) separate subfunds (each a “U.S. Asbestos Trust Subfund” and collectively the “U.S. Asbestos Trust Subfunds” or “Subfunds”), which are described below. This U.S. TDP furthers the goal of the U.S. Asbestos Trust by setting forth procedures for processing and paying all Asbestos Trust Claims (other than CVA Asbestos Claims) from four (4) of the respective Subfunds on an impartial, first-in-first-out (“FIFO”) basis, with the intention of paying all claimants over time as equivalent a share as possible of the value of their claims based on historical values for substantially similar claims in the relevant tort system.<sup>1</sup> To this end, the TDP establishes for U.S. TDP Valued Claims, as defined below, a schedule of eight asbestos-related diseases (“Disease Levels”), seven of which have presumptive medical and exposure requirements (“Medical/Exposure Criteria”), specific liquidated values (“Scheduled Values”), 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 Section 5.3 below, have all been selected and derived with the intention of achieving a fair allocation of the U.S. Asbestos Trust's funds as among claimants suffering from different disease processed in light of the best available information considering the settlement history of the Federal-Mogul Entities and the rights claimants would have in the tort system absent the bankruptcy.

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<sup>1</sup> As used in this U.S. TDP, the phrase “in the tort system” shall not include claims asserted against a trust established for the benefit of asbestos personal injury claimants pursuant to section 524(g) and/or section 105 of the Bankruptcy Code or any other applicable law.

**2.1(b) U.S. Asbestos Trust Subfunds.** As provided above, the U.S. Asbestos Trust shall establish four U.S. Asbestos Trust Subfunds pursuant to the Plan and the U.S. Asbestos Trust Agreement to compensate holders of claims against the U.S. Asbestos Trust. One such subfund shall be the T&N Subfund, which shall process, liquidate and make payments pursuant to this U.S. TDP to holders of T&N Claims, Flexitallic Claims and Ferodo Claims (defined below) as provided in Article IV of the Plan (collectively “T&N Subfund Claims”). The other three U.S. Asbestos Trust Subfunds which are subject to the terms of this U.S. TDP shall be the FMP Subfund, the Fel-Pro Subfund and the Vellumoid Subfund. The FMP Subfund shall pay FMP Claims from proceeds of insurance available to pay FMP claims. Any payments in respect of Fel-Pro Claims and Vellumoid Claims shall be subject to the terms of the CIP Agreement.

A claimant may assert separate Asbestos Trust Claims against more than one U.S. Asbestos Trust Subfund based on exposure to asbestos or asbestos-containing products manufactured or distributed by more than one of the Federal-Mogul Entities identified above (“Multiple Exposure Claims”). A claimant may also assert separate Multiple Exposure Claims against the T&N Subfund based on exposure to asbestos or asbestos-containing products produced or manufactured by more than one T&N Entity; provided, however, that Multiple Exposure Claims against the T&N Subfund must be based on separate and distinct exposure to asbestos or asbestos-containing products produced, manufactured, marketed, distributed, sold or utilized by each individual T&N Entity against which an Asbestos Trust Claim is filed. To the extent any U.S. Asbestos Trust Subfund or Subfunds have separate liabilities to a single claimant based on Multiple Exposure Claims, each such Subfund shall pay the claimant the liquidated



value of the separate claim or claims for which it is liable, subject to the applicable Payment Percentage, Maximum Annual Payment, Maximum Available Payment and Claims Payment Ratio limitations, if any, set forth below.

**2.1(b)(1) T&N Subfund.**

As provided in the Plan and U.S. Asbestos Trust Agreement, the T&N Subfund shall be liable for all T&N Subfund Claims, which are all Asbestos Trust Claims for which T&N and/or its subsidiaries or affiliates have legal responsibility, other than CVA Asbestos Claims.

For T&N Subfund Claims based on exposure to asbestos or asbestos-containing products within the U.S. or Canada, this U.S. TDP establishes an Expedited Review Process involving eight (8) separate asbestos-related Disease Levels as well as three (3) separate matrices of liquidated values for T&N Claims, Flexitallic Claims and Ferodo Claims, respectively, based on these Disease Levels. These matrices are set forth in Section 5.3(a)(1)(C) and Section 5.3(a)(3) below. T&N Subfund Claims based on exposure to asbestos or asbestos-containing products anywhere in the rest of the world (i.e., outside the U.S. or Canada) shall be treated as “Foreign Claims,” and shall be liquidated and paid solely pursuant to the Individual Review Process as provided in Section 5.3(a)(2).

The U.S. Asbestos Trust shall liquidate and pay claimants holding T&N Subfund Claims the liquidated value of their Asbestos Trust Claims solely from the assets of the T&N Subfund pursuant to the provisions in this U.S. TDP including the applicable Payment Percentages described in Section 4.2 below (hence, such claims, together with FMP Claims, are referred to as “U.S. TDP Valued Claims”).

All provisions in this U.S. TDP and the Plan regarding treatment of T&N Subfund Claims shall be read in accordance with and subject to the provisions of this Section 2.1(b)(1), Section IX below and Article IV of the Plan.

**2.1(b)(2) Insured U.S. Asbestos Trust Subfunds.** The other three U.S. Asbestos Trust Subfunds that are subject to the terms of this U.S. TDP are the FMP Subfund, the Fel-Pro Subfund and the Vellumoid Subfund. The FMP Subfund shall be liable for Asbestos Trust Claims based on exposure within or outside the U.S. to asbestos-containing products produced, marketed, distributed, sold or utilized by FMP, including asbestos-containing products manufactured or distributed by its predecessors, the Wagner Electric Corporation and Moog Automotive Inc., Abex Corporation and Pneumo Abex LLC and their predecessors (collectively “FMP Claims”). The Fel-Pro Subfund shall be liable only for Fel-Pro Claims and the Vellumoid Subfund shall be liable only for Vellumoid Claims and such other Asbestos Trust Claims that are assertable directly against Federal-Mogul Corporation, if any. The Fel-Pro Subfund and the Vellumoid Subfund shall consist primarily of (i) rights under the CIP Agreement (ii) rights under Asbestos Insurance Policies other than those issued by the Insurer Parties (as that term is defined in the CIP Agreement), and subject to the terms and conditions of the CIP Agreement; and (iii) funds required to be held by the Trust pursuant to the terms and conditions of the CIP Agreement. Fel-Pro Claims and Vellumoid Claims shall be handled pursuant to Section 5.3(b) of this U.S. TDP and the CIP Agreement.

Claims payable from the FMP Subfund (other than Pneumo Asbestos Claims against FMP) shall also be treated as U.S. TDP Valued Claims inasmuch as they will be processed, liquidated and paid pursuant to the provisions of this U.S. TDP, including the provisions relating to the applicable Payment Percentage described in Section 4.2 below.

Accordingly, holders of such FMP Claims shall be eligible to elect to have their claims liquidated pursuant to the U.S. Asbestos Trust's Expedited Review Process, in which case the claims shall be eligible for the matrix values for FMP Claims set forth in Section 5.3(a)(3) below. Alternatively, holders of such FMP Claims may elect the U.S. Asbestos Trust's Individual Review Process as set forth below. Holders of Pneumo Asbestos Claims against FMP will not only be subject to the Individual Review Process but it is anticipated that the U.S. Asbestos Trust will contest its liability with respect to such claims on the ground that the Plan B Settlement has extinguished FMP's and the U.S. Asbestos Trust's liability for such claims.

Fel-Pro and Vellumoid Claims shall be liquidated in the tort system pursuant to Section 5.3(b) below, and the terms and conditions of the CIP Agreement. The provisions of this U.S. TDP concerning TDP Valued Claims shall not apply to Fel-Pro Claims, Vellumoid Claims, or Federal-Mogul Asbestos Claims (as defined in the CIP Agreement) except as specifically set forth herein. However, the U.S. Asbestos Trust may in appropriate circumstances, with the approval of the U.S. Asbestos Trust Advisory Committee (the "TAC") and the Legal Representative for Future Asbestos Claimants ("Future Claimants' Representative"), and with the prior express written consent of the Lead Insurer, as that term is defined in the CIP Agreement ("Lead Insurer"), as provided in the CIP Agreement, establish claim forms, claim processing and liquidating procedures, Disease Levels, Medical/Exposure Criteria, Payment Percentages and Scheduled, Average and/or Maximum Values for Fel-Pro Claims, Vellumoid Claims, or Federal-Mogul Asbestos Claims.

## **2.2. Claims Liquidation Procedures.**

**2.2(a) In General.** All claimants holding an Asbestos Trust Claim must file the claim with the U.S. Asbestos Trust in accordance with the proof of claim provisions of Section

6.1. As discussed above, a claimant may assert more than one Asbestos Trust Claim based on exposure to asbestos or asbestos-containing products produced, marketed, distributed, sold or utilized by more than one Federal-Mogul Entity. Upon filing of the Asbestos Trust Claim or Claims, the claimant will be placed in a FIFO Processing Queue to be established by the U.S. Asbestos Trust pursuant to Section 5.1(a)(1) below, and the claim or claims shall be processed, liquidated and paid as set forth below.

### **2.2(b) U.S. TDP Valued Claims.**

The U.S. Asbestos Trust shall take all reasonable steps to resolve U.S. TDP Valued Claims payable from the limited resources of the T&N Subfund and/or the FMP Subfund as efficiently and expeditiously as possible at each stage of claims processing and arbitration. To this end, the U.S. Asbestos Trust, in its sole discretion, may conduct settlement discussions with claimants' representatives with respect to more than one claim at a time, provided that the claimants' respective positions in the relevant FIFO Processing and Payment Queues are maintained, and each claim is individually evaluated pursuant to the valuation factors set forth in Section 5.3(a)(2)(C) below. The U.S. Asbestos Trust shall also make every effort to resolve each year at least that number of U.S. TDP Valued Claims required to exhaust the Maximum Annual Payment and the Maximum Available Payment for "Category A Claims" and "Category B Claims" for the relevant Subfund, as those terms are defined below.

In general, to be eligible for payment, a U.S. TDP Valued Claim must involve one (1) of the eight (8) asbestos-related Disease Levels described in Section 5.3(a)(1)(C) below, seven (7) of which have presumptive Medical/Exposure Criteria and established liquidated values. Because U.S. TDP Valued Claims involve separate streams of asbestos-related liabilities,

separate matrices of liquidated values have been established for several of those separate streams of liabilities in Section 5.3(a)(3) below.

Because U.S. TDP Valued Claims of individuals exposed in Canada who were resident in Canada when such claims were filed were routinely litigated and resolved in the courts of the U.S., and because the resolution history of these claims has been included in developing the Expedited Review Process for such claims, such claims shall be eligible for liquidation under the Expedited Review Process and for the matrix values provided for T&N, Flexitallic, Ferodo and FMP Claims in Section 5.3(a)(3) below.

The Disease Levels, Medical/Exposure Criteria, Scheduled Values, Average Values and Maximum Values set forth in the matrices for U.S. TDP Valued Claims have all been selected and derived with the intention of achieving a fair allocation of the assets held by the T&N Subfund and the FMP Subfund as among their respective claimants suffering from different disease processes in light of the best information available, considering historical settlement data and the rights that each group of claimants would have in the relevant tort system absent the Debtors' bankruptcies.

If the claimant so elects, the U.S. Asbestos Trust shall liquidate U.S. TDP Valued Claims except Foreign Claims (as defined herein) that meet the presumptive Medical/Exposure Criteria of Disease Levels I – V, VII and VIII efficiently and expeditiously under the Expedited Review Process described in Section 5.3(a)(1) below. U.S. TDP Valued Claims involving Disease Levels I – V, VII and VIII that do not meet the presumptive Medical/Exposure Criteria for the relevant Disease Level, as well as all Disease Level VI – Lung Cancer 2 Claims, Foreign Claims, and Pneumo Asbestos Claims against FMP Claims shall undergo the U.S. Asbestos Trust's Individual Review Process described in Section 5.3(a)(2) below. In such a case, notwithstanding

that the claim does not meet the presumptive Medical/Exposure Criteria for the relevant Disease Level, the U.S. Asbestos Trust can offer the claimant an amount up to the Scheduled Value of that Disease Level if the U.S. Asbestos Trust is satisfied that the claimant has presented a claim that would be cognizable and valid in the tort system.

In lieu of liquidating such claimant's claim under the Expedited Review Process, claimants holding U.S. TDP Valued Claims involving Disease Levels II – V and VII - VIII, may alternatively seek to establish liquidated values for their claims that are greater than their Scheduled Values by electing the U.S. Asbestos Trust's Individual Review Process. However, the liquidated values of U.S. TDP Valued Claims that undergo the Individual Review Process for valuation purposes may be determined to be less than the Scheduled Values for the applicable Disease Level. Further, the liquidated value of any U.S. TDP Valued Claims shall not exceed the Maximum Values for the Disease Levels set forth 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 value for Extraordinary Claims specified in that provision.

The Scheduled Values and Maximum Values set forth below have been established for each of the Disease Levels that are eligible for Individual Review in light of applicable relevant tort law and current projections of present and future unliquidated claims. The Trustees shall use their reasonable best efforts to ensure that the U.S. Asbestos Trust processes claims such that other time the combination of settlements at the Scheduled Values and those resulting from the Individual Review Process approximate the Average Values also set forth below. In any event, all payments to a claimant from the T&N Subfund or the FMP Subfund shall be subject to the Payment Percentage, Maximum Annual Payment, Maximum Available Payment and Claim Payment Ratio limitations that are in effect at the time of payment.

If a claimant elects to process Multiple Exposure Claims against the T&N Subfund, the claimant shall be notified when each such claim comes up in the FIFO Processing Queue. If the Expedited Review Process is selected for any such claim, and the claim meets the presumptive Medical/Exposure Criteria for the T&N Entity for which exposure is asserted, the claimant shall be paid the Scheduled Value for the relevant Disease Level for each of the T&N Entities for which qualifying exposure is established. If the claimant seeks to process one or more Multiple Exposure Claims against the T&N Subfund under the U.S. Asbestos Trust's Individual Review Process, the claimant shall be paid the Subfund's separate liability for the liquidated value of the claim or claims determined under that process.

All unresolved disputes over a claimant's medical condition, exposure history and/or the liquidated value of a U.S. TDP Valued Claim shall be subject to Alternative Dispute Resolution ("ADR") Procedures to be adopted by the Trustees with the consent of the TAC and the Future Claimants' Representative. Any U.S. TDP Valued Claim that is the subject of a dispute with the U.S. Asbestos Trust that cannot be resolved by non-binding arbitration may enter the tort system as provided in Sections 5.11(a) and 7.6(a) below. However, if and when a holder of a U.S. TDP Valued Claim obtains a judgment in the tort system, the judgment will be payable (subject to the Payment Percentage, Maximum Available Payment, and Claims Payment Ratio provisions set forth below) only as provided in Section 7.7(a) below.

**2.2(c) Fel-Pro and Vellumoid Claims.** All Fel-Pro and Vellumoid Claims shall be handled pursuant to the procedures set forth in Section 5.3(b) of this U.S. TDP and the CIP Agreement.

**2.3. Application of Payment Percentages.** The assets of the T&N Subfund and the FMP Subfund over their lives are estimated to be substantially less than the aggregate liquidated

values of the Asbestos Trust Claims anticipated to be asserted against them. Accordingly, after the liquidated value of a U.S. TDP Valued Claim payable from the T&N Subfund and the FMP Subfund, other than claims involving Other Asbestos Disease (Disease Level I – Cash Discount Payment) as defined below, is determined pursuant to the procedures set forth herein for Expedited Review, Individual Review, arbitration, or litigation in the tort system, the holders of such U.S. TDP Valued Claims payable from the T&N Subfund and the FMP Subfund, other than claims involving Other Asbestos Disease (Disease Level I – Cash Discount Payment) as defined below, shall ultimately receive a pro-rata share of the value of their claim based on a Payment Percentage described in Section 4.2 below. Except as otherwise set forth herein, these Payment Percentages shall also apply to all Pre-Petition Liquidated Claims as provided in Section 5.2 below and to all sequencing adjustments paid pursuant to Section 7.5 below.

The Initial Payment Percentages for all U.S. TDP Valued Claims, including Pre-Petition Liquidated Claims as provided in Section 5.2 below, shall be set by the Trustees, the TAC and the Future Claimants' Representative after the U.S. Asbestos Trust is established pursuant to the Plan, and sufficient information is available concerning the assets and liabilities of the respective Subfunds. The Initial Payment Percentages shall be calculated on the assumption that the Average Values set forth in Section 5.3(a)(3) for T&N Subfund Claims and FMP Claims will be achieved with respect to existing present claims and projected future claims involving Disease Levels II – VIII. However, the Payment Percentage applicable to any U.S. Asbestos Trust Subfund may be adjusted upwards or downwards from time to time pursuant to Section 4.2 below by the U.S. Asbestos Trust with the consent of the TAC and the Future Claimants' Representative to reflect then-current estimates of the assets and liabilities allocable to the Subfund.



Except as otherwise set forth herein, the Initial Payment Percentages shall apply to all Asbestos Trust Voting Claims payable from the T&N Subfund and the FMP Subfund, unless adjusted by the U.S. Asbestos Trust with the consent of the TAC and the Future Claimants' Representative (who are described in Section 3.1 below) pursuant to Section 4.2 below, and except as provided in Section 4.2 below with respect to supplemental payments in the event the Initial Payment Percentage is changed.

The term "Asbestos Trust Voting Claims" includes: (i) all Pre-Petition Liquidated Claims as defined in Section 5.2(a) below payable from the T&N Subfund or the FMP Subfund; (ii) all U.S. TDP Valued Claims filed against any Federal-Mogul Entity in the tort system or actually submitted to a Federal-Mogul Entity pursuant to an administrative settlement agreement entered into prior to the Petition Date of October 6, 2001; and (iii) all U.S. TDP Valued Claims filed against another defendant in the tort system prior to the date the Plan was filed with the Bankruptcy Court (November 20, 2006, the "Plan Filing Date"), provided, however, that (1) the holder of a claim described in subsection (i), (ii) or (iii) above, or his or her authorized agent, actually voted to accept or reject the Plan pursuant to the voting procedures established by the U.S. Bankruptcy Court (unless such holder certifies to the satisfaction of the Trustees that he or she was prevented from voting in this proceeding as a result of circumstances resulting in a state of emergency affecting, as the case may be, the holder's residence, principal place of business or legal representative's principal place of business at which the holder or his or her legal representative receives notice and/or maintains material records relating to his or her Asbestos Trust Voting Claim), and (2), the claim was subsequently filed with the U.S. Asbestos Trust pursuant to Section 6.1 below by the Initial Claims Filing Date as defined in Section 5.1(a)(1) below.

Because neither the exact number nor severity of claims by people who will submit claims in the future, nor the ultimate amount of the U.S. Asbestos Trust's assets, can be calculated, no guarantee can be made of any Payment Percentage for any Asbestos Trust Claim. However, if the Payment Percentage is increased over time, claimants whose claims were liquidated and paid in prior periods under the U.S. TDP may receive additional payments as provided in Section 4.2.

With respect to the Fel-Pro and Vellumoid Subfunds, no Initial Payment Percentage(s) have been set. However, the U.S. Asbestos Trust, with the consent of the TAC and the Future Claimants' Representative and the prior express written consent of the Lead Insurer, as provided in the CIP Agreement, may subsequently adopt a Payment Percentage for one or both such Subfunds in appropriate circumstances pursuant to Section 4.2 below.

**2.4. Determination of the Maximum Annual Payment and Maximum Available Payment.** Because the assets in the T&N Subfund and the FMP Subfund are estimated to be insufficient to pay the full liquidated value of all the Asbestos Trust Claims that are expected to be asserted against them, the U.S. Asbestos Trust shall calculate the amount of cash flow anticipated to be necessary over the entire life of the Subfunds to ensure that amounts will be available to treat all holders of present and future T&N Subfund Claims and FMP Claims as similarly as possible, given the assets and liabilities allocable to each Subfund. In each year, for each Subfund, the U.S. Asbestos Trust will be empowered to pay out all of the income earned during the year by the respective Subfund, together with a portion of the Subfund's principal, calculated so that the application of the Subfund's assets over its life shall correspond with the needs created by the anticipated flow of claims to the Subfund (the "Maximum Annual Payment"), taking into account the Payment Percentage provisions set forth in Sections 2.3

above and 4.2 and 4.3 below. The U.S. Asbestos Trust's distributions from the T&N Subfund and the FMP Subfund to all holders of claims against such Subfunds for that year shall not exceed the Maximum Annual Payment determined for that year.

In distributing the Maximum Annual Payment from the T&N Subfund and FMP Subfund, the U.S. Asbestos Trust shall first allocate the amount in question to outstanding Pre-Petition Liquidated Claims payable from the respective Subfunds and to liquidated T&N Subfund Claims and FMP Claims involving Disease Level I (Cash Discount Payment), in proportion to the aggregate value of each group of claims. The remaining portion of the Maximum Annual Payment (the "Maximum Available Payment"), if any, shall then be allocated and used to satisfy all other previously liquidated T&N Subfund Claims and FMP Claims, respectively, subject to the Claims Payment Ratio for the particular Subfund set forth in Section 2.5 below. In the event there are insufficient amounts in the T&N Subfund or the FMP Subfund in any year to pay the total number of outstanding Pre-Petition Liquidated Claims and/or previously liquidated Disease Level I Claims, the available amounts allocated to that group of claims shall be paid to the maximum extent to claimants in the particular group based on their place in the respective Subfund's FIFO Payment Queue. Claims in either group for which there are insufficient amounts in the Subfund shall be carried over to the next year and placed at the head of the FIFO Payment Queue for that Subfund.

The U.S. Asbestos Trust does not anticipate setting a Maximum Annual Payment or Maximum Available Payment for the Fel-Pro and Vellumoid Subfunds. However, the U.S. Asbestos Trust with the consent of the TAC and the Future Claimants' Representative and the prior express written consent of the Lead Insurer, as provided in the CIP Agreement, may set such payment limitations for the Subfund or Subfunds in question in appropriate circumstances.

**2.5. Claims Payment Ratio.** Because the assets available to pay T&N Subfund and FMP Claims are limited, a Claims Payment Ratio has been determined for the T&N Subfund and the FMP Subfund based on the T&N Entities' and FMP's claims settlement history and an analysis of present and future T&N Subfund Claims and FMP Claims that were unliquidated as of the Petition Date. For Asbestos Trust Claims payable from the T&N Subfund, the Claims Payment Ratio as of the Effective Date has been set at 60% for Category A claims, which consist of T&N Subfund Claims involving severe asbestosis and malignancies (Disease Levels IV –VIII) that were unliquidated as of the Petition Date, and at 40% for Category B claims, which are T&N Subfund Claims involving non-malignant Asbestosis or Pleural Disease (Disease Levels II and III) that were similarly unliquidated as of the Petition Date. For Asbestos Trust Claims payable from the FMP Subfund, the Claims Payment Ratio as of the Effective Date has been set at 79% for Category A claims and 21 % for Category B Claims. The Claims Payment Ratios for the T&N Subfund and the FMP Subfund shall not apply to any Pre-Petition Liquidated Claims or to any claims for Other Asbestos Disease (Disease Level I - Cash Discount Payment).

In each year, after the determination of the Maximum Available Payment described in Section 2.4 above, 60% and 79% of that amount will be available to pay Category A claims payable from the T&N Subfund and the FMP Subfund, respectively, and 40% and 21% shall be available to pay Category B claims payable from the T&N Subfund and the FMP Subfund, respectively, that have been liquidated since the Petition Date. In the event there are insufficient funds in any year in the T&N Subfund and/or the FMP Subfund to pay the liquidated claims within either or both of the Categories, the available funds allocated to the particular Category shall be paid to the maximum extent to claimants in that Category based on their place in the Subfund's FIFO Payment Queue described in Section 5.1(c) below, which will be based upon the

date of claim liquidation. Claims for which there are insufficient funds allocated to the relevant Category shall be carried over to the next year where they will be placed at the head of the Subfund's FIFO Payment Queue. If there are excess amounts in either or both Categories, because there is an insufficient amount of liquidated claims to exhaust the Maximum Available Payment amount for that Category or Categories, the excess amounts for either or both Categories will be rolled over and remain dedicated to the respective Category to which they were originally allocated for the particular Subfund.

The 60%/40% Claims Payment Ratio for the T&N Subfund and the 79%/21% Claims Payment Ratio for the FMP Subfund, together with this rollover provision, shall apply to all PI Trust Voting Claims as defined in Section 2.3 above (except Pre-Petition Liquidated Claims and Other Asbestos Disease claims (Disease Level I – Cash Discount Payment)), and shall not be amended until the second anniversary of the date the U.S. Asbestos Trust first accepts for processing proof of claim forms and other materials required to file a claim with the U.S. Asbestos Trust. Thereafter, these Claims Payment Ratios and their rollover provision shall be continued absent circumstances, such as a significant change in law or medicine, necessitating amendment to avoid a manifest injustice. However, the accumulation, rollover and subsequent delay of claims against the T&N Subfund or the FMP Subfund resulting from the application of the Claims Payment Ratios, shall not, in and of itself, constitute such circumstances. In addition, an increase in the numbers of Category B claims against either Subfund beyond those predicted or expected shall not be considered as a factor in deciding whether to reduce the percentage allocated to Category A claims.

No Claims Payment Ratio has been set for the Fel-Pro and Vellumoid Subfunds. However, the U.S. Asbestos Trust with the consent of the TAC and the Future Claimants'

Representative and the prior express written consent of the Lead Insurer, as provided in the CIP Agreement, may establish a Claims Payment Ratio for one or both of those Trust Subfunds in appropriate circumstances.

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

In any event, no amendment to the Claims Payment Ratio for any Subfund may be made without the consent of at least eighty percent of the TAC members and the consent of the Future Claimants' Representative pursuant to the consent process set forth in Sections 5.7(b) and 6.6(b) of the U.S. Asbestos Trust Agreement. However, the Trustees, with the consent of the TAC and the Future Claimants' Representative, may offer the option of a reduced Payment Percentage to holders of claims in either Category A or Category B against a Subfund in return for prompter payment by the Subfund (the "Reduced Payment Option"). With respect to the Fel-Pro and Vellumoid Subfunds, Claims Payment Ratios may not be set or modified without the prior express written consent of the Lead Insurer, as provided in the CIP Agreement.

**2.6. Indemnity and Contribution Claims.** Subject to Section 5.6 below, Asbestos Trust Claims for indemnity and contribution ("Indirect Asbestos Trust Claims") against any U.S. Asbestos Trust Subfund, if any, shall be subject to the same categorization, evaluation, and

payment provisions under this U.S. TDP that the claim would have been subject to if it had been brought by the original claimant against the Subfund in question.

**2.7 Payments on an Installment Basis.** All Asbestos Trust Claims to be paid from the T&N Subfund that are subject to the application of the Payment Percentage and are liquidated by the U.S. Asbestos Trust prior to the conclusion of the first reconsideration of the Initial Payment Percentage described in Section 4.2 hereof shall be paid in two installments. The amount of the claimant's initial installment payment shall be fifty percent (50%) of the liquidated value of the claim times the Initial Payment Percentage, subject to any other applicable restrictions set forth herein. The U.S. Asbestos Trust shall make the initial installment payment on a claim when the claim reaches the top of the Payment Queue. The second installment payment shall be paid immediately following the conclusion of the first reconsideration of the Initial Payment Percentage in the order that the claim entered the Payment Queue and before the payment of any claim that is liquidated after the first consideration of the Initial Payment Percentage. The conclusion of the first reconsideration of the Initial Payment Percentage shall be deemed to have occurred when one of the following occurs: (a) the Trustees, the TAC and the Futures Claimants' Representative agree that such a reconsideration is not necessary; (b) the Trustees reconsider the Initial Payment Percentage and the Trustees, TAC, and Future Claimants' Representative agree that no change is warranted; (c) the Trustees propose a change to the Initial Payment Percentage and the TAC and the Futures Claimants' Representative agree to the change; or (d) the Trustees propose a change to the Initial Payment Percentage that the TAC and the Futures Claimants' Representative do not agree to and the matter is resolved through the alternative dispute resolution process described in Section 7.14 of the U.S. Asbestos Trust Agreement. The second installment payment shall be in an amount that will result in the total

payment to the claimant being equal to the liquidated value of the claim times the Payment Percentage in effect at the time of the second installment payment, subject to any other applicable restrictions set forth herein. Absent further agreement by the Trustees, the TAC and the Future Claimants' Representative, following the conclusion of the first reconsideration of the Initial Payment Percentage, the Trust shall cease paying claims to be paid from the T&N Subfund on an installment basis except as otherwise allowed under Section 7.3 hereof.

Further, Disease Level I T&N Claims that are liquidated by the U.S. Asbestos Trust prior to the conclusion of the first reconsideration of the Initial Payment Percentage described in Section 4.2 hereof shall be paid in two installments. The amount of the claimant's initial installment payment shall be the initial Scheduled Value of \$150. The second installment payment shall be paid immediately following the conclusion of the first reconsideration of the Initial Payment Percentage in the order that the claim entered the Payment Queue and before the payment of any claim that is liquidated after the first consideration of the Initial Payment Percentage. The second installment payment shall be in an amount that will result in the total payment to the claimant being equal to the Scheduled Value for Level I T&N Claims in effect at the conclusion of the first reconsideration period. If the Payment Percentage remains at six percent (6%) at the conclusion of the first reconsideration of the Initial Payment Percentage, the Schedule Value for Disease Level I T&N Claims shall be \$308.00. Any increase or decrease to the Schedule Value for Disease Level I T&N Claims at the conclusion of the first reconsideration of the Initial Payment Percentage shall be directly proportionate to any change in the Payment Percentage, but in no event shall the Scheduled Value for Disease Level I T&N Claims exceed \$400.00.



Payments made on an installment basis pursuant to this Section 2.7 shall be deemed supplemental payments for the purposes of Section 4.2 hereof.

### **SECTION III**

#### **U.S. TDP Administration**

##### **3.1. U.S. Asbestos Trust Advisory Committee and Future Claimants'**

**Representative.** Pursuant to the Plan and the U.S. Asbestos Trust Agreement, the U.S. Asbestos Trust and this U.S. TDP shall be administered by the Trustees in consultation with the TAC, which represents the interests of holders of present Asbestos Trust Claims against the U.S. Asbestos Trust, and the Future Claimants' Representative, who represents the interests of holders of Asbestos Trust Claims that will be asserted in the future against the U.S. Asbestos Trust. The Trustees shall obtain the consent of the TAC and the Future Claimants' Representative on any amendments to this U.S. TDP pursuant to Section 8.1 below, and on such other matters as are otherwise required below and in Section 2.2(f) of the U.S. Asbestos Trust Agreement. The Trustees shall also consult with the TAC and the Future Claimants' Representative on such matters as are provided below and in Section 2.2(e) of the U.S. Asbestos Trust Agreement. The initial members of the TAC and the initial Future Claimants' Representative are identified in the U.S. Asbestos Trust Agreement.

**3.2. Consent and Consultation Procedures.** In those circumstances in which consultation or consent of the TAC and Future Claimants' Representative is required, the Trustees will provide written notice to the TAC and the Future Claimants' Representative of the specific amendment or other action that is proposed. The Trustees will 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) of the U.S. Asbestos Trust Agreement, or the

Consent Process described in Sections 5.7(b) and 6.6(b) of the U.S. Asbestos Trust Agreement, respectively.

## SECTION IV

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

#### **4.1. Uncertainty of the T&N Entities' and FMP's Personal Injury Asbestos**

**Liabilities.** As discussed above, neither the exact amount of the T&N Entities' and FMP's total asbestos-related liabilities nor the total amount of assets that will be available to the U.S. Asbestos Trust to pay those liabilities can be calculated with certainty. Consequently, there is inherent uncertainty regarding the amounts that holders of claims payable from the T&N Subfund or from the FMP Subfund will receive. To seek to ensure substantially equivalent treatment of all present and future claims against the T&N Subfund and the FMP Subfund, the Trustees must determine from time to time the percentage of full liquidated value that holders of claims against the Subfunds will be likely to receive, i.e., the "Payment Percentages" described in Section 2.3 above and Section 4.2 below.

**4.2. Computation of Payment Percentage.** As described in Section 2.3 above, the Initial Payment Percentage for Asbestos Trust Claims to be paid from the FMP Subfund shall be set by the Trustees with the consent of the TAC and the Future Claimants' Representative after the U.S. Asbestos Trust is established and more information is available concerning the liabilities and assets of the Subfund. As described in Section 2.3 above, the Initial Payment Percentage for the Asbestos Trust Claims to be paid from the T&N Subfund shall be six percent (6%) payable in accordance with and subject to Section 2.7 hereof. The Initial Payment Percentages established for each of the T&N Subfund and the FMP Subfund shall apply respectively to all Asbestos Trust Voting Claims (except Other Asbestos Disease Claims (Disease Level I – Cash

Discount Payment) to be paid from such Subfunds, unless the Trustees, with the consent of the TAC and the Future Claimants' Representative, determine that the Initial Payment Percentage for the T&N Subfund and/or the FMP Subfund should be changed to ensure that the U.S. Asbestos Trust shall be in a position to pay holders of unliquidated and/or unpaid Asbestos Trust Voting Claims and present and future claims payable by the T&N Subfund and the FMP Subfund, respectively, in substantially the same manner.

The Payment Percentages for the T&N Subfund and the FMP Subfund shall be subject to change pursuant to the terms of this U.S. TDP and the U.S. Asbestos Trust Agreement if the Trustees, with the consent of the TAC and the Future Claimants' Representative, determine that an adjustment is required. In addition, the Trustees may adopt a Payment Percentage for any one or more of the other U.S. Asbestos Trust Subfunds, with the consent of the TAC and the Future Claimants' Representative, if circumstances so warrant. No less frequently than once every three years, commencing with the first day of January occurring after the Plan is consummated, the Trustees shall reconsider the then applicable Payment Percentage(s) to assure that each percentage is based on accurate, current information and may, after such reconsideration, change the percentage for any Subfund if necessary with the consent of the TAC and the Future Claimants' Representative.

The Trustees shall also reconsider the then applicable Payment Percentage for any U.S. Asbestos Trust Subfund at shorter intervals if they deem such reconsideration to be appropriate or if requested to do so by the TAC or the Future Claimants' Representative. The Trustees must base their determination of the Payment Percentage(s) on then-current estimates of the number, types, and values of present and future Asbestos Trust Claims against the various Subfunds, the value of the assets then available to the Subfunds for their payment, all anticipated administrative

and legal expenses of the Subfunds, and any other material matters that are reasonably likely to affect the sufficiency of a Subfund's assets to pay a comparable percentage of full liquidated value to all holders of claims against the Subfund.

When making these determinations, the Trustees shall exercise common sense and flexibly evaluate all relevant factors. The Payment Percentage(s) applicable to Category A or Category B claims asserted against any U.S. Asbestos Trust Subfund for which a Claims Payment Ratio has been adopted may not be reduced to alleviate delays in payments of claims in the other Category; both Categories will receive the same Payment Percentage, but the payment from any Subfund may be deferred as needed pursuant to Section 7.3 below, and a Reduced Payment Option may be instituted for any Subfund as described in Section 2.5 above.

There is uncertainty surrounding the amount of the U.S. Asbestos Trust's future assets. There is also uncertainty surrounding the totality of the Asbestos Trust Claims to be paid over time by the U.S. Asbestos Trust as well as the extent to which changes in existing federal and/or state law could affect the U.S. Asbestos Trust's liabilities under this U.S. TDP. If the value of the U.S. Asbestos Trust's future assets increases significantly and/or if the value or volume of Asbestos Trust Claims actually filed with the U.S. Asbestos Trust is significantly lower than originally estimated, the U.S. Asbestos Trust shall use those proceeds and/or claims savings, as the case may be, first to maintain the Payment Percentage or Percentages then in effect.

If the Trustees, with the consent of the TAC and the Future Claimants' Representative, make a determination to increase a Payment Percentage for either the T&N or FMP Subfunds due to a material change in the estimates of the respective Subfund's future assets and/or liabilities, the U.S. Asbestos Trust shall also make supplemental payments to all claimants who previously liquidated their claims against the respective Subfund and received 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 a sequencing adjustment paid pursuant to Section 7.5 below).

The U.S. 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 \$100.00, 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 \$100.00. However, the U.S. Asbestos Trust's obligation shall resume and the U.S. Asbestos Trust's shall pay any such aggregate supplemental payments due the claimant at such time that the total exceeds \$100.00.

No Initial Payment Percentages for the Fel-Pro and Vellumoid Subfunds have been set. However, the U.S. Asbestos Trust may subsequently, with the consent of the TAC and the Future Claimants' Representative, and the prior express written consent of the Lead Insurer, as provided in the CIP Agreement, adopt a Payment Percentage for one or both Subfunds in appropriate circumstances.

**4.3. Applicability of the Payment Percentages.** Except as set forth above in Section 4.2 with respect to supplemental payments, no holder of an Asbestos Trust Claim that qualifies as an Asbestos Trust Voting Claim, other than an Asbestos Trust Claim for Other Asbestos Disease (Disease Level I - Cash Discount Payment) as defined in Section 5.3(a)(1)(C)), below shall receive a payment that exceeds the applicable Payment Percentage, if any, times the liquidated value of the claim. Except as otherwise provided in Section 5.1(c) below for Asbestos

Trust Claims involving deceased or incompetent claimants for which approval of the U.S. Asbestos Trust's offer by a court or through a probate process is required, no holder of any other Asbestos Trust Claim, other than a claim for Other Asbestos Disease (Disease Level I – Cash Discount Payment), shall receive a payment that exceeds the liquidated value of the claim times the Payment Percentage in effect at the time the offer is made, if any. Subject to Section 2.7, U.S. TDP Valued Claims involving Other Asbestos Disease (Disease Level I - Cash Discount Payment) shall not be subject to a Payment Percentage, but shall instead be paid the full amount of their Scheduled Values as set forth in Section 5.3(a)(3) below.

If a redetermination of any U.S. Asbestos Trust Subfund's Payment Percentage has been proposed in writing by the Trustees to the TAC and the Future Claimants' Representative but has not yet been adopted, the claimant shall receive the lower of the U.S. Asbestos Trust Subfund's current Payment Percentage or the proposed Payment Percentage. However, if the proposed Payment Percentage for the U.S. Asbestos Trust Subfund was the lower amount but was not subsequently adopted, the claimant shall thereafter receive the difference between the lower proposed amount and the higher current amount. Conversely, if the proposed Payment Percentage for the Subfund was the higher amount and was subsequently adopted, the claimant shall thereafter receive the difference between the lower current amount and the higher adopted amount.

## **SECTION V**

### **Resolution of Asbestos Trust Claims**

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

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

**5.1(a)(1) Establishment of FIFO Processing Queue.** The U.S. Asbestos Trust will order separately all Asbestos Trust Claims sufficiently complete to be reviewed that are payable from any U.S. Asbestos Trust Subfund on a FIFO basis except as otherwise provided herein (the “FIFO Processing Queues”). For all such claims filed on or before the date six (6) months after the date the U.S. Asbestos Trust first makes available the materials required to file an Asbestos Trust Claim (the “Initial Claims Filing Date”), a claimant’s position in the relevant Subfund’s FIFO Processing Queue shall be determined as of the earliest of (i) the date prior to the Petition Date (if any) that the specific claim was either filed against any Federal-Mogul Entity in the relevant tort system or was actually submitted to any Federal-Mogul Entity or its agent pursuant to an administrative settlement agreement; (ii) the date before the Petition Date that the asbestos claim was filed against another defendant in the relevant tort system if at the time the claim was subject to a tolling agreement with any Federal-Mogul entity; (iii) the date after the Petition Date, if any, but before the date that the U.S. Asbestos Trust first makes available the proof of claim forms and other claims form materials required to file a claim against the applicable Subfund that the asbestos claim was filed against another defendant in the relevant tort system; (iv) the date after the Petition Date but before the Effective Date a proof of claim was filed against Federal-Mogul in its Chapter 11 case; or (v) the date a ballot was submitted by the claimant or his or her authorized agent in Federal-Mogul’s Chapter 11 case for purposes of voting on the Plan in accordance with the voting procedures adopted by the U.S. Bankruptcy Court.

Following the Initial Claims Filing Date, a claimant’s position in the Subfund’s FIFO Processing Queue shall be determined by the date the claim or claims were filed with the U.S. Asbestos Trust. If any claims are filed on the same date, the claimant’s position in the FIFO

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

Notwithstanding anything in the foregoing to the contrary, the U.S. Asbestos Trust may, in furtherance of its responsibility to seek recovery under the Hercules Policy, review Asbestos Trust Claims to be paid from the T&N Subfund on other than a FIFO basis.

**5.1(a)(2) Effect of Statutes of Limitation and Repose.** All unliquidated Asbestos Trust Claims must meet either (i) for claims first filed in the relevant tort system against any Federal-Mogul Entity prior to the Petition Date, the applicable federal, state or foreign statute of limitation or repose that was in effect at the time of the filing of the claim in the relevant tort system, or (ii) for claims that were not filed against any Federal-Mogul Entity in the relevant tort system prior to the Petition Date, the applicable statute of limitation that was in effect at the time of the filing with the U.S. Asbestos Trust.

However, the running of the relevant statute of limitation shall be tolled as of the earliest of (A) the actual filing of the claim against any Federal-Mogul Entity prior to the Petition Date, whether in the relevant tort system or by submission of a claim to a Federal-Mogul Entity or its agent pursuant to an administrative settlement agreement; (B) the tolling of the claim against any Federal-Mogul Entity prior to the Petition Date by an agreement or otherwise, provided such tolling is still in effect on the Petition Date; or (C) the Petition Date.

If an Asbestos Trust Claim meets any of the tolling provisions described in the preceding sentence and was not barred by the applicable statute of limitation at the time of the tolling event, it will be treated as timely filed if it is actually filed with the U.S. Asbestos Trust within three (3)



years after the Initial Claims Filing Date. Also, any claims that were first diagnosed after the Petition Date, irrespective of the application of any relevant statute of limitation or repose applicable in the United States, may be filed with the U.S. 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 Trust Claim by the U.S. Asbestos Trust may be deferred at the election of the claimant pursuant to Section 6.3 below.

**5.1(b) Processing of Asbestos Trust Claims.** As a general practice, the U.S. Asbestos Trust will review its claims files on a regular basis and notify all claimants whose Asbestos Trust Claims are likely to come up in the U.S. Asbestos Trust's applicable FIFO Processing Queue in the near future.

**5.1(c) Payment of Asbestos Trust Claims.** Asbestos Trust Claims that have been liquidated by the Expedited Review Process as provided in Section 5.3(a)(1) below, by the Individual Review Process as provided in Section 5.3(a)(2) below, by arbitration as provided in Section 5.10 below, or by litigation in the relevant tort system provided in Section 5.11(a) below, shall be paid in FIFO order from the relevant Subfund based on the date their liquidation became final (the "FIFO Payment Queue"), all such payments being subject to the applicable Payment Percentages, the Maximum Available Payment, the Claims Payment Ratio, and the sequencing adjustment provided for in Section 7.5 below, except as otherwise provided herein. Pre-Petition Liquidated Claims, as defined in Section 5.2 below, shall be subject to the Maximum Annual Payment and Payment Percentage limitations, but not to the Maximum Available Payment and Claims Payment Ratio provisions set forth above. Insured Asbestos Trust Claims that are to be liquidated in the tort system shall also be placed in FIFO Payment Queues to be established for each of the Insured U.S. Asbestos Trust Subfunds. The date of liquidation for such claims shall

be the date of the final judgment or settlement. This section 5.1(c) shall not apply to Fel-Pro Claims, Vellumoid Claims, or Federal-Mogul Asbestos Claims except with the consent of the TAC and the Future Claimants' Representative and the prior express written consent of the Lead Insurer, as provided in the CIP Agreement.

Where a holder of an Asbestos Trust Claim payable from the T&N Subfund or the FMP Subfund 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 the probate process prior to acceptance of the claim by the claimant's representative, an offer made by the U.S. 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 U.S. Asbestos Trust has been furnished with evidence that the settlement offer has been submitted to such court or probate process for approval. If the offer is ultimately approved by the court or through the probate process and is accepted by the claimant's representative, the U.S. Asbestos Trust shall pay the claim from the relevant Subfund in the amount so offered multiplied by the Payment Percentages in effect for the Subfund at the time the offer was first made, subject to the redetermination provisions set forth in Section 4.3 above. The date of liquidation for such claims shall be the date the claimant first accepted the offer by the U.S. Asbestos Trust that was approved by the court or in the probate process.

If any claims are liquidated on the same date, the claimant's position in a U.S. Asbestos Trust Subfund's FIFO Payment Queue shall be determined by the date of the diagnosis of the claimant's asbestos-related disease. If any claims are liquidated on the same date and the respective holders' asbestos-related diseases were diagnosed on the same date, those claimants' positions in a Subfund's FIFO Payment Queue shall be determined by the U.S. 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 – In General.** As soon as practicable after the Effective Date, the U.S. Asbestos Trust shall pay from the relevant U.S. Asbestos Trust Subfund, upon submission by the claimant of the applicable U.S. Asbestos Trust proof of claim form for claims, together with all documentation required thereunder, all Asbestos Trust Claims that were liquidated by (i) a binding settlement agreement for the particular claim entered into prior to the Petition Date with a Federal-Mogul Entity or its agent that is judicially enforceable by the claimant, (ii) a jury verdict or non-final judgment in the relevant tort system obtained against a Federal-Mogul Entity prior to the Petition Date, or (iii) by a judgment against a Federal-Mogul Entity that became final and non-appealable prior to the Petition Date (collectively “Pre-Petition Liquidated Claims”). In order to receive payment from the relevant Subfund, the holder of a Pre-Petition Liquidated Claim must submit all documentation necessary to demonstrate to the relevant Subfund that the claim was liquidated in the manner described in (i), (ii) or (iii), 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, if any.

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 any sequencing adjustment, if any, that has

accrued on that amount in accordance with the terms of the agreement, if any, or under applicable state or foreign law for settlements or judgments as of the Petition Date. However, the liquidated value of a Pre-Petition Liquidated Claim shall not include any punitive or exemplary damages except as otherwise provided in Section 7.4 below. In addition, the amounts payable with respect to such claims shall not be subject to or taken into account in consideration of the Claims Payment Ratio and the Maximum Available Payment limitations, but 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 US Asbestos Trust over this issue shall be resolved pursuant to the same procedures in this U.S. TDP that are provided for resolving the validity and/or liquidated value of an Asbestos Trust Claim (i.e., arbitration and litigation in the tort system as set forth in Sections 5.10 and 5.11 below).

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 U.S. Asbestos Trust over this issue shall be resolved pursuant to the same procedures in this U.S. TDP that are provided for resolving the validity and/or liquidated value of an Asbestos Trust Claim (i.e., arbitration and litigation in the tort system as set forth in Sections 5.10 and 5.11 below).

If any Pre-Petition Liquidated Claims are filed with the U.S. Asbestos Trust on the same date, the claimant's position in the U.S. Asbestos Trust's FIFO Queue for such claims shall be determined by the date on which the claim was liquidated. If any Pre-Petition Liquidated Claims are filed and liquidated on the same date, the position of the claimants in the FIFO queue shall be based on the dates of the claimants' birth, with older claimants given priority over younger claimants.

**5.2(a)(1) Pre-Petition Liquidated T&N Subfund Claims and**

**FMP Claims.** Pre-Petition Liquidated T&N Subfund Claims and FMP Claims shall be processed and paid from the T&N Subfund or the FMP Subfund, respectively, in accordance with their order in separate FIFO queues to be established by the U.S. Asbestos Trust for each such Subfund based on the date the U.S. Asbestos Trust received a completed proof of claim form with all required documentation for the particular claim or claims. However, the amounts payable with respect to such claims shall not be subject to or taken into account in consideration of the Claims Payment Ratio, but shall be subject to the Maximum Annual Payment and Payment Percentage provisions set forth above.

**5.2(a)(2) Insured Pre-Petition Liquidated Claims.**

Pre-Petition Liquidated Claims payable from the Fel-Pro or Vellumoid Subfunds shall be tendered by the U.S. Asbestos Trust to the relevant insurer or insurers for handling as provided in the CIP Agreement or in the applicable policies.

**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 U.S. 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.

**5.3. Resolution of Unliquidated Asbestos Trust Claims.**

**5.3(a) U.S. TDP Valued Claims.** After the establishment of the U.S. Asbestos Trust, the Trustees, with the consent of the TAC and the Future Claimants' Representative, shall adopt procedures for reviewing and liquidating all unliquidated U.S. TDP Valued Claims, which

shall include deadlines for processing such claims. Such procedures shall also require that claimants seeking resolution of unliquidated U.S. TDP Valued 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.

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 filed with the U.S. Asbestos Trust 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 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 claimant shall be placed in the FIFO Processing Queue in accordance with the ordering criteria described in Section 5.1(a) above. The U.S. Asbestos Trust shall provide the claimant with six (6) months notice of the date by which it expects to reach the claim in the FIFO Processing Queue, following which the claimant shall promptly (i) advise the U.S. Asbestos Trust whether the claim should be liquidated under the U.S. Asbestos Trust's Expedited Review Process described in Section 5.3(a)(1) below or, in certain circumstances, under the U.S. Asbestos Trust's Individual Review Process described in Section 5.3(a)(2) below; (ii) provide the U.S. Asbestos Trust with any additional medical and/or exposure evidence that was not provided with the original claim submission; and (iii) advise the U.S. Asbestos Trust of any change in the claimant's Disease Level. If a claimant fails to respond to the U.S. Asbestos Trust's notice prior to the reaching of the claim in the FIFO Processing Queue, the U.S. Asbestos

Trust will process and liquidate the claim under the Expedited Review Process based upon the medical/exposure evidence previously submitted by the claimant, although the claimant shall retain the right to request Individual Review as described in Section 5.3(a)(2) below.

**5.3(a)(1) Expedited Review Process.**

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

All Disease Level VI - Lung Cancer 2, Foreign Claims and Pneumo Asbestos Claims against FMP, must be liquidated pursuant to the U.S. Asbestos Trust's Individual Review Process described in Section 5.3(a)(2) below. Because U.S. TDP Valued Claims of individuals exposed in Canada who were resident in Canada when such claims were filed were routinely litigated and resolved in the courts of the U.S., and because the resolution history of these claims has been included in developing the Expedited Review Process for T&N, Flexitallic, Ferodo and FMP Claims, Canadian claims shall not be treated as Foreign Claims, but instead shall be eligible for liquidation under the Expedited Review Process and for the matrix values provided such claims in Section 5.3(a)(3) below.

U.S. TDP Valued Claims, including Multiple Exposure 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 for the particular Federal-Mogul Entity. However, except for U.S. TDP Valued Claims involving Other Asbestos Disease (Disease Level I), all claims liquidated by Expedited Review shall be subject to the applicable Payment Percentage, and the Maximum Annual Payment, the Maximum Available Payment, and the Claims Payment Ratio limitations. Claimants holding U.S. TDP Valued Claims that (i) cannot be liquidated by Expedited Review because they do not meet the presumptive Medical/Exposure Criteria for the relevant Disease Level or (ii) have otherwise failed to qualify for payment through the Expedited Review Process may elect the U.S. Asbestos Trust's Individual Review Process set forth in Section 5.3(a)(2) below. Claimants holding T&N Multiple Exposure Claims may also elect Expedited Review for one or more of those claims.

Subject to the provisions of Section 5.8, the claimant's eligibility to receive the Scheduled Value for his or her U.S. TDP Valued Claim 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)(1)(B) Claims Processing Under Expedited Review.** All claimants seeking liquidation of their U.S. TDP Valued Claims pursuant to Expedited Review shall file the U.S. Asbestos Trust's proof of claim forms. As the proof of claim form is reached in the FIFO Processing Queue, the U.S. Asbestos Trust shall determine whether the claim or claims described therein meets the Medical/Exposure Criteria for one (1) of the seven (7) Disease Levels eligible for Expedited Review, and shall advise the claimant of its determination. If a Disease Level is



determined, the U.S. Asbestos Trust shall tender to the claimant an offer of payment from the T&N and/or FMP Subfund of the Scheduled Value (or Values in the case of Multiple Exposure Claims) for the relevant Disease Level multiplied by the applicable Payment Percentage, together with a form of release approved by the U.S. Asbestos Trust. If the claimant accepts the Scheduled Value (as adjusted by the Payment Percentage) and returns the release properly executed, the claim shall be placed in the Subfund's FIFO Payment Queue, following which the U.S. Asbestos Trust shall disburse payment subject to the limitations of the Maximum Available Payment and the Claims Payment Ratio, if any.

**5.3(a)(1)(C) Disease Levels and Medical/Exposure Criteria.** The eight (8) Disease Levels covered by this U.S. TDP, together with the Medical/Exposure Criteria for each, are set forth below. The separate Scheduled Values for the seven (7) Disease Levels eligible for Expedited Review, together with the other matrix values for all Disease Levels, are set forth in Section 5.3(a)(3) below. Subject to Section 2.7, these Disease Levels, Scheduled Values, and Medical/Exposure Criteria shall apply to all Asbestos Trust Voting Claims (except Pre-Petition Liquidated Claims) that are filed with the U.S. Asbestos Trust on or before the Initial Claims Filing Date provided in Section 5.1(a)(1) above.

Thereafter, for all Asbestos Trust Claims, with the consent of the TAC and the Future Claimants' Representative, the Trustees may 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 personal injury claim is compensable even though it does not meet the Medical/Exposure Criteria for any of the then current Disease Levels.

## Disease Levels and Presumptive Medical/Exposure Criteria

<u>Disease Level</u>	<u>Presumptive Medical/Exposure Criteria</u>
Mesothelioma (Level VIII)	(1) Diagnosis <sup>2</sup> of mesothelioma; and (2) evidence of Federal-Mogul Exposure (as defined in Section 5.7(b)(3)).
Lung Cancer 1 (Level VII)	(1) Diagnosis of a primary lung cancer plus evidence of an underlying Bilateral Asbestos-Related Nonmalignant Disease <sup>3</sup> , (2) six months Federal-Mogul Exposure prior to December 31, 1982, (3) Significant Occupational Exposure to asbestos, <sup>4</sup> and (4) supporting medical documentation establishing asbestos exposure as a contributing factor in causing the lung cancer in question.
Lung Cancer 2 (Level VI)	(1) Diagnosis of a primary lung cancer; (2) Federal-Mogul Exposure prior to December 31, 1982, and (3) supporting medical documentation establishing asbestos exposure as a contributing factor in causing the lung cancer in question. Lung Cancer 2 (Level VI) claims are claims that do not meet the more stringent medical and/or

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<sup>2</sup> The requirements for a diagnosis of an asbestos-related disease that may be compensated under the provisions of this U.S. TDP are set forth in Section 5.7(a) below.

<sup>3</sup> Evidence of “Bilateral Asbestos-Related Nonmalignant Disease” for purposes of meeting the criteria for establishing Disease Levels I, II, III, V, and VII, 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 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 or a pathology report). Solely for claims filed against Federal-Mogul 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, II, III, V and VII. Proof of asbestosis may be based on the pathological grading system for asbestosis described in the Special Issue of the Archives of Pathology and Laboratory Medicine, “Asbestos-associated Diseases,” Vol. 106, No. 11, App. 3 (October 8, 1982). For all purposes of this TDP, a “Qualified Physician” is a physician who is board certified (or in the case of Canadian claims or Foreign Claims, a physician who is certified or qualified under comparable medical standards or criteria of the jurisdiction in question) in one or more relevant specialized fields of medicine such as pulmonology, radiology, internal medicine or occupational medicine; provided, however, subject to the provisions of Section 5.8, that the requirement for board certification in this provision shall not apply to otherwise qualified physicians whose x-rays and/or CT scan readings are submitted for deceased holders of Asbestos Trust Claims.

<sup>4</sup> “Significant Occupational Exposure” is defined in Section 5.7(b)(2) below.

exposure requirements of Lung Cancer 1 (Level VII) claims. All claims in this Disease Level will be individually evaluated. Level VI 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 will be treated as having any significant value, especially if the claimant is also a Smoker.<sup>5</sup> In any event, no presumption of validity will be available for any claims in this category.

Other Cancer (Level V)

(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 Federal-Mogul Exposure prior to December 31, 1982, (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.

Several Asbestosis (Level IV)

(1) Diagnosis of asbestosis with ILO of 2/1 or greater, or asbestosis determined by pathological evidence of asbestos, plus either (i) TLC less than 65%, or (ii) FVC less than 65% and FEV1/FVC ratio greater than 65%, (2) six months Federal-Mogul Exposure prior to December 31, 1982, (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 III)

(1) Diagnosis of a Bilateral Asbestos-Related Non-malignant Disease, plus (a) TLC less than 80%, or (b) FVC less than 80% and FEV1/FVC

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<sup>5</sup> There is no distinction between Non-Smokers and Smokers for either Lung Cancer 1 (Level VII) or Lung Cancer 2 (Level VI), although a claimant who meets the more stringent requirements of Lung Cancer 1 (Level VII) (evidence of any 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 U.S. 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 Scheduled Value for Lung Cancer 1 (Level VII) claims shown in the matrix set forth in Section 5.3(a)(3) for the relevant subfund. "Non-Smoker" means a claimant who either (a) never smoked or (b) has not smoke during any portion of the twelve (12) years immediately prior to the diagnosis of the lung cancer.

	ratio greater than or equal to 65%, (2) six months Federal-Mogul Exposure prior to December 31, 1982, (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 II)	(1) Diagnosis of a Bilateral Asbestos-Related Nonmalignant Disease, (2) six months Federal-Mogul Exposure prior to December 31, 1982, and (3) five years cumulative occupational exposure to asbestos.
Other Asbestos Disease (Level I)	(1) Diagnosis of a Bilateral Asbestos-Related Nonmalignant Disease or an asbestos-related malignancy other than mesothelioma, and (2) Federal-Mogul Exposure prior to December 31, 1982.

**5.3(a)(2) Individual Review Process**

**5.3(a)(2)(A) Review of Medical/Exposure Criteria.** The U.S.

Asbestos Trust’s Individual Review Process provides a claimant with an opportunity for individual consideration and evaluation of a U.S. TDP Valued Claim or Claims, that fail to meet the presumptive Medical/Exposure Criteria for Disease Levels I – V, and VII-VIII. In any such case, the U.S. Asbestos Trust shall either deny the claim, or, if the U.S. Asbestos Trust is satisfied that the claimant has presented a claim that would be cognizable and valid in the relevant tort system, the U.S. Asbestos Trust can offer the claimant a liquidated value amount up to the Scheduled Value for that Disease Level, 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 value for such a claim.

For purposes of the Individual Review Process, the Trustees, with the consent of the TAC and the Future Claimants’ Representative, may develop separate Medical/Exposure Criteria and standards, as well as separate requirements for physician and other professional qualifications,

which shall be applicable to Foreign Claims; however, that such criteria, standards or requirements shall not effectuate substantive changes to the claims eligibility requirements under this U.S. 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.

**5.3(a)(2)(B) Review of Liquidated Value.** Claimants holding U.S. TDP Valued Claims involving Disease Levels II – VIII, as well as all claimants holding Foreign Claims, shall also be eligible to seek Individual Review of the liquidated value of their claims as well as Medical/Exposure Evidence. The Individual Review Process is intended to result in payments from the U.S. Asbestos Trust Subfunds equal to the full liquidated value for each claim multiplied by the applicable Payment Percentage; however, the liquidated value of any U.S. TDP Valued 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 U.S. TDP Valued Claim involving Disease Levels II – VIII shall not exceed the Maximum Value for the relevant Disease Level set forth in Section 5.3(a)(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 value set forth in that provision for such claims. Because the detailed examination and valuation process pursuant to Individual Review requires substantial time and effort, claimants electing to undergo the Individual Review Process may be paid the liquidated value of their U.S. TDP Valued Claims later than would have been the case had the claimant elected the Expedited Review Process. Subject to the provisions of Section 5.8, the U.S. 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(a)(2)(C) Valuation Factors to Be Considered in Individual Review.** The U.S. Asbestos Trust shall liquidate the value of each U.S. TDP Valued Claim that undergoes Individual Review based on the historic liquidated values of other similarly situated claims in the relevant tort system for the same Disease Level. The U.S. Asbestos Trust will thus take into consideration all the factors that affect the severity of damages and values within the relevant tort system including, but not limited to (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, dependencies, special damages, and pain and suffering; (iii) evidence that the claimant's damages were (or were not) caused by asbestos exposure, including exposure to one or more asbestos-containing products of any Federal-Mogul Entity prior to December 31, 1982 (for example, alternative causes, alternative sources of exposure, and the strength of documentation of injuries); (iv) the industry of exposure; and (v) settlements, verdicts, and the claimant's and other law firms' experience in the Claimant's Jurisdiction for similarly situated claims.

For these purposes, the "Claimant's Jurisdiction" is the jurisdiction in which the claim was filed (if at all) against a T&N or FMP Entity in the relevant tort system prior to the Petition Date. If the claim was not filed against a T&N or FMP Entity in the relevant 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; (ii) the jurisdiction in which the claimant resides at the time the claim is filed with the U.S. Asbestos Trust; or (iii) a jurisdiction in which

the claimant was exposed to asbestos or an asbestos-containing product manufactured or distributed by a T&N or FMP Entity.

With respect to the “Claimant’s Jurisdiction” in the event a personal representative or authorized agent makes a claim under this U.S. 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 U.S. Asbestos Trust and the claimant, and, to the extent the U.S. Asbestos Trust seeks recovery from any entity that provided insurance coverage to a Federal Mogul Entity, the Alabama Wrongful Death Statute shall govern.

**5.3(a)(2)(D) Processing and Payment Limitations for U.S. TDP Valued Claims Involving Disease Levels III and II.** The U.S. Asbestos Trust shall administer Individual Review for Disease Levels III and II so that Individual Review does not reduce payments to claimants electing the Scheduled Value for U.S. TDP Valued Claims under Expedited Review. As one means of implementing this requirement, the following shall apply for Disease Levels III and II claims:

**5.3(a)(2)(D)(i) Disease Level III Claims.** No more than 9% of Disease Level III claims paid in any year from the T&N Subfund or 10% of such claims from the FMP Subfund shall be allowed under Individual Review, and the total payments to such Disease

Level III claims allowed under Individual Review shall be no more than 15% of payments to all Disease Level III claimants from the T&N Subfund and 15% of such payments from the FMP Subfund during any year. Disease Level III Claims that seek Individual Review but that cannot be processed or paid in a given year because of these limits shall be carried over to the next year and placed at the head of the appropriate processing or payment queue.

**5.3(a)(2)(D)(ii) Disease Level II Claims.** No more than 6% of Disease Level II claims paid in any year from the T&N Subfund or 20% of such claims from the FMP Subfund shall be allowed under Individual Review, and the total payments to such Disease Level II claims allowed under Individual Review shall be no more than 8% of payments to all Disease Level II claimants from the T&N Subfund and 17% of such payments from the FMP Subfund during any year. Disease Level II Claims that seek Individual Review but that cannot be processed or paid in a given year because of these limits shall be carried over to the next year and placed at the head of the appropriate processing or payment queue.

**5.3(a)(3) Scheduled, Average and Maximum Values.** Scheduled, Average and Maximum Values for all categories of U.S. TDP Valued Claims are set forth below.

**T&N CLAIMS**

<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 VIII)	\$200,000	\$250,000	\$600,000
Lung Cancer 1 (Level VII)	\$ 42,500	\$ 60,000	\$125,000
Lung Cancer 2 (Level VI)	None	\$ 12,000	\$ 40,000
Other Cancer (Level V)	\$ 14,750	\$ 19,500	\$ 90,000
Severe Asbestosis (Level IV)	\$ 42,500	\$ 54,500	\$125,000
Asbestosis/Pleural Disease	\$ 12,700	\$ 13,500	\$ 25,000



(Level III)			
Asbestosis/Pleural Disease (Level II)	\$ 5,700	\$ 5,800	\$ 8,000
Other Asbestos Disease Cash Discount Payment (Level I)	\$ 150	None	None

**FLEXITALLIC CLAIMS/FERODO CLAIMS**

<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 VIII)	\$ 50,000	\$ 62,500	\$150,000
Lung Cancer 1 (Level VII)	\$ 10,625	\$ 15,000	\$ 31, 250
Lung Cancer 2 (Level VI)	None	\$ 3,000	\$ 10,000
Other Cancer (Level V)	\$ 3,700	\$ 4,900	\$ 22,500
Severe Asbestosis (Level IV)	\$ 10,625	\$ 13,625	\$ 31,250
Asbestosis/Pleural Disease (Level III)	\$ 3,175	\$ 3,375	\$ 6,250
Asbestosis/Pleural Disease (Level II)	\$ 1,425	\$ 1,450	\$ 2,000
Other Asbestos Disease Cash Discount Payment (Level I)	\$ 50	None	None

**FMP (OTHER THAN PNEUMO ASBESTOS CLAIMS) CLAIMS**

<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 VIII)	\$100,000	\$125,000	\$300,000
Lung Cancer 1 (Level VII)	\$ 21,250	\$ 30,000	\$ 62,500
Lung Cancer 2 (Level VI)	None	\$ 6,000	\$ 20,000
Other Cancer (Level V)	\$ 7,375	\$ 9,750	\$ 45,000
Severe Asbestosis (Level	\$ 21,250	\$ 27,250	\$ 62,500

IV)

Asbestosis/Pleural Disease (Level III)	\$ 4,000	\$ 4,250	\$ 7,000
Asbestosis/Pleural Disease (Level II)	\$ 2,000	\$ 2,100	\$ 2,500
Other Asbestos Disease Cash Discount Payment (Level I)	\$ 50	None	None

Except as otherwise provided in Section 2.7, these Scheduled Values, Average Values and Maximum Values shall apply to all the respective categories of Asbestos Trust Voting Claims that are U.S. TDP Valued Claims (other than Pre- Petition Liquidated Claims) filed with the U.S. Asbestos Trust on or before the Initial Claims Filing Date as provided in Section 5.1(a)(1) above. Thereafter, the U.S. Asbestos Trust, with the consent of the TAC and the Future Claimants' Representative pursuant to Sections 5.7(b) and 6.6(b) of the U.S. Asbestos Trust Agreement, may change these valuation amounts, create additional matrices (such as for the Fel-Pro or Vellumoid Claims), or eliminate existing matrices, for good cause and consistent with other restrictions on the U.S. Asbestos Trust's amendment powers.

**5.3(b) Handling, Litigation, and Payment of Fel-Pro and Vellumoid Claims.**

Notwithstanding anything to the contrary in this U.S. TDP or the U.S. Asbestos Personal Injury Trust Agreement, unless otherwise approved by the TAC and the Future Claimants' Representative with the prior express written consent of the Lead Insurer, as provided in the CIP Agreement, this paragraph 5.3(b), together with the following sections or paragraphs of this U.S. TDP, to the extent not inconsistent therewith, shall exclusively govern the handling of Fel-Pro Claims and Vellumoid Claims: Section I and paragraphs 2.1(a), 2.1(b), 2.1(b)(2), 2.2(c), 2.3, 2.4, 2.5, 2.6, 3.1, 3.2, 4.2, and 5.1(c).

Claimants holding Fel-Pro or Vellumoid Claims who wish to recover on such claims must sue the U.S. Asbestos Trust in the relevant tort system and may not sue any Insurer or Excess Insurer (as those terms are defined in the CIP Agreement) in respect of such Fel-Pro or Vellumoid Claims. If such claim is a Fel-Pro Claim, the lawsuit must name as the defendant the Federal-Mogul Asbestos Personal Injury Trust as successor to Fel-Pro. If such claim is a Vellumoid Claim, the lawsuit must name as the defendant the Federal-Mogul Asbestos Personal Injury Trust as successor to the former Vellumoid division of Federal-Mogul. All lawsuits brought against the U.S. Asbestos Trust involving Fel-Pro and/or Vellumoid Claims must be filed by the claimant in his or her own right and name and not as a member or representative of a class. Service of process on the U.S. Asbestos Trust may be made, pursuant to applicable federal or state law where the lawsuit is filed, upon the following:

Federal-Mogul Asbestos Personal Injury Trust  
As successor to Felt Products Manufacturing Co. and/or  
the former Vellumoid division of Federal-Mogul Corporation  
c/o Wilmington Trust SP Services, Inc.  
1105 N. Market Street, Suite 1300  
Wilmington, DE 19801

Any lawsuit involving a Fel-Pro Claim or a Vellumoid Claim may be brought by the claimant in the federal or state court of his or her choosing as permitted under applicable federal or state law. After the Effective Date, where no action against Fel-Pro or the former Vellumoid division of Federal-Mogul is already pending on behalf of the claimant, the claimant must institute a lawsuit asserting a Fel-Pro Claim or a Vellumoid Claim by filing an appropriate legal pleading in a venue permitted by applicable federal or state law, subject, however, to all defenses, including those based on venue, forum non conveniens, and jurisdiction.

Where a lawsuit that is still pending against Fel-Pro and/or the former Vellumoid division of Federal-Mogul was already pending prior to the Petition Date, the lawsuit may proceed, subject, however, to all defenses, including those based on venue, forum non conveniens, and jurisdiction; provided, however, that within 180 days of the Effective Date, the plaintiff in such lawsuit shall file and serve an amendment to the lawsuit substituting the Federal-Mogul Asbestos Personal Injury Trust as successor to Fel-Pro and/or the former Vellumoid division of Federal-Mogul as applicable, as a party defendant. Such lawsuit shall be deemed barred by the statute of limitations if (i) the plaintiff was on notice of the foregoing requirements concerning substitution of parties and re-filing of such lawsuit, (ii) compliance with the foregoing requirements concerning substitution of parties and re-filing of such lawsuit is not effected within one hundred eighty (180) days of the Effective Date, and (iii) the defense of such lawsuit has been materially prejudiced by such lack of compliance. In all other circumstances, claimants holding Fel-Pro or Vellumoid Claims who wish to recover on such claims from proceeds of insurance policies that provide or are alleged to provide coverage for such claims must bring a new lawsuit against the Federal-Mogul Asbestos Personal Injury Trust as successor to Fel-Pro and/or the former Vellumoid division of Federal-Mogul as applicable or amend any existing lawsuit to substitute in the Federal-Mogul Asbestos Personal Injury Trust as successor to Fel-Pro and/or the former Vellumoid division of Federal-Mogul as applicable.

All defenses and all contribution claims (including those with respect to the U.S. Asbestos Trust that could have been asserted by Fel-Pro and/or the former Vellumoid division of Federal-Mogul) shall be available as to any Fel-Pro or Vellumoid Claim.

No claim for punitive damages or exemplary damages or any claim based on the Debtors' or the Reorganized Debtors' spoliation of evidence may be asserted or recovered upon in such

lawsuit. In addition, prejudgment interest shall be subject to and calculated based on applicable federal or state law, including any applicable limitations thereunder, including without limitation Section 502 of the Bankruptcy Code. Any Fel-Pro Claim or Vellumoid Claim that is not a Covered Asbestos Claim pursuant to the CIP Agreement shall not be the responsibility of any Insurer or Excess Insurer (as those terms are defined in the CIP Agreement).

The applicability of statutes of limitations and repose in all such lawsuits shall be determined under applicable state or federal law without regard to Section 5.1(a)(2) above. If a lawsuit involving a Fel-Pro Claim and/or a Vellumoid Claim was filed prior to the Petition Date (even if the lawsuit was dismissed as a result of the filing of these bankruptcy cases), the filing date of such lawsuit shall be the operative date for purposes of the applicable statute of limitations.

The U.S. Asbestos Trust shall provide the Lead Insurer with such information related to any lawsuit involving a Fel-Pro Claim or a Vellumoid Claim as is required under the terms and conditions of the CIP Agreement. Once these materials are received by the Lead Insurer, the lawsuit will be handled in accordance with the CIP Agreement. The time within which the U.S. Asbestos Trust is required to answer or otherwise respond to any summons or complaint involving a Fel-Pro Claim or a Vellumoid Claim that is served upon the U.S. Asbestos Trust shall automatically be extended by twenty (20) days.

This Section shall not be amended without the approval of the TAC and the Future Claimants' Representative and the prior express written consent of the Lead Insurer, as provided in the CIP Agreement.

**5.3(c) Tender to CNA of Fel-Pro and Vellumoid Claims.** The U.S. Asbestos Trust shall provide Continental Casualty Company, and the Continental Insurance Company, both in

its individual capacity as well as the successor to certain policies issued by Harbor Insurance Company and as successor by merger to Fidelity and Casualty Company of New York (the "CNA Related Companies") with information related to any lawsuit involving a Fel-Pro Claim or a Vellumoid Claim contemporaneously with the provision of such information to the Lead Insurer under Section 5.3(b). The Trust may not withdraw such tender to either CNA or the Lead Insurer without withdrawal as to the other. The handling of such claims in accordance with the CIP Agreement shall be without prejudice to the CNA-Related Companies' right to participate in the defense and/or the resolution of such claims and shall further be without prejudice to the Trust's rights to pursue coverage from the CNA-Related Companies for such claims and/or to seek contribution or reimbursement from the CNA-Related Companies in its capacity as successor to the rights of the Debtors or as assignee of the contribution rights of the Insurers and the Excess Insurers (as the terms Insurers and Excess Insurers are defined in the CIP Agreement). This paragraph shall not be amended without the express written consent of CNA and the Lead Insurer.

#### **5.4. Categorizing U.S. TDP Valued Claims as Extraordinary and/or Exigent**

**5.4(a) Extraordinary Claims.** "Extraordinary Claim" means a U.S. TDP Valued Claim that otherwise satisfies the Medical Criteria for Disease Levels II - VIII, and that is held by a claimant whose exposure to asbestos (i) occurred predominately as the result of working in a manufacturing facility of a T&N or FMP Entity during a period in which the T&N or FMP Entity was manufacturing asbestos-containing products at that facility, or (ii) was at least 75% the result of exposure to asbestos or to an asbestos-containing product manufactured by a T&N or FMP Entity, and there is little likelihood of a substantial recovery elsewhere. All Extraordinary Claims shall be liquidated pursuant to the Individual Review Process and, if valid,

shall be entitled to an award of up to a maximum value of five (5) times the Scheduled Value set forth in Section 5.3(a)(3) for claims qualifying for Disease Levels II – V, VII and VIII, and five (5) times the Average Value for claims in Disease Level VI, multiplied by the applicable Payment Percentage.

Any dispute as to Extraordinary Claim status shall be submitted to a special Extraordinary Claims Panel to be established by the U.S. Asbestos Trust with the consent of the TAC and the Future Claimants' Representative. 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 T&N Subfund's or the FMP Subfund's FIFO Payment Queue, as appropriate, based on its date of liquidation ahead of all other liquidated claims payable from that Subfund except Pre-Petition Liquidated Claims, Disease Level I (Other Asbestos Disease) Claims, and Exigent Hardship Claims, which in that order shall be first in such queues and shall be subject to the Maximum Available Payment and Claims Payment Ratio described above.

**5.4(b) Exigent Hardship Claims.** At any time the U.S. Asbestos Trust may liquidate and pay U.S. TDP Valued Claims that qualify as Exigent Hardship Claims. Such claims may be considered separately no matter what the order of processing otherwise would have been under this U.S. TDP. An Exigent Hardship Claim, following its liquidation, shall be placed first in the FIFO Payment Queue for the T&N Subfund or the FMP Subfund ahead of all other liquidated claims payable from the Subfund except Pre-Petition Liquidated Claims and Disease Level I (Other Asbestos Disease Claims) which shall be paid first in that order, and shall be subject to the Maximum Available Payment and Claims Payment Ratio described above. A U.S. TDP Valued Claim qualifies for payment as an Exigent Hardship Claim if the claim meets

the Medical/Exposure Criteria for Severe Asbestosis (Disease Level IV) or an asbestos-related malignancy (Disease Levels V-VIII), and the U.S. Asbestos Trust, in its sole discretion, determines (i) that the claimant needs financial assistance on an immediate basis based on the claimant's expenses and all sources of available income, and (ii) that there is a causal connection between the claimant's dire financial condition and the claimant's asbestos-related disease.

**5.5. Secondary Exposure Claims.** If a claimant asserting a U.S. TDP Valued Claim alleges an asbestos-related disease resulting solely from exposure to an occupationally exposed person, such as a family member, the claimant must seek Individual Review of his or her claim pursuant to Section 5.3(a)(2) above. In such a case, the claimant must establish that the occupationally exposed person would have met the presumptive exposure requirements under this U.S. TDP that would have been applicable had that person filed a direct claim against the U.S. Asbestos Trust. In addition, the claimant with secondary exposure must establish that he or she is suffering from one (1) of the eight (8) Disease Levels described in the presumptive medical criteria set forth in Section 5.3(a)(1)(C) above or in the case of Individual Review, the claimant must satisfy the U.S. Asbestos Trust that his or her claim would be cognizable and valid in the relevant tort system pursuant to Section 5.3(a)(2) above. In all cases, the claimant must show that his or her own exposure to the occupationally exposed person occurred within the same time frame as the occupationally exposed person was exposed to asbestos products produced by the relevant Federal-Mogul Entity, and that such secondary exposure was a cause of the claimed disease. The U.S. Asbestos Trust's proof of claim form shall contain an additional section for Secondary Exposure Claims. All other liquidation and payment rights and limitations under this U.S. TDP shall be applicable to such Secondary Exposure Claims.



**5.6. Indirect Asbestos Trust Claims.** Indirect Asbestos Trust Claims asserted against the U.S. Asbestos Trust shall be treated as presumptively valid and paid by the U.S. Asbestos Trust subject to the applicable Payment Percentage if (a) such claim satisfied the requirements of the Bar Date for such claims established by the Bankruptcy Court, if applicable, and is not otherwise disallowed by Section 502(e) of the Bankruptcy Code or subordination under Section 509(c) of the Bankruptcy Code, and (b) the holder of such claim (the “Indirect Claimant”) establishes to the satisfaction of the Trustees that (i) the Indirect Claimant has paid in full the liability and obligation of the U.S. Asbestos Trust to the individual claimant to whom the U.S. Asbestos Trust would otherwise have had a liability or obligation under the U.S. TDP (the “Direct Claimant”), (ii) the Direct Claimant and the Indirect Claimant have forever and fully released the U.S. Asbestos Trust from all liability to the Direct Claimant with respect to the Asbestos Trust Claim satisfied by the Indirect Claimant, and (iii) the claim is not otherwise barred by a statute of limitation or repose or by other applicable law. In no event shall any Indirect Claimant have any rights against the U.S. Asbestos Trust superior to the rights of the related Direct Claimant against the U.S. Asbestos Trust, including any rights with respect to the timing, amount or manner of payment. In addition, no Indirect 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 Trust 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 U.S. Asbestos Trust) or a Final Order provided that such claim is valid under the applicable state law. In any case where the Indirect Claimant has satisfied the claim of a Direct Claimant against the

U.S. Asbestos Trust under applicable law by way of a settlement, the Indirect Claimant shall obtain for the benefit of the U.S. Asbestos Trust a release in form and substance satisfactory to the Trustees.

If an Indirect Claimant cannot meet the presumptive requirements set forth above, including the requirement that the Indirect Claimant provide the U.S. Asbestos Trust with a full release of the Direct Claimant's claim, the Indirect Claimant may request that the U.S. Asbestos Trust review the Indirect Asbestos Trust Claim individually to determine whether the Indirect Claimant can establish under applicable federal, state or foreign law that the Indirect Claimant has paid all or a portion of a liability or obligation that the U.S. Asbestos Trust had to the Direct Claimant as of the Effective Date of the U.S. TDP. If the Indirect Claimant can show that it has paid such a liability or obligation, the U.S. Asbestos Trust shall reimburse the Indirect Claimant the amount of the liability or obligation so paid, times the then applicable Payment Percentage. However, in no event shall such reimbursement to the Indirect Claimant be greater than the amount to which the Direct Claimant would have otherwise been entitled. Further, the liquidated value of any Indirect Asbestos Trust Claim paid by the U.S. Asbestos Trust to an Indirect Claimant shall be treated as an offset to or reduction of the full-liquidated value of any Asbestos Trust Claim that might be subsequently asserted by the Direct Claimant against the U.S. Asbestos Trust.

Any dispute between the U.S. Asbestos Trust and an Indirect Claimant over whether the Indirect Claimant has a right to reimbursement for any amount paid to a Direct Claimant, or whether the claim is a valid Indirect Asbestos Trust Claim that has been channeled to the U.S. Asbestos Trust under the terms of the Plan, 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 Trustees may develop and approve a separate proof of claim form for Indirect Asbestos Trust Claims. Indirect Asbestos Trust 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 Trustees consistent with the provisions of this Section 5.6, which procedures (a) shall determine the validity, allowability and enforceability of such claims; and (b) shall otherwise provide the same liquidation and payment procedures and rights to the holders of such claims as the U.S. Asbestos Trust would have afforded the holders of the underlying valid Asbestos Trust Claims. Nothing in this U.S. TDP is intended to preclude a trust to which asbestos-related liabilities are channeled from asserting an Indirect Asbestos Trust Claim against the U.S. Asbestos Trust subject to the requirements set forth herein.

## **5.7. Evidentiary Requirements for U.S. TDP Valued Claims**

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

**5.7(a)(1) In General.** For U.S. TDP Valued Claims, 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. A finding by a physician after the Effective Date that a claimant's disease is "consistent with" or "compatible with" asbestosis will not alone be treated by the U.S. Asbestos Trust as a diagnosis.

**5.7(a)(1)(A). Disease Levels I-IV.** Except for asbestos claims filed against a T&N Entity, FMP 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-IV) 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. In addition, all living claimants must provide (i) for Disease Levels I-III, evidence of Bilateral Asbestos-Related Nonmalignant Disease (as defined in Footnote 3 above); (ii) for Disease Level IV<sup>6</sup>, an ILO reading of 2/1 or greater or pathological evidence of asbestosis, and (iii) for Disease Levels III and IV, pulmonary function testing.<sup>7</sup>

In the case of a claimant who was deceased at the time the claim was filed, all diagnoses of a non-malignant asbestos-related disease (Disease Levels I-IV) 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) pathological evidence of the non-malignant asbestos-related disease; or (iii) in the case of Disease Levels I-III, evidence of Bilateral Asbestos-Related Nonmalignant Disease (as defined in Footnote 3 above), and for Disease Level IV, either an ILO reading of 2/1 or greater or pathological evidence of asbestosis; and (iv) for either Disease Level III or IV, pulmonary function testing.

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<sup>6</sup> All diagnoses of Asbestos/Pleural Disease (Disease Levels II and III) 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 VIII) shall be presumed to be based on findings that the disease involves a malignancy. However, the U.S. Asbestos Trust may rebut such presumptions.

<sup>7</sup> “Pulmonary Function Testing” or “PFT” shall mean testing that is in material compliance with the quality criteria established by the American Thoracic Society (“ATS”) and is performed on equipment which is in material compliance with ATS standards for technical quality and calibration. PFT performed in a hospital accredited by the Joint Commission 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 party who is qualified to make a certification regarding the PFT in the form provided by the U.S. Asbestos Trust certifying that the PFT was conducted in material compliance with ATS standards.

**5.7(a)(1)(B). Disease Levels V – VIII.** All diagnoses of an asbestos-related malignancy (Disease Levels V – VIII) 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 diagnosis of such a malignant Disease Level by a board-certified pathologist or by a pathology report prepared at or on behalf of a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations ("JCAHO").

**5.7(a)(1)(C). Exception to the Exception for Certain Pre-Petition Claims.** If the holder of an Asbestos Trust Claim that was filed against a T&N Entity, FMP 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), 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 to the U.S. Asbestos Trust notwithstanding the exception in Section 5.7(a)(1)(A).

**5.7(a)(2) Credibility of Medical Evidence.** Before making any payment to a claimant on a U.S. TDP Valued Claim, the U.S. 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 U.S. Asbestos Trust may require the submission of X-rays, CT scans, detailed results of pulmonary function tests, laboratory tests,

tissue samples, results of medical examination or reviews of other medical evidence, and may require that medical evidence submitted comply with recognized medical standards regarding equipment, testing methods and procedure 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 a trial in the Claimant's Jurisdiction, (ii) that is consistent with evidence submitted to any Federal-Mogul Entity to settle for payment similar disease cases prior to Federal-Mogul's bankruptcy, or (iii) a diagnosis by a physician shown to have previously qualified as a medical expert with respect to the asbestos-related disease in question before a state, federal or foreign judge, is presumptively reliable, although the U.S. Asbestos Trust may seek to rebut the presumption.

In addition, claimants who otherwise meet the requirements of this U.S. TDP for payment of a U.S. TDP Valued Claim shall be paid irrespective of the results in any litigation at anytime between the claimant and any other defendant in the relevant tort system. However, any relevant evidence submitted in a proceeding in the relevant tort system involving another defendant, other than any findings of fact, a verdict, or a judgment, may be introduced by either the claimant or the U.S. Asbestos Trust in any Individual Review proceeding conducted pursuant to Section 5.3(a)(2) or any Extraordinary Claim proceeding conducted pursuant to Section 5.4(a).

#### **5.7(b) Exposure Evidence**

**5.7(b)(1) In General.** As set forth above in Section 5.3(a)(1)(C) to qualify for any Disease Level, holders of U.S. TDP Valued Claims, including Multiple Exposure Claims, must demonstrate a minimum exposure to an asbestos-containing product manufactured or distributed by the particular Federal-Mogul Entity to which the claim relates. Claims based on conspiracy theories that involve no exposure to an asbestos-containing product manufactured or

distributed by a Federal-Mogul Entity are not compensable under this U.S. TDP. To meet the presumptive exposure requirements of Expedited Review set forth in Section 5.3(a)(1)(C) above, the claimant must show (i) for all Disease Levels, Federal-Mogul Exposure as defined below prior to December 31, 1982; (ii) for Asbestos/Pleural Disease Level II, six (6) months Federal-Mogul Exposure prior to December 31, 1982, plus five (5) years cumulative occupational asbestos exposure; and (iii) for Asbestosis/Pleural Disease (Disease Level III), Severe Asbestosis (Disease Level IV), Other Cancer (Disease Level V) or Lung Cancer 1 (Disease Level VII), the claimant must show six (6) months Federal-Mogul Exposure prior to December 31, 1982, plus Significant Occupational Exposure to asbestos as defined below. If the claimant cannot meet the relevant presumptive exposure requirements for a Disease Level eligible for Expedited Review, the claimant may seek Individual Review of his or her exposure to an asbestos-containing product manufactured or distributed by the relevant Federal-Mogul Entity pursuant to Section 5.3(a)(2)above.

**5.7(b)(2) Significant Occupational Exposure.** "Significant Occupational Exposure" means employment for a cumulative period of at least five (5) years, with a minimum of two (2) years prior to December 31, 1982, in an industry and an occupation in which the claimant (a) handled raw asbestos fibers on a regular basis; (b) fabricated asbestos-containing products so that the claimant in the fabrication process was exposed on a regular basis to raw asbestos fibers; (c) altered, repaired or otherwise worked with an asbestos-containing product such that the claimant was exposed on a regular basis to asbestos fibers; or (d) was employed in an industry and occupation such that the claimant worked on a regular basis in close proximity to workers engaged in the activities described in (a), (b) and/or (c).

**5.7(b)(3) Federal-Mogul Exposure.** Claimants holding U.S. TDP

Valued Claims must demonstrate meaningful and credible exposure, which occurred prior to December 31, 1982, to asbestos or asbestos-containing products supplied, specified, manufactured, installed, maintained, or repaired by the relevant T&N Entity or by FMP, and/or any entity, including any contracting unit, for which the particular Federal-Mogul Entity has legal responsibility (“Federal-Mogul Products”). That meaningful and credible exposure evidence may be established by an affidavit or sworn statement of a living claimant; by an affidavit or sworn statement of a co-worker or family member in the case of a deceased claimant (providing the U.S. Asbestos Trust finds such evidence reasonably reliable); by invoices, employment, construction or similar records; or by other credible evidence. The specific exposure information required by the U.S. Asbestos Trust to process a claim under either Expedited or Individual Review is set forth on the proof of claim form to be used by the U.S. Asbestos Trust. The U.S. Asbestos Trust can also require submission of other or additional evidence of exposure when it deems such to be necessary.

Evidence submitted to establish proof of exposure to Federal-Mogul Products is for the sole benefit of the U.S. Asbestos Trust, not third parties or defendants in the tort system. The U.S. Asbestos Trust has no need for, and therefore claimants are not required to furnish the U.S. Asbestos Trust with evidence of exposure to specific asbestos products other than those for which the particular Federal-Mogul Entity has legal responsibility, except to the extent such evidence is required elsewhere in this U.S. TDP. Similarly, failure to identify Federal-Mogul Products in the claimant’s underlying tort action, or to other bankruptcy trusts, does not preclude the claimant from recovering from the U.S. Asbestos Trust, provided the claimant otherwise satisfies the medical and exposure requirements of this U.S. TDP.



**5.8. Claims Audit Program.** The U.S. Asbestos Trust with the consent of the TAC and the Future Claimants' Representative may develop methods for auditing the reliability of medical evidence, including additional reading of x-rays and CT scans as well as verification of pulmonary function tests, as well as the reliability of evidence of exposure to asbestos, including exposure to asbestos-containing products manufactured or distributed by any Federal-Mogul Entity prior to December 31, 1982. In the event that the U.S. Asbestos Trust reasonably determines that any individual or entity has engaged in a pattern or practice of providing unreliable medical evidence to the U.S. Asbestos Trust, it may decline to accept additional evidence from such provider in the future.

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

**5.9. Second Disease (Malignancy) Claims.** The holder of an Asbestos Trust Claim involving a non-malignant asbestos-related disease (Disease Levels I through IV) may assert a new Asbestos Trust Claim against the U.S. Asbestos Trust for a malignant disease (Disease Levels V – VIII) that is subsequently diagnosed. Any additional payments to which such claimant may be entitled with respect to such malignant asbestos-related disease shall not be

reduced by the amount paid for the nonmalignant asbestos-related disease, provided that the malignant disease had not been diagnosed by the time the claimant was paid with respect to his or her original claim involving the nonmalignant disease.

**5.10. Arbitration of U.S. TDP Valued Claims.**

**5.10(a) Establishment of ADR Procedures.** The U.S. Asbestos Trust, with the consent of the TAC and the Future Claimants' Representative, shall institute binding and non-binding arbitration procedures in accordance with ADR Procedures for U.S. TDP Valued Claims (i.e., T&N, Flexitallic, Ferodo and FMP Claims) for resolving disputes concerning whether a pre-petition settlement agreement with or on behalf of any T&N Entity or FMP is binding and judicially enforceable in the absence of a Final Order of the Bankruptcy Court determining the issue, whether the U.S. Asbestos Trust's outright rejection or denial of a U.S. TDP Valued Claim was proper, or whether the claimant's medical condition or exposure history meets the requirements of this U.S. TDP for purposes of categorizing a U.S. TDP Valued Claim involving Disease Levels II – VIII. Binding and non-binding arbitration shall also be available for resolving disputes over the liquidated value of a U.S. TDP Valued Claim involving Disease Levels II – VIII, as well as disputes over a Subfund's share of the unpaid portion of a Pre-Petition Liquidated Claim described in Section 5.2 above, and the validity of an Indirect Asbestos Trust Claim described in Section 5.6 above.

In all arbitrations where relevant, 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 – VIII, the arbitrator shall consider the same valuation factors that are set forth in Section 5.3(a)(2)(C) above. In order to facilitate the Individual Review Process with respect to such claims, the U.S.

Asbestos Trust may from time to time develop a valuation model that enables the U.S. Asbestos Trust to efficiently make initial liquidated value offers on these claims in the Individual Review setting. In an arbitration involving any such claim, the U.S. 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/her counsel ten (10) days prior to the arbitration proceeding. With respect to all U.S. TDP Valued Claims eligible for arbitration, the claimant, but not the U.S. Asbestos Trust, may elect either non-binding or binding arbitration. The ADR Procedures for U.S. TDP Valued Claims may be modified by the U.S. Asbestos Trust with the consent of the TAC and the Future Claimants' Representative. Such amendments may include adoption of mediation procedures as well as establishment of an Extraordinary Claims Panel to review such claims pursuant to Section 5.4(a) above.

**5.10(b) U.S. TDP Valued Claims Eligible for Arbitration.** In order to be eligible for arbitration, claims must first complete the Individual Review Process set forth in Section 5.3(a)(2) above and must also complete either the Pro-Bono Evaluation or Mediation processes set forth in the ADR Procedures to be established by the U.S. Asbestos Trust with respect to the disputed issue. Individual Review will be treated as completed for these purposes when the U.S. TDP Valued Claim has been individually reviewed by the U.S. Asbestos Trust, the U.S. 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 U.S. Asbestos

Trust of the rejection in writing. Individual Review shall also be treated as completed if the U.S. Asbestos Trust has rejected the claim.

**5.10(c) Limitations on and Payment of Arbitration Awards.** In the case of a non-Extraordinary U.S. TDP Valued Claim involving Disease Levels II – VIII, 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 U.S. TDP Valued Claim involving one of those Disease Levels, 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 will receive payments in the same manner as one who accepts the U.S. Asbestos Trust's original valuation of the claim.

**5.11. Litigation.** Except as to claims described in Section 2.1(b)(1) hereof, holders of Asbestos Trust Claims may litigate their claims in the tort system only as provided below. In each such case, the claimant may seek to recover only the relevant U.S. Asbestos Trust Subfund's separate share of the liquidated value of the claim.

**5.11(a) Litigation of U.S. TDP Valued Claims.** Claimants holding U.S. TDP Valued Claims who elect non-binding arbitration and then reject their arbitral awards retain the right to institute a lawsuit against the U.S. Asbestos Trust in the Claimant's Jurisdiction pursuant to Section 7.6(a) below. However, all lawsuits brought against the U.S. Asbestos Trust involving U.S. TDP Valued Claims must be filed by the claimant in her or her own right and name and not as a member or representative of a class; no such lawsuit may be consolidated with any other lawsuit; and a claimant shall be eligible for payment of a judgment for monetary damages obtained in the tort system from the U.S. Asbestos Trust's available cash only as provided in Section 7.7(a) below.

## SECTION VI

### Claims Materials

**6.1. Claims Materials.** The U.S. Asbestos Trust shall prepare suitable and efficient claims materials (“Claims Materials”) for all Asbestos Trust Claims, and shall provide such Claims Materials upon a written request for such materials to the U.S. Asbestos Trust. The proof of claim form to be submitted to the U.S. 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 U.S. 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 forms may be changed by the Trustees with the consent of the TAC and the Future Claimants’ Representative.

**6.2. Content of Claims Materials for U.S. TDP Valued Claims.** The Claims Materials shall include a copy of this U.S. TDP, such instructions as the Trustees shall approve, and a detailed proof of claim form. If feasible, the form used by the U.S. 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 U.S. Asbestos Trust shall accept information provided electronically. The claimant may, but will not be required to, provide the U.S. Asbestos Trust with evidence of a prior recovery from another asbestos defendant and/or claims resolution organization. However, the claimant shall be required to

provide the U.S. Asbestos Trust with evidence of any prior recovery from any Federal-Mogul Entity.

**6.3. Withdrawal or Deferral of Claims.** A claimant may withdraw an Asbestos Trust Claim at any time upon written notice to the U.S. Asbestos Trust and file another such claim subsequently without affecting the status of the claim for statute of limitations purposes, but any such claim filed after withdrawal shall be given a place in the FIFO Processing Queue based on the date of such subsequent filing. A claimant can also request that the processing of his or her Asbestos Trust Claim by the U.S. Asbestos Trust be deferred for a period not to exceed three (3) years without affecting the status of the claim for statute of limitation 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, any sequencing adjustment on such claimant's U.S. Asbestos Trust Claim as provided in Section 7.5 hereunder, if applicable, shall not accrue and payment thereof shall be deemed waived by the claimant.

Except for U.S. TDP Valued Claims held by representatives of deceased or incompetent claimants for which court or probate approval of the U.S. Asbestos Trust's offer is required, or a claim for which deferral status has been granted, a claim will be deemed to have been withdrawn if the claimant neither accepts, rejects, nor initiates arbitration within six (6) months of the U.S. Asbestos Trust's written offer of payment or rejection of the claim. Upon written request and good cause, the U.S. Asbestos Trust may extend either the deferral or withdrawal period for an additional six (6) month period.

**6.4. Filing Requirements and Fees.** The Trustees shall have the discretion to determine, with the consent of the TAC and the Future Claimants' Representative, (a) whether a claimant must have previously filed an asbestos personal injury claim in the relevant tort system

to be eligible to file the claim with the U.S. Asbestos Trust and (b) whether a filing fee should be required for any Asbestos Trust Claims.

**6.5. Confidentiality of Claimants' Submissions.** All submissions to the U.S. Asbestos Trust by a holder of an Asbestos Trust Claim or 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 U.S. Asbestos 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 U.S. Asbestos Trust will preserve the confidentiality of such claimant submissions, and shall disclose the contents thereof only, with the permission of the holder, to another trust established for the benefit of asbestos personal injury claimants pursuant to section 524(g) of the Bankruptcy Code or other applicable law, to such other persons as authorized by the holder, or in response to a valid subpoena of such materials issued by the Bankruptcy Court, a Delaware State Court or the United States District Court for the District of Delaware. Furthermore, the U.S. Asbestos Trust shall provide counsel for the holder a copy of any such subpoena immediately upon being served. The U.S. Asbestos Trust shall on its own initiative or upon request of the claimant in question take all necessary and appropriate steps to preserve said privilege 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. Nothing in the 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 an underlying civil action regarding his or her submission of factual information to the Trust for the purpose of obtaining compensation for asbestos-related injuries from the Trust. Notwithstanding anything in the foregoing to the contrary, with the consent of

the TAC and Future Claimants' Representative, the U.S. Asbestos Trust may, in specific limited circumstances, disclose information, documents or other materials reasonably necessary in the U.S. 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 Insurance Policies, Asbestos In-Place Insurance Coverage, or the Asbestos Insurance Settlement Agreements; provided, however, that the U.S. Asbestos Trust shall take any and all steps reasonably feasible in its judgment to preserve the further confidentiality of such information, documents or materials to a third party, the U.S. 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 U.S. 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. Further, notwithstanding anything in the foregoing to the contrary, the U.S. Asbestos Trust may, in the furtherance of the responsibility to seek recovery under the Hercules Policy, disclose information, documents, or other materials reasonably necessary in the U.S. Asbestos Trust's judgment to obtain such recovery; provided, however, that the U.S. 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 U.S. 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.



## SECTION VII

### **General Guidelines for Liquidating and Paying U.S. TDP Valued Claims**

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

**7.2. Costs Considered.** Notwithstanding any provisions of this U.S. TDP to the contrary, the Trustees shall always give appropriate consideration to the cost of investigating and uncovering invalid Asbestos Trust Claims so that the payment of valid Asbestos Trust Claims is not further impaired by such processes with respect to issues related to the validity of the medical evidence supporting an Asbestos Trust Claim. The Trustees shall also have the latitude to make judgments regarding the amount of transaction costs to be expended by the U.S. Asbestos Trust so that valid Asbestos Trust Claims are not unduly further impaired by the costs of additional investigation. Nothing herein shall prevent the Trustees, in appropriate circumstances, from contesting the validity of any U.S. TDP Valued Claim against the U.S. Asbestos Trust whatever the costs, or to decline to accept medical evidence from sources that the Trustees have determined to be unreliable pursuant to the Claims Audit Program described in Section 5.8 above.

**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 U.S. Asbestos Trust's FIFO Processing and Payment Queues, the Maximum Annual Payment, the Maximum Available Payment and the Claims Payment Ratio requirements for U.S. TDP Valued Claims set forth

above, the Trustees shall proceed as quickly as possible to liquidate and pay all Asbestos Trust Claims, and shall make payments to holders of such claims in accordance with this U.S. TDP as insurance proceeds and other monies become available to a particular Subfund and as claims are liquidated, while maintaining sufficient assets within the Subfund to pay future valid claims in substantially the same manner.

Because the U.S. Asbestos Trust's income over time remains uncertain, and decisions about payments must be based on estimates that cannot be done precisely, they may have to be revised in light of experiences over time, and there can be no guarantee of any specific level of payment for claims against any particular Subfund. However, the Trustees shall use their best efforts to treat similar claims in substantially the same manner, consistent with the objective of this U.S. TDP, their duties as Trustees, the purposes of the U.S. Asbestos Trust, the established allocation of monies to claims in Categories A and B for the Subfund or Subfunds for which a Claims Payment Ratio has been established, and the practical limitations imposed by the inability to predict the future with precision. In the event that any of the U.S. Asbestos Trust Subfunds face temporary periods of limited liquidity, the Trustees may, with the consent of the TAC and the Future Claimants' Representative, suspend the normal order of payment from such Subfund, may temporarily limit or suspend payments from such Subfund altogether, and may offer a Reduced Payment Option for the Subfund as described in Section 2.5 above.

**7.4. Punitive Damages.** Except as otherwise provided herein, in determining the value of any U.S. TDP Valued Claim, punitive or exemplary damages, *i.e.*, damages other than compensatory damages, shall not be considered or allowed, notwithstanding their availability in the tort system. Similarly, no punitive or exemplary damages will be payable with respect to any claim litigated against the U.S. 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 U.S. 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 Section 7.4 herein 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(a)(2)(C) is determined to be the Alabama Wrongful Death Statute, shall only govern the rights between the U.S. Asbestos Trust and the claimant including, but not limited to, suits in the tort system pursuant to Section 7.6, and to the extent the U.S. Asbestos Trust seeks recovery from any entity that provided insurance to any Federal Mogul Entity, the Alabama Wrongful Death Statute shall govern.

**7.5. Sequencing Adjustment.**

**7.5(a) In General.** Except for any U.S. Asbestos Trust Claim involving Other Asbestos Disease (Disease Level I – Cash Discount Payment) and subject to the limitations set forth below, a sequencing adjustment shall be paid on all Pre-Petition Liquidated Claims payable from the T&N Subfund and the FMP Subfund as well as on all U.S. TDP Valued Claims if 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. The sequencing adjustment factor shall be six percent (6%) *per annum* for each of the first five (5) years after the Effective Date. Thereafter, the U.S. Asbestos Trust shall have the discretion to change the sequencing adjustment factor with the consent of the TAC and the Future Claimants' Representative.

**7.5(b) Liquidated Pre-Petition Claims.** A sequencing adjustment shall be payable on the liquidated value of all Pre-Petition Liquidated Claims described in Section 5.2(a) above that are payable from the T&N Subfund or the FMP Subfund. In the case of Pre-Petition Liquidated Claims liquidated by verdict or judgment, 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. 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.

**7.5(c) Unliquidated U.S. TDP Valued Claims.** A sequencing adjustment shall be payable on the Scheduled Value of any U.S. TDP Valued Claim that meets the requirements of Disease Levels II – V, VII and VIII, whether the claim is liquidated under Expedited or Individual Review, or by arbitration. A sequencing adjustment on a U.S. TDP Valued Claim that meets the requirements of Disease Level VI shall be based on the Average Value of such a claim. A sequencing adjustment on all such U.S. TDP Valued Claims shall be measured from the date of payment back to the earliest of the date that is one (1) year after the date on which (i) the claim was filed against a Federal-Mogul Entity prior to the Petition Date; (ii) the claim was filed against another defendant in the relevant tort system on or after the Petition Date but before the Effective Date; or (iii) the claim was filed with the U.S. Asbestos Trust after the Effective Date. No sequencing adjustment shall be paid on any Disease Level I claim, or on any claim liquidated in the tort system pursuant to Section 5.11 above and Section 7.6 below.

**7.6. Litigation in the Tort System.**

**7.6(a) Litigation Involving U.S. TDP Valued Claims.** If the holder of a disputed U.S. TDP Valued Claim disagrees with the U.S. Asbestos Trust's determination

regarding the Disease Level of the claim, the claimant's exposure history 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 in the Claimant's Jurisdiction as defined in Section 5.3(a)(2)(C) above. As provided in Section 5.11(a) above, all lawsuits brought against the U.S. Asbestos Trust involving U.S. TDP Valued Claims 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 U.S. Asbestos Trust all defenses that could have been asserted by the relevant Federal-Mogul Entity) shall be available to both sides at a trial involving any Asbestos Trust Claim; however, the U.S. Asbestos Trust may waive any defense and/or concede any issue of fact or law. If the claimant was alive at the time a Pre-Petition complaint was filed or on the date the proof of claim form was filed with the U.S. Asbestos Trust, the case will be treated as a personal injury case with 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.**

**7.7(a) Judgments Relating to U.S. TDP Valued Claims.** If and when a claimant obtains a judgment in the tort system relating to a U.S. TDP Valued Claim, the claim shall be placed in the FIFO Payment Queue established by the T&N Subfund or the FMP Subfund based on the date on which the judgment became final. Thereafter, the claimant shall receive from the relevant Subfund an initial payment (subject to the applicable Payment Percentage, the Maximum Available Payment, and the Claims Payment Ratio provisions set forth above) of an amount equal to one-hundred percent (100%) of the greater of (i) the U.S. Asbestos Trust's last offer to the claimant or (ii) the award that the claimant declined in non-

binding arbitration. 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, the Maximum Available Payment, and the Claims Payment Ratio provisions set forth above in effect on the date of payment of the subject installment).

In the case of non-Extraordinary U.S. TDP Valued Claims involving Disease Levels II - VIII, 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(a)(3). In the case of Extraordinary U.S. TDP Valued Claims, the total amounts paid with respect to such claims shall not exceed the maximum value for such claims set forth in Section 5.4(a) above. Under no circumstances shall (a) sequencing adjustments be paid pursuant to Section 7.5 or (b) interest be paid under any statute on any judgments obtained in the tort system with respect to U.S. TDP Valued Claims, nor shall any punitive damages, i.e., damages that are not compensatory damages, be paid with respect to any claims liquidated in the tort system except as otherwise provided in Section 7.4 above. In the case of claims involving Disease Level I, the total amounts paid shall not exceed the Scheduled Value of such claims.

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

of a claimant shall constitute such a release. Nothing herein shall affect the rights and obligations set forth in the CIP Agreement.

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

**7.10. U.S. Asbestos Trust Disclosure of Information.** Periodically, but not less often than once a year, the U.S. Asbestos Trust shall make available to claimants and other interested parties, the number of U.S. TDP Valued Claims by Disease Levels that have been resolved both by the Individual Review Process and by arbitration, as well as the number of all Asbestos Trust Claims that have been resolved by litigation in the relevant tort systems, indicating the amounts of the awards and the averages of the awards by jurisdiction.

## **SECTION VIII**

### **Miscellaneous**

**8.1. Amendments.** Except as otherwise provided herein and in the CIP Agreement, the Trustees may amend, modify, delete, or add to any provisions of this U.S. TDP (including, without limitation, amendments to conform this U.S. TDP to advances in scientific or medical knowledge or other changes in circumstances) for the purpose of insuring that all Asbestos Trust Claims are treated in accordance with the objective of this U.S. TDP, which is set forth above in Section 2.1(a) above, provided, however, that the right to amend the Claims Payment Ratio is governed by the restrictions in Section 2.5 above, and the right to adjust the Payment Percentage

is governed by Section 4.2 above. In making any amendments, modifications, deletions or additions to the provisions of this U.S. TDP, the Trustees shall first obtain the consent of the TAC and the Future Claimants' Representative (and with respect to amendments, modifications, deletions or additions concerning the Fel-Pro Subfund, the Vellumoid Subfund, Fel-Pro Claims, Vellumoid Claims, or Federal-Mogul Asbestos Claims (as that term is defined in the CIP Agreement) encompassed by the CIP Agreement, the prior express written consent of the Lead Insurer, as provided in the CIP Agreement, pursuant to the Consent Process set forth in Section 7.4 of the U.S. Asbestos Trust Agreement) pursuant to the Consent Process set forth in Sections 5.7(b) and 6.6(b) of the U.S. Asbestos Trust Agreement. Nothing herein is intended to preclude the TAC or the Future Claimants' Representative from proposing to the Trustees, in writing, amendments to this U.S. TDP. Any amendment proposed by the TAC or the Future Claimants' Representative shall remain subject to Section 7.3 of the U.S. Asbestos Trust Agreement.

**8.2. Severability.** Should any provision contained in this U.S. TDP be determined to be unenforceable, such determination shall in no way limit or affect the enforceability and operative effect of any and all other provisions of this U.S. TDP. Should any provision contained in this U.S. TDP be determined to be inconsistent with or contrary to any Federal-Mogul Entity's or the U.S. Asbestos Trust's obligations to any insurance company providing insurance coverage to such Federal-Mogul Entity in respect of claims for personal injury based on exposure to asbestos-containing products manufactured or distributed by such Federal-Mogul Entity, the U.S. Asbestos Trust with the consent of the TAC and the Future Claimants' Representative and the prior express written consent of the Lead Insurer (and with respect to amendments, modifications, deletions or additions concerning the Fel-Pro Subfund, the Vellumoid Subfund, Fel-Pro Claims, Vellumoid Claims, or Federal-Mogul Asbestos Claims (as



that term is defined in the CIP Agreement) encompassed by the CIP Agreement, the prior express written consent of the Lead Insurer, as provided in the CIP Agreement, pursuant to the Consent Process set forth in Section 7.4 of the U.S. Asbestos Trust Agreement) may amend this U.S. TDP and/or the U.S. Asbestos Trust Agreement to make the provisions of either or both documents consistent with the duties and obligations of such Federal-Mogul Entity to said insurance company.

**8.3. Governing Law.** Except for purposes of determining the liquidated value of any Asbestos Trust Claim, administration of this U.S. TDP shall be governed by, and construed in accordance with, the laws of the State of Delaware. The law governing the liquidation of all U.S. TDP Valued 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(a)(2)(C) above. The law governing the liquidation in the tort system of Fel-Pro and Vellumoid Claims shall be determined based on applicable federal or state choice of law rules.

## **SECTION IX**

### **Debtor HPE Asbestos Claims**

**9.1. T&N Subfund Claims.** The Plan provides, in Article IV, a mechanism by which the U.S. Asbestos Trust can seek, for the benefit of all holders of T&N Subfund claims, to pursue Asbestos Personal Injury Claims (other than a CVA Claim) against the Reorganized Hercules Protected Entities (“Debtor HPE Asbestos Claims”) and to access certain insurance coverage of the Reorganized Hercules Protected Entities. To facilitate the efforts of the U.S. Asbestos Trust to those ends, each holder of a T&N Subfund Claim, as a condition of the submission by such holder of such claim to the U.S. Asbestos Trust for the processing, liquidation, and payment of a Trust Claim in respect of such claim pursuant to Article 4.5 of the Plan --

(a) appoints the U.S. Asbestos Trust as his, her, or its agent, pursuant to Article 4.5.8 of the Plan, to assert against the relevant Reorganized Hercules Protected Entity, in the name of such holder or otherwise, any Debtor HPE Asbestos Claim that he, she, or it may have against such Reorganized Hercules Protected Entity;

(b) assigns to the U.S. Asbestos Trust, pursuant to Article 4.5.7 of the Plan, his, her or its rights to the proceeds of his, her or its Debtor HPE Asbestos Claim against any and all of the Reorganized Hercules-Protected Entities (including but not limited to the T&N Entities) as well as his, her or its 1930 Act Rights, and

(c) grants to the U.S. Asbestos Trust a power of attorney, in such form as the U.S. Asbestos Trust may require, to pursue such Debtor HPE Asbestos Claim on his, her, or its behalf or otherwise, *provided*, however, that to the extent any such appointment, assignment, or grant is determined by the U.S. Asbestos Trust to have the potential effect of either invalidating the Debtor HPE Asbestos Claim in question or rendering it unenforceable (or less likely to be enforceable) by the U.S. Asbestos Trust against the applicable Reorganized Hercules Protected Entity, or the U.S. Asbestos Trust determines that some other action by the holder is appropriate to facilitate the pursuit of the claim, the U.S. Asbestos Trust and the holder of the Debtor HPE Asbestos Claim shall mutually agree on an alternative means of prosecuting the claim, and/or additional or alternative action by the holder, so as to maximize the chances of successful recovery on such claim.

**9.2. Selection of Debtor HPE Asbestos Claims.** The U.S. Asbestos Trust is empowered to select for prosecution against one (1) or more Reorganized Hercules-Protected Entities those Debtor HPE Asbestos Claims whose prosecution the U.S. Asbestos Trust, in its discretion, determines will best serve the purposes of the U.S. Asbestos Trust. For purposes of

making such selection, the U.S. Asbestos Trust may depart from the provisions of Section 5.1(a)(1) of this U.S. TDP relating to the order in which Trust Claims are processed. Not all Debtor HPE Asbestos Claims will be selected by the U.S. Asbestos Trust for prosecution.

**9.3. Cooperation and Assistance.** It is anticipated that the U.S. Asbestos Trust will, and it is empowered to, require the cooperation and assistance of the holder of any Debtor HPE Asbestos Claim that the U.S. Asbestos Trust selects for possible prosecution against a Reorganized Hercules Protected Entity. Such assistance and cooperation may include, but is not limited to, the provision of evidence and testimony by such holder and his, her or its counsel. The holders of T&N Subfund Claims who submit such claims are obligated to provide such cooperation and assistance, on request of the U.S. Asbestos Trust, if their Debtor HPE Asbestos Claims are selected for possible prosecution. Recognizing that such cooperation and assistance may require significant effort and/or expense by the holder whose claim is selected and his, her, or its counsel, and that (i) only certain Debtor HPE Asbestos Claims will be selected by the U.S. Asbestos Trust for prosecution, (ii) the recoveries, at least initially, on T&N Subfund Claims from the U.S. Asbestos Trust are likely to be a relatively small percentage of their value, and (iii) it is in the interests of all holders of T&N Subfund Claims that the prosecution of such selected Debtor HPE Asbestos Claims succeed, the U.S. Asbestos Trust is authorized to enter into arrangements with such holders of selected claims, and with their personal counsel, to compensate them fairly for the effort and expense required of them to assist and cooperate with the U.S. Asbestos Trust in the prosecution of selected Debtor HPE Asbestos Claims as provided in the first sentence of this Section 9.3. Such arrangements will be on such terms as the U.S. Asbestos Trust reasonably determines, and need not be identical in all cases. No holder of a T&N Subfund Claim who unreasonably refuses to provide such fairly compensated assistance

and cooperation shall be entitled to receive any payment (including on a Trust Claim) from the U.S. Asbestos Trust on his, her or its T&N Subfund Claim.

**9.4. Applicable Law.** For the avoidance of doubt, none of the provisions of Sections I through VIII of this U.S. TDP governing the processing, valuation, or liquidation of T&N Subfund Claims or any other Asbestos Trust Claims shall apply to the processing, prosecution, or resolution of Debtor HPE Asbestos Claims against Reorganized Hercules Protected Entities. Instead, the resolution of Debtor HPE Asbestos Claims shall be governed by applicable law in whatever jurisdiction or jurisdictions in which such claims shall properly be asserted against any Reorganized Hercules Protected Entity and, to the extent applicable, by Article IV of the Plan.