

EXHIBIT I.A.19
ASBESTOS PERSONAL INJURY TRUST DISTRIBUTION PROCEDURES

UNITED STATES GYPSUM
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UNITED STATES GYPSUM

ASBESTOS PERSONAL INJURY SETTLEMENT TRUST DISTRIBUTION PROCEDURES

The United States Gypsum Asbestos Personal Injury Settlement Trust Distribution Procedures (the “**TDP**”) contained herein provide for resolving all “Asbestos Personal Injury Claims” as defined in the Joint Plan of Reorganization of USG Corporation and its Debtor Subsidiaries, dated as of March 27, 2006 (as it may be amended or modified, the “**Plan**”),¹ including (a) all asbestos-related personal injury and death claims caused by conduct of, and/or exposure to products for which, USG Corporation and its subsidiaries, including United States Gypsum Company (collectively referred to as “**USG**”), and their predecessors, successors, and assigns, have legal responsibility and (b) all asbestos-related personal injury and death claims caused by conduct of, and/or exposure to products for which, A.P. Green Industries, Inc., A.P. Green Refractories Co. or any of their affiliates or predecessors to the extent such predecessors are listed in Exhibit I.A.96 of the Plan (collectively, “**A.P. Green**”) have legal responsibility to the extent such conduct occurred prior to January 2, 1968 and/or the legal responsibility arose prior to such date, as provided in and required by the Plan and the United States Gypsum Asbestos Personal Injury Settlement Trust Agreement (the “**PI Trust Agreement**”). The Plan and PI Trust Agreement establish the United States Gypsum Asbestos Personal Injury Settlement Trust (the “**PI Trust**”). The Trustees of the PI Trust (the “**Trustees**”) shall implement and administer this TDP in accordance with the PI Trust Agreement.

¹ Capitalized terms used herein and not otherwise defined shall have the meanings assigned to them in the Plan and the PI Trust Agreement; provided, however, that “Asbestos Personal Injury Claims” as defined in the Plan shall be referred to herein as “**PI Trust Claims**” and “Asbestos Personal Injury Indirect Claims” as defined in the Plan shall be referred to herein as “**Indirect PI Trust Claims**.”

SECTION I

Introduction

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

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

SECTION II

Overview

2.1 PI Trust Goals. The goal of the PI Trust is to treat all claimants equitably. This TDP furthers that goal by setting forth procedures for processing and paying USG's several share of the unpaid portion of the liquidated value of PI Trust Claims generally on an impartial, first-in-first-out ("**FIFO**") basis, with the intention of paying all claimants over time as equivalent a share as possible of the value of their claims based on historical values for substantially similar claims in the tort system.² To this end, the TDP establishes a schedule of eight asbestos-related diseases ("**Disease Levels**"), seven of which have presumptive medical and exposure requirements ("**Medical/Exposure Criteria**") and specific liquidated values ("**Scheduled Values**"), and five of which have both 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

² As used in this TDP, the phrase "in the tort system" shall include only claims asserted by way of litigation and not 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.

Sections 5.3 and 5.4 below, have all been selected and derived with the intention of achieving a fair allocation of the PI Trust funds as among claimants suffering from different disease processes in light of the best available information considering the settlement histories of USG and A.P. Green and the rights claimants would have in the tort system absent the bankruptcy. A claimant may not assert more than one PI Trust Claim hereunder.

2.2 Claims Liquidation Procedures. PI Trust Claims shall be processed based on their place in the FIFO Processing Queue to be established pursuant to Section 5.1(a) below. The PI Trust shall take all reasonable steps to resolve PI Trust Claims as efficiently and expeditiously as possible at each stage of claims processing and arbitration, which steps may include, in the PI Trust's sole discretion, conducting settlement discussions with claimants' representatives with respect to more than one claim at a time, provided that the claimants' respective positions in the FIFO Processing Queue are maintained and each claim is individually evaluated pursuant to the valuation factors set forth in Section 5.3(b)(2) below. The PI Trust shall also make every effort to resolve each year at least that number of PI Trust Claims required to exhaust the Maximum Annual Payment and the Maximum Available Payment for Category A and Category B claims, as those terms are defined below.

The PI Trust shall liquidate all PI Trust Claims except Foreign Claims (as defined below) that meet the presumptive Medical/Exposure Criteria of Disease Levels I–V, VII and VIII under the Expedited Review Process described in Section 5.3(a) below. Claims involving Disease Levels I–V, VII and VIII that do not meet the presumptive Medical/Exposure Criteria for the relevant Disease Level may undergo the PI Trust's Individual Review Process described in Section 5.3(b) below. In such a case, notwithstanding that the claim does not meet the presumptive Medical/Exposure Criteria for the relevant Disease Level, the PI Trust can offer the

claimant an amount up to the Scheduled Value of that Disease Level if the PI Trust is satisfied that the claimant has presented a claim that would be cognizable and valid in the tort system.

PI Trust Claims involving Disease Levels IV–VIII tend to raise more complex valuation issues than the PI Trust Claims in Disease Levels I–III. Accordingly, in lieu of liquidating such claimant’s claim under the Expedited Review Process, claimants holding claims involving these Disease Levels may alternatively seek to establish a liquidated value for the claim that is greater than its Scheduled Value by electing the PI Trust’s Individual Review Process. However, the liquidated value of a more serious Disease Level IV, V, VII or VIII claim that undergoes the Individual Review Process for valuation purposes may be determined to be less than its Scheduled Value, and in any event shall not exceed the Maximum Value for the relevant Disease Level set forth in Section 5.3(b)(3) below, unless the claim qualifies as an Extraordinary Claim as defined in Section 5.4(a) below, in which case its liquidated value cannot exceed the Maximum Value specified in that provision for such claims. Level VI (Lung Cancer 2) claims and all Foreign Claims may be liquidated only pursuant to the PI Trust’s Individual Review Process.

Based upon USG’s and A.P. Green’s claims settlement histories in light of applicable tort law, and current projections of present and future unliquidated claims, the Scheduled Values and Maximum Values set forth in Section 5.3(b)(3) have been established for each of the five more serious Disease Levels that are eligible for Individual Review of their liquidated values, with the expectation that the combination of settlements at the Scheduled Values and those resulting from the Individual Review Process should result in the Average Values also set forth in that provision.

All unresolved disputes over a claimant's medical condition, exposure history and/or the liquidated value of the claim shall be subject to binding or non-binding arbitration as set forth in Section 5.10 below, at the election of the claimant, under the ADR Procedures that are provided in Attachment A hereto. PI Trust Claims that are the subject of a dispute with the PI Trust that cannot be resolved by non-binding arbitration may enter the tort system as provided in Sections 5.11 and 7.6 below. However, if and when a claimant obtains a judgment in the tort system, the judgment shall be payable (subject to the Payment Percentage, Maximum Available Payment, and Claims Payment Ratio provisions set forth below) as provided in Section 7.7 below.

2.3 Application of the Payment Percentage. After the liquidated value of a PI Trust Claim other than a claim involving Other Asbestos Disease (Disease Level I – Cash Discount Payment), as defined in Section 5.3(a)(3) below, is determined pursuant to the procedures set forth herein for Expedited Review, Individual Review, arbitration, or litigation in the tort system, the claimant shall ultimately receive a pro-rata share of that value based on a Payment Percentage described in Section 4.2 below. The Payment Percentage shall also apply to all Pre-Petition Liquidated Claims as provided in Section 5.2 below.

The Initial Payment Percentage has been set at [_____] % and shall apply to all PI Trust Voting Claims accepted as valid by the PI Trust, unless adjusted by the PI Trust pursuant to the consent of the PI Trust Advisory Committee (the “TAC”) and the Legal Representative for Future Claimants (the “**Futures Representative**”) (who are described in Section 3.1 below) pursuant to Section 4.2 below, and except as provided in Section 4.3 below with respect to supplemental payments in the event the Initial Payment Percentage is changed. The term “**PI Trust Voting Claims**” includes (i) Pre-Petition Liquidated Claims as defined in Section 5.2(a) below; (ii) claims filed against USG in the tort system or actually submitted to USG pursuant to

an administrative settlement agreement prior to the Petition Date of June 25, 2001; and (iii) all claims filed against another asbestos defendant in the tort system prior to February 17, 2006, the date the Plan was filed with the Bankruptcy Court (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 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 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 PI Trust Voting Claim; and provided further that (2) the claim was subsequently filed with the PI Trust pursuant to Section 6.1 below by the Initial Claims Filing Date defined in Section 5.1(a) below. The Initial Payment Percentage has been calculated on the assumption that the Average Values set forth in Section 5.3(b)(3) below shall be achieved with respect to existing present claims and projected future claims involving Disease Levels IV–VIII.

The Payment Percentage may thereafter be adjusted upwards or downwards from time to time by the PI Trust with the consent of the TAC and the Futures Representative to reflect then-current estimates of the PI Trust’s assets and its liabilities, as well as then-estimated value of then-pending and future claims. Any adjustment to the Initial Payment Percentage shall be made only pursuant to Section 4.2 below. If the Payment Percentage is increased over time, claimants whose claims were liquidated and paid in prior periods under the TDP shall receive additional payments only as provided in Section 4.2 below. Because there is uncertainty in the prediction of both the number and severity of future PI Trust Claims, and the amount of the PI Trust’s

assets, no guarantee can be made of any Payment Percentage of a PI Trust Claim's liquidated value.

2.4 PI Trust's Determination of the Maximum Annual Payment and Maximum Available Payment. The PI Trust shall estimate or model the amount of cash flow anticipated to be necessary over its entire life to ensure that funds shall be available to treat all present and future holders of PI Trust Claims as similarly as possible. In each year, the PI Trust shall be empowered to pay out all of the income earned during the year (net of taxes payable with respect thereto), together with a portion of its principal, calculated so that the application of PI Trust funds over its life shall correspond with the needs created by the estimated initial backlog of claims and the estimated anticipated future flow of claims (the "**Maximum Annual Payment**"), taking into account the Payment Percentage provisions set forth in Section 2.3 above and Sections 4.2 and 4.3 below. The PI Trust's distributions to all claimants for that year shall not exceed the Maximum Annual Payment determined for that year.

For the period from the Effective Date to the earlier of (a) the Trigger Date (as defined in the Plan) if the FAIR Act (as defined in the Plan) is not enacted and made law on or before the Trigger Date and (b) if the FAIR Act is enacted and made law on or before the Trigger Date and a Challenge Proceeding (as defined in the Plan) is commenced, the date a Final Order (as defined in the Plan) is entered resolving the Challenge Proceeding, the Maximum Annual Payment shall not exceed \$90 million.

In distributing the Maximum Annual Payment, the PI Trust shall first allocate the amount in question to (a) outstanding Pre-Petition Liquidated Claims, (b) PI Trust Claims involving Disease Level I (Cash Discount Payment) which have been liquidated by the PI Trust, and (c) any claims (i) based upon a diagnosis dated prior to January 30, 2006, and (ii) subsequently filed

with the PI Trust pursuant to Section 6.1 below within one year following the date the PI Trust first accepts for processing the proof of claim forms and the other materials required to file a claim with the PI Trust³, which are liquidated by the PI Trust (“**Existing Claims**”). Should the Maximum Annual Payment be insufficient to pay all such claims in full, they shall be paid in proportion to the aggregate value of each group of claims and the available funds allocated to each group of claims shall be paid to the maximum extent to claimants in the particular group based on their place in their respective FIFO Payment Queue. Claims in any group for which there are insufficient funds shall be carried over to the next year, and placed at the head of their FIFO Payment Queue. The remaining portion of the Maximum Annual Payment (the “**Maximum Available Payment**”), if any, shall then be allocated and used to satisfy all other liquidated PI Trust Claims, subject to the Claims Payment Ratio set forth in Section 2.5 below. Claims in the groups described in (a), (b) and (c) above shall not be subject to the Claims Payment Ratio.

2.5 Claims Payment Ratio. Based upon USG’s and A.P. Green’s claims settlement histories and analysis of present and future claims, a Claims Payment Ratio has been determined which, as of the Effective Date, has been set at 85% for Category A claims, which consist of PI Trust Claims involving severe asbestosis and malignancies (Disease Levels IV–VIII) and at 15% for Category B claims, which are PI Trust Claims involving non-malignant Asbestosis or Pleural Disease (Disease Levels II and III).

In each year, after the determination of the Maximum Available Payment described in Section 2.4 above, 85% of that amount shall be available to pay Category A claims and 15%

³ Exceptions to the satisfaction of this one-year filing requirement will be made where a claimant can show inability to file prior to the Effective Date caused by extraneous factors including but not limited to the need to complete probate.

shall be available to pay Category B claims that have been liquidated since the Petition Date except for claims liquidated which, pursuant to Section 2.4 above, are not subject to the Claims Payment Ratio. In the event there are insufficient funds in any year to pay the liquidated claims within either or both of the Categories, the available funds allocated to the particular Category shall be paid to the maximum extent to claimants in that Category based on their place in the FIFO Payment Queue described in Section 5.1(c) below, which shall 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 shall be placed at the head of the FIFO Payment Queue. If there are excess funds in either or both Categories, because there is an insufficient amount of liquidated claims to exhaust the respective Maximum Available Payment amount for that Category, then the excess funds for either or both Categories shall be rolled over and remain dedicated to the respective Category to which they were originally allocated.

The 85%/15% Claims Payment Ratio and its 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 resulting from the application of the Claims Payment Ratio shall not, in and of itself, constitute such circumstances. In addition, an increase in the numbers of Category B claims beyond those predicted or expected shall not be considered as a factor in deciding whether to reduce the percentage allocated to Category A claims.

In considering whether to make any amendments to the Claims Payment Ratio and/or its rollover provisions, the Trustees shall 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.

In any event, no amendment to the Claims Payment Ratio to reduce the percentage allocated to Category A claims may be made without the unanimous consent of the TAC members and the consent of the Futures Representative. The percentage allocated to Category A claims may be increased at any time after the first anniversary of the date the PI Trust first accepts for processing proof of claim forms and the other materials required to file a claim with the PI Trust, with the consent of the TAC and the Futures Representative. In case of any amendments to the Claims Payment Ratio, consents shall be governed by the consent process set forth in Sections 5.7(b) and 6.6(b) of the PI Trust Agreement, however, failure to obtain consent shall not be subject to the Dispute Resolution provisions of Section 7.13 thereof. The Trustees, with the consent of the TAC and the Futures Representative, may offer the option of a reduced Payment Percentage to holders of claims in either Category A or Category B in return for prompter payment (the “**Reduced Payment Option**”).

2.6 Indirect PI Trust Claims. As set forth in Section 5.6 below, Indirect PI Trust Claims, if any, shall be subject to the same categorization, evaluation, and payment provisions of this TDP as all other PI Trust Claims.

SECTION III

TDP Administration

3.1 Trust Advisory Committee and Futures Representative. Pursuant to the Plan and the PI Trust Agreement, the PI Trust and this TDP shall be administered by the Trustees in consultation with the TAC, which represents the interests of holders of present PI Trust Claims,

and the Futures Representative, who represents the interests of holders of PI Trust Claims that shall be asserted in the future. The Trustees shall obtain the consent of the TAC and the Futures Representative on any amendments to this 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 PI Trust Agreement. The Trustees shall also consult with the TAC and the Futures Representative on such matters as are provided below and in Section 2.2(e) of the PI Trust Agreement. The initial Trustees, the initial members of the TAC and the initial Futures Representative are identified in the PI Trust Agreement.

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

SECTION IV

Payment Percentage; Periodic Estimates

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

present and future PI Trust Claims shall be likely to receive, *i.e.*, the “Payment Percentage” described in Section 2.3 above and Section 4.2 below.

4.2 Computation of Payment Percentage. As provided in Section 2.3 above, the Initial Payment Percentage shall be [____]% and shall apply to all PI Trust Voting Claims as defined in Section 2.3 above, unless the Trustees, with the consent of the TAC and the Futures Representative, determine that the Initial Payment Percentage should be changed to assure that the PI Trust shall be in a financial position to pay holders of unliquidated and/or unpaid PI Trust Voting Claims and present and future PI Trust Claims in substantially the same manner.

In making any such adjustment, the Trustees, the TAC and the Futures Representative shall take into account the fact that the holders of PI Trust Voting Claims voted on the Plan relying on the findings of experts that the Initial Payment Percentage represented a reasonably reliable estimate of the PI Trust’s total assets and liabilities over its life based on the best information available at the time, and shall thus give due consideration to the expectations of PI Trust Voting Claimants that the Initial Payment Percentage would be applied to their PI Trust Claims.

Except with respect to PI Trust Voting Claims to which the Initial Payment Percentage applies, the Payment Percentage shall be subject to change pursuant to the terms of this TDP and the PI Trust Agreement if the Trustees with the consent of the TAC and Futures Representative determine that an adjustment is required. 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 to assure that it is based on accurate, current information and may, after such reconsideration, change the Payment Percentage if necessary with the consent of the TAC and the Futures Representative. The Trustees shall also

reconsider the then applicable Payment Percentage at shorter intervals if they deem such reconsideration to be appropriate or if requested to do so by the TAC or the Futures Representative.

The Trustees must base their determination of the Payment Percentage on current estimates of the number, types, and values of present and future PI Trust Claims, the value of the assets then available to the PI Trust for their payment, all anticipated administrative and legal expenses, and any other material matters that are reasonably likely to affect the sufficiency of funds to pay a comparable percentage of full value to all holders of PI Trust Claims. When making these determinations, the Trustees shall exercise common sense and flexibly evaluate all relevant factors. The Payment Percentage applicable to Category A or Category B claims may not be reduced to alleviate delays in payments of claims in the other Category; both Categories of claims shall receive the same Payment Percentage, but the payment may be deferred as needed, and a Reduced Payment Option may be instituted as described in Section 2.5 above.

4.3 Applicability of the Payment Percentage. Except as set forth below in this Section 4.3 with respect to supplemental payments, no holder of a PI Trust Voting Claim, other than a PI Trust Voting Claim for Other Asbestos Disease (Disease Level I – Cash Discount Payment) as defined in Section 5.3(a)(3) below, shall receive a payment that exceeds the Initial Payment Percentage times the liquidated value of the claim. Except as otherwise provided in Section 5.1(c) below for PI Trust Claims involving deceased or incompetent claimants for which approval of the PI Trust’s offer by a court or through a probate process is required, no holder of any other PI Trust Claim, other than a PI Trust 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 of payment. PI Trust Claims involving

Other Asbestos Disease (Disease Level I – Cash Discount Payment) shall not be subject to the Payment Percentage, but shall instead be paid the full amount of their Scheduled Value as set forth in Section 5.3(a)(3) below.

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

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

If the Trustees, with the consent of the TAC and the Futures Representative, make a determination to increase the Payment Percentage due to a material change in the estimates of the PI Trust's future assets and/or liabilities, the Trustees shall also make supplemental payments to all claimants who previously liquidated their claims against the PI Trust 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 interest paid pursuant to Section 7.5 below).

The Trustees' 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 Trustees' obligation shall resume and the Trustees shall pay any such aggregate supplemental payments due the claimant at such time that the total exceeds \$100.00.

SECTION V

Resolution of PI Trust Claims.

5.1 Ordering, Processing and Payment of Claims.

5.1(a) Ordering of Claims.

5.1(a)(1) Establishment of the FIFO Processing Queue. The PI Trust shall order claims that are sufficiently complete to be reviewed for processing purposes on a FIFO basis except as otherwise provided herein (the "**FIFO Processing Queue**"). For all claims filed on or before the date six (6) months after the date that the PI Trust first makes available the proof of claim forms and other claims materials required to file a claim with the PI Trust (the "**Initial Claims Filing Date**"), a claimant's position in the FIFO Processing Queue shall be determined as of the earliest of (i) the date prior to June 25, 2001 (the "**Petition Date**") that the specific claim was either filed against USG or A.P. Green in the tort system or was actually submitted to USG or A.P. Green pursuant to an administrative settlement agreement; (ii) the date

before the Petition Date that the claim was filed against another asbestos defendant in the tort system if at the time the claim was subject to a tolling agreement with USG or A.P. Green; (iii) the date after the Petition Date but before the Initial Claims Filing Date that the claim was filed against another asbestos defendant in the tort system; (iv) the date after the Petition Date but before January 30, 2006 that a proof of claim was filed by the claimant against USG in this Chapter 11 proceeding; or (v) the date a ballot was submitted on behalf of the claimant for purposes of voting to accept or reject the Plan pursuant to the voting procedures approved by the Bankruptcy Court.

Following the Initial Claims Filing Date, the claimant's position in the FIFO Processing Queue shall be determined by the date the claim is filed with the PI Trust. If any claims are filed on the same date, the claimant's position in the FIFO Processing Queue shall be determined by the date of the diagnosis of the asbestos-related disease. If any claims are filed and diagnosed on the same date, the claimant's position in the FIFO Processing Queue shall be determined by the claimant's date of birth, with older claimants given priority over younger claimants.

5.1(a)(2) Effect of Statutes of Limitation and Repose. All unliquidated PI Trust Claims must meet either (i) for claims first filed in the tort system against USG or A.P. Green prior to the Petition Date, the applicable federal, state and foreign statute of limitation and repose that was in effect at the time of the filing of the claim in the tort system, or (ii) for claims not filed against USG or A.P. Green in the tort system prior to the Petition Date, the applicable federal, state or foreign statute of limitation that was in effect at the time of the filing with the PI 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 USG or A.P. Green prior to the Petition Date, whether in the tort system or by submission of the claim to USG or A.P. Green pursuant to an

administrative settlement agreement; (B) the filing of the claim against another defendant in the tort system prior to the Petition Date if the claim was tolled against USG or A.P. Green at the time by an agreement or otherwise; (C) the filing of the claim after the Petition Date but prior to the Initial Claims Filing Date against another defendant in the tort system; (D) the filing of a proof of claim by the claimant against USG in the Chapter 11 proceeding after the Petition Date but before January 30, 2006; (E) the filing of the claim for voting purposes in this Chapter 11 proceeding; or (F) the filing of a proof of claim with the requisite supporting documentation with the PI Trust after the Initial Claims Filing Date.

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

5.1(b) Processing of Claims. As a general practice, the PI Trust shall review its claims files on a regular basis and notify all claimants whose claims are likely to come up in the FIFO Processing Queue in the near future. However, claims that were not filed (i) against USG or A.P. Green in the tort system or actually submitted to USG or A.P. Green pursuant to an administrative settlement agreement prior to the Petition Date, or (ii) against another defendant

in the tort system prior to the Plan Filing Date, shall not be processed until after the Initial Claims Filing Date.

5.1(c) Payment of Claims. PI Trust Claims that have been liquidated by the Expedited Review Process as provided in Section 5.3(a) below, by the Individual Review Process as provided in Section 5.3(b) below, by arbitration as provided in Section 5.10 below, or by litigation in the tort system provided in Section 5.11 below, shall be paid in FIFO order based on the date their liquidation became final (the “**FIFO Payment Queue**”), all such payments being subject to the applicable Payment Percentage, the Maximum Available Payment, and the Claims Payment Ratio, 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.

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

If any claims are liquidated on the same date, the claimant’s position in the FIFO Payment Queue shall be determined by the date of the diagnosis of the claimant’s asbestos-

related disease. If any claims are liquidated on the same date and the respective holders' asbestos-related diseases were diagnosed on the same date, the position of those claims in the FIFO Payment Queue shall be determined by the PI Trust based on the dates of the claimants' birth, with older claimants given priority over younger claimants.

5.2 Resolution of Pre-Petition Liquidated PI Trust Claims.

5.2(a) Processing and Payment. As soon as practicable after the Effective Date, the PI Trust shall pay, upon submission by the claimant of the appropriate documentation, all PI Trust Claims that were liquidated by (i) a binding settlement agreement for the particular claim entered into prior to the Petition Date that is judicially enforceable by the claimant, (ii) a jury verdict or non-final judgment in the tort system obtained prior to the Petition Date, or (iii) by a judgment that became final and non-appealable prior to the Petition Date (collectively "**Pre-Petition Liquidated Claims**"). In order to receive payment from the Trust, the holder of a Pre-Petition Liquidated Claim must submit all documentation necessary to demonstrate to the Trust that the claim was liquidated in the manner described in the preceding sentence, which documentation shall include (A) a court authenticated copy of the jury verdict, a non-final judgment 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.

The liquidated value of a Pre-Petition Liquidated Claim shall be the unpaid portion of the amount agreed to in the binding settlement agreement, the unpaid portion of the amount awarded by the jury verdict or non-final judgment, or the unpaid portion of the amount of the final judgment, as the case may be, plus interest, if any, that has accrued on that amount in accordance with the terms of the agreement, if any, or under applicable state law for settlements or judgments as of the Petition Date; however, except as otherwise provided in Section 7.4 below,

the liquidated value of a Pre-Petition Liquidated Claim shall not include any punitive or exemplary damages. In addition, the amounts payable with respect to such claims shall 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 PI Trust over this issue shall be resolved pursuant to the same procedures in this TDP that are provided for resolving the validity and/or liquidated value of a PI Trust Claim (*i.e.*, arbitration and litigation in the tort system as set forth in Sections 5.10 and 5.11 below).

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

5.2(b) Marshalling of Security. Holders of Pre-Petition Liquidated Claims that are secured by letters of credit, appeal bonds, or other security or sureties shall first exhaust their rights against any applicable security or surety before making a claim against the PI 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 PI Trust Claims. Within six (6) months after the establishment of the PI Trust, the Trustees, with the consent of the TAC and the Futures Representative, shall adopt procedures for reviewing and liquidating all unliquidated PI Trust Claims, which shall include deadlines for processing such claims. Such procedures shall also require that claimants seeking resolution of unliquidated PI Trust Claims must first file a proof of claim form, together with the required supporting documentation, in accordance with the provisions of Sections 6.1 and 6.2 below. It is anticipated that the PI Trust shall provide an initial response to the claimant within six (6) months of receiving the proof of claim form.

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

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 PI Trust shall provide the claimant with six (6) months notice of the date by which it expects to reach the claim in the FIFO Queue, following which the claimant shall promptly (i) advise the PI Trust whether the claim should be liquidated under the PI Trust's Expedited Review Process described in Section 5.3(a) below or, in certain circumstances, under the PI Trust's Individual Review Process described in Section 5.3(b) below; (ii) provide the PI Trust with any additional medical and/or exposure evidence that was not provided with the original claim submission; and (iii) advise the PI Trust of any change in

the claimant's Disease Level. If a claimant fails to respond to the PI Trust's notice prior to the reaching of the claim in the FIFO Queue, the PI Trust shall 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(b) below.

5.3(a) Expedited Review Process.

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

Thus, claims that undergo Expedited Review and meet the presumptive Medical/Exposure Criteria for the relevant Disease Level shall be paid the Scheduled Value for such Disease Level set forth in Section 5.3(a)(3) below. However, except for claims involving Other Asbestos Disease (Disease Level I), all claims liquidated by Expedited Review shall be subject to the applicable Payment Percentage, the Maximum Available Payment, and the Claims Payment Ratio limitations set forth above; provided, however, that Existing Claims shall not be subject to the Maximum Available Payment or the Claims Payment Ratio. Claimants holding claims that cannot be liquidated by Expedited Review because they do not meet the presumptive

Medical/Exposure Criteria for the relevant Disease Level may elect the PI Trust's Individual Review Process set forth in Section 5.3(b) below.

Subject to the provisions of Section 5.8, the claimant's eligibility to receive the Scheduled Value for his or her PI Trust 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)(2) Claims Processing Under Expedited Review. All claimants seeking liquidation of their claims pursuant to Expedited Review shall file the PI Trust's proof of claim form. As a proof of claim form is reached in the FIFO Processing Queue, the PI Trust shall determine whether the claim described therein meets the Medical/Exposure Criteria for one of the seven Disease Levels eligible for Expedited Review, and shall advise the claimant of its determination. If a Disease Level is determined, the PI Trust shall tender to the claimant an offer of payment of the Scheduled Value for the relevant Disease Level multiplied by the applicable Payment Percentage, together with a form of release of the PI Trust, the Debtors, the Debtors' Estates and the Reorganized Debtors approved by the PI Trust and reasonably acceptable in form and substance to the Reorganized Debtors, provided that the form of release included as Attachment B hereto is acceptable to the Reorganized Debtors. If the claimant accepts the Scheduled Value and returns the release properly executed, the claim shall be placed in the FIFO Payment Queue, following which the PI Trust shall disburse payment subject to the limitations of the Maximum Available Payment and Claims Payment Ratio, if any.

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

Review, are set forth below. These Disease Levels, Scheduled Values, and Medical/Exposure Criteria shall apply to all PI Trust Voting Claims filed with the PI Trust (except Pre-Petition Liquidated Claims) on or before the Initial Claims Filing Date provided in Section 5.1 above for which the claimant elects the Expedited Review Process. Thereafter, for purposes of administering the Expedited Review Process and with the consent of the TAC and the Futures 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.

<u>Disease Level</u>	<u>Scheduled Value</u>	<u>Medical/Exposure Criteria</u>
Mesothelioma (Level VIII)	\$155,000	(1) Diagnosis ⁴ of mesothelioma; and (2) USG/A.P. Green Exposure as defined in Section 5.7(b)(3).
Lung Cancer 1 (Level VII)	\$45,000	(1) Diagnosis of a primary lung cancer plus evidence of an underlying Bilateral Asbestos-Related Nonmalignant Disease ⁵ , (2) six months

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

⁵ 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 either bilateral interstitial fibrosis, bilateral pleural plaques, bilateral pleural thickening, or bilateral pleural calcification. Solely for claims filed against USG or another asbestos 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. Pathological proof of asbestosis may be based on the pathological grading system for asbestosis described in the Special Issue of the Archives of Pathology and Laboratory Medicine, “Asbestos-associated Diseases,” Vol. 106, No. 11, App. 3 (October 8,

Disease Level

Scheduled Value

Medical/Exposure Criteria

Lung Cancer 2
(Level VI)

None

USG/A.P. Green Exposure prior to December 31, 1982 (in the case of USG) and January 2, 1968 (in the case of A.P. Green), (3) Significant Occupational Exposure⁶ to asbestos, and (4) supporting medical documentation establishing asbestos exposure as a contributing factor in causing the lung cancer in question.

(1) Diagnosis of a primary lung cancer; (2) USG/A.P. Green Exposure prior to December 31, 1982 (in the case of USG) and January 2, 1968 (in the case of A.P. Green), 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 exposure requirements of Lung Cancer 1 (Level VII) claims. All claims in this Disease Level shall be individually evaluated. The estimated likely average of the individual evaluation awards for this category is \$15,000, with such awards capped at \$35,000 unless the claim qualifies for Extraordinary Claim treatment.

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 shall be treated as having any significant value, especially if the claimant is also a

1982). For all purposes of this TDP, a “Qualified Physician” is a physician whose is board-certified (or in the case of Canadian Claims or Foreign Claims, a physician who is certified or qualified under comparable medical standards or criteria of the jurisdiction in question) in one or more relevant specialized fields of medicine such as pulmonology, radiology, internal medicine or occupational medicine; provided, however, subject to the provisions of Section 5.8, that the requirement for board certification in this provision shall not apply to otherwise qualified physicians whose X-ray and/or CT scan readings are submitted for deceased holders of PI Trust Claims.

⁶ The term “Significant Occupational Exposure” is defined in Section 5.7(b)(2) below.

<u>Disease Level</u>	<u>Scheduled Value</u>	<u>Medical/Exposure Criteria</u>
Other Cancer (Level V)	\$15,000	Smoker. ⁷ In any event, no presumption of validity shall be available for any claims in this category. (1) Diagnosis of a primary colo-rectal, laryngeal, esophageal, pharyngeal, or stomach cancer, plus evidence of an underlying Bilateral Asbestos-Related Nonmalignant Disease, (2) six months USG/A.P. Green Exposure prior to December 31, 1982 (in the case of USG) and January 2, 1968 (in the case of A.P. Green), (3) Significant Occupational Exposure to asbestos, and (4) supporting medical documentation establishing asbestos exposure as a contributing factor in causing the other cancer in question.
Severe Asbestosis (Level IV)	\$30,000	(1) Diagnosis of asbestosis with ILO of 2/1 or greater, or asbestosis determined by pathological evidence of asbestos, plus (a) TLC less than 65%, or (b) FVC less than 65% and FEV1/FVC ratio greater than 65%, (2) six months USG/A.P. Green Exposure prior to December 31, 1982 (in the case of USG) and January 2, 1968 (in the case of A.P. Green), (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)	\$8,300	(1) Diagnosis of Bilateral Asbestos-Related Nonmalignant Disease, plus (a) TLC less than 80%, or (b) FVC less than 80% and FEV1/FVC ratio greater than or equal to 65%, and (2) six months USG/A.P. Green Exposure prior to

⁷ 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 an underlying Bilateral Asbestos-Related Nonmalignant Disease plus Significant Occupational Exposure), and who is also a Non-Smoker, may wish to have his or her claim individually evaluated by the PI 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 \$45,000 Scheduled Value for Lung Cancer 1 (Level VII) shown above. “Non-Smoker” means a claimant who either (a) never smoked or (b) has not smoked during any portion of the twelve (12) years immediately prior to the diagnosis of the lung cancer.

<u>Disease Level</u>	<u>Scheduled Value</u>	<u>Medical/Exposure Criteria</u>
		December 31, 1982 (in the case of USG) and January 2, 1968 (in the case of A.P. Green), (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)	\$2,625	(1) Diagnosis of a Bilateral Asbestos-Related Nonmalignant Disease, and (2) six months USG/A.P. Green Exposure prior to December 31, 1982 (in the case of USG) and January 2, 1968 (in the case of A.P. Green), and (3) five years cumulative occupational exposure to asbestos.
Other Asbestos Disease (Level I – Cash Discount Payment)	\$400	(1) Diagnosis of a Bilateral Asbestos-Related Nonmalignant Disease or an asbestos-related malignancy other than mesothelioma, and (2) USG/A.P. Green Exposure prior to December 31, 1982 (in the case of USG) and January 2, 1968 (in the case of A.P. Green).

5.3(b) Individual Review Process.

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

Process. In the event of such a change in the processing election, the claimant shall nevertheless retain his or her place in the FIFO Processing Queue.

The liquidated value of all Foreign Claims payable under this TDP shall be established only under the PI Trust's Individual Review process. PI Trust Claims of individuals exposed in Canada who were resident in Canada when such claims were filed ("Canadian Claims") shall not be considered Foreign Claims hereunder and shall be eligible for liquidation under the Expedited Review Process. Accordingly, a "**Foreign Claim**" is a PI Trust Claim with respect to which the claimant's exposure to an asbestos-containing product or conduct for which USG or A.P. Green (prior to January 2, 1968) has legal responsibility occurred outside of the United States and its Territories and Possessions, and outside of the Provinces and Territories of Canada.

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

For purposes of the Individual Review process for Foreign Claims, the Trustees, with the consent of the TAC and the Futures 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 all Foreign Claims channeled to the PI Trust; provided however, that such criteria, standards or requirements shall not effectuate substantive changes to the claims eligibility requirements under this TDP, but rather shall be made only for the purpose of adapting those requirements to the particular licensing provisions and/or medical customs or practices of the foreign country in question.

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

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

5.3(b)(1)(B) Review of Liquidated Value. Claimants holding claims in the five more serious Disease Levels IV–VIII shall also be eligible to seek Individual Review of the liquidated value of their claims, as well as of their medical/exposure evidence. The Individual Review Process is intended to result in payments equal to the full liquidated value for each claim multiplied by the Payment Percentage; however, the liquidated value of any PI Trust Claim that undergoes Individual Review may be determined to be less than the Scheduled Value the claimant would have received under Expedited Review. Moreover, the liquidated value for a claim involving Disease Levels IV–VIII shall not exceed the Maximum Value for the relevant Disease Level set forth in Section 5.3(b)(3) below, unless the claim meets the requirements of an Extraordinary Claim described in Section 5.4(a) below, in which case its liquidated value cannot exceed the Maximum 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 PI Trust 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 PI Trust shall devote reasonable resources to the review of all claims to ensure that there is a reasonable balance maintained in reviewing all classes of claims.

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

The PI Trust shall liquidate the value of each PI Trust Claim that undergoes Individual Review based on the historic liquidated values of other similarly situated claims in the tort system for the same Disease Level. The PI Trust shall thus take into consideration all of the factors that affect the severity of damages and values within the tort system including, but not limited to, credible evidence of (i) the degree to which the characteristics of a claim differ from the presumptive Medical/Exposure Criteria for the Disease Level in question; (ii) factors such as the claimant's age, disability, employment status, disruption of household, family or recreational activities, dependencies, special damages, and pain and suffering; (iii) whether the claimant's damages were (or were not) caused by asbestos exposure, including exposure to an asbestos-containing product or to conduct for which USG or A.P. Green has legal responsibility prior to December 31, 1982 (in the case of USG) and January 2, 1968 (in the case of A.P. Green) (for example, alternative causes, and the strength of documentation of injuries); (iv) the industry of exposure; (v) settlement and verdict histories in the Claimant's Jurisdiction for similarly situated claims; and (vi) settlement and verdict histories for the claimant's law firm for similarly situated claims.

For these purposes, the "Claimant's Jurisdiction" is the jurisdiction in which the claim was filed (if at all) against USG or A.P. Green in the tort system prior to the Petition Date. If the claim was not filed against USG or A.P. Green in the tort system prior to the Petition Date, the

claimant may elect as the Claimant’s Jurisdiction either (i) the jurisdiction in which the claimant resides at the time of diagnosis or when the claim is filed with the PI Trust; or (ii) a jurisdiction in which the claimant experienced exposure to an asbestos-containing product or to conduct for which USG or A.P. Green has legal responsibility.

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

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

<u>Scheduled Disease</u>	<u>Scheduled Value</u>	<u>Average Value</u>	<u>Maximum Value</u>
Mesothelioma (Level VIII)	\$155,000	\$225,000	\$450,000
Lung Cancer 1 (Level VII)	\$45,000	\$55,000	\$100,000
Lung Cancer 2 (Level VI)	None	\$15,000	\$35,000
Other Cancer (Level V)	\$15,000	\$18,000	\$35,000

<u>Scheduled Disease</u>	<u>Scheduled Value</u>	<u>Average Value</u>	<u>Maximum Value</u>
Severe Asbestosis (Level IV)	\$30,000	\$35,000	\$50,000
Asbestosis/Pleural Disease (Level III)	\$8,300	None	None
Asbestosis/Pleural Disease (Level II)	\$2,625	None	None
Other Asbestos Disease – Cash Discount Payment (Level I)	\$400	None	None

These Scheduled Values, Average Values and Maximum Values shall apply to all PI Trust Voting Claims other than Pre-Petition Liquidated Claims filed with the PI Trust on or before the Initial Claims Filing Date as provided in Section 5.1 above. Thereafter, the PI Trust, with the consent of the TAC and the Futures Representative pursuant to Sections 5.7(b) and 6.6(b) of the PI Trust Agreement, may change these valuation amounts for good cause and consistent with other restrictions on the amendment power.

5.4 Categorizing Claims as Extraordinary and/or Exigent Hardship.

5.4(a) Extraordinary Claims. “Extraordinary Claim” means a PI Trust Claim that otherwise satisfies the Medical Criteria for Disease Levels IV–VIII, and that is held by a claimant whose exposure to asbestos (i) occurred predominantly as a result of working in a manufacturing facility of USG or A.P. Green (prior to January 2, 1968) during a period in which USG or A.P. Green (prior to January 2, 1968) was manufacturing asbestos-containing products at that facility, or (ii) was at least 75% the result of exposure to an asbestos-containing product or to conduct for which USG or A.P. Green (prior to January 2, 1968) has legal responsibility, and in either case there is little likelihood of a substantial recovery elsewhere. All such Extraordinary Claims shall be presented for Individual Review and, if valid, shall be entitled to an award of up to a Maximum Value of five (5) times the Scheduled Value set forth in Section 5.3(b)(3) for

claims qualifying for Disease Levels IV–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 established by the PI Trust with the consent of the TAC and the Futures 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 FIFO Queue ahead of all other PI Trust Claims except Pre-Petition Liquidated Claims, Disease Level I Claims, Existing Claims and Exigent Hardship Claims, which shall be paid first in that order in said Queue, based on its date of liquidation, subject to the Maximum Available Payment and Claims Payment Ratio described above.

5.4(b) Exigent Hardship Claims. At any time the PI Trust may liquidate and pay PI Trust Claims that qualify as Exigent Hardship Claims as defined below. Such claims may be considered separately no matter what the order of processing otherwise would have been under this TDP. An Exigent Hardship Claim, following its liquidation, shall be placed first in the FIFO Payment Queue ahead of all other liquidated PI Trust Claims except Pre-Petition Liquidated Claims, Disease Level I Claims and Existing Claims and shall be subject to the Maximum Available Payment and Claims Payment Ratio described above. A PI Trust 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 PI 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 alleges an asbestos-related disease resulting solely from exposure to an occupationally exposed person, such as a family member, the claimant may seek Individual Review of his or her claim pursuant to Section 5.3(b) above. In such a case, the claimant must establish that the occupationally exposed person would have met the exposure requirements under this TDP that would have been applicable had that person filed a direct claim against the PI Trust. In addition, the claimant with secondary exposure must establish that he or she is suffering from one of the eight Disease Levels described in Section 5.3(a)(3) above or an asbestos-related disease otherwise compensable under this TDP, that his or her own exposure to the occupationally exposed person occurred within the same time frame as the occupationally exposed person was exposed to asbestos products manufactured, produced or distributed by USG or A.P. Green (prior to January 2, 1968) or to conduct for which USG or A.P. Green (prior to January 2, 1968) has legal responsibility, and that such secondary exposure was a cause of the claimed disease. All other liquidation and payment rights and limitations under this TDP shall be applicable to such claims.

5.6 Indirect PI Trust Claims. Indirect PI Trust Claims asserted against the PI Trust shall be treated as presumptively valid and paid by the PI 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 Code or subordinated under Section 509(c) of the Code, and, 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 PI Trust to the individual claimant to whom the PI Trust would otherwise have had a liability or obligation under these Procedures (the “**Direct Claimant**”), (ii) the Direct Claimant and the Indirect Claimant have

forever and fully released the PI Trust from all liability to the Direct 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 PI Trust superior to the rights of the related Direct Claimant against the PI Trust, including any rights with respect to the timing, amount or manner of payment. In addition, no Indirect PI Trust 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 PI 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 PI Trust) or a Final Order (as defined in the Plan) provided that such claim is valid under the applicable state law. In any case where the Indirect Claimant has satisfied the claim of a Direct Claimant against the PI Trust under applicable law by way of a settlement, the Indirect Claimant shall obtain for the benefit of the PI 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 PI Trust with a full release of the Direct Claimant's claim, the Indirect Claimant may request that the PI Trust review the Indirect PI Trust Claim individually to determine whether the Indirect Claimant can establish under applicable state law that the Indirect Claimant has paid all or a portion of a liability or obligation that the PI Trust had to the Direct Claimant as of the Effective Date of this TDP. If the Indirect Claimant can show that it has paid all or a portion of such a liability or obligation, the PI 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 PI Trust Claim paid by the PI Trust to an Indirect Claimant shall be treated as an offset to or reduction of the full liquidated value of any PI Trust Claim that might be subsequently asserted by the Direct Claimant against the PI Trust.

Any dispute between the PI Trust and an Indirect Claimant over whether the Indirect Claimant has a right to reimbursement for any amount paid to a Direct Claimant shall be subject to the ADR Procedures provided in Section 5.10 below and set forth in Attachment A hereto. 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 PI Trust Claims. Indirect PI 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 PI Trust would have afforded the holders of the underlying valid PI Trust Claims. Nothing in this TDP is intended to preclude a trust to which asbestos-related liabilities are channeled from asserting an Indirect PI Trust Claim against the PI Trust subject to the requirements set forth herein.

5.7 Evidentiary Requirements.

5.7(a) Medical Evidence.

5.7(a)(1) In General. All diagnoses of a Disease Level shall be accompanied by either (i) a statement by the physician providing the diagnosis that at least 10 years have elapsed between the date of first exposure to asbestos or asbestos-containing products and the diagnosis, or (ii) a history of the claimant's exposure sufficient to establish a 10-year latency period. A finding by a physician after the Petition Date that a claimant's disease is "consistent with" or "compatible with" asbestosis shall not alone be treated by the PI Trust as a diagnosis.

5.7(a)(1)(A) Disease Levels I–IV. Except for claims filed against USG or any other asbestos 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. All living claimants must also 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,⁸ an ILO reading of 2/1 or greater or pathological evidence of asbestosis, and (iii) for Disease Levels III and IV, pulmonary function testing.⁹

⁸ 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 PI Trust may rebut such presumptions.

⁹ "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 JCAHO, or performed, reviewed or

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.

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) on a diagnosis of such a malignant Disease Level by a board-certified pathologist.

5.7(a)(1)(C) Exception to the Exception for Certain Pre-Petition Claims. If the holder of a PI Trust Claim that was filed against USG 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

supervised by a board certified pulmonologist or other Qualified Physician shall be presumed to comply with ATS standards, and the claimant may submit a summary report of the testing. If the PFT was not performed in an JCAHO-accredited hospital, or performed, reviewed or supervised by a board certified pulmonologist or other Qualified Physician, the claimant must submit the full report of the testing (as opposed to a summary report); provided, however, that if the PFT was conducted prior to the Effective Date of the Plan and the full PFT report is not available, the claimant must submit a declaration signed by a Qualified Physician or other qualified party, in the form provided by the PI Trust, certifying that the PFT was conducted in material compliance with ATS standards.

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 PI 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, the PI Trust must have reasonable confidence that the medical evidence provided in support of the claim is credible and consistent with recognized medical standards. The PI Trust may require the submission of X-rays, CT scans, detailed results of pulmonary function tests, laboratory tests, tissue samples, results of medical examination or reviews of other medical evidence, and may require that medical evidence submitted comply with recognized medical standards regarding equipment, testing methods and procedures to assure that such evidence is reliable. Medical evidence (i) that is of a kind shown to have been received in evidence by a state or federal judge at trial, (ii) that is consistent with evidence submitted to USG to settle for payment similar disease cases prior to USG's bankruptcy, or (iii) that is a diagnosis by a physician shown to have previously qualified as a medical expert with respect to the asbestos-related disease in question before a state or federal judge, is presumptively reliable, although the PI Trust may seek to rebut the presumption. In addition, claimants who otherwise meet the requirements of this TDP for payment of a PI Trust Claim shall be paid irrespective of the results in any litigation at any time between the claimant and any other defendant in the tort system. However, any relevant evidence submitted in a proceeding in the tort system, other than any findings of fact, a verdict, or a judgment, involving another defendant may be introduced by either the claimant or the PI Trust in any Individual Review proceeding conducted pursuant to 5.3(b) or any Extraordinary Claim proceeding conducted pursuant to 5.4(a).

5.7(b) Exposure Evidence.

5.7(b)(1) In General. As set forth above in Section 5.3(a)(3), to qualify for any Disease Level, the claimant must demonstrate a minimum exposure to an asbestos-containing product manufactured, produced or distributed by USG or A.P. Green (prior to January 2, 1968) or to conduct for which USG or A.P. Green (prior to January 2, 1968) has legal responsibility. Claims based on conspiracy theories that involve no exposure to an asbestos-containing product manufactured, produced or distributed by USG or A.P. Green are not compensable under this TDP. To meet the presumptive exposure requirements of Expedited Review set forth in Section 5.3(a)(3) above, the claimant must show (i) for all Disease Levels, USG/A.P. Green Exposure as defined in Section 5.7(b)(3) below prior to December 31, 1982 (in the case of USG) and January 2, 1968 (in the case of A.P. Green); (ii) for Asbestos/Pleural Disease Level II, six (6) months USG/A.P. Green Exposure prior to December 31, 1982 (in the case of USG) and January 2, 1968 (in the case of A.P. Green), plus five 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 USG/A.P. Green Exposure prior to December 31, 1982 (in the case of USG) and January 2, 1968 (in the case of A.P. Green), plus Significant Occupational Exposure to asbestos. If the claimant cannot meet the relevant presumptive exposure requirements for a Disease Level eligible for Expedited Review, the claimant may seek Individual Review pursuant to Section 5.3(b) of his or her claim based on exposure to an asbestos-containing product or to conduct for which USG or A.P. Green (prior to January 2, 1968) has legal responsibility.

5.7(b)(2) Significant Occupational Exposure. “Significant

Occupational Exposure” means employment for a cumulative period of at least five years with a minimum of two 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) USG/A.P. Green Exposure. The claimant must demonstrate

(i) 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 USG and/or any entity, including a USG contracting unit, for which USG has legal responsibility or (ii) meaningful and credible exposure, which occurred prior to January 2, 1968, to asbestos or asbestos-containing products supplied, specified, manufactured, installed, maintained, or repaired by A.P. Green and/or any entity, including an A.P. Green contracting unit, for which A.P. Green has legal responsibility (“**USG/A.P. Green Exposure**”).¹⁰ That meaningful and credible exposure evidence may be established by an affidavit or sworn statement of the claimant, by an affidavit or sworn statement of a co-worker or the affidavit or sworn statement of a family member in the case of a deceased claimant (providing the PI Trust

¹⁰ If a claimant's alleged exposure to A.P. Green asbestos or asbestos-containing products occurred only on or after January 2, 1968, but the claimant believes the claim qualifies as a PI Trust Claim because legal responsibility for the exposure arose prior to that date, the claimant must submit his or her PI Trust Claim for Individual Review on this issue pursuant to Section 5.3(b) above.

finds such evidence reasonably reliable), by invoices, employment, construction or similar records, or by other credible evidence. The specific exposure information required by the PI Trust to process a claim under either Expedited or Individual Review shall be set forth on the proof of claim form to be used by the PI Trust. The PI Trust can also require submission of other or additional evidence of exposure when it deems such to be necessary.

5.8 Claims Audit Program. The PI Trust, with the consent of the TAC and the Futures Representative, may develop methods for auditing the reliability of medical evidence, including additional reading of X-rays, CT scans and verification of pulmonary function tests, as well as the reliability of evidence of exposure to asbestos, including exposure to asbestos-containing products manufactured or distributed by USG prior to December 31, 1982 or A.P. Green prior to January 2, 1968. In the event that the PI Trust reasonably determines that any individual or entity has engaged in a pattern or practice of providing unreliable medical evidence to the PI 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 PI Trust, the PI Trust may penalize any claimant or claimant's attorney by disallowing the PI Trust Claim or by other means including, but not limited to, requiring the source of the fraudulent information to pay the costs associated with the audit and any future audit or audits, reordering the priority of payment of all affected claimants' PI Trust Claims, raising the level of scrutiny of additional information submitted from the same source or sources, refusing to accept additional evidence from the same source or sources, seeking the prosecution of the claimant or claimant's attorney for presenting a fraudulent claim in violation of 18 U.S.C. § 152, and seeking sanctions from the Bankruptcy Court.

5.9 Second Disease (Malignancy) Claims. Notwithstanding the provisions of Section 2.1 that a claimant may not assert more than one PI Trust Claim hereunder, the holder of a PI Trust Claim involving a non-malignant asbestos-related disease (Disease Levels I–IV) may assert a new PI Trust Claim against the PI 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 non-malignant asbestos-related disease, provided that the malignant disease had not been diagnosed by the time the claimant was paid with respect to the original claim involving the non-malignant disease.

5.10 Arbitration.

5.10(a) Establishment of ADR Procedures. The PI Trust, with the consent of the TAC and the Futures Representative, shall institute binding and non-binding arbitration procedures in accordance with the Alternative Dispute Resolution (“**ADR**”) Procedures included in Attachment A hereto for resolving disputes concerning whether a Pre-Petition settlement agreement with USG is binding and judicially enforceable in the absence of a Final Order of the Bankruptcy Court determining the issue, whether the PI Trust’s outright rejection or denial of a claim was proper, or whether the claimant’s medical condition or exposure history meets the requirements of this TDP for purposes of categorizing a claim involving Disease Levels I–VIII. Binding and non-binding arbitration shall also be available for resolving disputes over the liquidated value of a claim involving Disease Levels IV–VIII, as well as disputes over USG’s share of the unpaid portion of a Pre-Petition Liquidated PI Trust Claim described in Section 5.2 above and disputes over the validity of an Indirect PI Trust Claim.

In all arbitrations, the arbitrator shall consider the same medical and exposure evidentiary requirements that are set forth in Section 5.7 above. In the case of an arbitration involving the liquidated value of a claim involving Disease Levels IV–VIII, the arbitrator shall consider the same valuation factors that are set forth in Section 5.3(b)(2) above. With respect to all claims eligible for arbitration, the claimant, but not the PI Trust, may elect either non-binding or binding arbitration. The ADR Procedures set forth in Attachment A hereto may be modified by the PI Trust with the consent of the TAC and the Futures Representative.

5.10(b) Claims Eligible for Arbitration. In order to be eligible for arbitration, the claimant must first complete the Individual Review Process with respect to the disputed issue as well as either the Pro Bono Evaluation or the Mediation processes set forth in the ADR Procedures. Individual Review shall be treated as completed for these purposes when the claim has been individually reviewed by the PI Trust, the PI 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 PI Trust of the rejection in writing. Individual Review shall also be treated as completed if the PI Trust has rejected the claim.

5.10(c) Limitations on and Payment of Arbitration Awards. In the case of a non-Extraordinary claim involving Disease Levels I–III, the arbitrator shall not return an award in excess of the Scheduled Value for such claim. In the case of a non-Extraordinary Claim involving Disease Levels IV–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 Claim involving one of those Disease Levels, the arbitrator shall not return an award greater than the maximum value for such a claim as set forth in Section 5.4(a) above. A claimant who submits

to arbitration and who accepts the arbitral award shall receive payments in the same manner as one who accepts the PI Trust's original valuation of the claim.

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

SECTION VI

Claims Materials

6.1 Claims Materials. The PI Trust shall prepare suitable and efficient claims materials ("**Claims Materials**") for all PI Trust Claims, and shall provide such Claims Materials upon a written request for such materials to the PI Trust. The proof of claim form to be submitted to the PI 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 PI Trust shall make every effort to provide claimants with the opportunity to utilize currently available technology at their discretion, including filing claims and supporting documentation over the internet and electronically by disk or CD-rom. The proof of claim form to be used by the Trust shall be developed by the TAC and submitted to the Trust and the Futures Representatives for approval; it may be changed by the PI Trust with the consent of the TAC and the Futures Representative.

6.2 Content of Claims Materials. The Claims Materials shall include a copy of this TDP, such instructions as the Trustees shall approve, and a detailed proof of claim form. If feasible, the forms used by the PI Trust to obtain claims information shall be the same or substantially similar to those used by other asbestos claims resolution organizations. Instead of collecting some or all of the claims information from a claimant or the claimant's attorney, the PI Trust may also obtain such information from electronic data bases maintained by any other asbestos claims resolution organization. However, the PI Trust shall inform the claimant that it plans to obtain information as available from such other organizations and may do so unless the claimant objects in writing or provides such information directly to the PI Trust. If requested by the claimant, the PI Trust shall accept information provided electronically. The claimant may, but shall not be required to, provide the PI Trust with evidence of recovery from other asbestos defendants and claims resolution organizations.

6.3 Withdrawal or Deferral of Claims. A claimant can withdraw a PI Trust Claim at any time upon written notice to the PI Trust and file another claim subsequently without affecting the status of the claim for statute of limitations purposes, but any such claim filed after withdrawal shall be given a place in the FIFO Processing Queue based on the date of such subsequent filing. A claimant can also request that the processing of his or her PI Trust Claim by the PI 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, interest on such claimant's PI Trust Claim as provided in Section 7.5 hereunder shall not accrue and payment thereof shall be deemed waived by the claimant. Except for PI Trust Claims held by representatives of deceased or incompetent claimants for which court or probate approval of the

PI Trust's offer is required, or a PI Trust Claim for which deferral status has been granted, a claim shall be deemed to have been withdrawn if the claimant neither accepts, rejects, nor initiates arbitration within six (6) months of the PI Trust's written offer of payment or rejection of the claim. Upon written request and good cause, the PI Trust may extend the withdrawal or deferral period for an additional six (6) months.

6.4 Filing Requirements and Fees. The Trustees shall have the discretion to determine, with the consent of the TAC and the Futures Representative, (a) whether a claimant must have previously filed an asbestos-related personal injury claim in the tort system to be eligible to file the claim with the PI Trust and (b) whether a filing fee should be required for any PI Trust Claims.

6.5 Confidentiality of Claimants' Submissions. All submissions to the PI Trust by a holder of a PI 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 PI 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 PI 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) and/or section 105 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. Furthermore, the PI Trust shall provide counsel for the holder a copy of any such subpoena immediately upon being served. The PI Trust shall on its own initiative or upon request of the claimant in question

take all necessary and appropriate steps to preserve said privileges before the Bankruptcy Court and before those courts having appellate jurisdiction related thereto.

SECTION VII

General Guidelines for Liquidating and Paying Claims

7.1 Showing Required. To establish a valid PI Trust Claim, a claimant must meet the requirements set forth in this TDP. The PI 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 PI Trust Claim, and may further require that medical evidence submitted comply with recognized medical standards regarding equipment, testing methods, and procedures to assure that such evidence is reliable.

7.2 Costs Considered. Notwithstanding any provisions of this TDP to the contrary, the Trustees shall always give appropriate consideration to the cost of investigating and uncovering invalid PI Trust Claims so that the payment of valid PI Trust Claims is not further impaired by such processes with respect to issues related to the validity of the medical evidence supporting a PI Trust Claim. The Trustees shall also have the latitude to make judgments regarding the amount of transaction costs to be expended by the PI Trust so that valid PI 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 claim against the PI 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 FIFO Processing and

Liquidation Queues, the Maximum Annual Payment, the Maximum Available Payment and the Claims Payment Ratio requirements set forth above, the Trustees shall proceed as quickly as possible to liquidate valid PI Trust Claims, and shall make payments to holders of such claims in accordance with this TDP promptly as funds become available and as claims are liquidated, while maintaining sufficient resources to pay future valid claims in substantially the same manner.

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

In the event that the PI Trust faces temporary periods of limited liquidity, the Trustees may, with the consent of the TAC and the Futures Representative, suspend the normal order of payment and may temporarily limit or suspend payments altogether, and may offer a Reduced Payment Option as described in Section 2.5 above.

7.4 Punitive Damages. Except as provided below for claims asserted under the Alabama Wrongful Death Statute, in determining the value of any liquidated or unliquidated PI Trust 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 shall be payable with respect to any claim litigated against the PI Trust in the tort system pursuant to Sections 5.11 above and 7.6 below.

The only damages that may be awarded pursuant to this TDP to Alabama Claimants who are deceased and whose personal representatives pursue their claims only under the Alabama Wrongful Death Statute shall be compensatory damages determined pursuant to the statutory and common law of the Commonwealth of Pennsylvania, without regard to its choice of law principles. The choice of law provision in 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(b)(2) is determined to be the Alabama Wrongful Death Statute, shall only govern the rights between the PI Trust and the claimant including, but not limited to, suits in the tort system pursuant to Section 7.6, and to the extent the PI Trust seeks recovery from any entity that provided insurance to USG, the Alabama Wrongful Death Statute shall govern.

7.5 Interest.

7.5(a) In General. Except for any PI Trust Claim involving Other Asbestos Disease (Disease Level I – Cash Discount Payment) and subject to the limitations set forth below, interest shall be paid on all PI Trust Claims with respect to which the claimant has had to wait a year or more for payment, provided, however, that no claimant shall receive interest for a period in excess of seven (7) years. The interest rate for each year shall be the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the first auction of 5-year Treasury Notes occurring in such year.

7.5(b) Unliquidated PI Trust Claims. Interest shall be payable on the Scheduled Value of any unliquidated PI Trust Claim that meets the requirements of Disease Levels II–V, VII and VIII, whether the claim is liquidated under Expedited Review, Individual Review, or by arbitration. No interest shall be paid on any claim involving Disease Level I or on

any claim liquidated in the tort system pursuant to Section 5.11 above and Section 7.6 below. Interest on an unliquidated PI Trust Claim that meets the requirements of Disease Level VI shall be based on the Average Value of such a claim. Interest on all such unliquidated claims shall be measured from the date of payment back to the earliest of the date that is one year after the date on which (a) the claim was filed against USG or A.P. Green prior to the Petition Date; (b) the claim was filed against another defendant in the tort system on or after the Petition Date but before the Effective Date; (c) the claim was filed with the Bankruptcy Court during the pendency of the Chapter 11 proceeding if the claim was filed prior to January 30, 2006; or (d) the claim was filed with the PI Trust after the Effective Date.

7.5(c) Liquidated Pre-Petition Claims. Interest shall also be payable on the liquidated value of all Pre-Petition Liquidated Claims described in Section 5.2(a) above. In the case of Pre-Petition Liquidated Claims liquidated by verdict or judgment, interest shall be measured from the date of payment back to the date that is one 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, interest shall be measured from the date of payment back to the date that is one year after the Petition Date.

7.6 Suits in the Tort System. If the holder of a disputed claim disagrees with the PI 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(b)(2) above. Any such lawsuit must be filed by the claimant in her 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 PI Trust, all defenses which could have been asserted by USG or A.P. Green) shall be available to both sides at trial; however, the PI Trust may waive any defense and/or concede any issue of fact or law. If the claimant was alive at the time the initial pre-petition complaint was filed or on the date the proof of claim form was filed with the PI Trust, the case shall be treated as a personal injury case with all personal injury damages to be considered even if the claimant has died during the pendency of the claim.

7.7 Payment of Judgments for Money Damages. If and when a claimant obtains a judgment in the tort system, the claim shall be placed in the FIFO Payment Queue based on the date on which the judgment became final. Thereafter, the claimant shall receive from the PI Trust 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 the greater of (i) the PI 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 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 above in effect on the date of the payment of the subject installment).

In the case of non-Extraordinary claims involving Disease Levels I, II and III, the total amounts paid with respect to such claims shall not exceed the relevant Scheduled Value for such Disease Levels as set forth in Section 5.3(b)(3) above. In the case of claims involving a non-malignant asbestos-related disease that does not attain classification under Disease Levels I, II or III, the amount payable shall not exceed the Scheduled Value for the Disease Level most comparable to the disease proven. In the case of non-Extraordinary claims involving severe asbestosis and malignancies (Disease Levels IV–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(b)(3). In the case of Extraordinary 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 interest be paid pursuant to Section 7.5 or under any statute on any judgments obtained in the tort system.

7.8 Releases. The Trustees shall have the discretion to determine the form and substance of the releases to be provided to the PI 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 PI Trust, which releases shall be reasonably acceptable in form and substance to the Reorganized Debtors. As a condition to making any payment to a claimant, the PI Trust shall obtain a general, partial, or limited release reasonably acceptable in form and substance to the Reorganized Debtors as appropriate in accordance with the applicable state or other law. If allowed by state law, the endorsing of a check or draft for payment by or on behalf of a claimant may, in the discretion of the PI Trust, constitute such a release. The form of release included as Attachment B hereto is acceptable to the Reorganized Debtors. In no event shall the form of release extend to any parties other than the PI Trust, the Debtors, the Debtors' Estates and the Reorganized Debtors.

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

7.10 PI Trust Disclosure of Information. Periodically, but not less often than once a year, the PI Trust shall make available to claimants and other interested parties, the number of claims by Disease Levels that have been resolved both by the Individual Review Process and by arbitration as well as by litigation in the tort system 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, the Trustees may amend, modify, delete, or add to any provisions of this TDP (including, without limitation, amendments to conform this TDP to advances in scientific or medical knowledge or other changes in circumstances), provided they first obtain the consent of the TAC and the Futures Representative pursuant to the Consent Process set forth in Sections 5.7(b) and 6.6(b) of the PI Trust Agreement, except 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. Nothing herein is intended to preclude the TAC or the Futures Representatives from proposing to the Trustees, in writing, amendments to this TDP. Any amendment proposed by the TAC or the Futures Representatives shall remain subject to Section 7.3 of the PI Trust Agreement. Notwithstanding anything contained in this TDP to the contrary, neither this TDP nor any document annexed to this TDP shall be modified or amended in any way that could: (a) alter this Section 8.1; (b) jeopardize, impair, or modify the applicability of section 524(g) of the Bankruptcy Code to the Plan and the Confirmation Order, the efficacy or enforceability of the injunction entered thereunder, or the PI Trust's qualified settlement fund

status under the QSF Regulations; or (c) otherwise adversely affect the rights of the Reorganized Debtors under Sections 5.3(a)(2), 7.8 or 8.1 of this TDP.

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

8.3 Governing Law. Except for purposes of determining the liquidated value of any PI Trust Claim, administration of this TDP shall be governed by, and construed in accordance with, the laws of the State of Delaware. The law governing the liquidation of PI Trust Claims in the case of Individual Review, arbitration or litigation in the tort system shall be the law of the Claimant's Jurisdiction as described in Section 5.3(b)(2) above.

ATTACHMENT A

**UNITED STATES GYPSUM
ASBESTOS PERSONAL INJURY SETTLEMENT TRUST
ALTERNATIVE DISPUTE RESOLUTION PROCEDURES**

UNITED STATES GYPSUM ASBESTOS PERSONAL INJURY SETTLEMENT TRUST

ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

Pursuant to Section 5.10 of the United States Gypsum Asbestos Personal Injury Settlement Trust Distribution Procedures (the “TDP”), the United States Gypsum Asbestos Personal Injury Settlement Trust (the “PI Trust”) hereby establishes the following alternative dispute resolution (“ADR”) procedures. All capitalized terms herein shall be as defined and/or referenced within the TDP.

I. OVERVIEW

The PI Trust shall appoint a Private Adjudication Center, at the cost of the PI Trust, to administer the ADR proceedings. To initiate these procedures, the claimant must make a written request to the PI Trust. Within twenty (20) days of a claimant’s request for ADR, the PI Trust will send the claimant an ADR packet containing the documents necessary to pursue the ADR process. The ADR procedures shall not be construed as imparting to any claimant any substantive or procedural rights beyond those conferred by the TDP.

The ADR process available to the claimant includes both non-binding and binding elements. In addition, there are mandatory as well as voluntary options that can/will be utilized by the claimant and the PI Trust in proceeding toward settlement. As a general matter, the ADR procedures must be pursued by claimants on an individual basis. As a general matter, claims of different claimants cannot be grouped together even if the claimants are represented by the same counsel, unless the PI Trust, in its sole discretion, decides it would be expeditious to conduct ADR proceedings with respect to more than one claim involving differently exposed claimants with those claimants’ representative. In such a case, however, the arbitrator, mediator or other neutral party must individually value each such claim using the valuation factors set forth in Section 5.3(b)(2) of the TDP, and the claimants’ positions in the PI Trust’s FIFO Processing and Payment Queues must be separately maintained. The requisite steps in the process are as follows, in order:

Mandatory ADR Proceedings (Two Stages)

Stage One (Claimant Must Select One):

1. Pro Bono Evaluation
2. Mediation

Stage Two: Arbitration (Binding or Non-Binding)

Initiation of ADR

Within twenty (20) days of a claimant's request for ADR, the PI Trust will send the claimant an ADR packet containing a copy of these procedures and the following:

1. A Summary Outline of the ADR procedures with the time limits identified;
2. Form Affidavit of Completeness;
3. Election Form for Pro Bono Evaluation;
4. Request for Mediation Form;
5. Election Form and Agreement to submit to Binding Arbitration; and
6. Election Form and Agreement to submit to Non-binding Arbitration.

A claimant who wishes to proceed through the ADR process must engage in one of the two ADR options (pro bono evaluation or mediation) before any form of arbitration. Only after either party rejects a non-binding arbitration award, may a claimant proceed to then commence a lawsuit in the tort system. It is the claimant's responsibility to comply with the ADR time deadlines. Although the deadlines may be extended by agreement or for cause shown, failure to comply with a deadline without obtaining an extension may result in withdrawal of the claim. Promptly after a claimant fails to comply with a specified deadline without obtaining an extension, the PI Trust shall send the claimant written notice of the failure to comply. If the claimant does not take any action on the claim, then thirty (30) days thereafter the claim will be deemed withdrawn under Section 6.3 of the TDP.

If the claimant requests arbitration, either binding or non-binding, then the PI Trust shall execute the appropriate election form and agreement. If the claimant requests binding arbitration, then the claimant and the PI Trust waive their respective rights to seek a jury trial as set forth in the TDP upon execution of the Agreement for Binding Arbitration.

If either party rejects a non-binding arbitration award, and the claimant has otherwise complied with the requirements of these ADR/Arbitration procedures and the Plan, then the claimant may commence a lawsuit against the PI Trust in the Claimant's Jurisdiction as that term is defined in Section 5.3(b)(2) of the TDP.

II. ADR PROCEEDINGS SUMMARY

A. Showing Required

As set forth in the TDP, in order to establish a valid PI Trust Claim, a claimant must among other things make a demonstration of exposure to USG and/or A.P. Green asbestos-containing products.

B. Pro Bono Evaluation

This ADR alternative consists of an evaluation of the claim by an evaluator selected from a pro bono panel. The panel shall be comprised of asbestos litigation attorneys as mutually agreed upon between the PI Trust Advisory Committee (the “TAC”) and the Trustees. The TAC will be provided, on a quarterly basis, with a list of the pro bono panelists. Each evaluation will have a pro bono evaluator randomly selected by the Private Adjudication Center from the list of pro bono panelists. Within fifteen (15) days of the claimant’s request for the pro bono evaluation, the individual pro bono evaluator shall be randomly chosen from the approved panel.

A pro bono evaluation will be done by document submission. The identity of the pro bono evaluator will not be disclosed to the claimant and the claimant’s attorney. The PI Trust encourages identification of and not anonymity as to the alleged injured party so that medical records can be transmitted in their original form. The Private Adjudication Center will communicate to the parties the pro bono evaluator’s written evaluation. The parties will communicate their respective rejection or acceptance of settlement upon the terms of the written evaluation. If either or both parties reject settlement upon those terms, then the claimant may submit an Election Form and Agreement for Binding or Non-binding Arbitration.

C. Mediation

The claimant may request telephone mediation as an ADR alternative. This process will require detailed written submissions to familiarize the mediator with the respective positions. The PI Trust shall establish and maintain a list of qualified regional mediators compensated by the PI Trust. The Private Adjudication Center shall select a qualified mediator from the list based upon location of claimant within fifteen (15) days after receipt of the Request for Mediation Form signed by the claimant and the PI Trust.

Claims shall be handled by each mediator in the order received by him or her, to the extent practicable. Any party may be represented by legal counsel. The mediator shall review the claim and the positions of the parties, such information as the parties may wish to submit as to a fair and equitable settlement, and all documents and medical reports relevant to the claim as submitted by the parties. At least five (5) business days prior to the mediation conference, claimant and the PI Trust shall each submit to the mediator a detailed written submission consisting of a confidential statement outlining the claimant’s medical condition, exposure to USG and/or A.P. Green products and each party’s detailed position on overall claim value.

The mediator shall confer with the parties and/or their legal representatives, individually and jointly. Such conference shall be conducted by telephone unless

both parties agree otherwise. A representative of the PI Trust with settlement authority must participate in the conference. The mediator may request, but not require, that the claimant personally participate in the conference. Such conference shall be in the nature of a settlement conference. The mediator shall work with both sides toward reaching an acceptable, reasonable settlement. The mediator does not have the authority to impose a settlement on the parties. Ten (10) days after the conclusion of the mediation, if the parties have not settled the matter, the claimant may submit to the PI Trust an Election Form and Agreement for Binding or Non-binding Arbitration.

D. Binding and Non-binding Arbitration Procedures

Upon completion of either pro bono evaluation or mediation, the claimant may request non-binding and/or binding arbitration. Binding arbitration will be conducted in the “final offer” format also known as “baseball style” arbitration. If the claim is arbitrated in either the binding or non-binding format, then the arbitrator shall return an award no greater than the Maximum Value for the category in which the claim properly falls in the Tables set forth in the TDP, unless the Extraordinary Claims Panel has previously determined that the claim should receive extraordinary claim treatment. In that case, the arbitrator shall return an award no greater than the Maximum Value for such claim as set forth in Section 5.4(a) of the TDP.

If the claimant requests arbitration, either binding or non-binding, then the PI Trust shall execute the appropriate Election Form and Agreement. The PI Trust may not decline the claimant’s election of either binding or non-binding arbitration, but reserves all rights to reject any award in a non-binding arbitration proceeding. If the parties agree to engage in binding arbitration, then the claimant and the PI Trust waive their respective rights to seek a jury trial as set forth in the TDP.

III. RULES GOVERNING PRO BONO EVALUATION AND MEDIATION

Within ninety (90) days of a claimant’s receipt of the ADR packet from the PI Trust, the claimant must elect one of the two ADR procedures and return the appropriate form to the PI Trust along with an executed Affidavit of Completeness.

A. Rules Governing Pro Bono Evaluation

1. Election and Time Limits

- a. If the claimant chooses pro bono evaluation, then within ninety (90) days of claimant’s receipt of the ADR packet, the claimant must send the PI Trust the Election Form for Pro Bono Evaluation. (See Attachment A). The claimant or his/her attorney shall personally sign the Election Form for Pro Bono Evaluation.

- b. The claimant must also sign an Affidavit of Completeness (See Attachment B) and return it to the PI Trust with a copy to the Private Adjudication Center within ninety (90) days of receipt of the ADR packet. The claim will not proceed until the PI Trust has received a completed Election Form and Affidavit of Completeness from the claimant. The Affidavit of Completeness shall verify that all information to be considered in the ADR process has been provided to the PI Trust while the claim was under review by the PI Trust.
- c. After receiving the signed Election Form and Affidavit of Completeness, the PI Trust shall review and sign the Election Form within five (5) business days of receipt.
- d. Within fifteen (15) days from the date the PI Trust notifies the claimant's counsel of the PI Trust's consent to the Election Form, the PI Trust shall send a copy of the signed Election Form, the Affidavit of Completeness together with complete copies of all materials submitted to the PI Trust by the claimant and factual information in the PI Trust file, if any, gathered by the PI Trust from other sources, and a completed Affidavit of Accuracy to the claimant's counsel and the Private Adjudication Center who will forward the materials to the selected pro bono evaluator at the time the evaluator is selected. The PI Trust may not send the Private Adjudication Center any materials in the PI Trust file that have not previously been provided to the claimant.

2. Selection of the Pro Bono Evaluator

Within fifteen (15) days of the date the Private Adjudication Center receives the claimant's election agreement, the Private Adjudication Center shall randomly select the pro bono evaluator from the list of pro bono panelists and notify the parties that the evaluator has been designated without disclosing the identity of the evaluator. The pro bono evaluator shall be selected from a panel of asbestos litigation plaintiff attorneys who have volunteered to serve the PI Trust at the request of the TAC. Pro bono assignments will be made on a rotating basis.

The identity of the pro bono evaluator shall not be disclosed to the claimant and the claimant's attorney. The injured party should not be anonymous so that medical records can be transmitted in their original form.

3. Submission of Written Arguments

Fifteen (15) days after the PI Trust sends the complete file materials to the Private Adjudication Center, the claimant and the PI Trust shall simultaneously exchange and submit written arguments to the Private Adjudication Center. The Private Adjudication Center will immediately forward the written arguments to the pro bono evaluator. The written arguments shall comply with the following rules:

- a. The argument shall not exceed ten (10) double spaced typewritten pages. In order to preserve anonymity in a pro bono evaluation, the name of counsel should not be mentioned. The argument may not introduce factual matter not contained in the documents in the PI Trust's file. The evaluator shall disregard any argument that does not comply with this rule.
- b. When a party fails to submit the written argument within the fifteen (15) days, the party waives written argument and the pro bono evaluator shall disregard any argument received after that time.

4. Evaluation of Documents

The pro bono evaluation is only a document review with complete anonymity preserved between claimant's counsel and the pro bono evaluator. The documents that the pro bono evaluator may consider shall be limited to the following:

- a. The documents in PI Trust's file forwarded to the pro bono evaluator.
- b. The claimant's Affidavit of Completeness and the PI Trust's Affidavit of Accuracy.
- c. The written arguments of the claimant and the PI Trust that comply with the rules for written arguments set forth above.
- d. Before the Private Adjudication Center forwards any documents to the pro bono evaluator it will redact all references to claimant's counsel.

5. Written Evaluation and Procedure for Acceptance/Rejection

Within fifteen (15) days after the submission of written arguments, the pro bono evaluator shall submit a written evaluation of the claim to the Private Adjudication Center who will promptly mail it to the parties.

Within fifteen (15) days after receipt of the pro bono evaluator's written evaluation, the claimant and the PI Trust will each communicate in writing to the Private Adjudication Center whether they will accept the amount of the pro bono evaluator's written evaluation to settle the claim. If both parties accept, then the Private Adjudication Center will immediately inform both parties that they have achieved a settlement and the PI Trust shall pay the claim pursuant to the TDP. If either or both parties reject the pro bono evaluator's written evaluation, then within five (5) business days of receipt of both parties' written communication, the Private Adjudication Center shall send each party a notice of rejection of pro bono evaluator's written evaluation that will not indicate whether the opposing party has accepted or rejected the pro bono evaluator's written evaluation amount.

6. Arbitration May Proceed After Rejection of Pro Bono Evaluator's Written Evaluation

Within sixty (60) days after receipt of the notice of rejection of pro bono evaluator's written evaluation, the claimant may request arbitration by returning to the PI Trust a signed Election Form and Agreement for either Binding or Non-binding Arbitration.

B. Rules Governing Mediation

1. Election

If the claimant chooses mediation, then the claimant shall submit to the PI Trust a signed Request for Mediation Form (Attachment C) along with an executed Affidavit of Completeness within ninety (90) days of claimant's receipt of the ADR packet. Within five (5) business days of the PI Trust's receipt of the signed Request for Mediation Form, the PI Trust shall review and sign the form and forward a signed copy along with an executed Affidavit of Accuracy to the claimant and the Private Adjudication Center.

2. Selection of Mediator

Within fifteen (15) days of the signed Request for Mediation Form, the Private Adjudication Center shall retain a mediator from the approved list of mediators. The Private Adjudication Center shall select the mediator based upon the region in which the claimant is located. The mediator

shall be compensated by the PI Trust. The Private Adjudication Center shall schedule a mediation conference within sixty (60) days after receipt of the signed Request for Mediation Form. The mediation will be conducted by telephone conference unless the parties agree otherwise. Scheduling of the conference shall be coordinated with the mediator and the conferences shall take place in the order received by the mediator, to the extent practicable.

3. Submission of Materials to Mediator

At least five (5) business days prior to the mediation conference, the claimant and the PI Trust shall each submit to the mediator a detailed written submission consisting of a confidential statement outlining the claimant's medical condition, exposure to USG and/or A.P. Green products, and each party's position on overall claim value. The parties may also submit to the mediator documents and medical reports that they believe are relevant to the claim. The mediator shall review the claim and the positions of the parties and the other information that the parties submit prior to the mediation conference. The mediation briefs shall comply with the following rules:

- a. The confidential statement should not exceed ten (10) double spaced typewritten pages exclusive of attachments.
- b. The submission may not introduce factual matter not contained in the documents in the PI Trust's file as certified by the Affidavit of Completeness.

4. Mediation Conference

Any party may be represented by legal counsel at the mediation conference. The mediator shall confer with the parties' legal representatives and, if the claimant is present and consents, with the claimant. A representative of the PI Trust with settlement authority must participate in the conference. The mediator may request, but not require, that the claimant personally participate in the conference.

5. Negotiations at the Mediation Conference

The mediator may facilitate settlement in any manner the mediator believes is appropriate. The mediator will help the parties focus on their underlying interests, explore resolution alternatives and develop settlement options. The mediator will decide when to hold joint conferences, and when to confer separately with each party.

The parties are expected to initiate and convey to the mediator proposals for settlement. Each party shall provide a rationale for any settlement

terms proposed. Finally, if the parties fail to develop mutually acceptable settlement terms, before terminating the procedure, and only with the consent of the parties, (a) the mediator may submit to the parties a final settlement proposal; and (b) if the mediator believes he/she is qualified to do so, the mediator may give the parties an evaluation (which if all parties choose, and the mediator agrees, may be in writing) of the likely outcome of the case if it were tried to final judgment, subject to any limitations under the Plan, the TDP and ethical codes.

6. Confidentiality of Mediation

The entire mediation process is confidential. Unless agreed among all the parties or required to do so by law, the parties and the mediator shall not disclose to any person who is not associated with participants in the process, including any judicial officer, any information regarding the process (including pre-process exchanges and agreements), contents (including written and oral information), settlement terms or outcome of the proceeding.

Under this procedure, the entire process is a compromise negotiation subject to Federal Rule of Evidence 408 and all state counterparts, together with any applicable statute protecting the confidentiality of mediation. All offers, promises, conduct and statements, whether oral or written, made in the course of the proceeding by any of the parties, their agents, employees, experts and attorneys, and by the mediator are confidential.

Such offers, promises, conduct and statements are privileged under any applicable mediation privilege and are inadmissible and not discoverable for any purpose, including impeachment, in litigation between the parties. However, any written or oral information or other materials submitted to the mediator by either the PI Trust or the claimant may be submitted by either party to the arbitrator in an arbitration that takes place under these ADR procedures.

In addition, evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable solely as a result of its presentation or use during the mediation. The exchange of any tangible material shall be without prejudice to any claim that such material is privileged or protected as work-product within the meaning of Federal Rule of Civil Procedure 26 and all state and local counterparts.

The mediator and any documents and information in the mediator's possession will not be subpoenaed in any such investigation, action or proceeding, and all parties will oppose any effort to have the mediator or documents subpoenaed. The mediator will promptly advise the parties of

any attempt to compel him/her to divulge information received in mediation.

7. Submission of Written Offers After Mediation

At the conclusion of the mediation, the mediator shall require the parties to exchange written settlement offers that shall remain open for ten (10) days. If after the expiration of that ten (10) day period neither party accepts the other's written offer or the parties do not otherwise settle the matter, then the claimant may request binding or non-binding arbitration by sending to the PI Trust the appropriate signed Election Form and Agreement for either Binding or Non-binding Arbitration.

IV. RULES GOVERNING NON-BINDING AND BINDING ARBITRATION

A. Election by the Claimant

The PI Trust shall review the Election Form and Agreement for Binding or Non-binding Arbitration (Attachments D and E) and within five (5) business days of receipt the PI Trust shall sign the Agreement and shall immediately send a fully signed Arbitration Agreement to the Private Adjudication Center.

B. Selection of the Arbitrator

1. As soon as reasonably possible after the receipt of the signed Arbitration Agreement, but no more than fifteen (15) days after the receipt of the signed Arbitration Agreement, the Private Adjudication Center shall select three potential arbitrators from a rotating list kept by the Private Adjudication Center. Assignments of arbitrators will be made on a rotating basis nationally, by the Private Adjudication Center. The Private Adjudication Center shall promptly notify the arbitrators and the parties of the potential arbitrators' selection. If a potential arbitrator is unable or unwilling to serve, then a replacement selection will be made prior to notifying the PI Trust and the claimant of the potential arbitrators selected.
2. Within seven (7) days of receipt of the list of potential arbitrators, the PI Trust may select, and identify to the Private Adjudication Center, one potential arbitrator to be stricken from the list. The Private Adjudication Center shall then promptly notify the claimant of the PI Trust's selection, whereupon, within seven (7) days of the receipt of such notification, the claimant may select, and identify to the Private Adjudication Center, a second potential arbitrator to be stricken from the list. The Private Adjudication Center shall then notify all parties which potential arbitrator remains and will conduct the arbitration. If either the PI Trust or the claimant, or both, fails to exercise the right to strike an arbitrator from the list of potential arbitrators, the Private Adjudication Center shall appoint

from those potential arbitrators remaining the arbitrator next in rotation on the PI Trust's rotating list.

3. Any appointed arbitrator shall disclose to the Private Adjudication Center any circumstances likely to affect impartiality, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or representatives. Upon receipt of such information from the arbitrator or another source, the Private Adjudication Center shall communicate the information to the parties and, if the administrator deems necessary, to the arbitrator and others. Upon objection of a party to the continued service, the Private Adjudication Center shall determine whether the arbitrator should be disqualified and shall inform the parties of the decision, which shall be final.

C. Extraordinary Claims and Those Reviewed by the Extraordinary Claims Panel

In the event that the Extraordinary Claims Panel has deemed the claim worthy of extraordinary treatment, the Private Adjudication Center shall forward to the arbitrator the written decision of the Extraordinary Claims Panel, and the parties may submit a final request that exceeds the values ascribed to the type of injury in the TDP. In such circumstances, the arbitrator may issue an award in accordance with such a final offer/request.

In the event that the Extraordinary Claims Panel declined to give extraordinary treatment to the claim, the arbitrator shall not be informed of the Extraordinary Claims Panel's decision, and the claimant must confine his/her award to the values ascribed to the type of injury in the TDP because the arbitrator may not award an amount in excess of the Maximum Value assigned to the appropriate category for the injury in the TDP. The PI Trust will not engage in non-binding or binding arbitration, and reserves the unilateral right to withdraw from a signed non-binding or binding arbitration agreement at any time, where the claimant's final offer and award demand exceeds the Maximum Value assigned to the type of injury in the TDP and the Extraordinary Claims Panel has declined to give extraordinary treatment to the claim.

D. Final Offer or "Baseball Style" Binding Arbitration

All binding arbitration shall be conducted in the "final Offer" format also known as "baseball style" arbitration. In the course of submitting the arbitration materials, as explained in these rules, the parties shall submit their final offer of settlement which shall also serve as the party's demand for arbitration award. The arbitrator must choose from one of these two demands in determining the amount of the arbitration award.

E. Submission of Pre-Hearing Statements

Within twenty (20) days of the appointment of an arbitrator each party shall submit to the opposing party and to the arbitrator a written statement (not to exceed ten (10) double spaced pages) containing that party's positions and arguments. Each party may then submit a supplement to its written statement (not to exceed five (5) double spaced pages) following the initial pre-hearing conference to respond to the opposing party's positions and arguments and addressing issues raised at the initial pre-hearing conference. Supplements must be sent to the opposing party and to the arbitrator within ten (10) days after the date of the pre-hearing conference.

The Private Adjudication Center will provide the arbitrator with a complete schedule of categories of injuries and Scheduled, Average and Maximum Values therefor in the TDP.

F. Initial Pre-Hearing Conference, Scheduling Hearing Date, Optional Video Conference for Arbitration Hearing

1. Within fifteen (15) calendar days of the receipt of both party's briefs, the Private Adjudication Center shall contact the claimant, the arbitrator, and the PI Trust to schedule the initial pre-hearing conference. The pre-hearing conference shall be presided over by the arbitrator and held by telephone conference call.
2. During the initial pre-hearing conference, the arbitrator shall schedule the date and select the location of the arbitration hearing either at the location of the arbitrator or a location mutually agreeable to the parties. The arbitration hearing should be scheduled not less than forty-five (45) days, and not more than sixty (60) days, from the date of the initial pre-hearing conference. The Private Adjudication Center will mail a confirmation notice of this date to the claimant and the PI Trust.
3. At the election of the claimant, the arbitration hearing may be conducted by video conference. If the claimant so elects, then the claimant must state that election in writing prior to the initial pre-hearing conference. The Private Adjudication Center will make appropriate arrangements for the PI Trust and the arbitrator to participate by video conference. The PI Trust shall pay for its and the arbitrator's cost for use of video conference equipment and facilities. The claimant shall only be responsible for his/her costs (including participation by claimant's counsel).
4. During the initial pre-trial conference, the arbitrator shall seek to achieve agreement between the parties on:
 - a. narrowing the issues (through methods including but not limited to stipulation of facts);
 - b. whether the claimant will appear at the hearing (at the claimant's sole discretion);

- c. any legal issues;
- d. and any other matters that will expedite the arbitration proceedings.

If appropriate or if the parties do not agree on these issues, then the arbitrator must issue orders governing the process.

G. No Discovery With Limited Exceptions

There shall be no discovery except as specifically provided below. The purpose of the arbitration is to resolve differences between the PI Trust and the claimant based only on the documents that have been previously submitted to the PI Trust by the claimant and any other documents relied upon by the PI Trust to make a settlement offer to the claimant or to disallow the claim. However, if the PI Trust commissions an independent medical examination or a third-party medical review upon which the PI Trust relies in evaluating the claimant's claim, then the claimant may depose the medical professional conducting the review or examination after having a reasonable opportunity to study any report or written opinion generated by the medical professional.

H. No Record of Proceedings Unless Requested by Arbitrator

There will be no record or transcript of the proceedings unless the arbitrator requests a transcript to assist him/her in reviewing the evidence or otherwise to aid in the decision making process. In the event an arbitrator requests a transcript prior to the arbitration, then the PI Trust shall arrange for a court reporter and shall pay all expenses associated with the preparation of the transcript. In no event, however, will the transcript be made available to the parties, nor shall any time required for preparation of the transcript affect the time for the arbitrator to render a decision.

I. Postponement of Hearing

The arbitrator for good cause may postpone any hearing upon the request of a party or upon the arbitrator's own initiative, and shall also grant such postponement when all of the parties agree.

J. Duration of Hearings

The arbitrator shall complete the hearing in one day except for good cause shown. The arbitrator shall set time limits on the respective presentations, and shall enforce those set limits. The parties shall request no more than three hours apiece for presentation of their cases.

K. Procedure at Arbitration Hearing

1. Testimony Under Oath or Affirmation

If the claimant or any other witness testifies, such testimony shall be under oath or affirmation administered by the arbitrator.

2. Conduct of Hearing

At the opening of the arbitration hearing, the arbitrator shall make a written record of the time, place, and date of the hearing, and the presence of the parties and counsel.

3. Evidence

a. **Rules of Evidence:** The arbitrator is not required to apply the rules of evidence used in judicial proceedings, provided, however that the arbitrator shall apply the attorney-client privilege and the work product privilege. The arbitrator shall determine the applicability of any privilege or immunity and the admissibility, relevance, materiality and weight of the evidence offered.

b. **Admission of Evidence:** The evidence that the arbitrator may consider shall be limited to the following:

(i) The documents supplied to the PI Trust prior to the execution of the Affidavit of Completeness;

(ii) Non-binding or binding arbitration election agreement;

(iii) Testimony of the claimant. The claimant may offer evidence regarding the nature and extent of compensable damages, including physical injuries, and/or the market share of USG and/or A.P. Green products, if there is a claim of greater than average market share. The PI Trust may cross-examine on these issues. At the claimant's option, a claimant's deposition, including videotaped

testimony, shall be admissible into evidence in lieu of live testimony.

- (iv) Any additional deposition testimony taken by the PI Trust or the claimant, and provided to both sides, prior to the initiation of ADR.
- (v) Any evidence submitted in mediation.
- (vi) Closing arguments of the claimant and the PI Trust. The arguments shall be limited to the evidence contained and the issues raised in the documents or testimony referred to above and shall be limited to ½ hour for each party. The arbitrator shall disregard any effort to introduce further evidence or issues in argument.

L. Arbitration in the Absence of a Party or Representative

The claimant may choose whether or not to attend the arbitration in person in his/her sole discretion. The arbitration may proceed in the absence of any party or representative who, after due notice, chooses not to be present, fails to be present or fails to obtain a postponement if he/she desires to be present but cannot. An award shall not be made against a party solely for the failure to appear. The arbitrator shall require the party who is present to submit such evidence as the arbitrator may require for the making of an award.

M. Conclusion of Hearing and Submission of Post-Hearing Briefs

When the parties state that they have no further evidence or witnesses to offer, and after the parties have made their closing arguments, if any, the arbitrator shall declare the hearing closed. Post-hearing briefs will be permitted only upon order of the arbitrator and shall be served upon the arbitrator no later than ten (10) days after the hearing is closed. Such briefs shall be no longer than five (5) double spaced pages. The time limit within which the arbitrator is required to make the award shall commence to run upon the closing of the hearing or the submission of post-hearing briefs, whichever is later.

N. Option to Waive Oral Hearings

The parties may request a waiver of oral hearings. Oral hearings will only be waived if all parties consent.

O. Arbitration Decision

1. The arbitrator shall issue a decision no later than fifteen (15) calendar days after the date of the close of the hearing or submission of post-hearing briefs, whichever is later.

2. The decision shall state only the amount of the award, if any. The decision shall not state reasons for the award. An arbitrator shall not be permitted to award punitive, exemplary, trebled or other like damages or attorneys' fees, and prejudgment and post-judgment interest and costs shall not be sought or allowed. The award shall dispose of all monetary claims presented to the arbitrator and shall determine fully the only issue to be decided pursuant to the arbitration agreement: the amount, if any, at which the claim value should be fixed. To assist the arbitrator, the Private Adjudication Center will provide the arbitrator with a schedule setting forth the Disease Levels and the Scheduled, Average and Maximum Values associated with each category. Unless the Extraordinary Claims Panel has determined that a claim is entitled to extraordinary treatment during the claims review process, the arbitrator's award **shall not** exceed the Maximum Value amount for the appropriate Category in the TDP.

P. Payment of Award

Pursuant to the terms of the arbitration agreement, the PI Trust will promptly send to the claimant the appropriate Release. The PI Trust will then pay the claim based upon the binding or, if accepted by both parties, the non-binding award, in accordance with the TDP in effect at that time.

Q. Rejection of Non-binding Award

1. A party in a non-binding arbitration proceeding that wishes to reject the award must notify the other party within thirty (30) days from the date a non-binding award is issued. If no rejection is received or sent by the PI Trust, then the decision will stand and the award will be deemed accepted by both parties and the PI Trust will promptly send to the claimant the appropriate Release. The PI Trust will then pay the claim in accordance with the Claim Resolution Procedures in effect at that time.

2. Procedure for Rejected Award

a. Rejection by Claimant

If claimant has sent the PI Trust timely notification of rejection of a non-binding award and wishes to pursue the claim, then the claimant must notify the PI Trust through correspondence postmarked no later than sixty (60) days from the date of the non-binding award. If notification is received within the sixty (60) day deadline and claimant wishes to pursue the claim, then the PI Trust will within fifteen (15) days of receipt of this notification send the claimant an authorization to commence litigation.

b. Rejection by PI Trust

If the PI Trust rejects the non-binding award, then claimant may elect binding arbitration or request that the PI Trust forward the authorization to commence litigation.

V. GENERAL ADR PROCEDURES GOVERNING PRO BONO EVALUATION, MEDIATION, NON-BINDING ARBITRATION, AND BINDING ARBITRATION

A. ADR Submissions

The claimant's submissions (with the exception of the binding arbitration's written argument) will be reviewed by the ADR administrator before they are submitted to the pro bono evaluator, mediator or arbitrator. If they contain materials not previously submitted in support of the claim, then the PI Trust claims department will review the additional information and determine the effect, if any, it would have on the PI Trust's evaluation of the claim. In appropriate situations, a new offer may be made to the claimant.

If an attorney or other agent represents the claimant, both the attorney and the claimant must also sign the Election and Agreement for Binding Arbitration. The attorney or agent may not sign in place of, or for, the claimant unless the claimant is incapacitated, incompetent or deceased and the attorney or agent has been designated legally to act on the claimant's behalf. Documentation of this legal designation will be required.

B. No Grouping or Bundling of Claims

As a general matter, there shall be no grouping or bundling of claims by separate claimants at any stage of the ADR or arbitrations even if the claims are related and/or the claimants have the same counsel. Each claimant must proceed individually through the ADR and arbitration processes with all claims that claimant may have or represent. This provision is intended to separate claims of different exposed persons and has no effect upon multiple claims brought by a claimant's representative, such as heirs of a deceased worker. However, the PI Trust, in its sole discretion, may decide that it would be expeditious to allow the conduct of arbitration proceeding with respect to more than one claim of different exposed persons, provided that the arbitrator individually values each such claim in accordance with the valuation factors set forth in Section 5.3(b)(2) of the TDP, and the respective claimants' separate positions in the PI Trust's FIFO Processing and Payment Queues are maintained.

C. No Ex Parte Communication

There shall be no ex parte communication between the arbitrator or pro bono evaluator and any counsel or party in any matter. All correspondence between the arbitrator or pro bono evaluator and the parties will be facilitated by the Private Adjudication Center.

D. Claims and Defenses

All available claims and defenses which exist under the law subject to the claimant's election under the TDP shall be available to both sides.

E. Costs of ADR

1. ADR expenses

The PI Trust will pay the arbitrator's fee for non-binding or binding arbitration up to two thousand dollars (\$2,000.00) per claim depending on the length of the hearing. The pro bono evaluator is a volunteer and thus no fee will be incurred. The PI Trust will assume costs of meeting and hearing facilities for arbitration. Claimants will pay their costs and attorney fees, including any expenses incurred should the claimant testify.

2. Filing Fee

No filing fee is required of the claimant for any ADR selection, unless the PI Trust with the consent of the TAC and the Futures Representative decide that it would be in the best interests of the PI Trust and its beneficiaries to adopt such a fee.

F. Waiver of Objection to Rules Infraction

Either party who continues with the pro bono evaluation, mediation, non-binding arbitration, or binding arbitration proceeding after knowing that any provision or requirement of the applicable rules has not been complied with, and who fails to state a timely objection in writing to the arbitrator, mediator or pro bono evaluator, shall be deemed to have waived the right to object. A timely objection by a claimant must be stated in writing and mailed to the PI Trust with instructions to forward the objection to the Private Adjudication Center and to the arbitrator, mediator or pro bono evaluator. A timely objection by the PI Trust will be mailed to the claimant and to the Private Adjudication Center with instructions to forward to the arbitrator, mediator or pro bono evaluator.

G. Serving of Notices and Other Papers

Each party to the ADR and arbitration agreements shall be deemed to have consented that any papers, notices, or processes necessary or proper for the initiation or continuation of ADR and Arbitration proceedings under these rules may be served upon such party as follows:

1. By regular U.S. mail or overnight courier addressed to such party or their attorneys at their last known address;
2. By facsimile transmission or electronic mail, if a copy of the transmitted papers is mailed addressed to the party or their attorney at their last known address within twenty-four (24) hours of the facsimile transmission or electronic mail; or,
3. By personal service, within or without the state where the pro bono evaluation, mediation or arbitration is to be held, whether the party is within or without the United States of America.

H. Time Limits Triggered Upon Receipt

1. Documents sent by U.S. mail under these rules shall be deemed received three (3) business days after the date of postmark. Documents sent via overnight mail shall be deemed received on the next business day after mailing.
2. Documents sent via facsimile transmission or electronic mail shall be deemed received on the business day that the transmission is sent.

I. Exclusion of Liability

Neither the Private Adjudication Center nor the mediator, nor the arbitrator nor pro bono evaluator shall be liable to any party for any act or omission in connection with any evaluation conducted under these rules.

J. Relationship of Rules to Election Form for Pro Bono Evaluation, Request for Mediation, Non-binding Arbitration Agreement or Binding Arbitration Agreement

These Rules shall be deemed a part of, and incorporated by reference in, every duly executed ADR agreement or arbitration agreement and shall be binding on all parties.

K. Arbitrator/Mediator/Pro Bono Evaluator Immunity

Arbitrators, mediators or pro bono evaluators who serve pursuant to these rules shall have the same immunity as judges for their official acts.

L. Jurisdiction

Any dispute under these rules shall be subject to the jurisdiction of the United States Bankruptcy Court for the District of Delaware.

M. Statement of Confidentiality

1. All ADR and arbitration proceedings and information relating to the proceeding will be confidential. Neither party shall disclose the information obtained during the proceedings, nor the valuation placed on the case by an arbitrator or pro bono evaluator, to anyone or use such information or valuation in any further proceeding except as necessary to maintain the PI Trust's obligation to report to the Bankruptcy Court and to provide ongoing evaluation by the PI Trust and TAC. Except for documents prepared by a non-party which are introduced as evidence before an arbitrator or pro bono evaluator, any document prepared by another party, attorney or other participant in anticipation of the ADR is privileged and shall not be disclosed to any court or arbitrator/pro bono evaluator or construed for any purpose as an admission against interest.
2. All ADR and arbitration proceedings shall be deemed a settlement conference pursuant to Rule 408 of the Federal Rules of Evidence. Except by agreement of the parties, the parties will not introduce into evidence in any other proceedings the fact that there was an arbitration, the nature or amount of the award, and written submissions may not be used for purposes of showing accord and satisfaction or res judicata. In binding arbitration, the decision of the arbitrator may be admissible in the event the claimant improperly seeks to litigate the claim. The binding arbitration award shall be admissible in support of a motion to enjoin such litigation. No arbitrator or pro bono evaluator will ever be subpoenaed or otherwise required by any party or any third party, to testify or produce records, notes or work product in any future proceedings.

N. Amendments

Except as otherwise ruled by the Bankruptcy Court, these rules, as they may from time to time be amended by the PI Trustees with the consent of the TAC and the Futures Representative, will be binding on all parties in the form in which they are in force on the date the claimant signs the election agreement.

O. Time Limits

The time limits included in these procedures are to be strictly enforced. Any time limit set forth herein may be extended by agreement of the parties or for cause shown to the neutral party presiding over the particular ADR or arbitration proceeding. Any request for extension, however, shall first be made to the opposing party and then if the parties cannot agree, shall be submitted to the Private Adjudication Center who will request a ruling from the pro bono evaluator, mediator, or arbitrator as the case may be.

Although the deadlines may be extended by agreement or for cause shown, failure to comply with a deadline without obtaining an extension may result in withdrawal of the claim. Promptly after a claimant fails to comply with a specified deadline without obtaining an extension, the PI Trust shall send the claimant written notice of the failure to comply. If the claimant does not take any action on the claim, then thirty (30) days thereafter the claim will be deemed withdrawn under Section 6.3 of the TDP.

**UNITED STATES GYPSUM ASBESTOS PERSONAL INJURY
SETTLEMENT TRUST
ELECTION FORM FOR PRO BONO EVALUATION**

I, _____ (“Claimant”), Claim No. _____,
hereby elect and agree to:

Non-Binding document evaluation of my claim by an individual selected from a Panel of Pro Bono Evaluators who volunteered to serve at the request of the PI Trust Advisory Committee pursuant to Section 5.10 of the TDP.

Unless the box below is initialed, the undersigned waives anonymity of the claimant in the Pro Bono Evaluation of this claim. The PI Trust encourages leaving this box blank and waiving anonymity so that medical records may be transmitted in their original form.

Dated: _____, _____.

Claimant or Claimant’s Attorney

Accepted and Consented to:

UNITED STATES GYPSUM ASBESTOS
PERSONAL INJURY SETTLEMENT TRUST

By: _____

_____ Title

Dated: _____

STATE OF _____)
) SS:
COUNTY OF _____)

AFFIDAVIT OF COMPLETENESS

I, _____, as the person [or legal representative of the person] who has filed a claim against the United States Gypsum Personal Injury Settlement Trust, being duly sworn, depose and say:

I have furnished all information which I wish to be considered in the valuation of claim number _____.

I certify (or declare) under penalty of perjury, that the foregoing is true and correct.

By _____
Claimant or Legal Representative of Claimant

Date _____

Sworn to before me this _____ day of _____, _____.

**UNITED STATES GYPSUM ASBESTOS
PERSONAL INJURY SETTLEMENT TRUST
REQUEST FOR MEDIATION FORM**

I, _____ (“Claimant”), Claim No. _____,
hereby elect and agree to:

Attempt in good faith to resolve the dispute with the PI Trust relating to my claim promptly by confidential Mediation under the terms set forth for Mediation procedure established by the PI Trust under Sections 5.10 of the TDP. I have been provided with a copy of the rules relating to Mediation established by the PI Trust. I understand and agree to abide by those rules in the course of the Mediation.

Dated: _____, _____.

Claimant or Claimant’s Attorney

Accepted and Consented to:

UNITED STATES GYPSUM ASBESTOS
PERSONAL INJURY SETTLEMENT TRUST

By: _____

_____ Title

Dated: _____

**UNITED STATES GYPSUM ASBESTOS
PERSONAL INJURY SETTLEMENT TRUST
ELECTION FORM AND AGREEMENT FOR
BINDING ARBITRATION**

I, _____ (“Claimant”), Claim No. _____,
hereby elect and agree to:

Submit all disputes with the PI Trust relating to my claim to Binding Arbitration under the terms set forth for Binding Arbitration procedure established by the PI Trust under Section 5.10 of the TDP. I have been provided with a copy of the rules relating to Binding Arbitration established by the PI Trust. I understand and agree to abide by those rules in the course of the Binding Arbitration. I understand that as a result of this agreement if accepted by the PI Trust, I will waive my rights to litigate my claim in Court including the right to trial by jury and I will be bound by the arbitration award.

Dated: _____, _____.

Claimant

Claimant’s Attorney

Claimant and attorney must both sign

Accepted and Consented to:

By accepting this agreement the PI Trust waives its rights to litigate the claimant’s claim in Court including the right to trial by jury and agrees to be bound by the arbitration award.

UNITED STATES GYPSUM ASBESTOS
PERSONAL INJURY SETTLEMENT TRUST

By: _____

_____ Title

Dated: _____

**UNITED STATES GYPSUM ASBESTOS
PERSONAL INJURY SETTLEMENT TRUST
ELECTION FORM AND AGREEMENT FOR
NON-BINDING ARBITRATION**

I, _____ (“Claimant”), Claim No. _____,
hereby elect and agree to:

Submit all disputes with the PI Trust relating to my claim to Non-Binding Arbitration under the terms set forth for Non-Binding Arbitration procedure established by the PI Trust under Section 5.10 of the TDP. I have been provided with a copy of the rules relating to Non-Binding Arbitration established by the PI Trust. I understand and agree to abide by those rules in the course of the Non-Binding Arbitration.

Dated: _____, _____.

Claimant or Claimant’s Attorney

Accepted and Consented to:

UNITED STATES GYPSUM ASBESTOS
PERSONAL INJURY SETTLEMENT TRUST

By: _____

_____ Title

Dated: _____