

**United States Gypsum  
Asbestos Personal Injury Settlement Trust**

**(Revised July 1, 2008)**

February 12, 2007

Dear Prospective Claimant or Claimant Counsel,

The United States Gypsum Asbestos Personal Injury Settlement Trust (“the Trust”) has been established under Chapter 11 of the Bankruptcy Code to resolve 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 (the “Plan”) 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 Trust is organized to provide fair, equitable and substantially similar treatment for all personal injury claims that may presently exist or arise in the future.

**The Trust is commencing its operations and will begin receiving and processing claims on Monday, February 19, 2007 at 10:00 AM EST. The materials necessary to file a claim with the Trust, including Claim Forms, the Trust Distribution Procedures (the “TDP”) and associated materials, are included in this package. Copies of claim forms as well as these instructions and other relevant documents and reference material also are available on the Trust’s website ([www.usgasbestostrust.com](http://www.usgasbestostrust.com)), and may be downloaded at any time.**

This instruction letter is intended to summarize certain significant issues related to filing a personal injury claim with the Trust. *Nothing in this letter is intended to replace or modify the requirements of the United States Gypsum Asbestos Personal Injury Settlement Trust Distribution Procedures. All claimants are encouraged to thoroughly read and understand the TDP (enclosed) before filing a claim with the Trust.*

### **Ordering of Claims:**

Pursuant to Section 5.1(a)(1) of the TDP, prior to August 19, 2007 (the “Initial Claims Filing Date”), claims will be ordered for processing based on the earlier of:

- i. The date prior to June 25, 2001 (the “Petition Date”) that the claim was either filed against USG or A.P. Green in the tort system or submitted to USG or A.P. Green pursuant to an administrative settlement;
- ii. The date prior to June 25, 2001 that a claim was filed against another 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 June 25, 2001 but before August 19, 2007 that the claim was filed against another asbestos defendant in the tort system;
- iv. The date after June 25, 2001 but before January 30, 2006 that a Proof of Claim was filed by the claimant against USG in the 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.

Claims will be paid in the order in which they are evaluated and approved for payment.

### **Expedited Review (ER) and Individual Review (IR) Claims**

Pursuant to Sections 5.3(a) and 5.3(b) of the TDP, a claimant may elect to submit a claim for either Expedited Review (ER) or Individual Review (IR). The ER process is designed primarily to provide an expeditious, efficient and inexpensive method for liquidating all categories of PI Trust claims (except those involving Lung Cancer 2 and all Foreign Claims). ER is a method of review intended for claims that can be easily verified by the Trust as meeting the presumptive Medical/Exposure criteria for the relevant disease level. ER will provide qualifying claimants fixed claims payment subject to the Payment Percentage (see Scheduled Values below). Accordingly, ER provides claimants with a substantially less burdensome process for pursuing PI Trust claims than the IR process described below and in Section 5.3(b) of the TDP.

Alternatively, a claimant may elect to have a claim undergo the IR process if the claim does not meet presumptive Medical/Exposure criteria for any of the Disease Levels in TDP Section 5.3 or to determine whether the liquidated claims value exceeds the Scheduled Value. The IR Process provides the claimant with an opportunity for individual consideration and evaluation of the Medical/Exposure information submitted as well as the liquidated value of the claim. The IR process is intended to result in payments equal to the liquidated value for each claim multiplied by the Payment Percentage; however, the liquidated value of any PI Trust claim that undergoes IR may be determined to be less than the claimant would have received under ER. Because the detailed examination and valuation process related to IR requires substantial time and effort, claimants electing to undergo the IR process will ordinarily have a longer waiting period for payment than would have been the case had the claimants elected the ER process.

**Settlement Offers:**

Valid ER claims will be paid the following Scheduled Values, multiplied by the Payment Percentage that is effective at the time of liquidation. Disease Level I claims are not subject to the Payment Percentage.

<u>Disease Level</u>	<u>Scheduled Disease</u>	<u>Scheduled Value</u>
VIII	Mesothelioma	\$155,000
VII	Lung Cancer 1	\$45,000
VI	Lung Cancer 2	None
V		Other Cancer
\$15,000		
IV	Severe Asbestosis	\$30,000
III	Asbestosis/Pleural Disease Level III	\$8,300
II	Asbestosis/Pleural Disease Level II	\$2,625
I	Other Asbestos Disease (Cash Discounted Payment)	\$400

Level VI Claims are those that do not meet the more stringent medical and/or exposure requirements of Lung Cancer 1 (Level VII) Claims. There is no Scheduled Value for these Level VI Claims; rather they must be filed as IR claims and individually evaluated. The estimated anticipated average of the individual awards for a valid claim in this category is \$15,000 with awards capped at \$35,000 unless the claim qualifies for extraordinary treatment. All payments for Level VI Claims are subject to the applicable payment percentage.

*The current payment percentage is 45.0%. At this payment percentage, a mesothelioma claim paid at scheduled value will receive \$69,750, a Lung Cancer Level I claim will receive \$20,250, an Other Cancer claim will receive \$6,750, etc. The payment percentage is subject to adjustment by the Trustees under the terms of the TDP. Payment will be made as soon as practicable after receipt and review of the completed Claim Forms and receipt of a fully executed release.*

**Proof Required to Qualify for Payment:**

To qualify for payment, a claimant must provide credible medical and exposure evidence and a submission deemed to be complete by the Trust.

**Medical Criteria for Qualification:**

The medical criteria that a claim must meet to receive an offer for the Scheduled Value are as follows:

#### Level VIII: Mesothelioma

1. Diagnosis of mesothelioma; and
2. USG/A.P. Green Exposure as defined in Section 5.7(b)(3) of the TDP prior to December 31, 1982 (in the case of USG) and January 2, 1968 (in the case of A.P. Green).

#### Level VII: Lung Cancer 1

1. Diagnosis of a primary lung cancer plus evidence of an underlying Bilateral Asbestos-Related Nonmalignant Disease as defined in Footnote 5 of the TDP;
2. Six months of 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 as defined in Section 5.7(b)(2) of the TDP; and
4. Supporting medical documentation establishing asbestos exposure as a contributing factor in causing the lung cancer in question.

#### Level VI: Lung Cancer 2

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 those that do not meet the more stringent medical an/or exposure requirements of Lung Cancer 1 (Level VII) claims. All claims in this Disease Level shall undergo IR. 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 smoker. In any event, no presumption of validity shall be available for any claims in this category.

#### Level V: Other Cancer

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.

#### Level IV: Severe Asbestosis

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.

#### Level III: Asbestosis/Pleural Disease

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%;
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.

#### Level II: Asbestosis/Pleural Disease

1. Diagnosis of 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); and

3. Five years cumulative occupational exposure to asbestos.

Level I: Other Asbestos Disease (Cash Discount Payment)

1. Diagnosis of 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).

**Exposure Criteria for Qualification:**

***Exposure to USG and A.P. Green Asbestos Products and Significant Occupational Exposure***

To qualify for any Disease Level, a claimant must demonstrate: (1) 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 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 (2) for certain disease levels, a claimant must demonstrate Significant Occupational Exposure (“SOE”) to asbestos products.

***Site/Plant Where Exposure Occurred***

Questions 1 through 4 in Part 3 of the Claim Form ask about the sites where the claimant was exposed to asbestos products. In response to these questions, a claimant must list the sites where he/she was exposed to asbestos products to prove both (1) exposure to USG/A.P. Green asbestos products, and (2) SOE, if applicable.

There are two ways to demonstrate that USG/A.P. Green asbestos products were at a work site:

1. The claimant worked at a site which is listed on the approved USG/A.P. Green site list, found on the website at [www.usgasbestostrust.com](http://www.usgasbestostrust.com); or
2. The claimant can establish, through affidavit, invoices, deposition testimony, or other means as described below in the section “Sufficiency of Evidence” that USG/A.P. Green’s asbestos products were used at a particular work site. A certification of counsel alone is not sufficient to establish USG/A.P. Green product at a particular site.

***Significant Occupational Exposure***

As noted above, questions 1 through 4 in Part 3 of the Claim Form seek information regarding SOE, as well as exposure to USG/A.P. Green asbestos products. Additionally,

questions 5 and 6 also relate to SOE. Pursuant to TDP Section 5.7(b)(2), SOE 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).

If a claimant worked in an occupation/industry listed on the SOE Occupations Rating list, found on the website at [www.usgasbestostrust.com](http://www.usgasbestostrust.com), for at least five years with a minimum of two years prior to December 31, 1982, and if any box other than “None of the above” is checked in POC Part 3 question 5, no further evidence of SOE is required. If the claimant’s occupation/industry is not set forth on the Presumptive SOE Occupations Rating list, or if the box labeled “None of the above” is checked in POC question 5, then evidence of the claimant's SOE must be submitted. Evidence of SOE can be demonstrated by certification of counsel or as set forth below under “Sufficiency of Evidence.”

It is only necessary for a claimant to demonstrate SOE to qualify for Disease Levels III, IV, V and VII.

**Notice to All USG Trust Filers re: Company Exposure**

The USG Trust has amended the POC (Proof of Claim) with respect to proof of company exposure as of May.

The new POC does not contain the previous Question 7 in *Part 3, Proof of Company Exposure*. In other words, once the injured person's exposure at a USG/APG site has been established in the response to Question 1, no further company exposure proof will be required, unless the injured person worked in a trade not ordinarily associated with asbestos exposure, thus requiring further explanation of how company exposure occurred. Hereafter, as a general rule, it will be sufficient for a claimant to show that the injured party worked at a site where USG or APG asbestos products were previously or simultaneously used or where asbestos activities were previously or simultaneously conducted. The exposure still must satisfy any durational requirements in the TDP that may apply, depending on the injured person's disease. Moreover, to qualify under expedited review, exposure to USG products or activities still must have occurred prior to December 31, 1982 and exposure to APG products or activities still must have occurred prior to January 2, 1968.

Under the new POC, a claimant can prove company exposure three ways: (1) by identifying a site on the approved USG or APG site lists where claimant worked, at any time prior to December 31, 1982 (USG) or January 2, 1968 (APG); (2) by providing an affidavit of a coworker, or other ID proof such as invoices, depositions, or other evidence as described in the claim form and claim instructions, showing use of company product

or activities at a site where the injured party simultaneously or subsequently worked; or (3) by providing an affidavit by the injured party establishing company exposure. In the event the injured party worked in a trade not ordinarily associated with asbestos exposure, and if no adequate description of exposure is provided in response to Question 6 in Part C, the DCPF may issue a notice calling for a description of how the injured party's company exposure occurred.

The new POC is now available. In addition, previously rejected POC's are being re-processed and approved if the sole basis for rejection was an inadequate response to the old Question 7, provided the injured party's trade was not of the type requiring further explanation of how company exposure occurred.

### ***Sufficiency of Evidence***

Where a claimant must demonstrate that USG/A.P. Green asbestos products were at a site/plant, or where a claimant seeks to demonstrate SOE or company exposure other than by certification of counsel, such evidence may be established by:

- An affidavit of the injured party (an example is included in the filing instruction)
- An affidavit of a co-worker or the affidavit of a family member in the case of a deceased claimant
- An affidavit of a family member in the case of a deceased claimant
- Invoices
- Construction or similar records
- Sworn statement, interrogatory answers, work history, or deposition
- Other reliable evidence

### ***Medical Evidence Required to Establish an Asbestos-Related Disease:***

All diagnoses of a Disease Level shall be accompanied by either:

- i. A statement by the physician providing the diagnosis that at least ten 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 ten-year latency period.

A finding by a physician after the Effective Date (June 20, 2007) that a claimant's disease is "consistent with" or "compatible with" asbestosis shall not alone be treated by the Trust as a diagnosis.

*For Disease Levels I-IV* – All diagnoses of nonmalignant asbestos-related disease (Disease Levels I-IV) shall be based upon a physical examination of the claimant by the physician providing the diagnosis of the asbestos-related disease or by a pathology report.

For Disease Levels V-VIII – All diagnoses of asbestos-related malignant disease shall be based upon either (1) a physical examination of the claimant by the physician providing the diagnosis of the asbestos-related disease, or (2) a diagnosis of such malignant Disease Level by a board-certified pathologist.

In the case of a claimant who was deceased at the time the claim was filed, all diagnoses of a nonmalignant asbestos-related 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 asbestos-related disease, or
- iii. In the case of Disease Levels I-III, evidence of Bilateral Asbestos-Related Nonmalignant Disease and for Disease Level IV, either an ILO reading of 2/1 or greater or pathological evidence of asbestosis
- iv. For either Disease Level III or IV, pulmonary function testing.

For a detailed description of the medical evidence requirements by Disease Level see TDP Section 5.7(a). You should review this section of the TDP before filing a claim.

**Releases:**

A claimant accepting an offer must execute a full release for all malignancy payments, or a limited release for non-malignancy payments. Any claimant who receives a payment for a nonmalignant injury may file a new *personal injury claim* for an asbestos-related malignancy that is *subsequently* diagnosed. Any additional payments to which such claimant may be entitled shall not be reduced by the amount of the prior payment for a nonmalignant disease.

**How to Initiate a Claim:**

If a claimant is qualified and elects to file a claim, he or she must file a complete Claim Form and submit all supporting documentation indicated.

A sample of the Claim Form is enclosed and may be copied to provide forms for all claimants represented by a law firm. A claimant must submit the appropriate, fully completed Claim Form, including all supporting information referenced in the form. To expedite processing, claimants are encouraged to file electronically by following the instructions at the Trust website ([www.usgasbestostrust.com](http://www.usgasbestostrust.com)).

Claims can be filed electronically using the Trust Online system. To do so, download and complete the E-Filer Agreement (EFA) from the Trust website ([www.usgasbestostrust.com](http://www.usgasbestostrust.com)). Once that agreement is executed, a Trust Online user ID and password will be provided to login to the system. Trust Online supports the ability to enter new claims, edit existing claims, cure deficiencies on existing claims, upload and view supporting documents and run a variety of reports on filed claims. These features

are designed to simplify and expedite the claim filing process while saving time and money for all parties. Claimants and counsel are encouraged to use these online filing features.

Claims can be filed in bulk using the Trust Online Bulk Upload Tool or using web services. These tools support the submission of multiple claims quickly and efficiently. For law firms that have claimant data already in electronic form, either tool can be used to send that data to the Trust without having to retype it into Trust Online or submit paper claims. These tools also support the submission of supporting document images along with the claim records. Contact the Trust for detailed instructions on how to use the Bulk Upload Tool or web services at (866) 665-5790.

Finally, using Trust Online it is possible that claim data previously submitted to the Celotex Trust or the B&W Trust can be used to expedite the preparation and review of claims for the USG Trust. By using claim data and review results already available in the Celotex Trust or B&W Trust systems, the Trust may expedite the approval of USG claims. In no situation will using existing data negatively impact a review, nor will this information be used without the express approval of the claimant.

**Where to Submit Claim Forms:**

Electronic claim submissions, including document images, can be filed directly through the Trust Online system. There is no need to submit paper claims for Trust Online submissions.

However, if paper claims and documents need to be sent to the Trust, they should be addressed to:

The USG Asbestos Personal Injury Trust  
P.O. Box 1080  
Wilmington, DE 19899

**Statutes of limitation on filing a claim:**

To be eligible for processing, a claim must meet either:

- i. For claims first filed in the tort system against USG or A.P. Green prior to June 25, 2001, 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 June 25, 2001, the applicable federal, state or foreign statute of limitation that was in effect at the time of the filing with the Trust. However, the running of the relevant statute of limitation may be tolled by a number of factors (see TDP Section 5.1(a)(2)).

**Doctors and Medical Facilities:**

Section 5.7(a)(2) of the TDP requires that before making any payment the Trust must have reasonable confidence that the medical evidence provided in support of the claim is

credible and consistent with recognized medical standards. The Trust has determined, based on currently available information, that medical reports from certain doctors and medical facilities may not meet the reliability standards of this section. *Accordingly, until further notice, the Trust will not accept medical reports from and will not process claims relying upon medical information from the following doctors and medical facilities: Dr. James Ballard, Dr. Kevin Cooper (of Pascagoula, Mississippi), Dr. Todd Coulter, Dr. Andrew Harron, Dr. Ray Harron, Dr. Glynn Hilbun, Dr. Barry Levy, Dr. George Martindale, Dr. Gregory Nayden, Dr. W. Allen Oaks, Netherland & Mason, Inc., Respiratory Testing Services, Inc. and Occupational Diagnostics.*

**Questions and Assistance:**

If you have questions concerning these filing procedures or forms, you may reach the Trust in a variety of ways. The Trust has established a Help Line and website to report on the status of Trust operations and respond to questions. You can reach the Help Line at (800) 708-8924 or at [helpline@usgasbestostrust.com](mailto:helpline@usgasbestostrust.com). The Trust's website address is [www.usgasbestostrust.com](http://www.usgasbestostrust.com). The Trust also offers convenient web-based and video training for all Trust Online users. In addition to a detailed user manual, there are videos explaining how to log onto Trust Online, submit a new USG claim, convert an existing Celotex Trust or B&W Trust claim to a USG claim, how to link claims, and submit documents. To access these training tools, go to [www.usgasbestostrust.com](http://www.usgasbestostrust.com) and click on the Resources link. Simply download the desired information and view them at your convenience.

In addition to these resources, the Facility offers in-person training sessions at our Wilmington claims processing facility. If you or your staff is interested in attending a training session, please contact our Web Administrator at (866) 665-5790 or [websupport@usgasbestostrust.com](mailto:websupport@usgasbestostrust.com).

Sincerely,

United States Gypsum Asbestos Personal Injury Settlement Trust Trustees