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Bankruptcy Counsel for the Thorpe Insulation Company Asbestos Settlement Trust

**UNITED STATES BANKRUPTCY COURT**
**CENTRAL DISTRICT OF CALIFORNIA**
**LOS ANGELES DIVISION**

| | |
|---|---|
| IN RE<br><br>PACIFIC INSULATION COMPANY,<br><br>Debtor. | Case No.: 2:07-bk-20016-BB<br><br>Chapter 11<br>(Jointly Administered with Case No. 2:07-bk-19271-BB) |
| In re<br><br>THORPE INSULATION COMPANY,<br><br>Debtor. | **CASE NO. 2:07-BK-19271-BB (CASE CLOSED)**<br><br>**FOURTEENTH ANNUAL REPORT AND ACCOUNTING, AUDITED FINANCIAL STATEMENTS AND CLAIM REPORT**<br><br>**HEARING:**<br><br>**Hearing Date: June 12, 2024**<br>**Hearing Time: 10:00 A.M.**<br>**Place: Courtroom 1539 Or Zoomgov**<br>**Roybal Federal Building**<br>**255 E. Temple Street**<br>**Los Angeles, CA 90012** |



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**TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE AND OTHER PARTIES IN INTEREST:**

The Trustees of the Thorpe Insulation Company Asbestos Settlement Trust by and through their counsel, Levene, Neale, Bender, Yoo & Golubchik, L.L.P. hereby file the Fourteenth Annual Report and Accounting, Audited Financial Statements, and Claim Report.

DATED: April 26, 2024

Respectfully submitted,

By: Eve H. Karasik

EVE H. KARASIK
LEVENE, NEALE, BENDER,
YOO & GOLUBCHIK L.L.P.

Bankruptcy Counsel for the Thorpe Insulation Company Asbestos Settlement Trust




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**FOURTEENTH ANNUAL REPORT AND ACCOUNTING OF THORPE INSULATION COMPANY ASBESTOS SETTLEMENT TRUST**

The Trustees of the Thorpe Insulation Company Asbestos Settlement Trust ("Trust") hereby submit this Fourteenth Annual Report and Accounting ("Annual Report") covering Trust activities that occurred during the period from January 1, 2023 to and including December 31, 2023 ("Accounting Period"), and certain activities of the Trust that took place outside the Accounting Period. This Annual Report is submitted to the U.S. Bankruptcy Court for the Central District of California, Los Angeles Division ("Bankruptcy Court"), *In re Thorpe Insulation Company, In re Pacific Insulation Company*, Case Nos. 2:07-19271-BB and 2:07-20016-BB (jointly administered under Case No. 2:07-20016-BB) in accordance with the *Sixth Amended Joint Plan of Reorganization of Thorpe Insulation Company and Pacific Insulation Company* Docket 3418 ("Plan"); *Order Confirming Sixth Amended Joint Plan of Reorganization of Thorpe Insulation Company and Pacific Insulation Company (Following Remand)* Docket No. 3429 ("2013 Confirmation Order") dated May 8, 2013; Fifteenth Amendment to and Complete Restatement of Thorpe Insulation Company Asbestos Settlement Trust Agreement ("Trust Agreement"); Third Amendment to and Complete Restatement of Thorpe Insulation Company Asbestos Settlement Trust Bylaws ("Bylaws"); Seventh Amendment to and Complete Restatement of Thorpe Insulation Company Asbestos Personal Injury Settlement Trust Distribution Procedures ("TDP"); and Fourth Amendment to and Complete Restatement of Thorpe Insulation Company Asbestos Settlement Trust Case Valuation Matrix ("Matrix"),[1] established pursuant to the Plan,[2] and pursuant to the laws of the State of Nevada, where the Trust

[1] True and current copies of each of the current governing documents consisting of the Trust Agreement, the Bylaws, the TDP and the Matrix, are attached hereto as Exhibits A, B, C and D, respectively.

[2] The Appendix to Sixth Annual Report and Accounting of Thorpe Insulation Settlement Trust Docket Nos. 108-2 and 108-3 in Case No. 02:07-bk-20016-BB; Docket Nos. 3418 and 3418-1 through 3418-19 in Case No. LA 2:07-



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is organized and where it resides. Section 7.9 of the Trust Agreement states that the Trust is governed by Nevada law. Section 164.015 of the Nevada Revised Statutes allows the Trust to render an accounting and seek approval for its past actions. The factual statements in this Annual Report are supported by the *Declaration of Steven L. Bray, Executive Director, in Support of Motion to Approve and Settle Thorpe Insulation Company Asbestos Settlement Trust's Fourteenth Annual Report and Accounting, the Audited Financial Statements and Claim Report*, as described in paragraphs 6, 7, and 8 *infra*. Capitalized terms not defined herein are as defined in Article 1 of the Plan.

1. Effective Date: On February 1, 2010, the Bankruptcy Court entered the "Order Confirming Fifth Amended Joint Plan of Reorganization" ("2010 Confirmation Order"). Following remand of certain issues upheld on appeal, the Bankruptcy Court entered the 2013 Confirmation Order on May 8, 2013. The Plan became effective on July 9, 2013.

2. Trustees: John F. Luikart and Sandra R. Hernandez, M.D. currently serve as the Trustees of the Trust. Mr. Luikart also serves as the Managing Trustee of the Trust. Steven M. Snyder, former Managing Trustee of the Trust, has continued to provide services to the Trust as a consultant pursuant to a Consulting Agreement approved on June 1, 2019.

3. Trust Advisory Committee (the "TAC"): Alan R. Brayton, David McClain, Jerry Neil Paul, Peter A. Kraus and Patrick A. DeBlase currently serve as members of the TAC.

4. Futures Representative: The Honorable David F. Levi currently serves as the Futures Representative to the Trust.

5. Fiscal Year and Tax Obligations: The Trust is required by the Internal Revenue Code to account for and report on its activities for tax purposes on a calendar-year basis. Therefore, the Trust's fiscal year is the calendar year. Except where otherwise stated, all reports

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bk-19271-BB includes the Plan; 2013 Confirmation Order; certain other controlling documents approved by the Bankruptcy Court; and other documents as indicated.



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attached to this Annual Report cover the Accounting Period. Section 2.2(b) of the Trust Agreement requires the Trustees to file income tax, other returns, and statements in a timely manner, and comply with all withholding obligations as legally required, including fulfilling requirements to maintain the Trust's status as a Qualified Settlement Fund. The 2022 federal tax return was filed by its extended due date of September 15, 2023 and the 2023 federal tax return will be filed by its extended due date of September 15, 2024. The Trust resides in Nevada, and Nevada has no state income tax. Although the Trust is not subject to tax in California, the Trustees file a tax return in California each year, attaching a copy of the Trust's federal tax return, but showing no California taxable income or state tax liability.

6. Annual Report: Section 2.2(c)(i) of the Trust Agreement provides in pertinent part:

> The Trustees shall cause to be prepared and filed with the Bankruptcy Court, as soon as available, and in any event within 120 days following the end of each fiscal year, an annual report containing financial statements of the Trust (including, without limitation, a statement of the net claimants' equity of the Trust as of the end of such fiscal year and a statement of changes in net claimants' equity for such fiscal year) audited by a firm of independent certified public accountants selected by the Trustees and accompanied by an opinion of such firm as to the fairness of the financial statements' presentation of the equity presently available to current and future claimants and as to the conformity of the financial statements with accounting principles generally accepted in the United States, except for the special-purpose accounting methods…

The Trust's financial statements are prepared using special-purpose accounting methods that depart from Generally Accepted Accounting Principles (GAAP) in certain respects in order to better disclose the amount and changes in net claimants' equity.

7. Audited Financial Statements: In accordance with the requirements of Section 2.2(c)(i) of the Trust Agreement, the Trustees have caused the Trust's financial statements to be audited by Eide Bailly LLP, the independent certified public accountants retained by the Trust to perform the annual audit of its financial statements. The Trust's audited financial statements for the year ended December 31, 2023 ("Audited Financial Statements") are attached hereto as



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Exhibit "E" and include a Statement of Net Claimants' Equity, a Statement of Changes in Net Claimants' Equity, a Statement of Cash Flows and Explanatory Notes. The Statement of Net Claimants' Equity, which is the equivalent of a corporate balance sheet, reflects total assets of the Trust at market value and on the other comprehensive basis of accounting utilized by the Trust. These Audited Financial Statements show, among other things, that as of December 31, 2023, total Trust assets were $390,154,092, total liabilities were $34,080,613, and Net Claimants' Equity was $356,073,479.

8. Claim Report: Section 2.2(c)(ii) of the Trust Agreement provides that along with the Audited Financial Statements, the Trustees shall file with the Bankruptcy Court a report containing a summary regarding the number and type of claims disposed of during the period covered by the financial statements. The Thorpe Insulation Settlement Trust Claim Report as of December 31, 2023 ("Claim Report") is attached hereto as Exhibit "F".

9. Public Inspection: In compliance with Section 2.2(c) of the Trust Agreement, the Annual Report, including the Audited Financial Statements and Claim Report, have been provided to the Futures Representative, the TAC, and the Office of the United States Trustee with responsibility for the Central District of California. The Trust has filed the Annual Report, including the Audited Financial Statements and Claim Report with the Bankruptcy Court. Accordingly, the Annual Report and related documents have been made available for inspection by the public in accordance with established procedures.

10. Trustees' Meetings: Article II, Section 4 of the Bylaws provides that the Trustees shall meet in Nevada, or a state other than California, at least four times a year, as close as practicable on a quarterly basis. The Trustees held four (4) regular meetings during the Accounting Period (February 17, 2023, April 21, 2023, September 22, 2023, and November 10, 2023).

11. Funds Received Ratio: Sections 2.3 and 4.2 of the TDP provide for the Trustees to reconsider the Funds Received Ratio on the first day of each January after the Plan



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has been confirmed. As described in the Trust's First Annual Report, on November 17, 2010, the Initial Funds Received Ratio was set at 17.5%. Trust fiduciaries have evaluated and, based on such evaluations, modified the Funds Received Ratio at times over the years. The Funds Received Ratio was reviewed on April 21, 2023 and increased to 58.6%. On April 11, 2024, the Funds Received Ratio was reviewed and it was decided it will remain at 58.6%.

12. Maximum Annual Payment: Section 2.4 of the TDP requires that the Trust calculate an annual payment limit for claims ("Maximum Annual Payment") based upon a model of the amount of cash flow anticipated to be necessary over the entire life of the Trust to ensure that funds will be available to treat all present and future claimants as similarly as possible. Effective September 1, 2020, Section 2.5 of the TDP was amended, suspending the claims payment ratio, or "collar", related to claims made by disease category (non-malignant vs. malignant). At the November 10, 2023 meeting, the Maximum Annual Payment for 2024 was set at $27,349,808.

13. Adjustments for Inflation: Section 5.3(d) of the TDP requires that all claim payments be adjusted for inflation annually beginning with the calendar year after the Effective Date of the Trust. Beginning in 2011, all claim payments made during a calendar year include a cost of living adjustment based upon the Federal Bureau of Labor Statistics' *Consumer Price Index for Urban Wage Earners and Clerical Workers* (CPI-W) announced in January each year. At the November 10, 2023 meeting, the CPI-W to be published in January 2024 was approved for use by the Trust in making the cost of living adjustment for claim payments made in 2024. The CPI-W of 3.3% was issued on January 11, 2024 and all inflation adjustments are cumulative. Consequently, all claim payments made during the 2024 calendar year will have a cumulative inflation rate of 42.16% added to the payment amount.

The Trust began indexing the base case values for Economic Loss, Medical Loss, and Assumed Future Medical Loss and Funeral Expenses in 2018. For claims paid in 2024, the base



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case value for Economic Loss is $284,326 for Medical Loss is $280,941, and for Assumed Future Medical Loss and Funeral Expenses is $105,353.

14. Budget and Cash Flow Projections: Prior to the commencement of each fiscal year, Section 2.2(d) of the Trust Agreement requires the Trust to prepare a budget covering such fiscal year, and cash flow projections covering the succeeding four fiscal years. The 2024 budget and four-year cash flow projections were prepared in November 2023. The Trustees reviewed the 2024 budget on November 10, 2023. The Trustees reviewed the four-year cash flow projections on November 10, 2023. These were provided to the Futures Representative and TAC pursuant to Section 2.2(d) of the Trust Agreement. The budget for operating expenses in 2024 totals $1,454,690[3].

15. Trust Facilities and Services Sharing Agreement with Western Asbestos Settlement Trust: As described in the Trust's prior Annual Reports, the Trust and Western Asbestos Settlement Trust ("Western Trust") entered into a Trust Facilities and Services Sharing Agreement. The Trust agreed to pay a negotiated monthly amount that were approved by the Bankruptcy Court. Pursuant to the annual reconciliation of fees presented on February 17, 2023, the Trust and the Western Trust agreed that the advance payments would be $36,700 per month for 2023. The total amount paid by the Trust to the Western Trust, after accounts were reconciled for 2023, was $493,527. Pursuant to the annual reconciliation of fees presented on February 16, 2024, the Trust and the Western Trust agreed that the advance payments shall be $36,100 per month for 2024.

16. Indemnity Fund (Self-Insured Retention): Section 4.6 of the Trust Agreement provides that the Trust shall indemnify the Trustees, Trust officers and employees, Futures Representative, TAC and each of their respective agents. The Trustees, Futures Representative,

[3] This figure excludes claimant payments budgeted for $27,349,808, extraordinary legal fees budgeted for $200,000, and investment fees budgeted for $891,600.




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TAC and their respective agents have a first priority lien upon the Trust's assets to secure the payment of any amounts payable to them pursuant to Section 4.7 of the Trust Agreement. In addition to the first priority lien on the Trust's assets, in 2010, the Trust established an indemnity fund in the amount of $25,000,000 to provide liability coverage for the Trustees, Futures Representative and TAC, and their agents to pay the expenses, costs and fees (including attorneys' fees and costs) associated with defending any judicial, administrative, or arbitrative action, suit or proceeding, as initially described in the Trust's First Annual Report. Northern Trust became the custodian of the fund on January 4, 2021. The Bankruptcy Court approved the decision of the Trustees, Futures Representative and TAC to reduce the amount of the Indemnity Fund to $12,500,000 on January 6, 2023. All interest earned by the fund is returned to the Trust quarterly.

The Trust also maintains a Directors and Officers/Errors and Omissions policy and a Directors and Officers/Errors and Omissions Excess DIC policy.

17. Settlement Fund Control Account and Security Interest Documents: On December 18, 2020, the Trustees, the TAC and the Futures Representative executed an Account Control Agreement between the parties and Northern Trust to perfect the security interest in the assets maintained at Northern Trust, including the Indemnity Fund, accounts, securities, financial assets, investment property and security entitlements, among other things. Northern Trust subsequently executed the Account Control Agreements, which supersede any previous Agreements.

18. Legal:

*Litigation with Michael Mandelbrot.*

After investigation of a pattern and practice of submitting unreliable evidence, the Trust and the J.T. Thorpe Trust ("Thorpe Trusts") advised Mr. Mandelbrot that they would decline to accept further evidence or claims from him and filed related adversary proceedings ("Thorpe Adversary Proceedings") for approval of their decision by the Bankruptcy Court. In response, Mr. Mandelbrot alleged that the Thorpe Trusts' fiduciaries and personnel engaged in misconduct. The Thorpe Adversary Proceedings were resolved by agreement with Mr. Mandelbrot, ultimately



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enforced by the Bankruptcy Court, that the actions taken by the Thorpe Trusts were consistent with the Thorpe Trusts' fiduciary duties, taken pursuant to a valid trust purpose, were not done in bad faith and were not an abuse of discretion. The Trust has advised claim filers that Mr. Mandelbrot is not permitted to file claims with the Trust.

Mr. Mandelbrot continues to publish allegations of Trust fiduciary and personnel misconduct similar to those alleged in the Thorpe Adversary Proceedings. The Trust investigated accusations through outside counsel in prior reporting periods, who reached the same conclusion as had been reached by the Trust and the Court in years past—that the allegations are meritless.

19. Amendments to the Trust Documents: During the Accounting Period and, additionally, from January 1, 2023 to and including April 17, 2024, revisions were made to certain Trust controlling documents.

20. Notifications to Beneficiaries: During the Accounting Period and, additionally, from January 1, 2023 to and including April 17, 2024, the following notifications were placed on the Trust's Website:

a. Notice of Timing of Requests for Consideration at 2023 Trustees' Meeting (posted January 3, 2023);

b. Notice of Reminder of Policy Regarding Claims in Certain Statuses (posted January 3, 2023);

c. Notice of Updated User Guide (posted January 10, 2023);

d. Notice of Indexed Base Case Values for Economic and Medical Loss (posted January 16, 2023);

e. Notice of Thorpe Insulation Funds Received Ratio (posted April 24, 2023);

f. Notice of Annual Report (posted April 28, 2023);

g. Notice of Timing of Requests for Consideration at Trustees' Meetings (posted January 2, 2024);

h. Notice of Physician Request (posted January 23, 2024);



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i. Notice of Indexed Base Case Values for Economic and Medical Loss (posted January 23, 2024); and

j. Notice of Funds Received Ratio (posted April 17, 2024).

21. Filing Fee: Pursuant to Section 6.4 of the TDP, the filing fee was reviewed at the November 10, 2023 meeting and there were no recommended changes to the existing $250.00 filing fee during the Accounting Period or as of the date hereof.

22. Trustees' Compensation: Section 4.5(c) of the Trust Agreement requires the Trust to report the amounts paid to the Trustees for compensation and expenses. For services during the Accounting Period, Mr. Luikart and Dr. Hernandez each earned per annum stipends in the amount of $49,893. The total paid to all Trustees in addition to the annual stipends for hourly compensation and for reimbursement of expenses was $60,997 and $1,108, respectively.

23. Significant Vendors: Although the Trust has many vendors, those who were paid more than $100,000 for services during the Accounting Period are listed alphabetically below:

a. BlackRock Financial Management: One of six investment managers for the Trust described in paragraph 24, *infra*;

b. Eagle Capital Management;

c. Harding Loevner, LP: One of six investment managers for the Trust described in paragraph 24, *infra*;

d. Insight North America (formally known as Mellon Investments Corporation): One of six investment managers for the Trust described in paragraph 24, *infra*;

e. Silvercrest Asset Management Group LLC: One of six investment managers for the Trust described in paragraph 24, *infra*; and

f. Western Asbestos Settlement Trust for shared services pursuant to the Trust Facilities and Services Sharing Agreement, as described in paragraph 15, *supra*.

24. Trust Investment Management: Article 3 of the Trust Agreement authorizes the Trust to administer the investment of funds in the manner in which individuals of ordinary



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prudence, discretion and judgment would act in the management of their own affairs, subject to certain limitations. The Trust closely monitors any market volatility with its investment advisors and continues to comply with its Investment Policy Statement. In light of increased yield available in the fixed income markets at reduced relative investment risk, the Trust has adjusted its long-term asset allocation targets from 65 to 70% fixed income and from 35 to 30% equities. The Trust has also extended duration for part of its fixed income portfolio and, when appropriate, has adopted benchmark indices of longer duration.

Accordingly, the Trust's Investment Policy Statement was amended on April 21, 2023 and February 16, 2024, a copy of which is attached hereto as Exhibit "G".

Callan LLC continued to assist the Trust during the Accounting Period as its investment consultant. BlackRock Financial Management, Inc., Harding Loevner, LP, Insight North America (formally known as Mellon Investments Corporation), Segall Bryant & Hamill, Silvercrest Asset Management Group, and State Street Global Advisors continue to act as investment managers to the Trust.

The Trust's investment portfolio is diversified across a combination of asset classes with the objective to achieve, over the long run, a positive return after the payment of taxes, fees, and the impact of inflation.

During the Accounting Period, the United States and Global markets experienced significant volatility negatively impacted by world-wide supply and inflationary pressures due to the Coronavirus pandemic, geopolitical uncertainty, and the Federal Reserve's tightening monetary policies. Overall performance during the Accounting Period was positive, however, with material declines at times during the Accounting Period, significantly offset by strong gains towards the end of the Accounting Period.

The Trust is closely monitoring its investment portfolio, its liquidity, and is actively working to minimize the impact of this volatility.



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It has always been the Trust's focus with regard to asset management to maintain principal in order to ensure the Trust's claimants a fair and reasonable inflation-adjusted settlement in the future.

***

The Trustees submit that the Annual Report and attached exhibits demonstrate the Trust acted prudently and expeditiously in executing its legal obligations during the Accounting Period, and up to and including the date hereof. The Trust conscientiously worked to execute equitable claim procedures and process Trust Claims with due diligence during the Accounting Period, and up to and including the date hereof. Moreover, the Trust worked with its accountants and financial advisors to preserve and grow Trust assets in order to fulfill the purpose of the Trust established pursuant to section 524(g) of the Bankruptcy Code-to efficiently, promptly, and fairly compensate victims and their families who have legitimate claims against the companies. In so doing, the Trust has carefully complied with the Plan, all Plan documents, and order of the Bankruptcy Court.



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# EXHIBIT “A”

# FIFTEENTH AMENDMENT TO AND COMPLETE RESTATEMENT OF THORPE INSULATION COMPANY ASBESTOS SETTLEMENT TRUST AGREEMENT

This Thorpe Insulation Company Asbestos Settlement Trust Agreement (this "Trust Agreement"), dated and effective as of the Effective Date of October 22, 2010, as amended October 27, 2010, February 17, 2011, April 21, 2011, November 18, 2011, February 7, 2013, November 20, 2014, April 19, 2018, September 13, 2018, November 15, 2018, May 24, 2019, and July 18, 2019 is among the Reorganized Pacific Insulation Company ("Reorganized Debtor") which, was created by the merger of Pacific Insulation Company into Thorpe Insulation Company (sometimes referred to as the "Debtors"), which were the debtors and debtors-in-possession in the Chapter 11 Cases, the Futures Representative, the Trust Advisory Committee and the individual trustees identified on the signature page hereof and appointed at Confirmation pursuant to the Plan.[1]

WHEREAS, at the time of the entry of the orders for relief in the Chapter 11 Cases, each of the Debtors was named as a defendant in personal injury and wrongful death actions seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products; and

WHEREAS, the Debtors have reorganized under the provisions of Chapter 11 of the Bankruptcy Code in a case pending in the United States Bankruptcy Court for the Central District of California (the "Bankruptcy Court"), styled as *In re Thorpe Insulation Company, In re Pacific Insulation Company, Debtors,* Chapter 11 Case Nos. LA 07-19271-BB and 2:07-20016-BB (jointly administered under Case No. LA 07-19271-BB); and

WHEREAS, the Plan, filed by the Debtors, the Futures Representative and the Committee, as Plan Proponents, has been confirmed by the District Court; and

WHEREAS, the Plan provides, *inter alia,* for the creation of the Thorpe Insulation Company Asbestos Settlement Trust; and

WHEREAS, pursuant to the Plan, the Trust is to use the Trust Assets to pay the Asbestos Related Claims; and

WHEREAS, pursuant to the Plan, the Trust is intended to qualify as a "qualified settlement fund" within the meaning of section 1.468B-1, *et seq.,* of the Treasury Regulations promulgated under section 468B of the IRC; and

WHEREAS, it is the intent of the Reorganized Debtor, the Trustees, the Futures Representative and the other parties that the Trust be administered, maintained, and operated at all times as a qualified settlement fund through mechanisms that provide reasonable assurance that the Trust will value, and be in a financial position to pay, all Asbestos Related Claims and Asbestos Injury Demands that involve similar claims in substantially the same manner, in strict compliance with the terms of this Trust Agreement; and

WHEREAS, the Plan provides, among other things, for the complete treatment of all liabilities and obligations of the Debtors with respect to Asbestos Related Claims; and

WHEREAS, the District Court has determined that the Trust and the Plan satisfy all the prerequisites for the Injunctions, including the injunctions pursuant to section 524(g) of the

[1] This Trust Agreement is being entered into pursuant to the terms of the Joint Plan of Reorganization of Thorpe Insulation Company and Pacific Insulation Company filed in the United States Bankruptcy Court for the Central District of California, Case No. 07-19271, jointly administered (the "Plan"). Capitalized terms used in this Trust Agreement that are not otherwise defined in this Trust Agreement are used as defined in the Plan.




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Bankruptcy Code, and such Injunctions have been entered in connection with the Confirmation Order; and

WHEREAS, pursuant to Section 2.2(f)(iii) and Section 7.3 of the Trust Agreement, the Trustees, subject to the consent of the TAC and the Futures Representative, may amend the Trust Agreement.

NOW, THEREFORE, it is hereby agreed as follows:

## ARTICLE 1

## AGREEMENT OF TRUST

**1.1 Creation and Name**. The Debtors hereby create a trust known as the "Thorpe Insulation Company Asbestos Settlement Trust," which is the Trust provided for and referred to in the Plan. The Trustees of the Trust may transact the business and affairs of the Trust in the name "Thorpe Insulation Settlement Trust."

**1.2 Purpose**. The purpose of the Trust is to assume the liabilities of each Debtor, arising from or relating to Asbestos Related Claims and to use the Trust's assets and income to pay holders of Asbestos Related Claims in accordance with the Trust Agreement and in such a way that all holders of similar Asbestos Related Claims are treated in a substantially equivalent manner and to otherwise comply in all respects with the requirements of a trust set forth in section 524(g)(2)(B)(i) of the Bankruptcy Code. The Trust shall, at all times, remain qualified as a "qualified settlement fund" under the QSF Law.

**1.3 Transfer of Assets**. Pursuant to the Plan, the Debtors have transferred and assigned the Trust Assets to the Trust, free and clear of any liens or other interests of the Debtors or any creditor, shareholder or other entity. The Reorganized Debtor shall transfer to the Trust any Trust Assets that may, subsequent to the Effective Date, be received by the Reorganized Debtor. The Debtors shall execute and deliver such documents as the Trustees reasonably request to transfer and assign any such Trust Assets.

**1.4 Acceptance of Assets and Assumption of Liabilities**.

a) In furtherance of the purposes of the Trust, the Trustees, on behalf of the Trust, hereby expressly accept the transfer and assignment to the Trust of the Trust Assets in the time and manner as contemplated in the Plan.

b) In furtherance of the purposes of the Trust, the Trustees, on behalf of the Trust, hereby expressly assume all liability for all Asbestos Related Claims. Except as otherwise provided in the TDP, the Trust shall have all defenses, cross-claims, offsets and recoupments, as well as rights of indemnification, contribution, subrogation, and similar rights, regarding Asbestos Related Claims that the Debtors or the Reorganized Debtor have, or would have had, under applicable law.

c) In furtherance of the purposes of the Trust, commencing on the Effective Date, the Trustees, on behalf of the Trust, hereby agree to pay, as Trust Expenses, all remaining obligations of any of the Debtors to their present and former attorneys, Morgan Lewis & Bockius,

LLP ("Morgan Lewis") and Snyder Miller & Orton LLP ("SMO") related to or arising from the Coverage Litigation, whether such obligations shall be then due or thereafter due, owing and payable, as more specifically set forth in the Bankruptcy Court's order approving Thorpe's employment of Morgan Lewis and SMO.

d) In furtherance of the purposes of the Trust, and in addition to the indemnification provided for in Section 4.7 of this Trust Agreement, the Trustees, on behalf of the Trust, hereby indemnify the Protected Parties (other than Settling Asbestos Insurers) ("Indemnified Parties") from personal liability for: (1) any expenses, costs and fees (including attorneys' fees and costs, but excluding any such expenses, costs and fees incurred prior to the Effective Date), judgments, settlements or other liabilities arising from or incurred in connection with, any claim demand or action based upon an Asbestos Related Claim, including, but not limited to, indemnification or contribution for Asbestos Related Claims prosecuted against the Reorganized Debtor; (2) as provided in Section 7.3 of the Plan; and (3) as provided in Section 7.4 of the Plan.

e) Nothing in this Trust Agreement shall be construed in any way to limit the scope, enforceability or effectiveness of the Injunctions issued and affirmed in connection with the Plan or the Trust's assumption of all liability with respect to Asbestos Related Claims.

## ARTICLE 2

## POWERS AND TRUST ADMINISTRATION

**2.1 Powers.**

a) The Trustees are and shall act as fiduciaries to the Trust in accordance with the provisions of this Trust Agreement and the Plan. The Trustees shall, at all times, administer the Trust and the Trust Assets in accordance with Section 1.2 of this Trust Agreement. Subject to the limitations set forth in this Trust Agreement, the Trustees shall have the power to take any and all actions that, in the judgment of the Trustees, are necessary or proper to fulfill the purposes of the Trust, including, without limitation, each power expressly granted in this Section 2.1, any power reasonably incidental thereto, and any trust power now or hereafter permitted under the laws of the State of Nevada.

b) Except as otherwise specified herein, the Trustees need not obtain the order or approval of any court in the exercise of any power or discretion conferred hereunder; provided that the Trustees recognize and acknowledge that the Trust is subject to the continuing jurisdiction of the Bankruptcy Court.

c) Without limiting the generality of Subsection 2.1(a) above, and except as limited below, the Trustees shall have the power to:

(i) receive and hold the Trust Assets, and exercise all rights with respect to (including sale of) any or all such assets;

(ii) invest the monies held from time to time by the Trust;




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(iii) sell, transfer or exchange any or all of the Trust Assets at such prices and upon such terms as they may consider proper, consistent with the other terms of this Trust Agreement;

(iv) exercise all rights granted under the Reorganized Debtor Stock Pledge with respect to the shares of common stock of the Reorganized Debtor pledged pursuant thereto, as and to the extent provided therein, and exercise all rights with respect to the Reorganized Debtor Earnout Note and the Reorganized Debtor Promissory Note, subject to any restrictions set forth therein;

(v) enter into leasing and financing agreements with third parties to the extent such agreements are reasonably necessary to permit the Trust to operate;

(vi) pay liabilities and expenses of the Trust, including, but not limited to, Trust Expenses;

(vii) establish such funds, reserves and accounts within the Trust estate, as deemed by the Trustees to be useful in carrying out the purposes of the Trust;

(viii) sue and be sued and participate, as a party or otherwise, in any judicial, administrative, arbitrative or other proceeding;

(ix) amend the Trust Bylaws in accordance with the terms thereof, a copy of which is annexed hereto as Annex A;

(x) establish, supervise and administer the Trust in accordance with the TDP and its exhibits, and administer, amend, supplement or modify the TDP, including its exhibits, in accordance with the terms thereof, a copy of which is annexed hereto as Annex B;

(xi) appoint such officers and hire such employees and engage such legal, financial, accounting, investment, auditing and forecasting and other consultants or alternative dispute resolution panelists and agents as the business of the Trust requires, and to delegate to such persons such powers and authorities as the fiduciary duties of the Trustees permit and as the Trustees, in their discretion, deem advisable or necessary in order to carry out the terms of this Trust;

(xii) pay employees, legal, financial, accounting, investment, auditing and forecasting, and other consultants, advisors and agents reasonable compensation, including without limitation, compensation at rates approved by the Trustees for services rendered prior to the execution hereof;

(xiii) compensate the Trustees, the members of the TAC, the Futures Representative and their respective Agents and reimburse to them all reasonable out-of-pocket costs and expenses incurred by such persons in connection with the performance of their duties hereunder, including without limitation, costs and expenses incurred prior to the execution hereof;

(xiv) execute and deliver such instruments as the Trustees consider proper in administering the Trust;



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(xv) enter into such other arrangements with third parties as are deemed by the Trustees to be useful in carrying out the purposes of the Trust, provided such arrangements do not conflict with any other provision of this Trust Agreement;

(xvi) in accordance with Section 4.7, indemnify (and purchase insurance indemnifying) the Trustees, the Futures Representative, the TAC, and each of the Indemnified Parties, and the respective agents of the Trust, the Futures Representative, the TAC, and each of the Indemnified Parties to the fullest extent that a corporation or trust organized under the law of the Trust's situs is from time to time entitled to indemnify and/or insure such agents and/or parties;

(xvii) delegate any or all of the authority herein conferred with respect to the investment of all or any portion of the Trust Assets to any one or more reputable individuals or recognized institutional investment advisors or investment managers without liability for any action taken or omission made because of any such delegation, except as provided in Section 4.4;

(xviii) consult with the Reorganized Debtor at such times and with respect to such issues relating to the conduct of the Trust as the Trustees consider desirable;

(xix) make, pursue (by litigation or otherwise), collect, compromise or settle, in its own name or the name of the applicable Debtor, any claim, right, action, or cause of action included in the Trust Assets, including without limitation, the Asbestos Insurance Litigation, before any court of competent jurisdiction; provided that settlement of any action before the Bankruptcy Court requires the approval of the Bankruptcy Court after notice to such Debtor;

(xx) with the prior consent of the Futures Representative and the Trust Advisory Committee (the "Approving Entities"), merge or contract with other claims resolution facilities that are not specifically created by this Trust Agreement or the TDP, provided that such merger or contract shall not (a) subject the Reorganized Debtor or any successor in interest to any risk of having any Asbestos Related Claim asserted against any of them, or (b) otherwise jeopardize the validity or enforceability of the Injunctions; and

(xi) with the prior consent of the Approving Entities, establish binding and non-binding arbitration procedures for the purposes set forth in Section 5.9 of the TDP.

d) The Trustees shall not have the power to guarantee any debt of other Persons, provided however, that the Trustees shall have the power to implement the obligations of the Trust, if any, as required under the Plan including but not limited to Exhibit H and/or Sections 7.3 and 7.4 of the Plan.

e) The Trustees shall give the Approving Entities prompt notice of any act performed or taken pursuant to Subsection 2.1(c)(i), (iii), (vii), (viii), (ix), (x), (xvi), (xix), (xx) and Subsection 2.2(f).

**2.2 General Administration.**

a) The Trustees shall act in accordance with the Trust Bylaws. To the extent not inconsistent with the terms of this Trust Agreement, the Trust Bylaws govern the affairs of the



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Trust. In the event of an inconsistency between the Trust Bylaws and this Trust Agreement, the Trust Agreement shall govern.

b) The Trustees shall timely file such income tax and other returns and statements and comply with all withholding obligations as required under the applicable provisions of the IRC and of any state law and the regulations promulgated thereunder, including without limitation all requirements necessary to qualify and maintain qualification as a qualified settlement fund, and shall timely pay all taxes required to be paid.

c) (i) The Trustees shall cause to be prepared and filed with the Bankruptcy Court, as soon as available, and in any event within 120 days following the end of each fiscal year, an annual report containing financial statements of the Trust (including, without limitation, a statement of the net claimants' equity of the Trust as of the end of such fiscal year and a statement of changes in net claimants' equity for such fiscal year) audited by a firm of independent certified public accountants selected by the Trustees and accompanied by an opinion of such firm as to the fairness of the financial statements' presentation of the equity presently available to current and future claimants and as to the conformity of the financial statements with accounting principals generally accepted in the United States, except for the special-purpose accounting methods set forth as follows:

1. The financial statements shall be prepared using the accrual method of accounting.

2. The funding received from Thorpe and Pacific, and their insurers, shall be recorded directly to net claimants' equity. These funds shall not represent income of the Trust. Settlement offers for Asbestos Related Claims shall be reported as deductions in net claimants' equity and shall not represent expenses of the Trust.

3. Costs of fixed assets, which shall be exhausted during the life of the Trust and will not be available for satisfying claims, shall be expensed when incurred. These costs shall include acquisition costs of computer hardware, software, software development, office furniture, and leasehold improvements.

4. Future fixed liabilities and contractual obligations entered into by the Trust shall be recorded directly against net claimants' equity. Accordingly, the future minimum rental commitments outstanding at period end for non-cancelable operating leases, net of any sublease agreements, shall be recorded as deductions to net claimants' equity.

5. The liability for unpaid claims reflected in the statements of net claimants' equity shall represent settled but unpaid claims and outstanding settlement offers. A claims liability shall be recorded once a settlement offer is made to the claimant at the amount equal to the expected pro rata payment. No liability shall be recorded for future claim filings and filed claims on which no settlement offer has been made. Net claimants' equity represents funding available to pay present and future claims on which no fixed liability has been recorded.

6. Available-for-sale securities shall be recorded at market. All interest and dividend income on available-for-sale securities, net of investment expenses, shall be



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included in investment income on the statement of changes in net claimants' equity. Realized and unrealized gains and losses on available-for-sale securities shall be recorded as separate components on the statements of changes in net claimants' equity.

7. Realized gains/losses on available-for-sale securities shall be recorded based on the security's original cost. At the time a security is sold, all previously recorded unrealized gains/losses shall be reversed and recorded net, as a component of other unrealized gains/losses in the statement of changes in net claimants' equity.

The Trustees shall provide a copy of such report to the Approving Entities and the Reorganized Debtor when such reports are filed with the Bankruptcy Court.

(ii) Simultaneously with delivery of each set of financial statements referred to in Subsection 2.2(c)(i) above, the Trustees shall cause to be prepared and filed with the Bankruptcy Court a report containing a summary regarding the number and type of claims disposed of during the period covered by the financial statements. The Trustees shall provide a copy of such report to the Approving Entities and the Reorganized Debtor when such report is filed.

(iii) All materials required to be filed with the Bankruptcy Court by this Subsection 2.2(c), other than materials filed under seal, shall be available for inspection by the public in accordance with procedures established by the Bankruptcy Court and shall be filed with the Office of the United States Trustee with responsibility for the Central District of California. The Trustees shall file materials under seal which they determine should remain confidential, provided, however, such materials shall be available to the TAC and the Futures Representative.

d) The Trustees shall cause to be prepared, as soon as practicable prior to the commencement of each fiscal year, a budget and cash flow projections covering such fiscal year and the succeeding four fiscal years. The Trustees shall provide a copy of the budget and cash flow to the Approving Entities.

e) The Trustees shall consult with the TAC and the Futures Representative (i) on the implementation and administration of the TDP and the Matrix, and (ii) on the implementation and administration of the Trust.

f) The Trustees shall be required to obtain the consent of the Approving Entities in addition to those instances elsewhere enumerated, in order:

(i) to add to or change the schedule of Asbestos-Related Disease Categories or criteria, or to increase the Average Values or Base Case Values in the Matrix pursuant to the TDP; or

(ii) to merge or participate in the handling of bodily injury claims with any claims resolution facility that was not specifically created under this Trust Agreement or the TDP; or

(iii) to amend any provision of the Trust Agreement; Article I, Article II, Article III Section 4, or Article IV of the Trust Bylaws; or the TDP; or

(iv) to terminate the Trust pursuant to Section 7.2 herein; or

(v) to change the number of Trustees and to appoint successor Trustees; or

(vi) to settle the liability of any Asbestos Insurer under any Asbestos Insurance Policy covering Asbestos Related Claims or to settle any Asbestos Insurance Litigation; or

(vii) to change the compensation of the Trustees or the Managing Trustee, other than cost-of-living increases; or

(viii) to exercise the Trust's rights under the Pacific Stock Pledge, the Reorganized Debtor Earnout Note or the Reorganized Debtor Promissory Note; or

(ix) to change the Trust claim form used by the Trust to evaluate claims; or

(x) to amend, supplement or modify the provisions of the Matrix.

g) Whenever the consent of the Approving Entities is required pursuant to Subsection 2.2(f) above, or elsewhere in this Trust Agreement, such consent shall be deemed given if the Approving Entities are signatories to a document or the minutes of the Trustees' meeting reflect such consent was given orally and said minutes are then subsequently approved by the Trustees.

h) The Trustees, upon notice from either of the Approving Entities, shall at their next regular meeting or, if appropriate, at a specially called meeting, place on their agenda and consider issues requested by such Approving Entity.

**2.3 Claims Administration**. The Trustees shall promptly proceed to implement the TDP.

**2.4 Western Asbestos Settlement Trust Transaction**. In order to employ the resources of an organization whose capabilities are uniquely suited to the claims processing and administrative work of the Trust, and to realize cost savings through similar trusts sharing overhead, the Trustees are expressly authorized to enter into a Trust Facilities and Services Sharing Agreement with the Western Asbestos Settlement Trust for the purpose of allowing the Trust to utilize the Western Asbestos Settlement Trust employees to administer the Trust and the processing of Asbestos Related Claims pursuant to the TDP. Notwithstanding anything to the contrary in this Trust Agreement, and in express acknowledgment that the Trustees also serve as trustees of the Western Asbestos Settlement Trust, the Trustees, the Futures Representative and the TAC are expressly relieved of any fiduciary obligation to act solely in the best interest of the beneficiaries of the Trust only with regard to such transaction with the Western Asbestos Settlement Trust.

## ARTICLE 3

## ACCOUNTS, INVESTMENTS, AND PAYMENTS

**3.1 Accounts**. The Trustees may, from time to time, create such accounts and reserves within the Trust estate as they may deem necessary, prudent, or useful in order to provide for the payment of expenses and valid Asbestos Related Claims and may, with respect to any such account or reserve, restrict the use of monies therein. The Trustees shall identify any restricted accounts, and the nature of the restriction, in the reports to be filed with the Bankruptcy Court under Section 2.2(c) above.

**3.2 Investments**. The Trustees shall invest and manage Trust assets consistent with those standards and provisions of the Uniform Prudent Investor Act expressly set forth herein in this preamble for Section 3.2 and in Sections 3.2(a)-(c), subject to the limitations and provisions set forth below in Section 3.2(d), as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the Trust. In satisfying this standard, the Trustees shall exercise reasonable care, skill, and caution.

a) The Trustees' investment and management decisions respecting individual assets and courses of action must be evaluated not in isolation, but in the context of the Trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the Trust.

b) Among circumstances that are appropriate to consider in investing and managing Trust assets are the following, to the extent relevant to the Trust or its beneficiaries:

(i) General economic conditions.

(ii) The possible effect of inflation or deflation.

(iii) The expected tax consequences of investment decisions or strategies.

(iv) The role that each investment or course of action plays within the overall Trust portfolio.

(v) The expected total return from income and the appreciation of capital.

(vi) Other resources of the beneficiaries known to the Trustees as determined from information provided by the beneficiaries.

(vii) Needs for liquidity, regularity of income, and preservation or appreciation of capital.

(viii) An asset's special relationship or special value, if any, to the purposes of the Trust or to one or more of the beneficiaries.



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c) The Trustees shall make a reasonable effort to ascertain facts relevant to the investment and management of Trust assets.

d) Notwithstanding the foregoing and/or any other provision of this Trust Agreement, the Trustees shall comply with the following limitations and provisions:

(i) The Trust shall not acquire, directly or indirectly, equity in any Person (other than the Reorganized Debtor or any successor to the Reorganized Debtor, on the terms and conditions in the Plan) or business enterprise if, immediately following such acquisition, the Trust would hold more than five percent of the equity in such Person or business enterprise. The Trust shall not hold, directly or indirectly, more than ten percent of the equity in any Person (other than the Reorganized Debtor, on the terms and conditions in the Plan) or business enterprise.

(ii) The Trust shall not acquire or hold any long-term debt securities unless (i) such securities are rated "Baa" or higher by Moody's, "BBB" or higher by S&P or have been given an equivalent investment grade rating by another nationally recognized statistical rating agency, or (ii) have been issued or fully guaranteed as to principal and interest by the United States of America or any agency or instrumentality thereof, or (iii) with respect to no more than ten percent (10%) of the total assets of the Trust, such securities are included in a diversified and managed portfolio or portfolios.

(iii) The Trust shall not acquire or hold for longer than 90 days any commercial paper unless such commercial paper is rated "Prime-1" or higher by Moody's or "A-1" or higher by S&P or has been given an equivalent rating by another nationally recognized statistical rating agency.

(iv) Excluding any securities issued by the Reorganized Debtor, the Trust shall not acquire or hold, directly or indirectly, any common or preferred stock or convertible securities, REITS, MLPs and Royalty Trusts ("Stocks") unless such Stock is included in a diversified and managed portfolio or portfolios. The Trust shall not acquire, directly or indirectly, more than forty percent (40%) of the Trust's total assets in such Stock Portfolios, or hold, directly or indirectly, more than forty-five (45%) of the Trust's total assets in such Stock Portfolios.

(v) Except as provided in Section 3.2(d) above, the Trust shall not acquire any securities or other instruments issued by any person (other than debt securities or other instruments issued or fully guaranteed as to principal and interest by the United States of America or any agency or instrumentality thereof) if, following such acquisition, the aggregate market value of all securities and instruments issued by such Person held by the Trust would exceed five percent of the aggregate value of the Trust estate. The Trust shall not hold any securities or other instruments issued by any Person (other than debt securities or other instruments issued or fully guaranteed as to principal and interest by the United States of America or any agency or instrumentality thereof and other than securities or other instruments of the Reorganized Debtor or any successor to the Reorganized Debtor) to the extent that the aggregate market value of all securities and instruments issued by such Person held by the Trust would exceed five percent of the aggregate value of the Trust Estate.




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(vi) The Trust shall not acquire or hold any certificates of deposit unless all publicly held, long-term debt securities, if any, of the financial institution issuing the certificate of deposit and the holding company, if any, of which such financial institution is a subsidiary, meet the standards set forth in Subsection 3.2(b).

(vii) The Trust shall not acquire or hold any repurchase obligations unless, in the opinion of the Trustees, they are adequately collateralized.

(viii) The Trust shall not acquire or hold any options.

**3.3 Source of Payments**. All Trust Expenses and all liabilities with respect to Asbestos Related Claims shall be payable solely by the Trust out of the Trust Assets, Asbestos Insurance Settlements, the proceeds of Asbestos Insurance Policies and Net Recoveries. None of the Debtors, the Reorganized Debtor, the Indemnified Parties, their Affiliates, the Trustees, the Approving Entities, or any of their Affiliates, subsidiaries, successors in interest, present or former stockholders, directors, officers, employees or agents shall be liable for the payment of any Trust Expense or any other liability of the Trust.

**3.4 Payment of Business Loss Allocation**. Subject to the Trust's set-off rights, the Trust shall pay the Business Loss Allocation to the Reorganized Debtor from the Trust Assets in accordance with the terms of the Plan.

## ARTICLE 4

## TRUSTEES

**4.1 Number of Trustees**.

(a) There shall be at least two Trustees and no more than three Trustees.

(b) The Trustees shall designate one of their number to serve as the Managing Trustee.

(c) Trustees shall act by majority vote when there are three Trustees and by unanimous vote when there are two Trustees. When there are two Trustees and the Trustees, having exercised reasonable efforts to discuss their differing views and reach consensus, cannot agree on action that requires a vote of the Trustees the Trustees will promptly so inform the Approving Entities in writing thereby invoking the provisions of Section 4.3(a) requiring the appointment of a third Trustee.

**4.2 Term of Service**.

a) Each of the Trustees named pursuant to Section 4.1 shall serve until the earlier of (i) his or her death, (ii) his or her resignation pursuant to Subsection 4.2(c), (iii) his or her removal pursuant to Subsection 4.2(d), or (iv) the termination of the Trust pursuant to Section 7.2.



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b) Each successor Trustee shall serve until the earlier of (i) his or her death, (ii) his or her resignation pursuant to Subsection 4.2(c), (iii) his or her removal pursuant to Subsection 4.2(d), or (iv) the termination of the Trust pursuant to Section 7.2.

c) Any Trustee may resign at any time by written notice to each of the remaining Trustees, the Futures Representative, and the TAC. Such notice shall specify a date when such resignation shall take effect, which shall not be fewer than 90 days after the date such notice is given, where practicable.

d) Any Trustee may be removed in the event that such Trustee becomes unable to discharge his or her duties hereunder due to accident or physical or mental deterioration, or for other good cause. "Good cause" includes, without limitation, any substantial failure to comply with Section 2.2, a consistent pattern of neglect and failure to perform or participate in performing the duties of the Trustees hereunder, or repeated non-attendance at scheduled meetings. If there are three Trustees, a Trustee shall be removed by unanimous decision of the two other Trustees and prompt written notification by the two other Trustees to the Trustee being removed and the Approving Entities of the removal decision specifying the basis for removal. If there are two Trustees, such removal shall be made upon prompt written notification by the removing Trustee to the Trustee being removed and to the Approving Entities of the removal decision specifying the basis for removal and invoking the process for appointment of a Trustee in accordance with the provisions of Section 4.3(a) below.

**4.3 Appointment of Successor Trustee.**

a) In the event of a vacancy in the position of Trustee, the vacancy shall be filled by the unanimous vote of the remaining Trustee(s) subject to the consent of the Approving Entities. If, after a vacancy occurs, there are two remaining Trustees, the remaining Trustees may decide, subject to consent of the Approving Entities, not to fill the vacancy. Where such consent is given, thereafter any of the existing Trustees (acting individually), the TAC or the Futures Representative may deliver a written notice to the remaining Approving Entities and Trustees requiring that a third Trustee be appointed. The third Trustee shall be appointed in accordance with this Section 4.3(a). If the vacancy has not been filled within 90 days the matter shall, on application of any such persons, be submitted promptly to the Bankruptcy Court for resolution. In the event that more than one vacancy shall exist, the vacancies shall be filled by the remaining Trustee (if one should exist), subject to the consent of the Approving Entities.

b) Immediately upon the appointment of any successor Trustee, all rights, titles, duties, powers and authority of the predecessor Trustee hereunder shall be vested in, and undertaken by, the successor Trustee without any further act. No successor Trustee shall be liable personally for any act or omission of his or her predecessor Trustee.

**4.4 Liability of Trustees, Futures Representative and TAC.** Neither the Trustees, the Futures Representative, the TAC (or any member of the TAC), nor any of their respective Agents, shall be liable to the Trust, to any person holding an Asbestos Related Claim, or to any other Person, except for such individual's or entity's own breach of trust committed in bad faith or willful misappropriation. Neither the Trustees, the Futures Representative, the TAC (or any member of the TAC), nor any of their respective Agents, shall be liable for any act or omission of



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any Agent of the Trust, the Futures Representative, the TAC (or any member of the TAC), unless the Trustees, the Futures Representative, the TAC (or any member of the TAC), respectively, acted with bad faith in the selection or retention of such Agent.

**4.5 Compensation and Expenses of Trustees.**

(a) The Trustees shall be compensated as follows:

(1) *Hourly Compensation* Each of the Trustees shall receive compensation from the Trust for his or her services as Trustee for each hour spent at an official meeting of the Trustees, an official trip of the Trustees, or dedicated to Trust Business ("Hourly Compensation"). For the period January 1, 2019 to May 31, 2019, the rate for Hourly Compensation for individual Trustees shall remain the same as each has been paid as of January 1, 2019. As of June 1, 2019 the rate for Hourly Compensation for the remaining two Trustees including the Managing Trustee shall be $587.73.

(2) *Annual Compensation* As of January 1, 2019, in addition to the Hourly Compensation, each Trustee shall receive compensation from the Trust for his or her services as Trustee in the amount of $42,744 per annum paid quarterly in advance ("Annual Compensation").

(3) *Inflation Adjustment* The Hourly Compensation and the Annual Compensation shall be adjusted each year in accordance with the Federal Bureau of Labor Statistics' Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) published in January of each year retroactive to the beginning of that year commencing January 1, 2020.

(4) *Managing Trustee* The Trustee serving as Managing Trustee shall be compensated as established from time to time by the other Trustees, the Futures Representative and the TAC.

(5) *Review of Trustee Compensation* The structure and amounts of Hourly Compensation and the Annual Compensation payable to the Trustees shall be reviewed when requested by the Trustees, the TAC and/or the Futures Representative but no less than every three years beginning in April 2022 and appropriately adjusted with the consent of the Approving Entities.

(b) *Out of Pocket Expenses* The Trust will promptly reimburse the Trustees for all reasonable out of pocket costs and expenses incurred by the Trustees in connection with the performance of their duties hereunder.

(c) *Reporting* The Trust will include a description of the amounts paid under this Section 4.5 in the report to be filed pursuant to Subsection 2.2(c)(i) of this Trust Agreement.

**4.6 Indemnification of Trustees and Additional Indemnitees.**

a) The Trust shall indemnify and defend the Trustees, the Trust's officers, and the Trust's employees to the fullest extent that a corporation or trust organized under the laws of the Trust's situs is from time to time entitled to indemnify and defend its directors, trustees, officers and employees against any and all liabilities, expenses, claims, damages or losses incurred by them in the performance of their duties hereunder. Notwithstanding the foregoing, the Trustees shall not be indemnified or defended in any way for any liability, expense, claim, damage or loss for which they are ultimately liable under Section 4.4.

b) Additionally, the Committee, the Futures Representative, the TAC, the Indemnified Parties and each of their respective Agents, who was or is a party, or is threatened to be made a party to any threatened or pending judicial, administrative or arbitrative action, by



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reason of any act or omission of such Committee, the Futures Representative, the TAC, the Indemnified Parties and their respective Agents, with respect to (i) the Reorganization Case and any act or omission with respect thereto undertaken by them prior to the commencement thereof, (ii) the liquidation of any Asbestos Related Claims, (iii) the administration of the Trust and the implementation of the TDP, or (iv) any and all activities in connection with the Trust Agreement, shall be indemnified and defended by the Trust, to the fullest extent that a corporation or trust organized under the laws of the Trust's situs is from time to time entitled to indemnify and defend its officers, directors, trustees and employees, against reasonable expenses, costs and fees (including attorneys' fees and costs), judgments, awards, amounts paid in settlement and liabilities of all kinds incurred by the Committee, the Futures Representative, the TAC, the Indemnified Parties, and their respective members, professionals, officers, and directors, in connection with or resulting from such action, suit or proceeding, if he or she acted in good faith.

c) Reasonable expenses, costs and fees (including attorneys' fees and costs) incurred by or on behalf of the Trustees, the Committee, the Futures Representative, the TAC, the Protected Parties (other than the Settling Asbestos Insurers), and their respective Agents in connection with any action, suit or proceeding, whether civil, administrative or arbitrative, from which they are indemnified by the Trust pursuant to Subsection 4.6(a), shall be paid by the Trust in advance of the final disposition thereof upon receipt of an undertaking, by or on behalf of the party seeking indemnity to repay such amount in the event that it shall be determined ultimately by Final Order that the party seeking indemnity is not entitled to be indemnified by the Trust.

d) The Trustees shall have the power, generally or in specific cases, to cause the Trust to indemnify the Agents of the Trust to the same extent as provided in this Section 4.6 with respect to the Trustees.

e) Any indemnification under Subsection 4.6(d) of this Trust Agreement shall be made by the Trust upon a determination by the Trustees that indemnification of such Person is proper in the circumstances.

f) The Trustees may purchase and maintain reasonable amounts and types of insurance on behalf of an individual who is or was a Trustee, an Agent of the Trust, a member of the Committee, the Futures Representative, a member of the TAC, a Protected Party (other than a Settling Asbestos Insurer), and their respective Agents against liability asserted against or incurred by such individual in that capacity or arising from his or her status as such.

g) For avoidance of doubt, former Trustees, Trust officers and employees, members of the Committee, Futures Representatives, members of the TAC, and each of their respective Agents entitled to indemnification under this section continue to be so entitled to the same extent with respect to their conduct or status during their past tenure as Trustees, Trust officers and employees, members of the Committee, Futures Representatives, members of the TAC, or Agents.

**4.7 Trustees' Lien**. The Trustees, the Committee, the Futures Representative, the TAC, the Protected Parties (other than the Settling Asbestos Insurers), and their respective Agents shall have a first priority lien upon the Trust Assets to secure the payment of any amounts payable to them pursuant to Sections 4.5, 4.6, 4.7, 5.5, 6.6, and 6.7.



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**4.8 Trustees' Employment of Experts**. The Trustees may, but shall not be required to, retain or consult with counsel, accountants, appraisers, auditors and forecasters, and other parties deemed by the Trustees to be qualified as experts on the matters submitted to them and the opinion of any such parties on any matters submitted to them by the Trustees shall be full and complete authorization and protection in respect of any action taken or not taken by the Trustees hereunder in good faith and in accordance with the written opinion of any such party.

**4.9 Trustees' Independence**. No Trustee shall, during the term of his or her service, hold a financial interest in, act as attorney or agent for, or serve as any other professional for the Reorganized Debtor. Notwithstanding the foregoing, the Trustees may serve as officers or directors of any of the Reorganized Debtor. No Trustee shall act as an attorney for any person who holds an Asbestos Related Claim.

**4.10 Bond**. The Trustees shall not be required to post any bond or other form of surety or security unless otherwise ordered by the Bankruptcy Court.

## ARTICLE 5

## THE FUTURES REPRESENTATIVE

**5.1 Duties**. The Futures Representative shall serve in a fiduciary capacity representing the interests of the future asbestos claimants for the purpose of protecting the rights of persons who might subsequently assert Asbestos Injury Demands. The Trustees must consult with the Futures Representative on matters identified in Subsection 2.2(e), must obtain the consent of the Futures Representative on matters identified in Subsection 2.2(f), and may consult with the Futures Representative on any matter affecting the Trust. Where provided in this Trust Agreement, the TDP or the Matrix, certain actions of the Trustees are subject to the consent of the Futures Representative.

**5.2 Term of Office.**

a) The Futures Representative shall serve until the earlier of (i) his or her death, (ii) his or her resignation pursuant to Subsection 5.2(b), (iii) his or her removal or (iv) the termination of the Trust pursuant to Section 7.2.

b) The Futures Representative may resign at any time by written notice to the Trustees. Such notice shall specify a date when such resignation shall take effect, which shall not be fewer than 90 days after the date such notice is given, where practicable.

c) The Futures Representative may be removed in the event he or she becomes unable to discharge his or her duties hereunder due to accident, physical deterioration, mental incompetence, or a consistent pattern of neglect and failure to perform or to participate in performing the duties hereunder, such as repeated non-attendance at scheduled meetings. Such removal shall be made by the unanimous decision of the Trustees.

**5.3 Appointment of Successor**. A vacancy caused by resignation shall be filled with an individual nominated by the Futures Representative. A vacancy for any other reason, or in the absence of a nomination by the Futures Representative, shall be filled with an individual selected

by majority vote of the Trustees. The successor Futures Representative shall, in either case, be subject to Bankruptcy Court approval.

**5.4 Futures Representative's Employment of Professionals.** The Futures Representative may retain or consult with counsel, accountants, appraisers, auditors, forecasters, asbestos experts and other parties deemed by the Futures Representative to be qualified as experts on matters submitted to them, and the opinion of any such parties on any matters submitted to them shall be full and complete authorization and protection in support of any action taken or not taken by the Futures Representative hereunder in good faith and in accordance with the written opinion of any such party, and in the absence of gross negligence. The Futures Representative and his or her experts shall at all times have complete access to the Trust's officers, employees and agents, and the accountants, appraisers, auditors, forecasters, and other experts retained by the Trust, as well as information generated by them or otherwise available to the Trust or Trustees.

**5.5 Compensation and Expenses of the Futures Representative.**

a) (a) As of January 1, 2019, the Futures Representative shall receive compensation from the Trust for his or her services as the Futures Representative at his or her current hourly rate, such rate being subject to an annual review and adjustment by the Trustees with the consent of the TAC. As of January 1, 2019, the Futures Representative's hourly rate is set at $865.30 per hour spent at an official meeting of the Trust, an official trip of the Trustees, or dedicated to Trust Business. The hourly amount of compensation payable to the Futures Representative hereunder shall be adjusted each year in accordance with the Federal Bureau of Labor Statistics' Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) published in January of each year retroactive to the beginning of that year commencing January 1, 2020. The hourly compensation for the Futures Representative will be reviewed annually when requested by the Trustees, the TAC and/or the Futures Representative, but no less than every three (3) years beginning in April 2022.

b) The Trust will promptly reimburse, or pay directly if so instructed, the Futures Representative for all reasonable out-of-pocket costs and expenses, including fees and costs associated with employment of professionals pursuant to Section 5.4 and the procurement and maintenance of insurance incurred by the Futures Representative in connection with the performance of his or her duties hereunder and his or her duties in connection with the formulation, negotiation, and Confirmation of the Plan. Such reimbursement or direct payment shall be deemed a Trust Expense.

**5.6 Procedure for Obtaining Consent of the Futures Representative.**

a) In the event the consent of the Futures Representative is required pursuant to the terms hereof or of the TDP, the Trustees shall promptly provide the Futures Representative and his or her counsel with notice and with all information regarding the matter in question.

b) The Futures Representative must consider in good faith and in a timely fashion any request by the Trustees and may not withhold his or her consent unreasonably. If the Futures Representative does not notify the Trustees of his or her objection to such request within 30 days after receiving notice and information regarding such request, then the Future Representative shall be deemed to have objected to the request and the procedures set forth in Section 5.7 shall be followed.

**5.7 Lack of Consent of the Futures Representative**. In the event the Trustees are unable to obtain the consent of the Futures Representative to any action or decision for which consent is required after following the procedure set forth in Section 5.6 of this Trust Agreement, or if the Trustees and the Futures Representative are unable to reach agreement on any matter on which such consent is required, the matter shall be submitted promptly to alternative dispute resolution if mutually agreeable to the Trustees and the Futures Representative. If the disagreement is not resolved by alternative dispute resolution, the Trustees may apply to the Bankruptcy Court on an expedited basis for approval of such action or decision, and only if such approval is given by the Bankruptcy Court by entry of an appropriate order, shall the Trustees have the authority to implement such action or decision without the Futures Representative's consent.

## ARTICLE 6

## TRUST ADVISORY COMMITTEE

**6.1 Members**. The TAC shall consist of five (5) members. The initial TAC members shall be Alan R. Brayton, Ron C. Eddins, David McClain, Jerry Neil Paul, and David A. Rosen. Alan R. Brayton has been elected Chair of the TAC by its members with authority to execute all Trust-related documents on their behalf.

**6.2 Duties**. The TAC shall serve in a fiduciary capacity representing all holders of Asbestos Related Claims (excluding, however, holders of Asbestos Injury Demands). The Trustees must consult with the TAC on matters identified in Subsection 2.2(e), must obtain the consent of the TAC on matters identified in Subsection 2.2(f), and may consult with the TAC on any matter affecting the Trust. Where provided in this Trust Agreement or the TDP, certain actions by the Trustees are subject to the consent of the TAC.

**6.3 Term of Office**.

a) Each member of the TAC shall serve until the earlier of (i) his or her death, (ii) his or her resignation pursuant to Section 6.3(b) below, (iii) his or her removal pursuant to Section 6.3(c) below, or (iv) the termination of the Trust pursuant to Section 7.2 below.

b) A member of the TAC may resign at any time by written notice to the other members of the TAC, the Trustees and the Futures Representative. Such notice shall specify a date when such resignation shall take effect, which shall not be less than ninety (90) days after the date such notice is given, where practicable.

c) A member of the TAC may be removed in the event that he or she becomes unable to discharge his or her duties hereunder due to accident, physical deterioration, mental incompetence, or a consistent pattern of neglect and failure to perform or to participate in



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performing the duties of such member hereunder, such as repeated non-attendance at scheduled meetings, or for other good cause. Such removal shall be made at the recommendation of the remaining members of the TAC with the approval of the Bankruptcy Court.

**6.4 Appointment of Successor**. A vacancy caused by resignation shall be filled with an individual nominated by the remaining members of the TAC. A vacancy for any other reason, or in the absence of a nomination by the remaining members of the TAC, shall be filled with an individual selected by majority vote of the Trustees. The successor TAC member shall, in either case, be subject to Bankruptcy Court approval.

**6.5 TAC's Employment of Professionals**. The TAC may retain or consult with counsel, accountants, appraisers, auditors, forecasters, asbestos experts and other parties deemed by the TAC to be qualified as experts on matters submitted to them, and the opinion of any such parties on any matters submitted to them shall be full and complete authorization and protection in support of any action taken or not taken by the TAC hereunder in good faith and in accordance with the written opinion of any such party, and in the absence of gross negligence. The TAC and its experts shall at all times have complete access to the Trust's officers, employees and agents, and the accountants, appraisers, auditors, forecasters, and other experts retained by the Trust, as well as information generated by them or otherwise available to the Trust or Trustees.

**6.6 Compensation and Expenses of TAC Members**.

a) Each of the TAC members or their representatives shall receive compensation from the Trust by the payment of hourly fees for each of the following tasks, which are hereinafter called the "TAC Trust Tasks":

(i) Attendance at meetings of the Trustees.

(ii) Performance of tasks requested to be performed by the Managing Trustee that the Managing Trustee believes benefits or has benefited the Trust, as opposed to individual client or clients of the member of the TAC.

b) As of January 1, 2019, each of the TAC members and/or their representatives shall each be compensated as a Trust Expense at the rate of $534.30 per hour spent at an official meeting of the Trustees, or on an official trip of the Trustees, or in the performance of any other TAC Trust Task. The hourly amount of compensation payable to the TAC members and/or their representatives hereunder shall be adjusted each year in accordance with the Federal Bureau of Labor Statistics' Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) published in January of each year retroactive to the beginning of that year commencing January 1, 2020.

c) The Managing Trustee may, at his or her discretion, pay any invoices from members of the TAC or their representatives in aggregate amounts of up to $25,000 in any month that such Managing Trustee believes are appropriate under these resolutions without the necessity of further approval of the Trustees.

d) The structure and amounts of the TAC compensation will be reviewed when requested by the Trustees, the TAC and/or the Futures Representative, but no less than every three (3) years beginning in April, 2022.



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**6.7 Reimbursement of TAC Expenses**. The Trust will promptly reimburse, or pay directly if so instructed, each TAC member for all reasonable out-of-pocket costs and expenses, including fees and costs associated with employment of professionals pursuant to Section 6.4 and the procurement and maintenance of insurance incurred by the TAC or any TAC member in connection with the performance of its or his or her duties hereunder. Such reimbursement or direct payment shall be deemed a Trust Expense.

**6.8 Procedure for Obtaining Consent of the TAC**.

a) In the event the consent of the TAC is required pursuant to the terms hereof or of the TDP, the Trustees shall promptly provide the TAC and, if requested by the TAC, its counsel with notice and with all information regarding the matter in question.

b) The TAC must consider in good faith and in a timely fashion any request by the Trustees, and the TAC may not withhold its consent unreasonably. If the TAC does not notify the Trustees of its objection to such request within 30 days after receiving notice and information regarding such request, then the TAC shall be deemed to have objected to the request and the procedures set forth in Section 6.9 shall be followed.

**6.9 Lack of Consent of the TAC**. In the event the Trustees are unable to obtain the consent of the TAC for any action or decision for which consent of the TAC is required, after following the procedure set forth in Section 6.8 of this Trust Agreement, or if the Trustees and the TAC are unable to reach agreement on any matter on which the TAC's consent is required, then the matter shall be submitted promptly to alternative dispute resolution if mutually agreeable to the Trustees and the TAC. If the disagreement is not resolved by alternative dispute resolution, the Trustees may apply to the Bankruptcy Court on an expedited basis for approval of such action or decision, and only if such approval is given by the Bankruptcy Court by entry of an appropriate order shall the Trustees have the authority to implement such action or decision without the TAC's consent.

## ARTICLE 7

## GENERAL PROVISIONS

**7.1 Irrevocability**. The Trust is irrevocable.

**7.2 Termination**.

a) The Trust shall automatically terminate on the date 90 days after the first to occur of the following events:

(i) the Trustees in their discretion decide to terminate the Trust because (A) they deem it unlikely that new Asbestos Related Claims will be filed or served against the Trust and (B) all Asbestos Related Claims duly filed with the Trust have been resolved and paid to the extent provided in this Trust Agreement and the TDP, to the extent possible based upon the funds available through the Plan, and twelve (12) consecutive months have elapsed during which no new Asbestos Related Claim has been filed with the Trust; or




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(ii) if the Trustees have procured and have in place irrevocable insurance policies and have established claims handling agreements and other necessary arrangements with suitable third parties adequate to discharge all expected remaining obligations and expenses of the Trust in a manner consistent with this Trust Agreement and the TDP, the date on which the Bankruptcy Court enters an order approving such insurance and other arrangements and such order becomes a Final Order.

b) Upon the termination of the Trust, after payment of all the Trust's liabilities have been provided for, all monies remaining in the Trust estate shall be used to adjust the Funds Received Ratio and distributed to claimants who are still entitled to receive distributions from the Trust pursuant to Section 2.3 of the TDP.

**7.3 Amendments**. The Trustees, after consultation with the Approving Entities, and subject to the consent of the Approving Entities where so provided, may modify or amend this Trust Agreement or any document annexed to it, including, without limitation, the Trust Bylaws or the TDP. Any modification or amendment made pursuant to this Section must be done in writing. Notwithstanding anything contained in this Trust Agreement to the contrary, none of this Trust Agreement, the Trust Bylaws, the TDP, nor any document annexed to the foregoing shall be modified or amended in any way that could jeopardize, impair or modify the applicability of section 524(g) of the Bankruptcy Code, the indemnification provisions of this Trust Agreement, the efficacy or enforceability of the Injunctions or the Trust's qualified settlement fund status.

**7.4 Severability**. Should any provision in this Trust Agreement 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 Trust Agreement.

**7.5 Notices**. Notices to persons asserting claims shall be given at the address of such person, or, where applicable, such person's Futures Representative, in each case as provided on such person's claim form submitted to the Trust with respect to his or her or its Asbestos Related Claim.

All notices, requests, demands, and other communications required or permitted hereunder shall be in writing and given by (a) personal delivery, or (b) by established express delivery service that maintains delivery records, or (c) by mail, postage prepaid, or (d) by facsimile, e-mail or other electronic methods addressed as follows, or to such other address or addresses as may hereafter be furnished by any party to whom such notice is directed to the other parties listed herein in compliance with terms hereof.

**To the Trust through the Trustees**:
Thorpe Insulation Company Asbestos Settlement Trust
300 East Second Street, Suite 1205
Reno, NV 89501
ATTN: Dr. Sandra R. Hernandez

with a copy to:
Levene, Neale, Bender, Yoo & Brill, L.L.P.
10250 Constellation Boulevard, Suite 1700
Los Angeles, CA 90067
ATTN: Eve H. Karasik



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ATTN: John F. Luikart
ATTN: Stephen M. Snyder, Esq.
Facsimile No. 775.325.6200

Facsimile No. 310.229.1244
ehk@lnbyb.com

with a copy to:
Executive Director
Thorpe Insulation Settlement Trust
300 East Second Street, Suite 1205
Reno, NV 89501
Facsimile No. 775.325.6200

**To the Futures Representative**:
David F. Levi
Duke Law School
210 Science Drive
Durham, NC 27708
levi@law.duke.edu

with a copy to:
Sander L. Esserman
Stutzman, Bromberg, Esserman & Plifka
2323 Bryan Street, Suite 2200
Dallas, TX 75201
Facsimile No. 214.969.4999
esserman@sbep-law.com

**To the TAC through its Chair**:
Alan R. Brayton
Brayton Purcell, LLP
222 Rush Landing Road
Novato, CA 94948-6169
Facsimile No. 415.898.1247
abrayton@braytonlaw.com

**To Reorganized Debtor Saladita Holdings, Inc. fka Pacific Insulation Company**:
1220 South Sherman Street
Anaheim, California 92805
ATTN: Robert Fults
Facsimile No. 714.520.8304

with a copy to:
John A. Lapinski
Clark & Trevithick
800 Wilshire Boulevard, 12th Floor
Los Angeles, California 90017
Facsimile No. 213.624.9441
jlapinski@clarktrev.com

All such notices and communications if mailed shall be effective when physically delivered at the designated addresses or, if electronically transmitted, when the communication is received at the designated addresses and confirmed by the recipient by return electronic transmission.

**7.6 Successors and Assigns**. The provisions of this Trust Agreement shall be binding upon and inure to the benefit of the Reorganized Debtor, the Trust, and the Trustees and their respective successors and assigns, except that none of the Reorganized Debtor, or the Trust, nor

any Trustee may assign or otherwise transfer any of its, his or her rights or obligations under this Trust Agreement except, in the case of the Trust and the Trustees, as contemplated by Section 2.1.

**7.7 Entire Agreement; No Waiver**. The entire agreement of the parties relating to the subject matter of this Trust Agreement is contained herein and in the documents referred to herein, and this Trust Agreement and such documents supersede any prior oral or written agreements concerning the subject matter hereof. No failure to exercise or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any further exercise thereof or of any other right, power or privilege. The rights and remedies herein provided are cumulative and are not exclusive of rights under law or in equity.

**7.8 Headings**. The headings used in this Trust Agreement are inserted for convenience only and neither constitute a portion of this Trust Agreement, nor in any manner affect the construction of the provisions of this Trust Agreement.

**7.9 Governing Laws; Submission to Jurisdiction**. This Trust Agreement shall be governed by, and construed in accordance with, the laws of the State of Nevada without regard to Nevada's conflict of laws principles. The Trust is subject to the continuing jurisdiction of the Bankruptcy Court.

**7.10 Dispute Resolution**. Any disputes that arise under this Trust Agreement or under the annexes hereto shall be resolved by the Bankruptcy Court pursuant to the Plan, except as otherwise provided herein or in the annexes hereto. Notwithstanding anything else herein contained, to the extent any provision of this Trust Agreement is inconsistent with any provision of the Plan, the Plan shall control.

**7.11 Enforcement and Administration**. The provisions of this Trust Agreement and the annexes hereto shall be enforced by the Bankruptcy Court pursuant to the Plan. The parties hereby further acknowledge and agree that the Bankruptcy Court shall have exclusive jurisdiction over the settlement of the accounts of the Trustees.

**7.12 Effectiveness**. This Trust Agreement shall not become effective until it has been executed and delivered by all the parties hereto.

**7.13 Counterpart Signatures**. This Trust Agreement may be executed in any number of counterparts, each of which shall constitute an original, but such counterparts shall together constitute but one and the same instrument.



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IN WITNESS WHEREOF, the parties have executed this Fifteenth Amendment to and Complete Restatement of Thorpe Insulation Company Asbestos Settlement Trust Agreement as of November 11, 2022.

TRUSTEES:

Sandra R. Hernandez, M.D.

John F. Luikart

FUTURES REPRESENTATIVE:

David F. Levi

TRUST ADVISORY COMMITTEE:

By: _____
Alan R. Brayton
Its: Chair

IN WITNESS WHEREOF, the parties have executed this Fifteenth Amendment to and Complete Restatement of Thorpe Insulation Company Asbestos Settlement Trust Agreement as of November 11, 2022.

TRUSTEES:

Sandra R. Hernandez, M.D.

John F. Luikart

FUTURES REPRESENTATIVE:

David F. Levi

TRUST ADVISORY COMMITTEE:

By:
Steven B. Sacks, its: Counsel, as authorized by
Alan R. Brayton, its: Chair




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# EXHIBIT “B”

# THIRD AMENDMENT TO AND COMPLETE RESTATEMENT OF THORPE INSULATION COMPANY ASBESTOS SETTLEMENT TRUST BYLAWS

## ARTICLE I - OFFICES

SECTION 1. Principal Office. The initial principal office of the Thorpe Insulation Company Asbestos Settlement Trust (the "Trust") shall be in the County of Washoe, the State of Nevada, or at such other place other than any location in California as the Trustees shall from time to time select.

SECTION 2. Other Offices. The Trust may have such other offices at such other places as the Trustees may from time to time determine to be necessary for the efficient and cost-effective administration of the Trust; provided that the Trust may not have any offices in California at any time.

## ARTICLE II – TRUSTEES

SECTION 1. Control of Property, Business and Affairs. The property, business and affairs of the Trust shall be managed by or under the direction of the Trustees, provided that certain decisions of the Trustees shall be subject to the consent of the Futures Representative and the TAC, as provided in the Trust Agreement to which these Bylaws are attached as Annex A.

SECTION 2. Number, Resignation and Removal. The number of Trustees and the provisions governing the resignation and removal of a Trustee and the appointment of a successor Trustee shall be governed by the provisions of Article 4 of the Trust Agreement.

SECTION 3. Quorum and Manner of Acting. When there are three Trustees, a majority of the Trustees shall constitute a quorum for the transaction of business. When there are three Trustees, the vote, at a meeting at which a quorum is present, of a majority of Trustees shall be an act of the Trustees. When there are two Trustees, both must be present to constitute a quorum for the transaction of business. When there are two Trustees, at a meeting at which a quorum is present, only a unanimous vote of the Trustees shall be an act of the Trustees. In the absence of a quorum, the Trustee(s) present may adjourn the meeting from time to time until a quorum shall be present.

SECTION 4. Regular Meetings. Regular meetings of the Trustees with the Futures Representative and TAC may be held at such time and place as shall from time to time be determined by the Trustees, provided that the Trustees shall meet at least four times a year, as close as practicable on a quarterly basis, pursuant to a schedule announced as soon as practicable after the Effective Date and each year thereafter, and provided further that all meetings shall be held in the State of Nevada or such other state (other than California) as may be selected by the Trustees. After there has been such determination, and a notice thereof has been once given to each Trustee, the Futures Representative and the TAC, regular meetings may be held without further notice being given. The Futures Representative and the TAC shall have the right to attend and participate in Regular Meetings of the Trust.

SECTION 5. Special Meeting Notice. Special meetings of the Trustees shall be held whenever called by one or more of the Trustees. Notice of each such meeting shall be



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delivered by overnight courier to each Trustee, the Futures Representative and the TAC, addressed to each such party at the place designated by such party for receipt of such notice, or, failing such designation, at such party's residence or usual place of business, at least three days before the date on which the meeting is to be held, or shall be sent to such party at such place by personal delivery or by telephone or telecopy not later than two days before the day on which such meeting is to be held. Such notice shall state the place, date and hour of the meeting and the purposes for which it is called. In lieu of the notice to be given as set forth above, a waiver thereof in writing, signed by the Trustee or Trustees, the Futures Representative or the TAC, entitled to receive such notice, whether before or after the meeting, shall be deemed equivalent thereto for purposes of this Section 5. No notice or waiver by any Trustee, the Futures Representative or the TAC, with respect to any special meeting shall be required if such person or entity shall be present at said meeting. The Futures Representative and the TAC shall be entitled to attend every special meeting of the Trustees. All special meetings shall be held in the State of Nevada or such other state (other than California) as may be selected by the Trustees.

SECTION 6. Action without a Meeting; Meeting by Conference Call. Any action required or permitted to be taken at any meeting of the Trustees may be taken without a meeting if all Trustees, after notice to the Futures Representative and the TAC, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Trustees; provided that no such consents may be provided by a Trustee acting in the State of California.

The Trustees also may take action required or permitted to be taken at any meeting by means of conference telephone or similar communication equipment provided that all persons participating in the meeting can hear each other and provided that no Trustee shall participate in such a meeting from the State of California. Participation in a meeting pursuant to this paragraph shall constitute presence in person at such meeting.

SECTION 7. Meeting of Trustees Only.

(a) The Trustees may meet outside the presence of the TAC and Futures Representative for the purpose of (i) formulating policies to be presented to the TAC and Futures Representative at a Regular or Special Meeting of the Trustees, TAC and Futures Representative or (ii) meeting with counsel to the Trust regarding Trust documents and the fiduciary duties of the Trustees.

(b) In addition, the Trustees may also meet outside the presence of the TAC and the Futures Representative when necessary for routine administration of the Trust, including personnel, financial, investment or claims matters arising in the course of managing the affairs of the Trust or under circumstances where the Trustees in their judgment conclude that it is a matter requiring prompt action before a regular or special meeting could be scheduled. In all such circumstances, the Trustees shall record, and make available to the TAC and Futures Representative, the minutes of any meeting held pursuant to this Section 7(b). At the request of the TAC or Futures Representative the subject of any meeting held pursuant to Section 7(b) shall be placed on the agenda for the next regularly scheduled or special Trust meeting.

## ARTICLE III – OFFICERS

SECTION 1. Principal Officers. The principal officer of the Trust shall be the Managing Trustee, as appointed pursuant to Section 4.1 of the Trust Agreement. The Trust may




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also have such other officers as the Trustees may appoint after determining that such appointment will promote the efficient and cost-effective administration of the Trust.

SECTION 2. Election and Term of Office. The principal officers of the Trust shall be chosen by the Trustees. Each such officer shall hold office until his or her successor shall have been duly chosen and qualified or until the earlier of his or her death, resignation, retirement or removal.

SECTION 3. Subordinate Officers. In addition to the principal officer enumerated in Section 1 of this Article III, the Trust may have such other subordinate officers, agents and employees as the Trustees may deem necessary for the efficient and cost-effective administration of the Trust, each of whom shall hold office for such period, have such authority, and perform such duties as the Trustees may from time to time determine. The Trustees may delegate to any principal officer the power to appoint and to remove any such subordinate officers, agents or employees.

SECTION 4. Removal. The Managing Trustee or any other officer may be removed with or without cause, at any time, by resolution adopted by the Trustees at any regular meeting of the Trustees or at any special meeting of the Trustees called for that purpose; provided, however, that the consent of the TAC and the Futures Representative shall be required for the removal of the Managing Trustee without cause.

SECTION 5. Resignations. Any officer may resign at any time by giving written notice to the Trustees. The resignation of any officer shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 6. Powers and Duties. The officers of the Trust shall have such powers and perform such duties as may be conferred upon or assigned to them by the Trustees.

## ARTICLE IV – AMENDMENTS

The Bylaws of the Trust, other than Article I, Article II, Article III Section 4, and this Article IV and any provisions relating to the activities of the Trustees in California, may be amended by the Trustees at any meeting of the Trustees, provided that notice of the proposed amendment is contained in the notice of such meeting. The remaining Bylaws may be amended by the Trustees only after receipt of the consent of the Approving Entities to the proposed amendment.



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## CERTIFICATION

Each of the undersigned hereby certifies that he or she is a duly-selected and Bankruptcy Court-approved Trustee for the Trust and that the foregoing is a true and correct copy of the Third Amendment to and Complete Restatement of Thorpe Insulation Company Asbestos Settlement Trust Bylaws authorized by action of the Trust.

IN WITNESS WHEREOF, each of the undersigned Trustees set his or her hand this __ day of July, 2019.

TRUSTEES:

Sandra R. Hernandez, M.D.

John F. Luikart




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**CONSENT TO THIRD AMENDMENT TO AND COMPLETE RESTATEMENT OF THORPE INSULATION COMPANY ASBESTOS SETTLEMENT TRUST BYLAWS**

The Trust Advisory Committee of the Thorpe Insulation Company Asbestos Settlement Trust hereby consents to the **THIRD AMENDMENT TO AND COMPLETE RESTATEMENT OF J.T. THORPE SETTLEMENT TRUST BYLAWS** attached hereto.

Executed in the State of Nevada on this 14th day of July, 2019

Trust Advisory Committee of the Thorpe Insulation Company Asbestos Settlement Trust

By: Alan R. Brayton

Al Brayton

Its: Chair


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# EXHIBIT “C”

**EXECUTION COPY**

# SEVENTH AMENDMENT TO AND COMPLETE RESTATEMENT OF THORPE INSULATION COMPANY ASBESTOS PERSONAL INJURY SETTLEMENT TRUST DISTRIBUTION PROCEDURES

# SEVENTH AMENDMENT TO AND COMPLETE RESTATEMENT OF THORPE INSULATION COMPANY ASBESTOS PERSONAL INJURY SETTLEMENT TRUST DISTRIBUTION PROCEDURES

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# SEVENTH AMENDMENT TO AND COMPLETE RESTATEMENT OF THORPE INSULATION COMPANY ASBESTOS PERSONAL INJURY SETTLEMENT TRUST DISTRIBUTION PROCEDURES

The Thorpe Insulation Company Asbestos Personal Injury Settlement Trust Distribution Procedures ("TDP") contained herein provide for satisfying all asbestos-related personal injury and death claims ("Asbestos Claims") caused by conduct of, and/or exposure to asbestos-containing products for which, Thorpe Insulation Company and/or Pacific Insulation Company (collectively, "Thorpe"), its predecessors, successors, and assigns have legal responsibility (hereinafter for all purposes of this TDP defined as "Trust Claims"), as provided in and required by the Thorpe Insulation Company Plan of Reorganization ("Plan") and the Thorpe Insulation Company Asbestos Personal Injury Settlement Trust Agreement ("Trust Agreement"). The Plan and Trust Agreement establish The Thorpe Insulation Company Asbestos Personal Injury Settlement Trust ("Trust"). The Trustees of the Trust ("Trustees") shall implement and administer this TDP in accordance with the Trust Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings assigned to them in the Plan.

## SECTION I

## Introduction

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

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

## SECTION II

## Overview

**2.1 Trust Goals.** The goal of the Trust is to treat all similarly situated claimants, present and future, equitably. This TDP furthers that goal by setting forth procedures for processing and paying 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 Thorpe several share of the value of their claims based on the level of settlements, verdicts or judgments historically received for substantially similar claims litigated under state tort law (the "Tort System"). To this end, the TDP establishes for unliquidated claims in the Case Valuation Matrix ("Matrix"), attached hereto as Appendix I, a schedule of five asbestos-related diseases ("Compensable Diseases"), which have presumptive medical and exposure requirements ("Medical/Exposure Criteria"), criteria for establishing liquidated values ("Matrix Values"), anticipated average values ("Average Values"), and caps on liquidated values ("Maximum Values"). The Compensable Diseases, Medical/Exposure Criteria, Matrix Values, Average Values and Maximum Values, which are set forth in the attached Matrix, have all been selected and derived with the intention of achieving a fair allocation of the Trust funds as among claimants suffering from different disease processes in light of the best available information, considering the settlement, verdict and/or judgments that claimants would receive in the Tort System for the Thorpe several share absent the bankruptcy. The TDP also provides mechanisms for the treatment and payment of Liquidated Claims.

**2.2 Trust Claim Liquidation Procedures.** Trust Claims shall be processed based on their place in the FIFO Processing Queue to be established pursuant to Section 5.3 below. The Trust shall liquidate all Trust Claims that meet the presumptive Medical/Exposure Criteria in accordance with the Matrix. Claims that do not meet the presumptive Medical/Exposure Criteria

for the relevant Compensable Disease may undergo the Trust's Individual Review Process described in the Matrix. In such a case, notwithstanding that the claim does not meet the presumptive Medical/Exposure Criteria for the relevant Compensable Disease, the Trust can offer the claimant an amount up to the Average Value as defined in the Matrix of that Compensable Disease if the Trust is satisfied that the claimant has presented a claim that would be cognizable, valid and compensable in the Tort System.

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, at the election of the claimant, under the Arbitration Rules. Disputes with the Trust that cannot be resolved by non-binding arbitration may enter the Tort System as provided in Sections 5.9 and 7.3 below. However, if and when a claimant obtains a judgment in the Tort System, the judgment will be payable (subject to the Funds Received Ratio, Maximum Annual Payment, Company Category Claims Payment Ratio and Disease Category Claims Payment Ratio provisions set forth below) as provided in Section 7.4 below.

**2.3 Trust Application of the Funds Received Ratio.** The Debtor, through the Trust and this TDP, is liable to pay to full amount of the liquidated value of all Trust Claims. The Trust will pay as much of the liquidated value of each Trust Claim as is possible, as described in more detail in section 4.2 below, taking into consideration the net funds received by the Trust to date from all sources ("Funds Received"), including payments by those insurers of Debtors that have settled the Coverage Litigation and paid their share of Debtors' liability, the anticipated present value of future Trust Claims, income taxes, inflation, the anticipated cost of Trust administration and the anticipated return on Trust investments. The Initial Funds Received Ratio will be set by the Trust, with the consent of the TAC and Futures Representative, once the Trust has collected sufficient assets to make the expense and burden on claimants of a distribution worthwhile. The



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Funds Received Ratio will be calculated on the assumption that the Matrix's Average Values will be achieved with respect to existing present claims liquidated under the Matrix and projected future claims.

Upon receipt of additional funds from Debtors' other insurers, the Trust shall review the Funds Received Ratio to determine if there are sufficient funds to adjust that ratio. The Funds Received Ratio shall be adjusted upwards or downwards from time to time by the Trust with the consent of the TAC (as defined in Section 3.1 below) and the Futures Representative (as defined in Section 3.1 below) to reflect then-current estimates of the fair market value of the Trust's assets and the net present value of its liabilities, as well as the estimated value of then-pending and future claims. However, any adjustment to the initial Funds Received Ratio shall be made only pursuant to Section 4.2 below. When the Funds Received Ratio is increased as Debtors' other insurers pay their share of Debtors' liability, claimants who have previously been paid by the Trust will receive a proportional additional payment unless the Trust with consent of the TAC and the Futures Representative concludes that the amount is so modest and the administrative costs and burdens are so great in comparison to the benefits to claimants that such additional payments shall be omitted or deferred.

To the extent that the designated legal representative of a claimant or heir (or the Trust in the case of in pro per claimants), following reasonable efforts, cannot locate a claimant or heir within one year from the approval of any additional payment pursuant to Section 4.2, the legal representatives shall return all funds, which must be held in client trust accounts, to the Trust which the Trust shall return to net claimant equity. To the extent the Trust cannot locate a claimant or heir in pro per within one year from the approval of any additional payment pursuant to Section 4.2 following reasonable efforts, the entire additional payment shall also be returned to net claimant equity.



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**2.4 Trust's Determination of the Maximum Annual Payment.** At any given time and based upon the Funds Received, the Trust shall estimate or model the amount of cash flow anticipated to be necessary over its entire life to ensure that funds will be available to treat all present and future claimants as similarly as possible. In each year, the Trust will be empowered to pay out all of the interest earned during the year, together with a portion of its principal, calculated so that the application of Trust funds over its life shall correspond with the needs created by the anticipated flow of claims (the "Maximum Annual Payment"). The Trust's distributions to claimants for that year shall not exceed the Maximum Annual Payment determined for that year; provided, however, that the Maximum Annual Payment limitation shall not apply to any Pre-Petition Liquidated Claims as defined in Section 5.2(a) below because those amounts are known and have already been taken into account in the projected cash flow.

**2.5 Trust Claims Disease Category Claims Payment Ratio.** Based upon Thorpe's claim settlement history and analysis of present and future claims, a Disease Category Claims Payment Ratio is hereby established. The Trust's determination of the anticipated number and value of future asbestos claims incorporates the historical disease payment ratio. If there is a material deviation from the historical Disease Category Claims Payment Ratio in the actual Trust Claims received by the Trust, there could be an adverse impact on future asbestos claimants as a whole. The Trust, with the consent of the TAC and the Futures Representative, will set the Disease Category Claims Payment Ratio for "Category A" claims, which consist of Trust Claims involving malignant claims that were unliquidated as of the Petition Date, and for "Category B" claims, which are Trust Claims involving non-malignant claims that were similarly unliquidated as of the Petition Date.

In each year, after the determination of the Maximum Annual Payment, the Disease Category Claims Payment Ratio for each category multiplied by the Maximum Annual Payment

amount shall be available to pay the respective Disease Category Claims that have been liquidated since the Petition Date.

In the event there are insufficient funds in any year to pay the liquidated claims in a Disease Category, the available funds within the particular Disease Category shall be paid to the maximum extent to claimants in the particular Disease Category based on their place in the FIFO Payment Queue described in Section 5.3(c) below based upon the date of claim liquidation. Claims for which there are insufficient funds will be carried to the next year where they will be placed at the head of the FIFO Payment Queue. If there are excess funds in either or both Disease Category, because there was an insufficient amount of liquidated claims to exhaust the respective Maximum Annual Payment amount for that Disease Category, then the excess funds for either or both Disease Categories will be rolled over and remain dedicated to the respective Disease Category to which they were originally allocated.

The number and value of the Pre-Petition Liquidated Claims are known and have already been taken into account in determining the Trusts liabilities and cash flow. Thus, the Disease Category Claims Payment Ratios shall not apply to any Pre-Petition Liquidated Claims.

**Suspension of Claims Payment Ratio**. Notwithstanding any other provision herein, commencing on September 1, 2020, the Trust shall cease enforcing the Disease Category Claims Payment Ratio ("Ratio") contained in the TDP subject to the ability of the Trustees, the Futures Representative and the TAC to reinstate the enforcement of the Ratio in the manner provided below. During the time that the Trust is not enforcing the Ratio, it shall continue to track and maintain records regarding the funds allocated to the Ratio and the claims paid that would have otherwise been subject to the Ratio.

Beginning on February 1, 2021, the Trust shall on July 31st (for the period January 1st to June 30th of the current year) and February 1st (for period July 1st to December 31st of the prior

year) of each such period where the Ratio has been suspended provide the Trustees, the Futures Representative and the TAC a report showing: (a) the amount of the Maximum Annual Payment that would have been allocated by the Ratio for that six month period using the existing Ratio; (b) the amounts paid with respect to claims during such six month period that would have been subject to the Ratio in each category; and (c) the amounts approved for payment (but not yet paid) as of the end of such six month period with respect to claims that would have been subject to the Ratio. The Futures Representative and the TAC shall have fifteen days (15) from the receipt of each such report to notify the Trust in writing that they are exercising their right to have the Trust begin enforcing the Ratio effective as of the end of the most recent reporting period. In addition, the Trustees may, at any time with notice to the Futures Representative and the TAC, exercise their right to reinstate the enforcement of the Ratio. If the Trustees exercise their right or if the Trustees receive a written reinstatement notice from the Futures Representative or the TAC, the Trust shall immediately begin enforcing the Ratio, effective as of the end of the most recent reporting period. If the enforcement of the Ratio is reinstated, all provisions of the TDP relating to the Ratio shall be in effect, but any deficits from prior reporting periods or years shall be ignored and any rollover amounts shall be allocated in accordance with the percentages set forth in the Ratio.

**2.6 Adjustments to Forecast.** The Trustees, with the consent of the TAC and the Futures Representative, may in a particular year conform the Disease Category Claims Payment Ratio to the revised estimates of future claims by a qualified expert subject to the Fundamental Adjustments described below.

**2.7 Fundamental Adjustments.** The Disease Category Claims Payment Ratio and its rollover provisions shall be continued absent circumstances, such as a significant change in law or medicine, necessitating amendment to avoid manifest injustice ("Fundamental Adjustment"). The accumulation, rollover and subsequent delay of claims resulting from application of the Disease



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Category Claims Payment Ratio, shall not, in and of itself, constitute such circumstances, nor may an increase in the numbers of Disease Category B claims beyond those predicted or expected be considered as a factor in deciding whether to reduce the percentage allocated to Disease Category A. In considering whether to make any Fundamental Adjustment to the Disease Category Claims Payment Ratio and/or its rollover provisions, the Trustees should also consider the reasons for which the Disease Category Claims Payment Ratio and its rollover provisions were adopted, the settlement history that gave rise to its calculation, and the foreseeability or lack of foreseeability of the reasons why there would be any need to make a Fundamental Adjustment. In that regard, the Trustees should keep in mind the interplay between the Funds Received Ratio and the Disease Category Claims Payment Ratio as it affects the net cash available at any given time to pay to claimants. In any event, no Fundamental Adjustment to the Disease Category Claims Payment Ratio may be made without the consent of the TAC and the Futures Representative pursuant to the consent process set forth in Section 2.2(f) of the Trust Agreement. However the Trustees may offer the option of a reduced payment to either Disease Category for any or all Company Categories in return for prompter payment (the "Reduced Payment Option"), after first obtaining the consent of the TAC and the Futures Representative as described above.

**2.8 Trust Indemnity and Contribution Claims.** As set forth in Section 5.6 below, Trust Claims for indemnity and contribution (if any) will be subject to the same categorization, evaluation, and payment provisions of this TDP as all other Trust Claims.

## SECTION III

## TDP Administration

**3.1 Trust Advisory Committee and Futures Representative.** Pursuant to the Plan and the Trust Agreement, this TDP will be administered by the Trustees in consultation with a five-member Trust Advisory Committee ("TAC"), that represents the interests of holders of

present Trust Claims, and a Legal Representative for Future Asbestos-Related Claimants ("Futures Representative"), who represents the interests of holders of Trust Claims that will be asserted in the future. The Trustees shall obtain the consent of the TAC and the Futures Representative to any amendments to these Procedures pursuant to Section 8.1 below, and to such other matters as are otherwise required below and in Section 2.2(f) of the 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 Trust Agreement. The initial members of the TAC and the initial Futures Representative are identified in the Trust Agreement.

**3.2 Consent and Consultation Procedures.** In those circumstances in which consultation or consent is required, the Trustees will provide written notice to the TAC and the Futures Representative of the specific amendment or other action that is proposed. The Trustees will not implement such amendment nor take such action unless and until the parties have engaged in the consultation process described in Section 2.2(e), or the Consent Process described in Sections 5.6 and 6.6 and if necessary, 5.7 and 6.7 of the Trust Agreement.

## SECTION IV

## Funds Received Ratio; Periodic Evaluations

**4.1 Uncertainty of Thorpe's Asbestos Claim Liabilities.** As discussed above, there is inherent uncertainty regarding Thorpe's total Asbestos Claim liabilities, as well as the total value of the Funds Received available to pay such claims. Consequently, there is inherent uncertainty when or if the Trust will be able to pay the full amount of the liquidated amount of Trust Claims. To seek to ensure substantially equivalent treatment of all present and future claims, the Trustees must determine from time to time the Funds Received Ratio of the full liquidated value that holders of Trust Claims will be likely to receive absent receipt of additional payments on behalf of the

Debtors for Debtors' liability to pay the full liquidated value, as described in Section 2.3 above and Section 4.2 below.

**4.2 Computation of Funds Received Ratio.** The Initial Funds Received Ratio will be set by the Trust, with the consent of the TAC and Futures Representative, once the Trust has collected sufficient assets to make the expense and burden on claimants of a distribution worthwhile. The Funds Received Ratio will be calculated on the assumption that the Matrix's Average Values will be achieved with respect to existing present claims liquidated under the Matrix and projected future claims. The Funds Received Ratio shall be revised if and when material additional funds are received, subject to the terms of this TDP and the Trust Agreement. In addition, the Funds Received Ratio shall be revised if the Trustees determine, with consent of the TAC and the Futures Representative, that an adjustment is required. Commencing on the first day of January, after the Plan has been Confirmed, the Trustees shall reconsider the then applicable Funds Received Ratio to assure that it is based on accurate current information and may, after such reconsideration, change the Funds Received Ratio if necessary with the consent of the TAC and the Futures Representative. Thereafter, 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 Funds Received Ratio to assure that it is based on accurate, current information and may, after such reconsideration, change the Funds Received Ratio if necessary with the consent of the TAC and the Futures Representative. The Trustees shall also reconsider the then applicable Funds Received Ratio 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 Funds Received Ratio on Funds Received, the current estimates of the number, types, and values of present and future Trust Claims, the value and liquidity of the assets then available to the Trust for their payment, all anticipated



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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 the full value of liquidated claims to all holders of Trust Claims. When making these determinations, the Trustees shall exercise common sense and flexibly evaluate all relevant factors. The Funds Received Ratio applicable to one category of claims may not be reduced to alleviate delays in another category claims' payments caused by a backlog in that category. All claims will receive the same Funds Received Ratio then in effect at the time of payment subject to provisions of Section 4.3.

**4.3 Applicability of the Funds Received Ratio.** No holder of a Trust Claim shall receive a payment that exceeds the Trust's determination of the then existing Funds Received Ratio unless a Reduced Payment Option applies. If a redetermination of the Funds Received Ratio 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 Funds Received Ratio or the proposed Funds Received Ratio. However, if the proposed Funds Received Ratio was the lower amount but is not subsequently adopted, the claimant shall thereafter receive the difference between the lower proposed amount and the higher current amount. Conversely, if the proposed Funds Received Ratio was the higher amount and is subsequently adopted, the claimant shall thereafter receive the difference between the lower current amount and the higher adopted amount.

## SECTION V

## Resolution of Trust Claims

**5.0 General Requirements.** Subject to the requirements of Section 5.11 below, all Trust Claims shall be resolved as set forth in this TDP and the Claims Matrix.

**5.1 Threshold Requirement for Submitting a Claim to the Trust.** If a Claimant or Injured Person has commenced litigation seeking compensation for asbestos-related injuries or death that are the subject of a claim in a court where one or more of the Debtors liable for such



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claim was subject to *in personam* jurisdiction as of October 15, 2007, then that jurisdiction shall determine which limitations period shall be used subject to the exceptions stated herein. If multiple pre-petition lawsuits in different jurisdictions naming one or more of the Debtors liable for such claim have been filed for an Injured Person or Claimant, then such Injured Person or Claimant may choose the pre-petition jurisdiction (from among the different jurisdictions in which the pre-petition lawsuits naming one or more of the Debtors liable for such claim were filed for that Injured Party or Claimant, so long as in personam jurisdiction existed) in which the limitations period shall be used. If a Claimant does not have a pending lawsuit against one or more of the Debtors at the time of the submission to the Trust, then in lieu of having a tort action filed for purposes of this TDP, the Claimant or Injured Person must submit a verified certification under penalty of perjury, either of counsel based upon counsel's records, or of Claimant or Injured Person stating facts which establish in personam jurisdiction in a court where one or more of the Debtors liable for such claim was subject to in personam jurisdiction as of October 15, 2007 or incorporate a lawsuit which asserts those facts, and therefore such person can meet the jurisdictional requirements of the particular state in which the tort claim would have been timely and properly filed. The Trust shall have the right to contest any such certification. The jurisdiction so certified shall determine which limitations period shall be used subject to the exceptions stated herein.

**5.2 Statute of Limitations or Repose for Trust Claims.** The statute of limitations and the choice of law determination applicable to claims against the Trust shall be determined by reference to the tort system where a claim against a Debtor was pending on the filing date of these cases, or where such a claim could have been timely and properly filed as asserted by the Claimant or Injured Person.

**5.3 Ordering, Processing and Payment of Claims.**

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

**5.3(a)(1) Establishment of the FIFO Processing Queue.** The Trust will order unliquidated claims 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 months after the Effective Date (the "Initial Claims Filing Date"), a claimant's position in the FIFO Processing Queue shall be determined as of the earlier of (i) the date prior to October 15, 2007 "Petition Date" (if any) that the specific claim was either served or filed against Thorpe in a court in which Thorpe could properly have been sued or was actually submitted to Thorpe pursuant to an administrative processing agreement; (ii) the date before the Petition Date that a claim was filed or served against another defendant in the Tort System if at the time the claim was subject to a tolling agreement with Thorpe; (iii) the date after the Petition Date (if any) but before the Effective Date that the claim was filed or served against another defendant in a court in which Thorpe could properly have been sued; or (iv) the date after the Effective Date but on or before the Initial Claims Filing Date that the claim was served or filed with the Trust. Following the Initial Claims Filing Date, the claimant's position in the FIFO Processing Queue shall be determined by the date the claim was filed with the Trust. For all claims 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.

**5.3(a)(2) Effect of Statutes of Limitations and Repose.** All claims barred by the applicable statute of limitations or repose, as determined in Section 5.2 above, at the Petition Date shall remain barred on and after the Petition Date. All claims not so barred shall be tolled as of the Petition Date to and including April 20, 2012, without the need of the claimant to take any action whatsoever, including without limitation, filing a Proof of Claim in the Reorganization Cases.

**5.3(b) Processing of Unliquidated Trust Claims.** Within six months after the establishment of the Trust, the Trustees with the consent of the TAC and the Futures Representative shall adopt procedures for reviewing and liquidating all unliquidated Trust Claims, which shall include deadlines for processing such claims. Such procedures shall also require claimants seeking resolution of unliquidated Trust Claims to first file a Trust 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 Trust shall provide an initial response to the claimant within six months of receiving the Trust Claim form. All claims filed with the Trust shall be deemed to be a claim for the highest Compensable Disease for which the claim qualifies at the time of filing, with all lower Compensable Diseases for which the claim then qualifies or may qualify in the future subsumed into the higher Compensable Disease for both processing and payment purposes. Upon filing of a valid Trust Claim form with the required supporting documentation, the claim shall be placed in the FIFO Processing Queue in accordance with the ordering criteria described in Section 5.3(a) above.

The five Compensable Diseases covered by this TDP are set forth in detail in the Matrix attached as Appendix I. The Compensable Diseases, Matrix Values, and Medical/ Exposure Criteria shall apply to all unliquidated claims filed with the Trust.

As a general practice, the Trust will 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.

**5.3(c) Payment of Claims.** Trust Claims 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 Funds Received Ratio, Maximum Annual Payment, and Disease Category Claims Payment Ratio, except as otherwise provided herein. For all claims liquidated on the same

date, each claimant's position in the FIFO Payment Queue shall be determined by the date of the diagnosis of the claimant's asbestos-related disease.

**5.3(d) Adjustment for Inflation.** All payments made to holders of Trust Claims shall be adjusted for inflation annually beginning with the first calendar year after the Effective Date.

**5.3(e) Post-Petition Interest.** No interest shall be paid on any post-petition Trust Claims.

**5.4 Resolution of Pre-Petition Trust Claims.** As soon as practicable after the Effective Date, the Trust shall pay all Trust Claims that were liquidated by (i) a settlement agreement entered into prior to the Petition Date for the particular claim, or (ii) a judgment of any kind entered on or before October 15, 2007 (collectively, "Pre-Petition Liquidated Claims"). Notwithstanding the foregoing, these payments shall be subject to the limitations set forth below in this section. The liquidated value of a Pre-Petition Liquidated Claim shall be the amount agreed to in the binding settlement agreement, or the amount of the 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 as of the Petition Date; however, pursuant to Section 7.2 below, the liquidated value of a Pre-Petition Liquidated Claim shall not include any punitive or exemplary damages.

Pre-Petition Liquidated Claims shall be processed and paid within 90 days of the Effective Date, if feasible, or as soon thereafter as is possible. The amounts payable with respect to such claims shall not be subject to or taken into account in consideration of the Maximum Annual Payment or the Disease Category Claims Payment Ratio, but shall be subject to the Funds Received Ratio provisions set forth in Section 4.2 above.

**5.5 Hardship Claims.** At any time the Trust may liquidate and pay certain Trust Claims that qualify as Hardship Claims. Such claims may be considered separately no matter what the order of processing otherwise would have been under this TDP. A Hardship Claim, following its liquidation, shall be placed at the head of the FIFO Liquidation Queue for purposes of payment, subject to the Maximum Annual Payment and Disease Category Claims Payment Ratio described above. A Trust Claim qualifies for payment as an Hardship Claim if the Trust, in its sole discretion, determines (a) that the claimant needs financial assistance on an immediate basis based on the claimant's expenses and all sources of available income, and (b) that there is a causal connection between the claimant's dire financial condition and the claimant's asbestos-related disease.

**5.6 Contribution Claims.** Contribution Claims that are asserted against the Trust based upon theories of contribution or indemnification under applicable law may not be processed or paid by the Trust (a) unless such claim would not be disallowed by Section 502(e) of the Code if the Trust were a debtor in a case under the Code, and (b) the holder of such claim (the "Indirect Claimant") establishes to the satisfaction of the Trustees that (i) the Indirect Claimant has paid in full the liability and obligations of the Trust to the direct claimant to whom the Trust would otherwise have had a liability or obligation under these Procedures, (ii) the direct claimant and the Indirect Claimant have forever released the Trust from all liability to the direct claimant, and (iii) the claim is not otherwise barred by a statute of limitations or repose or by other applicable law. In no event shall any Indirect Claimant have any rights against the Trust superior to the rights of the related direct claimant against the Trust, including any rights with respect to the timing, amount or manner of payment.

The Trust shall not pay any Indirect Claimant unless and until the Indirect Claimant's aggregate liability for the direct claimant's claim has been fixed, liquidated and paid by the Indirect Claimant pursuant to final judgment and not by settlement.

The credit or offset which a co-defendant is entitled in the Tort System for settlement with the trust is the amount of the Trust's Payment to the Claimant shall be (a) the actual amount received to date by the Claimant; or (b) if no funds have yet been received, the amount of the liquidated value agreed to by the Claimant and the Trust, multiplied by the pro rata share in effect at the time the set-off is being applied.

Contribution Claims shall be processed in accordance with procedures to be developed and implemented by the Trustees, which procedures (a) shall determine the validity, allowability and enforceability of such claims; and (b) only then shall otherwise provide the same liquidation and payment procedures and rights to the holders of such claims as the Trust would have afforded the holders of the underlying valid Trust Claims.

**5.7 Claim Auditing and Review Procedures.**

**5.7(a) Claims Audit Program.** The Trust with consent of the TAC and Futures Representative shall develop methods for auditing the reliability of evidence reasonably related to the value of the claim, including additional reading of x-rays 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 Thorpe, and requesting from claimants or other Trusts, claims materials submitted to other Trusts. In the event that the Trust reasonably determines that any unreliable individual or entity has engaged in a pattern or practice of providing unreliable medical or other evidence to the Trust, it may decline to accept additional evidence from such provider in the future. Further, in the event that an audit reveals that fraudulent information has been provided to the Trust, the Trust may penalize any responsible claimant or claimant's attorney by disallowing the related Trust Claim or by other means including, but not limited to, requiring the claimant or attorney submitting the fraudulent information to pay the costs associated with the audit and any future related audit or audits, reordering the priority of payment

of all affected claimants' Trust Claims, raising the level of scrutiny of additional information submitted from the medical facility or other source, refusing to accept additional evidence from the same, 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 Rule 11 sanctions.

**5.7(b) Review by the Trust for the benefit of the TAC and Futures Representative.** The Trust shall cause a review of the filed claims, paid claims, average payments and disallowed claims by Compensable Disease to be performed bi-annually or upon the request of the TAC or the Futures Representative, sufficient to allow an estimation of the adequacy of the Trust fund to compensate Claimants as compared to the current claims forecast.

**5.8 Second Disease Claims.**

**5.8(a) Second Disease (Malignancy) Claims.** The holder of a claim involving a non-malignant asbestos-related disease may file a new claim for a malignant disease that is subsequently diagnosed ("Second Disease Claim"). Any payments to which such claimant may be entitled for such asbestos-related malignancy shall be reduced by the amount paid by the Trust for the non-malignant asbestos-related disease.

**5.8(b) Second Disease Judgment Claims**. Claimants who received personal injury judgments are allowed to file i) a wrongful death claim, if the claimant subsequently died of an asbestos-related disease; and/or ii) a Second Disease Claim. These claims will be valued, pursuant to the Matrix, at either i) one-half of the otherwise appropriate liquidated value of the wrongful death or Second Disease Claim award from the Trust; or ii) at full value of the new claim, wrongful death claim or Second Disease Claim less a dollar for dollar credit on money actually received from the Trust pursuant to Section 5.4 above, as the claimant may elect.

**5.9 Arbitration.**

**5.9(a) Establishment of Arbitration Procedures.** The Trust, with the consent of the TAC and the Futures Representative, shall institute Arbitration Rules for resolving disputes concerning the Trust's outright rejection or denial of a claim, or concerning the claimant's medical condition or exposure history for purposes of categorizing a claim. Binding and non-binding arbitration shall also be available for resolving disputes over the liquidated value of a claim. In all arbitrations, the arbitrator shall consider the same medical and exposure evidentiary requirements that are set forth in the Matrix. In the case of an arbitration involving the liquidated value of a claim, the arbitrator shall consider the same valuation factors that are set forth in the Matrix. With respect to all claims eligible for arbitration, the claimant, but not the Trust, may elect either non-binding or binding arbitration. If the claimant elects non-binding arbitration, claimant will be responsible for 1 /2 of arbitrator's fees and costs. The Arbitration Rules may be modified by the Trust with the consent of the TAC and the Futures Representative. Such amendments may also include adoption of mediation procedures, as well as establishment of an Extraordinary Claims Panel to review such claims pursuant to the Matrix.

**5.9(b) Claims Eligible for Arbitration.** A claim is eligible for arbitration, if it has been rejected by the Trust, or the Trust has made an offer which was rejected by the claimant. The claimant must notify the Trust of such rejection in writing.

**5.9(c) Limitations on and Payment of Arbitration Awards.** The arbitrator shall not return an award in excess of the appropriate Matrix Value for such claim based upon the facts as found by the arbitrator. For an Extraordinary Claim, the arbitrator shall not return an award greater than the Maximum Extraordinary Value for such a claim as set forth in the Matrix. A claimant who submits to arbitration and who accepts the arbitral award will receive payments in the same manner as one who accepts the Trust's original valuation of the claim.

**5.10 Litigation.** A claimant who elects non-binding arbitration and then rejects the arbitral award retains the right to exit to the Tort System pursuant to Sections 7.3 below. However, a claimant shall be eligible for payment of a judgment for monetary damages obtained in the Tort System from the Trust's available cash only as provided in Section 7.4 below.

**5.11 Trust Claims Determined by the Trust to be Covered by Policies Issued by Non-Settling Insurers.** The Trustees, with the consent of the TAC and the Futures Representative, may adopt alternative claims handling procedures to those set forth herein to be offered for Trust Claims determined by the Trust to be Covered by Policies Issued by Non-Settling Insurers.

## SECTION VI

## Claims Materials

**6.1 Claims Materials.** The Trust shall prepare suitable and efficient claims materials ("Claims Materials"), and shall provide such Claims Materials upon written request. The Trust Claim form to be submitted to the Trust shall include a certification by the claimant or his or her attorney sufficient to meet the requirements of Rule 11(b) of the Federal Rules of Civil Procedure. A copy of the Trust Claim forms to be used by the Trust for Pre-Petition Liquidated Claims and unliquidated Claims will be created with the consent of the TAC and the Futures Representative within three months of the establishment of the Trust. The Trust Claim forms may be changed by the Trust with the consent of the TAC and the Futures Representative. The Trust shall also establish procedures for electronic filing of claims.

**6.2 Content of Claims Materials.** The Claims Materials shall include a copy of this TDP, such instructions as the Trustees shall approve, and Trust Claim forms. The Trust Claim forms shall be submitted with supporting documentation in accordance with the relevant criteria as set forth below and in compliance with Section I of the Matrix. At a

minimum, the unliquidated Trust Claim form shall require submission of sufficient information to prove, and any relevant information tending to disprove exposure, disease and damages including:

**(a)** All relevant information called for in the San Francisco Superior Court General Order 129 Form Interrogatories, Set 1 and Set 2 including the required complete occupational history and identification of other exposures, with the information relevant to exposure used to qualify this claim for the particular category highlighted and the pages tabbed.

**(b)** If the claimant was involved in any type of asbestos litigation, a complete copy of any litigation interrogatory responses created in support of that claim must be submitted to the Trust regardless of the jurisdiction in which the lawsuit was filed with any information exposures asserted in this claim highlighted and the pages tabbed (or, if applicable, noting that the interrogatories contain no reference to exposures asserted in this claim). In addition, the claimant who was involved in any type of asbestos litigation must identify all prior depositions of the claimant and produce them upon request.

**(c)** If the Claimant is utilizing the Trust Approved Interrogatories (set forth on the Trust Web site), portions of litigation interrogatories that were amended after the litigation was concluded or declarations to establish the Trust Claim, the responses and/or declarations must meet the following requirements:

**(i)** The interrogatories and/or declarations must be verified or made by a person who is competent to testify to the information stated in the interrogatories and/or declarations and the person must have personal direct knowledge of the factual information relevant to the claim and the answers and/or declarations must provide sufficient background information to explain how the person verifying the interrogatories and/or the declarant(s) acquired the personal direct knowledge of factual matters relevant to this claim, to

allow the Trust to determine the credibility of the person verifying the interrogatories and/or the declarants;

**(ii)** Where the person lacks personal direct knowledge, the answers and/or declarations must provide sufficient information to explain how, when and from what sources the person verifying the interrogatories and/or the declarants acquired any indirect knowledge of factual matters relevant to the claim;

**(iii)** The interrogatory responses and/or declarant must provide specifics about the claimant's (or claimant's decedent's) exposure and not use boilerplate wording;

**(iv)** If the person verifying the interrogatories and/or declarants relied upon documents as the basis for the responses given in the interrogatories and/or declarations (i.e. military records, social security records, etc.), those documents must be specifically identified and relevant portions of any such documents included in the supporting documents attached to the claim;

**(v)** The truth of the facts asserted in the interrogatories must be affirmed or verified under the penalty of perjury and any declarations must be made under penalty of perjury;

**(vi)** All declarations must be specific to the claim. In appropriate circumstances, the Trust may accept expert opinions pertaining to issues that are of general application and that are relevant to the specific claimant's claim.

**(vii)** The Trust shall have the right to interview by phone or in person (always with the participation or presence of claimant's counsel), anyone who verifies interrogatories, or has provided information to the person verifying the interrogatories or who submits a declaration in support of a claim submitted to the Trust.

**(d)** Medical records, medical reports and/or death certificates evidencing the claimed disease, with the diagnosis highlighted and the pages tabbed. For lung cancer and other cancer cases, evidence of markers or other factors which would lead to an upward adjustment under the Matrix will be highlighted and the pages tabbed. For Grade I claims, evidence of x-ray and PFT values that would lead to an increased award will be highlighted and the pages tabbed.

**(e)** For Serious Asbestosis claims, evidence to support this categorization will be highlighted and the pages tabbed.

**(f)** For an Injured Person seeking a multiplier for an economic loss in excess of the base case amount, an economic report of evidence supporting claimed wage/pension/home services loss, with total claimed loss highlighted and the page tabbed.

**(g)** For an Injured Person seeking a multiplier for medical expenses in excess of the base case amount, an affidavit summarizing medical expenses, or submission of medical bills to substantiate the total claimed amount.

**(h)** An endorsed/filed copy of the face page of the complaint or equivalent proof of commencement of litigation if applicable, or alternatively a certification under Section 5.1.

**(i)** Social Security records, front or identifying face page and portions relevant to facts asserted in connection with the claim of deposition transcript(s), union records, railroad records, military records (including leave records), or any other employment records all highlighted and tabbed. If such records are unavailable, the claimant or representative attorney must explain why such records are unavailable and attest that every reasonable effort has been made to obtain them.



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**(j)** Information sufficient to establish that the claimant is not eligible nor has received Medicare benefits. Information representing that the date of last exposure to Thorpe Insulation Company's asbestos products or operations happened before or after December 5, 1980. Information of satisfied Medicare lien or global settlement documentation.

**6.3 Withdrawal of Claims.** A claimant can withdraw a Trust Claim at any time upon written notice to the Trust and file another claim subsequently without affecting the status of the claim for statute of limitations 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 claim will be deemed to have been withdrawn if the claimant neither accepts, rejects, nor initiates arbitration within six months of the Trust's offer of payment or rejection of the claim. Upon written request and good cause, the Trust may extend this period for an additional six months.

**6.4 Filing Fees.** There will be a filing fee of $250.00 for each unliquidated claim which will be refunded by the Trust if the claim is allowed. The Trust may waive the refundable filing fee if it is determined that such a fee would create undue hardship for the claimant. The size of the fee will be reviewed by the Trust on a yearly basis.

**6.5 Confidentiality of Claimants' Submissions.** All submissions to the Trust by a holder of a 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 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 Trust will preserve the confidentiality of such claimant submissions, and shall disclose the contents thereof only, with the permission of the holder, to another trust established for the benefit of asbestos personal injury claimants pursuant to section 524(g) of the Bankruptcy Code or other applicable

law, to such other persons as authorized by the holder, or in response to a valid subpoena of such materials issued by the Bankruptcy Court or any state or federal Court having personal jurisdiction over the Trust. Furthermore, the Trust shall provide counsel for the holder a copy of any such subpoena immediately upon being served. The Trust shall on its own initiative or upon request of the claimant in question take all necessary and appropriate steps to preserve said privilege before the Bankruptcy Court or any state or federal Court having personal jurisdiction over the Trust and before those courts having appellate jurisdiction related thereto. Nothing in the TDP, the Plan, or the Trust Agreement expands, limits or impairs the obligation under applicable law of a claimant to respond fully to lawful discovery in an underlying civil action regarding his or her submission of factual information to the Trust for the purpose of obtaining compensation for asbestos-related injuries from the Trust.

## SECTION VII

## General Guidelines for Liquidating and Paying Claims

**7.1 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, Maximum Annual Payment, and Disease Category Claims Payment Ratio requirements set forth above, the Trustees shall proceed with due diligence to liquidate valid 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 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 Trust, the established allocation to Categories A and B, and the practical limitations imposed by the inability to predict the future with precision. In the event that the 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 if appropriate, at any time may offer a Reduced Payment Option.

**7.2 Punitive Damages.** In determining the value of any liquidated or unliquidated 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.

**7.3 Suits in the Tort System.**

**7.3(a) Suits in the Tort System Not Involving Insurers.** If the holder of a disputed claim disagrees with the Trust's determination regarding the Compensable Disease 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 nonbinding arbitration as provided in Section 5.9 above and rejected the resulting arbitration award, the holder may file a lawsuit in the jurisdiction where in personam jurisdiction over Trust can be obtained. Any such lawsuit must be filed by the claimant in his or her own right and name and not as a member or representative of a class. No such lawsuit may be consolidated with any other lawsuit, with the exception of a personal injury or survival claim which may be consolidated with a wrongful death claim brought as a result of the death of the Injured Party. If the claimant was alive at the earlier of the date on which the initial complaint was filed or the date the Trust Claim form was filed, the case will 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. All defenses (including, with respect to the Trust, all defenses which could have been asserted by Thorpe) shall be available to the Trust at trial and the Trust may waive any defense

and/or concede any issue of fact or law; provided, however that any such waiver or concession on the part of the Trust waives, to the extent provided by applicable law, the Trust's right to tender the defense to, or recoup any monies from, Non-Settling Insurers that may have otherwise had coverage liability under their applicable Insurance Policies with respect to such claim.

**7.3(b) Suits in the Tort System Involving Insurers.** An insurer as to which the Trust asserts coverage liability in respect to the claim of a claimant filing a lawsuit consistent with the provisions of this Section (a "Litigation Claim"), which insurer continues to be entitled under the terms of its policies and applicable state law to control or participate in the resolution of such claim against the Debtors or the Trust, shall have the right to control or participate in the resolution of the Litigation Claim according to the policy language in the insurer's applicable Insurance Policy and applicable law so long as it continues to be prosecuted in a court of law.

**7.4 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 Trust an initial payment (subject to the Funds Received Ratio, the Maximum Annual Payment and Disease Category Claims Payment Ratio provisions set forth above) of an amount equal to one-hundred percent (100%) of the lesser of a) the jury award or b) the greater of (i) the 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 ten (10) equal installments in years six (6) through fifteen (15) following the year of the initial payment (also subject to the Funds Received Ratio, the Maximum Annual Payment, and Disease Category Claims Payment Ratio provisions set forth above). Under no circumstances shall interest be paid under otherwise applicable law on any judgments obtained in the Tort System post-petition.

**7.5 Releases.** The Trustees shall have the discretion, with the consent of the TAC and Futures Representative, to determine the form and substance of the releases to be provided to the Trust in order to maximize recovery for claimants against other tortfeasors without increasing the risk or amount of claims for indemnification or contribution from the Trust. The Release utilized by the Trust shall include all Personal Injury, Wrongful Death, and/or Derivative claims related to the Injured Party, with the exception of the Second Disease Claims, as described above in Section 5.8. As a condition to making any payment to a claimant, the Trust shall obtain a general, partial, limited, or other release as appropriate in accordance with the applicable state or other law. If allowed by state law, the endorsing of a check or draft for payment by or on behalf of a claimant shall constitute such a release.

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

**7.7 Trust Disclosure of Information.** Periodically, but not less often than once a year, the Trust shall make available to claimants and other beneficiaries, a statistical summary of the number of claims by Compensable Diseases that have been resolved by settlement, arbitration or trial 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



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circumstances), provided they first obtain the consent of the TAC and the Futures Representative pursuant to the Consent Process set forth in Sections 5.6 and 6.6 and, if necessary, Sections 5.7 and 6.7 of the Trust Agreement, except that the right to amend the Disease Category Claims Payment Ratio provisions set forth above) are governed by the restrictions in Section 2.5 above, and the right to adjust the Funds Received Ratio as governed by Section 4.2 above.

**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 Thorpe's obligations to any insurance company providing insurance coverage to Thorpe in respect of claims for personal injury based on Thorpe Exposure, no payment shall be made by the Trust in respect of any such claim from proceeds from said insurance coverage.

**8.3 Governing Law.** This TDP shall be governed by, and construed in accordance with, the laws of the State of California, without regard to California conflict of laws principles.

**8.4 Attorneys' Fees.** Attorneys' fees payable in connection with Trust claims paid through this TDP, whether based on hourly rates or where calculated as a percentage of recovery, shall be the lower of the fee provided in the contract between claimant and counsel or 25% of recovery, exclusive of costs chargeable to the claimant, which costs shall be deducted from the gross amount paid before computation of fees. This recovery shall be measured by the actual payments from the Trust to the claimant, not the liquidated value of the claim. Legal fees shall be paid as payment to claimants are made by the Trust.

**8.5 Trust as Defendant.** The holder of an asbestos claim who is a citizen of the State of California has the option to name the Trust as a party defendant where the only claims against the Trust are for Thorpe related personal injury, wrongful death or derivative claim case filed or

served in California. However, the Trust shall not participate in the litigation and shall be removed from all service lists. No payment shall be made to such holder of an asbestos claim except as provided by the Matrix and the TDP. In the event a California citizen opts to name the Trust in an action commenced in California state court, the Trust shall not consent to remove the action to any federal court and if requested to do so, shall provide a declaration that it did not consent to any removal. The Trust shall not be required to answer or participate in the litigation and no payment shall be made to such Injured Person except as provided by the TDP and Matrix.

# EXHIBIT “D”

# FOURTH AMENDMENT TO AND COMPLETE RESTATEMENT OF THORPE INSULATION COMPANY ASBESTOS SETTLEMENT TRUST CASE VALUATION MATRIX

The Case Valuation Matrix ("Matrix") is designed to approximate Thorpe's several liability (as contrasted with joint and several liability) share of the value of asbestos personal injury and wrongful death claims ("Asbestos Claims") based on the level of settlements, verdicts or judgments historically received for substantially similar claims litigated under state tort law (the "Tort System"). To achieve this goal, historical settlements, verdicts and/or judgments have been evaluated in California where Thorpe performed significant work and had a history of being sued and settling cases. Because Thorpe's insurers have asserted that Thorpe's historical settlement history is confidential, plan proponents have used the average settlement value used in the Western Asbestos Settlement Trust Matrix, adjusted for inflation using the United States Department of Labor Statistics Urban Wage Earners and Clerical Workers index (CPI-W) ("Inflation Adjustment"). Once additional data is available, these settlement values may be adjusted as appropriate to current settlement values using settlement data from Thorpe and derived from other defendants who remained active in the Tort System. Compensable diseases include mesothelioma, lung cancer, other cancers (as defined herein) and two grades of non-malignant asbestos-related disease. The Matrix establishes the minimum criteria which must be met in order to qualify in each disease category.

The following represents the Thorpe several share of the value of Asbestos Claims determined as described above ("Average Value") based upon the above described methodology:

| **Disease** | Average Value for Thorpe Insulation Several Share |
|---|---|
| Mesothelioma | $597,913 |
| Lung Cancer | $227,281 |
| Other Cancer | $85,575 |
| Grade I Non-Malignancy | $58,827 |
| Grade II Non-Malignancy | $24,892 |

The Matrix is designed to value cases using base case values. These base case values are then increased and/or decreased by a series of adjustment factors that approximate factors which add or subtract value to cases in the Tort System. The base case values have been derived from the Western Asbestos Settlement Trust Matrix using the Inflation Adjustment. As other information becomes available, these base values may be adjusted:

| **Disease** | Thorpe Insulation Company Base Case Value |
|---|---|
| Mesothelioma | $315,463 |
| Lung Cancer | $70,794 |
| Other Cancer | $25,442 |
| Grade I Non-Malignancy | $36,661 |
| Grade II Non-Malignancy | $21,193 |

## I. GENERAL CLAIM PROVISIONS

a. **Minimum and Maximum Values.** All claims after being valued at their respective base case value and any appropriate adjustments are subject to the following minimum and maximum values.

(i) **Minimum Value.** Any Injured Person who has submitted an approved claim under a Compensable Disease category and has submitted a Trust Claim form to the Trust



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with all required documentation as outlined in the Trust Distribution Plan and herein, will receive a minimum of 10% of the Average Value of the claim for that disease in the controlling jurisdiction.

(ii) **Maximum Value.** Any Injured Person who has submitted an approved claim under a Compensable Disease category and has submitted a Trust Claim form to the Trust with all required documentation as outlined in the Trust Distribution Plan and herein, will receive a maximum of four times the Average Value of the claim for that disease in the controlling jurisdiction, unless it qualifies as an Extraordinary Claim as defined in Section IX of the Matrix.

b. **Medical Diagnoses.** Any diagnosis of pulmonary asbestosis shall be made by a (i) a Pathologist, who personally reviewed the Injured Person's pathology, or (ii) an Internist, Pulmonologist or Occupational Medicine Physician who actually examined the Injured Person. These findings will be contained in a detailed narrative written report of the examination. All medical diagnoses in the Matrix are required to be made by Board-Certified physicians in appropriate specialties to a level of reasonable medical probability. Specifically, medical reports that only come to a conclusion that findings are "consistent with" asbestos-related disease will not, standing alone, be sufficient to establish compliance with the medical criteria in the Matrix. Medical experts who are not Board-Certified but who meet equivalent medical experience and expertise requirements may be approved by the Trust with the consent of the Trust Advisory Committee ("TAC") and Futures Representative upon application by a Claimant.

c. **Record Review Exception.** Notwithstanding subsection (b) above, in the event that the Trust determines upon adequate showing under penalty of perjury that good cause exists to excuse either (1) personal review of Injured Person's pathology by a Pathologist; and/or (2) actual examination of the Injured Person by an Internist, Pulmonologist or Occupational Medicine Physician, the Trust in its exercise of discretion may permit those medical professionals to submit their diagnosis of pulmonary asbestosis on the basis of a review of the Injured Person's medical records ("Record Review Claim"), provided however, the Maximum Value for any such claim shall be the limit set in Section VIII for Individual Review. Examples of record review claims would be wrongful death actions where no pathology exists, or Injured Persons who are in such extremis or other circumstances exist that no such examination is practicable.

d. **Claimant's Burden to Submit Credible Reliable Claim Information.** Information submitted in support of a claim must comply with recognized medical standards (including but not limited to standards regarding equipment, testing methods, and procedures) and/or legal evidentiary and authenticity standards.

(i) While the Trust will not strictly apply rules of evidence, information provided in support of claims must be reliable and credible so that the Trust and, if needed, ADR neutrals are fully informed regarding the foundations for facts asserted in support of claims. The Trust normally will accept copies instead of authenticated copies of x-ray reports, laboratory tests, medical examinations, other medical records and reviews that otherwise comply with recognized medical and/or legal standards unless circumstances indicate that the copies of the and /or the tests, reports, or review are not authentic or are otherwise unreliable.

(ii) The Trust normally will accept copies instead of authenticated copies of deposition testimony, invoices, affidavits, business records, deck logs, military service records (including leave records) or other credible indirect or secondary evidence in a form otherwise

acceptable to the Trust that establishes an Injured Person's occupation, occupational history, business or other losses or the Injured Person's presence at a particular ship, facility, job site, building or buildings or location during a time period in which the asbestos-containing material for which Thorpe is responsible was present, unless circumstances show that the information being submitted is unreliable.

(iii) Examples of unreliable information include where the circumstances raise questions of authenticity of copies or where persons authoring or verifying facts offered in support of a claim lack direct knowledge of such facts but fail to reveal and describe what facts, and how and from what sources they learned those facts, they relied upon as the basis for their assertion of such facts. Under these circumstances, the Trust and any ADR neutrals shall apply the rules of evidence to exclude evidence where the witness or verifying party declines to provide such foundational information, e.g., on grounds that the information relied upon is privileged or confidential.

e. **Trust's Right to Require Additional Evidence.** The Trust may require the submission any other evidence to support or verify a Trust claim, including but not limited to additional exposure information, x-rays, laboratory tests, medical examinations or reviews, medical reports, or other medical evidence all of which must also meet the requirements of Section I (d) above.

f. **Conspiracy Theory Claims Prohibited.** Claims based on conspiracy theories that do not involve exposure to asbestos-containing materials installed or removed by Thorpe are not compensable under this Matrix.

## II. MESOTHELIOMA

a. **Base Case** ("M"). The base case value for a Mesothelioma case is referred to in this Agreement as "M". A case will be considered a base case Mesothelioma under this Matrix when it satisfies each of the following criteria:

(i) Injured Person diagnosed with malignant Mesothelioma by a Pathologist, Internist, Pulmonologist or Occupational Medicine Physician;

(ii) Injured Person deceased at commencement of litigation or the time of filing of proof of claim, whichever is earlier;

(iii) Injured Person aged 75 years old at death;

(iv) Injured Person had a spouse;

(v) Injured Person had no other dependents or minor children at time of death;

(vi) Injured Person's loss of earnings, pension, social security and home services total up to $222,563, as adjusted annually (the "Applicable Economic Loss Threshold");

(vii) Injured Person's medical and funeral expenses total up to $237,869, as adjusted annually (the "Applicable Medical Expense Threshold");

(viii) Injured Person had Standard Exposure to Thorpe's asbestos-containing products in traditional occupations at traditional shipyard, refinery, power plants or other sites, as defined herein; and

(ix) The Injured Person had at least a 10-year latency period between the date of the first exposure to asbestos and the date of diagnosis of the disease.

(x) **Adjustments.** Certain features of a Mesothelioma case will warrant an adjustment in the liquidated value either above or below the base case Mesothelioma value, as set forth herein. The following adjustments are provided as multipliers of the base case value M. For example, an adjustment of 1.3M for a Living 55 year-old mesothelioma Injured Person indicates that such an Injured Person would receive 1.3 times the base case Mesothelioma value. In situations where numerous adjustments are required for an Injured Person's case, all of the applicable adjustment multipliers shall be multiplied together, and times the base case value M, to determine the liquidated value of the case. For example, an Injured Person who is age 55 (1.3M) and alive at the commencement of litigation or the time of filing of proof of claim, whichever is earlier (1.3M), and who had exposure at what is known to be a high exposure site (1.5M), would be eligible for a liquidated value of 1.3 times 1.3 times 1.5 or 2.535 M times the base case value.

(xi) **Age.** Age shall be determined as of the commencement of litigation or the time of filing of the proof of claim, whichever is earlier. The adjustment factor for age shall be decreased .015 for every year over 75 years of age up to a maximum downward adjustment to .7M, and shall be increased .015 for every year under 75 years of age up to a maximum upward adjustment to 1.4M.

(xii) **Exposure.** The following adjustments are based on exposure in traditional occupations at traditional shipyard, refinery, power plant, or other sites as set forth herein:

| **Exposure Rating** | **Adjustment** |
|---|---|
| Very high exposure sites, as defined herein | 3.0 M |
| High exposure sites, as defined herein | 1.5 M |
| Standard exposure sites, as defined herein | 1.0 M |
| Low exposure sites, as defined herein | 0.5 M |
| Very Low exposure sites, as defined herein | 0.25 M |

(xiii) If an Injured Person is living as of the date litigation commences or the proof of claim is filed, whichever is earlier, the Injured Person's case will be adjusted by 1.3 M.

(xiv) If an Injured Person does not have a spouse as of the date litigation commences or the proof of claim is filed, whichever is earlier, the Injured Person's case will be adjusted by .8 M. If an Injured Person has minor children, adult disabled dependent children or dependent minor grandchildren living with the Injured Person at the time of diagnosis, the Injured Person's case will be adjusted by 1.5 M. If an Injured Person can demonstrate to the Trust's satisfaction that he or she has minor children, adult disabled dependent children or dependent minor grandchildren not living with the Injured Person but for whom the Injured Person provides support to the same extent as if they were living with Injured Person, then the Injured Person's case may also be adjusted by 1.5 M but not otherwise.

(xv) **Total Economic Loss (excluding medical and funeral expenses).** Where the Injured Person has or will incur economic loss for loss of earnings, pension, social security and

home services in an amount greater than the Applicable Economic Loss Threshold, case value shall be adjusted upward .001 M for every $1,113 (the Index Interval, also to be adjusted annually) of economic loss over the Applicable Economic Loss Threshold, up to a maximum adjustment to 2 M. All claimed economic loss over the Applicable Economic Loss Threshold must be supported by adequate documentation. The Applicable Economic Loss Threshold and Index Interval shall be adjusted each year in accordance with the Federal Bureau of Labor Statistics' Consumer Price Index for Urban Wage Earners and Clerical Workers published in January of each year beginning in January of 2018. The Applicable Economic Loss Threshold and Index Interval shall be the amounts in effect at the time an offer is issued by the Trust. Annual adjusted amounts will be published on the Trust's Web site each February and applied to all pending claims which do not have an outstanding offer issued.

(xvi) **Medical and Funeral Expenses.** Where the Injured Person has or will incur medical and funeral expenses in an amount greater than the Applicable Medical Expense Threshold, case value shall be adjusted upward .001 M for every $1,189 (the Index Interval, also to be adjusted annually) of medical and funeral expenses over the Applicable Medical Expense Threshold, up to a maximum adjustment to 2 M. All claimed medical and funeral expenses over the Applicable Medical Expense Threshold must be supported by adequate documentation. Standard future medical expenses are presumed to be $89,201, as adjusted annually (the "Applicable Future Amount"). Future medical expenses exceeding the Applicable Future Amount require documentation supported by affidavit. The Applicable Medical Expense Threshold, Index Interval and Applicable Future Amount shall be adjusted each year in accordance with the Federal Bureau of Labor Statistics' Consumer Price Index for Medical Care published in January of each year beginning in January of 2018. The Applicable Medical Expense Threshold, Index Interval and Applicable Future Amount shall be the amounts in effect at the time an offer is issued by the Trust. Annual adjusted amounts will be published on the Trust's Web site each February and applied to all pending claims which do not have an outstanding offer issued.

## III. LUNG CANCER

a. **Base Case** ("LC"). The base case value for a Lung Cancer case is referred to in this Agreement as "LC". A case will be considered a base case Lung Cancer under this Matrix when it satisfies each of the following criteria:

(i) Injured Person diagnosed with primary lung cancer by a Pathologist, Internist, Pulmonologist or Occupational Medicine Physician who attributes or finds asbestos exposure to be a substantial contributing factor in the development of the primary cancer;

(ii) Injured Person deceased at time of commencement of litigation or the time of filing of the proof of claim, whichever is earlier;

(iii) Injured Person aged 75 years old at death;

(iv) Injured Person had a spouse;

(v) Injured Person had no other dependents or minor children at time of death;

(vi) Injured Person's loss of earnings, pension, social security and home services total up to $222,563, as adjusted annually (the "Applicable Economic Loss Threshold");



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(vii) Injured Person's medical and funeral expenses total up to $237,869, as adjusted annually (the "Applicable Medical Expense Threshold");

(viii) Injured Person had Standard Exposure to Thorpe's asbestos-containing products in traditional occupations at traditional shipyard, refinery, power plant or other sites, as defined herein;

(ix) Injured Person had a 20-80 pack-year history of smoking;

(x) Injured Person was still smoking at the time of diagnosis, or had quit smoking less than 10 years before diagnosis;

(xi) Injured Person had been not diagnosed with clinical or pathological asbestosis, but Injured Person had both:

(A) A reliable history of exposure to asbestos; and

(B) Evidence of asbestos-related anatomical changes, such as: asbestos-related pleural disease, chest X-ray abnormalities graded 1/0 or higher on the ILO scale attributed to prior asbestos exposure, computed tomography (CT) evidence of interstitial disease attributed to prior asbestos exposure, or asbestos bodies or increased fiber burden indicative of occupational exposure to asbestos; and

(xii) The Injured Person had at least a 10-year latency period between the date of the first exposure to asbestos and the date of diagnosis of the disease.

b. **Adjustments.** Certain features of a Lung Cancer Case will warrant an adjustment in the liquidated value either above or below the base case Lung Cancer value, as set forth herein. The following adjustments are provided as multipliers of the base case value LC. For example, an adjustment of 1.3 LC for a living 55 year-old lung cancer Injured Person **indicates that such an** Injured Person **would receive 1.3 times the base case Lung Cancer value.** In situations where numerous adjustments are required for an Injured Person's case, all of the applicable adjustment multipliers shall be multiplied together, and times the base case value LC, to determine the liquidated value of the case. For example, an Injured Person who is age 55 (1.3 LC) and alive at the commencement of litigation or the time of filing of proof of claim, whichever is earlier (1.3 LC), and who had exposure at what is known to be a high exposure site (1.5 LC), would be eligible for a liquidated value of 1.3 times 1.3 times 1.5 or 2.535 LC times the base case value.

(i) **Age.** Age shall be determined as of the commencement of litigation or the time of filing of the proof of claim, whichever is earlier. The adjustment factor for age shall be decreased .015 for every year over 75 years of age up to a maximum downward adjustment to .7 LC, and shall be increased .015 for every year under 75 years of age up to a maximum upward adjustment to 1.4 LC.

(ii) **Exposure.** The following adjustments are based on exposure in traditional occupations at traditional shipyard, refinery or power plant, or other sites as set forth herein:

| **Exposure Rating** | **Adjustment** |
|---|---|
| Very high exposure sites, as defined herein | 3.0 LC |

| | |
|---|---|
| High exposure sites, as defined herein | 1.5 LC |
| Standard exposure sites, as defined herein | 1.0 LC |
| Low exposure sites, as defined herein | 0.5 LC |
| Very Low exposure sites, as defined herein | 0.25 LC |

(iii) If an Injured Person is living as of the date litigation commences or the proof of claim is filed, whichever is earlier, the Injured Person's case will be adjusted by 1.3 LC.

(iv) If an Injured Person does not have a spouse as of the date litigation commences or the proof of claim is filed, whichever is earlier, the Injured Person's case will be adjusted by .8 LC. If an Injured Person has minor children, adult disabled dependent children or dependent minor grandchildren living with the Injured Person at the time of diagnosis, the Injured Person's case will be adjusted by 1.5 LC. If an Injured Person can demonstrate to the Trust's satisfaction that he or she has minor children, adult disabled dependent children or dependent minor grandchildren not living with the Injured Person but for whom the Injured Person provides support to the same extent as if they were living with Injured Person, then the Injured Person's case may also be adjusted by 1.5 LC but not otherwise.

(v) **Total Economic Loss (excluding medical and funeral expenses).** Where the Injured Person has or will incur economic loss for loss of earnings, pension, social security and home services in an amount greater than the Applicable Economic Loss Threshold, case value shall be adjusted upward .001 LC for every $1,113 (the Index Interval, also to be adjusted annually) of economic loss over the Applicable Economic Loss Threshold, up to a maximum adjustment to 2 LC. All claimed economic loss over the Applicable Economic Loss Threshold must be supported by adequate documentation. The Applicable Economic Loss Threshold and Index Interval shall be adjusted each year in accordance with the Federal Bureau of Labor Statistics' Consumer Price Index for Urban Wage Earners and Clerical Workers published in January of each year beginning in January of 2018. The Applicable Economic Loss Threshold and Index Interval shall be the amounts in effect at the time an offer is issued by the Trust. Annual adjusted amounts will be published on the Trust's Web site each February and applied to all pending claims which do not have an outstanding offer issued.

(vi) **Medical and Funeral Expenses.** Where the Injured Person has or will incur medical and funeral expenses in an amount greater than the Applicable Medical Expense Threshold, case value shall be adjusted upward .001 LC for every $1,189 (the Index Interval, also to be adjusted annually) of medical and funeral expenses over the Applicable Medical Expense Threshold, up to a maximum adjustment to 2 LC. All claimed medical and funeral expenses over the Applicable Medical Expense Threshold must be supported by adequate documentation. Standard future medical expenses are presumed to be $89,201, as adjusted annually (the "Applicable Future Amount"). Future medical expenses exceeding the Applicable Future Amount require documentation supported by affidavit. The Applicable Medical Expense Threshold, Index Interval and Applicable Future Amount shall be adjusted each year in accordance with the Federal Bureau of Labor Statistics' Consumer Price Index for Medical Care published in January of each year beginning in January of 2018. The Applicable Medical Expense Threshold, Index Interval and Applicable Future Amount shall be the amounts in effect at the time an offer is issued by the



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Trust. Annual adjusted amounts will be published on the Trust's Web site each February and applied to all pending claims which do not have an outstanding offer issued.

(vii) **Medical Causation.** The following adjustments apply to Injured Persons who have different smoking histories and/or medical findings than those described for the base Lung Cancer case. In no event can any of the adjustments listed below be combined for an overall causation adjustment in excess of 3.0 LC.

| Causation Information | Adjustment |
|---|---|
| Pathological diagnosis of asbestosis, or occupational levels of asbestos bodies or asbestos fibers in lung tissue | 2.0 LC |
| Clinical diagnosis of asbestosis (in absence of pathological diagnosis) | 1.5 LC |
| No radiographic evidence of asbestos exposure and no increased fiber burden as a marker of asbestos exposure (Applicable to smokers only) | 0.5 LC |
| Lifetime non-smoker | 2.0 LC |
| 1-20 pack-years of smoking | 1.2 LC |
| Over 80 pack-years of smoking | 0.6 LC |
| Diagnosis over 10 years since Injured Person quit smoking | 1.2 LC |
| Diagnosis over 15 years since Injured Person quit smoking | 1.5 LC |

## IV. OTHER CANCER

a. **Base Case** ("OCA"). The base case value for an Other Cancer case is referred to in this Agreement as "OCA". A case will be considered a base case Other Cancer under this Matrix when it satisfies each of the following criteria:

(i) Injured Person diagnosed with laryngeal, esophageal, kidney, colo-rectal cancer, non-Hodgkin's lymphoma or chronic lymphocytic leukemia by a Pathologist, Internist, Pulmonologist or Occupational Medicine Physician who attributes or finds asbestos exposure to be a substantial contributing factor in the development of the primary cancer;

(ii) Injured Person deceased at commencement of litigation or the time of filing of proof of claim, whichever is earlier;

(iii) Injured Person aged 75 years old at death;

(iv) Injured Person had a spouse;

(v) Injured Person had no other dependents or minor children at time of death;

(vi) Injured Person's loss of earnings, pension, social security and home services total up to $222,563, as adjusted annually (the "Applicable Economic Loss Threshold");

(vii) Injured Person's medical and funeral expenses total up to $237,869, as adjusted annually (the "Applicable Medical Expense Threshold");

(viii) Injured Person had Standard Exposure to Thorpe's asbestos-containing products in traditional occupations at traditional shipyard, refinery, power plant or other sites, as defined herein;

(ix) Injured Person had a 20-80 pack-year history of smoking;

(x) Injured Person was still smoking at the time of diagnosis, or had quit smoking less than 10 years before diagnosis;

(xi) Injured Person not diagnosed with clinical or pathological asbestosis, but Injured Person had both:

(A) A reliable history of exposure to asbestos, and

(B) Evidence of asbestos-related anatomical changes, such as: asbestos-related pleural disease chest X-ray abnormalities graded 1/0 or higher attributed to prior asbestos exposure on the ILO scale, or computed tomography (CT) evidence of interstitial disease attributed to prior asbestos exposure; and

(xii) The Injured Person had at least a 10-year latency period between the date of the first exposure to asbestos and the date of manifestation of the disease.

b. **Adjustments.** Certain features of an Other Cancer case will warrant an adjustment in the liquidated value either above or below the base case Other Cancer value, as set forth herein. The following adjustments are provided as multipliers of the base case value OCA. For example, an adjustment of 1.3 OCA for a living 55 year-old other cancer Injured Person indicates that such an Injured Person would receive 1.3 times the base case Other Cancer value. In situations where numerous adjustments are required for an Injured Person's case, all of the applicable adjustment multipliers shall be multiplied together and times the base case value OCA, to determine the liquidated value of the case. For example, an Injured Person who is age 55 (1.3 OCA) and alive at the commencement of litigation or the time of filing of proof of claim, whichever is earlier (1.3 OCA), and who had exposure at what is known to be a high exposure site (1.5 OCA), would be eligible for a liquidated value of 1.3 times 1.3 times 1.5 or 2.535 OCA times the base case value.

(i) **Age.** Age shall be determined as of the commencement of litigation or the time of filing of the proof of claim, whichever is earlier. The adjustment factor for age shall be decreased .015 for every year over 75 years of age up to a maximum downward adjustment to .7 OCA, and shall be increased .015 for every year under 75 years of age up to a maximum upward adjustment to 1.4 OCA.

(ii) **Exposure.** The following adjustments are based on exposure in traditional occupations at traditional shipyard, refinery, power plant or other sites, as set forth herein:

| **Exposure Rating** | **Adjustment** |
|---|---|
| Very high exposure sites, as defined herein | 3.0 OCA |



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| | |
|---|---|
| High exposure sites, as defined herein | 1.5 OCA |
| **Exposure Rating** | **Adjustment** |
| Standard exposure sites, as defined herein | 1.0 OCA |
| Low exposure sites, as defined herein | 0.5 OCA |
| Very Low exposure sites, as defined herein | 0.25 OCA |

(iii) If an Injured Person is living as of the date litigation commences or the proof of claim is filed, whichever is earlier, the Injured Person's case will be adjusted by 1.3 OCA.

(iv) If an Injured Person does not have a spouse as of the date litigation commences or the proof of claim is filed, whichever is earlier, the Injured Person's case will be adjusted by .8 OCA. If an Injured Person has minor children, adult disabled dependent children or dependent minor grandchildren living with the Injured Person at the time of diagnosis, the Injured Person's case will be adjusted by 1.5 OCA. If an Injured Person can demonstrate to the Trust's satisfaction that he or she has minor children, adult disabled dependent children or dependent minor grandchildren not living with the Injured Person but for whom the Injured Person provides support to the same extent as if they were living with Injured Person, then the Injured Person's case may also be adjusted by 1.5 OCA but not otherwise.

(v) **Total Economic Loss (excluding medical and funeral expenses).** Where the Injured Person has or will incur economic loss for loss of earnings, pension, social security and home services in an amount greater than the Applicable Economic Loss Threshold, case value shall be adjusted upward .001 OCA for every $1,113 (the Index Interval, also to be adjusted annually) of economic loss over the Applicable Economic Loss Threshold, up to a maximum adjustment to 2 OCA. All claimed economic loss over the Applicable Economic Loss Threshold must be supported by adequate documentation. The Applicable Economic Loss Threshold and Index Interval shall be adjusted each year in accordance with the Federal Bureau of Labor Statistics' Consumer Price Index for Urban Wage Earners and Clerical Workers published in January of each year beginning in January of 2018. The Applicable Economic Loss Threshold and Index Interval shall be the amounts in effect at the time an offer is issued by the Trust. Annual adjusted amounts will be published on the Trust's Web site each February and applied to all pending claims which do not have an outstanding offer issued.

(vi) **Medical and Funeral Expenses.** Where the Injured Person has or will incur medical and funeral expenses in an amount greater than the Applicable Medical Expense Threshold, case value shall be adjusted upward .001 OCA for every $1,189 (the Index Interval, also to be adjusted annually) of medical and funeral expenses over the Applicable Medical Expense Threshold, up to a maximum adjustment to 2 OCA. All claimed medical and funeral expenses over the Applicable Medical Expense Threshold must be supported by adequate documentation. Standard future medical expenses are presumed to be $89,201, as adjusted annually (the "Applicable Future Amount"). Future medical expenses exceeding the Applicable Future Amount require documentation supported by affidavit. The Applicable Medical Expense Threshold, Index Interval and Applicable Future Amount shall be adjusted each year in accordance with the Federal Bureau of Labor Statistics' Consumer Price Index for Medical Care published in January of each year beginning in January of 2018. The Applicable Medical Expense Threshold, Index Interval and Applicable Future Amount shall be the amounts in effect at the time an offer is issued by the



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Trust. Annual adjusted amounts will be published on the Trust's Web site each February and applied to all pending claims which do not have an outstanding offer issued.

(vii) **Medical Causation.** The following adjustments apply to Injured Persons who have different smoking histories and/or medical findings than those described for the base Other Cancer case. In no event can any of the adjustments listed below be combined for an overall causation adjustment in excess of 3.0 OCA.

| **Causation Information** | **Adjustment** |
|---|---|
| Pathological diagnosis of asbestosis, or occupational levels of asbestos bodies or asbestos fibers in lung tissue | 2.0 OCA |
| Clinical diagnosis of asbestosis (in absence of pathological diagnosis) | 1.5 OCA |

| **Causation Information** | **Adjustment** |
|---|---|
| No radiographic evidence of asbestos exposure and no increased fiber burden as a marker of asbestos exposure | 0.25 OCA |

For laryngeal, esophageal, kidney other cancers, the following additional adjustments shall be applied:

| **Causation Information** | **Adjustment** |
|---|---|
| Lifetime non-smoker | 2.0 OCA |
| 1-20 pack-years of smoking | 1.2 OCA |
| Over 80 pack-years of smoking | 0.6 OCA |
| Diagnosis over 10 years since Injured Person quit smoking | 1.2 OCA |
| Diagnosis over 15 years since Injured Person quit smoking | 1.5 OCA |

(viii) **Other Organ Cancers.** An Injured Person who has not been diagnosed with cancers of the organs described for the base Other Cancer case (i.e., laryngeal, esophageal kidney, colo-rectal cancers, non-Hodgkin's lymphoma and chronic lymphocytic leukemia) may still obtain compensation under this Matrix, if the Injured Person has been diagnosed with a primary cancer of a different organ and a Board-Certified specialist in an appropriate specialty or a Board-Certified occupational medicine physician at the time of the report attributes the malignancy to prior asbestos exposure. An Injured Person's case which meets the criteria set forth above, subject to the Trust's consent, shall be classified as an "Other Organ Cancer" and will be adjusted by .5 OCA.

## V. GRADE I NON-MALIGNANCY

a. **Base Case** ("I"). The base case value for a Grade I Non-malignancy Case is referred to in this Matrix as "I". A case will be considered a base case Grade I Non-malignancy under this Matrix when it satisfies each of the following criteria:

(i) Injured Person aged 75 years old;

(ii) Injured Person has a spouse;

(iii) Injured Person has no other dependents or minor children;

(iv) Injured Person's loss of earnings, pension, social security and home services total up to $222,563, as adjusted annually (the "Applicable Economic Loss Threshold");

(v) Injured Person's medical and funeral expenses total up to $237,869, as adjusted annually (the "Applicable Medical Expense Threshold");

(vi) Injured Person had Standard Exposure to asbestos-products in traditional occupations at traditional shipyard, refinery, power plant or other sites, as defined herein;

(vii) Injured Person satisfies all the following criteria of interstitial lung disease with impairment of lung function:

1. The Injured Person must establish at least a 10-year latency period between the date of the first exposure to asbestos and the date of diagnosis of the disease, and clinical evidence of asbestosis defined in subsection 2;

2. Clinical Evidence of Asbestosis. A diagnosis of pulmonary asbestosis by a Pulmonologist, Internist or Occupational Medicine Physician who actually examined the Injured Person based on the following minimum objective criteria:

(a) Chest X-rays which, in the opinion of a Certified B-reader, show small irregular opacities of ILO Grade 1/0 or greater, or a report from a Pulmonologist, Internist or Occupational Medicine Physician that the Injured Person has evidence of asbestos related interstitial fibrosis on high resolution CT scan; and

(b) Pulmonary Function Testing results demonstrating either:

1) FVC<80% of Predicted Value with FEV-1/FVC≥65% (actual value) if the individual tested is at least 70 years old at the date of testing, ≥70% (actual value) if the individual tested is at least 60 years old but less than 70 years old at the date of testing, and ≥75% (actual value) if the individual tested is less than 60 years old at the date of testing; or

2) TLC<80% of Predicted Value; or

3) DLCO<75% of Predicted Value with FEV-1/FVC≥65% (actual value) if the individual tested is at least 70 years old at the date of testing, ≥70% (actual value) if the individual tested is at least 60 years old but less than 70 years old at the date of testing, and ≥75% (actual value) if the individual tested is less than 60 years old at the date of testing and a statement by a Pulmonologist or an Occupational Medicine Physician stating that the asbestos-related lung disease is the probable explanation for the test result.

3. Pathological Evidence of Asbestosis. A diagnosis of asbestosis by a Pathologist that examined the pathology of the claimant. See also Section I(c) above.

4. Those claims wherein the Injured Person suffers from extensive disabling asbestos-related pleural disease may be submitted to the Individual Review process, as described in Section VIII of this Matrix, provided however such a claim shall not be limited to Average Value and may be awarded up to the Maximum Value for Grade I.

b. **Adjustments.** Certain features of a Grade I Non-malignancy Case will warrant an adjustment in the liquidated value either above or below the base case Grade I Non-malignancy value, as set forth herein. The following adjustments are provided as multipliers of the base case value I. For example, an adjustment of 1.3 I for a 55 year-old Grade I non-malignancy Injured Person indicates that such an Injured Person would receive 1.3 times the base case Grade I Non-malignancy value. In situations where numerous adjustments are required for an Injured Person's case, all of the applicable adjustment multipliers shall be multiplied together and times the base case value I, to determine the liquidated value of the case. For example, an Injured Person who is age 55 (1.3 I) and determined to be an Enhanced Grade I non- malignancy Injured Person as defined in section (vi) herein (1.5 I) and who had exposure at what is known to be a high exposure site (1.5 I), would be eligible for a liquidated value of 1.3 times 1.5 times 1.5, or 2.925 I, times the base case value.

(i) **Age.** Age shall be determined as of the commencement of litigation or the time of filing of the proof of claim, whichever is earlier. The adjustment factor for age shall be decreased .015 for every year over 75 years of age up to a maximum downward adjustment to .7 I, and shall be increased .015 for every year under 75 years of age up to a maximum upward adjustment to 1.4 I.

(ii) **Exposure.** The following adjustments are based on exposure in traditional occupations at traditional shipyard, refinery or power plant, or other sites as set forth herein:

| **Exposure Rating** | **Adjustment** |
|---|---|
| Very high exposure sites, as defined herein | 3.0 I |
| High exposure sites, as defined herein | 1.5 I |
| Standard exposure sites, as defined herein | 1.0 I |
| Low exposure sites, as defined herein | 0.5 I |
| Very Low exposure sites, as defined herein | 0.25 I |

(iii) If an Injured Person does not have a spouse as of the date litigation commences or the proof of claim is filed, whichever is earlier, the Injured Person's case will be adjusted by .8 I. If an Injured Person has minor children, adult disabled dependent children or dependent minor grandchildren living with the Injured Person at the time of diagnosis, the Injured Person's case will be adjusted by 1.5 I. If an Injured Person can demonstrate to the Trust's satisfaction that he or she has minor children, adult disabled dependent children or dependent minor grandchildren not living with the Injured Person but for whom the Injured Person provides support to the same extent as if they were living with Injured Person, then the Injured Person's case may also be adjusted by 1.5I but not otherwise.

(iv) **Total Economic loss (excluding medical).** Where the Injured Person has or will incur economic loss for loss of earnings, pension, social security and home services in an amount greater than the Applicable Economic Loss Threshold, case value shall be adjusted upward .001 I for every $1,113 (the Index Interval, also to be adjusted annually) of economic loss over the Applicable Economic Loss Threshold, up to a maximum adjustment to 2 I. All claimed economic loss over the Applicable Economic Loss Threshold must be supported by adequate documentation. The Applicable Economic Loss Threshold and Index Interval shall be adjusted each year in accordance with the Federal Bureau of Labor Statistics' Consumer Price Index for Urban Wage Earners and Clerical Workers published in January of each year beginning in January of 2018. The Applicable Economic Loss Threshold and Index Interval shall be the amounts in effect at the time an offer is issued by the Trust. Annual adjusted amounts will be published on the Trust's Web site each February and applied to all pending claims which do not have an outstanding offer issued.

(v) **Medical and Funeral Expenses.** Where the Injured Person has or will incur medical and funeral expenses in an amount greater than the Applicable Medical Expense Threshold, case value shall be adjusted upward .001 I for every $1,189 (the Index Interval, also to be adjusted annually) of medical and funeral expenses over the Applicable Medical Expense Threshold, up to a maximum adjustment to 2 I. All claimed medical and funeral expenses over the Applicable Medical Expense Threshold must be supported by adequate documentation. Standard future medical expenses are presumed to be $89,201, as adjusted annually (the "Applicable Future Amount"). Future medical expenses exceeding the Applicable Future Amount require documentation supported by affidavit. The Applicable Medical Expense Threshold, Index Interval and Applicable Future Amount shall be adjusted each year in accordance with the Federal Bureau of Labor Statistics' Consumer Price Index for Medical Care published in January of each year beginning in January of 2018. The Applicable Medical Expense Threshold, Index Interval and Applicable Future Amount shall be the amounts in effect at the time an offer is issued by the Trust. Annual adjusted amounts will be published on the Trust's Web site each February and applied to all pending claims which do not have an outstanding offer issued.

(vi) **Enhanced Grade I Non-Malignancy.** If an Injured Person has evidence of asbestosis of a severity exceeding the following criteria, the liquidated value of that Injured Person's case will be adjusted by 1.5 I.

1. The Injured Person must establish at least a 10-year latency period between the date of first exposure to asbestos and the date of manifestation of the disease, and either clinical or pathological evidence of asbestosis as defined in subsection 2 or 3;

2. Clinical Evidence of Asbestosis. A diagnosis of pulmonary asbestosis by an Internist, Pulmonologist or an Occupational Medicine Physician who actually examined the Injured Person based on the following minimum objective criteria:

Chest X-rays which, in the opinion of a Certified B-reader, show small irregular opacities of ILO Grade 1/1 or greater, or asbestos related interstitial fibrosis on high resolution CT scan; and Pulmonary Function Testing results demonstrating either:

(a) FVC<60% of Predicted Value with FEV-1/FVC≥65% (actual value) if the individual tested is at least 70 years old at the date of testing, ≥70% (actual value)

if the individual tested is at least 60 years old but less than 70 years old at the date of testing, and ≥75% (actual value) if the individual tested is less than 60 years old at the date of testing; or

(b) TLC≥70% of Predicted Value; or

(c) DLCO<60% of Predicted Value with FEV-1/FVC≥65% (actual value) if the individual tested at least 70 years old at the date of testing, ≥70% (actual value) if the individual tested is at least 60 years old but less than 70 years old at the date of testing, and ≥75% (actual value) if the individual tested is less than 60 years old at the date of testing and a statement by a Pulmonologist, Internist or an Occupational Medicine Physician at the time of the stating that the asbestos-related lung disease is the probable explanation for the test result; or

(d) VO MAX<20mL (kg•min) or<5.7 METS with FEV-1/FVC≥65% (actual value) if the individual tested is at least 70 years old at the date of testing, ≥70% (actual value) if the individual tested is at least 60 years old but less than 70 years old at the date of testing, and ≥75% (actual value) if the individual tested is less than 60 years old at the date of testing and a statement by a Pulmonologist, Internist or an Occupational Medicine Physician stating that the asbestos-related lung disease is the probable explanation for the test result.

3. Pathological Evidence of Asbestosis. A statement by a Pathologist, Pulmonologist, Internist or an Occupational Medicine Physician that a representative section of lung tissue demonstrates asbestosis as defined by the 1982 report of the Pneumoconiosis Committee of the College of American Pathologists and the National Institute for Occupational Safety and Health including the "demonstration of discrete foci of fibrosis in the walls of respiratory bronchioles associated with accumulations of asbestos bodies", and also that there is no more probable explanation for the presence of the fibrosis than prior asbestos exposure.

(vii) **"Serious asbestosis"** is

1. Asbestosis with ILO 2/2 or greater and AMA Class IV Impairment.

Or

2. Where the Injured Person is "On Oxygen" and otherwise meets the requirements of subsections i, ii, or iii, below.

i. Injured Person has a diagnosis of asbestosis, has pulmonary function test results qualifying as Grade I, and a Pulmonologist or Occupational Medicine physician states that a contributing cause for the use of oxygen is asbestosis. Claim will be valued as a matrix claim even if there are other contributing causes listed for the need for oxygen.

ii. Injured Person has a diagnosis of asbestosis, but does not have pulmonary function test results qualifying as Grade I. Even though a Pulmonologist or Occupational Medicine physician states that the predominant cause or contributing cause for use of oxygen is asbestosis, claim a) will be valued under Individual Review and subject to the Individual Review process as described in Section VIII of the Matrix and b) if there are other contributing

causes, the Trust will give equal weight to each cause for the need to be on oxygen.

iii. Injured Person has diagnosis of asbestosis, treating physician board certified in pulmonology or occupational medicine prescribes oxygen to the Injured Party, and the treating physician states the predominant need for oxygen is asbestosis. Regardless of the existence of other contributing causes for the need to be on oxygen, claim will be valued as a matrix claim.

"On Oxygen" means oxygen needed to perform activities of daily life, e.g., not oxygen that is prescribed only for comfort care, at night, for surgery, or on occasion.

Or

3. Asbestosis death" is where asbestosis is listed as the cause or a significant contributing cause of death on the death certificate, or where a report from a Pathologist, Pulmonologist, or and Occupational Medicine Physician states that asbestosis was a significant contributing cause of death. If and Injured Person has evidence of serious asbestosis or asbestosis death, and exposure to (debtor) products or conduct was a substantial contributing cause of the serious asbestosis or asbestosis death, then the valuation criteria for lung cancer, including the base Lung Cancer case, as defined in (II)(a), shall be utilized to determine the value of the claims.

## VI. GRADE II NON-MALIGNANCY

a. **Base Case** ("II"). The base case value for a Grade II Non-malignancy Case is referred to in this Matrix as "II". A case will be considered a base case Grade II Non-malignancy under this Matrix when it satisfies each of the following criteria:

(i) Injured Person aged 75 years old;

(ii) Injured Person had Standard Exposure to Thorpe asbestos-products in traditional occupations at traditional shipyard, refinery, power plant or other sites, as defined herein;

(iii) Injured Person satisfies the following criteria for asbestos-related disease:

1. The Injured Person must establish at least a 10-year latency period between the date of the first exposure to asbestos and the date of diagnosis of the disease; and

2. The Injured Person must establish evidence of an asbestos related disease including:

(a) Clinical Evidence of Asbestosis. A diagnosis of pulmonary asbestosis by an Internist, Pulmonologist or qualified Occupational Medicine Physician who actually examined the Injured Person based on the following minimum objective criteria:

1) Chest X-rays which, in the opinion of a Certified B-reader, show small irregular opacities of ILO Grade 1/0 or greater, or

2) Asbestos related interstitial fibrosis on high resolution CT scan or appropriate diagnostic imaging procedure; or

(b) Clinical Evidence of Asbestos-Related Pleural Disease. A diagnosis of asbestos-related pleural disease by an Internist, Pulmonologist or Occupational Medicine Physician.

b. **Adjustments.** Certain features of a Grade II Non-malignancy case will warrant an adjustment in the liquidated value either above or below the base Grade II Non-malignancy value, as set forth herein. The following adjustments are provided as multipliers of the base case value II. For example, an adjustment of 1.3 II for a 55 year-old Grade II non-malignancy Injured Person indicates that such an Injured Person would receive 1.3 times the base case Grade II Non-malignancy value. In situations where numerous adjustments are required for an Injured Person's case, all of the applicable adjustment multipliers shall be multiplied together and times the base case value II, to determine the liquidated value of the case. For example, an Injured Person who is age 55 (1.3 II) and who had exposure at what is known to be a high exposure site (1.5 II), would be eligible for a liquidated value of 1.3 times 1.5, or 1.95 II, times the base case value.

(i) **Age.** Age shall be determined as of the commencement of litigation or the time of filing of the proof of claim, whichever is earlier. The adjustment factor for age shall be decreased .015 for every year over 75 years of age up to a maximum downward adjustment to .7 II, and shall be increased .015 for every year under 75 years of age up to a maximum upward adjustment to 1.4 II.

(ii) **Exposure.** The following adjustments are based on exposure in traditional occupations at traditional shipyard, refinery or power plant, or other sites as set forth herein:

| **Exposure Rating** | **Adjustment** |
|---|---|
| Very high exposure sites, as defined herein | 3.0 II |
| High exposure sites, as defined herein | 1.5 II |
| Standard exposure sites, as defined herein | 1.0 II |
| Low exposure sites, as defined herein | 0.5 II |
| Very Low exposure sites, as defined herein | 0.25 II |

## VII. EXPOSURE REQUIREMENTS

a. **Standard Exposure Criteria.** Subject to Section 6.2 of the Trust Distribution Procedures, exposure to asbestos-containing material for which Thorpe is responsible can be established by evidence described in Section I (d) and (e) above. The Trust shall have the right to consider all other appropriate evidence of exposure and may establish appropriate alternative exposure criteria after consultation with the TAC and the Futures Representative. The burden shall be on the Claimant or Injured Person to establish exposure to Thorpe products by credible reliable evidence.

1. **Ship Exposure.** Evaluation of shipboard exposure shall be as follows:



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a) Claims of shipboard exposure will require evidence that Thorpe products were actually installed on the ship, and that the Injured Person can demonstrate presence in an area of the ship that would constitute an exposure to these products.

b) Exposure on board a ship at a shipyard during a repair or overhaul will constitute an exposure at that shipyard if the Injured Person remained onboard during the repair or overhaul, subject to meeting the duration of exposure requirements outlined herein.

c) Evidence that an Injured Person was subsequently present on a ship that was repaired or overhauled at a shipyard where Thorpe products were used is not sufficient to constitute exposure. See Dumin v. Owens Coming Fiberglas Corp., 28 Cal. App. 4th 650 (1994).

d) It shall not be sufficient for an Injured Person to show that Thorpe products were generally used at a shipyard where a particular ship that the Injured Person worked on was repaired. Specific identification of Thorpe products on board the ship, and meeting the duration of exposure requirements on the ship are both required. See Dumin v. Owens Corning Fiberglas Corp., 28 Cal. App. 4th 650 (1994).

2. **Derivative Exposure.** An Injured Person exposed to Thorpe products solely from exposure to an occupationally exposed person, such as a family member, will have their claims valued by the trust as follows:

a) The Injured Person must establish that the occupationally exposed person would have met the exposure requirements under the Matrix that would have been applicable had that person filed a direct claim with the Trust.

b) The Injured Person must establish that he or she is suffering from one of the Compensable Diseases and that his or her own exposure to the occupationally exposed person occurred within the same time frame as the occupationally exposed person experienced Thorpe exposure as defined herein and that such exposure was a substantial contributing factor in the development of the disease. All other liquidation and payment rights and limitations under this Matrix shall be applicable to such claims.

3. **Longshore Exposure.** A Longshoreman working in Southern California ports with Thorpe exposure will be treated as a Standard exposure.

b. **Site List.** The Trust in consultation with the TAC will compile a list of the ships, facilities and other locations where Thorpe asbestos-containing materials were present including relevant dates when available. The Trust may use this list to establish and to characterize exposure and to create a list of sites where exposure is accepted. The Trust with consent of the TAC and Futures Representative may modify the list in light of additional evidence or experience with claims processing. Any Injured Person may submit additional evidence to establish Thorpe presence at a site, or in support of a higher exposure categorization in a particular case.

c. **Minimum Exposure Criteria.**

1. To meet the minimum exposure requirements, an Injured Person filing a claim as a Mesothelioma case must establish that the Injured Person's asbestos exposure at approved Thorpe sites totals at least three months or at least 10% of the Injured Person's total asbestos exposure. Notwithstanding the foregoing, an Injured Person filing a claim as a



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Mesothelioma case who can establish that the Injured Person's exposure at approved Thorpe sites totals at least one month (but less than three months) exposure shall be entitled to a reduced liquidated claim value.

2. An Injured person filing in any other Compensable Disease category must establish that the Injured Person's asbestos exposure at approved Thorpe sites totals at least one year or at least 25% of the Injured Person's total asbestos exposure. Notwithstanding the foregoing, an Injured Person filing in any other Compensable Disease category who can establish that the Injured Person's exposure at approved Thorpe sites totals at least three months (but less than one year) exposure shall be entitled to a reduced liquidated claim value.

3. If no one site is sufficient to establish the duration necessary, an Injured Person may aggregate exposure at multiple sites to meet the minimum exposure requirements. The Trust will use a blending formula to give credit for exposure time beginning with the highest rated site.

4. If the Injured Person has exposure at multiple sites, but there is no evidence supporting actual length of time at any of the sites, for purposes of applying the provisions 3, above, the Trust will allocate exposure based upon an even distribution of the total length of exposure among all sites claimed. The Injured Person's attorney and the Injured Person or Personal Representative must provide declarations stating that the work sites listed include all work sites where the Injured Person worked, and that there is no other information available to demonstrate actual work time at each site. In addition, the interrogatories accompanying the claim must contain the Injured Person's entire work history.

Nothing in sub-paragraphs 3 and 4, above, shall diminish the obligation of a claimant to offer evidence of exposure that meets the minimum required exposure at approved Thorpe's Sites set forth in paragraph c. above to qualify for a Matrix Claim.

d. **Exposure Site Rating.**

1. **Standard Exposure Sites.** Standard Sites include typical exposures to asbestos at shipyards, refineries, power plants and other industrial and commercial sites where Thorpe was determined by the Trust to be responsible for a significant portion of asbestos exposure at the worksite.

2. **High Exposure Sites.** High Exposure Sites include the same type of exposure settings as Standard Sites; except that in High Exposure Sites, Thorpe has been identified as a primary supplier such that Thorpe was responsible for a large portion of asbestos exposure at the work site.

3. **Very High Exposure Sites.** Very High Exposure Sites include the same type of exposure settings as High Exposure Sites, except that in Very High Exposure Sites, Thorpe has been identified as being responsible for the overwhelming majority of asbestos exposure at the work site.

4. **Low Exposure Sites.** Low Exposure Sites include exposures occurring at shipyards, refineries, power plants and other industrial and commercial sites settings where Thorpe was not a major source of exposure but has been identified as having some responsibility for the asbestos exposure at the site.

5. **Very Low Exposure Sites.** Very Low Exposure Sites include work sites with occupational asbestos exposure outside the typical exposures occurring at shipyards,

refineries, power plants and other industrial and commercial sites. Very Low Exposure Sites include construction settings and other such settings where exposure was not primarily to products supplied and/or installed by Thorpe.

## VIII. INDIVIDUAL REVIEW

Any Claimant or Injured Person whose claim does not meet the medical or exposure criteria for any Compensable Disease shall have the opportunity for individual consideration and evaluation of their claim. In such a case, the Trust shall either deny the claim or, if the Trust is satisfied that the Injured Person has presented a claim that would be cognizable and valid in the Tort System, the Trust can offer the Injured Person a liquidated value amount up to the Average Value for that Compensable Disease, unless the claim qualifies as an Extraordinary Claim as defined in IX below, in which case its liquidated value cannot exceed the maximum value specified for such a claim.

In special circumstances where it would be unjust to enforce the Individual Review cap, the cap may be relaxed if the Executive Director makes a recommendation to a panel, which shall consist of one Trustee, the Futures Representative and the Chair of the TAC. In the case of a claim submitted by the Chair of the TAC's firm, another member of the TAC will substitute. The Individual Review cap will be relaxed only if the decision of the panel is unanimous.

## IX. EXTRAORDINARY CLAIMS PROVISION

a. **Extraordinary Claims.** In extraordinary situations such as where an Injured Person was exposed only to Thorpe, or where Thorpe exposure constituted over 80% of the Injured Person's asbestos exposure, where extraordinary present or future medical expenses are incurred, or where special damages are exceptionally large, the Trust may individually evaluate and liquidate a claim for an amount that exceeds the Maximum Value for the particular Compensable Disease asserted by the Injured Person. Any dispute as to Extraordinary Claim status shall be submitted to arbitration by a special Extraordinary Claims panel established by the Trust. Under no circumstances shall an Extraordinary Claim be valued at more than 8 times the Average Value for the particular Compensable Disease.

# EXHIBIT “E”

Financial Statements
December 31, 2023 and 2022

# Thorpe Insulation Settlement Trust

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# Thorpe Insulation Settlement Trust

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December 31, 2023 and 2022

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**Independent Auditor's Report**

To the Trustees
Thorpe Insulation Settlement Trust
Reno, Nevada

**Opinion**

We have audited the financial statements of Thorpe Insulation Settlement Trust (the "Trust"), which comprise the statements of net claimants' equity as of December 31, 2023 and 2022, and the related statements of changes in net claimants' equity and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the net claimants' equity of the Trust as of December 31, 2023 and 2022, and its changes in net claimants' equity and its cash flows for the years then ended in accordance with the Trust's other basis of accounting, as described in Note 1 to the financial statements.

**Basis for Opinion**

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Trust and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**Emphasis of a Matter - Basis of Accounting**

We draw attention to Note 1 to the financial statements, which describes the basis of accounting used in the preparation of the financial statements. The financial statements are prepared on the Trust's other basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

**Responsibilities of Management for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with the Trust's other basis of accounting described in Note 1 to the financial statements; this includes determining that the Trust's other basis of accounting is an acceptable basis for the preparation of the financial statements in the circumstances. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Trust's ability to continue as a going concern for one year after the date that the financial statements are available to be issued.

**Auditor's Responsibilities for the Audit of the Financial Statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Trust's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Trust's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control–related matters that we identified during the audit.

**Report on Supplementary Information**

Our audits were conducted for the purpose of forming an opinion on the financial statements as a whole. The schedule of operating expenses for the years ended December 31, 2023 and 2022 on page 16 is presented for purposes of additional analysis and is not a required part of the financial statements. Such supplementary information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audits of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial

statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary information is fairly stated, in all material respects, in relation to the financial statements as a whole.

**Restriction on Use**

Our report is intended solely for the information and use of the management of the Trust and Trustees, the beneficiaries of the Trust, the Futures Representative, the Futures Counsel, the members of and counsel to the Trust Advisory Committee, and the United States Bankruptcy Court for the Central District of California, Los Angeles Division and is not intended to be and should not be used by anyone other than these specified parties.



Reno, Nevada
March 25, 2024



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# Thorpe Insulation Settlement Trust

## Statements of Net Claimants' Equity

December 31, 2023 and 2022

| | 2023 | 2022 |
|---|---|---|
| Assets | | |
| Cash, cash equivalents and investments | | |
| Restricted | $ 12,500,000 | $ 25,000,000 |
| Unrestricted | 374,084,798 | 404,658,630 |
| Total cash, cash equivalents and investments | 386,584,798 | 429,658,630 |
| Accrued interest and dividend receivables | 3,233,591 | 3,019,678 |
| Prepaid insurance | 73,183 | 153,018 |
| Prepaid federal income tax | 262,520 | 520,565 |
| Total assets | 390,154,092 | 433,351,891 |
| Liabilities | | |
| Accrued expenses | 189,764 | 178,824 |
| Claim processing deposits | 164,750 | 159,000 |
| Trust outstanding offers | 9,337,955 | 4,325,430 |
| Deferred tax liability | 23,954,944 | 18,243,508 |
| Facility and staff sharing agreement payable | 433,200 | 440,400 |
| Total liabilities | 34,080,613 | 23,347,162 |
| Net Claimants' Equity | $ 356,073,479 | $ 410,004,729 |

See Notes to Financial Statements




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# Thorpe Insulation Settlement Trust

## Statements of Changes in Net Claimants' Equity

Years Ended December 31, 2023 and 2022

| | 2023 | 2022 |
|---|---|---|
| Net Claimants' Equity, Beginning of Year | $ 410,004,729 | $ 451,949,607 |
| Additions to Net Claimants' Equity | | |
| Investment income, net of investment expenses of $1,122,884 and $1,296,534, respectively | 8,962,822 | 6,067,165 |
| Benefit for income taxes, deferred | - | 18,227,492 |
| Claims processing deposits retained | 32,250 | 24,750 |
| Net decrease in deferred facility and staff sharing agreement | 7,200 | - |
| Net realized and unrealized gains | 26,456,909 | - |
| Total additions | 35,459,181 | 24,319,407 |
| Deductions from Net Claimants' Equity | | |
| Operating expenses | 1,128,119 | 1,095,417 |
| Provision for income taxes, current | 5,558,045 | 1,269,031 |
| Provision for income taxes, deferred | 5,711,436 | - |
| Net increase in facility sharing agreement | - | 26,400 |
| Claims settled | 71,980,307 | 14,211,264 |
| Net increase in outstanding claim offers | 5,012,524 | 1,204,951 |
| Net realized and unrealized losses | - | 48,457,222 |
| Total deductions | 89,390,431 | 66,264,285 |
| Net Claimants' Equity, End of Year | $ 356,073,479 | $ 410,004,729 |

See Notes to Financial Statements



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# Thorpe Insulation Settlement Trust

## Statements of Cash Flows

Years Ended December 31, 2023 and 2022

| | 2023 | 2022 |
|---|---|---|
| Cash Inflows | | |
| Investment income receipts | $ 8,748,909 | $ 6,049,066 |
| Increase in claim processing deposits | 5,750 | - |
| Claims processing deposits retained | 32,250 | 24,750 |
| Net realized gains | 11,034,263 | 902,178 |
| Total cash inflows | 19,821,172 | 6,975,994 |
| Cash Outflows | | |
| Claims settled | 71,980,307 | 14,211,264 |
| Decrease in claim processing deposits | - | 3,250 |
| Disbursements for Trust operating expenses | 1,117,179 | 1,194,087 |
| Disbursements for prepaid insurance | - | 153,018 |
| Disbursements for Trust income taxes | 5,300,000 | 1,400,000 |
| Total cash outflows | 78,397,486 | 16,961,619 |
| Net Cash Outflows | (58,576,314) | (9,985,625) |
| Non-Cash Changes | | |
| Use of prepaid insurance | 79,835 | - |
| Net unrealized gains (losses) | 15,422,647 | (49,359,400) |
| Net Change in Cash, Cash Equivalents, and Investments | (43,073,832) | (59,345,025) |
| Cash, Cash Equivalents and Investments, Beginning of Year | 429,658,630 | 489,003,655 |
| Cash, Cash Equivalents and Investments, End of Year | $ 386,584,798 | $ 429,658,630 |

See Notes to Financial Statements

## Note 1 - Summary of Accounting Policies

### Description of Trust

The Thorpe Insulation Settlement Trust (the "Trust"), organized pursuant to the laws of the state of Nevada with its office in Reno, Nevada, was established pursuant to the Pacific Insulation Company and Thorpe Insulation Company (collectively the "Debtors") Sixth Amended Joint Plan of Reorganization (the "Plan," following Remand), dated May 1, 2013. The Trust was formed to assume the Debtors' liabilities resulting from pending and potential litigation involving individuals exposed to asbestos who have manifested asbestos-related diseases or conditions, for which the Debtors are legally responsible; liquidate, resolve, pay and satisfy all valid asbestos-related claims in accordance with the Plan; preserve, hold, manage and maximize the Trust assets for use in paying and satisfying allowed asbestos-related claims; prosecute, settle and manage the disposition of the asbestos in-place insurance coverage; and prosecute, settle and manage asbestos insurance coverage actions. Upon the effective date of the Plan, the Trust assumed liability for existing and future asbestos-related claims against the Debtors. The Trust became effective on October 22, 2010. The Trust's Confirmation Remand Effective Date occurred on July 9, 2013.

The Trust was initially funded with cash, notes receivable and insurance settlement proceeds. Since the Trust's creation, the notes receivable have been collected. The Trust's funding is dedicated solely to the settlement of asbestos-related claims and the related costs thereto, as defined in the Plan.

The Trust processes and pays all asbestos-related claims in accordance with the Thorpe Insulation Settlement Trust Agreement, as amended and restated, the Case Valuation Matrix, as amended and restated (the "Matrix"), and Trust Distribution Procedures, as amended and restated (the "TDP") (collectively, the "Trust Documents").

### Change in Accounting Method

In November 2022, the Trust approved the Fifteenth Amendment to and Complete Restatement of Trust Agreement. Per the amendment, prepaid expenses will no longer be expensed when incurred; instead, prepaid expense will be recorded to the statement of net claimants' equity and will be expensed when the benefit is realized. The special-purpose accounting methods section below has been updated accordingly. The Trust adopted this prospectively, and the change did not have a material impact on the financial statements as of December 31, 2023 and 2022.

### Special-Purpose Accounting Methods

The Trust's financial statements are prepared using special-purpose accounting methods that differ from accounting principles generally accepted in the United States. The special-purpose accounting methods were adopted in order to present the amount of equity available for payment of current and future claims. These special-purpose accounting methods are as follows:

- The financial statements are prepared using the accrual basis of accounting, as modified below.
- The funding received from Thorpe Insulation Company, Pacific Insulation Company, Farwest Insulation Contracting and their liability insurers is recorded directly to net claimants' equity. These funds do not represent income of the Trust. Offers for asbestos-related claims are reported as deductions from net claimants' equity and do not represent expenses of the Trust.




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- Costs of fixed assets, which will be exhausted during the life of the Trusts and are not available for satisfying claims, are expensed when incurred. These costs include acquisition costs of computer hardware, software, software development, office furniture, and leasehold improvements.
- Future fixed liabilities and contractual obligations entered into by the Trust are recorded directly against net claimants' equity. Accordingly, the future minimum commitments outstanding at period end for non-cancelable obligations have been recorded as deductions from net claimants' equity.
- The liability for unpaid claims reflected in the statement of net claimants' equity represents settled but unpaid claims and outstanding offers. A claims liability is recorded once an offer is made to the claimant at the amount equal to the expected pro rata payment. No liability is recorded for future claim filings and filed claims on which no offer has been made. Net claimants' equity represents funding available to pay present and future claims on which no fixed liability has been recorded.
- Investments are recorded at fair value. All interest and dividend income is included in investment income on the statement of changes in net claimants' equity. Net realized and unrealized gains and losses are recorded as separate components on the statement of changes in net claimants' equity. The fair value hierarchy of investments is reported.
- Realized gains/losses are recorded based on the security's amortized cost. At the time a security is sold, all previously recorded unrealized gains/losses are reversed and recorded net, as a component of net realized and unrealized gains/losses in the accompanying statement of changes in net claimants' equity.

**Cash and Cash Equivalents**

Cash and cash equivalents include demand deposit accounts and cash invested in money market funds and AAA-rated US Treasury Bills with an original maturity of three months or less. Cash and cash equivalents are combined with investments in the statement of cash flows in conjunction with the Trust's special purpose accounting method and in accordance with the measurement focus of the Trust to present changes in the amount of assets available for payment of current and future claims.

**Fair Value Measurements**

Fair value measurements are determined through the use of an independent, nationally recognized pricing service. For securities that have quoted prices in active markets, market quotations are provided. For securities that do not trade on a daily basis, the pricing service provides fair value estimates using a variety of inputs including, but not limited to, benchmark yields, reported trades, broker/dealer quotes, issuer spreads, bids, offers, reference data, prepayment spreads and measures of volatility. The Trust reviews on an ongoing basis the reasonableness of the methodologies used by the pricing service, as well as determines the aggregate portfolio price performance and reviews it against applicable indices.

**Deposits**

Claims processing deposits represent filing fees collected for each unliquidated claim, for which fees are refunded by the Trust if the claim is paid.

**Use of Estimates**

The preparation of financial statements in conformity with the special-purpose accounting methods described above requires the Trust to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of additions and deductions to net claimants' equity during the reporting period. Actual results could differ from those estimates.

**Concentration of Risk**

The Trust maintains all cash and investments at one financial institution. Financial instruments that potentially subject the Trust to concentrations of risk consist of cash, cash equivalents and investments. Cash equivalents consist of money market funds and Treasury Bills. The Trust did not have uninsured cash balances in excess of Federal Deposit Insurance Corporation limits of $250,000 at December 31, 2023 or 2022. Investments are in excess of Securities Investor Protection Corporation limits of $500,000.

The Trust utilizes risk controls to meet investment objectives authorized by its Trustees. Such risk controls include the use of outside investment advisors meeting predetermined criteria, and third-party quantitative and qualitative risk measurement evaluation tools. The Trust believes its risk control practices are appropriate to meet investment objectives.

Investment securities, in general, are exposed to various risks, such as interest rates, credit, and overall market volatility. Due to the level of risk associated with certain investment securities, it is reasonably possible that changes in the values of investment securities will occur in the near term and that such change could materially affect the amounts reported in the financial statements.

**Income Taxes**

The Trust's policy is to recognize interest and penalties accrued on any unrecognized tax benefits as a component of income tax expense. As of December 31, 2023, the Trust did not have any accrued interest or penalties associated with any unrecognized tax benefits, nor did it incur any interest and penalties expense with any unrecognized tax benefits for the year then ended. The Trust is unaware of information concerning any tax positions for which a material change in the unrecognized tax benefit or liability is reasonably possible within the next twelve months. The Trust files income tax returns in the United States. Although the Trust owes no tax to the State of California, it files an annual tax return in California reporting no taxable income or tax owed. The Trust is no longer subject to United States federal tax examinations for years before 2020 and state examinations for years before 2019.

**Subsequent Events**

The Trust evaluated subsequent events through March 25, 2024, the date the financial statements were available to be issued.




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## Note 2 - Cash, Cash Equivalents and Investments

The Trust has recorded cash, cash equivalents, and investments at estimated fair value as follows:

| | December 31, 2023 | |
|---|---|---|
| | Cost | Fair Value |
| Restricted | | |
| Cash equivalents | $ 36,974 | $ 36,974 |
| U.S. Government obligations | 3,216,903 | 3,140,343 |
| Municipal bonds | 1,173,025 | 1,144,265 |
| Asset-backed debt | 371,107 | 364,292 |
| Corporate debt | 7,922,684 | 7,814,126 |
| Total restricted | 12,720,693 | 12,500,000 |
| Unrestricted | | |
| Cash equivalents | 11,229,406 | 11,229,406 |
| Equity securities | 61,437,430 | 127,433,445 |
| U.S. Government obligations | 11,738,991 | 11,441,030 |
| Municipal bonds | 196,241,174 | 196,036,620 |
| Asset-backed debt | 1,252,674 | 1,229,316 |
| Corporate debt | 27,164,746 | 26,714,981 |
| Total unrestricted | 309,064,421 | 374,084,798 |
| Total Funds | $ 321,785,114 | $ 386,584,798 |

| | December 31, 2022 | |
|---|---|---|
| | Cost | Fair Value |
| Restricted | | |
| Cash equivalents | $ 1,487,983 | $ 1,487,983 |
| U.S. Government obligations | 8,204,841 | 7,736,363 |
| Municipal bonds | 2,444,634 | 2,336,413 |
| Asset-backed debt | 614,930 | 579,690 |
| Corporate debt | 13,639,753 | 12,859,551 |
| Total restricted | 26,392,141 | 25,000,000 |
| Unrestricted | | |
| Cash demand deposits | 112,039 | 112,039 |
| Cash equivalents | 41,371,942 | 41,371,941 |
| Equity securities | 83,077,377 | 139,886,841 |
| U.S. Government obligations | 10,379,107 | 9,757,417 |
| Municipal bonds | 199,840,704 | 195,504,672 |
| Asset-backed debt | 1,605,718 | 1,556,663 |
| Corporate debt | 17,488,132 | 16,469,057 |
| Total unrestricted | 353,875,019 | 404,658,630 |
| Total Funds | $ 380,267,160 | $ 429,658,630 |




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The Trust accounts for investments according to a fair value hierarchy that distinguishes between assumptions based on market data (observable inputs) and the Trust's assumptions (unobservable inputs). The hierarchy consists of three broad levels as follows:

Level 1 Quoted market prices in active markets for identical assets or liabilities.

Level 2 Quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in active markets, or valuations based on models where significant inputs are observable or can be corroborated by observable market data.

Level 3 Valuations based on models where significant inputs are not observable, and for which the determination of fair value requires significant management judgment or estimation. The Trust does not hold any Level 3 investments as of December 31, 2023 and 2022.

Assets measured at fair value on a recurring basis, including financial instruments for which the Trust accounts, were as follows at:

| | December 31, 2023 | | |
|---|---|---|---|
| | Level 1 | Level 2 | Total |
| Assets | | | |
| Cash equivalents | $ 11,266,380 | $ - | $ 11,266,380 |
| Equity securities | 127,433,445 | - | 127,433,445 |
| U.S. Government obligations | 11,236,693 | 3,344,680 | 14,581,373 |
| Municipal bonds | - | 197,180,885 | 197,180,885 |
| Asset-backed debt | - | 1,593,608 | 1,593,608 |
| Corporate debt and other | 34,529,107 | - | 34,529,107 |
| | $ 184,465,625 | $ 202,119,173 | $ 386,584,798 |

| | December 31, 2022 | | |
|---|---|---|---|
| | Level 1 | Level 2 | Total |
| Assets | | | |
| Cash demand deposits | $ 112,039 | $ - | $ 112,039 |
| Cash equivalents | 42,859,924 | - | 42,859,924 |
| Equity securities | 139,886,841 | - | 139,886,841 |
| U.S. Government obligations | 14,917,654 | 2,576,126 | 17,493,780 |
| Municipal bonds | - | 197,841,085 | 197,841,085 |
| Asset-backed debt | - | 2,136,353 | 2,136,353 |
| Corporate debt and other | 29,328,608 | - | 29,328,608 |
| | $ 227,105,066 | $ 202,553,564 | $ 429,658,630 |

The Trust experiences transfers in and out of levels within the fair value hierarchy primarily due to the market activity of the underlying security. The Trust's policy is to recognize transfers in and out at the actual date the event or change in circumstance caused the transfer.




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The maturities of the Trust's investments at market value (excluding cash equivalents) are as follows as of December 31, 2023:

| | Less than 1 Year | After 1 Year Through 5 Years | After 5 Year Through 10 Years | After 10 Years | Total |
|---|---|---|---|---|---|
| U.S. Government obligations | $ 1,723,339 | $ 10,613,152 | $ 262,506 | $ 1,982,376 | $ 14,581,373 |
| Municipal bonds | 27,817,886 | 112,938,269 | 34,969,960 | 21,454,770 | 197,180,885 |
| Asset-backed debt | 36,520 | 1,557,088 | - | - | 1,593,608 |
| Corporate debt | 6,480,708 | 26,963,717 | 1,084,682 | - | 34,529,107 |
| | $ 36,058,453 | $ 152,072,226 | $ 36,317,148 | $ 23,437,146 | $ 247,884,973 |

## Note 3 - Fixed Assets

The cost of non-income producing assets that will be exhausted during the life of the Trust and are not available for satisfying claims are expensed as incurred. Since inception, the cost of fixed assets expensed, net of disposals, includes:

| | |
|---|---|
| Acquisition of computer equipment and software | $ 115,606 |

These items have not been recorded as assets, but rather as operating expenses and direct deductions from net claimants' equity in the accompanying financial statements. The cost of fixed assets that were expensed during the years ended December 31, 2023 and 2022 were $0.

Total depreciation expense related to asset acquisition using accounting principles generally accepted in the United States would have been $7,337 and $7,632 for the years ended December 31, 2023 and 2022, respectively.

## Note 4 - Claim Liabilities

For Trust Claims, a liability for unpaid claims is recorded at the time the offer is extended to the firm of record or claimant. Funds are mailed after the approved release is signed, received, and approved by the Trust. Unpaid claims liabilities remain on the Trust's books until the offer is accepted, rejected, withdrawn or expired after six months. Offers may be extended an additional six months upon written request and good cause. As of the years ended December 31, 2023 and 2022, there were no expired offers.

All claimants are entitled to the full liquidated value of their claim. Under the TDP, claimants receive an initial pro rata payment equal to the approved Funds Received Ratio of the claim's liquidated value. The remaining obligation for the unpaid portion of the liquidated amount is not recorded and is not a liability of the Trust, unless the Funds Received Ratio is increased. In that instance, the Trust is currently obligated to retroactively pay the increased percentage to all eligible previously paid claimants (see Note 6).




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In the interest of treating all claimants equitably in accordance with the Plan, the TDP provides for an adjustment for inflation, and the Trustees have recommended that all payments beginning with the calendar year ended December 31, 2011 and future years shall include such a Cost of Living Adjustment for inflation based upon the Federal Bureau of Labor Statistics' Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). Claims liabilities at year end are adjusted for any approved Inflation Adjustments. Inflation Adjustments are cumulative. Cumulative Inflation Adjustments of 42.16% and 37.62% are included in outstanding claims liabilities as of December 31, 2023 and 2022, respectively.

The Trust approved $77,011,182 and $15,160,714 of Trust Claims during the years ended December 31, 2023 and 2022, respectively.

## Note 5 - Facility and Staff Sharing Agreement

The Trust has entered into a facilities and staff sharing agreement with the Western Asbestos Settlement Trust, (the "Western Trust"). The two Trusts are related through common trustees. Under the agreement, and in exchange for advance monthly payments, the Western Trust provides use of its facilities and services relating to administration and claims processing. The monthly payment in 2023 was $36,700. The monthly payment in 2022 was $34,500. Agreement provisions allow for automatic renewals for additional one-year periods unless either party provides written notice. The amounts of advance monthly payments are agreed upon between the Trusts from time to time. The equitable amount agreed upon is based on the required written calendar year reconciliation of annual services that is performed by the Western Trust. Any excess of cost over payments or payments over cost is required to be paid by the benefited party with interest. The reconciliation for 2023 and 2022 were performed and recorded in the current period. The reconciliations performed for the years ended December 31, 2023 and 2022 resulted in a payable to the Western Trust of $53,127 and a receivable from the Western Trust of $33,618, respectively. The monthly payment for 2024 will decrease to $36,100. The future payments under this agreement has been recorded as a liability on the accompanying statement of net claimants' equity.

## Note 6 - Net Claimants' Equity

The Trust was created pursuant to the Plan confirmed by the United States Bankruptcy Court for the Central District of California, Los Angeles Division. The TDP was adopted pursuant to the Plan and concurrently with the Trust Agreement. It is designed to provide fair and equitable treatment for all Trust claims that may presently exist or may arise in the future. The TDP prescribes certain procedures for distributing the Trust's limited assets, including pro rata payments and initial determination of claim value based on scheduled disease values, and individual factual information concerning each claimant as set forth in the Trust Documents.

Under the TDP, the Trust forecasts its anticipated annual sources and uses of cash until the last projected future claim has been paid. A pro rata Funds Received Ratio is calculated such that the Trust will have no remaining assets or liabilities after the last future claimant receives his/her pro rata share.

The Trustees, with the consent of the Trust Advisory Committee ("TAC") and Futures Representative, set the Initial Funds Received Ratio at 17.5%, based upon the analysis and advice of the Trust's expert economist. The TDP requires the Trustees, with the consent of the TAC and the Futures Representative, to periodically review the Funds Received Ratio and, if appropriate, propose additional changes in the pro rata Funds Received Ratio based on updated assumptions regarding the Trust's future assets and liabilities and if appropriate, propose additional changes in the Funds Received Ratio. The Funds Received Ratio was increased by the Trustees to 30.5% in September 2013, to 43.6% in February 2016, to 51.8% in May 2018, and to 58.6% in April 2023. This change was made with the consent of the TAC and Futures Representative. The increase was retroactive for claims paid since inception.

## Note 7 - Restricted Cash, Cash Equivalents and Investments

To avoid the high costs of director and officer liability insurance, and pursuant to the Trust Agreement, the Trust has elected to be partially self-insured and has established a segregated security fund. These funds are devoted exclusively to securing the obligations of the Trust to indemnify the former and current Trustees, employees, agents and representatives of the Trust. The funds are held in a separate Trust bank account, and the investment earnings of these funds accrue to the benefit of the Trust.

Due to the increase in Directors and Officer liability coverage, in January of 2023, the Trust agreed to reduce the Indemnity Agreement from $25,000,000 to $12,500,000. The order for the Trust to provide reasonable notice of the reduction of the indemnity fund was approved by the United States Bankruptcy Court, Central District of California, Los Angeles Division, on January 6, 2023.

As of December 31, 2023 and 2022, cash, cash equivalents and investments of $12,500,000 and $25,000,000 were restricted for this purpose, respectively.

In addition, the Trust initially purchased a $5,000,000 Directors and Officers/Errors and Omissions policy in 2018 and a $5,000,000 Directors and Officers/Errors and Omissions DIC policy in 2019. The Trust has continued to renew the policies each year.

In November 2022, the Trust purchased additional coverage, increasing the Directors and Officers/Errors and Omissions policy and Directors and Officers/Errors and Omissions DIC policy, to $10,000,000 each.

## Note 8 - Income Taxes

For federal income tax purposes, the Trust is taxed as a Qualified Settlement Fund (QSF). Income and expenses associated with the Trust are taxed in accordance with Section 468B of the Internal Revenue Code. The statutory income tax rate for the Trust is 37.0% for the years ended December 31, 2023 and 2022.

The Trust records deferred tax assets and liabilities for the expected future tax consequences of temporary differences between the book and tax basis of assets and liabilities.


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The provision for income taxes consists of the following for the years ended December 31, 2023 and 2022:

| | 2023 | 2022 |
|---|---|---|
| Income tax – current expense | $ 5,558,045 | $ 1,269,031 |
| Deferred income tax expense (benefit) | 5,711,436 | (18,227,492) |
| | $ 11,269,481 | $ (16,958,461) |

The components of the deferred income tax asset (liability), as presented in the statements of net claimants' equity consisted of the following at December 31:

| | 2023 | 2022 |
|---|---|---|
| Deferred tax asset (liability) | | |
| Unrealized investment gains | $ (23,975,884) | $ (18,269,548) |
| Depreciation and amortization | 20,940 | 26,040 |
| | $ (23,954,944) | $ (18,243,508) |

On December 22, 2017, the United States enacted tax reform legislation commonly known as H.R.1, referred to as the "Tax Cuts and Jobs Act" (the "Act"), resulting in significant changes to U.S. tax law. Among other provisions, the Act temporarily reduces the tax rate from 39.6% to 37% until 2026.




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Supplementary Information
December 31, 2023 and 2022

# Thorpe Insulation Settlement Trust

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## Thorpe Insulation Settlement Trust

Schedule of Operating Expenses

Years Ended December 31, 2023 and 2022

| | 2023 | 2022 |
|---|---|---|
| Accounting | $ 57,223 | $ 74,486 |
| Claims processing | 98,201 | 90,495 |
| Insurance | 91,071 | 17,918 |
| IT support | 22,057 | 23,352 |
| Futures representative | 102,289 | 101,711 |
| Legal fees | 35,157 | 187,484 |
| Trust advisory committee | 11,366 | 17,520 |
| Trust facilities sharing | 493,527 | 380,382 |
| Trustee fees | 174,460 | 163,331 |
| Trustees professional | 42,768 | 38,738 |
| | $ 1,128,119 | $ 1,095,417 |



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# EXHIBIT “F”

**EXHIBIT "F"**

# Thorpe Insulation Settlement Trust
# Claim Report
# as of December 31, 2023

This report is submitted pursuant to Section 2.2 (c)(ii) of the Fifteenth Amendment to and Complete Restatement of Thorpe Insulation Company Asbestos Settlement Trust Agreement, which requires the Trust to file with the Bankruptcy Court a summary of the number and type of claims disposed of during the time period covered by the financial statements ("Accounting Period"). This report summarizes the Trust's processing of claims received since the Effective Date of the Trust ("Trust Claims").

## Trust Claims

Claims received and disposed of from January 1, 2023, through December 31, 2023 in accordance with the Fourth Amendment to and Complete Restatement of Thorpe Insulation Company Asbestos Settlement Trust Case Valuation Matrix ("Matrix") and Seventh Amendment to and Complete Restatement of Thorpe Insulation Company Asbestos Personal Injury Settlement Trust Distribution Procedures ("TDP") are as set forth below.

The value of each compensable disease is determined by the Matrix and TDP. Claim compensation is adjusted for individual claimants based upon tort related individual characteristics, including, but not limited to: age, marital status, dependents, medical loss, economic loss, exposure location, and whether living at the time of commencement of litigation or filing the claim with the Trust. Each valid claim is awarded a total liquidated value. As of December 31, 2023, Trust Claims were paid at the approved Funds Received Ratio of 58.6%. Payments made on Trust Claims in 2023 included an additional 37.62% to account for cumulative inflation based upon the CPI-W.

During the Accounting Period, 327 claims were received. In addition, offers were issued to 268 claimants. Further, 192 claims were paid.

Below is a summary of the number and type of claims disposed of (paid) in 2023.

| Compensable Disease | Number of Claims |
|---|---|
| Grade II Non-Malignant | 7 |
| Grade I Non-Malignant and Enhanced Asbestosis | 62 |
| Grade I Non-Malignant Serious Asbestosis | 13 |
| Other Cancer | 5 |
| Lung Cancer | 33 |
| Mesothelioma | 72 |
| **Totals** | **192** |

# EXHIBIT “G”

# Investment Policy Statement

# Thorpe Insulation Settlement Trust

**April, 2024**

**Prepared by Callan LLC**

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# Executive Summary

| | |
|---|---|
| **Type of Plan** | Taxable Trust |
| **Investment Planning Time Horizon** | 5 years |
| **Expected Annualized After-Tax Return and Risk[1]** | Return = 1.7<br>Risk = 6.0 |

**Primary Goal**

The Thorpe Insulation Settlement Trust (the Trust) is organized pursuant to the laws of the state of Nevada with its office in Reno, Nevada. It was established pursuant to the Pacific Insulation Company and Thorpe Insulation Company (collectively the "Debtors") Fifth Amended Joint Plan of Reorganization, dated December 17, 2009, as amended, modified or supplemented from time to time (the "Plan"). The Trust was formed to assume the Debtors' liabilities resulting from pending and potential litigation involving individuals exposed to asbestos who have manifested asbestos-related diseases or conditions; liquidate, resolve, pay and satisfy all asbestos-related claims in accordance with the Plan. As well, the Trust must preserve, hold, manage and maximize the Trust assets for use in paying and satisfying current and future allowed asbestos-related claims.

As set forth in the Trust Distribution Procedures, Section 2.4, the Trust shall estimate or model the amount of cash flow anticipated as necessary over its entire life to ensure that funds will be available to treat all present and futures claimants as similarly as possible. In order to pay the anticipated claims, the Trust relied upon an expert report filed which calculated a reasonable real after-tax discount rate to use in calculating the present value of the future claims to be assumed by the Trust. These estimates provided the Trust with an assumption that the assets should earn an after-tax real rate of return of approximately 1% per annum. While additional assets may be made available, the Trust will operate on the assumption that there will be no additional contributions. As such, protection of principal will be a primary goal.

The expected annualized after-tax return and risk, asset allocations, target index and portfolio benchmarks identified herein may be adjusted from time to time as agreed upon by the Trustees and as reflected in the minutes of the Trustees' meeting following such agreement.

[1] Represents expected after-tax (30%) geometric return and risk using Callan's 2024 Capital Market assumptions applied to the Portfolio Evaluation Benchmark described below.



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## Long-range Asset Allocation Target

The Trust will have the following long-term asset allocation target.

| | |
|---|---|
| Fixed Income | 70% |
| Equity | 30% |

The long-range asset allocation target will be applicable to the long-term investable assets net of any set-asides and liquidity reserves. This asset allocation was established through quantitative and qualitative assessments of the returns and risks available in the capital markets over long-term periods as well as the diversification available from using multiple asset classes. While an investment program consisting entirely of fixed income would demonstrate the least volatility of any asset allocation considered, a quantitative study performed by the Trust's investment consultant on similar Trusts demonstrated that the probability of exhausting Trust assets in advance of paying claims as planned was minimized by introducing an equity allocation into the portfolio. Allocations to each of the asset classes will be further diversified and tailored to reflect the tax-status of the Trust as described in the "Investment Practices" section of this policy.

## Maintenance of the Strategic Asset Allocation

### Target Mix With Ranges

| | **Low** | **Target** | **High** |
|---|---|---|---|
| Fixed Income | **55%** | **70%** | **85%** |
| Equity | **15%** | **30%** | **45%** |

The Trust will from time to time adjust the asset allocation and the index components within the designated range based upon the changing cash flow needs of the Trust, claims submitted and projections of future claims. The Trust will deviate from targets over short and intermediate periods in response to liquidity needs, market performance, and the cost of asset allocation adjustments including transactions costs and the taxation of transactions. Deviations from the target allocation beyond the low or high allocations defined in the table above represent significant deviations from the return and risk characteristics of the target allocations and will prompt the Trustees to consider moving the allocations back toward the target allocation.

The Strategic Allocation and Target Index are to be reviewed at least annually for presentation to the Trustees and the Trust's Executive Director ("Executive Director"), for reasonableness relative to significant economic and market changes or to changes in the Trust's long-term goals and objectives. A formal asset allocation study should be conducted at least every three years to verify or amend the targets.



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## Portfolio Evaluation Benchmark – Target Index

A special target index was constructed to monitor the performance of the total fund. This target index serves as a minimum performance objective for the Trust. It is expected that in most market environments the Trust's actual asset allocation will approximately resemble the allocation expressed in the target index. The Trust will deviate from the target index over short and intermediate periods in response to liquidity needs, market performance, market outlook, and the cost of asset allocation adjustments including transactions costs and the taxation of transactions.

Target Index:

- **30% consisting of the following sub-components**
  - **50% Standard & Poor's 500 Stock Index**
  - **25% MSCI ACWI ex-US Index**
  - **25% Russell 3000 Value Index**
- **70% consisting of the following sub-components**
  - **70% Bloomberg Municipal 1-10 Year Index and Bloomberg Municipal 1-15 Year Index**
  - **20% Bloomberg Intermediate US Aggregate Index**
  - **10% 3-Month Treasury Bills**

With the possible exception of the short duration enhanced cash portfolio, individual investment managers will be retained to manage the sub-components of the Target Index. Individual investment managers will be measured against each sub-component index and not against this total fund objective. However, it is expected that the sum of their efforts will exceed the trust objective over time.

## Manager Evaluation

Investment managers will be measured relative to an appropriate market index. A market index is assigned to each Manager and is intended as a guide for the investment manager to understand the risk/reward posture of their portfolio. Managers have full discretion to manage the risk posture of their portfolios relative to their designated market index and may, with conviction and appropriate expertise, execute security strategies not reflected by their market index as long as they conform to the investment guidelines.

Trustees or Executive Director may, at either's discretion, also evaluate the investment managers relative to peer groups of managers with similar investment styles. These evaluations will take into account the exceptional nature of the Trust investment manager mandates including but not limited to custom benchmarks and the unique tax situation of the Trust.

Review of Investments There shall be a continual review of the investments under management by Callan Associates (Consultant). The Trustees, consultant and/or the Executive Director shall confer with the investment managers regarding investment performance, market environment and other issues as required. Each investment manager



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shall report pertinent data to Trust and custodian at least monthly. All legal, organizational and personnel related developments will be reported to the client and consultant as soon as practicable.

Consultant will meet with the Trustees, Executive Director, and other Trust representatives as requested by the Trustees, to review performance of the Trust and individual managers quarterly. These reviews will be conducted in the context of these guidelines.

## Investment Practices

Investments will be prudent and consistent with the best investment practices, and in compliance with Trust documents including but not limited to Article 3 of the Thorpe Insulation Settlement Trust as amended.

- No more than 45% at cost or 50% at market value of total Trust assets may be invested in equities with the balance invested in Fixed Income securities or cash equivalents.
- 10% of the Trust's assets may be invested in debt securities that are non-rated or below investment grade as long as those securities are in a diversified and managed portfolio of bonds and/or stock.
- The percentage of the Trust assets (debt and equity) invested in any one company is limited to 5% at market with the exception of debt securities or other instruments issued or fully guaranteed as to principal and interest by the United States of America or any agency or instrumentality thereof. The Trust does not include cash equivalents in the calculation of maximums allowed for certain types of securities.
- Cash flow, other than an automatic withdrawal of the income on a monthly basis, may be required to maintain the long-range asset allocation target and to satisfy claim liabilities.
- The Trust seeks to limit exposure to securities issued by companies who produce tobacco products as well as companies who are, or may become, exposed to significant asbestos related claims. For this reason, the investment in debt or equity securities of companies who produce tobacco products is prohibited. In addition, the investment in equity and debt securities issued by Johnson & Johnson, Bayer, and Monsanto is prohibited.

### *A. Equity*

Excluding any securities issued by the Debtors, the Trust shall not acquire or hold, directly or indirectly, any common or preferred stock, convertible securities, REITS,'s or Royalty Trusts ("Stock") unless such stock is included in a diversified and managed portfolio or portfolios which include various industry sectors.

#### 1. S&P 500 Index Strategy

- The objective of the S&P 500 index strategy is to tax-efficiently track the **S&P 500 Index**, with a tracking error (defined as annualized standard deviation of the portfolio's monthly returns relative to the S&P 500) of 100 basis points or less. The percent ownership of any company shall not



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exceed the greater of 5% of the portfolio's market value or 0.50% more than the weight of the company in the **S&P 500 Index** at any time.

**2. International Equity Strategy**

- The objective of the international equity strategy is to provide an additional source of long-term growth and after-tax returns to the Trust and exceed the **MSCI ACWI ex-US Index** over a full market cycle.
- The actively managed international equity portfolio must be diversified by country, region, industry and security. The percent ownership of any company within this portfolio is limited to 5% of the portfolio's market value. In addition, exposure to Emerging Markets and Frontier Markets is limited to 35% of market value.

**3. Yield Oriented Equity Strategy**

- The objective of the Yield Oriented Equity strategy is to provide an additional source of long-term growth and after-tax returns to the Trust and exceed the **Russell 3000 Value** index over a full market cycle.
- The actively managed portfolio will invest predominantly in common stocks of companies listed in the United States. These common stocks in aggregate should exhibit a higher yield than that offered by the broad market, as measured by the S&P 500.

***B. U.S. Fixed-Income***

**Allowable securities are as follows:**

- U.S. Treasury and agency securities
- Agency and non-agency mortgage-backed securities backed by loans secured by residential, multifamily and commercial properties including but not limited to pass-throughs, CMOs, REMICs, CMBS, project loans, construction loans and adjustable rate mortgages
- Obligations of domestic and foreign corporations
- Asset backed securities
- Municipal bonds, both taxable and tax-exempt
- Municipal pre-refunded bonds backed by U.S. Treasury or Agency Securities Municipal inflation protected securities (MIPS)
- Preferred stock, including non-convertible preferred stock such as bank trust preferreds
- Money market instruments rated A-1 or P-1 or better at time of purchase
- Repurchase obligations as long as, in the opinion of the Trustees and asset manager, they are adequately collateralized
- Obligations of foreign governments and supra-national organizations
- Obligations of domestic and foreign commercial banks
- 144A securities including issues in the corporate, mortgage and asset-backed sectors



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- CDs may be held as long as all of the publicly held long-term debt securities, if any, of the issuing entity are rated investment grade (see credit criteria below) or above.
- Non-investment grade bonds subject to an overall limit of 10% of Trust's assets and within a managed and diversified portfolio.

**Credit Criteria**

- To be deemed investment grade, securities must be rated investment grade or better at the time of purchase by a nationally recognized rating agency (Moody's, Standard & Poors and Fitch). Split rated securities shall be assumed to have the higher credit grade.
- If a portfolio holding is downgraded to below investment grade and the holding is in a portfolio which is not permitted to purchase below investment grade securities, manager shall promptly notify the Trust and provide an evaluation and recommended plan of action.

1. **Municipal Bond Crossover Portfolio**

   - The portfolio's investment objective is to provide an after-tax total rate of return that exceeds the after-tax total return of the Bloomberg **Municipal 1-10 Year Index and Bloomberg Municipal 1-15 Year Index.**
   - The portfolio will have a targeted duration of approximately +/-40% around the benchmark (calculated using the Treasury risk basis).
   - With the exception of Treasury, Agency debentures, pass-throughs or REMICs, no more than 5% of the portfolio may be invested in securities of a single issuer.
   - 15% maximum in BBB rated securities.
   - Securities must be rated investment grade at time of purchase. Non-rated, pre-refunded bonds fully backed by U.S. Treasury and Agency Securities are exempt from this restriction.

2. **Taxable Fixed Income Portfolio**

   - The portfolio's objective is to invest in the intermediate portion of the yield curve and to outperform the target benchmark.
   - The portfolio's **benchmark is the Bloomberg Intermediate US Aggregate Index.**
   - The portfolio will have a targeted duration of approximately +/-25% around the benchmark.
   - No more than 5% of the portfolio may be invested in securities of a single issuer, with the exception of the U.S. Treasury, agency and agency mortgage issues.
   - The weighted average credit quality of the portfolio shall be maintained at a minimum of A1 by Moody's and/or A+ by Standard and Poor's or Fitch.
   - Securities must be rated investment grade at time of purchase.



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**3. Short Duration Enhanced Cash Portfolio**

- The portfolio's objective is to provide a high level of liquidity and preserve principal. Adding incremental yield is a secondary objective.
- Benchmark is the **3-Month Treasury Bills**.
- No more than 5% of the portfolio may be invested in securities of a single issuer, with the exception of the U.S. Treasury and U.S. Agency debt.
- The portfolio's duration will not exceed 300% of the index's duration.
- Portfolio's weighted average credit quality must be at least Aa2 by Moody's and/or AA by Standard and Poor's or Fitch.
- All securities must be rated investment grade and have a final maturity less than or equal to 5 years from time of purchase. No more than 15% of the portfolio can be rated less than A-, or its equivalent.
- Portfolio level spread duration cannot exceed 2 years.

### *C. Derivatives Policy*

Derivatives shall be held for the purposes of hedging, cost reduction and liquidity enhancement only. Derivatives shall not be used for speculative purposes.

- No leverage shall be introduced through the use of derivatives
- The Trust shall not acquire or hold any options

### *D. Other Investments*

Pursuant to Section 3.2 of the Trust Agreement as Amended, in order to achieve the overall after tax real rate of return Trust Investment objective and to meet other Trust objectives, the Trust may under conditions and terms satisfactory to the Trustees, acquire securities or other instruments issued by any person not otherwise defined in this Investment Policy ("Other Investments"), provided however that the aggregate market value of all such Other Investments after acquisition do not exceed five percent of the aggregate value of the Trust Estate.

## Proxy Voting Guidelines

Investment managers employed by the Trust are required to vote proxies with the primary objective of maintaining and advancing the economic value of the Trust. Investment managers should work with the Trust custodian to ensure timely receipt of proxies. Investment managers should have specific guidelines and institute a regular review process for voting proxies.

## Guidelines for Manager Selection

The Trustees and Executive Director, with the assistance of the Futures Representative and Chair of the TAC, if desired by the Trustees, will select appropriate investment managers to manage the Trust's assets. This selection process shall include the establishment of specific search criteria, and documentation of analysis and due diligence on potential candidates. All manager candidates must meet the following minimum criteria:

(1) Be a bank, insurance company, investment management company, or investment adviser as defined by the Registered Investment Advisers Act of 1940.

(2) Provide historical quarterly performance numbers calculated on a time-weighted basis, based on a composite of all fully discretionary accounts of similar investment style.

(3) Provide performance evaluation reports prepared by an objective third party that illustrate the risk/return profile of the manager relative to other managers of like investment style.

(4) Provide detailed information on the history of the firm, key personnel, key clients, fee schedule, and support personnel and demonstrate financial and professional staff stability.

(5) Clearly articulate the investment strategy that will be followed and document that the strategy has been successfully adhered to over time.

(6) All investment manager candidates are expected to comply with all laws, regulations, and standards of ethical conduct.

## Trustees

**Fiduciary and Investment Responsibilities of the Trustees**:

- Maintain overall responsibility for financial management of the Trust including the investment of Trust assets consistent with all Trust documents
- Determine the asset allocation of Trust assets through the Investment Policy Statement and investment manager guidelines
- Use "prudent experts" to assist in making investment decisions
- Control investment expenses
- In recognition of their fiduciary duties, the Trustees must act in good faith and not allow their personal interests to prevail over that of the Trust



*Thorpe Insulation Asbestos Trust Annual Reports, 2023 annual report* Published by AsbestosClaims.Law
ACL Doc 14475 · Page 132 of 136 asbestosclaims.law/library/14475/132

# PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 2818 La Cienega Avenue, Los Angeles, California 90034.

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A true and correct copy of the foregoing document **FOURTEENTH ANNUAL REPORT AND ACCOUNTING, AUDITED FINANCIAL STATEMENTS AND CLAIM REPORT** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1**. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **April 26, 2024**, I check ed the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- **Lawrence Bass - SUSPENDED - lbass@faegre.com**
- **Peter J Benvenutti pbenvenutti@kellerbenvenutti.com, pjbenven74@yahoo.com**
- **Steven H Bergman steven-bergman@rbmn.com, penny-edwards@rbmn.com,info@bergmanesq.com**
- **Brad Berish bberish@ag-ltd.com**
- **Jaclyn A Blankenship jblankenship@omm.com**
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- **Janet L Chubb lbubala@kcnvlaw.com, cbyrne@kcnvlaw.com**
- **Louis J. Cisz lcisz@nixonpeabody.com, jzic@nixonpeabody.com**
- **Michaeline H Correa mcorrea@hopkinscarley.com, cknode@hopkinscarley.com**
- **Leslie Epley Davis ldavis@crowell.com**
- **Richard W Esterkin richard.esterkin@morganlewis.com**
- **Gary S Fergus gfergus@ferguslegal.com**
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- **Matthew S Foy mfoy@gordonrees.com**
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- **United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov**
- **Edward D Vaisbort vaisbort@litchfieldcavo.com, kim@litchfieldcavo.com;sanguinetti@litchfieldcavo.com;mason@litchfieldcavo.com**
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- **Charles E Wheeler cwheeler@cozen.com, sroy@cozen.com**
- **Kimberly Sabrina Winick kwinick@clarktrev.com, jthomas@clarktrev.com**
- **David M Wiseblood - DISBARRED - dwiseblood@wisebloodlaw.com, dmwadmin@wisebloodlaw.com**
- **Martin S Zohn mzohn@proskauer.com**

**2. SERVED BY UNITED STATES MAIL**: On **April 26, 2024,** served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **April 26, 2024**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

| April 26, 2024 | Lisa Masse | */s/ Lisa Masse* |
|---|---|---|
| *Date* | *Type Name* | *Signature* |

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

*June 2012*

**F 9013-3.1.PROOF.SERVICE**

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The Honorable Sheri Bluebond
United States Bankruptcy Court
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