

**ASARCO ASBESTOS PERSONAL INJURY  
SETTLEMENT TRUST**

**ALTERNATIVE DISPUTE RESOLUTION PROCEDURES**

# **ASARCO Asbestos Personal Injury Settlement Trust**

## **ALTERNATIVE DISPUTE RESOLUTION PROCEDURES**

Pursuant to Section 5.10 of the ASARCO Asbestos Personal Injury Settlement Trust Distribution Procedures (as amended, the “TDP”), the ASARCO Asbestos Personal Injury Settlement Trust (the “Asbestos Trust”) hereby establishes the following Alternative Dispute Resolution (“ADR”) procedures to resolve matters that may be submitted to ADR under the TDP. All capitalized terms herein shall be as defined and/or referenced within the TDP.

### **I. OVERVIEW**

#### **A. General**

\_\_\_\_\_ [TBD] will administer these ADR procedures as the “ADR Administrator.” The Asbestos Trust will pay the fees of the ADR Administrator.

These ADR procedures shall not be construed as imparting to any claimant any substantive or procedural rights beyond those conferred by the TDP.

The ADR procedures provide for pro bono evaluation and binding or non-binding arbitration. Pro bono evaluation consists of an evaluation of the claim by an evaluator selected from a pro bono panel. The panel shall be comprised of asbestos litigation attorneys as agreed upon by the Section 524(g) Trust Advisory Committee (“TAC”), the Future Claims Representative (“FCR”), and the Trustees. The identity of the pro bono evaluator will not be disclosed to the claimant or the claimant’s attorney. The pro bono evaluation will be done by document submission.

The claimant may elect to submit to pro bono evaluation before any form of arbitration. Alternatively, the claimant may waive pro bono evaluation and proceed directly to binding or non-binding arbitration. Only after either the claimant or the Asbestos Trust rejects a non-binding arbitration award may a claimant commence a lawsuit in the tort system.

If the claimant waives pro bono evaluation, the ADR Administrator will proceed directly to arbitration.

If the claimant elects binding arbitration, then the claimant and the Asbestos Trust waive their respective rights to seek a jury trial with respect to the Asbestos Personal Injury Claim as set forth in the TDP.

The Asbestos Trust may not decline the claimant’s waiver of pro bono evaluation or the claimant’s election of either binding or non-binding arbitration, but

reserves all rights to reject the pro bono evaluator's evaluation or any award in a non-binding arbitration proceeding.

## **B. Initiation of ADR**

To initiate these procedures, the claimant must make a written Demand for ADR to the ADR Administrator using the form attached to these ADR procedures (see Attachment A). In the Demand for ADR, the claimant shall make the following elections: (1) elect or waive pro bono evaluation and proceed directly to arbitration, and (2) elect binding or non-binding arbitration.

The ADR Administrator shall promptly notify the Asbestos Trust upon receipt of a Demand for ADR by a claimant.

Within ten (10) days of the claimant's submission of the Demand for ADR, the ADR Administrator will send the claimant a copy of the claim file and a Certificate of Completeness (see Attachment B).

The claimant must sign the Certificate of Completeness and return it to the ADR Administrator within thirty (30) days of receipt of the copy of the claim file. The ADR process will not proceed until the ADR Administrator has received the signed Certificate of Completeness. The Certificate of Completeness shall verify that all information to be considered in the pro bono evaluation and/or arbitration has been provided to the Asbestos Trust while the claim was under review by the Asbestos Trust.

Within three (3) business days of receipt of the Certificate of Completeness, the ADR Administrator shall inform the Asbestos Trust. Within five (5) business days after that notice, the Asbestos Trust shall execute and send to the ADR Administrator a Certificate of Accuracy (see Attachment C).

## **II. PROCEDURES GOVERNING PRO BONO EVALUATION**

### **A. Selection of Pro Bono Evaluator**

Within fifteen (15) days of receipt of the signed Certificate of Completeness following a claimant's Demand for ADR electing pro bono evaluation, the ADR Administrator shall randomly select the individual pro bono evaluator from the approved panel. After the selection of the first pro bono evaluator, pro bono assignments will be made on a rotating basis.

The ADR Administrator shall inform the claimant and the Asbestos Trust that the pro bono evaluator has been designated without disclosing the identity of the pro bono evaluator.

**B. Time Limits; Submission of Claim File to Pro Bono Evaluator**

Within five (5) days from the date of the receipt of the Certificate of Accuracy, the ADR Administrator shall provide the pro bono evaluator with the claim file, the Certificate of Completeness and the Certificate of Accuracy, with notice to the claimant and the Asbestos Trust. The Asbestos Trust may not send the ADR Administrator any materials in the Asbestos Trust file that have not previously been provided to the claimant.

The Asbestos Trust encourages identification of and not anonymity of the injured party so that medical records can be transmitted in their original form. Unless otherwise notified in writing by the claimant, the identity of the injured party will not be redacted from the claim file provided to the pro bono evaluator.

In order to preserve anonymity in a pro bono evaluation, the name of the claimant's counsel shall not be disclosed to the pro bono evaluator. Before the ADR Administrator forwards the claim file and any written arguments referred to in II.C below to the pro bono evaluator, the ADR Administrator will redact all references to the name of claimant's counsel.

**C. Submission of Written Arguments**

No later than fifteen (15) days after the ADR Administrator sends the claim file to the pro bono evaluator, the claimant and the Asbestos Trust shall exchange and submit written arguments to the ADR Administrator. The ADR Administrator will immediately forward the written arguments to the pro bono evaluator. The written arguments shall comply with the following procedures: (a) The argument shall not exceed ten (10) double-spaced typewritten pages. The argument may not introduce or discuss factual matter not contained in the documents in the claim file. The pro bono evaluator shall disregard any argument that does not comply with this provision. (b) If a party fails to submit the written argument within the fifteen (15) days, the party waives written argument and the pro bono evaluator shall disregard any argument received after that time.

**D. Evaluation of Documents**

The pro bono evaluation is a document review only with complete anonymity preserved between claimant's counsel and the pro bono evaluator. The documents submitted to the pro bono evaluator shall be limited to the following: (a) The claim file forwarded to the pro bono evaluator by the ADR Administrator; (b) the claimant's Certificate of Completeness and the Asbestos Trust's Certificate of Accuracy; and (c) the written arguments of the claimant and the Asbestos Trust that comply with the procedures for written arguments set forth

above. The pro bono evaluator shall examine these documents, including the entirety of the claim file.

**E. Written Evaluation and Procedure for Acceptance/Rejection**

Within fifteen (15) days after the submission of written arguments to the pro bono evaluator by the ADR Administrator, the pro bono evaluator shall submit a written evaluation of the claim to the ADR Administrator who will promptly mail or electronically mail the evaluation to the parties.

Within fifteen (15) days after receipt of the pro bono evaluator's written evaluation, the claimant and the Asbestos Trust will each communicate in writing to the ADR Administrator whether they accept the amount of the pro bono evaluator's written evaluation to settle the claim. If both parties accept then the ADR Administrator will immediately inform both parties that they have achieved a settlement and the Asbestos Trust shall pay the claim pursuant to the TDP and the Asbestos Trust's procedures. If either or both parties reject the pro bono evaluator's written evaluation, then within five (5) business days of receipt of both parties' written communication, the ADR Administrator shall send each party a notice of rejection of the pro bono evaluator's written evaluation.

**F. Arbitration After Rejection of Pro Bono Evaluator's Written Evaluation**

If the ADR Administrator informs the parties of a notice of rejection of the pro bono evaluator's written evaluation, the ADR Administrator will proceed to the arbitration process unless the claimant informs the ADR Administrator and the Asbestos Trust in writing that the claim will no longer be pursued.

**III. PROCEDURES GOVERNING NON-BINDING AND BINDING ARBITRATION**

**A. Election by the Claimant**

Under these ADR procedures, the claimant will have elected binding or non-binding arbitration at the time of the submission of the Demand for ADR.

**B. Selection of the Arbitrator**

1. No more than fifteen (15) days after the rejection of the pro bono evaluator's written evaluation or, if the claimant has waived pro bono evaluation, receipt of the signed Certificate of Completeness, the ADR Administrator shall screen for conflicts and select three potential arbitrators from a panel of neutrals kept by the ADR Administrator. The ADR Administrator will select the three potential arbitrators on a rotating basis from the panel. The ADR Administrator shall maintain and keep the

rotating list of arbitrators. Arbitrator assignments will be made on a rotating basis nationally.

The panel of arbitrators shall be named by the Trustees in consultation and with the consent of the TAC and the FCR.

Within three (3) days of selecting the potential arbitrators, the ADR Administrator shall notify the potential arbitrators of their potential selection and shall provide the parties with the names of the potential arbitrators. Within six (6) days of receipt of the list of potential arbitrators, both the claimant and the Asbestos Trust may select, and identify to the ADR Administrator, one potential arbitrator to be stricken from the list. Within three (3) days of the earlier of (i) receipt of the claimant's and the Asbestos Trust's strikes or (ii) the expiration of the six (6) day period of striking arbitrators, the ADR Administrator shall appoint the arbitrator. If the claimant and the Asbestos Trust each strike a different arbitrator, the remaining arbitrator will conduct the arbitration. If either the claimant or the Asbestos Trust, or both, fails to exercise the right to strike an arbitrator from the list of potential arbitrators or strike the same arbitrator, the ADR Administrator shall appoint from those potential arbitrators remaining the arbitrator next in rotation on the panel.

2. Any appointed arbitrator shall execute and submit to the ADR Administrator a Conflicts Disclosure and Arbitrator's Oath (see Attachment D). Upon receipt of this information, the ADR Administrator shall communicate the information to the parties. Upon objection of a party to the arbitrator's continued service, the arbitrator shall determine whether to recuse himself or herself from the arbitration. If either party disagrees with the recusal decision of the arbitrator, the party may petition the United States Bankruptcy Court for the Southern District of Texas, Corpus Christi Division (the "Bankruptcy Court") for relief.

If a potential arbitrator is unable or unwilling to serve or recuses himself or herself or is removed by order of the Bankruptcy Court, then a replacement selection will be made by the ADR Administrator by following the process set forth above.

### **C. Binding Arbitration**

All binding arbitration of the liquidated value of a claim shall be conducted with the arbitrator determining the amount of the award, if any. The final offer of the Asbestos Trust and the final demand of the claimant made in the Individual Review process shall be included in the claim file provided to the arbitrator by the ADR Administrator. In the Notice of Completion of Individual Review, the Asbestos Trust shall state the Asbestos Trust's final offer and the claimant's final demand. The Notice of Completion of Individual Review shall be part of the claim file to be submitted to the arbitrator under these ADR procedures. The

arbitrator may choose either the Asbestos Trust's final offer or the claimant's final demand as stated in the Notice of Completion of Individual Review in determining the amount of the arbitration award. Alternatively, the arbitrator may determine that neither the Asbestos Trust's final offer nor the claimant's final demand constitutes an appropriate award based on the arbitrator's assessment of the arbitration record, and in such case the arbitrator shall determine the amount of the award, if any. In no event may an award exceed the Maximum Value for the Disease Level as set in the TDP.

In the event that the claimant and the Asbestos Trust submit a specific issue(s) other than the liquidated value of the claim to arbitration, the arbitrator shall decide the specific issue(s). The decision of the specific issue(s) could result in the resumption of the Individual Review process, depending on the arbitrator's decision.

In the event that the claimant desires to reinstitute the Individual Review process in order to submit a revised demand to the Asbestos Trust or the Asbestos Trust desires to reinstitute the Individual Review process in order to submit a revised offer to the claimant, the claimant may voluntarily dismiss in writing the arbitration without prejudice to commencing a new ADR proceeding in the event that the reinstated Individual Review process does not consensually resolve the claim.

The Asbestos Trust and the claimant may also engage in settlement discussions throughout the arbitration process. Settlement discussions, including any offers made and/or discussed in the settlement process, shall not be disclosed to the arbitrator.

**D. Submission of Pre-Hearing Statements**

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

The ADR Administrator will send the claim file, the Certificate of Completeness and the Certificate of Accuracy to the arbitrator and will confirm that the arbitrator has access to the TDP.

**E. Initial Pre-Hearing Conference, Scheduling Arbitration Hearing**

1. Within five (5) business days after the appointment of the arbitrator, the ADR Administrator shall contact the claimant, the arbitrator, and the Asbestos Trust to schedule the initial pre-hearing conference. The initial pre-hearing conference shall be presided over by the arbitrator and held by telephone conference call within fifteen (15) days after the deadline for the submission of the parties' pre-hearing statements.
2. During the initial pre-hearing conference, the arbitrator shall schedule the date of the arbitration hearing, set time limits, determine the issues to be decided, and complete a Report of Pre-Hearing Conference and Scheduling Order (see Attachment E). The arbitration hearing should be scheduled within thirty (30) days from the date of the initial pre-hearing conference. The arbitrator shall submit the completed Report of Pre-Hearing Conference and Scheduling Order to the ADR Administrator following the initial pre-hearing conference. Upon receipt, the ADR Administrator will distribute copies of the Report of Pre-Hearing Conference and Scheduling Order to the parties.
3. During the initial pre-hearing conference, the arbitrator shall seek to achieve agreement between the parties on:
  - a. defining and narrowing the issues (through methods including but not limited to stipulation of facts);
  - b. any legal issues; and
  - c. any other matters that will expedite the arbitration proceedings.

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

**F. No Discovery**

There shall be no discovery. The purpose of the arbitration is to resolve differences between the Asbestos Trust and the claimant based only on the documents that have been previously submitted to the Asbestos Trust by the claimant and upon the documents relied upon by the Asbestos Trust to make a settlement offer to the claimant or to disallow the claim.

**G. No Record of Proceedings**

Other than as provided in III.J.2, there will be no record or transcript of the proceedings.

## **H. Postponement of Hearing**

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

## **I. Duration of Hearing**

The arbitrator shall complete the hearing within the time limits set at the initial pre-hearing conference. The arbitrator shall enforce the time limits.

## **J. Procedure at Arbitration Hearing**

### **1. No Testimony**

There shall be no testimony at the hearing.

### **2. Conduct of Hearing**

The arbitration hearing shall be conducted by telephone conference call. At the opening of the arbitration hearing, the arbitrator shall make a written record of the time and date of the hearing, and the names of the parties and counsel participating in the hearing.

### **3. Evidence**

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

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

- (i) The entire claim file, which shall include the entire Individual Review record, all documents, materials and testimony provided to the Asbestos Trust by the claimant, documents and analysis relied on by the Asbestos Trust to make a settlement offer or to disallow the claim, the Asbestos Trust's written assessment, analysis and explanation of the claim which shall have been provided to the claimant and the claimant's response thereto, and the Notice of Completion of Individual Review containing the Asbestos Trust's final offer and the claimant's final demand;

- (ii) The Certificate of Completeness and the Certificate of Accuracy; and
- (iii) The TDP.

**c. Written Statements and Oral Arguments:** In addition to the evidence, the arbitrator shall consider the written statements and oral arguments of the claimant and the Asbestos Trust. The written statements and the oral arguments shall be limited to the evidence contained and the issues raised in the claim file and at the initial pre-hearing conference. The oral arguments shall be subject to the time limits set by the arbitrator. If both the Asbestos Trust and the claimant agree, oral arguments may be waived and the issues submitted for decision on the claim file and written statements.

**K. Conclusion of Hearing and Submission of Post-Hearing Briefs**

After the parties have made their closing arguments, if any, the arbitrator shall declare the hearing closed. Post-hearing statements will be permitted only upon order of the arbitrator and shall be served on the arbitrator no later than ten (10) days after the hearing is closed. Post-hearing statements shall be no longer than five (5) double spaced pages.

**L. Arbitration Decision**

1. The arbitrator shall issue a written decision no later than fifteen (15) calendar days after the date of the close of the hearing or submission of post-hearing statements, whichever is later.
2. The decision shall decide the issue(s) submitted by the parties, state the amount of the award, if any, and the reasons for the decisions and/or award in a memorandum not to exceed one page in length. An arbitrator shall not be permitted to award punitive, exemplary, trebled or other like damages or attorneys' fees, and prejudgment and post-judgment interest and costs shall not be sought or allowed. The award shall dispose of all monetary claims presented to the arbitrator. For binding and non-binding arbitration, the arbitrator shall be guided by the Scheduled, Average and Maximum Values associated with each Disease Level as provided in the TDP.
3. In no event may the arbitrator, whether in non-binding or binding arbitration, issue an award greater than the Maximum Value for the claimant's Disease Level.

**M. Payment of Award**

The Asbestos Trust will promptly send the claimant the appropriate release following a binding arbitration award or the acceptance of a non-binding arbitration award by the claimant and the Asbestos Trust. The Asbestos Trust will then pay the claim based upon the binding or, if accepted by both parties, the non-binding award in accordance with the TDP provisions in effect at the time of payment and the Asbestos Trust's procedures.

**N. Acceptance or Rejection of Non-binding Award**

**1. Acceptance or Rejection of Non-binding Award**

A claimant in a non-binding arbitration proceeding must notify the ADR Administrator within twenty (20) days from the date the non-binding award is issued by the arbitrator whether the claimant wishes to accept or reject the award. (See Attachment F for a form of notice.) The ADR Administrator shall immediately notify the Asbestos Trust.

Within seven (7) days from the notification by the ADR Administrator of acceptance by the claimant, the Asbestos Trust must either accept or reject the award.

If the claimant has accepted the award and the Asbestos Trust accepts the award, the ADR Administrator will inform the parties and the Asbestos Trust will send a release to the claimant for execution.

If the claimant fails to accept or reject the award within twenty (20) days from the date the non-binding award is issued by the arbitrator, the award is deemed accepted.

If the Asbestos Trust fails to accept or reject the award within seven (7) days from receipt of the claimants notice of acceptance, the award is deemed accepted.

**2. Procedure Following Rejected Award**

If the non-binding award is rejected by the claimant or the Asbestos Trust, the ADR Administrator will issue a notice of completion of arbitration following which the claimant may file a lawsuit as provided in Section 7.5 of the TDP. (See Attachment F)

#### **IV. GENERAL ADR PROCEDURES**

##### **A. No Grouping or Bundling of Claims**

These ADR procedures must be pursued by claimants on an individual basis. As a general matter, claims of different claimants cannot be grouped together even if the claims are related and/or the claimants have the same counsel. This provision is intended to separate claims of different exposed persons and has no effect upon multiple claims brought by a claimant's representative, such as heirs of a deceased worker. However, the Asbestos Trust, in its sole discretion, may decide that it would be expeditious to conduct ADR proceedings with respect to more than one claim involving differently exposed claimants with those claimants' representative. In such a case the arbitrator must individually value each such claim using the valuation factors set forth in Section 5.3(b)(2) of the TDP, and the claimants' positions in the Asbestos Trust's Processing and Payment Queues must be separately maintained.

##### **B. No Ex Parte Communication**

There shall be no ex parte communication between the arbitrator and any party in any matter. Discussions among the ADR Administrator, the parties and the arbitrator concerning scheduling and case management do not constitute ex parte communications for purposes of these ADR Procedures.

##### **C. Claims and Defenses**

All available claims and defenses which exist under the law of the Claimant's Jurisdiction shall be viewed valid and subsisting and available to both sides unless in conflict with the TDP, in which case the TDP governs.

##### **D. Costs of ADR**

###### **1. ADR Expenses**

The Asbestos Trust will pay the arbitrator's fees and reasonable out-of-pocket expenses. The pro bono evaluator is a volunteer and thus no fee will be incurred. Claimants will pay their costs and attorney fees.

###### **2. No Filing Fee**

No filing fee is required of the claimant, unless the Asbestos Trust with the consent of the TAC and the FCR decides that it would be in the best interests of the Asbestos Trust and its beneficiaries to adopt such a fee.

**E. Waiver of Objection to Procedures Infraction**

Either party who continues with the pro bono evaluation, non-binding arbitration or binding arbitration proceeding after knowing that any provision or requirement of the applicable procedures has not been complied with, and who fails to state a timely objection in writing to the arbitrator, shall be deemed to have waived the right to object. A timely objection by a claimant or the Asbestos Trust must be stated in writing and served upon the other party and the ADR Administrator in accordance with IV.F below with instructions to the ADR Administrator to forward the objection to the pro bono evaluator or arbitrator.

**F. Serving of Notices and Other Papers**

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

1. By regular U.S. mail or overnight courier addressed to such party or their attorneys at their last known address; or
2. By facsimile or electronic transmission.

**G. Exclusion of Liability**

None of the ADR Administrator, the pro bono evaluator, and the arbitrator shall be liable to any party for any act or omission in connection with any evaluation conducted under these procedures.

**H. Application of ADR Procedures**

These ADR procedures shall be deemed a part of, and incorporated by reference in, every duly executed ADR process under the TDP and shall be binding on all parties.

**I. Arbitrator Immunity**

Pro bono evaluators and arbitrators who serve pursuant to these procedures shall have the same immunity as judges for their official acts.

**J. Jurisdiction**

Any dispute under these procedures shall be subject to the jurisdiction of the Bankruptcy Court.

**K. Statement of Confidentiality**

1. All ADR proceedings and information relating to the proceedings will be confidential. Neither party shall disclose the information obtained during the proceedings, or the valuation placed on the case by a pro bono evaluator or by an arbitrator to anyone or use such information or valuation in any further proceeding except as necessary to maintain the Asbestos Trust's obligation to report to the Bankruptcy Court and to provide ongoing evaluation by the Asbestos Trust, the TAC and the FCR. Any document prepared by a party, attorney or other participant in anticipation of the ADR is privileged and shall not be disclosed to any court or arbitrator or construed for any purpose as an admission against interest.
2. All ADR proceedings shall be deemed a settlement conference pursuant to Rule 408 of the Federal Rules of Evidence. However, the nature or amount of an award may be used for purposes of showing accord and satisfaction or res judicata.

**L. Amendments**

Except as otherwise ruled by the Bankruptcy Court, these procedures, as they may from time to time be amended by the Asbestos Trust, with the consent of the TAC and the FCR, will be binding on all parties in the form in which they are in force on the date the claimant signs the Demand for ADR.

**M. Time Limits**

The time limits included in these procedures are to be strictly enforced. Any time limit set forth herein may be extended by agreement of the parties or by the pro bono evaluator or arbitrator for cause.

Unless the deadlines have been extended by agreement or for cause, promptly after a claimant fails to comply with a deadline the ADR Administrator shall send the claimant written notice that the Demand for ADR is deemed withdrawn and that the final offer of the Asbestos Trust as stated in the Notice of Completion of Individual Review shall be deemed a settlement of the claim.

**ATTACHMENT A**

**DEMAND FOR ADR**

## ASARCO ASBESTOS PERSONAL INJURY SETTLEMENT TRUST DEMAND FOR ADR

Name of Claimant			Name of Representative (if known)		
Address			Name of Firm (if applicable)		
			Representative's Address		
City	State	Zip Code	City	State	Zip Code
Phone No.			Phone No.		
Email Address:			Email Address:		
Social Security No. (last 4 digits)			Claim Number:		
The Claimant Elects (Check one):					
Pro Bono Evaluation			Waiver of Pro Bono Evaluation		
<input type="checkbox"/>			<input type="checkbox"/>		
For pro bono evaluation, unless the line below is initialed, the undersigned waives anonymity of the claimant in the pro bono evaluation of this claim. The ASARCO Asbestos Personal Injury Settlement Trust encourages leaving this line blank and waiving anonymity so that medical records may be transmitted in their original form. _____					
The Claimant Elects (Check one):					
Binding Arbitration			Non-binding Arbitration		
<input type="checkbox"/>			<input type="checkbox"/>		
<p>I, _____ (insert name) ("Claimant") who has filed a proof of claim with the ASARCO Asbestos Personal Injury Settlement Trust (the "Asbestos Trust"), hereby submit this Demand for ADR to the Asbestos Trust demanding arbitration of the claim, as provided by Section 5.10 of the ASARCO Asbestos Personal Injury Settlement Trust Distribution Procedures.</p> <p>The Claimant understands that the Asbestos Trust has adopted procedures for pro bono evaluation as an alternative dispute resolution mechanism for use prior to arbitration. The Claimant may elect to submit to pro bono evaluation or the Claimant may waive pro bono evaluation and proceed directly to arbitration. The Claimant elects or waives pro bono evaluation by checking the appropriate box for pro bono evaluation. If pro bono evaluation does not result in settlement of the claim, the Claimant retains the right to arbitration. Whether or not the Claimant elects to submit to pro bono evaluation, the Claimant must make the election of binding or non-binding arbitration when submitting this Demand for ADR.</p> <p>Respectfully submitted,</p> <p>_____ Signed by Claimant                      Date                      _____ Signed by Attorney for Claimant                      Date</p>					
<p>This Demand for ADR may be mailed, faxed, or e-mailed to the ADR Administrator:</p> <p>ADR Administrator _____ _____ Facsimile: Email:</p>					

**ATTACHMENT B**

**CERTIFICATION OF COMPLETENESS**

**CERTIFICATION OF COMPLETENESS**

I, \_\_\_\_\_, as the person [or legal representative of the person] who has filed a claim against the ASARCO Asbestos Personal Injury Settlement Trust, certify:

Prior to the completion of Individual Review, I have furnished all information that I wish to be considered in the valuation of claim number \_\_\_\_\_.

I certify (or declare) that the foregoing is true and correct.

By: \_\_\_\_\_  
Claimant or Legal Representative of Claimant

Date \_\_\_\_\_

**ATTACHMENT C**

**CERTIFICATION OF ACCURACY**

**CERTIFICATE OF ACCURACY**

I, \_\_\_\_\_, on behalf of the ASARCO Asbestos Personal Injury Settlement Trust, certify:

Attached to this certification is, to the best of my knowledge, a true and accurate copy of the complete claim file for Claim No. \_\_\_\_\_, including all exhibits and documents submitted by the claimant in support thereof.

\_\_\_\_\_  
ASARCO Asbestos Personal Injury Settlement Trust counsel

Date: \_\_\_\_\_

**ATTACHMENT D**

**CONFLICTS DISCLOSURE AND ARBITRATOR'S OATH**

## CONFLICTS DISCLOSURE AND ARBITRATOR'S OATH

**In the Matter of Arbitration Between \_\_\_\_\_ and the ASARCO  
Asbestos Personal Injury Settlement Trust.**

To: \_\_\_\_\_  
Name of Arbitrator

It is important that the parties have complete confidence in the Arbitrator's impartiality. Therefore, please disclose any past or present relationship with the parties, their counsel, direct or indirect, whether financial, professional, social, or of any other kind. This is a continuing obligation throughout your service on this matter, and should any additional direct or indirect contact arise during the course of the arbitration, or if there is any change at any time in the biographical information that you have provided, it must also be disclosed. Any doubts should be resolved in favor of disclosure. If you are aware of direct or indirect contact with such individuals, please describe it below. Failure to make timely disclosure may forfeit your ability to collect compensation. The ADR Administrator for the ASARCO Asbestos Personal Injury Settlement Trust will call the disclosure to the attention of the parties.

You will not be able to serve until a duly executed Conflicts Disclosure and Arbitrator's Oath is received and on file with the ADR Administrator for the ASARCO Asbestos Personal Injury Settlement Trust. After conducting a check for conflicts, answer the following questions and complete the remainder of this form.

- |  | <u>Yes</u>               | <u>No</u>                |
|--|--------------------------|--------------------------|
| 1. Have you had any professional or social relationship with counsel for any party in this proceeding or the firms for which they work?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Have you had any professional or social relationship with any parties identified to date in this proceeding or the entities for which they work?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Have you had any professional or social relationship of which you are aware with any relative of any party to this proceeding, any relative of counsel for any party to this proceeding?                              | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Have you, or has any member of your family or any close social or business associate, ever served as an arbitrator in a proceeding in which any of the parties gave testimony?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Have you, or has any member of your family or any close social or business associate, been involved in the last five years in a dispute involving the subject matter of this arbitration that you have been assigned? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Have any of the party representatives, law firms, or parties appeared before you in any past arbitrations?  | <input type="checkbox"/> | <input type="checkbox"/> |

7. Are you a member of any organization that is not listed on your biography that may be relevant to this arbitration?
8. Have you ever sued or been sued by either party or counsel for either party to this proceeding?
9. Are there any connections, direct or indirect, with any of the case participants that have not been covered by the above questions?

Should the answer to any question be “Yes,” or if you are aware of any other information that may lead to a justifiable doubt as to your impartiality or independence, or create an appearance of partiality, please describe the nature of the potential conflict(s) on an attached page.

Please indicate one of the following:

- I have conducted a check for conflicts and have nothing to disclose.
- I have conducted a check for conflicts and have made disclosures on an attached sheet.

Signed this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

---

Signature of Arbitrator

**ARBITRATOR'S OATH**

**In the Matter of Arbitration Between \_\_\_\_\_ and the ASARCO  
Asbestos Personal Injury Settlement Trust.**

State of \_\_\_\_\_

County of \_\_\_\_\_

I attest that I have reviewed my biography, which the ADR Administrator for the ASARCO Asbestos Personal Injury Settlement Trust provided to the parties in this case, and I confirm that it is current, accurate, and complete.

I attest that I have diligently conducted a conflicts check, including a thorough review of the information provided to me about this case to date, and that I have performed my obligations and duties to disclose in accordance with all applicable statutes pertaining to arbitrator disclosures, as well as the code of judicial conduct in force in the jurisdiction in which the arbitration is to take place.

I understand that my obligation to check for conflicts and make disclosures is ongoing for the length of my service as an arbitrator in this matter, and that failing to make appropriate and timely disclosures may result in my removal as arbitrator from the case.

I, being duly sworn as arbitrator in this proceeding, hereby accept this appointment, and will faithfully and fairly hear and decide the matters in controversy between the parties in accordance with their arbitration agreement, and will make an award according to the best of my understanding.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

**ATTACHMENT E**

**REPORT OF PRE-HEARING CONFERENCE  
AND SCHEDULING ORDER**

**REPORT OF PRE-HEARING CONFERENCE AND SCHEDULING ORDER**

A preliminary hearing was held on \_\_\_\_\_, 20 \_\_, before Arbitrator \_\_\_\_\_.

Appearing at the hearing were \_\_\_\_\_

\_\_\_\_\_.

By agreement of the parties and order of the Arbitrator, the following is now in effect:

1. Arbitration of this matter will commence before the undersigned Arbitrator on \_\_\_\_\_, 20 \_\_ at \_\_\_\_\_. The arbitration shall take place by telephone.
2. The claimant shall have \_\_\_ hours for the presentation of his or her case. The ASARCO Asbestos Personal Injury Settlement Trust (the "Trust") shall have \_\_\_ hours for the presentation of its case. No party shall be granted more time for the presentation of that party's case beyond the time limits set forth herein.
3. If permitted by the Arbitrator, post-arbitration hearing statements shall be served on the Arbitrator by \_\_\_\_\_, 20 \_\_. Post-arbitration hearing statements shall be no longer than five (5) double spaced pages.
4. The Arbitrator shall issue a written decision no later than fifteen (15) calendar days after the date of the close of the arbitration hearing or submission of post-arbitration hearing statements, whichever is later.
5. All deadlines stated herein shall be strictly enforced.
6. This arbitration will be conducted pursuant to the Alternative Dispute Resolution Procedures of the Trust, which are incorporated herein by reference.
7. This order shall continue in effect unless and until amended by subsequent order of the Arbitrator.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Arbitrator's signature

**ATTACHMENT F**

**NOTICE OF ACCEPTANCE/ REJECTION OF ARBITRAL AWARD**

**NOTICE OF COMPLETION OF ARBITRATION PROCESS**

**ASARCO ASBESTOS PERSONAL INJURY SETTLEMENT TRUST**  
**Alternative Dispute Resolution Procedures**

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**NOTICE OF ACCEPTANCE / REJECTION OF ARBITRAL AWARD**

To: \_\_\_\_\_, ADR Administrator

Date: \_\_\_\_\_

\_\_\_\_\_, [insert claimant's name]

\_\_\_\_\_ [social security number (last 4 digits) or ASARCO claim file number],

claimant, hereby

accepts

rejects

the non-binding arbitral award of \$\_\_\_\_\_ for the claim filed by the claimant. The claimant requests that the ASARCO Asbestos Personal Injury Settlement Trust record this acceptance / rejection in the claim file. If the Trust likewise accepts the award, the claimant understands that the liquidated claim will be placed in the Trust's FIFO Payment Queue as of the date of receipt of an executed release from the claimant.

\_\_\_\_\_  
Claimant or attorney, if represented

The ASARCO Asbestos Personal Injury Settlement Trust hereby

accepts

rejects

the non-binding arbitral award of \$\_\_\_\_\_ for the claim filed by \_\_\_\_\_, [insert claimant's name, social security number, ASARCO claim file number], claimant. The Trust will place the liquidated claim in the Trust's FIFO Payment Queue as of the date of receipt of an executed release from the claimant.

\_\_\_\_\_  
Managing Trustee

The Notice of Acceptance/ Rejection of Arbitral Award may be mailed, faxed, or e-mailed to the ADR Administrator:

ADR Administrator

\_\_\_\_\_

Facsimile:

Email:

**ASARCO ASBESTOS PERSONAL INJURY SETTLEMENT TRUST**  
**Alternative Dispute Resolution Procedures**

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**NOTICE OF COMPLETION OF ARBITRATION PROCESS**

To: Claimant  
Attorney Name  
Law Firm  
Address  
City, ST Zip

Re: \_\_\_\_\_ [Claimant's name]

\_\_\_\_\_ [social security number (last 4 digits) or ASARCO claim  
file number]

Date: \_\_\_\_\_

Please be advised that the ASARCO Asbestos Personal Injury Settlement Trust confirms that arbitration pursuant to Section 5.10 of the ASARCO Asbestos Personal Injury Settlement Trust Distribution Procedures (as may be amended from time to time, the "TDP") has been completed without a settlement of the above referenced claim. See Section 7.5 of the TDP regarding commencement of litigation.

/s/  
ADR Administrator