

**ROCK WOOL MANUFACTURING COMPANY**  
**ASBESTOS TRUST AGREEMENT**

This Rock Wool Manufacturing Company Asbestos Trust Agreement ("Trust Agreement") dated as of December 20, 1999 is between Rock Wool Manufacturing Company ("Rock Wool"), as Settlor (the "Settlor" or the "Debtor") and Sylvester F. Minitier, III, (the "Individual Trustee") and Wilmington Trust Company (the "Delaware Trustee"), as Trustees, or such other successor Trustees as may be appointed. All references herein to "Trustee" shall refer to the Individual Trustee and his successors unless otherwise indicated to the contrary. The term "Trustees" shall refer to both the Individual Trustee and the Delaware Trustee as well as their respective successors.

**WHEREAS**, Rock Wool filed a voluntary petition for relief under Title 11 of Chapter 11 of the United States Code (the "Bankruptcy Code") on November 18, 1996 and has proposed a Second Amended and Restated Plan of Reorganization, (the "Plan")<sup>1</sup> which called for the establishment of the Rock Wool Manufacturing Company Asbestos Trust (the "Trust"); and

**WHEREAS**, pursuant to the Plan, the Trust is to use its assets and/or income to pay in accordance with the Asbestos Bodily Injury Claims Resolution Procedures and the Asbestos Property Damage Claims Resolution Procedures (the "Asbestos Claims Resolution Procedures") Claims and Demands against the Debtor, as defined in Sections 101(5) and 524(g)(5) of the Bankruptcy Code, respectively; and

**WHEREAS**, pursuant to the Plan, the Trust is intended to qualify as a "designated settlement fund" or a "qualified settlement fund" within the meaning of Section 1.468B-1 of the Treasury regulations promulgated under Section 468B of the Internal Revenue Code; and

**WHEREAS**, the United States Bankruptcy Court for the Northern District of Alabama, Southern Division (the "Bankruptcy Court") and/or the United States District Court for the Northern District of Alabama, Southern Division (the "District Court") has determined that the Trust and the Plan satisfy all the prerequisites for a supplemental injunction pursuant to Section 524(g) of the Bankruptcy Code, which Permanent Channeling Injunction has been entered in connection with the Order confirming the Plan;

**WHEREAS**, in order to effectuate the Debtor's Plan, to provide for the payment of Asbestos Claims and Demands and to receive the benefits under the Internal Revenue Code of so providing for certain of such payments, the Settlor desires to enter into this Trust Agreement with the Trustee and transfer the assets set forth in Article X, Section 10.9, of the Plan (the "Trust Assets"), to the Trust pursuant hereto.

NOW, THEREFORE, IT IS HEREBY AGREED as follows:

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<sup>1</sup>Unless the context requires otherwise, all capitalized terms used herein and not otherwise defined have the meanings assigned thereto in the Plan for Rock Wool as confirmed by Order of the Bankruptcy Court and/or the District Court.

## ARTICLE I

### DECLARATION OF TRUST

**1.1 Creation and Name.** The Settlor hereby creates a trust known as the "Rock Wool Manufacturing Company Asbestos Trust", which is the Trust provided for and referred to in the Plan. The Trustee of the Trust may transact the business and affairs of the Trust in the name, "Rock Wool Manufacturing Company Asbestos Trust". It is the intention of the parties hereto that the Trust created hereby constitutes a business trust under Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. § 3801 et seq. (the "Delaware Business Trust Act") and that this document constitutes the governing instrument of the Trust. The Trustees are hereby authorized and directed to execute and file a Certificate of Trust with the Office of the Secretary of State of the State of Delaware in accordance with the provisions of the Delaware Business Trust Act.

**1.2 Purpose.** The purpose of the Trust is to assume any and all liabilities of the Debtor or its successor in interest, with respect to any and all Asbestos Bodily Injury Claims and Demands or Asbestos Property Damage Claims and Demands. The Trust is to use its assets and income to pay holders of Allowed Asbestos Claims and Demands in accordance with the Plan and Trust Agreement, in such a way that all holders of Asbestos Bodily Injury Claims and Demands are each treated in a substantially equivalent manner as other holders of Asbestos Bodily Injury Claims and Demands, and all holders of Asbestos Property Damage Claims and Demands are each treated in a substantially equivalent manner as other holders of Asbestos Property Damage Claims and Demands; 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. This purpose shall be fulfilled through the provisions of the Trust Agreement and the Asbestos Claims Resolution Procedures.

**1.3 Transfer of Assets.** The Settlor hereby transfers and assigns to the Trust the property set forth in Article X, Section 10.9, of the Plan having heretofore obtained all consents and taken all other steps prerequisite to such transfer and assignment. Rock Wool shall take any and all steps as may be further necessary to effectuate fully the transfer and assignment of the Trust Assets.

**1.4 Acceptances of Assets and Assumption of Liabilities.** In connection with and in furtherance of the purposes of the Trust and subject to Section 4.4, below, the Trustee hereby expressly accepts the transfer and assignment to the Trust of the Trust Assets set forth in Article X, Section 10.9 of the Plan and the Trust hereby further expressly assumes liability and responsibility within the meaning of Section 524(g)(2)(B)(i) of the Bankruptcy Code for, and undertakes and shall control, liquidating in accordance with the Asbestos Bodily Injury Claims Resolution Procedures and the Asbestos Property Damage Claims Resolution Procedures, (cumulatively, the "Procedures"), all Asbestos Bodily Injury Claims and Demands and all Asbestos Property Damage Claims and Demands, (cumulatively, "Claims and Demands"). The Reorganized Debtor shall have no further financial or other responsibility for any Asbestos Claims and/or Demands. The Trust shall have all defenses, cross-claims, offsets, and recoupments regarding Asbestos Bodily Injury Claims and Demands or Asbestos Property Damage Claims and Demands that Rock Wool has or would have had under applicable law.

## ARTICLE II

### POWERS AND TRUST ADMINISTRATION

#### 2.1 Powers.

2.1.1 Subject to the limitations set forth in this Trust Agreement, the Trustee shall have the power to take any and all actions that in the judgment of the Trustee are necessary or convenient to effectuate the purposes of the Trust, including without limitation, each power expressly granted in Subsection 2.1.3 below and any power reasonably incidental thereto.

2.1.2 Except as provided in the Plan or otherwise specified herein, the Trustee need not obtain an order of approval of any court in the exercise of any power or discretion conferred hereunder.

2.1.3 Without limiting the generality of Subsection 2.1.1 above, the Trustee shall have the power to:

2.1.3.1 receive and hold the Trust Assets, and invest monies held from time to time therein;

2.1.3.2 transfer, exchange or sell any or all assets of the Trust on such terms as the Trust considers proper subject to the advice and consent of the Trust Advisory Committee (the "TAC") as required hereinbelow, and to sell all or any part of the securities issued by the Settlor that are included in the Trust Assets, subject to the approval of the TAC as required hereinbelow.;

2.1.3.3 acquire any other corporation, business entity, product line or operating division of any business at the Trustee's discretion, with the advice and consent of the TAC;

2.1.3.4 supervise and administer the Asbestos Claims Resolution Procedures;

2.1.3.5 pay Trust Expenses and liabilities, and pay Asbestos Bodily Injury Claims and Demands and Asbestos Property Damage Claims and Demands as such Claims and Demands are determined in accordance with the Asbestos Claims Resolution Procedures;

2.1.3.6 borrow money and issue notes and other evidences of indebtedness (which notes or other evidences of indebtedness shall exonerate the Trustee from personal liability with respect thereto) in the ordinary course of operations for payment of indemnification liabilities and other Trust expenses except Claims and Demands;;

2.1.3.7 enter into any other agreement required by the Plan or

reasonably necessary or beneficial to implement the Plan and the Claims Resolution Procedures and performance of the Trust's obligations thereunder, including, without limitation, enter into any agreement and/or use the resources of and/or merge with other asbestos claims resolution organizations or facilities that have the capacity to evaluate and/or pay Claims and Demands in a manner consistent with the purposes of the Plan, and not inconsistent with the Trust. The power conferred in this Subsection 2.1.3.7 shall include the power to cause the Trust to become a sub-trust of any master trust arrangement by contributing the Trust Assets to a separate sub-trust of a master trust that is governed by terms substantially identical to the terms of this Trust Agreement; provided, however, that in the event the Trust shall become a sub-trust of any master trust arrangement, the Trust Assets shall not be commingled with any other trust without the approval of the Bankruptcy Court;

2.1.3.8 commence, prosecute, settle, dismiss or abandon any causes of action of the Debtor's estate;

2.1.3.9 commence the filing of a Bankruptcy petition for Rock Wool subject to the advice and consent of the TAC;

2.1.3.10 exercise all rights and benefits accruing to the Trust as owner of any shares of the Debtor that the Trust shall own from time to time

2.1.3.11 establish such funds, reserves and accounts within the Trust, in addition to the funds created hereby, as deemed by the Trustee to be useful in carrying out the purposes of the Trust;

2.1.3.12 sue and be sued and participate, as a party or otherwise, in any judicial, administrative, arbitative or other proceeding in connection with this Trust;

2.1.3.13 adopt and amend any by-laws desirable for the administration of the Trust that are not contrary to or abridge the Trust Agreement;

2.1.3.14 appoint such officers and hire such employees and engage such legal, financial and other advisors, professionals, contractors and agents as the business of the Trust requires and to delegate to such persons such powers, authority, and discretion as the Trustee deems advisable or necessary in order to carry out the purposes of the Trust, and pay the Trustee, subject to Section 4.5, and pay such officers, employees, advisors and agents reasonable compensation as determined by the Trustee and properly documented out-of-pocket costs and expenses;

2.1.3.15 to pay the compensation and the reasonable, properly documented, out-of-pocket expenses and costs of the members of the TAC and any legal, financial and other advisors or professionals retained by the TAC

2.1.3.16 indemnify (and purchase insurance indemnifying) the Trustee, officers, employees, agents, advisors, professionals and representatives of the Trust, the

members of the TAC and their professionals and advisors to the fullest extent that a corporation organized under Delaware law is from time to time entitled to indemnify its directors, officers, employees, agents or representatives;

2.1.3.17 delegate any or all of the discretionary power and authority herein conferred at any time with respect to all or any portion of the Trust Assets to any one or more reputable individuals or recognized institutional advisors or investment managers without liability for any action taken or omission made by such individual or recognized institutional advisors or investment managers;

2.1.3.18 execute and deliver such deeds, leases and other instruments as the Trustee considers proper in administering the Trust.

2.1.4 The Trustee on behalf of the Trust shall not have the power to guarantee any debt of other Entities, except in connection with the sale of Trust Assets in which case the Trust shall have the power to provide a guarantee in an amount not exceeding the consideration received by the Trust on the sale.

**2.2 Administration.** The Trust shall be administered as follows:

2.2.1 **Offices.** The business address of the Delaware Trustee is 1100 North Market Street, Wilmington, DE 19890. The principal office of the Trust shall be in Kiawah Island, South Carolina or at such other place, within the United States of America, as the Trustee may from time to time determine to be appropriate for the efficient and cost-effective administration of the Trust.

2.2.2 **Regular Meetings.** Regular meetings of the Trustee with the TAC may be held at such time as from time to time shall be determined by the Trustee with notice to the TAC; provided, however, that the Trustee and the TAC shall meet at least once per calendar quarter during the first and second years following the Effective Date of the Plan and at least once per year thereafter. Whenever advisable, it is encouraged that regular meetings be held telephonically.

2.2.3 **Special Meetings; Notice.** Special meetings of the Trustee and the TAC shall be held whenever called by the Trustee or by the unanimous vote of the TAC. Notice of each such meeting shall be mailed by first class mail, postage prepaid, to the Trustee and the members of the TAC, addressed to them at their residences or usual places of business, at least ten (10) days before the date on which the meeting is to be held, or shall be sent to such place by facsimile, telegraph, cable, or wireless, or by hand or by express mail or overnight courier or by telephone, not later than the day 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 purpose(s) 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 and by the members of the TAC, either before or after the meeting, shall be deemed equivalent thereto for purposes of this Section. There shall be no more than two (2) Special Meetings per calendar year.

**2.2.4 Action Without a Meeting; Meeting by Conference Call.** Any action required or permitted to be taken at any meeting of the Trustee or the TAC may be taken without a meeting if the Trustee and all the members of the TAC, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Trust or the TAC. The Trustee or members of the TAC may participate in a meeting of the Trustee or the TAC, as the case may be, by means of conference telephone or similar communications equipment provided that all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this paragraph shall constitute presence in person at such meeting.

**2.3 Accounting Period.** The accounting period for the Trust (the "Fiscal Year") shall be selected by the Trustee.

**2.4 Delivery of Trust Documents to Rock Wool.** The Trustee shall timely file or shall deliver to Rock Wool such documents and other information as Rock Wool may reasonably require in order to permit it to timely file such income tax and other returns and statements as are required of it to comply with applicable provisions of the Internal Revenue Code and state law and any regulations promulgated thereunder.

**2.5 Annual Reports.** The Trustee shall cause to be prepared and filed with the Court, with copies to the members of the TAC, and to the Reorganized Debtor, as soon as available, but, in any event, within one hundred twenty (120) days following the end of each Fiscal Year, an annual report containing financial statements of the Trust (including, without limitation, a balance sheet and a statement of operations for such Fiscal Year) audited by a firm of independent public accountants selected by the Trustee and certified by such firm as to fairness of presentation and consistency, a report on the number of Claims received and the number of Claims liquidated, if any, and the amount per claim paid or payable and such other information as the Trust deems relevant.

**2.6 Tax Returns.** The Trustee shall timely file income tax and other returns and statements and comply with all withholding obligations as required under applicable provisions of the Internal Revenue Code and state law and any regulations promulgated thereunder.

**2.7 Settlement of Trustee's Activities.** Notwithstanding any state law to the contrary, the Bankruptcy Court shall have exclusive jurisdiction over the activities of the Trustee, whether an accounting or other report is rendered by the Trustee himself or an accounting is sought by any person holding an Asbestos Bodily Injury Claim or Demand, or Asbestos Property Damage Claim or Demand, or other person. The Trustee shall render successive reports covering periods of one year. In addition, a report shall be rendered for the period ending on the date of the death, resignation, removal or retirement of the Trustee. Upon the acceptance of any such report by the Court after hearing on notice to Rock Wool, the TAC and such other parties as the Court shall designate, the Trustee shall be discharged from any further liability or responsibility to any person holding a Claim or Demand, or other Person, as to all matters embraced in such account, and to the Trust.

## **2.8 Powers of the Delaware Trustee.**

2.8.1 The Delaware Trustee and any successor Trustee to the Delaware Trustee, shall not have any of the powers or duties of the Trustee of the Trust set forth herein (except as may be required under the Delaware Business Trust Act) and shall be a trustee of the Trust for the sole purpose of satisfying the requirements of § 3807 of the Delaware Business Trust Act.

2.8.2 It is expressly understood and agreed by the parties hereto that: (a) this Trust Agreement is executed and delivered by Wilmington Trust Company ("WTC"), not in its individual capacity but solely as trustee of the Trust, as described in Article 1.1 hereof; (b) under no circumstances shall WTC be personally liable for the payment of any indebtedness or expenses of the Trust or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by or on behalf of the Trust; and (c) in no event shall WTC or the Delaware Trustee be required to take any action in any jurisdiction other than the State of Delaware if the taking of such action may (i) require the consent, approval, authorization or order of or the giving of notice to, or the registration with or the taking of any action in respect of any state or other governmental authority or agency of any jurisdiction other than the State of Delaware; (ii) result in any tax, lien, charge, fee or other expense becoming payable by WTC; or (iii) subject to WTC to personal jurisdiction in any jurisdiction other than the State of Delaware for causes of action arising from acts unrelated to the consummation of the transactions by the Delaware Trustee contemplated hereby.

## ARTICLE III

### ACCOUNTS, PAYMENTS AND INVESTMENTS

#### 3.1 Accounts.

3.1.1 The Trustee may, from time to time, create additional funds, reserves and accounts within the Trust as he or she may deem necessary, prudent or useful in order to provide for the payment of Trust expenses, Claims and Demands or otherwise to effectuate the purposes of the Trust and may, with respect to any such fund, reserve or account, restrict the use of monies therein. The Trustee shall establish the accounts set forth in Exhibit B, Asbestos Bodily Injury Claims Resolution Procedures, Article 6, Section 6.1, for the payment of Claims and Demands, subject to amendment as provided for in this Agreement or in the Asbestos Bodily Injury Claims Resolution Procedures.

#### 3.2 Payments.

3.2.1 The Trust shall:

3.2.1.1 rely upon estimates of the numbers and values of pending and projected Asbestos Bodily Injury Claims and Demands as made by consultant Tim Wyant;

3.2.1.2 cause estimates to be made of the total available cash and non cash assets held by the Trust; and

3.2.1.3 make distributions in accordance with this Trust; the Trustee is not required to accept claims more often than bi-annually and then for a period of not more than two months. The Trustee shall not be required to distribute payment on claims more frequently than once a year, provided claims remain unpaid from one year to the next during each bi-annual claims period. The Trustee may at his or her discretion, distribute more frequently if funds are available. Claims not paid during any bi-annual claims period, shall be carried over to the extent possible, and paid in the next bi-annual claims period on a first in first out basis.

3.2.2 At any time subsequent to the distribution of available cash pursuant to Section 3.1.1 as the Trustee believes he is likely to have available cash to pay claimants, the Trust may cause an additional estimate to be made of the numbers and values of Asbestos Bodily Injury Claims and Demands and valuation of Trust Assets in the same manner as in subsections 3.2.1.1 and 3.2.1.2 above, and shall cause additional distributions to be made in the same manner as 3.2.1.3 above.

3.2.3 Recognizing that it is desirable to make payment to claimants expeditiously, provided it is economically prudent given the funds then available to the Trust, the Trustee may determine, with the consent of the TAC, to defer making payments under the Claims Resolution Procedures if the Trustee, after consultation with the TAC, determines that the administrative costs of such an expeditious payment is proportionately so significant that no payment should be made pending receipt of additional funds or such other circumstances that

would make payment feasible.

3.2.4 In making any estimates, judgments or decisions concerning the future availability of cash, amounts to be paid, and timing of payments, the judgment and decisions of the Trustee shall be final and conclusive, subject to the TAC's consent in 3.2.3 above, and not subject to review.

**3.3 Investments.** Funds held in the Trust shall be invested in the manner in which individuals of ordinary prudence, discretion and judgment would act in management of their own affairs, subject to the following limitations and provisions:

3.3.1 The Trust shall not hold or acquire, directly or indirectly, equity in any other Entity (other than Rock Wool and its subsidiaries, successor and assigns) or business enterprise if, immediately following such acquisition, the Trust would hold more than 5% of the equity in such Entity or business enterprise unless (1) such Entity or business enterprise is an asbestos claims processing or asbestos data base facility or (2) such Entity is the result of a merger or other business combination of or with Rock Wool.

3.3.2 The Trust shall not acquire or hold any long-term debt securities unless (i) such securities are Trust Assets under the Plan, (ii) such securities are rated "A" or higher by Moody's Investors Service, Inc. ("Moody's"), "AA" or higher by Standard & Poor's corporation ("S&P's") or have been given equivalent investment grade rating by another nationally recognized statistical rating agency, (iii) have been issued or fully guaranteed as to principal and interest by the United States of America or any agency or instrumentality thereof, (iv) unless such securities have been issued by an asbestos claims processing facility, or asbestos data base, or (v) are securities of an Entity which is the result of a sale, merger or other business combination of or with Rock Wool.

3.3.3 The Trust shall not acquire nor hold for longer than ninety (90) days any commercial paper unless such commercial paper is rate "Prime-1" or higher by Moody's or "A-1" or higher by S&P or has been given an equivalent investment grade rating by another nationally recognized statistical rating agency.

3.3.4 The Trust shall not acquire nor hold any equity in any Entity or business enterprise (other than Rock Wool, its subsidiaries, successor and assigns) unless such equity is in the form of securities which are traded on a national securities exchange or major international securities exchange or through the National Association of Securities Dealers Automated Quotation System or unless such Entity or business enterprise is an asbestos claims processing facility or asbestos data base.

3.3.5 The Trust shall not acquire nor hold any preferred stock unless such preferred stock is rated "B" or higher by Moody's or "B+" or higher by S&P or has been given an equivalent investment grade rating by another nationally recognized statistical rating agency, and also complies with subsection 3.3.4 above or unless such preferred stock is preferred stock of an asbestos claims processing facility or asbestos data base.

3.3.6 The Trust shall not acquire any debt securities or other instruments issued by any Entity (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 Entity held by the Trust would exceed 5% of the aggregate value of the Trust Assets, unless (1) such Entity or business enterprise is an asbestos claims processing facility or asbestos data base or (2) such securities or instruments have been acquired as a result of a merger or sale of assets or other business combination of Rock Wool. The Trust shall not hold any debt securities or other instruments issued by any Entity (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) to the extent that the aggregate market value of all such securities and instruments issued by such Entity held by the Trust would exceed 5% of the aggregate value of the Trust Assets, unless (1) such Entity or business enterprise is an asbestos claims processing facility or (2) such securities or instruments have been acquired as a result of a merger, sale of assets or other business combination of Rock Wool.

3.3.7 The Trust shall not acquire nor 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 Section 3.3.2, above.

3.3.8 The Trust shall not acquire nor hold any repurchase obligations unless, in the opinion of the Trustee, they are adequately collateralized.

3.3.9 Notwithstanding the foregoing guidelines, the Trust shall have the authority to extend credit to Rock Wool at prevailing interest rates for similar such credit in the open marketplace subject to the consent of the TAC.

**3.4 Source of Payments.** All Trust expenses, payments and all liabilities with respect to Claims and Demands shall be payable solely out of the Trust estate; those Trust expenses, payments and liabilities relating to Asbestos Bodily Injury Claims and Demands shall be paid from the accounts designated to hold the funds designated for the payment of Asbestos Bodily Injury Claims and Demands, and those Trust expenses, payments and liabilities relating to Asbestos Property Damage Claims and Demands shall be paid from the accounts designated to hold the funds designated for the payment of Asbestos Property Damage Claims and Demands. Neither Rock Wool, the Reorganized Debtor, its subsidiaries, any successor in interest or the present, former or future directors, stockholders, officers, employees or agents of Rock Wool, the Reorganized Debtor, or its subsidiaries, nor the Trustees, or the TAC, or any of their officers, agents, advisers or employees shall be liable for the payment of any Trust expense or Claims and Demands or any other liability of the Trust.

## ARTICLE IV

### TRUSTEE

**4.1 Number.** At all times during the continuance of this Trust there shall be at least two Trustees, one of whom shall be resident of the State of Delaware or an entity with trust powers and principal place of business in the State of Delaware. The Delaware Trustee and any successor thereto shall have only the powers and duties specified in Section 2.8 above. The initial Individual Trustee and Delaware Trustee shall be the persons named in the signature page hereto.

**4.2 Term of Service.**

4.2.1. The Trustee shall serve until his or her death, incapacity, resignation or removal. The Delaware Trustee shall serve until its resignation or dissolution.

4.2.2 The Individual Trustee or Delaware Trustee may resign at any time by written notice to each member of the TAC. Such notice shall specify a date when such resignation shall take effect, which shall not be less than thirty (30) days after the date such notice is given, unless the TAC consents to an earlier date for the effect of a resignation; provided, however, that the resignation of any Delaware Trustee shall not take effect until such time as the appointment and acceptance by a successor Delaware Trustee residing in the State of Delaware or with a principal place of business in the State of Delaware.

4.2.3 Any Individual Trustee or Delaware 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 shall be deemed to include, without limitation, a consistent pattern of neglect and failure to perform or participate in performing the duties of the Trustee hereunder, or repeated nonattendance at scheduled meetings. Such removal shall require the unanimous decision of the TAC. Such removal shall take effect at such time as the TAC shall determine. Notwithstanding the foregoing, the removal of any Delaware Trustee shall not be effective until such time as the appointment and acceptance by a successor Delaware Trustee residing in the State of Delaware or with a principal place of business in the State of Delaware.

**4.3 Appointment of Successor Trustee.**

4.3.1 In the event of a vacancy in the position of the Individual Trustee or the Delaware Trustee, the vacancy shall be filled by unanimous vote of the TAC, who shall take into account the relevant provisions hereof. Before a vacancy occurs, the sole Trustee may appoint a successor with the consent of the TAC. The Delaware Trustee shall not have the authority to appoint a successor. Any successor to the Delaware Trustee may be appointed only with the agreement and consent of the Individual Trustee and the TAC.

4.3.2 Immediately upon the appointment of any successor Individual Trustee or Delaware Trustee, all rights, titles, duties, powers and authority of the predecessor Individual

Trustee or Delaware Trustee, as the case may be, shall be vested in and undertaken by the successor Individual Trustee or Delaware Trustee, as the case may be, and each successor Trustee shall not be liable personally or otherwise for any act or omission of his, her or its predecessor.

4.4 **Liability of Trustee.** No Individual Trustee, Delaware Trustee, officer, employee, or agent of the Trust shall be liable to the Trust, to any person holding an Asbestos Bodily Injury Claim or Demand or Asbestos Property Damage Claim, or to any other Person except for such Trustee's, officer's, employee's or agent's own breach of trust committed in bad faith, gross negligence, or for willful misappropriation. No Individual Trustee, Delaware Trustee, officer, employee or agent of the Trust shall be liable for any act or omission of any other Trustee, officer, employee or agent of the Trust, unless the Individual Trustee, Delaware Trustee, officer, employee or agent acted with bad faith, gross negligence, or willful misconduct in the selection or retention of such Trustee, officer, employee or agent.

4.5 **Compensation and Expenses of Trustee.** The Trustee shall receive compensation for his or her services as Trustee in the amount of \$20,000.00 per annum for the first three years and then \$15,000.00 per year thereafter. This amount may be increased or decreased after the first five (5) years by the vote of the TAC. The Delaware Trustee shall receive an initial first year fee of \$5,000.00 and thereafter shall receive compensation for its services in the amount of \$2,500.00 per annum. Such amount shall be adjusted from time to time in accordance with the standard rates charged by the Delaware Trustee for a trust of a similar character and size.

All properly documented reasonable out-of-pocket costs and expenses incurred by the Trustee in connection with the performance of his or her duties hereunder shall be promptly reimbursed by the Trust. Such expenses shall be reviewed and approved by the TAC on an annual basis. Disallowed expenses, if any, shall be reimbursed to the Trust by the Individual Trustee.

4.6 **Indemnification of Trustee, TAC Members and Others.**

4.6.1 The Trust shall indemnify and defend the Trustees, the TAC Members, the Trust's officers, agents, advisers or employees (individually an "Indemnitee" and collectively, "Indemnites") to the fullest extent that a corporation or trust organized under the Delaware Business Trust Act may, from time to time, indemnify and defend its directors, trustees, officers, employees, agents or advisers against any and all liabilities, expenses, claims, damages or losses incurred by them in the performance of their duties hereunder. Notwithstanding the foregoing, the Trustee shall not be indemnified or defended in any way for any liability, expense, claim, damage or loss for which they are liable under Article 4, Section 4.4, above. Notwithstanding the foregoing, the TAC Members shall not be indemnified or defended in any way for any liability, expense, claim, damage or loss for which he or she are liable for under Article 5, Section 5.9 below.

4.6.2 Reasonable expenses, costs and fees, including but not limited to, attorneys' fees incurred by or on behalf of an Indemnitee in connection with any action, suit, or

proceeding, whether civil, administrative or arbitral from which they are indemnified by the Trust pursuant to this Article 4, Section 4.6.1, may be paid by the Trust in advance of the final disposition thereof upon receipt of an undertaking by or on behalf of such Indemnitee to repay such amount unless it shall be determined ultimately that such Indemnitee is not entitled to be indemnified by the Trust.

4.6.3 The Trustee shall have the power, generally or in specific cases, to cause the Trust to indemnify the employees and agents of the Trust to the same extent as provided in this Article 4, Section 4.6.1 with respect to the Indemnitee.

4.6.4 Any indemnification under Article 4, Section 4.6.3 of this Agreement shall be made by the Trust upon a determination that indemnification of such Person is proper in the circumstances. Such determination shall be made by legal counsel to the Trust.

4.6.5 The Trustee may purchase and maintain reasonable amounts and types of insurance on behalf of an individual who is or was an Individual Trustee, Delaware Trustee, officer, employee, or agent of the Trust against liability asserted against or incurred by such individual in that capacity or arising from his or her status as an Individual Trustee, Delaware Trustee officer, employee, or agent.

**4.7 Indemnitee's and Trustee's Lien.** Each Indemnitee and each of the Trustees shall have a prior lien upon the Trust Assets to secure the payment of any amounts payable to him pursuant to Article 4, Section 4.5 and 4.6 above.

**4.8 Trustee's Employment of Advisors.** The Trustee may, but shall not be required to, except as provided in subparagraph 4.6.4 of this Trust Agreement, consult with counsel, accountants, appraisers, other professionals or advisors and other parties deemed by the Trustees to be qualified as experts on the matters submitted to them. The advice of any such parties on any matters submitted to them by the Trustee shall be full and complete authorization and protection in respect of any action taken or not taken by the Trustee hereunder in good faith and in accordance with the advice of any such party. Any counsel, accountants, appraisers, other professionals, advisors, or experts of the Trustee must otherwise meet the requirements set out in Article 2, Section 2.1.3.14, set out above.

**4.9 Additional Qualifications.**

4.9.1 The Trustee shall be disinterested as defined by 11 U.S.C § 327(a).

4.9.2 No Trustee shall own any securities of Rock Wool, or any of its affiliates or have any other financial interest, direct or indirect, in Rock Wool, or any of its affiliates.

4.9.3 If there has been a violation of Section 4.9.1 or 4.9.2 above, the Individual Trustee or Delaware Trustee involved shall be subject to removal pursuant to Section 4.4 above.

**4.10 Trustee's Service as Director and/or Officer of Reorganized Rock Wool.** The Trustee is not prohibited from serving as a director, officer, consultant or employee of Rock

Wool. If the Trustee serves as a director of Rock Wool, he or she shall not receive compensation for such service over and above the compensation received as a Trustee under Section 4.5, but shall receive a per diem allowance in the amount that Rock Wool pays its directors for their attendance at meetings. If the Trustee serves as an officer, consultant or employee of Rock Wool he or she may receive reasonable compensation from Rock Wool for such services subject to the approval and consent of the TAC.

**4.11 Bond.** Notwithstanding any state law to the contrary, the Trustee (including any successor trustee) shall be exempt from giving any bond or security in any jurisdiction.

## ARTICLE V

### THE TRUSTEE ADVISORY COMMITTEE

#### 5.1 Duties.

5.1.1 **Consultation.** The Trustee shall consult with the TAC and the TAC shall advise/assist the Trustee in the implementation of the Trust and the Procedures for administration and distribution of payment of Claims and Demands generally by providing consulting services with respect to material issues affecting the Trust including, but not limited to, implementation of the Claims Resolution Procedures, development of payment rules, forms and procedures, releases, time frames and other matters specified herein and in the Claims Resolution Procedures. (Where consultation is required under the Trust or the Claims Resolution Procedures, the Trustee need only seek the advice and, in specified matters as defined in Section 5.1.2 of this document, the consent of the TAC.)

5.1.2 **Consent.** The Trustee shall be obligated to obtain the advice and consent of the TAC in writing in order to (1) merge or sell substantially all of the assets of; enter into any other business combination with, or liquidate Rock Wool; (2) allow or authorize Rock Wool to acquire any other corporation, business entity, product line or operating division of any business; (3) file or authorize the filing of a bankruptcy petition for Rock Wool; (4) associate with another claims facility or asbestos data base; (5) amend any provision of the Trust Agreement; (6) effect termination of this Trust pursuant to Sections 6.1.1.1, 6.1.1.2, 6.1.1.3, or 6.1.1.4; (7) appoint or select a successor Trustee pursuant to 4.3.1; (8) defer distribution to claimants pursuant to Section 3.2.3; (9) extend credit from the Trust to Rock Wool pursuant to Section 3.3.9; (10) approve reimbursement of expenses of the Trustee pursuant to Section 4.5; (11) authorize and approve the amount of compensation paid to the Trustee by Rock Wool for services as an officer or executive of Rock Wool pursuant to Section 4.10; and (12) authorize and approve the transfer upon termination of the Trust of any remaining assets to a charitable organization pursuant to Section 6.1.2; and (13) act as a trust with respect to any other corporation, entity or person who has liability for asbestos related injury. The TAC shall not unreasonably withhold its consent.

5.1.3 **Court Approval.** Any proposed action or decision of the Trustee for which the consent of the TAC is required, and, to which the TAC withholds consent, may be taken only upon Court approval, after reasonable notice to each member of the TAC. The burden shall be on the Trustee to show that the consent of the TAC was withheld unreasonably.

5.2 **Procedures.** With respect to any matter relating to the Trust as to which the consultation or consent of the TAC is expressly required, the Trust shall:

5.2.1 Provide the TAC reasonable access to the relevant documents, records, reports, experts and advisors retained by the Trust and to the Trust staff during such time as the decision is being considered;

5.2.2 bring the proposed decision to the attention of the TAC; and

5.2.3 provide the TAC with no fewer than thirty (30) days to comment with respect to the proposed decision, unless the TAC agrees to a shorter period.

### **5.3 Number; Chairperson.**

5.3.1 At the commencement of the Trust, there shall be three members of the TAC (the "initial TAC Members") who shall serve until the termination of the Trust or his or her death, incapacity, resignation or removal. The Initial TAC Members shall be selected pursuant to the Plan.

5.3.2 There shall be a chairperson of the TAC selected by the Initial TAC Members (the "Chair"). The Chair shall act as the TAC 's liaison, shall coordinate and schedule meetings of the TAC and shall handle all administrative matters that come before the TAC.

### **5.4 Term.**

5.4.1 The TAC Members shall serve subject to any member's earliest death, incapacity, removal or resignation.

5.4.2 Any member of the TAC may resign at any time by at least thirty (30) days written notice to each of the remaining members specifying the date when such resignation shall take place.

5.4.3 A member of the TAC may be removed from office by the unanimous vote of the remaining members of the TAC and a determination of the Bankruptcy Court that such removal is appropriate upon cause shown, as defined in Section 4.2.3 above.

**5.5 Successors.** In the event of a vacancy in the membership of the TAC, the vacancy shall be filled by the unanimous vote of the remaining TAC Members.

**5.6 Quorum.** The presence of two members, so long as there are two members serving, shall constitute a quorum of the TAC for the transaction of business. In the absence of a quorum, the members present may adjourn the meeting from time to time without notice. In order for the Trustee to obtain consent of the TAC with respect to actions listed in Section 5.1.2 hereof and otherwise specified in this Agreement, the TAC must approve the Trustee's recommendation by a two thirds vote.

**5.7 TAC's Employment of Advisors.** The TAC may, but shall not be required to, consult with counsel, accountants, appraisers, advisors and other parties on the matters submitted to them. The advice of any such parties on any matters submitted to them by the TAC shall be full and complete authorization and protection in respect of any action taken or not taken by the TAC hereunder in good faith and in accordance with the advice of any such party. Any counsel, accountants, appraisers, other professionals, advisors, or experts of the TAC must otherwise meet the requirements set out in Article 2, Section 2.1.3.15, set out above.

**5.8 Compensation and Expenses of Members of the TAC.** The members of the TAC shall not receive compensation for his or her services except for attendance at TAC meetings at the rate of \$1,000.00 per diem. All properly documented, reasonable out-of-pocket costs and expenses incurred by the TAC members in connection with the performance of their duties hereunder will be promptly reimbursed by the Trust. The TAC members shall not be compensated for more than six (6) meetings in any one calendar year.

**5.9 Liability of the TAC.** No member of the TAC shall be liable to the Trust or to any beneficiary thereof except for his or her own gross negligence, bad faith, or willful misconduct. No member of the TAC shall be liable for any act or omission of any other member, advisor, agent or employee of the TAC unless the TAC acted with gross negligence, bad faith or willful misconduct in the selection or retention of such member, advisor, agent or employee. Neither the power granted to the TAC or its members nor the exercise thereof shall cause the TAC members to have or create any inference that they have duties (including fiduciary duties) or liabilities relating thereto to the Trustees, the business trust or to a beneficial owner thereof.

**5.10 No Abridgement of Rights, Powers, Duties, Indemnification of TAC.** Notwithstanding anything to the contrary, the rights, powers, duties and/or indemnification of the TAC may not be abridged in any manner.

**5.11 Irrevocability.** The Trust is irrevocable, but this agreement is subject to amendment as provided herein.

**5.12** Notwithstanding anything to the contrary in this agreement, the consent of the TAC shall be required and no court may override the right of consent of the TAC or authorize the Trustee to take any action contrary to the consent right of the TAC on any matters covered by Articles 5.1.2 (12) and (13) above.

## ARTICLE VI

### GENERAL PROVISIONS

#### 6.1 Termination.

6.1.1 The Trust shall terminate on the date (the "Termination Date") that is ninety (90) days after the first occurrence of any of the following:

6.1.1.1 the Trustee in his or her sole discretion decides to terminate the Trust because (A) he or she deems it unlikely that new Asbestos Bodily Injury Claims or Demands will be filed against the Trust and (B) all Asbestos Bodily Injury Claims duly filed with the Trust have been liquidated and satisfied and twelve consecutive months have elapsed during which no new Asbestos Bodily Injury Claim has been filed with the Trust;

6.1.1.2 the date on which the Bankruptcy Court Order that approves the arrangements the Trustee has made to establish 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 Claims Resolution Procedures becomes a Final Order;

6.1.1.3 if in the judgment of the Trustee, the continued administration of the Trust is uneconomic or adverse to the best interests of the persons holding Claims and Demands and the Trustee has obtained an order of the Bankruptcy Court or the District Court that the termination of the Trust will not expose or subject Rock Wool or any successor in interest to any increased or undue risk of having any Asbestos Bodily Injury Claims and Demands asserted against it or them or in any way jeopardize the validity or enforceability of the Permanent Channeling Injunction; or

6.1.1.4 Three years following the resolution of the last claim filed.

6.1.2 On the Termination Date, after payment of all the Trust's liabilities has been provided for, all funds remaining in the Trust estate shall be transferred to charitable organizations(s) described in Section 501(c)(3) and 170(b) of the Internal Revenue Code (or the applicable successor provisions of any subsequently enacted federal income tax laws) selected by the Trustee and the TAC using their reasonable discretion; provided, however, that (i) if practicable, the charitable organization(s) shall be related to the treatment, research, or the relief of individuals suffering from asbestos disorders, and (ii) the tax-exempt organization(s) shall not bear any relationship to Rock Wool.

6.1.3 As soon as practicable after the Termination Date, the Trustee shall (i) certify to the Court that all conditions precedent to the Termination Date have been satisfied and (ii) file a final accounting and serve a copy on the TAC and the Settlor. Thereupon, the Trust shall be dissolved and the Trustee and the TAC discharged.

**6.2 Amendments.** This Trust Agreement may be amended, modified and/or supplemented by the Trustee with the consent of the TAC.

**6.3 Cooperation.** Rock Wool shall cooperate to the extent reasonably requested by the Trust in the handling of Claims and Demands and generally in the operation of the Trust for the purposes set forth herein. Rock Wool shall transfer to the Trust such claim files and other documents related to the Bodily Injury Claims and Asbestos Property Damage Claims as are under its custody and control, and shall use its best efforts to make available its present or former officers, directors, employees, agents or representatives to the extent the Trust deems such persons necessary to appear at any trial or arbitration proceeding related to the liquidation of the Claims and Demands. To the extent the valuation of any assets of the Trust are necessary for the tax returns of Rock Wool, (a) the Trust shall provide Rock Wool with such valuation and (b) Rock Wool shall use such valuation in its tax returns.

**6.4 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.

**6.5 Applicable Law.** This Trust Agreement shall be interpreted under the laws of the State of Delaware (excluding conflict of law rules).

**6.6 Notices.** Notices to Claimants shall be given at the address of such claimants, or, where applicable, such claimants' Attorney of Record, in each case as provided on such claimant Claim forms. Any notices or other communications required or permitted hereunder shall be in writing and delivered at the addresses designated below, or sent by telex or telecopy pursuant to the instructions listed below, or mailed by registered or certified mail, return receipt requested, postage prepaid, addressed as follows, or to such other addresses as may be hereafter be furnished by Rock Wool to the Trustee and the TAC or by the Trustee and the TAC to Rock Wool in compliance with the terms hereof.

To the Trust or the Trustee:

Rock Wool Manufacturing Company Asbestos Trust  
Attn: Sylvester F. Minitier, III  
144Broomsedge Lane  
Kiawah Island, SC 29455

To the Delaware Trustee:

Wilmington Trust Company  
1100 North Market Street  
Wilmington, DE 19890  
Attn: Corporate Trust Administration

To Rock Wool:

Andre M. Toffel, P.C.  
1929 3<sup>rd</sup> Avenue North  
Fourth Floor Farley Building  
Birmingham, AL 35203

To the TAC:

Ms. Nancy Worth Davis, Esq.  
Ness, Motley, Loadholt Richardson & Poole  
P.O. Box 1137  
Charleston, SC 29401

Ms. Mary Skelnick, Esq.  
Baron & Budd  
3102Oaklawn Suite 1100  
Dallas, TX 75219

Mr. Sanders McNew, Esq.  
Weitz & Luxenberg, P.C.  
180 Maiden Lane  
New York, NY 11038

All such notices and communications shall be effective when delivered at the designated addresses or when the telex or telecopy communication is received at the designated addresses and confirmed by the recipient by return telex or telecopy in conformity with the provisions hereof.

**6.7 Counterparts.** 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.

**6.8 Successors and Assigns.** The provisions of this Trust Agreement shall be binding upon and inure to the benefit of the Settlor, the Trust, the Trustee and the TAC and their respective successors and assigns, except that neither the Settlor nor the Trust, nor any Trustee, nor any member of the TAC may assign or otherwise transfer any of its or his or her rights or obligations under this Trust Agreement except as provided for in this Trust Agreement.

**6.9 Entire Agreement: No Waiver.** The entire agreement of the parties relating to the subject matter of this Trust Agreement is contained herein, and this Trust Agreement supersedes 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 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.

**6.10 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.

**6.11 Dispute Resolution.** Any dispute, which arises under this Agreement, with respect to interpretation and implementation, shall be resolved by the Delaware Court in and for New Castle County, Delaware, subject to any jurisdiction retained by the Bankruptcy Court.

**6.12 Legal Title to Trust Property.** The beneficiaries of the Trust shall not have legal title to any part of the Trust corpus and shall only have an undivided beneficial interest therein. No transfer, by operation of law or otherwise, of any right, title and interest of any beneficiary hereunder to their undivided beneficial interest in Trust corpus hereunder shall operate to terminate this Trust Agreement or any trust created hereunder or entitle any successor transferee to an accounting or to the transfer to it of legal title to any part of the Trust corpus.

**6.13 Limitations on Rights of Others.** Nothing in this Trust Agreement, whether express or implied, shall be construed to give to any Person, other than the Trustees and the beneficiaries hereunder, any legal or equitable right, remedy or claim in the Trust or under or in respect of this Trust Agreement or any covenants, conditions or provisions contained herein.

**IN WITNESS WHEREOF,** the Settlor has caused this Trust Agreement to be executed by a duly authorized officer of the Settlor and attested by another duly authorized officer of the Settlor. The Trustees have each executed this Trust Agreement, all as of the day and year first above written.

