

ASBESTOS INSURANCE TRANSFER AGREEMENT

This ASBESTOS INSURANCE TRANSFER AGREEMENT (this “**Agreement**”) is made as of [insert date], by and between the Insurance Contributors (which include, without limitation, the Non-Debtor Affiliates identified in Exhibit 16 to the Plan) and the Asbestos PI Trust. Capitalized terms used herein without definition shall have the meanings given to them in the First Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code of W.R. Grace & Co., *et al.*, the Official Committee of Asbestos Personal Injury Claimants, the Asbestos PI Future Claimants’ Representative, and the Official Committee of Equity Security Holders dated as of ~~September 19, 2008~~ February 27, 2009 (the “**Plan**”) (as such Plan may be amended, modified, or supplemented from time to time in accordance with the terms thereof).

WHEREAS, the Debtors and the Non-Debtor Affiliates maintained liability insurance programs to protect themselves from certain risks resulting from their businesses, including, without limitation, liability for personal injury tort or wrongful death arising from exposure to asbestos or asbestos-containing products;

WHEREAS, numerous individuals and other persons have asserted asbestos-related personal injury tort and wrongful death claims against the Debtors;

WHEREAS, on April 2, 2001, each of the Debtors filed a petition for relief under Chapter 11 of the U.S. Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (“**Bankruptcy Court**”);

WHEREAS, on ~~September 19, 2008~~ February 27, 2009, the Debtors, the Asbestos PI Committee, the Asbestos PI Future Claimants’ Representative, and the Equity Committee filed the Plan in the Bankruptcy Court;

WHEREAS, the Bankruptcy Court has entered a Confirmation Order in the Chapter 11 Cases, confirming the Plan;

WHEREAS, it is a condition to the effectiveness of the Plan that the parties enter into this Agreement;

WHEREAS, the Plan, *inter alia*, provides that the Insurance Contributors will transfer the Asbestos Insurance Rights to the Asbestos PI Trust;

WHEREAS, the Insurance Contributors wish to implement, *inter alia*, the terms of the Plan providing for such transfer of the Asbestos Insurance Rights to the Asbestos PI Trust;

NOW, THEREFORE, subject to and on the terms and conditions set forth herein, for good and valuable consideration the receipt of which the parties hereto hereby acknowledge, the parties hereby agree as follows:

Section 1. Transfer to the Asbestos PI Trust

(a) Effective upon the Effective Date, the Insurance Contributors hereby irrevocably transfer, convey, and grant to the Asbestos PI Trust all of their Asbestos Insurance Rights, including, without limitation, any and all rights to Proceeds (the “**Transfer**”). The Transfer is made free and clear of all Encumbrances, liens, security interests, and claims or causes of action, except that all Asbestos Insurer Coverage Defenses are preserved.

(b) The Asbestos PI Trust and the Insurance Contributors intend that the Transfer is made to the maximum extent permitted under applicable law.

(c) The Transfer is absolute and does not require any further action by any Debtor, any Reorganized Debtor, any Insurance Contributor, the Asbestos PI Trust, the Bankruptcy Court, or any other entity.

(d) The Transfer is not an assignment of any insurance policy.

(e) Immediately upon the Effective Date, the Insurance Contributors shall wire transfer the Proceeds (defined below) to the Asbestos PI Trust, together with all interest earned on such Proceeds up to and through the date on which the Proceeds are actually transferred to the Asbestos PI Trust. For purposes of this Agreement, the term “**Proceeds**” shall include any and all proceeds, payments, cash, or cash equivalents paid to an Insurance Contributor or held in escrow, pursuant to, in satisfaction of, or on account of any of the Asbestos Insurance Rights.

Section 2. Cooperation

(a) The Insurance Contributors shall cooperate in the pursuit by the Asbestos PI Trust of the Asbestos Insurance Rights as reasonably requested by the Asbestos PI Trust. Such cooperation shall include, without limitation, making their books, records, employees, agents, and professionals available to the Asbestos PI Trust, *provided, however*, that the Asbestos PI Trust’s access to such books, records, documents, employees, agents, and professionals shall be subject to the terms and provisions of the cooperation agreement executed as of the Effective Date by the Reorganized Debtors and the trustees of the Asbestos PI Trust (“**Cooperation Agreement**”). The obligations set forth in paragraph ~~insert 3~~ of the Cooperation Agreement, relating to the disposal and retention of relevant documents, shall apply to all Insurance Contributors, regardless of whether they signed the Cooperation Agreement.

(b) If after the Effective Date, the Asbestos PI Trust or any Insurance Contributor discovers the existence of an insurance policy or coverage-in-place agreement ~~insuring, or insurance reimbursement agreement providing insurance coverage, proceeds, or reimbursement to~~ one or more of the Insurance Contributors that falls within the definition of Asbestos Insurance Policy ~~or~~ Asbestos In-Place Insurance Coverage, or Asbestos Insurance Reimbursement Agreement and potentially or actually provides coverage, proceeds, or reimbursement for Asbestos Claims, then such party shall promptly notify the other parties to this Agreement of such discovery and the Insurance Contributors ~~that are insured under such policy will~~, upon notice and request, cooperate with the Asbestos PI Trust to effectuate a transfer

of rights under such policy or agreement to the Asbestos PI Trust in a manner consistent with the Transfer under this Agreement.

(c) At the reasonable direction and request of the Asbestos PI Trust, and at the reasonable expense of the Asbestos PI Trust, an Insurance Contributor shall pursue any of the Asbestos Insurance Rights for the benefit of and to the fullest extent required by the Asbestos PI Trust, by negotiation, or, if necessary, by the initiation or prosecution of all appropriate and necessary legal action to secure or recover such Asbestos Insurance Rights, and shall take such other action as the Asbestos PI Trust may request, including granting a security interest in any or all of the Asbestos Insurance Rights. Each Insurance Contributor shall immediately transfer any amounts recovered under or on account of any of the Asbestos Insurance Rights to the Asbestos PI Trust; *provided, however*, that while any such amounts are held by or under the control of an Insurance Contributor, such amounts shall be held in trust for the benefit of the Asbestos PI Trust. No Insurance Contributor shall commence or pursue any claim against any Asbestos Insurance Entity with respect to any Asbestos Insurance Policy, Asbestos Insurance Settlement Agreement, ~~or Asbestos In-Place Insurance Coverage,~~ **or Asbestos Insurance Reimbursement Agreement** without the prior written consent of the Asbestos PI Trust. Upon the Effective Date, the Insurance Contributors shall cede to the Asbestos PI Trust all control of the pursuit of any and all claims with respect to any Asbestos Insurance Policy, Asbestos Insurance Settlement Agreement, ~~or Asbestos In-Place Insurance Coverage,~~ **or Asbestos Insurance Reimbursement Agreement**, and the Asbestos PI Trust shall have the right to control and direct the choice of counsel and conduct of all such proceedings.

Section 3. Representations and Warranties

(a) The Insurance Contributors, jointly and severally, warrant and represent that:

(i) All insurance policies that the Insurance Contributors have reason to believe potentially or actually provide insurance coverage for Asbestos PI Claims are listed and described accurately on the attached Schedule 1;

(ii) All insurance settlement agreements ~~and,~~ coverage-in-place **agreements, and reimbursement** agreements, written, oral, or otherwise, that the Insurance Contributors have reason to believe potentially affect any right under any Asbestos Insurance Policy, Asbestos Insurance Settlement Agreement, ~~or Asbestos In-Place Insurance Coverage,~~ **or Asbestos Insurance Reimbursement Agreement** are listed and described accurately on the attached ~~Schedule 2~~ **Schedules 2 and 3**;

(iii) The Insurance Contributors have not heretofore transferred, granted, or assigned, in whole or in part, any Asbestos Insurance Right, Asbestos Insurance Policy, Asbestos Insurance Settlement Agreement, ~~or Asbestos In-Place Insurance Coverage,~~ **or Asbestos Insurance Reimbursement Agreement**;

(iv) Any written information pertaining to any Asbestos Insurance Right, Asbestos Insurance Policy, Asbestos Insurance Settlement Agreements, ~~or Asbestos In-Place Insurance Coverage,~~ **or Asbestos Insurance Reimbursement Agreement** provided by the

Insurance Contributors or their authorized representatives to the Asbestos PI Committee, the Asbestos PI Future Claimants' Representative, or the Asbestos PI Trust was true and correct in all material respects as of the respective dates specified therein or, in the absence of any such specification, at the time it was so provided; and

(v) Each Entity signing this Agreement as, or on behalf of, an Insurance Contributor has been duly authorized by such Insurance Contributor to execute and deliver this Agreement, and upon execution and delivery by each such Entity, this Agreement will be the legal, valid, and binding obligation of each Insurance Contributor, enforceable against each such Insurance Contributor in accordance with its terms. Each individual signing this Agreement represents and warrants that he or she is authorized to execute this Agreement on behalf of each Entity for which he or she executes this Agreement.

(b) Each of the representations and warranties contained in this Agreement shall survive the execution, delivery, and performance thereof. In the event that any representation or warranty herein by or on behalf of an Insurance Contributor was not true and correct as of the Effective Date, or any Insurance Contributor fails to perform any covenant or agreement required to be performed by it herein (such failure of a representation or warranty to be true and correct or breach of a covenant or agreement is referred to herein as a "**Breach**"), then the Asbestos PI Trust shall be entitled to exercise forthwith any and all rights and remedies provided for in this Agreement or under any of the other Plan Documents and all other rights and remedies that may otherwise be available to the Asbestos PI Trust by agreement or at law or in equity (including the right to seek damages, including attorneys' fees and enforcement costs, resulting or arising, directly or indirectly, from such Breach).

Section 4. Miscellaneous

(a) This Agreement shall be binding on each of the parties hereto and each of their respective successors and assigns. This Agreement is not intended, and shall not be construed, deemed, or interpreted, to confer on any person or entity not a party hereto any rights or remedies hereunder, except as otherwise provided expressly herein.

(b) This Agreement, the Plan, and the other Plan Documents shall constitute the entire agreement and understanding among the parties to this Agreement with respect to the subject matter hereof and shall supersede all prior agreements and understandings, oral or written, among the parties hereto relating to the subject matter of this Agreement. This Agreement may not be amended or modified, and no provision hereof may be waived, except by an agreement in writing signed by the party against whom enforcement of any amendment, modification, or waiver is sought.

(c) This Agreement and the rights and obligations of the parties hereto under this Agreement shall be governed by and construed and enforced in accordance with the substantive laws of the State of Delaware, without regard to any conflicts of law provisions thereof that would result in the application of the laws of any other jurisdiction.

(d) The headings used in this Agreement are inserted for convenience only and neither constitute a portion of this Agreement nor in any manner affect the construction of the provisions of this Agreement. The rules of construction set forth in 11 U.S.C. § 102 shall apply to this Agreement.

(e) This Agreement may be executed in multiple counterparts, each of which will be an original, but all of which together will constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective duly authorized representatives on the date first above written.

[Signature blocks to be inserted here]

Document comparison done by Workshare DeltaView on Friday, February 27, 2009
5:15:45 PM

Input:	
Document 1	interwovenSite://NYDMS/LEGAL/14311761/1
Document 2	interwovenSite://NYDMS/LEGAL/14311761/2
Rendering set	Basic K&E

Legend:	
<u>Insertion</u>	
Deletion	
<i>Moved from</i>	
<i>Moved to</i>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Redline Summary:		
No.	Change	Text
1	Change	"the meanings given to...of Reorganization Under" changed to "the meanings given to...of Reorganization Under"
2-3	Change	"Equity Security Holders...(as such Plan may" changed to "Equity Security Holders...(as such Plan may"
4-5	Change	"WHEREAS, on September 19,...Asbestos PI Committee," changed to "WHEREAS, on February 27,...Asbestos PI Committee,"
6-7	Change	"obligations set forth in...Agreement, relating" changed to "obligations set forth in...Agreement, relating"
8-9	Change	"policy or...Insurance Contributors" changed to "policy or...Insurance Contributors"
10-11	Change	"definition of Asbestos...Insurance Coverage," changed to "definition of Asbestos...Insurance Coverage,"

12	Change	"Asbestos In-Place...or actually provides" changed to "Asbestos In-Place...or actually provides"
13	Change	"potentially or actually...Claims, then such" changed to "potentially or actually...Claims, then such"
14	Change	"discovery and the...upon notice and request," changed to "discovery and the...upon notice and request,"
15	Change	"Insurance Settlement...Insurance Coverage," changed to "Insurance Settlement...Insurance Coverage,"
16	Change	"Asbestos In-Place...prior written consent" changed to "Asbestos In-Place...prior written consent"
17	Change	"Insurance Settlement...Insurance Coverage" changed to "Insurance Settlement...Insurance Coverage"
18	Change	"Asbestos In-Place...Asbestos PI Trust shall" changed to "Asbestos In-Place...Asbestos PI Trust shall"
19-20	Change	"insurance settlement...and coverage-in-place" changed to "insurance settlement...coverage-in-place"
21	Change	"coverage-in-place...oral, or otherwise," changed to "coverage-in-place...oral, or otherwise,"
22	Change	"Insurance Settlement...Insurance Coverage" changed to "Insurance Settlement...Insurance Coverage"
23	Change	"Asbestos In-Place...and described accurately" changed to "Asbestos In-Place...and described accurately"
24-25	Change	"described accurately on the attached Schedule 2;" changed to "described accurately on...Schedules 2 and 3;"
26	Change	"Insurance Settlement...Insurance Coverage" changed to "Insurance Settlement...Insurance Coverage"
27	Change	"Asbestos In-Place Insurance Coverage;" changed to "Asbestos In-Place...Reimbursement"

		Agreement;"
28	Change	"Insurance Settlement...Insurance Coverage," changed to "Insurance Settlement...Insurance Coverage,"
29	Change	"Asbestos In-Place...Insurance Contributors" changed to "Asbestos In-Place...Insurance Contributors"

Statistics:	
	Count
Insertions	16
Deletions	13
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	29