

## SHOOK & FLETCHER ASBESTOS SETTLEMENT TRUST

### ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

Adopted December 16, 2021

Pursuant to Section 5.9 of the Shook & Fletcher Asbestos Settlement Trust Claims Resolution Procedures the (“*CRP*”), the Shook & Fletcher Asbestos Settlement Trust (the “*Trust*”) hereby establishes the following Alternative Dispute Resolution (“*ADR*”) Procedures to resolve all present and future CRP Valued Asbestos Claims as that term is defined in the CRP. All capitalized terms herein shall be as defined and/or referenced within the CRP.

#### I. OVERVIEW

The Trust shall appoint a private adjudication coordinator (the “*Private Adjudication Coordinator*”), at the cost of the Trust, to administer these ADR Procedures. The Private Adjudication Coordinator appointed to serve during the Executive Director Conference phase may differ from the Private Adjudication Coordinator appointed to serve during the arbitration phase of the ADR process for any given claim.

To initiate these ADR Procedures, the claimant must make a written request to the Trust. The documents necessary for a claimant to pursue the ADR process will be available on the Trust’s website. Additionally, a claimant may request such documents from the Trust and, within twenty (20) days of a claimant’s request for ADR, the Trust will send the claimant an ADR packet containing all such documents. These ADR Procedures shall not be construed as imparting to any claimant any substantive or procedural rights beyond those conferred by the CRP.

The ADR process available to the claimant includes both non-binding and binding elements. The first stage is a mandatory Executive Director Conference to be utilized by the claimant and the Trust in proceeding toward settlement. 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 claimants are represented by the same counsel, unless the Trust, in its sole discretion, decides 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, however, the arbitrator or Executive Director must individually value the portion of each such claim for which Shook & Fletcher bears legal responsibility, using the valuation factors set forth in Section 5.2 of the CRP, and the claimants’ positions in the FIFO Processing Queue and FIFO Payment Queue must be separately maintained.

The requisite steps in the ADR process are as follows, in order:

#### **Mandatory ADR Proceedings (Two Stages)**

**Stage One: Executive Director Conference (by telephone)**

**Stage Two: Arbitration (Binding or Non-Binding)**

## **Initiation of ADR**

A claimant must submit an ADR request to the Trust (which must be in writing and sent by any means authorized by Section V(G) of these ADR Procedures). Within twenty (20) days of receiving such request for ADR, the Trust will send the claimant an ADR packet containing a copy of these ADR Procedures and the following items:

1. Form Affidavit of Completeness and Request for Executive Director Conference;
2. Election Form and Agreement to submit to Binding Arbitration; and
3. Election Form and Agreement to submit to Non-binding Arbitration.

Additionally, a copy of these ADR Procedures and the preceding items shall be available on the Trust's website.

**It is the claimant's responsibility to comply with all time deadlines set forth herein. Although the deadlines may be extended by agreement, the failure of the claimant to comply with a deadline without obtaining an extension will result in withdrawal of such claimant's claim as provided below. Promptly after a claimant fails to comply with a specified deadline without obtaining an extension, the Trust shall send such claimant written notice of the failure to comply. If the claimant does not take the specified action on the claim, then thirty (30) days thereafter such claim will be deemed withdrawn and such claim shall be removed from the FIFO Processing Queue or FIFO Payment Queue, as applicable.**

A claimant who wishes to proceed through the ADR process must take part in an Executive Director Conference before any form of arbitration.

If both parties agree to binding arbitration, then the claimant and the Trust waive their respective rights to seek a jury trial as set forth in the CRP.

If either party rejects a non-binding arbitration award, and the claimant has otherwise complied with the requirements of these ADR Procedures and the Plan, then the claimant may commence a lawsuit against the Trust in the Claimant's Jurisdiction, as that term is defined in Section 7.6 of the CRP. Only after either party rejects a non-binding arbitration award may a claimant then proceed to commence a lawsuit in the tort system.

## **II. ADR PROCEEDINGS SUMMARY**

### **A. Showing Required**

As set forth in the CRP, in order to establish a valid CRP Valued Asbestos Claim, a claimant must among other things demonstrate exposure to asbestos-containing products or services for which Shook & Fletcher Insulation Co. ("***Shook & Fletcher***") bears legal responsibility.

Notwithstanding anything herein to the contrary, in the event that a claimant's claim does not meet all the Medical/Exposure Criteria set forth in Section 5.2(e) of the CRP for one of the four Disease Categories and if the Executive Director or arbitrator, as applicable, is satisfied that such claimant has presented a claim that would be cognizable and valid in the tort system, the Executive Director or arbitrator, as applicable, may nevertheless award such claimant an amount based on the historic liquidated value of other similarly situated claims in the tort system for the same Disease Category, up to the Matrix Value (unless the claim qualifies as an Extraordinary Claim, in which case the award shall not exceed the Maximum Value), subject to the applicable Payment Percentage, Maximum Annual Payment and the Claims Payment Ratio, if any, based on Location of Exposure for the Disease Category closest to such claimant's asbestos-related disease.

**B. Information Provided**

The Private Adjudication Coordinator will provide the Executive Director or arbitrator, as applicable, with a complete schedule of categories of injuries and values assigned thereto in the Compensable Disease Matrix, along with the Maximum Values for Extraordinary Claims, as provided in the CRP. In addition, if the claim does not meet the presumptive Medical/Exposure Criteria for the Disease category in question, the Private Adjudication Coordinator shall provide the Executive Director or arbitrator, as applicable, with the historically liquidated values of other similarly situated claims in the tort system for the applicable Disease Category, as provided by the Trust and determined in accordance with Section 5.2(f)(iv).

**C. Executive Director Conference**

The purpose of the Executive Director Conference is to attempt to resolve any disputes over the approval of a claim or the categorization of a claim before the parties incur the time and expense of arbitration proceedings. The term Executive Director in these ADR Procedures refers to the person appointed by the Trust to conduct the Executive Director Conference, who may be the Executive Director of the Trust, counsel for the Trust, or any another representative of the Trust. In all cases, the person conducting the Executive Director Conference on behalf of the Trust shall have settlement authority.

The conference consists of an exchange of information and then a telephone conference between the claimant and/or his or her attorney or representative, and the Executive Director. Following the initial telephone conference, the parties may exchange additional information.

**D. Binding and Non-Binding Arbitration Procedures**

Upon completion of the Executive Director Conference, the claimant may request non-binding and/or binding arbitration. Binding arbitration will be conducted in the "final offer" format, also known as "baseball style" arbitration.

If the claim is arbitrated in either the binding or non-binding format, then the arbitrator shall return an award no greater than the Matrix Value for the relevant Disease Category set forth in Section 5.2(e) of the CRP for the injury in question (or the Disease Category closest to such Claimant's asbestos related disease, if applicable), unless the claim qualifies as an Extraordinary Claim pursuant to Section 5.3(a) of the CRP. If the claim qualifies as an Extraordinary Claim, the arbitrator shall return an award no greater than three times the Matrix Value for such claims as also set forth in Section 5.3(a) of the CRP (and referred to therein as the "Maximum Value").

If the claimant requests arbitration, either binding or non-binding, then the Trust shall execute the appropriate Election Form and Agreement. The Trust may not decline the claimant's election of either binding or non-binding arbitration, but reserves all rights to reject any award in a non-binding arbitration proceeding. If the parties agree to engage in binding arbitration, then the claimant and the Trust waive their respective rights to seek a jury trial as set forth in the CRP.

### **III. RULES GOVERNING EXECUTIVE DIRECTOR CONFERENCE**

#### **A. Election**

Within ninety (90) days of a claimant's receipt of the ADR packet from the Trust, the claimant must initiate the Executive Director Conference process by returning an executed Affidavit of Completeness and Request for Executive Director Conference to the Trust.

Within five (5) business days of the Trust's receipt of the signed Affidavit of Completeness and Request for Executive Director Conference, the Trust shall review and sign the executed Affidavit of Completeness and Request for Executive Director Conference and provide a copy to the claimant and the Private Adjudication Coordinator.

#### **B. Scheduling of Executive Director Conference**

The Private Adjudication Coordinator shall schedule the telephone portion of the Executive Director Conference with the claimant or claimant's counsel and the Trust's Executive Director to take place within sixty (60) days after receipt of the signed Affidavit of Completeness and Request for Executive Director Conference from the Trust. Scheduling of the telephone portion of conference shall be coordinated with the Executive Director and claimant or claimant's counsel, and if the Executive Director has multiple conferences to complete, they shall take place in the order received by the Executive Director, to the extent practicable.

#### **C. Submission of Materials to the Executive Director**

At least five (5) business days prior to the Executive Director Conference, the Private Adjudication Coordinator shall submit to the Executive Director the

executed Affidavit of Completeness and Request for Executive Director Conference as well as all materials submitted to the Trust by the claimant and factual information in the Trust file, if any, gathered by the Trust from other sources. The same information in the Trust file provided to the Executive Director shall also be provided to claimant at least five (5) business days prior to the Executive Director Conference, if a copy has not already been provided to claimant.

**D. Telephone Portion of Executive Director Conference**

After the submission of materials, the Executive Director and the claimant and/or his or her attorney or representative will have a conference that is conducted by telephone, and which will be in the nature of a settlement conference. Should the claimant's attorney participate in the Executive Director Conference without the claimant, the attorney must have settlement authority.

**E. Optional Additional Exchange of Information**

At the conclusion of the telephone portion of the Executive Director Conference, if the parties determine that additional information might assist with the approval of the claim or determining the value of the claim, the claimant will have seven (7) days from the date of the telephone portion of the Executive Director Conference to submit the additional information to the Trust, which will then have ten (10) days from the date the information is received to respond or (at its sole discretion) to provide additional information to the claimant to explain the Trust's position regarding a claim. The parties may then have further discussions or communications in the nature of a settlement conference.

**F. Conclusion of Executive Director Conference**

The Executive Director Conference process shall conclude when both parties agree in writing that the claim will not be resolved, or within sixty (60) days of the telephone portion of the Executive Director Conference, whichever is sooner.

**IV. RULES GOVERNING NON-BINDING AND BINDING ARBITRATION**

**A. Election by the Trust**

Following the conclusion of the Executive Director Conference, the Trust shall review the Election Form and Agreement for Binding or Non-binding Arbitration (*See Attachment B and Attachment C*) and within five (5) business days of receipt the Trust shall sign such agreement and shall immediately send a fully signed Arbitration Agreement to the Private Adjudication Coordinator.

**B. Selection of the Arbitrator**

1. As soon as reasonably possible after the receipt of the signed Arbitration Agreement, but no more than fifteen (15) days after the receipt of the signed

arbitration agreement, the Private Adjudication Coordinator shall select three potential arbitrators from a rotating list kept by the Private Adjudication Coordinator. Arbitrator's assignments will be made on a rotating basis nationally, by the Private Adjudication Coordinator. The Private Adjudication Coordinator shall promptly notify the arbitrator and the parties of the potential arbitrators' selection. If a potential arbitrator is unable or unwilling to serve, then a replacement selection will be made prior to notifying the Trust and the claimant of the potential arbitrators selected.

2. Within seven (7) days of receipt of the list of potential arbitrators, the Trust may select, and identify to the Private Adjudication Coordinator, one potential arbitrator to be stricken from the list. The Private Adjudication Coordinator shall then promptly notify the claimant of the Trust's selection, whereupon, within seven (7) days of the receipt of such notification, the claimant may select, and identify to the Private Adjudication Coordinator, a second potential arbitrator to be stricken from the list. The Private Adjudication Coordinator shall then notify all parties which potential arbitrator remains and will conduct the arbitration. If either the Trust or the claimant, or both, fails to exercise the right to strike an arbitrator from the list of potential arbitrators, the Private Adjudication Coordinator shall appoint from those potential arbitrators remaining the arbitrator next in rotation on the Trust's rotating list.
3. Any appointed arbitrator shall disclose to the Private Adjudication Coordinator any circumstances likely to affect impartiality including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or representatives. Upon receipt of such information from the arbitrator or another source, the Private Adjudication Coordinator shall communicate the information to the parties and, if the Private Adjudication Coordinator deems necessary, to the arbitrator and others. Upon objection of a party to the continued service, the Private Adjudication Coordinator shall determine whether the arbitrator should be disqualified and shall inform the parties of the decision, which shall be final.

### **C. Extraordinary Claims**

In the event that the Trust and/or the Executive Director has determined a claim to be an Extraordinary Claim, the Private Adjudication Coordinator shall inform the arbitrator, and the parties may submit a final request that exceeds the values ascribed to the type of injury in the Compensable Disease Matrix up to three (3) times the Matrix Value. In such circumstances, the arbitrator may issue an award in accordance with such final offer/request.

In the event that the Trust or the claimant disputes the determination by the Executive Director of whether a claim has extraordinary status, the arbitrator shall not be informed of the rationale of the decision, and shall re-examine the status of

such claim. If the arbitrator determines that such claim is not an Extraordinary Claim, the arbitrator shall not award such claim an amount in excess of the Matrix Value assigned to the appropriate Disease Category set forth in Section 5.2(e) of the CRP for the injury in question. If the arbitrator determines that such claim is an Extraordinary Claim, the arbitrator may award such Extraordinary Claim an amount that exceeds the values ascribed to the type of injury in the Compensable Disease Matrix up to three (3) times the Matrix Value for the injury in question.

**D. Final Offer or “Baseball Style” Binding Arbitration**

All binding arbitration shall be conducted in the “final offer” format, also known as “baseball style” arbitration. In the course of submitting the arbitration materials, as explained in these rules, the parties shall submit their final offer of settlement which shall also serve as the party’s demand for arbitration award. The arbitrator must choose from one of these two demands in determining the amount of the arbitration award.

**E. 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 that party’s positions and arguments. Each party may then submit a supplement to its written statement (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 addressing 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 pre-hearing conference.

**F. Initial Pre-Hearing Conference, Scheduling Hearing Date, Optional Video Conference for Arbitration Hearing**

1. Within fifteen (15) calendar days of the receipt of both party’s briefs, the Private Adjudication Coordinator shall contact the claimant, the arbitrator, and the Trust to schedule the initial pre-hearing conference. The pre-hearing conference shall be presided over by the arbitrator and held by telephone conference call.
2. During the initial pre-hearing conference, the arbitrator shall schedule the date and select the location of the arbitration hearing either at the location of the arbitrator or a location mutually agreeable by the parties. The arbitration hearing should be scheduled not less than twenty (20) days, and not more than forty (40) days, from the date of the initial pre-hearing conference. The Private Adjudication Coordinator will mail a confirmation notice of this date to the claimant and the Trust.
3. At the election of the claimant, the arbitration hearing may be conducted by video conference. If the claimant so elects, the Private Adjudication Coordinator will make appropriate arrangements for the Trust and the

arbitrator to participate by video conference. The Trust shall pay for its and the arbitrator's cost for use of video conference equipment and facilities. The claimant shall only be responsible for his/her costs (including participation by claimant's counsel).

4. During the initial pre-trial conference, the arbitrator shall seek to achieve agreement between the parties on:
  - a. narrowing the issues (through methods including but not limited to stipulation of facts);
  - b. whether the claimant will appear at the hearing (at the claimant's sole discretion);
  - c. any legal issues;
  - d. and any other matters that will expedite the arbitration proceedings.

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

**G. No Discovery With Limited Exceptions**

There shall be no discovery except as specifically provided below. The purpose of the arbitration is to resolve differences between the Trust and the claimant based only on the documents that have been previously submitted to the Trust by the claimant and any other documents relied upon by the Trust to make a settlement offer to the claimant or to disallow the claim. However, if the Trust commissions an independent medical examination or a third-party medical review upon which the Trust relies in evaluating the claimant's claim, then the claimant may depose the medical professional conducting the review or examination after having a reasonable opportunity to study any report or written opinion generated by the medical professional.

**H. No Record of Proceedings Unless Requested by Arbitrator**

There will be no record or transcript of the proceedings unless and except the arbitrator requests a transcript to assist him/her in reviewing the evidence or otherwise to aid in the decision making process. In the event an arbitrator requests a transcript prior to the arbitration, then the Trust shall arrange for a court reporter and shall pay all expenses associated with the preparation of the transcript. In no event, however, will the transcript be made available to the parties, nor shall any time required for preparation of the transcript affect the time for the arbitrator to render a decision.

**I. Postponement of Hearing**

The arbitrator for good 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 all of the parties agree.

**J. Duration of Hearings**

The arbitrator shall complete the hearing in one day except for good cause shown. The arbitrator shall set time limits on the respective presentations, and shall enforce those set limits. The parties shall request no more than three hours apiece for presentation of their cases.

**K. Procedure at Arbitration Hearing**

**1. Testimony Under Oath or Affirmation**

If the claimant or any other witness testifies, such testimony shall be under oath or affirmation administered by the arbitrator.

**2. Conduct of Hearing**

At the opening of the arbitration hearing, the arbitrator shall make a written record of the time, place, and date of the hearing, and the presence of the parties and counsel.

**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 admissibility, relevance, materiality and weight of the evidence offered.

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

- (i) The documents supplied to the Trust prior to the execution of the Affidavit of Completeness;
- (ii) Non-binding or binding arbitration election agreement;
- (iii) Testimony of the claimant. The claimant may offer evidence regarding the nature and extent of compensable damages, including physical injuries. The Trust may cross-examine on these issues. At the claimant's option, a claimant's deposition, including videotaped testimony, shall be admissible into evidence in lieu of live testimony.

- (iv) Any additional deposition testimony taken by the Trust or the claimant, and provided to both sides, prior to the initiation of ADR.
- (v) Any evidence submitted or exchanged during the Executive Director Conference.
- (vi) Arguments of the claimant and the Trust. The arguments shall be limited to the evidence contained and the issues raised in the documents or testimony referred to above and shall be limited to ½ hour for each party. The arbitrator shall disregard any effort to introduce further evidence or issues in argument.

**L. Arbitration in the Absence of a Party or Representative**

The claimant may choose whether or not to attend the arbitration in person in his/her sole discretion. The arbitration may proceed in the absence of any party or representative who, after due notice, chooses not to be present, fails to be present or fails to obtain a postponement if he/she desires to be present but cannot. An award shall not be made against a party solely for the failure to appear. The arbitrator shall require the party who is present to submit such evidence as the arbitrator may require for the making of an award.

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

When the parties state that they have no farther evidence or witnesses to offer, and after the parties have made their closing arguments, if any, the arbitrator shall declare the hearing closed. Post-hearing briefs will be permitted only upon order of the arbitrator and shall be served upon the arbitrator no later than ten (10) ten days after the hearing is closed. Such briefs shall be no longer than five (5) double spaced pages. The time limit within which the arbitrator is required to make the award shall commence to run upon the closing of the hearing or the submission of post-hearing briefs, whichever is later.

**N. Option to Waive Oral Hearings**

The parties may request a waiver of oral hearings. Oral hearings will only be waived if all parties consent.

**O. Arbitration Decision**

1. The arbitrator shall issue a decision no later than fifteen (15) calendar days after the date of the close of the hearing or submission of post-hearing briefs, whichever is later.
2. The decision shall state only the amount of the award, if any. The decision shall not state reasons for the award. 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. Notwithstanding the foregoing, the arbitrator shall be permitted to consider and allow punitive damages arising in any action or cause of action where the applicable law is determined to be the Alabama Wrongful Death Statute; excluding, however, damages based on wanton, reckless, gross, outrageous or intentional misconducts or acts. The award shall dispose of all monetary claims presented to the arbitrator and shall determine fully the only issue to be decided pursuant to the arbitration agreement: the amount, if any, at which the claim value should be fixed. To assist the arbitrator, the Private Adjudication Coordinator will provide the arbitrator a schedule setting forth the Disease Categories values associated with each category and the Maximum Value for Extraordinary Claims. Unless the Trust has determined that a claim is entitled to extraordinary treatment during the claims review process, the arbitrator's award shall not exceed the amount for the appropriate Disease Category in the Compensable Disease Matrix.

**P. Payment of Award**

Pursuant to the terms of the arbitration agreement, the Trust will promptly send to the claimant the appropriate release. Upon receipt of the release by the Trust, the Trust will then pay the claim based upon the binding or, if accepted by both parties, the non-binding award, in accordance with the CRP provisions in effect at that time.

**Q. Rejection of Non-Binding Award**

1. A party in a non-binding arbitration proceeding that wishes to reject the award must notify the other party within thirty (30) days from the date a non-binding award is issued. If no rejection is received or sent by the Trust, then the decision will stand and the award will be deemed accepted by both parties and the Trust will promptly send to the claimant the appropriate release. Upon receipt of the release by the Trust, the Trust will then pay the claim in accordance with the CRP provisions in effect at that time.

**2. Procedure for Rejected Award**

**a. Rejection by Claimant**

If claimant has sent the Trust timely notification of rejection of a non-binding award and wishes to pursue the claim, then the claimant must notify the Trust no later than twenty (20) days from the date of the non-binding award. If notification is received within the twenty (20) day deadline and claimant wishes to pursue the claim, then the Trust will within fifteen (15) days of receipt of this notification send the claimant an authorization to commence litigation.

**b. Rejection by Trust**

If the Trust rejects the non-binding award, then claimant may elect binding arbitration or request that the Trust forward the authorization to commence litigation.

## **V. GENERAL ADR PROCEDURES**

### **A. ADR Submissions**

The claimant's submissions (with the exception of the binding arbitration's written argument) will be reviewed by the Private Adjudication Coordinator before they are submitted to the Executive Director or arbitrator. If they contain materials not previously submitted in support of the claim, then the Trust claims department will review the additional information and determine the effect, if any, it would have on the Trust's evaluation of the claim. In appropriate situations, a new offer may be made by the Trust to the claimant.

If an attorney or other agent represents the claimant, both the attorney (or agent) *and* the claimant must also sign the Election and Agreement for Binding Arbitration. The attorney or agent may not sign in place of, or for, the claimant unless the claimant is incapacitated, incompetent or deceased and the attorney or agent has been designated legally to act on the claimant's behalf. Documentation of this legal designation will be required.

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

As a general matter, there shall be no grouping or bundling of claims by separate claimants at any stage of the ADR or arbitrations even if the claims are related and/or the claimants have the same counsel. Each claimant must proceed individually through the ADR and arbitration processes with all claims that claimant may have or represent. 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 Trust, in its sole discretion, may decide that it would be expeditious to allow the conduct of arbitration proceeding with respect to more than one claim of different exposed persons, provided that the arbitrator individually values each such claim in accordance with the valuation factors set forth in Section 5.2(f) of the CRP, and the respective claimants' separate positions in the FIFO Processing Queue and FIFO Payment Queues are maintained.

### **C. No *Ex Parte* Communication**

There shall be no *ex parte* communication between an arbitrator and any counsel or party in any matter. All correspondence between the arbitrator and the parties will be facilitated by the Private Adjudication Coordinator.

### **D. Claims and Defenses**

All available claims and defenses which exist under the law subject to the claimant's election under the CRP shall be available to both sides.

**E. Costs of ADR**

**1. ADR Expenses**

The Trust will pay the arbitrator's reasonable hourly rate for non-binding or binding arbitration, including time spent preparing for the arbitration. In no case shall such fee exceed \$2,000.00 per claim; provided, however, that the Trust may, in its sole discretion, allow a higher arbitrator's fee under appropriate circumstances as shall be set forth in the Trust's agreement with the arbitrator. The Trust will assume any costs of meeting and hearing facilities for arbitration. Claimants will pay their costs and attorney fees, including any expenses incurred should the claimant testify.

**2. Filing Fee**

The claimant making a request for ADR shall have paid the IR Fee, unless the CPR has been modified to discontinue such a fee.

**F. Waiver of Objection to Rules Infraction**

Either party who continues with the Executive Director Conference, non-binding arbitration, or binding arbitration proceeding after knowing that any provision or requirement of the applicable rules has not been complied with, and who fails to state a timely objection in writing to the arbitrator or the Executive Director shall be deemed to have waived the right to object. A timely objection by a claimant must be stated in writing and served on the Trust in accordance with these rules with instructions to forward the objection to the Private Adjudication Coordinator and to the arbitrator or the Executive Director. A timely objection by the Trust will be served on the claimant and sent to the Private Adjudication Coordinator with instructions to forward to the arbitrator or the Executive Director.

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

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

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

4. By personal service, within or without the state where the Executive Conference or arbitration is to be held, whether the party is within or without the United States of America.

**H. Time Limits Triggered Upon Receipt**

1. Documents sent by U.S. mail under these rules shall be deemed received three (3) business days after the date of postmark. Documents sent via overnight mail shall be deemed received on the next business day after mailing.
2. Documents sent via facsimile transmission or electronic mail shall be deemed received on the business day that the transmission is confirmed by the transmitting equipment.

**I. Exclusion of Liability**

Neither the Private Adjudication Coordinator, the Executive Director nor any arbitrator shall be liable to any party for any act or omission in connection with any evaluation or proceedings conducted under these rules.

**J. Relationship of Rules to Form Affidavit of Completeness and Request for Executive Director Conference, Election Form and Agreement to submit to Binding Arbitration; and Election Form and Agreement to submit to Non-binding Arbitration**

These Rules shall be deemed a part of, and incorporated by reference in, every duly executed ADR agreement or arbitration agreement and shall be binding on all parties.

**K. Arbitrator Immunity**

Arbitrators who serve pursuant to these rules shall have the same immunity as judges for their official acts.

**L. Jurisdiction**

Any dispute under these rules shall be subject to the jurisdiction of the United States Bankruptcy Court of the Northern District of Alabama, Southern Division (the "*Bankruptcy Court*").

**M. Statement of Confidentiality**

1. All ADR and arbitration proceedings and information relating to the proceeding will be confidential. Neither party shall disclose the information obtained during the proceedings, nor the valuation placed on the case by an arbitrator or Executive Director, to anyone or use such information or valuation in any further proceeding except as necessary to maintain the

Trust's obligation, if any, to report to the Bankruptcy Court and to provide ongoing evaluation by the Trust, the TAC and the FCR. Except for documents prepared by a non-party which are introduced as evidence before an arbitrator or Executive Director, any document prepared by another 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 and arbitration proceedings shall be deemed a settlement conference pursuant to Rule 408 of the Federal Rules of Evidence. Except by agreement of the parties, the parties will not introduce into evidence in any other proceedings the fact that there was an arbitration, the nature or amount of the award, and written submissions may not be used for purposes of showing accord and satisfaction or res judicata. In binding arbitration, the decision of the arbitrator may be admissible in the event the claimant improperly seeks to litigate the claim. The binding arbitration award shall be admissible in support of a motion to enjoin such litigation. No arbitrator or Executive Director will ever be subpoenaed or otherwise required by any party or any third party, to testify or produce records, notes or work product in any future proceedings.

#### **N. Amendments**

Except as otherwise ruled by the Bankruptcy Court, these rules, as they may from time to time be amended by the Trustees, will be binding on all parties in the form in which they are in force on the date the claimant signs the election agreement.

#### **O. Time Limits**

The time limits included in these ADR Procedures are to be strictly enforced. Any time limit set forth herein may be extended by agreement of the parties or for cause shown to the neutral party presiding over the particular ADR or arbitration proceeding. Any request for extension, however, shall first be made to the opposing party and then if the parties cannot agree, shall be submitted to the Private Adjudication Coordinator who will forward the request to the Executive Director or arbitrator as the case may be.

Although the deadlines may be extended by agreement, failure to comply with a deadline without obtaining an extension will result in withdrawal of the claim as provided below. Promptly after a claimant fails to comply with a specified deadline without obtaining an extension, the Trust shall send the claimant written notice of the failure to comply. If the claimant does not take the specified action on the claim, then thirty (30) days thereafter the claim will be deemed withdrawn and such claim shall be removed from the FIFO Processing Queue or the FIFO Payment Queue, as applicable.

ATTACHMENT A

SHOOK & FLETCHER ASBESTOS SETTLEMENT TRUST ALTERNATE DISPUTE  
RESOLUTION PROCEDURES

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

AFFIDAVIT OF COMPLETENESS AND REQUEST FOR  
EXECUTIVE DIRECTOR CONFERENCE

I, \_\_\_\_\_, as the person [or legal representative of the person] who has filed a Claim against the Shook & Fletcher Asbestos Settlement Trust (the “Trust”), being duly sworn, depose and say:

I verify that, except to the extent other evidence is admitted pursuant to these Alternative Dispute Resolution Procedures (the “*ADR Procedures*”) established by the Trust, all information with respect to my Trust Claim number \_\_\_\_\_ that will be considered in the Alternative Dispute Resolution process has been previously provided to the Trust.

I will attempt in good faith to resolve the dispute with the Trust relating to my Claim promptly by participating in the Executive Director Conference under the terms set forth for the Executive Director Conference under the ADR Procedures. I have been provided with a copy of the ADR Procedures. I understand and agree to those rules in the course of the Executive Director Conference and in any subsequent Arbitration.

I certify (or declare) under penalty of perjury, that the foregoing is true and correct.

Dated: \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Claimant or Claimant’s Attorney

Accepted and Consented to:

SHOOK & FLETCHER ASBESTOS SETTLEMENT TRUST

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**ATTACHMENT B**

**SHOOK & FLETCHER ASBESTOS SETTLEMENT TRUST ALTERNATE DISPUTE  
RESOLUTION PROCEDURES**

**ELECTION FORM AND AGREEMENT  
FOR BINDING ARBITRATION**

I, \_\_\_\_\_ (“*Claimant*”), Claim No. \_\_\_\_\_,  
hereby elect and agree to:

Submit all disputes with the Shook & Fletcher Asbestos Settlement Trust (the “*Trust*”) relating to my claim to Binding Arbitration under the terms set forth for Binding Arbitration procedure established by the Trust. I have been provided with a copy of the rules relating to Binding Arbitration established by the Trust. I understand and agree to those rules in the course of the Binding Arbitration. I understand that as a result of this agreement if accepted by the Trust, I will waive my rights to litigate my claim in Court including the right to trial by jury and I will be bound by the arbitration award.

Dated: \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Claimant

\_\_\_\_\_  
Claimant’s Attorney

**Claimant and attorney must both sign**

Accepted and Consented to:

By accepting this agreement the Trust waives its rights to litigate the claimant’s claim in Court including the right to trial by jury and agrees to be bound by the arbitration award.

SHOOK & FLETCHER ASBESTOS SETTLEMENT TRUST

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

ATTACHMENT C

SHOOK & FLETCHER ASBESTOS SETTLEMENT TRUST  
ALTERNATE DISPUTE RESOLUTION PROCEDURES

**ELECTION FORM AND AGREEMENT FOR NON-BINDING ARBITRATION**

I, \_\_\_\_\_ (“*Claimant*”), Claim No. \_\_\_\_\_,  
hereby elect and agree to:

Submit all disputes with the Shook & Fletcher Asbestos Settlement Trust (the “*Trust*”) relating to my claim to Non-Binding Arbitration under the rules set forth for Non-Binding Arbitration procedure established by the Trust. I have been provided with a copy of the rules relating to Non-Binding Arbitration established by the Trust. I understand and agree to those rules in the course of the Non-Binding Arbitration.

Dated: \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Claimant or Claimant’s Attorney

Accepted and Consented to:

SHOOK & FLETCHER ASBESTOS SETTLEMENT TRUST

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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