

**A. P. GREEN SILICA PI TRUST**  
**ALTERNATIVE DISPUTE RESOLUTION PROCEDURES**

Pursuant to section 5.10 of the A. P. Green Silica PI Trust Trust Distribution Procedures (the “TDP”), the APG Silica PI Trust (the “Silica PI Trust”) hereby establishes the following Alternative Dispute Resolution (“ADR”) Procedures to resolve all present and future Silica PI Trust Claims, other than Qualifying Settled Silica PI Trust Claims, as those terms are defined in the Debtors’ Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code. All capitalized terms herein shall be as defined and/or referenced within the TDP and in the Uniform Glossary of Terms for Plan Documents attached as Exhibit A to the Disclosure Statement.

Article I  
**General Rules**

1.1 **Mandatory Exhaustion.** As a condition precedent to a Claimant seeking to have his/her Non-Expedited Claim arbitrated as provided for in Article IV of these Rules, the Claimant must first submit to the mediation process provided for in Article III hereof. Under no circumstances may a Claimant bring suit against the Trust (or continue a suit previously brought but stayed) without first complying with these Rules.

1.2 **Service of Notices.** Because these Rules provide that certain actions must be taken within specified periods or be barred, any notice that a party is required to serve under the Rules shall only be served by certified mail, return receipt requested, or by a nationally recognized overnight courier.

1.3 **Enforcement of Response Dates.** Because the Trustee has the responsibility of ensuring that all Claims are treated fairly, the Trustee shall strictly enforce all response periods fixed by these Rules.

Article II  
**Review by Trust**

2.1 **Notice of Claims Process.** The Trust shall, within 14 days after a Claimant electing Arbitration in accordance with Section 5.10 of the TDP, provide a copy of these Rules to counsel for the Claimant.

2.2 **Obligation to File Supplemental Proof of Claim; Withdrawal.**

(a) If a Claimant elects to continue to have his/her claim arbitrated under these Rules, the Claimant shall, within 120 days after his/her counsel receives a copy of these Rules, submit to the Trust on the form styled “Proof of Claim for Arbitration” a supplemental proof of claim (the “Supplemental POC”). If a Claimant timely files a Supplemental POC, the Trust shall value the Claim and shall communicate to the Claimant in writing its proposed offer of settlement (the “Settlement Offer”).

(b) Rather than filing a Supplemental POC, the Claimant may, within 120 days after his/her counsel receives a copy of these Rules, elect to withdraw it (a “Withdrawal Election”). A Claimant shall affect a Withdrawal Election by filing a notice of withdrawal with the Trust on the form prescribed by it. Once made, a Withdrawal Election is final and may not be reversed or modified.

(c) If a Claimant does not timely file a Supplemental POC or a Withdrawal Election, the Claimant shall be deemed to have filed a Withdrawal Election. Upon a Withdrawal Election, any statute of limitation for filing claims against the Trust shall be tolled, and such election shall be without prejudice to the Claimant to file a subsequent Claim.

(d) In the interests of fairness, all Claims under these Rules will be processed on a “first in, first out” basis by year of receipt of the original claim by the Trust.

2.3. Acceptance or Rejection of Offer. A Claimant may, within 45 days after the Trust makes a Settlement Offer (with that 45 day period measured from the date of the postmark) either (a) accept or reject a Settlement Offer or (b) file an Election Withdrawal. If the Claimant accepts the Settlement Offer by executing and returning the release included with the Settlement Offer, the Trust shall (if obligated to do so under the Settlement Offer) place the claim in the FIFO Payment Queue. If a Claimant rejects a Settlement Offer, he/she shall do so by filing a Notice of Rejection and Request for Mediation (a “Request for Mediation”). If a Claimant does not timely file either a Request for Mediation or a Withdrawal Election, the Claimant shall be deemed to have accepted the Settlement Offer, and the Trust shall, upon its receipt of a release satisfactory to the Trustee in his sole discretion, promptly place the claim in the FIFO Payment Queue.

### Article III Mediation

#### 3.1 Initiation of Mediation Process.

(a) Mandatory Mediation. If a Claimant timely rejects the Settlement Offer, that rejection obligates the Claimant to submit to mediation.

(b) Appointment of the Mediator. The Trustee shall, with the consent of the TAC, appoint three individuals each with experience in silica litigation (the “Mediators”) to mediate all disputes between the Trust and each Claimant that has filed a timely Request for Mediation. Each Mediator shall be appointed for a renewable one-year term (a “Term”). During a Term, a Mediator may not be removed except for cause, and then only with the consent of the TAC. The Trust shall pay the Mediators, and all of the Mediators shall be paid at the same rate. The Trust shall use its best efforts to evenly divide the Requests for Mediation among the Mediators.

#### 3.2 Conducting the Mediation.

(a) Delivery of File; Required Attendance. Upon the Trust receiving a Request for Mediation, it shall promptly forward to a Mediator the file it maintains on the Claim. Mediation under this Article III shall take place only in Pittsburgh, Pennsylvania, and a

representative of the Trust and the Claimant or his/her representative shall appear in person before the Mediator. Because mediations must take place in Pittsburgh, both the Trust and the Mediators shall use their best efforts to schedule mediation sessions in a manner convenient for counsel who have more than one Request for Mediation pending at one time.

(b) No Additions to Record. From the time a Claimant rejects the Settlement Offer and until the Claimant files a Request for Arbitration (as that term is defined in 3.2(c) below), neither the Trust nor the Claimant may supplement the record on which the Trust based its initial determination as to how the Trust proposed to treat the Claimant's Claim.

(c) Resolution as Goal. The Mediator shall not hear evidence; rather, the Mediator shall use his/her best efforts to resolve the classification of, and valuation of, a Claim in a manner acceptable to both the Trust and the Claimant. If the Trust and the Claimant resolve all (but not less than all) of the issues outstanding with respect to the Claim, the parties shall stipulate in writing to the terms of the agreement and the Trust shall promptly place the claim in the FIFO Payment Queue. If, on the other hand, the Mediator concludes in his/her sole discretion that the Trust and the Claimant cannot resolve through mediation all (but not less than all) of the issues outstanding with respect to the Claimant's Claim, the Mediator shall terminate the mediation. Promptly thereafter, the Mediator shall, by certified mail, return receipt requested, notify the Claimant that he/she may, within 45 days of the date of the notice, request that the Claim be arbitrated (a "Request for Arbitration").

(d) Failure to Timely Request Arbitration. If the Claimant does not make a timely Request for Arbitration, the Claimant will be deemed to have abandoned his/her Claim, and the Trust shall have no further liability to the Claimant.

#### Article IV General Rules for Arbitrating Claims

4.1 Application of Rules. In the event that a Claimant seeks to arbitrate a Claim, the provisions of this Article IV shall apply. Arbitration under these Rules shall take place only in Pittsburgh, Pennsylvania. To the extent not inconsistent with these Rules, the provisions of the Federal Arbitration Act, 9 U.S.C. §§ 1 *et seq.* (the "Arbitration Act") shall supplement this Article IV, and an arbitrator appointed hereunder shall, unless Article V provides otherwise, have all of the powers granted to arbitrators in the Arbitration Act.

4.2 Tolling of Statute of Limitations. In all cases governed by these Rules, the statute of limitations applicable to a Claimant will be tolled as of the earlier of the dates the Claim was filed with the Trust or the date on which the Claimant filed his/her complaint against an A.P. Green Entity or General Refractories, as the case may be, and the right to a jury trial shall be preserved with the defendant being solely the Trust. To the extent the statute of limitations has been tolled, it shall commence running 30 days after entry of a non-binding arbitration award.

4.3 Appointment of Arbitrators.

(a) Panel of Arbitrators. The Trust shall establish and maintain a panel of five to seven qualified arbitrators approved by the TAC (the “Arbitration Panel”). The Trust shall randomly rotate cases among the Arbitration Panel as cases are received, and the selected arbitrator shall administer the arbitration. An arbitrator may be removed by the Trustee with the consent of the TAC. In the event of resignation, death or removal of an arbitrator, the Trustee shall appoint a new arbitrator with the consent of the TAC.

(b) Qualifying the Arbitrator. No member of the Arbitration Panel shall serve as an arbitrator in any arbitration in which that person has any financial or personal interest. An arbitrator shall disclose any circumstances likely to create a reasonable appearance of partiality toward a party either directly or through a professional or personal association.

(c) Arbitrator’s Fee. Arbitrators shall be compensated by the Trust at standard rates to be determined. Reasonable expenses of the arbitrator approved in advance by the Trust shall be reimbursed by the Trust consistent with these Rules. Payment by the Trust to the arbitrator shall be made promptly upon receipt of the arbitrator’s invoice.

4.4 Initiating the Arbitration Process. A Request for Arbitration shall be made on the form prescribed by the Trust. The Claimant shall send the completed Request for Arbitration to the following address:

APG Silica PI Trust  
c/o Trust Services, Inc.  
2716 Lee Street, Suite 500  
Greenville, Texas 75401-4183

The Request for Arbitration must specify whether the Claimant elects binding or non-binding arbitration. *In the event the Claimant makes no such selection, the Claimant conclusively will have presumed to accept binding arbitration.* The arbitrator shall promptly notify both the Trust and the Claimant of the date, time and place of the arbitration.

4.5 Establishing the Arbitration Process. After selection of the arbitrator, the Claimant and Trust shall attempt to agree upon the exhibits and record to be submitted to the arbitrator. Objections to exhibits shall be decided by the arbitrator. To minimize transaction costs for both Claimants and the Trust, and if both parties consent, arbitrations may be based solely on written submissions. If the arbitrator will hear testimony, the hearing must be conducted in person and only in Pittsburgh, Pennsylvania. The arbitrator shall advise Claimants in writing of all deadlines for filing their submissions, and of the date, time and arrangements for any hearing. Claimants may request a change in the date and time (and place where relevant) for the mutual convenience of the Claimants or their attorneys.

4.6 Oath and Declaration. All oral or written testimony shall be given under oath, unless the parties agree to waive the oath. All evidence submitted by attorneys for Claimants shall be accompanied by sworn declarations by the submitting attorney under penalty of perjury attesting to its accuracy, authenticity and validity.

4.7 Burden of Proof. The Claimant shall have the burden of proving by a preponderance of the evidence all of the substantive elements of his/her Claim.

4.8 Stenographic Record. A stenographic or oral record of the hearing may be requested by either party. The cost of the record shall be paid by the party requesting it, and a copy of the record shall be made available to other parties at their own expense. If the arbitrator requests a stenographic record, the cost shall be paid by the Trust, and the record shall be made available to both parties at the expense of the Trust.

4.9 Arbitration in the Absence of a Party or Counsel. If a party or its counsel fails to appear at an arbitration after due notice, the arbitration may proceed in the absence of such party or counsel.

4.10 Order of Proceedings. The arbitrator shall begin the hearing by recording the place, time and date of the hearing and all appearances. Thereafter, the arbitrator shall record the final demand and final offer of the parties and shall summarize for the record any evidence that was previously submitted to the arbitrator. The arbitrator may, at the beginning of the hearing, rule on the admissibility of the evidence presented prior to the hearing pursuant to the rules established in paragraph 4.11 below. The hearing shall consist of brief opening remarks, direct and cross-examination and final argument; the time for which and issues to be addressed shall be at the sole discretion of the arbitrator. The Claimant shall present his/her evidence first, followed by the Trust. The Claimant may request an opportunity to rebut, but whether to allow rebuttal shall be at the sole discretion of the arbitrator. After the arbitrator has received all of the evidence that he/she may allow, each party shall submit to the opposing party and to the arbitrator a brief containing that party's positions and arguments pursuant to a schedule fixed by the arbitrator. Each party may then respond within the time limits established by the arbitrator to the opposing party's positions and arguments. Other submissions may be made at the discretion of the arbitrator. The arbitrator shall notify the parties when he/she considers the record to be closed.

4.11 Evidence.

The parties may offer such evidence as is relevant and material to the dispute and shall produce such additional evidence as the arbitrator may deem necessary to reach an understanding of the pending dispute. The arbitrator shall, in a manner consistent with these rules, judge the relevancy and materiality of the evidence offered, and adherence to the rules of evidence shall not be necessary. No documentary evidence, written report, or written opinion of an expert may be offered at the hearing which was not provided to the other party at least fourteen (14) days in advance of the hearing unless for good cause shown at the sole discretion of the arbitrator.

Arbitrators may issue subpoenas, if necessary, for documents deemed material as evidence in the case, and they may subpoena witnesses to appear before them based on a good faith showing that the witness is necessary and relevant to the issue in dispute. If the Claimant has previously answered interrogatories pursuant to litigation with co-defendants, those interrogatories may be submitted to the Trust with the Claimant's Request for Arbitration form and supporting

submissions. The Claimant may also submit any depositions taken in an action in the tort system. For the purpose of minimizing costs, depositions in the subject arbitration shall not be permitted.

The arbitrator shall fix a discovery schedule and may in his/her sole discretion limit the extent of discovery. All disputes concerning discovery shall be presented in a conference call to the arbitrator for resolution. The arbitrator has the authority to enforce timely compliance with requests for discovery, and the arbitrator shall have all of the power granted to a court under Federal Rule of Civil Procedure 37.

Evidence considered by the arbitrator shall generally be limited to the evidence submitted to the Trust during the individualized evaluation of the claim. Findings of fact, a verdict or a judgment involving the Claimant and another defendant in the tort system may be admitted into evidence, but shall not be binding on the arbitrator for any purpose. In addition, any relevant evidence submitted in such proceeding may be introduced by either party to the extent consistent with these Rules.

4.12 Witnesses. A party that intends to call witnesses to testify shall identify those witnesses to the arbitrator and the other party at least 14 days prior to the date of the hearing. Should a Claimant fail to timely identify a witness, the arbitrator will not consider testimony, reports or records of that witness. Witnesses may, at the discretion of the arbitrator, testify under oath by telephone or by video conferencing. Cross-examination will be permitted only at the sole discretion of the arbitrator. The Trust reserves the right to call in its presentation the Claimant's medical expert(s) or lay witnesses for the purpose of cross-examination.

4.13 Expenses. The expenses of witnesses for either side shall be paid by the party calling such witnesses. All other expenses of the arbitration, including the fees and expenses of the arbitrator and the expenses of any witness called at the direct request of the arbitrator shall be paid by the Trust.

4.14 Authenticity. Records deemed authentic shall include medical and social security records, trial and deposition transcripts, interrogatories and other similar litigation discovery unless specifically challenged in advance of the hearing. Evidence of a prior settlement with, or trial verdict or judgment against, a predecessor in interest to the Trust shall be presumed authentic and reliable by the arbitrator if the following information is submitted to the arbitrator without challenge: case name, number, venue, date of settlement (or verdict or judgment) and settlement amount.

4.15 Evidence by Affidavit and Post-Hearing Filing of Documents. The arbitrator may receive and consider the evidence of witnesses by affidavit, deposition or, in the case of medical or other expert opinions, by report, and shall give it only such weight as the arbitrator deems it entitled to after consideration of any objection made to its admission; provided, however, that such medical or other expert opinions are subject to the requirements of Section 5.7(a)(2) Credibility of Medical Evidence of the TDP. Expert witnesses are deemed qualified unless an objection is filed with the arbitrator seven (7) days prior to the hearing. In the event that the arbitrator rules a medical or other expert unqualified, the party proposing such expert shall be

afforded an opportunity to substitute another expert and/or report for good cause in the sole discretion of the arbitrator.

4.16 Closing of Hearing. The arbitrator shall specifically inquire of all parties whether they have need to be heard further. Upon receiving negative replies, or if satisfied that the record is complete, the arbitrator shall declare the hearing closed and the time of the hearing's closing shall be recorded. No legal briefs are to be filed unless specifically requested by the arbitrator. The time limit within which the arbitrator is required to make his/her decision shall commence to run, in the absence of other agreements by the parties, upon the closing of the hearing.

4.17 Reopening of Hearing. The hearing may be reopened by the arbitrator at will or upon application of a party at any time before the award is made; *provided, however*, if reopening the hearing would prevent the making of the award within thirty days, the hearing shall not be reopened.

4.18 Confidentiality and Privacy at Hearings. The arbitrator shall maintain the privacy of the hearings and shall not be a witness in any subsequent or collateral proceedings, including any challenge to the award. The arbitrator shall have the power to exclude any witness, other than a party or other essential person, during the testimony of any other witness. Only parties in interest and immediate family members of a Claimant may attend a hearing.

4.19 Waiver of Rules. Any party who proceeds with the arbitration after knowledge that any provision or requirement of these rules has not been complied with and who fails to state objections thereto in writing shall be deemed to have waived the right to object.

4.20 Communication with Arbitrator. Unless otherwise permitted by these Rules, there shall be no ex parte communications with the arbitrator.

4.21 Time of Award. The arbitrator shall render his/her decision promptly and, unless otherwise agreed by the parties, no later than thirty days from the date of the closing of the hearing, or, if oral hearings have been waived, from the date of transmitting the final statements and proofs to the arbitrator. *Arbitration awards are to be compensatory only, and no punitive or exemplary damages may be paid by the Trust.*

4.22 Limits on Award. The arbitrator shall return no award for an amount greater than the Maximum Value for the Disease Category established in the TDP, in which the Claim properly falls. The arbitrator shall not consider the Payment Percentage (as that term is defined in the TDP) in determining the value of any Claim.

4.23 Form of Award. The award shall be in writing and shall be signed by the arbitrator with copies provided to all counsel and the Trust. The award shall be accompanied by a short statement of findings by the arbitrator.

4.24 Award Upon Settlement. If the parties settle their dispute during the course of the arbitration, the arbitrator shall, upon their request, set forth the terms of the agreed settlement in

an award. Any award made pursuant to an agreed settlement shall be deemed to have been made under binding arbitration, and such an award shall be deemed to have conclusively liquidated the Claim.

#### 4.25 Effect of Award.

(a) A decision made pursuant to binding arbitration shall have the effect of conclusively liquidating the Claimant's Claim, and neither the Trust nor the Claimant shall have the right to appeal or contest any such award except for the grounds set forth in Section 10 of the Arbitration Act, 9 U.S.C. § 10. Only Claimants who select non-binding arbitration may proceed to litigation.

(b) If the arbitrator makes an award in favor of the Claimant, the Trust shall, upon its receipt of a release satisfactory to the Trustee in his sole discretion, promptly place the claim in the FIFO Payment Queue.

(c) If either party believes the award contains a misidentification of a party or that a mathematical or typographical error is involved, the party shall notify the arbitrator and the other party in writing within ten business days of the party's receipt of the award. The issue shall be submitted to the arbitrator for an explanation and possible correction.

4.26 Applications to Court and Exclusion of Liability. No arbitrator in a proceeding under these Rules is a necessary party in judicial proceedings relating to the arbitration. Arbitrators shall not be liable to Claimants or any third persons for any act or omission in connection with any arbitration conducted under these Rules.

4.27 Release of Documents for Judicial Proceedings. The Trust shall, upon the written request of a Claimant, furnish to such party, at the Claimant's expense, certified copies of any papers in the Trust's possession that may be required in judicial proceedings relating to the arbitration.

### Article V

#### Special Rules for Valuing Claims in Binding Arbitration

In binding arbitration cases only, the following provisions shall supplement the requirements of Article IV.

"Valuation Arbitration" is intended to resolve disputes concerning the determination of the liquidated value of a Claim. In determining the liquidated value of a Claim, the arbitrator shall consider the same factors identified in paragraph 2.2(a) of these Rules.

To reduce transaction costs, the parties are encouraged to undergo Valuation Arbitration based solely on written submissions. In any event and to the extent possible, the parties shall stipulate to the facts and narrowly identify the issues in dispute and agree on joint exhibits. The arbitrator will be permitted to direct written inquiries to the parties in order to clarify the written submissions. The arbitrator may, at his/her discretion, hold a telephone conference with counsel for the parties.



The Claimant in a Valuation Arbitration may elect “baseball arbitration” or “night baseball arbitration.” In baseball arbitration, an arbitrator will be told the amount that the Trust offered as its final offer in the mediation brought under Article III of these Rules and the amount of the Claimant’s final demand. The arbitrator’s award, if any, will be one of these two amounts. An arbitrator will not be permitted to make any other award. If the Claimant elects night baseball arbitration, the arbitrator will not be told the amount of the Trust’s final offer at the mediation or the Claimant’s final mediation demand. The party whose offer or demand is the closest to the arbitrator’s award is the party whose offer or demand becomes the award.