

## **SECOND AMENDMENT TO AMENDED AND RESTATED APG SILICA TRUST DISTRIBUTION PROCEDURES**

THIS SECOND AMENDMENT TO AMENDED AND RESTATED APG SILICA TRUST DISTRIBUTION PROCEDURES (the "Second Amendment"), is executed on November 11, 2015, but effective as of April 30, 2013 (the "Effective Date").

WHEREAS, the APG Silica Trust (the "Trust") was created effective as of the Effective Date by the APG Entities, each a debtor and debtor-in-possession in case number 02-21626-JKF before the Bankruptcy Court, the APG Future Claimants Representative, the APG Silica Trustee and the APG Silica TAC identified on the signature pages to the APG Silica Trust Agreement dated April 30, 2013 (the "APG Silica Trust Agreement") (all capitalized terms used but not defined herein having their respective meanings as set forth or referred to in the APG Silica Trust Agreement, except as otherwise provided herein); and

WHEREAS, the Bankruptcy Court approved the APG Silica Trust Distribution Procedures (the "TDP") which were effective as of the Effective Date; and

WHEREAS, the TDP included Section 5.6 thereof, which is a provision for the processing of Indirect APG Silica Trust Claims (as defined in the TDP), and which contained a provision required by the terms of a Settlement Agreement dated August 7, 2006 (the "Settlement Agreement") among and between APG, General Refractories Company and AIG Member Companies (as defined in such agreement); and

WHEREAS, the Trust has adopted the Amended and Restated APG Silica Trust Distribution Procedures dated effective April 30, 2013 and the First Amendment thereto dated effective April 30, 2013 (as so amended, the "Amended and Restated TDP"), which among other things modified the provisions of Section 5.6 of the TDP; and

WHEREAS, the modification of Section 5.6 of the TDP inadvertently omitted the provision required by the Settlement Agreement, and the Trust desires to restore such required provision effective as of the Effective Date;

NOW, THEREFORE, in consideration of the premises, the APG Silica Trustee hereby adopts the following amendment to the Amended and Restated TDP, as amended:

1. Section 5.6 of the Amended and Restated TDP is hereby deleted in its entirety and replaced with the following:

### **"5.6 Indirect APG Silica Trust Claims.**

Indirect APG Silica Trust Claims that are asserted against the APG Silica Trust (excluding any claim by an insurer to recover the payment of a premium, deductible or self-insured retention related to the APG Silica Trust Policies from the APG Silica Trust) based upon theories of contribution or indemnification under applicable law may not be processed or paid by the APG Silica Trust unless (1) the holder of such claim (the "Indirect Claimant") establishes to the satisfaction of the APG Silica Trustee that (a) the Indirect Claimant has paid in



full obligations that the APG Silica Trust otherwise would have had to an individual claimant, qualified under the Medical/Exposure Criteria of Section 5.3(a) (the "Direct Claimant"), (b) the APG Silica Trust has been or shall be forever and fully released from all liability to both the Direct Claimant and the Indirect Claimant, and (c) the claim is not otherwise barred by a statute of limitation or repose or by other applicable non-bankruptcy law, or (2) such claim arises out of the payment obligations of the APG Silica Trust as set forth at Section 2.4.4 of the August 7, 2006 Settlement Agreement among and between APG, General Refractories Company, and AIG Member Companies. In the case of those claims described in subsection (1), above, in no event shall any such Indirect Claimant have any rights against the APG Silica Trust superior to the rights of the related Direct Claimant against the APG Silica Trust, including any rights with respect to the timing, amount or manner of payment; provided, however, that, in addition, no such Indirect APG Silica Trust Claim may be liquidated and paid in an amount that exceeds the lesser of (a) the amount the Direct Claimant would have been entitled to recover from the APG Silica Trust had the Direct Claimant asserted a claim against the APG Silica Trust or (b) the amount that the Indirect Claimant has actually paid the Direct Claimant.

Except as may be permitted after Individual Review, the APG Silica Trust shall not pay any Indirect Claimant unless and until the Indirect Claimant's aggregate liability for the Direct Claimant's claim has been fixed, liquidated, and paid by the Indirect Claimant by settlement (with an appropriate full release in favor of the APG Silica Trust) or a Final Order providing that such claim is valid under the applicable non-bankruptcy law. In any case where the Indirect Claimant has satisfied the claim of a Direct Claimant against the APG Silica Trust under applicable law by way of a settlement, the Indirect Claimant shall obtain for the benefit of the APG Silica Trust a release in form and substance satisfactory to the APG Silica Trustee.

If an Indirect Claimant cannot meet the presumptive requirements set forth above, including the requirement that the Indirect Claimant provide the APG Silica Trust with a full release of the Direct Claimant's claim, the Indirect Claimant may request that the Silica Trust review the Indirect APG Silica Trust Claim individually to determine whether the Indirect Claimant can establish under applicable state law that the Indirect Claimant has paid all or a portion of a liability or obligation that the Silica Trust had to the Direct Claimant as of the effective date of the APG Silica TDP. If the Indirect Claimant can show that it has paid all or a portion of such a liability or obligation, the APG Silica Trust shall reimburse the Indirect Claimant the amount of the liability or obligation so paid, times the then applicable Payment Percentage. However, in no event shall such reimbursement to the Indirect Claimant be greater than the amount to which the Direct Claimant would have otherwise been entitled. Further, the liquidated value of any Indirect Claim paid by the APG Silica Trust to an Indirect Claimant shall be treated as an offset to or reduction of the full liquidated value of any APG Silica Trust Claim that might be subsequently asserted by the Direct Claimant against the APG Silica Trust.

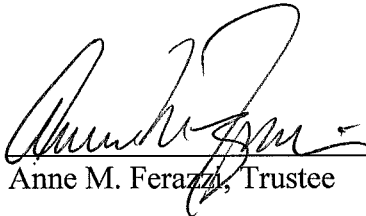


Any dispute between the APG Silica Trust and an Indirect Claimant over whether the Indirect Claimant has a right to reimbursement for any amount paid to a Direct Claimant shall be subject to the ADR procedures as provided in Section 5.10 below and set forth in Attachment A hereto. If such dispute is not resolved by said ADR procedures, the Indirect Claimant may litigate the dispute in the tort system pursuant to Sections 5.11 above and 7.5 below.

The APG Silica Trustee may develop and approve a separate proof of claim form for such Indirect APG Silica Trust Claims. Indirect APG Silica Trust Claims shall be processed in accordance with procedures to be developed and implemented by the APG Silica Trustee, which procedures (a) shall determine the validity and enforceability of such claims; and (b) shall otherwise provide the same liquidation and payment procedures and rights to the holders of such claims as the APG Silica Trust would have afforded the holders of the underlying valid APG Silica Trust Claims.”

2. As amended hereby, the Amended and Restated TDP remains in full force and effect.

IN WITNESS WHEREOF, the APG Silica Trustee has executed this Second Amendment.

  
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Anne M. Ferazzi, Trustee